

**ALLAMAKEE COUNTY, IOWA**

**ZONING ORDINANCE  
AND SUBDIVISION REGULATIONS**

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ACKNOWLEDGEMENTS

With the support and contributions of:

Allamakee County, Iowa

Board of Supervisors

Planning & Zoning Commission

Board of Adjustments

County Zoning Administrator

County Auditor

County Recorder

County Engineer

County 911 Coordinator

County Attorney

Bluffland Study Committee

**ALLAMAKEE COUNTY, IOWA**

**ZONING ORDINANCE  
AND SUBDIVISION REGULATIONS**

**AN ORDINANCE to:**

- Regulate and restrict the location and use of buildings, structures, and land for trade, industry, residence, and other purposes;
- Regulate and restrict the height of buildings and structures, the number and size of buildings and other structures;
- Require developers and landowners to provide safe & adequate streets to ensure access for public service vehicles;
- Establish minimum lot areas;
- Regulate the density of population and the percentage of lot that may be occupied;
- Require off-street parking;
- Regulate the location, size, and number of signs;
- Divide the unincorporated areas of the County into districts for such purposes;
- Provide for the administration and enforcement of its provisions;
- Create a Board of Adjustment;
- Prescribe penalties for the violation of its provisions, all in accordance with Chapter 335, Code of Iowa;
- Be known and cited as "Allamakee County, Iowa, Zoning Ordinance and Subdivision Regulations".

**WHEREAS, the Board of Supervisors of Allamakee County, Iowa, deems it necessary to:**

- Prevent and lessen congestion in the streets and highways;
- Secure safety from fire, flood, panic, and other dangers;
- Protect the public health and general welfare;
- Provide adequate light and air;
- Prevent the overcrowding of land;
- Avoid undue concentration of population;
- Facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements;
- Conserve the value of buildings and encourage the most appropriate use of land throughout the County, all in accordance with a comprehensive plan.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF ALLAMAKEE COUNTY, IOWA.**

**PREAMBLE**

**INTRODUCTION**

Increased urban development and the use of land for nonagricultural purposes have created a need for the regulation of land use development practices. Zoning is the principal means to guide land use because of its ability to regulate land and building uses in relation to minimum standards for yard areas, width and area of building lots, height of structures, and off-street parking. By law, zoning regulations shall be based on a comprehensive plan and reflect existing land use patterns, future land use plans, and desired land use changes. Zoning shall not be adopted to exclude a singular type of use, but should reflect the ability to provide a proper place for all uses.

Zoning is intended to protect permitted uses from incompatible land use encroachments. This is accomplished by restricting actions only when they are contrary to use and development standards established by the ordinance and deemed detrimental to the community as a whole. Zoning does not regulate the style of architecture, types of materials, and methods of construction.

Zoning is not retroactive and cannot correct existing undesirable conditions. Over time, zoning can improve conditions resulting from improper land use, overcrowding, or other conditions. When zoning is adopted, there will be some uses (or structures) that do not conform to the provisions of the ordinance. These are called nonconforming uses (or structures). It is the intent of the ordinance to permit nonconforming uses that presently exist to continue for their useful life, but not to encourage their existence or permit them to become even more nonconforming.

New development is encouraged to take place in areas that are best suited for such use, and where necessary utilities and public facilities can be made available. New growth brings additional costs and responsibility related to construction and maintenance of additional water and sewer facilities, schools, parks, roads, and increased police and fire protection. Land is a valuable natural resource and greater efforts should be made to protect agricultural land from the unwise conversion to urban use. Once land is developed for residential, industrial, or commercial uses, it is unlikely that the land will ever be returned to agricultural production.

#### **LEGISLATIVE AUTHORITY**

County Zoning is intended to promote the health, safety, land stewardship, and general welfare of a county. The Code of Iowa, Section 335.2 states:

"No ordinance adopted under this chapter applies to land, farm houses, farm barns, farm outbuildings or other buildings or structures which are primarily adapted, by reason of nature and area, for use for agricultural purposes, while so used."

As part of the power to zone, counties are empowered to regulate and restrict:

". . . the height, number of structures, and size of the buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes . . ." Code of Iowa, Chapter 335, Section 3.

This regulation is accomplished by dividing the county into districts "of such number, shape, and area as may be deemed best suited to carry out the purposes of this chapter". (Code of Iowa, Chapter 335, Section 4.) The districts must provide uniform or equal treatment of similar buildings and land within any particular district; but, of course, the regulations may vary from one district to another.

A comprehensive plan lays the groundwork for a zoning regulation. The objectives of the plan are also spelled out in Code of Iowa, Chapter 335, Section 5 as:

". . .Such regulations shall be made with reasonable consideration, among other things, as to the character of the area of the district and the peculiar suitability of such area for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such county."

It is apparent that a zoning ordinance cannot be the result of an arbitrary decision or contain unreasonable restrictions. It must be the result of careful study and should effectively promote the most appropriate, permanent, and productive use of land.

## **BENEFITS OF GOOD ZONING PRACTICE**

Zoning districts are intended to recognize the present development in accord with future plans and allow room for growth and change. Changes in zoning should be based on a logical extension of existing districts, or the location of a new district to accomplish the objectives of the future land use plan.

Properly administered, the zoning ordinance can be a valuable tool in achieving the following objectives:

1. To protect established sound land uses from encroachment by incompatible land uses.
2. To establish areas of compatible land use that will provide attractive, healthy, orderly, convenient, and safe locations for residential, commercial, industrial, agricultural, and public development.
3. To encourage the eventual discontinuance or relocation of incompatible or detrimental land uses.

## **CHAPTER 1**

### **GENERAL PROVISIONS**

#### **101 TITLE**

This Ordinance shall be known and may be cited and referred to as the "Allamakee County, Iowa, Zoning Ordinance and Subdivision Regulations", "Zoning Ordinance" or "Ordinance" to the same effect as if the full title were stated.

#### **102 JURISDICTION**

The jurisdiction of this Ordinance shall apply to all areas of Allamakee County outside the incorporated limits of municipalities.

#### **103 INTERPRETATION OF STANDARDS**

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion and protection of the public health, safety, and general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinance, overlay districts, deed restrictions, or covenants, the most restrictive of that imposing the higher standards shall govern.

#### **104. 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.

**105. APPLICATION OF DISTRICT REGULATIONS**

The regulations and restrictions of this Ordinance shall apply as follows:

1. The regulations set by this Ordinance shall apply uniformly to each class or kind of structure or land, and particularly within each district, except as hereinafter provided.
2. 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 regulations herein specified for the district in which it is located.
3. No building or other structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, or to have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required or in any other manner contrary to the provisions of this Ordinance.
4. No part of a yard (other than open space, off-street parking, or loading space) required in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
5. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

**106. SEPARATE OFFENSES MAY BE CHARGED**

The owners or tenant of any building, structure, land or part thereof and any architect, builder, contractor, agent, or other person who commits, participates in, assists, or maintains a violation may each be charged with a separate offense and upon conviction suffer the penalties herein provided.

**107. OTHER REMEDIES**

Nothing herein contained shall prevent the Board of Supervisors or its agents from taking other lawful action as is necessary to prevent or remedy any violation of this Ordinance.

**108. REPEAL OF CONFLICTING ORDINANCES**

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

**109. ZONING MAP AND ZONING UPDATE JOURNAL**

The boundaries of the Zoning Districts are hereby established as shown on the Zoning Map of the unincorporated areas of Allamakee County, Iowa. The said Zoning Map and Journal and all notations and references and other matters shown thereon shall be and are hereby made a part of this Ordinance. Floodplain and Bluffland Protection Districts will not be shown on the zoning map. However, they are defined within this Ordinance and shall be graphically represented on site plans as requested by the Zoning Administrator.

**110. IDENTIFICATION OF OFFICIAL ZONING MAP AND ZONING UPDATE JOURNAL**

The Official Zoning Map shall be identified by the signature of the Chairman of the Board of Supervisors and attested to by the County Auditor under the following statement:



"This is to certify that this is the Official Zoning Map referred to in Section 109 of the Zoning Ordinance of Allamakee County, Iowa as adopted the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ A.D."

The Official Zoning Map and Official Zoning Journal are on file in the office of the GIS Coordinator in the Assessor's Office, and accessible to the public by request directed to the County Zoning Administrator, County Auditor, and/or the Board of Supervisors, Allamakee County, Iowa. Together, these documents shall be the final authority as to the current zoning status of the land, buildings, and other structures in the County.

**111. CHANGES IN OFFICIAL ZONING MAP AND ZONING UPDATE JOURNAL**

Changes in the Official Zoning Map and Update Journal shall be made only after separate Public Hearings held by both the Commission and the Board of Supervisors as per the provisions of this Ordinance.

**112. INTERPRETATION OF DISTRICT BOUNDARIES**

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated, as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.
2. Boundaries indicated, as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated, as approximately following township lines or section lines shall be construed as following said township lines or section lines.
4. Boundaries indicated, as approximately following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as following shore lines of streams or other bodies of water shall be construed to follow such shore lines, and in the event of change in the shore line, shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of streams, rivers, or other bodies of water shall be construed to follow such centerlines, and in the event of change in the center line, shall be construed as moving with the actual centerlines.
6. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map or in other circumstances not covered by subsections 1 through 5 above, the Board of Adjustment shall interpret the district boundaries.
8. Where a district boundary line divides a lot of record, which was in single ownership at the time of the effective date of this Ordinance, the Board of Adjustment may permit, as a Conditional Use, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district boundary.

**113. BUILDING PERMIT REQUIRED**

Pursuant to provisions of Section 506 of this Ordinance, a Building Permit shall be required prior to initiation of any construction or development within any district, excluding agricultural buildings, structures, and dwellings used in direct support of agricultural land uses.

## **114. NONCONFORMITIES**

Within the districts established by this Ordinance or amendments that may later be adopted, there exist lots, structures, and uses of land and structures which were lawful before this Ordinance was passed or amended but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment.

### **114.1 Nonconformities May Continue**

It is the intent of this Ordinance to permit nonconformities to continue until they are removed, but not to encourage their survival.

### **114.2 Nonconformities of Adoption**

Nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance, and upon which actual building construction has been diligently carried on.

### **114.3 Nonconforming Lots of Record**

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width or both that are generally applicable in the district, provided that such construction was permissible when the lot was created, and provided that yard dimensions and other requirements not involving area or width of the lot, or both, shall conform to the regulations for the district in which such lot is located.

If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this Ordinance, the land involved shall be considered to be an undivided parcel for the purposes of this Ordinance. No portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot width or area below the requirements stated in this Ordinance.

### **114.4 Nonconforming Uses of Land**

Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming use shall be enlarged nor increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
3. If any such nonconforming use of land ceases for any reason for a period of

more than six months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

#### **114.5 Nonconforming Structures**

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

1. No such structure may be enlarged to occupy a greater area of land or altered in a way that increases its nonconformity.
2. Any structure that is destroyed may be rebuilt in a way that does not increase its nonconformity and it does not occupy a greater area of land.

#### **114.6 Nonconforming Uses of Structures**

If a lawful use of a structure or if structure and premises in combination exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
3. If no structural alterations are made, any nonconforming use of a structure or structures and premises in combination may be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board may require appropriate conditions and safeguards in accord with the provisions of this Ordinance.
4. Any structure or structure and premises in combination in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
5. When a nonconforming use of a structure or structure and premises in combination is discontinued for twelve consecutive months or for eighteen months during any three-year period, the structure thereafter shall not be used except in conformance with the regulations of the district in which it is located.
6. Where a nonconforming use applies to a structure and premises in combination, and the structure becomes destroyed, it may be rebuilt under the guidelines of this ordinance as long as the structure's use remains the same, and the structure's layout on the lot remains the same.

#### **114.7 Repairs and Maintenance**

Nothing in this Ordinance shall prohibit the maintenance and repair of nonconforming

structures to keep such a structure in sound and safe condition, provided that no structural enlargement, extension, alteration or change shall be made to increase the degree of nonconformity.

#### **114.8 Uses Under Exception Provisions Not Nonconforming Uses**

Any uses for which a special exception is permitted as provided in this Ordinance shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

### **115 TERMS AND DEFINITIONS**

#### **115.1 Rules of Interpretation**

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows:

1. The word "person" includes firm, association, organization, partnership, trust, governmental agencies, company, or corporation as well as an individual.
2. The word "shall" is mandatory. The word "may" is permissive.
3. Words used in the present tense shall include the future tense, and words used in the singular shall include the plural, and the plural the singular.
4. The masculine gender shall include the feminine and neutral.
5. All stated and measured distance shall be taken to the nearest integral foot. If a fraction is less than one-half (1/2) foot, the integral next below shall be taken.

#### **115.2 Permitted Uses**

Permitted uses of land or buildings, as hereinafter listed, shall be permitted in the districts indicated under the conditions specified. No building or land shall be devoted to any other use than a use permitted hereunder in the zoning district in which such buildings, structure, or land shall be located, except the following:

1. Uses lawfully established prior to the effective date of this Ordinance.
2. Conditional uses allowed in accordance with the Ordinance.
3. Uses that have been granted a variance in accordance with this Ordinance.

#### **115.3 Conditional Uses**

Conditional uses of land or buildings, as hereinafter listed, may be allowed in the districts indicated, subject to the issuance of Conditional Use Permits, in accordance with the provisions of this Ordinance.

#### **115.4 Definitions**

##### **1. Abutting**

A common boundary. Land areas separated by a public or private road, highway, street, alley, or by a waterway or body of water shall not be construed as abutting herein.

##### **2. Accessory Use or Structure**

A use or structure secondary to and serving the principal use of a structure or land on the same lot or parcel or ground serving a purpose customarily incidental to the use of the principal structure or use of land.

##### **3. Acquisition Plat**

The graphical representation of the division of land or rights in land, created as the result of a conveyance or condemnation for right-of-way purposes by an agency of the

government or other persons having the power of eminent domain.

**4. Adult Entertainment Businesses:**

The following definitions shall apply to adult entertainment businesses:

- a) "Adult bookstore" means an establishment having as a significant portion of its stock in trade books, films, magazines, and other periodicals which are distinguished or characterized by an emphasis on matter depicting or describing "sex act(s)" or "specified anatomical areas".
- b) "Adult Establishment, Cabaret or Juice Bar" means an establishment or cabaret which features exotic dancers, strippers, male or female impersonators, or similar entertainers which exclude minors by virtue of age.
- c) "Adult motel" means a motel wherein material is presented which is distinguished or characterized by an emphasis on depicting or describing "sex act(s)" or "specified anatomical areas".
- d) "Adult motion picture arcade" means any place to which the public is permitted or invited, wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing "sex act(s)" or "specified anatomical areas".
- e) "Adult motion picture theater" means an enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting or describing "sex act(s)" or "specified anatomical areas" for observation by patrons therein.
- f) For purposes of the forgoing, the term: "specified anatomical areas," means as follows: human genitals, pubic region, buttocks, and female breasts below a point immediately above the top of the areola.

**5. Agricultural Building or Structure**

Any building or structure existing or erected, which is used principally for agricultural purposes, with the exception of dwelling units.

**6. Agricultural Use**

The use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income, including but not limited to the following:

- a) field crops, including but not limited to: barley, soybeans, corn, hay, oats, potatoes, rye, sorghum, sunflowers, and wheat;
- b) livestock, including but not limited to: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds, and other animals including dogs, ponies, rabbits, and mink;
- c) livestock products, including but not limited to: milk, butter, cheese, eggs, meat, fur, and honey.
- d) Timber, woodlots, orchards, and vineyards.

**7. Aliquot part**

A fractional part of a section within the United States public land survey system of which only the fractional parts "one-half", "one-quarter", "one-half of one-quarter", or "one-quarter of one-quarter" shall be considered an aliquot part of a section.

**8. Alley**

A dedicated public right-of-way, other than a street, which provides only a secondary means of access to abutting property.

**9. Animal Feeding Operation**

A lot, yard, corral, building, or other area where animals are confined, fed, and maintained for 45 days or more in any 12-month period. These include:

- a) "Open Feedlot." An unroofed or partially roofed animal feeding operation in which no crop, vegetation, or forage growth or residue is maintained during the

- period that animals are confined in the operation.
- b) "Confinement Feeding Operation." A totally roofed animal feeding operation in which wastes are stored or removed as a liquid or semi-liquid.
- c) Any other special terms or conditions as defined by Chapter 455B of the Code of Iowa.

**10. Auditor's Plat**

A subdivision plat required by either the auditor or the assessor, prepared by a surveyor under the direction of the auditor.

**11. Barnyard Waste**

Any animal by-products or affiliated waste material.

**12. Basement (see also Cellar)**

A story having more than one-half (1/2) of its height below grade. A basement shall not be counted as a story for the purpose of height regulations.

**13. Bed and Breakfast Home**

An accessory use of a single-family residence for the accommodation of paying overnight guests.

**14. Billboard**

Signs that advertise goods, products, or services not necessarily sold on the premises in which the sign is located and are of three main types:

- a) Poster panels or bulletins normally mounted on a building wall or free standing structure with advertising copy in the form of posted paper;
- b) Multi-prism sign, same as above, and alternating advertising messages on the one display area;
- c) Painted bulletins, where the advertiser's message is printed directly on the background of a wall-mounted or freestanding display area.

**15. Block**

An area of land within a subdivision that is entirely bounded by streets or highways, and/or the exterior boundaries of the subdivision.

**16. Board**

The Board of Adjustment of Allamakee County, Iowa.

**17. Board of Supervisors**

The Board of Supervisors for Allamakee County, Iowa.

**18. Boarding House, Rooming or Lodging House**

A building other than a motel or hotel where, for compensation and by pre-arrangement for definite periods, meals or lodging are provided for three (3) or more persons-but not exceeding twenty (20) persons.

**19. Buildable Lot**

A lot of record, or other lot, tract, or parcel legally recorded with the County Recorder that meets the requirements of this Ordinance and which has a minimum of one hundred fifty (150) feet of lot width. The buildable lot area shall have the minimum lot area required for the district in which it is located and have a sufficient buildable lot area, exclusive of non-buildable lot area collectively comprised of:

- a) Excessively steep slopes;
- b) Ditches, rivers, streams, dry runs, ravines;
- c) Underground utilities and easement areas;
- d) Other physical attributes that would render the area non-buildable.

**20. Building**

Anything constructed, erected or built, the use of which requires location on the ground and is designed for the support, enclosure, shelter or protection of persons, animals, chattels, or property of any kind, including, but without limiting the generality of the foregoing installations such as signs, billboards, radio towers, and other facilities not designed for storage of property or occupancy by persons.

**21. Building Height**

The vertical distance from the lowest finished grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

**22. Building Line**

The line of the outside wall of the building or any projection thereof nearest the street.

**23. Building, Temporary**

A structure that has no electrical or water connections, no permanent foundation, may be built on skids and can be moved.

**24. Bulk Station**

Distributing stations commonly known as bulk or tank stations used for the storage and distribution of flammable liquids or liquefied petroleum products where the aggregate capacity of all storage tanks is more than twelve thousand (12,000) gallons.

**25. Business**

Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.

**26. Cabin**

A shelter designed and constructed as short term living quarters for one or more persons.

**27. Carport**

A roofed structure providing space for the parking of motor vehicles and enclosed on not more than two sides. For the purpose of this Ordinance, a carport attached to a principal building shall be considered as part of the principal building and subject to all yard requirements herein.

**28. Cellar (see also Basement)**

A story having more than one-half of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.

**29. Commission**

The Planning & Zoning Commission of Allamakee County, Iowa.

**30. Common Sewer System**

A central sewer collection system available to each platted lot and discharging into a treatment facility, the construction and location of which is approved by the Allamakee County Board of Health, its appointed officers, or the Iowa Department of Natural Resources.

**31. Common Water System**

A central water supply system available to each platted lot from one or more single source approved by the Allamakee County Board of Health or its appointed officers or the Iowa Department of Natural Resources.

**32. Conditional Use**

A use, that because of its unique characteristics and because of the uniqueness of its proposed location, may be allowed only after careful consideration, at a public hearing, of the impact of the particular use upon surrounding uses and public facilities therein. Such a use may be permitted in a particular zoning district only upon showing that in specified location it will comply with all the conditions and standards for the location or operation of such conditional use as specified herein.

**33. Conveyance**

An instrument filed with the Recorder as evidence of the transfer of title of land, including any form of deed or contract.

**34. County**

Allamakee County, Iowa.

- 35. Cul-de-sac**  
A Street having one end which opens to traffic and the other end terminated by a vehicular turnaround encompassed with a minimum diameter of eighty (80) feet, or greater as determined by the County Engineer.
- 36. Development**  
A manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
- 37. District**  
A section or sections of the County within which regulations governing the use of buildings and premises or the height and area of buildings and premises are uniform.
- 38. Division**  
Dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than a public highway easement, shall not be considered a division for the purpose of this chapter.
- 39. Dwelling**  
Any building or portion thereof which is designed or used exclusively for primary residential purposes but not including a tent, cabin, trailer or mobile home.
- 40. Dwelling, Accessory**  
A second dwelling unit permitted as an accessory use to a single-family detached dwelling
- 41. Dwelling, Condominium**  
A multiple dwelling as defined herein whereby the fee title to each dwelling unit is held independently of the other dwelling units.
- 42. Dwelling, Multiple**  
A residence designed for or occupied by three (3) or more families, with separate housekeeping and cooking facilities for each.
- 43. Dwelling, Single-Family**  
A detached residence designed for or occupied by one (1) family only.
- 44. Dwelling, Two-Family**  
A residence designed for or occupied by two (2) families only, with separate housekeeping and cooking facilities for each.
- 45. Dwelling, Unit**  
One room or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure and contain independent cooking and sleeping facilities.
- 46. Easement**  
A grant of the right to use a strip of land for specific purposes by the general public, a corporation, or certain persons.
- 47. Easement of Access**  
An easement, as defined herein, designed primarily to provide access to abutting properties. An easement of access may be a private driveway, which is maintained by individuals, however, for the purpose of this Ordinance, shall not be considered a public or private street.
- 48. Extraction Pits**  
Quarries, sandpits, mines and other natural landforms used for the purpose of obtaining natural raw materials from the ground for commercial purposes.
- 49. Factory-Built Home**  
Any structure, designed for residential use, which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly purpose and installation, on a building site. For the purpose of this Ordinance, a factory-built home includes mobile homes, manufactured homes and modular homes and also



includes "recreational vehicles" which are placed on a site for greater than one hundred eighty (180) consecutive days and may or may not be fully licensed and ready for highway use.

**50. Factory-Built Structure**

Any structure which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site. Factory-built structure includes the terms mobile home and manufactured home.

**51. Family**

An individual, or two (2) or more persons related to one another by blood, marriage or legal adoption, including foster children and not more than two (2) roomers; or in the alternative, not more than three (3) unrelated persons.

**52. Family Home**

A community-based residential home licensed as a residential care facility under Iowa Code Chapter 135C, or as a child foster care facility under Iowa Code Chapter 237, to provide room and board, personal care, rehabilitation services, and supervision in a family environment, exclusively, for not more than eight (8) persons with a development disability or brain injury, and any necessary support personnel. However, family home does not mean an individual foster family home licensed under Iowa Code Chapter 237.

**53. Farm**

An area which is used for the growing of farm products such as row crops, vegetables, fruits, tree farms, and grains and their necessary storage on the area, as well as for the raising thereon of farm poultry and farm animals. The term "farming" includes the operation of such area for one or more of the above uses with the necessary accessory uses for treating or storing the product(s), provided, however, that the operation of any such accessory uses shall be secondary to that of farming activities and such accessory uses do not include the feeding of garbage or offal to swine or other animals.

**54. Farmstead**

A combination of structures, with dwellings, yards, windbreaks, well and other improvements which are held and operated in conjunction with agricultural crop and/or livestock production.

**55. Final Plat**

The map or drawing of a Major Subdivision in its final form which is submitted with its accompanying material to the County for approval and which, if approved, will be submitted to the County Recorder for recording.

**56. Flood**

A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

**57. Forty-acre Aliquot Part**

One-quarter of one-quarter of a section.

**58. Frontage**

That portion of the property that fronts or abuts on the major public or private street.

**59. Garage, Private**

An accessory building designed or used for the storage of motor-driven vehicles owned and used by the occupants of the building to which it is accessory. Not more than one (1) of the vehicles may be a commercial vehicle of not more than two-ton capacity.

**60. Garage, Public**

A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor driven vehicles.

**61. Garage, Storage**

Any building or premises used for storage pursuant to previous arrangements and not to transients and at which automobile fuels and oils are not sold and motor-driven vehicles are not equipped, repaired, hired or sold.

**62. Governing Body**

A City Council or the Board of Supervisors, within whose jurisdiction the land is located, which has adopted ordinances regulating the division of land.

**63. Government Lot**

A tract, within a section, that is normally described by a lot number as represented and identified on the township plat of the United States public land survey system.

**64. Grade**

The average level of the finished surface of the ground adjacent to the exterior walls of the building except when any wall approximately parallels and is not more than five (5) feet from a street line, then the elevation of the street at the center of the wall adjoining the street shall be grade.

**65. Hazardous Waste**

Waste designated as hazardous by the United States Environmental Protection Agency or appropriate state agency.

**66. Historic Structure**

Any structure that is:

- a) Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing in the National Register;
- b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c) Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior, or;
- d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

**67. Home Occupation**

An occupation or a profession which:

- a) Is clearly incidental and secondary to the use of the dwelling unit for residential occupancy and does not change the character thereof, and;
- b) Is carried on by a member(s) of the family residing in the dwelling unit, and does not employ more than one (1) person outside the immediate family, and;
- c) Is customarily carried on in an owner-occupied, single-family dwelling unit, and does not occupy more than 30 percent of the area of one floor of the dwelling unit, and;
- d) Has no exterior display, no exterior storage or materials and no other exterior indication of the home occupation or variation from the residential character of the principal building, other than one exterior sign mounted flush with the face of the building, and which meets all the requirements of Section 404 of this ordinance, and;
- e) Produces no offensive noise, vibration, smoke, dust, odors, heat or glare rendering such building or premises objectionable or detrimental to the residential character of the neighborhood or surrounding area.
- f) Water, sewer and waste disposal systems shall be subject to approval of the Alameda County Board of Health and its officers, and
- g) Customer parking shall be provided and be as inconspicuous as possible on the property.

**68. Home Industry**

Any occupation or profession which:

- a) Is clearly incidental and secondary to the residential occupancy of a dwelling unit and farming activity located upon the property, and;
- b) Is conducted by a member(s) of the family residing within the dwelling unit located on the property, and;
- c) Is not objectionable to its surroundings due to nuisance factors, such as exterior appearance, odors, gas, dust, smoke, noise, or in any other way, and;
- d) Shall not generate traffic (customer, delivery, employee, other) substantially in excess of the normal anticipated traffic for the use of the property as a residence or farm, and;
- e) Shall not diminish or impair established property values for adjoining or surrounding property, and;
- f) Shall not create any public safety concerns, and;
- g) Shall meet any and all standards for a Conditional Use Permit under this ordinance.

**69. Junk or Salvage**

Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, appliances, furniture, equipment, building demolition materials or structural steel materials. This definition shall also include junked, dismantled, or wrecked motor vehicles or parts of motor vehicles, and iron, steel or other old or scrap ferrous or nonferrous material.

**70. Junk or Salvage Yard**

Any area where junk or salvage is bought, sold, exchanged, baled or packed, disassembled, kept, stored or handled. This definition shall also include auto or other vehicle or machinery wrecking or dismantling activities. This definition shall not include the processing of used, discarded or salvaged materials as part of a manufacturing operation located on the same property and contractors' storage yards.

- a) The presence on any lot, parcel or tract of land of wrecked, scrapped, ruined, dismantled or inoperative motor vehicles, including implements of husbandry not a part of a farming operation, shall constitute at first sight evidence of a junk or salvage yard. This shall not include motor vehicles licensed for the current year as provided by law, or motor vehicles legally placed in storage, if kept within a completely enclosed building.

**71. Kennel**

Any lot or premises used for the commercial sale, boarding or breeding of dogs, cats or other household pets. Kennel shall also mean the keeping of five (5) or more dogs, cats or other household pets of the mammal group over the age of six (6) months.

**72. Land Division**

A division of a tract, which meets the following criteria:

- a) No more than two (2) parcels are created.
- b) No new parcel shall conflict with any provisions of the County Zoning Ordinance and Subdivision Regulations.

**73. Lease**

A contractual agreement by which an owner of real property (the landlord) gives the right of possession to another (a tenant) for a specific period of time (term) and for a specified consideration (rent).

**74. Livestock**

Cattle, horses, sheep, swine and poultry and any other animal or fowl that are being produced primarily for use as food or food products for human consumption.

**75. Livestock Waste Lagoon**

A diked enclosure for disposal of livestock wastes by natural process as regulated by the Iowa Department of Natural Resources.

**76. Loading Space**

A space within the main building or on the same lot providing for the standing, loading or unloading of trucks, having a minimum dimension of twelve by thirty-five (12' x 35') feet and vertical clearance of at least fourteen (14) feet.

**77. Lot**

For the purpose of this Chapter, a lot is a tract of land represented and identified by number or letter designation on an official plat.

**78. Lot Lines**

The property lines bounding a tract or parcel. Front, side and rear lot lines are described as follows:

- a) Front Lot Line: The lot line separating the front of the tract or parcel from the street. However for the purpose of determining tract or parcel requirements in case where the front lot line is located within a street or highway right-of-way or easement of access, the street right-of-way line shall be used. In the case of a corner lot, that part of the tract or parcel having the narrowest frontage on any street shall be considered the front lot line.
- b) Rear lot line: The lot line which is opposite and most distant from the front lot line. In the case of an irregular, triangle or odd shaped tract or parcel, it shall mean a straight line ten (10) feet in length which is parallel to the front lot line or its chord and intersects the two (2) other lot lines at points most distant from the front lot line.
- c) Side lot line: Any lot line other than the front or rear lot line. A side lot line separating a lot from another lot or lots is called an interior side lot line.

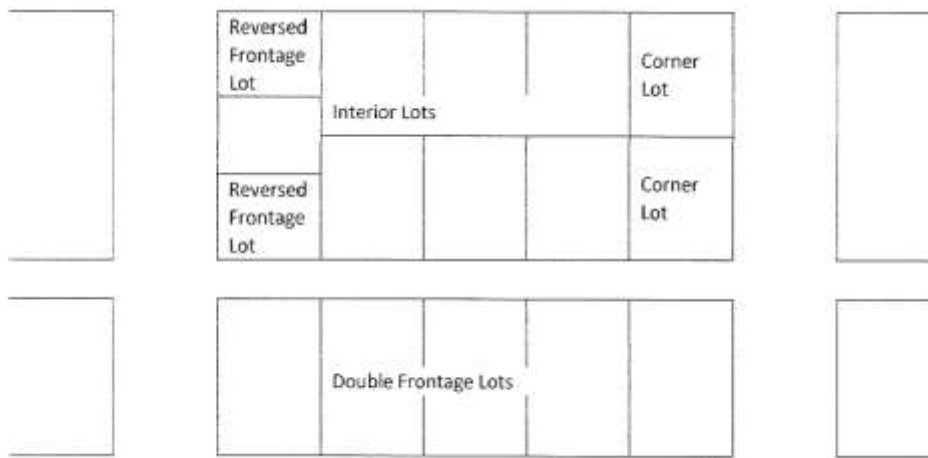
**79. Lot Measurement**

- a) Area: The area of a lot in a horizontal plane bounded by the lot lines.
- b) Depth: The mean horizontal distance between the front and rear lot lines.
- c) Width: The distance between straight lines connecting front and rear lot lines at each side of the lot measured at the minimum building setback line.

**80. Lots, Type**

- a) Corner - A lot abutting upon two or more streets at their intersections.
- b) Double Frontage – A lot having frontage on two (2) non-intersecting streets, as distinguished from a corner lot.
- c) Interior – A lot other than a corner lot having frontage on only one (1) street.
- d) Reversed Frontage – A corner lot; the side street line of which is substantially a continuation of the front line of the first platted lot to its rear.

Illustration of Lot Types



**81. Lot of Record**

A lot which is part of a subdivision which is recorded in the Office of the Allamakee County, Iowa Recorder or a lot or parcel described by metes and bounds, the deed to which has been so recorded prior to the effective date of this Ordinance.

**82. Manufactured Home / Modular Home**

A factory-built structure, which is manufactured or constructed under the authority of 42 U.S.C. Section 5403 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles.

**83. Metes and Bounds Description**

A description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.

**84. Mobile Home**

A vehicle used, or so originally constructed, as to permit being used as conveyance upon the public streets or highways and duly licensed as such, and constructed in such a manner as will permit occupancy thereof for human habitation, dwellings, or sleeping places for family; provided further, that this definition shall refer to and include all portable contrivances used or intended to be used generally for living and sleeping quarters and which are capable of being moved by their own powers towed or transported by another vehicle. This definition shall also include and apply to such vehicles or structures that are located on a permanent or temporary foundation but shall not include mobile homes converted to real estate as defined herein.

**85. Mobile Home Converted to Real Estate**

An unencumbered mobile home which has been attached to a permanent, frost-free foundation or piers, on real estate owned by the mobile home owner, which has had the vehicular frame modified or destroyed, rendering it impossible to reconvert to a mobile home and which has been inspected by the assessor, if the mobile home title, registration and license plate have been collected from the owner and the property has been entered on the tax rolls of the county.

**86. Mobile Home Park**

Any site, lot, field, or tract of land upon which three (3) or more occupied mobile homes are harbored either free of charge or for revenue purposes, including any building, structure, vehicle or enclosure intended for use as part of the equipment of such mobile home park. A land development created for the purpose of and restricted to the sale or lease of individual lots for occupancy by mobile homes converted to real estate, and having streets, utilities, and other facilities installations approved by the Board of Supervisors in accordance with the regulations of the County.

**87. Mobile Home Subdivision**

A subdivision created for the purpose of and restricted to the sale or lease of individual lots for occupancy by mobile homes converted to real estate, and having public streets, utilities, and other public facilities installations approved by the Board of Supervisors in accordance with the subdivision regulations of the County.

**88. Motel or Tourist Home**

A permanent building, or group of buildings, designed or arranged primarily for temporary occupancy (30 days or less) as a dwelling for transient guests and arranged to provide space for parking vehicles used by the traveling public. Such building, or group of buildings, may include quarters for the use of operating personnel.

**89. Nonconforming Use**

Any building or land lawfully occupied by a use at the time of passage of this Zoning Ordinance (or any amendment thereto) which does not conform after the passage of the

Zoning Ordinance (or any amendment thereto) with the use regulations of the district in which it is situated.

**90. Nuisance**

Any nuisance as listed in Chapter 657.2, Code of Iowa.

**91. Nursery, Landscape**

A business growing and selling trees, flowering and decorative plants and shrubs and which may be conducted within a building or without, for the purpose of landscape construction.

**92. Nursing Home**

A home for aged or chronically ill persons in which three or more persons not of the immediate family are received, kept, and provided with food, or shelter and care, for compensation. Nursing home does not include a hospital, a clinic, or similar institution devoted primarily to the diagnosis, treatment or care of the sick or injured.

**93. Official Plat**

An auditor's plat, or a subdivision plat, that meets the requirements of this chapter and has been filed for record in the offices of the recorder, auditor & assessor.

**94. Overlay District**

A district that acts in conjunction with the underlying Zoning District or Districts. Development within the overlay district must conform to the requirements of both zones or the more restrictive of the two (2).

**95. Parcel**

A part of a tract of land.

**96. Parcel of Record**

A parcel for which the contract or deed has been recorded in the office of the County Recorder prior to the effective date of this Ordinance.

**97. Parking Space**

A surfaced area enclosed in the main building or in any accessory building, or unenclosed, having an area of not less than one hundred and eighty (180) square feet exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for automobiles.

**98. Performance Bond**

A surety bond or cash deposit made out to Allamakee County in an amount equal to one hundred twenty five (125%) of the full cost of improvements as estimated by the County Engineer, and the surety bond or cash deposit being legally sufficient to secure to the County that the improvements will be constructed in accordance with the County's requirements.

**99. Permanent Site**

Any lot or parcel of land on which a travel trailer, recreational vehicle, mobile home or manufactured home is located for ninety (90) consecutive days, even if relocated upon the same lot or parcel, except a construction site when used as a temporary construction or storage room.

**100. Place**

An open unoccupied space or a public or private thoroughfare, other than a street or alley, permanently reserved as the principal means of access to abutting property.

**101. Plat of Survey**

The graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered surveyor, in accordance with Chapter 354, Code of Iowa.

**102. Principal Structure or Use**

The predominant main use of land or structures as distinguished from an accessory use.

**103. Proprietor**

A person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding a mortgage, easement, or lien interest.

**104. Protective Covenant**

A contract entered into between private parties that constitutes a restriction of the use of a particular parcel or property. Such covenants shall be considered valid only when they are recorded and filed in the office of the Allamakee County Recorder and meeting other legal requirements of Iowa law.

**105. Public Land**

Land owned or operated by municipal, school district, county, state, or other governmental units.

**106. Recreation, Public**

Includes all uses such as tennis courts, ball fields, and picnic areas commonly provided for the public at parks, playgrounds, community centers, and other sites owned and operated by a unit of government for the purpose of providing recreation.

**107. Recreational Camping Vehicle**

Recreational Camping vehicle includes the following:

- a) Any vehicular, portable structure built on a chassis, four hundred (400) square feet or less when measured at the largest horizontal projection, which is designed to be used as a temporary dwelling for travel, recreation, and vacation uses;
- b) Any structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation;
- c) Any portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle or permanently towable by a light duty truck;
- d) Any folding structure mounted on wheels and designed for travel, recreation and vacation use.

**108. Sign**

Any device designed to inform or attract the attention of persons not on the premises on which the sign is located, provided, however, that the following shall not be included in the application of the regulations herein:

- a) Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, names of occupants at premises, or other identification of premises not having commercial promotion.
- b) Flags and insignia of any government except when displayed in connection with commercial promotion.
- c) Legal notices, identification, information, or directional signs erected or required by governmental bodies.
- d) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.
- e) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

**109. Sign, Off-Site**

A sign that advertises goods, products, services or facilities, or directs persons to a different location from where the sign is located.

**110. Sign, On-Site**

A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

**111. Story**

That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it.

**112. Story, Half**

A partial story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than three feet above the floor or such story.

**113. Street**

The entire width between the boundary lines of every way intended for public use for the purpose of vehicular and pedestrian traffic and for the placement of utilities. The term "street" shall include avenue, circle, drive, highway, lane, place, thoroughfare, or any other similar designation.

- a) Major Street: A street and/or road of considerable continuity connecting various sections of the county, villages, or cities. Minimum street right-of-way shall be sixty-six (66) feet wide. The minimum width of traveled roadway shall be twenty-two (22) feet.
- b) Minor Street: A street designed primarily to provide access to abutting properties and to discourage through traffic. Minimum street right-of-way shall be sixty-six (66) feet wide. The minimum width of traveled roadway shall be twenty-two (22) feet. Also to include cul-de-sac.
- c) Private Street: All land between right-of-way lines but not accepted in a governmental road system.
- d) Public Street: All land between right-of-way lines dedicated to and accepted by a governmental agency.
- e) Frontage Street: A street which is parallel with an adjacent highway or major street and which provides access to abutting properties and provides protection from fast, through traffic on the highway or major street.

**114. Street-Width**

The width of the right-of-way measured at right angles to the centerline of the street.

**115. Structural Alterations**

Any replacement or changes in the type of construction or in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, beyond ordinary repairs and maintenance.

**116. Structure**

See definitions of "Building".

**117. Subdivider**

A person, firm, or corporation undertaking the subdivision or re-subdivision of a tract or parcel of land.

**118. Subdivision**

The division of a tract of land into three or more parcels by repeated or simultaneous division.

- a) Major Subdivision: All subdivisions not classified as minor agricultural or non-agricultural subdivisions, including but not limited to any size subdivision requiring new public or private streets, or the extension of any facilities, or the creation of any public improvements.
- b) Minor Agricultural Subdivision: A subdivision of land which meets the following criteria:
  - i. All new parcels shall front on or have direct access from an existing public street.
  - ii. No new public or private street shall be created or sought to be dedicated or contemplated to project through the proposed subdivision.
  - iii. All new parcels are intended to be used for agricultural purposes and



shall continue to be used consistent with the agricultural exemptions of Section 335.2 of the Iowa Code, as amended, and shall bear the following legend in an outline box on the face of the recorded plat:

**Agricultural Exemption Legend**-This plat is for agricultural purposes only and is intended for agricultural uses in conformity with Section 335.2 of the Iowa Code, as amended

- iv. No new parcel shall conflict with any provisions or portion of the Allamakee County Subdivision Regulations.
  - v. The subdivision contains no new development lots.
  - vi. The subdivision lies wholly within the Ag-1 zoning district.
- c) **Minor Non-Agricultural Subdivision:** A subdivision of land, which meets the following criteria:
- i. All new parcels shall front on or have direct access from an existing public street.
  - ii. No new public or private street shall be created or sought to be dedicated or contemplated to project through the proposed subdivision.
  - iii. No new parcel shall conflict with any provisions or portion the County Zoning Ordinance and Subdivision Regulations.

**119. Subdivision Plat**

The graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique for the county where the land is located.

**120. Substantial Damage**

Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

**121. Substantial Improvement**

A repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either (a) before the improvement is started, or (b) if the structure has been damaged and is being restored to the condition before the damage occurred. For the purpose of this definition 'substantial improvement' is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any alterations to comply with existing state or local health, sanitary, building or safety codes or regulations as well as structures listed in National or State Registers of historic places.

**122. Summer Home, Cabin or Cottage**

A single-family dwelling intended for seasonal or temporary occupancy only and not permanently occupied as a family residence more than one hundred eighty (180) days during any calendar year.

**123. Surveyor**

A registered land surveyor who engages in the practice of land surveying pursuant to Chapter 542B of the Code of Iowa.

**124. Temporary Asphalt Plant**

An asphalt batch plant used in support of roadway construction activities that will remain on a site or parcel for less than six (6) consecutive calendar months.

**125. Tract**

An aliquot part of a section, a lot within an official plat, or government lot.

**126. Travel Trailer Park; Commercial Campground:**

Any lot, tract or parcel of land used or offered for use in whole or in part, with or with-

out charge, for the parking of occupied travel trailers, pickup campers, converted buses, motor homes, tent trailers, tents or similar devices used for temporary portable housing.

- a. "Travel Trailer Park; Commercial Campground" excludes children's camps, industrial camps, migrant labor camps, United States forest service camps, state forest service camps, state wildlife management areas or state-owned public access areas which are restricted in use to picnicking and boat landing.
- b. Unoccupied travel trailers, campers, converted buses, motor homes, tent trailers or similar devices may be located in travel trailer parks for storage purposes as per the following:
  - I. A specific area must be designated as a storage area and all vehicles shall be located in this area during such time as the use is for storage.
  - II. A site plan shall be submitted identifying the sites for occupied use and sites for storage.
  - III. Nothing in this article shall be construed to permit the repair, maintenance, sales or servicing of vehicles located in a travel trailer park.

**127. Use, Accessory**

A use secondary to and serving the principal use or structure on the same lot and customarily incidental to the principal use of the land.

**128. Use, Conditional**

A land use or development as defined by this Ordinance that would not generally be appropriate but may be allowed with appropriate restrictions as provided by official controls upon a finding that:

- a) Certain conditions as detailed in the zoning ordinance exist;
- b) The use or development conforms to the Comprehensive Plan of the County; and
- c) Is compatible with adjacent land use.

**129. Variance**

A variance is a relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship. As used in this Ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

**130. Yard**

An open space between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure from thirty inches above the ground upward except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot lines and the main building or any projection thereof shall be used.

**131. Yard, Front**

A yard extending across the front of a lot and being the minimum horizontal distance between the street and the main building or any projections thereof other than the projection of the usual uncovered steps, uncovered balconies, or uncovered porch. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension, except where the owner(s) shall elect to front his building on the street parallel to the lot line having the greater dimension.

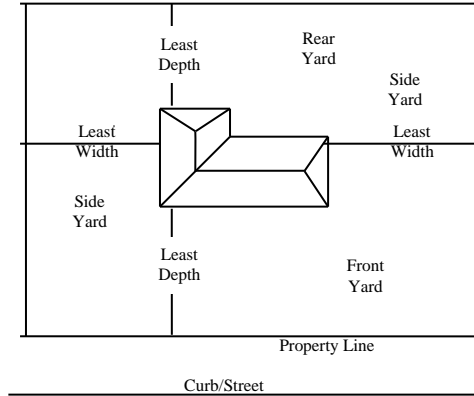
**132. Yard, Rear**

A yard extending across the rear of a lot and being the minimum horizontal distance be-

tween the rear lot line and the rear of the main building or any projections thereof other than the projections of uncovered steps, unenclosed balconies, or unenclosed porches. On all lots, the rear yard shall be in the rear of the front yard.

**133. Yard, Side**

A yard between the main building and the side line of the lot and extending from the front yard to the rear yard, and being a minimum horizontal distance between a side lot line and the side of the main building or any projection thereto.



**134. Zoning Administrator**

The Administrative Officer designated or appointed by the Allamakee County Board of Supervisors to administer and enforce the regulations contained in this Ordinance.

**135. Zoning Map**

The Official Zoning Map of Allamakee County establishing the boundaries of land use zones within the unincorporated areas of Allamakee County.

**136. Zoning Update Journal**

A detailed record of land use boundaries and changes to the Zoning Map.

**116. AGRICULTURAL EXEMPTION LEGEND**

When, under Chapter 7, Subdivision of Land, any land has received the following legend on the recorded plat: "This plat is for agricultural purposes only and is intended for agricultural uses in conformity with Section 335.2 of the Iowa Code, as amended," any change of use after the discontinuation of such agricultural uses shall require an application to release the plat's legend. In making such application the applicant shall adhere to the procedures and use the forms adopted from time to time by the Allamakee County Board of Supervisors for review and approval.

**CHAPTER 2**

**BASE DISTRICT REGULATIONS**

**201 SCHEDULE**

**201.1 Schedule of District Regulations**

The following zoning districts are hereby adopted and declared to be a part of this Ordinance:

Symbol	Name
A-1	Agricultural District
R-1	Rural Residential District
R-2	Low Density Residential District
R-3	Medium Density Residential District

C-1	Commercial District
I-1	Limited Industrial District
I-2	General Industrial District

**201.2 Schedule of Permitted and Conditional Uses**

Use Category	A-1	R-1	R-2	R-3	C-1	I-1	I-2
<b>Agriculture</b>							
General farming and other agricultural activities	P	P	P	P	P	P	P
Plant, nursery and garden supplies sales	P	P	P	P	P	P	P
Agriculture building or structure	P	P	P	P	P	P	P
Animal feeding operation, transfer station, buying operation	P	P	P	P	P	P	P
Livestock waste lagoon	P	P	P	P	P	P	P
Animal hospital, veterinary clinics	P				P	P	P
Kennels	P	C	C	C	P	P	P
Stables, riding academies and equestrian clubs	P	C	C	C	P	P	P
Agricultural seed sales, other than a home occupation	P	C	C	C	P	P	P
Grain elevators	P	C	C	C	P	P	P
Livestock feed and grain sales, feed supplies	P	C	C	C	P	P	P
Seed research facilities	P	C	C	C	P	P	P
Dry or slurry mix fertilizers	P				C	P	P
Ethanol Plants, Bio-Diesel Plants and Alternative Fuel Plants	C					P	P
Liquid fertilizer, ag-chemicals	P				C	P	P
Anhydrous ammonia storage and/or pumping facilities	C				C	C	C
Farm implement display, sales, service, and repair	P	C	C	C	P	P	P
Ag & Non Agricultural Wind Towers	C				C	C	C
<b>Residential</b>							
Accessory dwelling / building	P						
Single-family dwelling	P	P	P	P			
Two-family dwelling			P	P			
Multiple dwelling				P			
Condominium dwelling				P			
Summer home, cottage, cabin	P	P	P				
Family home pursuant to section 335.25, Code of Iowa		P	P	P			
Manufactured and Mobile Home Park – See Section 303				C			
Home occupation	P	P	P	P			
Bed and Breakfast Home	PS	PS	PS	PS			
Mobile Home(s) converted to real estate	P						
<b>Commercial / Retail</b>							
Nursing home				C	P		
Travel Trailer Park, commercial campground – See Section 304	CS				CS		
Automotive, truck, boat, display, sales, service, and repair					P		
Lumberyard or building materials sales					P	P	
Restaurant, nightclub, cafe or tavern, liquor store					P		
Dance hall and skating rink					P		
Drive-in eating and drinking establishment					P		
Bowling alley					P		

Drive-in bank					P		
Motel, hotel					P		
Bus terminal					P		
Funeral parlor					P		
Monument marker display and sales					P	P	
Plumbing, HVAC, appliance sales, service and repair					P		
Drive-in theater					P		
Miniature golf and driving range					P		
Radio or television broadcasting station					P		
Professional office buildings					P		
Museum, planetary, art gallery, arboreta, botanical /zoological gardens	C				P		
Lodge and fraternal organizations	C				P		
Rental storage facilities					P	P	
Ski Lodges & Ski Slopes	C				C		
Vehicle Raceways	C				C		
Retail Sales and Service, Dwelling unit above a store or shop					P		
<b>Industrial</b>							
Sanitary landfill							C
Recycling plant							C
Junk or Salvage Yard							C
Manufacturing, fabrication contained within a building						P	P
Wholesaling and warehousing						P	P
Contractor's shop and enclosed storage yard						P	P
Truck and freight terminal						P	P
Welding, machine and repair shops						P	P
Metal fabrication						P	P
Automobile paint and body shops						P	P
Frozen food lockers						P	P
Building fabrication, including manufactured homes, display and sales						P	P
Bulk storage of petroleum products, sale, refining							C
Cement, hydrated lime, gypsum, and similar materials manufacture							P
Fat rendering, fertilizer, or glue manufacture							P
Garbage, offal, or dead animal reduction							P
Slaughter houses, meat packing, processing, and stock-yards							P
Hide-trading							P
Temporary ready mix concrete plants, asphalt paving mixture plants	P				P	P	P
Permanent ready mix concrete plants, asphalt paving mixture plants							P
Adult entertainment businesses						C	C
<b>Other</b>							
Extraction Pits – See Section 305	C				C	C	C
Churches, temples	P	P	P	P			
Elementary and Secondary Schools	P	P	P	P			
Certified preschools	P	P	P	P	P		

Licensed day care	P	P	P	P	P		
Lake, ponds and outdoor recreation	P	P	P	P	P	P	P
Community Meeting and Recreation Building	P	P	P	P			
Golf courses	C	C	C	C			
Hunting clubs	C						
Cemeteries and Mausoleums	P	P	P	P			
Railroads and support facilities	P	P	P	P	P	P	P
Public Utilities and support facilities	P	P	P	P	P	P	P
Ag & Non Agricultural Wind Towers	C				C	C	C
Communication Towers including Cellular and Radio Towers	C				C	C	C

P=Permitted PS=Permitted, Supplemental Standards Apply C=Conditional

**202 A-1 AGRICULTURE DISTRICT**

**202.1 Purpose**

To regulate land area appropriate for agriculture and agriculturally-related business uses, to protect and reserve areas suitable for nonagricultural use until the land is needed for development in accordance with a future land use plan.

**202.2 Permitted and Conditional Uses**

Use Category	A-1
<b>Agriculture</b>	
General farming and other agricultural activities	P
Plant, nursery and garden supplies sales	P
Agriculture building or structure	P
Animal feeding operation, transfer station, buying operation	P
Livestock waste lagoon	P
Kennels	P
Animal hospital, veterinary clinics	P
Stables, riding academies and equestrian clubs	P
Agricultural seed sales, other than a home occupation	P
Grain elevators	P
Livestock feed and grain sales, feed supplies	P
Seed research facilities	P
Dry or slurry mix fertilizers	P
Ethanol Plants, Bio-Diesel Plants and Alternative Fuel Plants	C
Liquid fertilizer, ag-chemicals	P
Anhydrous ammonia storage and/or pumping facilities	C
Farm implement display, sales, service, and repair	P
Ag & Non Agricultural Wind Towers	C
<b>Residential</b>	
Accessory dwelling / building	P
Single-family dwelling	P
Summer home, cottage, cabin	P
Home occupation	P
Bed and Breakfast Home - See Section 202.3 paragraph 3	PS
Mobile home(s) converted to real estate	P

<b>Commercial / Retail</b>	
Travel Trailer Park, commercial campground – See Section 304	PS
Museum, planetary, art gallery, arboreta, botanical /zoological gardens	C
Lodge and fraternal organizations	C
Ski Lodges & Ski Slopes	C
Vehicle Raceways	C
<b>Industrial</b>	
Temporary ready mix concrete plants, asphalt paving mixture plants	P
<b>Other</b>	
Extraction Pits - See Section 305	C
Churches, temples	P
Elementary and Secondary Schools	P
Certified preschools	P
Licensed day care	P
Lake, ponds and outdoor recreation	P
Community Meeting and Recreational Building	P
Golf courses	C
Hunting clubs	C
Cemeteries and Mausoleums	P
Railroads and support facilities	P
Public Utilities and support facilities	P
Ag & Non-Agricultural Wind Towers	C
Communication Towers including Cellular and Radio Towers	C

P=Permitted      PS=Permitted, Supplemental Standards Apply      C=Conditional

**202.3 Allowed Accessory Uses and Structures**

1. Incidental structures or buildings necessary to the conduct of a permitted use including private garages, carports, screen houses, fences, tennis courts, greenhouses, swimming pools and storage buildings for use of occupants of the principal structure.
2. Temporary buildings, (for one (1) year with one (1) six (6) month extension or a maximum of eighteen (18) months) used in conjunction with construction work, provided that such buildings are removed promptly upon the completion of the construction work.
3. Bed and Breakfast Home, providing that the applicant shall address the following supplemental standards:
  - a. A letter of authorization by the Allamakee County Board of Health indicating sufficient wastewater treatment capacity is available.
  - b. Accommodations must be in the family home that the host/hostess is in residence.
  - c. Accommodations are limited to a maximum of three families at any one time, not including the host family.
  - d. Food shall be served only to overnight guests and not to the general public.
  - e. A sign not to exceed six (6) square feet in area carrying the name of the bed and breakfast home and host/hostess is permitted on the premises.
  - f. In addition to the required parking spaces for the residence, one (1) additional parking space shall be provided for each family accommodated.
  - g. Upon arrival, guests shall register with the host/hostess their names, address and license plate number of the vehicle being used by the guests. Records shall be kept for a period of three years and shall be made available for examination by Allamakee County Board of Health or its Officers upon request.

**202.4 Minimum Performance Requirements**

		<b>Agricultural-1 Permitted Uses</b>	
		<b>Non-farm single family dwelling</b>	<b>All other uses</b>
<b>Minimum Lot Area</b>	3 Acres Three (3) acres (exclusive of road right of way and easements) or greater depending on review of county sanitarian.	To be reviewed by the Allamakee County Planning and Zoning Commission	
<b>Minimum Yard Requirements</b>	Minimum Lot Width... .....150 feet Front Yard.....40 feet Rear Yard.....30 feet Side Yard.....10 feet Street Side, corner lot...30 feet	Minimum Lot Width 150 feet Front Yard.....50 feet Rear Yard.....40 feet Side Yard.....30 feet Street Side, corner lot 40 feet	
<b>Maximum Height</b>	35 feet or 2 ½ stories	See Section 401.2(5)	
<b>Minimum Principal Structure Width</b>	16 Feet	NA	
<b>Parking</b>	See Section 403		
<b>Signs</b>	See Section 404		

**202.5 Special Requirements**

All development is subject to additional provisions prescribed by the Floodplain Overlay District, the Bluffland Protection Overlay District and the City of Waukon, Iowa Municipal Code as it pertains to airport height restrictions, as determined by the Zoning Administrator.

**203 R-1 RURAL RESIDENTIAL DISTRICT**

**203.1 Purpose**

To regulate land areas appropriate for single-family residential use on scattered single lots three (3) acres or more.

**203.2 Permitted and Conditional Uses**

<b>Category</b>	<b>R-1</b>
<b>Agriculture</b>	
General farming and other agricultural activities	P
Plant, nursery and garden supplies sales	P
Agriculture building or structure	P
Animal feeding operation, transfer station, buying operation	P
Livestock waste lagoon	P
Kennels	C
Stables, riding academies and equestrian clubs	C
Agricultural seed sales, other than a home occupation	C
Grain elevators	C



Livestock feed and grain sales, feed supplies	C
Seed research facilities	C
Farm implement display, sales, service, and repair	C
<b>Residential</b>	
Single-family dwelling	P
Summer home, cottage, cabin	P
Family home pursuant to section 335.25, Code of Iowa	P
Home occupation	P
Bed and Breakfast home	PS
<b>Other</b>	
Churches, temples	P
Elementary and Secondary Schools	P
Certified preschools	P
Licensed day care	P
Lake, ponds and outdoor recreation	P
Community Meeting and Recreational Building	P
Golf courses	C
Cemeteries and Mausoleums	P
Railroads and support facilities	P
Public Utilities and support facilities	P

P=Permitted      PS=Permitted, Supplemental Standards Apply  
C=Conditional

**203.3 Allowed Accessory Uses and Structures**

1. All those Accessory Uses and Structures allowed in the A-1 Agricultural District.
2. Animal Husbandry. Maximum animal densities for non-farm, single-family residential dwellings shall not exceed standard practices considering the size and condition of the land. Land area must be large enough to sustain grazing and normal containment of animals. Furthermore, waste disposal shall comply with all State of Iowa waste disposal requirements and that nuisance conditions shall not be created for neighboring land-use.

**203.4 Minimum Performance Requirements**

	<b>Residential-1 Permitted Uses</b>	
	<b>Residential dwellings</b>	<b>All other uses</b>
<b>Minimum Lot Area</b>	Single-Family Dwellings. Summer home, cottage, cabin, home occupation, bed and breakfast home, family home pursuant to Section 335.25, Code of Iowa. Three (3) acres (exclusive of road right-of-way and easements) or greater depending on review of County Sanitarian.	One acre (exclusive of road right-of-way and easements) or greater per review of County Sanitarian.
<b>Minimum Yard Requirements</b>	Minimum Lot Width ..... 150 feet Front Yard..... 25 feet Rear Yard ..... 20 feet Side Yard..... 10 feet Street Side, corner lot ..... 30 feet	Minimum Lot Width 150 feet Front Yard.....50 feet Rear Yard .....40 feet Side Yard.....30 feet Street Side, corner lot 40 feet
<b>Maximum Height</b>	35 feet	

<b>Minimum Principal Structure Width</b>	24 Feet	NA
<b>Parking</b>	See Section 403	
<b>Signs</b>	See Section 404	

**203.5 Special Requirements**

All development is subject to additional provisions prescribed by the Floodplain Overlay District, the Bluffland Protection Overlay District and the City of Waukon, Iowa Municipal Code as it pertains to airport height restrictions, as determined by the Zoning Administrator.

**204 R-2 LOW DENSITY RESIDENTIAL DISTRICT**

**204.1 Purpose**

To regulate land area for low-density residential development likely to be constructed in a traditional “urban form” with lots typically (1) one acre or more in size.

**204.2 Permitted and Conditional Uses**

<b>Use Category</b>	<b>R-2</b>
<b>Agriculture</b>	
General farming and other agricultural activities	P
Plant, nursery and garden supplies sales	P
Agriculture building or structure	P
Animal feeding operation, transfer station, buying operation	P
Livestock waste lagoon	P
Kennels	C
Stables, riding academies and equestrian clubs	C
Agricultural sales, other than a home occupation	C
Grain elevators	C
Livestock feed and grain sales, feed supplies	C
Seed research facilities	C
Farm implement display, sales, service, and repair	C
<b>Residential</b>	
Single-family dwelling	P
Two-family dwelling	P
Summer home, cottage, cabin	P
Family home pursuant to section 335.25, Code of Iowa	P
Home occupation	P
Bed and Breakfast Home	PS
<b>Other</b>	
Churches, temples	P
Elementary and Secondary Schools	P
Certified preschools	P
Licensed day care	P
Lake, ponds and outdoor recreation	P
Community Meeting and Recreational Building	P
Golf courses	C

Cemeteries and Mausoleums	P
Railroads and support facilities	P
Public Utilities and support facilities	P

P=Permitted PS=Permitted, Supplemental Standards Apply C=Conditional

**204.3 Allowed Accessory Uses and Structures**

All those Accessory Uses and Structures allowed in the A-1 Agricultural District.

**204.4 Minimum Performance Requirements**

<b>Residential-2 Permitted Uses</b>		
	<b>Residential dwellings</b>	<b>All other uses</b>
<b>Minimum Lot Area</b>	Single-Family: Summer home, cottage, cabin, home occupation, bed and breakfast home, family home pursuant to Section 335.25, Code of Iowa. One (1) acre (exclusive of road right-of-way and easements) or greater depending on review of County Sanitarian.	One acre (exclusive of road right-of-way and easements) or greater per review of County Sanitarian.
<b>Minimum Yard Requirements</b>	Minimum Lot Width 150 feet Front Yard .....25 feet Rear Yard .....25 feet Side Yard .....10 feet Street Side, corner lot 30 feet	Minimum Lot Width 150 feet Front Yard .....50 feet Rear Yard .....40 feet Side Yard .....30 feet Street Side, corner lot 40 feet
<b>Maximum Height</b>	35 feet	
<b>Minimum Principal Structure Width</b>	16 Feet	NA
<b>Parking</b>	See Section 403	
<b>Signs</b>	See Section 404	

**204.5 Special Requirements**

All development is subject to additional provisions prescribed by the Floodplain Overlay District, the Bluffland Protection Overlay District and the City of Waukon, Iowa Municipal Code as it pertains to airport height restrictions, as determined by the Zoning Administrator.

**205 R-3 MEDIUM DENSITY RESIDENTIAL DISTRICT**

**205.1 Purpose**

To regulate land area for medium density residential development likely to be constructed in a traditional “urban form”, to include:

1. Land area adjacent to municipalities where public utility systems can be extended or are likely to be constructed within a five (5) to seven (7) year period.
2. Land area within or adjacent to existing platted subdivisions, villages and resort communities.

**205.2 Permitted and Conditional Uses**

<b>Use Category</b>	<b>R-3</b>
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<b>Agriculture</b>	
General farming and other agricultural activities	P
Plant, nursery and garden supplies sales	P
Agriculture building or structure	P
Animal feeding operation, transfer station, buying operation	P
Livestock waste lagoon	P
Kennels	C
Stables, riding academies and equestrian clubs	C
Agricultural seed sales, other than a home occupation	C
Grain elevators	C
Livestock feed and grain sales, feed supplies	C
Seed research facilities	C
Farm implement display, sales, service, and repair	C
<b>Residential</b>	
Single-family dwelling	P
Two-family dwelling	P
Multiple dwelling	P
Condominium dwelling	P
Family home pursuant to section 335.25, Code of Iowa	P
Manufactured and Mobile Home Park – See Section 303	C
Home occupation	P
Bed and Breakfast home	PS
<b>Commercial / Retail</b>	
Nursing home	C
<b>Other</b>	
Churches, temples	P
Elementary and Secondary Schools	P
Certified preschools	P
Licensed day care	P
Lake, ponds and outdoor recreation	P
Community Meeting and Recreational Building	P
Golf courses	C
Cemeteries and Mausoleums	P
Railroads and support facilities	P
Public Utilities and support facilities	P

P=Permitted      PS=Permitted, Supplemental Standards Apply      C=Conditional

**205.3 Allowed Accessory Uses and Structures**

All those Accessory Uses and Structures allowed in the A-1 Agricultural District.

**205.4 Minimum Performance Requirements**

	<b>Residential-3 Permitted Uses</b>	
	<b>Residential dwellings</b>	<b>All other uses</b>
<b>Minimum Lot Area</b>	Single-Family Dwellings: Summer home, cottage, cabin, home occupation, bed and breakfast home, family home pursuant to Section 335.25, Code of Iowa. One (1) acre (exclusive of road right-of-way and easements) or greater depending on review of County Sanitarian.	One acre (exclusive of road right-of-way and easements) or greater per review of County Sanitarian.

<b>Minimum Yard Requirements</b>	Minimum Lot Width 150 feet Front Yard .....20 feet Rear Yard .....15 feet Side Yard .....8 feet Street Side, corner lot 30 feet	Minimum Lot Width 150 feet Front Yard ..... 20 feet Rear Yard ..... 15 feet Side Yard ..... 8 feet Street Side, corner lot...25 feet
<b>Maximum Height</b>	35 feet	
<b>Minimum Principal Structure Width</b>	14 Feet	NA
<b>Parking</b>	See Section 403	
<b>Signs</b>	See Section 404	

**205.5 Special Requirements**

All development is subject to additional provisions prescribed by the Floodplain Overlay District, the Bluffland Protection Overlay District and the City of Waukon, Iowa Municipal Code as it pertains to airport height restrictions, as determined by the Zoning Administrator.

**206 C-1 COMMERCIAL DISTRICT**

**206.1 Purpose**

To regulate land area appropriate for uses that ordinarily serve the traveling public and commercial uses that generally require substantial land area and access to a major traffic artery.

**206.2 Permitted and Accessory Uses**

<b>Use Category</b>	<b>C-1</b>
<b>Agriculture</b>	
General farming and other agricultural activities	P
Plant, nursery and garden supplies sales	P
Agriculture building or structure	P
Animal feeding operation, transfer station, buying operation	P
Livestock waste lagoon	P
Animal hospital, veterinary clinics	P
Kennels	P
Stables, riding academies and equestrian clubs	P
Agricultural seed sales, other than a home occupation	P
Grain elevators	P
Livestock feed and grain sales, feed supplies	P
Seed research facilities	P
Farm implement display, sales, service, and repair	P
Dry or slurry mix fertilizers	C
Liquid fertilizers and Ag chemicals	C
Anhydrous ammonia storage and/or pumping facilities	C
Ag & Non Agricultural Wind Towers	C
<b>Commercial / Retail</b>	
Nursing home	P

Travel Trailer Park, commercial campground – See Section 304	PS
Automotive, truck, boat, display, sales, service, and repair	P
Lumberyard or building materials sales	P
Restaurant, nightclub, cafe or tavern, liquor store	P
Dance hall and skating rink	P
Drive-in eating and drinking establishment	P
Bowling alley	P
Drive-in bank	P
Motel, hotel	P
Bus terminal	P
Funeral parlor	P
Monument marker display and sales	P
Plumbing, HVAC, appliance sales, service and repair	P
Drive-in theater	P
Miniature golf and driving range	P
Radio or television broadcasting station	P
Professional office buildings	P
Museum, planetary, art gallery, arboreta, botanical /zoological gardens	P
Lodge and fraternal organizations	P
Rental storage facilities	P
Ski Lodges & Ski Slopes	C
Vehicle Raceways	C
Retail Sales and Service, Dwelling Unit above a store or shop	P
<b>Industrial</b>	
Temporary ready mix concrete plants, asphalt paving mixture plants	
<b>Other</b>	P
Extraction Pits-Sec Section 305	
Certified preschools	C
Licensed day care	P
Lake, ponds and outdoor recreation	P
Community Meeting and Recreational Building	P
Railroads and support facilities	P
Public Utilities and support facilities	P
Ag & Non-Agricultural related Wind Towers	P
Communication Towers including Cellular and Radio Towers	C

P=Permitted PS=Permitted, Supplemental Standards Apply C=Conditional

### 206.3 Allowed Accessory Uses and Structures

1. Uses and structures clearly incidental to the permitted principal uses or structures of this district.
2. Storage warehouses in conjunction within the permitted uses or structures of this district.
3. Temporary buildings, (for one (1) year with one (1) six (6) month extension or a maximum of eighteen (18) months) used in conjunction with construction work, provided that such buildings are removed promptly upon the completion of the construction work.
4. Dwelling Unit in a commercial structure for the owner, operator or caretaker of the business.

**206.4 Minimum Performance Requirements**

<b>Commercial-1 Permitted Uses</b>	
<b>Minimum Lot Area</b>	Minimum as required by the County Sanitarian
<b>Minimum Yard Requirements</b>	Minimum Lot Width 150 feet Front Yard .....50 feet Rear Yard .....20 feet when adjacent to A-1, R-1, R-2, and R-3 Districts, otherwise, 10 feet. Side Yard .....10 feet Street Side, corner lot..... 30 feet On any public street right-of-way less than 100 feet in width, the minimum front yard setback shall be 100 feet back from the public street right-of-way line.
<b>Maximum Height</b>	35'
<b>Parking</b>	See Division 403
<b>Signs</b>	See Division 404

**206.5 Special Requirements**

1. All development is subject to additional provisions prescribed by the Floodplain Overlay District, the Bluffland Protection Overlay District and the City of Waukon, Iowa Municipal Code as it pertains to airport height restrictions, as determined by the Zoning Administrator.
2. No raw material, finished product or waste product, which may cause dust or odor, which would adversely affect adjoining properties, shall be stored outside a building nor shall any junk, debris or waste material be permitted to accumulate on the site.
3. Material storage yards shall be enclosed, where required, by planting screens or fences or other structures approved by the Planning & Zoning Commission.
4. Overhead or area light fixtures shall be located and focused so as to avoid casting direct light upon any adjacent residential property.
5. All un-surfaced yard areas shall be covered with a suitable, well-maintained perennial groundcover and landscape plantings.

**207 I-1 LIMITED INDUSTRIAL DISTRICT**

**207.1 Purpose**

To regulate land area appropriate for light commercial / industrial and warehousing uses and encourage development that will have minimal adverse impact on adjoining properties.

**207.2 Permitted and Conditional Uses**

<b>Use Category</b>	<b>I-1</b>
<b>Agriculture</b>	
General farming and other agricultural activities	P
Plant, nursery and garden supplies sales	P
Agriculture Building or structure	P
Animal feeding operation, transfer station, buying operation	P
Livestock waste lagoon	P
Animal hospital, veterinary clinics	P
Grain elevators	P

Kennels	P
Stables, riding academies and equestrian clubs	P
Agricultural seed sales, other than a home occupation	P
Livestock feed and grain sales, feed supplies	P
Seed research facilities	P
Dry or slurry mix fertilizers	P
Ethanol Plants, Bio Diesel Plants and Alternative Fuel Plants	P
Liquid fertilizer, ag-chemicals	P
Anhydrous ammonia storage and/or pumping facilities	C
Farm implement display, sales, service, and repair	P
Ag & Non Agricultural Wind Towers	C
<b>Commercial / Retail</b>	
Lumberyard or building materials sales	P
Monument marker display and sales	P
Rental storage facilities	P
<b>Industrial</b>	
Manufacturing, fabrication contained within a building	P
Wholesaling and warehousing	P
Contractor's shop and enclosed storage yard	P
Truck and freight terminal	P
Welding, machine and repair shops	P
Metal fabrication	P
Automobile paint and body shops	P
Frozen food lockers	P
Building fabrication, including manufactured homes, display and sales	P
Temporary ready mix concrete plants, asphalt paving mixture plants	P
Adult entertainment businesses	C
<b>Other</b>	
Extraction Pits – See Section 305	C
Lake, ponds and outdoor recreation	P
Railroads and support facilities	P
Public Utilities and support facilities	P
Ag & Non-Agricultural Wind Towers	C
Communication Towers including Cellular and Radio Towers	C

P=Permitted      PS=Permitted, Supplemental Standards Apply      C=Conditional

**207.3 Allowed Accessory Uses and Structures**

All those Accessory Uses and Structures allowed in the C-1 Commercial District.

**207.4 Minimum Performance Requirements**

	<b>Industrial-1 Permitted Uses</b>
<b>Minimum Lot Area</b>	Minimum as required by the County Sanitarian



<b>Minimum Yard Requirements</b>	Minimum Lot Width ... 150 feet Front Yard ..... 50 feet Rear Yard ..... 20 feet when adjacent to A-1, R-1, R-2, and R-3 Districts, otherwise, 10 feet. Side Yard ..... 10 feet Street Side, corner lot. 30 feet On any public street right-of-way less than 100 feet in width, the minimum front yard shall setback be 100 feet back from the public street right-of-way line.
<b>Maximum Height</b>	35 feet
<b>Parking</b>	See Division 403
<b>Signs</b>	See Division 404

**207.5 Special Requirements**

1. All development is subject to additional provisions prescribed by the Floodplain Overlay District, the Bluffland Protection Overlay District and the City of Waukon, Iowa Municipal Code as it pertains to airport height restrictions, as determined by the Zoning Administrator.
2. Exterior storage shall be enclosed with a six (6) foot high fence or a suitable landscape planting to screen the stored materials from the view of adjacent land uses. No raw material, finished product or waste product, which may cause dust or odor, which would adversely affect adjoining properties, shall be stored outside a building nor shall any other junk, debris or waste product be permitted to accumulate on the site.
3. Overhead or area light fixtures shall be located and focused so as to avoid casting direct light upon any adjacent residential property.
4. All un-surfaced yard areas shall be covered with a suitable, well-maintained perennial groundcover and landscape plantings.
5. All required front yards shall be open landscaped areas and not utilized for storage or other structures other than a trade, business or industry identification sign for the firm located on the site.
6. No person shall cause or permit the establishment of any adult entertainment business, as defined in this Ordinance, within twelve-hundred and fifty (1,250) feet from another such business, any school, church, public park, public playground, public plaza, or boundary for an area zoned for any residential use. Measurement shall be taken on a direct line from the main entrance of such adult entertainment business to the point on the property line of such other business, school, church, public park, public playground, public plaza, or area zoned for residential use, which is the closest to the main entrance of such adult entertainment business. The “establishment” of an adult entertainment business shall include the opening of such business as a new business, the relocation of such business, or the conversion of an existing business location to any of the uses described in this ordinance.
7. All building openings, entries, windows, etc. or an adult entertainment business shall be constructed, located, covered, or screened in such a manner as to prevent a view into the interior of such building from any pedestrian sidewalk, walkway, street, or other public or semi-public area.
8. No person shall cause or permit the establishment of any of the following: Liquid fertilizer under pressure, ag-lime, ag-chemicals, Anhydrous ammonia storage and/or pumping facility, Bulk storage of petroleum products, sale, refining, Sanitary landfill or Recycling Center as defined in this Ordinance, within one thousand (1,000) feet from another such business, any school, church, public park, public playground, public plaza, or boundary for an area zoned for any residential use. Measurement shall be taken on a direct line from the nearest structure to the point on the property line of such other business, school, church, public park, public playground, public plaza, or area zoned for residential use, which is the closest to the

nearest structure. The “establishment” of these uses shall include the opening of such business as a new business, the relocation of such business, or the conversion of an existing business location to any of the uses described in this paragraph.

**208 I-2 GENERAL INDUSTRIAL DISTRICT**

**208.1 Purpose**

To regulate land area appropriate for industrial and warehousing uses and encourage development that will have minimal adverse impact on adjoining properties.

**208.2 Permitted and Conditional Uses**

Use Category	I-2
<b>Agriculture</b>	
General farming and other agricultural activities	P
Plant, nursery and garden supplies sales	P
Agriculture building or structure	P
Animal feeding operation, transfer station, buying operation	P
Livestock waste lagoon	P
Animal hospital, veterinary clinics	P
Kennels	P
Stables, riding academies and equestrian clubs	P
Agricultural seed sales, other than a home occupation	P
Grain elevators	P
Livestock feed and grain sales, feed supplies	P
Seed research facilities	P
Dry or slurry mix fertilizers	P
Ethanol Plants, Bio Diesel Plants and Alternative Fuel Plants	P
Liquid fertilizer, ag-chemicals	P
Anhydrous ammonia storage and/or pumping facilities	C
Farm implement display, sales, service, and repair	P
Ag & Non Agricultural Wind Towers	C
<b>Industrial</b>	
Sanitary landfill	C
Recycling plant	C
Junk or Salvage Yard	C
Manufacturing, fabrication contained within a building	P
Wholesaling and warehousing	P
Contractor's shop and enclosed storage yard	P
Truck and freight terminal	P
Welding, machine and repair shops	P
Metal fabrication	P
Automobile paint and body shops	P
Frozen food lockers	P
Building fabrication, including manufactured homes, display and sales	P
Bulk storage of petroleum products, sale, refining	C
Cement, hydrated lime, gypsum, and similar materials manufacture	P
Fat rendering, fertilizer, or glue manufacture	P
Garbage, offal, or dead animal reduction	P
Slaughter houses, meat packing, processing, and stockyards	P

Hide-trading	P
Temporary ready mix concrete plants, asphalt paving mixture plants	P
Permanent ready mix concrete plants, asphalt paving mixture plants	P
Adult entertainment businesses	C
<b>Other</b>	
Extraction Pits-see Section 305	C
Lake, ponds and outdoor recreation	P
Railroads and support facilities	P
Public Utilities and support facilities	P
Ag & Non-Agricultural Wind Towers	C
Communication Towers including Cellular and Radio Towers	C

P=Permitted PS=Permitted, Supplemental Standards Apply C=Conditional

**208.3 Allowed Accessory Uses and Structures**

All those Accessory Uses and Structures allowed in the C-1 Commercial District.

**208.4 Minimum Performance Requirements**

	<b>Industrial-2 Permitted Uses</b>
<b>Minimum Lot Area</b>	Minimum as required by the County Sanitarian
<b>Minimum Yard Requirements</b>	Minimum Lot Width ... 150 feet Front Yard..... 50 feet Rear Yard ..... 20 feet when adjacent to A-1, R-1, R-2, and R-3 Districts, otherwise, 10 feet. Side Yard..... 10 feet Street Side, corner lot 30 feet On any public street right-of-way less than 100 feet in width, the minimum front yard setback shall be 100 feet back from the public street right-of-way line.
<b>Maximum Height</b>	50 feet
<b>Parking</b>	See Division 403
<b>Signs</b>	See Division 404

**208.5 Special Requirements**

All those Special Requirements allowed in the I-1 Limited Industrial District.

**CHAPTER 3**

**OVERLAY DISTRICTS AND SUPPLEMENTAL REGULATIONS**

**301 FLOODPLAIN OVERLAY DISTRICT**

**301.1 Purpose**

To regulate land use within flood prone areas to minimize the impact of flood conditions and to preserve the health, safety, and welfare of the general public.

### **301.2 Definitions**

**1. Flood**

A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

**2. Flood, Base**

The flood having one (1) percent chance of being equaled or exceeded in any given year.

**3. Flood, One Hundred (100) Year**

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

**4. Floodplain**

Any land area susceptible to being inundated by water as a result of a flood.

**5. Flood-proofing**

Any combination of structural and nonstructural additions, changes or adjustments to structures including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

**6. Floodway**

The channel of a river or stream and those portions of the floodplain adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows of a one hundred (100) year flood.

**7. Floodway Fringe**

That portion of the floodplain outside of the floodway.

### **301.3 District Applications**

The Floodplain Overlay District (FP) shall be applied to and superimposed upon all zoning districts and all uses as contained herein as existing or amended by the text and map of this Ordinance. The regulations and requirements imposed by the FP Overlay District shall be in addition to those established for districts, which jointly apply. Under the joint application of districts, the more restrictive requirements shall apply.

The Zoning Administrator will review all preliminary site plans and determine whether the FP overlay district regulations may apply. It will be the responsibility of the applicant to determine the one hundred (100) year flood elevation based on a survey provided by a licensed surveyor in the State of Iowa and provide that information and plans to flood-proof the proposed development in compliance with the provisions of the Floodplain Overlay District, if so requested.

### **301.4 Warning and Disclaimer of Liability**

This Ordinance does not imply that areas outside the Floodplain Overlay District or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create a liability on the part of Allamakee County or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

### **301.5 Boundaries**

The boundaries of the Floodplain Overlay District shall be defined as those areas in the county adjacent to intermittent streams, streams, creeks, lakes, and rivers that are at or below the elevation of a one hundred (100) year flood as determined by the Iowa Department of Natural Resources. The boundaries of the floodplain Overlay District shall be graphically represented on

individual site plans, preliminary and final subdivision plats as requested by the Administrator, and determined by a licensed surveyor in the State of Iowa.

### **301.6 Development Regulations**

1. All development shall:
  - a. Be consistent with the need to minimize flood damage.
  - b. Use construction methods and practices that will minimize flood damage.
  - c. Use construction materials and utility equipment that is resistant to flood damage.
  - d. Provide adequate drainage to reduce exposure to flood hazards.
  - e. Be reviewed to assure that all necessary permits for floodplain construction have been obtained from Federal, State or local governmental agencies.
2. Structures shall be designed or anchored to prevent the flotation, collapse or lateral movement of the structures or portions of the structures due to flooding. Where one hundred (100) year flood elevation is available from a Federal, State or other source, the following elevation or flood proofing standards shall be met:
  - a. New or substantially improved residential structures shall have the first floor, including basement or cellar, elevated to one (1) foot above the one hundred (100) year flood level.
  - b. New or substantially improved non-residential structures shall meet the elevation requirements of residential structures or be flood proofed to an elevation one foot above the one hundred (100) year flood level.
3. Subdivisions shall be consistent with the need to minimize flood damage and shall provide adequate drainage to reduce exposure to flood hazards. The Zoning Administrator shall review all subdivision proposals within the Floodplain Overlay District to assure that such proposals are reasonably safe from flooding and shall advise the Board of Supervisors of potential conflicts.
4. A mobile home or manufactured home, other than recreational vehicles or travel trailers, shall be anchored with the habitable portion of the dwelling at a minimum elevation of one (1) foot above the one hundred (100) year flood level to prevent flotation, collapse or lateral movement. Specific anchoring requirements include:
  - a. Over-the-top ties as provided at each of the four (4) corners of the mobile home with two (2) additional ties per side at the intermediate locations; and mobile homes less than fifty (50) feet long requiring one additional tie per side.
  - b. Frame ties provided at each corner of the mobile home with five (5) additional ties per side at intermediate points and mobile homes less than fifty (50) feet long requiring four (4) additional ties per side.
  - c. All components of the anchoring system are capable of carrying a force of four thousand eight hundred (4,800) pounds.
  - d. Any additions to mobile homes are similarly anchored.
5. Utility and sanitary systems shall meet the following standards:
  - a. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system as well as the discharge of effluent into floodwater.
  - b. On-site waste disposal systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
  - c. New and replacement water supply systems shall be designed to minimize or eliminate possible contamination by floodwaters into the system.
  - d. Utilities, communication and electrical systems shall be located and constructed to minimize or eliminate flood damage to the systems and the risk associated with such flood damaged or impaired systems.
6. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. Prior to any alteration or relocation of a wa-

tercourse, the Zoning Administrator shall notify the Iowa Department of Natural Resources and adjacent cities and counties.

**302 BLUFFLAND PROTECTION OVERLAY DISTRICTS**

**302.1 Purpose**

To limit the process of erosion, protect the ground water, promote safe locations to build, provide safe and accessible routes for emergency vehicles, protect sensitive natural features, and preserve the scenic qualities of bluffs.

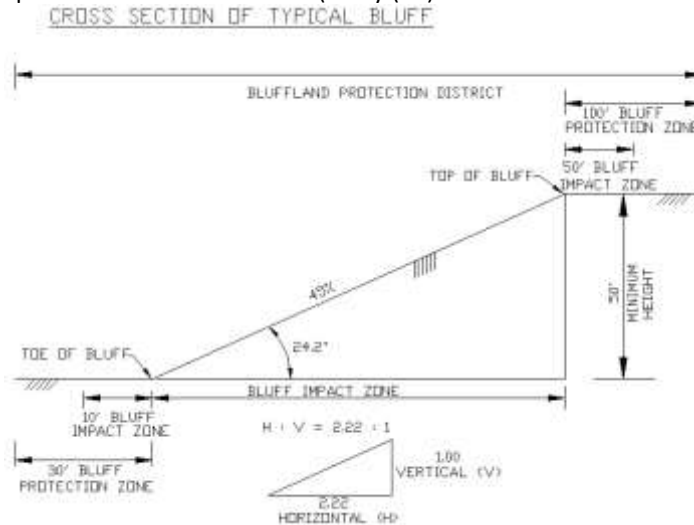
**302.2 Definitions**

**1. Bluff**

A topographic feature such as a hill, cliff or embankment with an average slope of forty five (45) percent or greater with a vertical rise or drop of fifty (50) feet or greater.

**2. Bluffland Protection District**

All land located between the toe and the top of the bluff and the land located within one hundred (100) feet measured horizontally beyond the highest point of the top of the bluff (one hundred (100) foot Bluff Protection Zone) and thirty (30) feet measured horizontally beyond the lowest point of the toe of the bluff (thirty (30) foot Bluff Protection Zone).



**3. Bluff Impact Zone**

The bluff and all land located within fifty (50) feet measured horizontally beyond the highest point of the top of the bluff and ten (10) feet measured horizontally beyond the lowest point of the toe of the bluff.

**4. Toe of the Bluff**

The point on a bluff where there is, as visually observed a clearly identifiable break in the slope from gentler to steeper slope above. If no break in the slope is apparent or if there is disagreement in the breaking point, the toe of the bluff shall be the lowest end of a fifty (50) foot segment with an average slope of forty five (45) percent or greater.

**5. Top of the Bluff**

The point on a bluff where there is, as visually observed a clearly identifiable break in the slope from steeper to gentler slope above. If no break in the slope is apparent or if there is disagreement in the breaking point, the top of the bluff shall be the highest end of a fifty (50) foot segment with an average slope of forty five (45) percent or greater.

### **302.3 District Applications**

1. The Bluffland Protection Overlay District shall be applied to and superimposed upon all zoning districts as contained herein as existing or amended by the text as defined in this Ordinance. The regulations and requirements imposed by the Bluffland Protection Overlay District shall be in addition to those established for districts, which jointly apply. Under the joint application of districts, the more restrictive requirements shall apply.
2. Platted building lots recorded prior to the final passage of this ordinance are exempt from complying with the Bluffland Protection Overlay District requirements for structural construction only if it is such that this section creates a non buildable lot but all other provisions of the Bluffland Protection Overlay District shall apply.
3. The Zoning Administrator will review all preliminary site plans and determine whether the Bluffland Protection Overlay District regulations may apply. It will be the responsibility of the applicant to provide on-site slope conditions on the Bluffland Protection District through a survey conducted by a professional engineer licensed in the State of Iowa with contours at vertical intervals of not more than five (5) feet if the general slope of the site is less than ten (10) percent, and at vertical intervals of not more than ten (10) feet if the general slope is ten (10) percent or greater, and provide that information, along with supplementary plans on how the proposed development will address the provisions of the Bluffland Protection Overlay District.

### **302.4 Boundaries**

The boundaries of the Bluffland Protection Overlay District shall be defined as those areas in the county, which contain bluffs as defined and illustrated in Section 302.2.

### **302.5 Development Regulations**

1. There shall be no structural construction in the Bluffland Impact Zone except for governmental public projects, public utilities, and fencing. There shall be no filling or excavating of land in the Bluffland Impact Zone except for permitted extraction pits and governmental public projects.
2. Persons desiring to construct a structure, perform grading or earth moving activities or destroy or remove vegetation from land located within the Bluffland Protection District, but not within the Bluff Impact Zone, shall only do so following review and approval of preliminary site plans as described in Section 302.5(3) by the Planning & Zoning Commission.
3. The preliminary site plan to be submitted to Planning & Zoning Commission shall include the following information:
  - a. Existing site conditions and slope contours as described in Section 302.3(3)
  - b. Proposed structures and site improvements.
  - c. Height and size of proposed structures.
  - d. Timetable for construction.
  - e. Location and design of any private water supply, sewage, or other sanitary waste disposal systems.
  - f. Erosion control plan during and following construction.
  - g. Site plan depicting Toe of Bluff, Top of Bluff, Bluff Impact Zones, and Bluffland Protection District Boundaries.
  - h. Proposed access lanes.
  - i. State of Iowa Professional Engineer's signature.
4. Considerations for approval or denial of the preliminary site plans shall include but not be limited to the following:

- a. Degree to which the intent of this Ordinance is addressed in the proposal.
- b. Compliance with the bulk and setback requirements of this district.
- c. Degree to which tree and vegetation removal and slope alteration has been minimized in the proposed development.
- d. Appropriateness of the proposed plant material for the site for slope protection purposes.
- e. Degree to which dislocated vegetation can be relocated or replanted on the site.
- f. Minimization of hard surfacing or other impervious materials within the Impact Zone.
- g. Consideration of safe location to construct structures and access lanes.
- h. Consideration of non-reflective or low reflective glass windows on all sides of structures.
- i. Consideration of exterior neutral colors that blend in with the environment.
- j. Consideration of the slope of the property.

### **302.6 General Regulations**

1. No extraction pits shall be located within the Bluffland Protection District without the issuance of a Conditional Use Permit.
2. Grading and filling within the Bluffland Protection District, shall comply with the following conditions:
  - a. No more than one (1) acre of the surface area of a lot shall be devoid of vegetative ground cover at any time. Temporary ground cover such as mulch shall be used and permanent cover such as sod shall be planted as soon as possible.
  - b. Fill shall be stabilized according to accepted engineering standards.
  - c. Methods, such as silt fences, hay bales, etc., must be used to minimize soil erosion and to trap sediments before they reach any surface water features.
  - d. Alterations of topography will only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.
3. Clear cutting is prohibited within the Bluffland Protection District, except to remove the minimum amount of vegetation necessary for placing roads, utilities, structures and parking areas, or except pursuant to a forester approved Forest Management Plan.
4. Select cutting or alteration of vegetation is allowed within the Bluffland Protection District subject to the following standards:
  - a. Limited clearing of trees and shrubs and cutting, pruning and trimming of trees is allowed however, removal of more than thirty (30%) percent of existing trees greater than six (6) inches in diameter at four (4) feet in height is prohibited.
  - b. Trees that are diseased or unsafe may be removed, or
  - c. Agricultural or Forester approved Management Plan.
5. Natural vegetation within the Bluffland Protection District shall be restored insofar as feasible after any construction project in the Bluffland Protection District.
6. The parking or placement of campers, recreational vehicles, or any other form of temporary housing for non-commercial usage is allowed. Limited Commercial or Industrial Use may be permitted as authorized by the Board of Adjustment.
7. The maximum height of any structure shall be no more than thirty five (35) feet.
8. Erosion Control Plans and Storm Water Discharges shall be in accordance with the regulations of the Iowa Department of Natural Resources.
9. Towers greater than thirty five (35) feet shall not be placed within one quarter mile of the Bluffland Protection District.
10. Access roads shall not exceed twelve (12) percent grade.

## **303 MANUFACTURED AND MOBILE HOME DEVELOPMENT STANDARDS**

### **303.1 Purpose**

To provide a standard of development for manufactured and mobile home parks and facilities.



### **303.2 Allowed Accessory Uses and Structures**

1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of manufactured and mobile home parks and facilities.
2. Subordinate buildings or structures that are in addition to or supplement the facilities provided by a manufactured home, such as awnings, cabanas, storage structures, garages, carports, and porches.
3. Common facility service buildings or community buildings intended exclusively for the use of the manufactured housing development's residents.
4. Management buildings, maintenance buildings, one dwelling unit to be occupied by the owner(s) or administrator of the development and other uses similar in nature.

### **303.3 Common Open Space**

A minimum of one hundred (100) square feet for each home site shall be provided for one or more common open space areas, which shall be easily accessible to all residents. At least fifty (50%) percent of the common open space shall be of a character suitable for active recreation and shall provide recreational equipment and facilities such as playgrounds, ball fields, swimming pools and similar uses.

### **303.4 Sewer and Water Utilities**

Common sewer and water facilities shall be provided for each home in accordance with all applicable State statutes and regulations. No manufactured home shall be occupied unless it is served by common sanitary sewage and water supply. Any common waste treatment facility constructed in conjunction with the development shall be located not less than ten (10) feet from any public road right-of-way, interior street or lot line. In the case of a lagoon, this distance shall be measured from the outside toe of the levee slope and shall be seventy-five (75) feet from any public road right-of-way.

### **303.5 Home Site and Installations**

Each home shall be installed on a site in accordance with the support and anchoring systems as prescribed by State statutes.

### **303.6 Skirting**

Skirting of a permanent type material and construction shall be installed within sixty (60) days of installation of the manufactured home to enclose the open space between the bottom of the home floor and the grade level. This skirting shall be maintained in an attractive manner consistent with the exterior of the home and to preserve the appearance of the development.

### **303.7 Streets**

All streets within a manufactured housing development shall be private and built to the following minimum standards:

1. Pavement widths shall meet the following requirements:
  - a. Two (2) ways with no on-street parking: twenty two (22) feet minimum.
  - b. Two (2) ways with on street parking one side: twenty eight (28) feet minimum.
  - c. Two (2) ways with on street parking both sides: thirty six (36) feet minimum.

2. Street Improvements:
  - a. All streets shall be provided with a smooth, hard, dust-free and dense surface, which shall be durable and well drained under normal use and weather conditions.

**303.8 Lot Area**

1. Single-Wide Unit. Four thousand (4,000) square feet minimum (exclusive of road right-of-way and easements) with a front lot width not less than forty (40) feet.
2. Double-Wide Unit (exceeding nineteen (19) feet wide). Six thousand (6,000) square feet minimum (exclusive of road right-of-way and easements) with a front lot width not less than fifty (50) feet.

**303.9 Set Backs**

1. Mobile Homes and Structures

<b>Yard</b>	<b>Minimum Standard</b>
Front	10 Feet
Rear	5 Feet
Side	8 Feet
Maximum Height	18 feet

2. Manufactured, Permanent Built Homes and Structures

<b>Yard</b>	<b>Minimum Standard</b>
Front	25 Feet
Rear	20 Feet
Side	8 Feet
Maximum Height	35 feet

**303.10 Lighting**

Adequate lighting shall be provided for all streets, walkways, buildings, and other facilities subject to nighttime use. As a general guideline, streetlights shall be placed at all street intersections and at other intermediate points as necessary.

**303.11 Site Development Plan**

Prior to the issuance of a permit for the construction or expansion of a manufactured and mobile home housing development, a comprehensive site plan shall be submitted for review and approval of the Board of Supervisors after review and recommendation of the Planning & Zoning Commission. The site plan shall be at a scale of not more than one hundred (100) feet to the inch, and shall show at a minimum the following:

1. Name and address of the owner(s) and developer and the title under which the proposed development is to be known. Also, north point, scale, date, name and address of the surveyor and engineer, as appropriate.
2. The complete legal description, including area, of the property to be developed.
3. Vicinity sketch at a scale of not more than five hundred (500) feet to the inch shall be shown on or accompany the site development plan. This sketch shall show how streets in the proposed development may connect with existing and proposed streets and roads in the sur-

rounding area, and shall show the location of any nearby parks, schools or other public facilities.

4. The location of property lines and boundary dimensions of the tract of land and all such surface and subsurface features as may affect the development of the land.
5. The number, location and dimensions of all manufactured home lots, stands and parking areas.
6. The location and width of streets and walkways and proposed names for all streets in the development.
7. The location of recreation areas and facilities, including community buildings, playgrounds, ball fields, indoor recreation areas, swimming pools, hobby shops and similar uses.
8. The location of storm shelter facilities, if proposed.
9. The location of lighting to be provided for all streets, walkways, buildings and other facilities subject to common use.
10. The location and size of existing and proposed water, sewer, gas, electric, cable TV, telephone and other utility lines and facilities.
11. Approval by appropriate agencies of the plans for and specifications of the water supply and sewage treatment facilities.
12. Existing contours shown at intervals of not more than five (5) feet, provided, however that a minimum of two (2) contours shall be shown. Contour intervals of less than five (5) feet may be required at the County Engineer's discretion.
13. Landscape plans showing the location, size and description of all proposed and existing plant materials, existing plant materials to be removed and existing plant materials to be retained. The objectives of the landscape plan are to:
  - a. Define private outdoor living and recreation space;
  - b. Screen undesirable views;
  - c. Reduce adverse effects upon the subject property and adjacent and nearby property;
  - d. Buffer noise and objectionable light; and
  - e. Provide for shade, protection from elements and the comfort and convenience of residents.
14. Determination of flood elevations and relationship of proposed development to flood prone areas, if applicable.

### **303.12 Exceptions**

1. Whenever the tract proposed to be developed is of such unusual size, character or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in this Ordinance would result in substantial hardships or injustices, the Board of Adjustment may waive, vary or grant exceptions to the requirements to the end that the developer is allowed to develop the property in a reasonable manner; provided, however, that all such variations and exceptions granted hereunder shall be in harmony with the intended spirit of this Ordinance and granted with the view toward protecting the public interest or welfare. Application for such waiver, variation or exception to the requirements of this Ordinance shall be made in writing by the developer at the time of filing of the site development plan, and shall specifically state the requirements(s) and the section(s) of the Ordinance to be considered.
2. In no case shall any waiver, variation or exception be more than a minimum easing of the requirements. In no case shall it have the effect of reducing the traffic capacity of any street or be in conflict with any Zoning Ordinance.

### **303.13 Modifications**

1. Minor modifications to the approved site development plan are permissible upon authorization by the Zoning Administrator. A modification is minor if it has no substantial impact on

neighboring properties, the general public or those intended to use or occupy the proposed development.

2. All other requests for modifications to the approved site development plan will be processed as new applications. New conditions may be imposed by the Board of Supervisors, but the applicant retains the right to reject such new conditions by withdrawing the request for modifications and proceeding under the terms and conditions of the original permit.
3. The permit holder requesting approval of modifications shall submit a written request (including plans as necessary) for such approval to the Zoning Administrator and the request shall specifically identify the modifications. The Zoning Administrator shall determine whether the proposed modification is minor.
4. Approval of all modifications must be given in writing.

### **304 TRAVEL TRAILER PARK /COMMERCIAL RECREATION CAMPGROUNDS REGULATIONS**

#### **304.1 Purpose**

To provide a standard of development for travel trailer parks/commercial recreation campgrounds.

#### **304.2 Permit**

In addition to other permit requirements of this Ordinance, the applicant shall submit three (3) copies of the plans, which indicate the following:

1. Location and size of recreation campground.
2. Location and size of all lots, dead storage areas, recreation areas, laundry drying areas, roadways, parking spaces and sites, and all setback dimensions.
3. Plans for sanitary sewage disposal, surface drainage, water systems, electrical service, and gas service.
4. Plans for a park lighting system.
5. The method of disposing the garbage and refuse.
6. Location and size of all streets servicing the campgrounds.
7. Such other information as may be required or requested by the County.

#### **304.3 Performance Standards for Travel Trailer Parks/Commercial Recreation Campgrounds**

1. All water supply and sanitary facilities must conform to the current health standards of the Iowa Department of Health, Iowa Department of Natural Resources, the County Board of Health and its appointed officers.
2. All land area shall be adequately drained and properly maintained free of refuse, garbage, rubbish or debris.
3. All permanent structures shall require a building permit.
4. No recreation campground shall be located so that drainage from the campground area will endanger any water supply.
5. All centralized refuse collection containers and equipment and park maintenance equipment shall be stored in a screened and fenced service yard within the campground.
6. At a minimum, campgrounds shall have instructions on how to reach a caretaker and law enforcement officers posted at all times.
7. All campgrounds shall be equipped with at least one (1) central toilet which meets or exceeds the requirements of the Iowa Department of Natural Resources in accordance with Chapter 138.13.4, Code of Iowa.

## 305 EXTRACTION PITS

**305.1 Purpose** The purpose of this section 305 on extraction pits is to (i) minimize road and bridge damage from high-volume and heavy truck traffic; (ii) protect natural landscapes from scarring and damage as a result of excessive excavation and mining activity; (iii) protect fragile karst features, water resources, aquifers, streams (including trout streams), and rivers from excessive contamination and appropriation; (iv) minimize soil erosion; (v) protect agricultural land and farming activity; (vi) protect existing recreational and tourist businesses; (vii) protect residents from unhealthy air emissions caused by mining activity; (viii) monitor and control the extraction and mining of industrial minerals; (ix) prevent the industrialization of agricultural, open space, and residential communities; and (x) minimize land use conflicts.

### 305.2 Definitions

1. **“Active Extraction Pit”** shall mean a properly permitted extraction pit that is being mined where the naturally occurring material mined is commercially available and has been removed from the site and sold in an on-going commercial activity. Any expansion of an Active Extraction Pit shall require a conditional use permit.
2. **“Construction sand”** shall mean sand that is predominantly produced and used for local construction purposes, such as asphalt or concrete. Alluvial sand shall be included within this definition.
3. The term **“construction minerals”** includes natural common, low-grade quartz rock, stone, aggregate, gravel and sand that is produced and used for local construction purposes, including road pavement, unpaved road gravel or cover, concrete, asphalt, building and dimension stone, railroad ballast, decorative stone, retaining walls, revetment stone, riprap, mortar sand, construction lime, agricultural lime and bedding sand for livestock operations, sewer and septic systems, landfills, and sand blasting. The term “construction minerals” does not include “industrial minerals” as defined in this section.
4. **“Excavation and mining”** shall mean any process or method of digging, excavating, mining, drilling, blasting, tunneling, dredging, stripping, or removing minerals from the land surface or underground. “Excavation and mining” applies to all activity occurring at excavation or mining sites, including sites commonly identified as quarries and sand pits.
5. The term **“industrial minerals”** includes naturally existing silica sand, quartz, graphite, diamonds, gemstones, kaolin, and other similar minerals used in industrial applications. Industrial minerals may be used, among several industrial uses, as a proppant for the hydraulic fracturing of shale for oil and gas production. Silica sand is categorized as an industrial mineral by the North American Industry Classification System under classification no. 212322. The term “industrial minerals” does not include “construction minerals” as defined in this section.
6. The term **“industrial minerals projects”** means any project or development that involves the (i) excavation and mining of industrial minerals, (ii) processing of industrial minerals, (iii) storage of industrial minerals, or (iv) transfer of industrial minerals.
7. **“Industrial sand”** or **“frac sand”** shall mean silica sand which, when processed, is suitable for use as a proppant in the enhancement of oil and gas wells by means of injection fracturing. All sand mined from the St. Peter and Jordan sandstone formations shall be included within this definition.
8. **“Karst”** shall be defined as a terrain with distinctive landforms and hydrology created from the dissolution of soluble rocks. Karst terrain is characterized by springs, caves, sinkholes and other landforms.
9. **“Karst Features”** shall be defined as topographical landforms created from the dissolution of soluble rocks under a thin soil layer (50 feet or less.)
10. A **“large scale extraction pit”** shall be defined as any extraction pit greater than 20 acres in size or exceeding 1000 tons of material mined, stockpiled or removed per day on a daily average basis (total material mined divided by days of operation in a calendar year) or exceeding 3000 tons on any one day.
11. The term **“processing of industrial minerals”** shall be defined as the processing, washing, cleaning, screening, filtering, sorting, stockpiling and storing of all excavated or mined industrial minerals.
12. The term **“transfer of industrial minerals”** shall be defined as the removal, transport or hauling of excavated and mined industrial minerals from the mining or processing site to any other location.

13. The term “**transfer facility**” shall be defined as a developed facility designed for the transfer and loading of extracted or mined industrial minerals onto rail, barge or truck for destinations outside Allamakee County.
14. A “**viewshed**” shall be defined as an area of land, water, or other environmental element that is visible to the human eye from a fixed vantage point, e.g., the viewshed of a scenic byway shall be all that is visible to persons using said byway.

### **305.3 Administration**

1. All newly proposed extraction pits shall meet the standards set forth in this section and shall require a Conditional Use Permit meeting the standards established in section 508. All existing extraction pits active during Calendar years 2000 through 2009 will not require a Conditional Use Permit unless the extraction pit is expanded through an addition of area, an increase in the excavated depth of an existing pit or a change in the material mined from the pit.
2. If the holder of a conditional use permit to excavate or mine construction minerals proposes to excavate or mine industrial minerals at the permitted excavation or mining site or proposes to increase the scope or area of operations (meeting the definition of a large scale extraction pit) the permit holder must first obtain an additional Conditional Use Permit.
3. The crushing, washing, refining, processing, transporting and initial removal of material shall be considered a conditional use. Quarries producing or manufacturing veneer stone, sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stockpiling of such products on the site shall be considered a conditional use. The manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, the production of ready-mixed concrete and any similar production or manufacturing processes, which might be related to the mining operation, shall be considered a conditional use.

### **305.4 Prohibited Activities**

#### **The following activities shall be prohibited:**

1. The use of any excavation or mining process that injects, applies or uses any chemical or toxic substance, unless expressly permitted in the conditional use permit.
2. The use of any excavation or mining process that includes hydraulic dredging or other similar process or method.
3. The use or application of any flocculants or chemicals to wash or process excavated and mined industrial minerals at a mining site.
4. The use or placement of previously mined, processed and contaminated sand as fill material or reusing that sand at the mining site.
5. Any industrial minerals project or large scale extraction pits proposed to be located:
  - a. Within any portion of the Bluffland Protection District,
  - b. Within 1,000 feet of any identified Karst features, or
  - c. Within one mile or within the viewshed of any stream, river,, recreational trail, or scenic byway.

### **305.5 Application**

1. Applicants for an Extraction Pit, Large Scale Extraction Pit and/or an Industrial Minerals Project Conditional Use Permit must include all owners and leaseholders of the property and the operator of the proposed extraction pit or project. The applicants shall prepare and submit an application to the Zoning Administrator. The application shall contain the following information:
  - a. Names, addresses and contact information for all property owners and all managers and the operator of the proposed pit or project.

- b. The exact and surveyed legal description and plat of the boundaries of the proposed project site.
- c. The total acreage of the proposed project site.
- d. A map of existing conditions of the property drawn to a scale of 1 inch to 100 feet., including:
  - 1. Contour lines at 5 foot intervals,
  - 2. Existing vegetation,
  - 3. Existing drainage and permanent water area,
  - 4. Existing structures on the property,
  - 5. Existing structures within 2000 feet of the property boundaries, and
  - 6. Existing wells.
- e. A map of proposed project operations at the property drawn to a scale of 1 inch to 100 feet, including:
  - 1. Structures to be built or constructed,
  - 2. Location of sites to be excavated or mined showing the depth of proposed excavation,
  - 3. Location of excavated deposits showing maximum height of deposits,
  - 4. Location of storage of excavated minerals showing the height of storage deposits,
  - 5. Location of vehicle parking,
  - 6. Location of storage of explosives, and
  - 7. Erosion and sediment control structures.
- f. A Site Reclamation Plan that meets the standards of this section.
- g. Photographs of the property and the surrounding area.
- h. A full and accurate narrative description of all phases of the proposed project operation, including a description of the material to be excavated, mined, stored and/or transferred, and an estimate of the project duration.
- i. If applicants intend to excavate and mine industrial minerals, then applicants must provide an excavation and mining operation plan consistent with the requirements contained in this section.
- j. Property owner applicants must provide a deed or other proof of ownership of the property. Non property owner applicants must provide a lease or other agreement with the property owners indicating the property owner's consent to the proposed project.
- k. Applicants must provide a geologic survey and a karst features survey of the property and the surrounding area within 1000 feet of the property. The geologic and karst features surveys must be prepared by a licensed and accredited mining geologist.
- l. A survey of the hydrology of the property and the surrounding area within 2000 feet of the property, identifying (i) all surface water resources including streams, springs and rivers, (ii) the location and depth of groundwater resources at the property, and (iii) the location of all aquifers and underground water resources. The survey shall be completed by a qualified professional engineer licensed in the State of Iowa.
- m. A survey of all wildlife habitat(s) located on the property.
- n. A survey and identification of all soil types and depths of topsoil on the property.
- o. A survey of all wetlands located on the property and within 2000 feet of the property.
- p. An archaeological and a cultural resources assessment of the proposed mining site to inspect for prehistoric and historic features, sites, monuments and burial grounds. This assessment shall be performed by a qualified professional experienced and trained to perform said assessments. Based on the results of the assessment, a full cultural resources and archeological survey may be required by the Board of Adjustment.
- q. A soil erosion and sediment control plan.
- r. A dust and noise control plan.
- s. A map of the proposed route for hauling excavated and mined minerals from the mining site to the proposed processing and/or transfer destination.
- t. An environmental assessment worksheet consistent with the requirements contained in this section.
- u. Any additional information requested by the Zoning Administrator, County Engineer, Board of Adjustment, Board of Supervisors and/or Planning Commission.

The application for a Conditional Use Permit will not be considered complete until all of the information required in this section has been submitted to the Zoning Administrator.

### **305.6 Public Notice**

1. Within 30 days following the Zoning Administrator's receipt of an applicant's completed application for a Large Scale Extraction Pit and/or an Industrial Minerals Project Conditional Use Permit, the Zoning Administrator shall send a notice to all property owners and residents located (i) within a 2 mile radius of the proposed mining site, and (ii) along the proposed route for hauling the excavated or mined industrial minerals from the mining site, informing such property owners and residents that Allamakee County has received the application. Applicants shall be responsible for the cost of preparing and delivering said notices.
2. Within 60 days following receipt of applicants' completed application, the Zoning Administrator and applicants shall hold a public meeting to inform such property owners and residents of the nature of the proposed Large Scale Extraction Pit or industrial minerals project. At such meeting, the Zoning Administrator shall inform the public that a public comment period on the submitted environmental assessment worksheet (EAW) will begin and the public will have 30 days to provide written comments to the Zoning Administrator in response to the environmental assessment worksheet (EAW).
3. After the public comment period has ended, the Zoning Administrator shall assemble the public comments received and prepare a written report regarding the submitted environmental assessment worksheet (EAW), which shall include a review of the public comments received. The Zoning Administrator shall make available to the public copies of the report regarding the submitted environmental assessment worksheet (EAW).
4. Within 30 days following the public comment period, a public hearing to consider the Conditional Use Permit Application shall be held by the Board of Adjustment.
5. The public hearing process for an extraction pit that is not a Large Scale or Industrial Minerals Extraction Pit shall follow the process for a Conditional Use Permit as set forth in Section 508 of this ordinance.

### **305.7 Reclamation Plan and Bond**

The Site Reclamation Plan submitted by applicants for an extraction pit shall include the following information:

1. A phased and ongoing plan that provides for reclamation beginning during mining operations.
2. Maps showing the final grade at the mining site with elevations and contour lines at five (5) foot intervals, location and species of vegetation to be planted, location and nature of any structures to be erected as part of the reclamation plan, a reclamation time schedule, the method used to plug any exploratory or drill holes, the method of grading, back filling and contouring the mining site and access road, the fill materials used, the fill materials sources, method of waste management and disposal (including liquid, solid waste and tailings), and any other information pertinent to reclamation of the site.
3. The property owners and mining operator shall be responsible for reclaiming the mining site in compliance with the approved reclamation plan. Reclamation of mining sites must occur on a phased basis, and must begin during mining operations. Mining operators will not be entitled to excavate or mine more than 10 acres of the property until reclamation of the first 10 acres of the mined site has begun and continues.
4. The property owners and mining operator shall deliver to the Zoning Administrator a reclamation assurance bond issued by an insurance carrier acceptable to the County, in an amount determined by the Board of Adjustment, to assure that sufficient funds will be available to fulfill all required elements of the reclamation plan. The reclamation assurance bond shall be valid and enforceable throughout the extraction or mining operation period and for a period of at least one year following the end or abandonment of excavation or mining. The County shall be entitled to claim such



reclamation assurance bond at any time when required elements of the reclamation plan are to be performed.

5. The mining operator shall at all times be responsible for paying in full and in a timely manner the full cost or premium of the reclamation assurance bond. The reclamation assurance bond shall provide that it may not be cancelled by the surety or issuer, except after not less than a one year notice to the County in writing by registered or certified mail. If the surety or issuer attempts to cancel the reclamation assurance bond, the mining operator shall deliver to the County a replacement proof of reclamation assurance bond. In the absence of this financial replacement assurance, all mining at the site shall cease and the site shall be closed and reclaimed before the insurance bond is released.

### **305.8 Supplemental conditions for large scale extraction pits and industrial minerals extraction pits**

**The following supplemental conditions shall be met prior to the issuance of a conditional use permit for a newly proposed industrial minerals project of any size or a newly proposed large scale extraction pit.**

1. Consulting Fees
  - a. The applicant shall be required to submit, to the County, sufficient funds to cover all expected consulting fees related to the initial application review, activity and site monitoring and post activity requirements. These may include, but are not limited to, establishing and monitoring air quality, water quality, dust control, road agreements, and/or any other matter that may necessitate expert, technical services, in the opinion of the Board of Adjustment.
2. Air Quality
  - a. Dust Control
    - i. Roadway and Site dust control shall be required and may be accomplished via methods approved by the County Board of Adjustment (BOA), after consultation with the County engineer and an approved air quality consultant. These methods may include, but are not limited to, berming, landscaping, watering, dust extraction equipment, wheel washing, etc.. Operators shall be responsible for providing continuous dust control during facility operation and during hauling activity on gravel roads used to access the facility.
  - b. Other Air Quality Impacts
    - i. The County may require monitoring for other air quality impacts that result from activities related to the site and may require that said impacts be mitigated via best management practices approved by the Zoning Administrator.
  - c. Air Quality/Particulate Monitoring
    - i. The BOA may require air quality/particulate levels monitoring of an extraction pit. An air quality consultant shall be hired to develop an air quality plan. Equipment proposed to be used shall be specified by the BOA, if required.
    - ii. If required, the operator/owner shall begin monitoring air quality/particulate levels one year prior to operation to establish a base line of the existing air quality.
    - iii. Stationary monitors shall be located at strategic locations along the site boundaries, within the site, and at other locations along the access route and other areas designated in the air quality plan.
    - iv. The operator shall hire a consultant, subject to the approval of the County, to install and monitor the equipment and report air quality readings to the County as requested.
3. Road Impact Studies and Agreements
  - a. All conditional use applications for large scale extraction pits and/or industrial minerals mining shall require a Road Impact Study to be completed by an engineer, licensed in the State of Iowa. The engineer shall be selected by the County and all fees for the study shall be paid by the applicant.
  - b. If the study establishes that the activity will have a negative impact on County transportation facilities, a road impact agreement between the County and the facility operator, owner and/or leaseholder shall be required. Said agreement shall alleviate any additional costs to maintain the road

- infrastructure affected by granting the conditional use request.
- c. If the study or City, County or State personnel identify traffic safety issues related to the proposed use, the County and Applicant shall enter into an agreement to provide said improvements in a manner that recognizes the essential nexus and rough proportionality of the proposed use to the other users of the infrastructure. In no event shall the County enter into any such agreement that may place a burden on the County financial resources dedicated to the maintenance and improvement of the County Transportation Infrastructure or any agreement that is not compliant with budgeting processes. The project shall not be approved if it creates safety hazards that cannot be mitigated through a Road Impact Agreement.
4. Water Quality
    - a. Mining operators shall not excavate or mine closer than 40 feet to the groundwater table.
    - b. Mining or processing facility operators shall not cause a significant reduction of surface water or groundwater tables within 2 miles of the mining/processing site.
    - c. All water discharges from the site shall be monitored and tested to ensure that there is no potential for contamination from the activities on the site.
    - d. A groundwater quality monitoring and mitigation plan, prepared by a qualified consultant, shall be incorporated into the mining operation plan.
  5. Site and Location Restrictions
    - a. Permitted Area
      - i. No conditional use permit shall be approved for any site that exceeds 40 acres, including all area up to the parcel boundaries.
    - b. No site shall be located within a 5 mile radius of any other large scale or industrial minerals extraction pit site or within 2000 feet of an existing church, public or private school, residence or residential subdivision, unless the setback requirement is waived by the owners and occupants. Such waiver must be in writing.
    - c. No mining or excavation shall occur within 200 feet of the site boundaries.
    - d. The Board of Adjustment may impose additional or greater setback requirements where it is found to be in the best interest of the public or to protect neighboring land uses.
  6. Sensitive Features
    - a. Karst Formations
      - i. No excavation or mining shall be allowed within 1,000 feet of any identified karst formations.
    - b. Streams and Rivers
      - i. No excavation or mining shall be allowed within 1 mile of any stream or river.
  7. Access Routes
    - a. The submitted site plan shall include all routes proposed to be utilized to access said site. The final, approved route(s) shall be utilized by all equipment, trucks, employees and others that access the site for any purpose related to the operation of the extraction pit, including employees, contractors, inspectors and owners.

### **305.9 Hours of Operation**

All mining operations at the site will be limited to Mondays through Fridays, 6:00 AM to 8:00 PM Central Daylight Time and Monday through Fridays, 7:00 AM to 5:00 PM Central Standard Time. No mining operations will be permitted to occur outside of these hours or on federally recognized holidays. In the interest of traffic safety, the Board of Adjustment may, as a condition of permit approval, establish time limits on hauling that are more restrictive than those for mining operations at the site.

### **305.10 Performance Standards**

1. Water Resources:
  - a. The extraction pit or land alteration operation shall not be allowed to interfere with surface water drainage beyond the boundaries of the operation.

- b. Surface water originating outside and passing through the mining site shall, at its point of departure from the site, be of equal quality to the water at the point where it enters the site.
2. Safety Fencing:  
All access points shall be gated and signed with appropriate warning messages.
3. Setback:
- a. Processing or mining of minerals shall not be conducted within 100 feet to the property line nor closer than 400 feet to any residential or commercial structures without the written consent of all owners and residents of said structures.
  - b. Mining operations shall not be conducted within 100 feet of the right-of-way line of an existing or platted street, road or highway. Excavating may be conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road or highway, if such excavation is included in the Plans and Maps submitted with the application and approved by the Board of Adjustment.

**305.11 Adverse Effects**

The mining operator shall be obligated to take all reasonable actions necessary to control and minimize adverse effects of the permitted use. The operator shall not allow any nuisance, as defined in Chapter 657 of the Iowa Code, to be caused by the permitted use. The Zoning Administrator has the authority to investigate complaints regarding adverse effects caused by the permitted use. If the Administrator finds that it is probable that the permitted use has created an adverse effect, the operator shall be notified of the adverse effect and the necessary actions which must be taken to stop said effects. If, in the opinion of the Zoning Administrator, the adverse effect(s) pose a danger to the health and safety of persons, the Administrator may issue a stop work order and the operator shall suspend all activity subject to the stop work order.

**305.12 Inspections**

An applicant for a permit to establish or operate an extraction pit agrees to allow the Allamakee County Zoning Administrator or designated representative to go onto the property for the purpose of inspecting the facility, property and operation to determine if the facility is operating within the conditions outlined in the permit and to investigate and respond to complaints regarding the facility or operation.

The County may determine it does not have staff or expertise to investigate or inspect the facility and, therefore, reserves the right to hire consultants to conduct mine site inspections. The applicant/permit holder agrees to pay the costs associated with the hiring of a qualified inspection consultant.

If the inspection discloses any non-compliance, the County shall issue a corrective action order. Failure by the applicant/permit holder to comply with corrective action order or to pay the cost of the inspection(s) shall result in a Stop Work Order and revocation of the conditional use permit.

**305.13 Assignment**

The owners or lease holders of a property subject to a conditional use permit granted under this section or the grantees of said conditional use permit, shall not assign, transfer, sell, sublet or delegate all or any portion of property, property rights and/or responsibilities under said permit unless prior approval to do so is obtained from the County Board of Supervisors. The Board shall not unreasonably withhold approval of the requested assignment. Any action to begin or affect such a transfer without Board approval shall cause the conditional use permit to be automatically terminated without further action.

**CHAPTER 4**

**REGULATIONS APPLYING TO ALL DISTRICTS**

**401 GENERAL CONDITIONS**

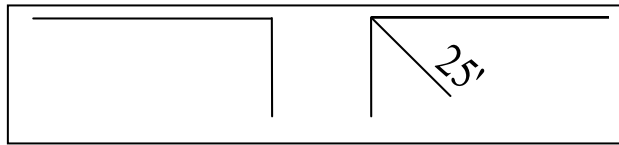
**401.1 Application of Standards**

The following provisions, regulations or exceptions listed in the Chapter shall apply equally to all districts except as hereinafter provided.

**401.2 General Provisions**

**1. Visibility at Intersection**

On a corner lot in any non-agricultural district, no fence, wall, hedge or other planting or structure shall be erected, or no foliage plant is permitted to grow to a height of more than three (3) feet above the elevation of the established curb grade within the triangular area formed by connecting the right-of-way lines at points which are twenty-five feet distance from the intersection of the right-of-way lines, and measured along the right-of-way lines.



**2. Accessory Buildings/Structure**

- a. A detached garage may be built in a side yard if all side yard setbacks can be met. All Accessory buildings and uses shall be located wholly within the rear yard and shall be at least two (2) feet from the rear lot line and shall not occupy more than forty (40) percent of a required rear yard.
- b. Mobile and manufactured housing or structures originally intended for use for human habitation shall not be used and maintained as an accessory building or structure.

**3. Off-Street Parking**

Off-street parking space may be located within the required front yard in a Commercial or Industrial District provided such space is fifty (50) feet or more away from any Residential District. No off-street parking is permitted in the front yard of a Residential District except upon a regularly constructed duly-authorized driveway.

**4. More Than One Principal Structure on a Lot**

In any district, no more than one (1) principal structure housing a permitted principal use may be erected on a single lot, except in the case of an accessory dwelling on agricultural farmsteads within the A-1 District.

**5. Height-Regulation Exception**

The height limitations contained in the Schedules of District Regulations do not apply to grain storage bins, grain elevators, feed mills, spires, wind generator towers, belfries, cupolas, chimneys, antennas, water tanks, ventilators, elevator housings or other structures placed above the roof level and not intended for human occupancy.

**6. Use of Public Right-of-Way**

No portion of the public road, street or alley right-of-ways shall be used or occupied by any abutting use of land or structures for storage or display purposes, or to provide any parking or loading space required by this Ordinance or for any other purpose that would obstruct the use or maintenance of the public right-of-way. Mailboxes shall be exempt.

**7. Proposed Use Not Covered in Ordinance**

Any proposed use not covered in this Ordinance as a permitted use, special exception or conditional use shall be referred to the Commission for a recommendation as to the proper district in which such use should be permitted.

**8. Buildings to Have Access**

- a. Every building hereafter erected shall be on a lot or parcel having access to a public street or road and all structures shall be located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.
- b. Driveways serving agricultural uses are exempt from regulation pursuant to Section 335.2 of the Iowa Code, as amended.
- c. If a new dwelling is added to a regulated driveway, the driveway is to be upgraded to the standards set out in Section 401.2(10) below, but if a bedroom, porch, garage or other accessory structure is all that is proposed to be added, the driveway need not be so upgraded.

**9. Mobile Homes or Trailers**

Mobile homes and travel trailers occupied as a permanent or temporary place of residence on any one lot or parcel for more than ninety (90) consecutive days, regardless of whether the mobile home or travel trailer is moved to a new location on said lot or parcel shall be made to come into compliance with this Ordinance and converted to real estate and/or moved to an approved mobile home park or mobile home subdivision, unless otherwise provided in this ordinance. Occupied travel trailers and camping trailers shall be located only in an approved tourist or trailer campground.

**10. Access Drives and Access**

- a. All access driveways or access easements serving one (1) or more principal structures shall be constructed and maintained to a minimum twenty-two (22) feet width traveled way and base material depth sufficient to support access by emergency vehicles, with a minimum sixty-six (66) feet right of way width, compliance with Ordinance IX-Rural Addressing for Allamakee County, Iowa.
- b. All access driveways or access easements in excess of two hundred (200) feet in length from its intersection with a public road to a principal structure shall provide an eighty (80) feet diameter turnaround at the end of the access for emergency vehicles.
- c. Easing of the requirements of this section as set out above may be granted without seeking a variance from the Board of Adjustment by the applicant submitting a site plan prepared by a professional engineer licensed in the State of Iowa certifying the proposed access drive and access design to be safe for E-911 vehicles' ingress and egress, even though the proposed certified design may provide for narrower than twenty-two (22) feet access, with appropriate turnouts, and/or other safety provisions as incorporated within the proposed certified design, all to be reviewed by the County Engineer and E-911 Coordinator at a Plat Review Committee Meeting.
- d. Access entrances onto any public road shall require review by the County Engineer who shall determine the appropriate location, size and design and may limit the number of access drives to any parcel in the interest of public safety.

**11. Front Yard Building Line**

When thirty (30) percent or more of the frontage on one side of the street in any subdivision has been built up with buildings having a front yard, then the building line of buildings to be erected shall not project beyond the average front yard as established, but this requirement shall not be interpreted to require a front yard of more than sixty (60) feet.

**12. Permitted Encroachments**

The following shall be considered as permitted encroachments on setback and height requirements except as hereinafter provided in any yard: Posts, off-street open parking spaces, solar systems, flues, belt course, leaders, sills, pilasters, lintels, cornices, eaves, gutters, awnings, open terraces, service station pump islands, open canopies, steps, chimneys, flag poles, ornamental features, open fire escapes, sidewalks, fences and all other similar devices incidental and appur-

tenant to the principal structure except as hereinafter amended.

**13. Traffic Control**

The traffic generated by any use shall be channeled and controlled in a manner that will avoid congestion on the public streets, traffic hazards and excessive traffic through residential areas, particularly truck traffic. Internal traffic shall be so regulated as to ensure its safe and orderly flow. Traffic into and out of business areas shall in all cases be forward moving with no backing onto streets. Traffic control plans must be reviewed by the County Engineer. Costs incurred for traffic control shall be the responsibility of the developer.

**14. Exterior Storage**

- a. In residential districts, all materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following: laundry drying and recreational equipment, construction and landscaping materials and equipment currently being used on the premises, agricultural equipment and materials if these are used or intended for use on the premises, off-street parking of passenger automobiles and pickup trucks and firewood.
- b. In all districts, the County may require a Conditional Use Permit for any exterior storage if it is demonstrated that such storage is hazard to the public health and safety.

**402 SITE PLAN APPLICATION**

**402.1 Purpose**

In rezoning, variance and conditional use issues it is essential that new developments meet established minimum standards for the design of such developments to protect existing developments, to insure adequate provisions for public/private utilities, such as sewer, water and roads and to promote the health, safety and general welfare of the public.

**402.2 Application**

A site plan review is required whenever a person, firm, corporation or other group wishes to develop a tract of land for non-farm single-family and multi-family dwelling units, commercial or industrial use.

**402.3 Procedure**

A development plan shall be filed with the Zoning Administrator, who will determine if all the information is provided and adequate for review. Once all the required information is received, the Zoning Administrator may forward copies of the Site Plan to the County Engineer and the County Health Officer for their review and recommendation. The Site Plan will be reviewed by the Planning & Zoning Commission and/or Board of Adjustment at the next regular meeting for which a public hearing is being called for a rezoning, variance or special exception.

**402.4 Site Plan Review Standards**

The standards of site design listed below are intended only as minimum requirements, so that the general development pattern in rural Allamakee County may be adjusted to a wide variety of circumstances and topography and to insure reasonable and orderly growth in rural Allamakee County.

- 1. Internal roads and streets shall be adequately constructed to accommodate the traffic generated. Entrances and exits onto public streets shall not unduly increase congestion or traffic hazards on the public streets and the proposed site.
- 2. The proposed development shall be designed with appropriate regard for topography, surface drainage, natural drainage ways and streams, wooded areas and other naturally sensi-

- tive areas that lend themselves to protection from degradation.
3. The proposed development shall be designed with adequate water supply and sewage treatment facilities and storm water drains and structures necessary to protect the public health and welfare by not overloading existing public utilities. Runoff from development shall not be outlet into roadside drainage facilities or adjacent parcels in excess of the existing runoff prior to development.
  4. The proposed development shall be designed, and the buildings and improvement shall be located within the tract or parcel in such a manner as not to unduly diminish or impair the use and enjoyment of adjoining or surrounding property. The developer shall provide for such fences, landscaping and other improvements as are proper and necessary to buffer the proposed use from the existing or potential surrounding land uses.
  5. The proposed development shall be designed not to unduly increase the danger of fire, explosion and other safety hazards on the general public and the persons residing or working in adjoining or surrounding property.

**402.5 Information on Site Plan**

The purpose of the Site Plan is to show the facts needed to enable the Planning & Zoning Commission and/or Board of Adjustment to determine whether the proposed development complies with the standards of this Ordinance.

1. Location map showing relationship to surrounding roads, streams and public facilities.
2. Scale of Site Plan shall not be more than one (1) inch to equal fifty (50) feet. Scale shall be shown in legend.
3. Home and address of landowner and developer.
4. Date, north marker and name of proposed development.
5. Existing buildings, utilities, railroads, right-of-ways, easements, location, and name of existing roads, stands of trees and drainage ways.
6. Location and name of adjoining subdivisions, subdivision lots therein and names of the adjoining landowners.
7. Zoning district classification.
8. Type of water supply, sewage disposal and storm sewer disposal.
9. Proposed location of buildings, parking lots, etc.
10. Determination of flood elevations and relationship of proposed development to flood prone areas, if applicable.
11. Any additional information as may be requested by the Zoning Administrator.
12. When applicable, a Ground Water Discharge Permit Application must be obtained from the Iowa Department of Natural Resources prior to any construction and proof of that permit be submitted at the time of application for building permits.

**403 OFF-STREET PARKING AND LOADING REQUIREMENTS**

**403.1 Minimum Parking Standards for the Physically Challenged**

Minimum parking requirements for the physically challenged shall be provided in accordance with State and Federal Regulations.

**403.2 Parking Stall Requirements**

The following uses shall be required to have the designated number of off street parking stalls:

Use	Requirement
Single Family Dwelling	2 parking stalls for each family or dwelling unit

Use	Requirement
Mobile Home	2 parking stalls for each lot
Other Dwelling units	2 stalls per unit
Stores, Shops, Grocery Stores, etc., over two thousand (2,000) square ft. gross floor area	1 stall for every two hundred fifty (250) sq. ft. of gross floor area.
Stores, Shops, Grocery Stores, etc., under two thousand (2,000) square ft. gross floor area	1 stall for every one hundred (100) sq. ft. of gross floor area
Auction House	1 stall for every four (4) seats
Automobile Sales and Service Garages	1 stall for every six hundred (600) sq. ft. of gross floor area
Junk Yard/Salvage Yard	1 stall for every employee on the largest work shift and 1 stall for every one thousand (1,000) sq. ft
Farm Implement Dealership	1 stall for every nine hundred (900) sq. ft. of gross floor area and 1 stall for every full time employee
Lumberyard	1 stall for ever five hundred (500) sq. ft. of floor area
Home Businesses	1 stall for every employee plus the required amount set otherwise in these regulations
Restaurants, Taverns, and Nightclubs	1 stall for every fifty (50) sq. ft.
Dance Halls, Assembly Halls, Outdoor events	1 stall every one hundred (100) sq. ft. of floor area for dancing/assembly
Golf Course	36 stalls per 9 holes, plus 1 stall per employee on the largest work shift, plus fifty (50) percent of the space otherwise required for any accessory uses (bars, restaurants)
Miniature Golf Course	1 stall for every employee on the maximum work shift and 2 stalls for each hole
Shooting/Rifle Range	1 stall for every target area
Stables, horses	1 stall for every pen or stable
Lodging	Bed and Breakfast Home or Inn: 2 parking stalls plus 1 for each guest bedroom.
Hotels, Motels, Tourist Courts, and Lodging Houses	1 stall for each bedroom and 1 stall for each employee on the maximum work shift.
Churches and Schools	1 stall for every 4 seats of principal auditorium, including a balcony, if any, and 1 stall for each staff member
Child Day Care Centers and Preschools	1 stall for every principal teacher plus one space for every employee on the largest work shift plus 1 loading place for each 6 children
Fire and Police Stations	1 stall for each person on duty during a normal shift
Nursing, Convalescent, and Retirement Homes	1 stall per eight (8) beds, plus 1 stall per three (3) employees, plus 1 for each resident staff member
Post Office	1 stall for every employee on the largest shift and 1 stall for every one thousand (1,000) sq ft
Research and Development Facilities	1 stall for each employee on the greatest work shift
Manufacturing Plants	1 stall for each three (3) employees on the maximum working shift but in no case less than 1 stall for each five hundred (500) square ft. of gross floor area.
Wholesale Establishments or Warehouses	1 stall for each 2 employees, but in no case less than 1 stall for each one thousand (1,000) sq. ft of gross floor area



### **403.3 Additional Requirements**

1. In the case of any building, structure or premises, the use of which is not specifically mentioned herein, the parking requirements for a use that is mentioned and to which said use is similar shall apply.
2. No part of any parking stall shall be closer than five (5) feet to any established highway, road, or street right-of-way line. In case the parking lot adjoins a residential district, it shall be screened from adjacent property by a planting screen not less than ten (10) feet in width and six (6) feet in height or by a fence, wall or other comparable means.

### **403.4 Off-Street Loading Requirements**

In any district in connection with every building or part thereof hereafter erected having a gross floor area of six thousand (6,000) square feet or more occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, hospital, or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one (1) off-street loading stall, plus one (1) additional such loading space for each twenty thousand (20,000) square feet or major fraction thereof of gross floor area so used in excess of ten thousand (10,000) square feet.

## **404 ALLOWED SIGNS**

All signs requiring a permit must be evaluated before issuance of a permit by the Zoning Administrator. No signs will be allowed in the public road right of ways.

### **404.1 Agriculture and Residential**

The following general regulations shall be followed for signs in the A-1, R-1, R-2 and R-3 districts:

1. Nameplates attached flat against the wall of the main building not to exceed six (6) square feet in area.
2. Church or public bulletin boards not to exceed thirty-two (32) square feet in area.
3. Temporary signs advertising the lease or sale of the premises not to exceed six (6) square feet in area.
4. Permitted signs shall be located at least twenty (20) feet from the lot line or road right of way line(s).
5. Illumination of signs, bulletin boards and nameplates shall be lighted only with indirect, non-intermittent lighting.
6. Billboards or advertising signs in the A-1 Agricultural District only provided that:
  - a. They are not within three hundred (300) feet of an intersection, highway structure, residence or other billboard.
  - b. They are not within three hundred (300) feet of a park, school, cemetery or public or semi-public building.
  - c. They are not within seventy five (75) feet of the centerline of a city or county road, or one hundred (100) feet of a state or federal highway.
  - d. They do not exceed three hundred (300) square feet in area.
7. All signs and billboards shall be maintained in a neat, presentable condition and in the event their use shall cease, the area shall be restored to a condition free from refuse and rubbish.
8. Any permanent sign larger than six (6) square feet shall require a sign permit. Churches are exempt.

### **404.2 Commercial**

The following general regulations shall be followed for signs in the C-1 District:

1. Temporary signs advertising the sale or lease of a premises not to exceed thirty-two (32) square feet in area;
2. Trade, business or industry identification signs for the firms located on the site, provided that they:
  - a. Do not exceed twenty five (25) feet in height.
  - b. Are not within twenty five (25) feet of an A-1, R-1, R-2 or R-3 districts.
  - c. Do not overhang the public right-of-way except those signs which project not more than one (1) foot beyond the front face or integral part of the building other than identification signs of less than two (2) square feet in area.
  - d. Are not within twenty five (25) feet of a highway intersection or highway structure
  - e. Do not exceed seventy five (75) square feet in area.
3. Advertising signs and billboards provided that they:
  - a. Do not exceed twenty five (25) feet in height.
  - b. Are not within twenty five (25) feet of an A or R district.
  - c. Are not within seventy five (75) feet of another billboard.
  - d. Do not exceed one hundred (100) square feet in area.
4. No sign or billboard shall be located in, overhang or project into a required yard.
5. All signs and billboards shall be maintained in a neat, presentable condition and in the event their use shall cease, the area shall be restored to a condition free from refuse and rubbish.
6. Any permanent sign larger than six (6) square feet shall require a sign permit. Churches are exempt.

**404.3 Industrial**

The following general regulations shall be followed for signs in the I-1 and I-2 districts:

1. Temporary signs advertising the sale or lease of a premises not to exceed thirty-two square feet in area;
2. Billboards and advertising signs provided that they are not within one hundred fifty (150) feet if a highway structure, highway intersection, residence, park, school, cemetery or public or semi-public building.
3. Trade, business or industry identification signs for the firms located on the site, provided that:
  - a. Free standing signs shall not exceed one hundred fifty (150) square feet in area or twenty five (25) feet in height.
  - b. Signs mounted flush on the wall of a building shall not exceed ten (10) percent of the area of the wall of the building on which they are located or two hundred (200) square feet, whichever is smaller.
  - c. Overhanging signs, attached to a building, shall not project above the height of the building, or more than four (4) feet from the wall of the building and shall have no more than one hundred (100) square feet in area.
  - d. Not more than one sign of each category above may be provided for on a single use, although each sign may be a double-faced or back-to-back sign.
4. All signs and billboards shall be maintained in a neat, presentable condition and in the event their use shall cease, the area shall be restored to a condition free from refuse and rubbish.

**CHAPTER 5**

**ADMINISTRATION**

**501 AMENDMENTS TO THE ZONING ORDINANCE AND SUBDIVISION REGULATION**

**501.1 Changes and Amendments**

The regulations imposed and the districts created by this ordinance may be amended from time to time by the Board of Supervisors and after a report has been made upon the amendment by the Commission. Not less than four (4) and not more than twenty (20) days notice of the time and place of such hearing shall be published in a newspaper having general circulation in the county. In case the Commission does not approve the change or, in the case of a protest filed with the Board of Supervisors against a change in district boundaries signed by the owners of twenty (20) percent or more, either of the area of the lots included in such proposed change or of those immediately adjacent thereto and within five hundred (500) feet of the boundaries thereof, such amendment shall not be passed except by the favorable vote of sixty (60) percent of all the members of the Board of Supervisors.

### **501.2 Style of Amendment**

Amendments, supplements or changes of the boundaries of districts as shown on the Official Zoning Map and Zoning Update Journal shall be made by an amendment to the Zoning Ordinance and Zoning Update Journal, shall refer to the Official Zoning Map and shall set out the identification of the area affected by legal description and identify the zoning district as it exists and the new district designation applicable to said property. Said Amendment shall, after adoption and publication, be recorded by the County Recorder and the Official Zoning Map and Zoning Update Journal changed as provided for in this Ordinance. The Official Zoning Map and Zoning Update Journal, as amended, shall be the final authority to the current zoning status of land and water areas, buildings and other structures in the County.

### **501.3 Application for Change of Zoning District Boundaries**

Any person may submit to the Board of Supervisors, an application requesting a change in the zoning district boundaries as shown on the Official Zoning Map and Zoning Update Journal.

1. Such application shall be filed with the Zoning Administrator accompanied by a fee, as outlined in a "Fee Schedule" as approved by the Board of Supervisors by Resolution and placed on file in the Office of Zoning Administrator. Said application shall contain the following information.
  - a. The legal description completed by a registered Land Surveyor in the state of Iowa, and
  - b. The local address of the property, and
  - c. The present zoning classification and the zoning classification requested for the property, and
  - d. The existing use and proposed use of the property, and
  - e. The names and addresses of all property owners within five hundred (500) feet of the property for which the change is requested, and
  - f. A statement of the reasons why the applicant feels the present zoning classification is no longer valid, and
  - g. An Auditor's Plat Map, showing the locations, dimensions and use of the applicant's property and all property within five hundred (500) feet thereof, including streets, alleys, railroads and other physical features.
2. Upon receipt of the application by the Zoning Administrator a copy shall be forwarded immediately to the Commission for study and recommendation. The Commission shall, prior to making a recommendation, determine the following:
  - a. Whether or not the current district classification of the property to be rezoned is valid, and
  - b. Whether there is a need for additional land zoned for the purpose requested, and
  - c. Whether the proposed change is consistent with the current land use plan, considering such factors as:
    - i. Whether the rezoning would result in a population density or development which would in turn cause a demand for services and utilities in excess of the capacity

- planned for the area, and
  - ii. Whether the rezoning would result in the generating of traffic in excess of the capacity of existing or planned streets in the vicinity, and
  - iii. Whether there is intent on the part of the applicant to develop the property to be rezoned diligently and within a reasonable time.
- 3. The Commission shall report its determinations and recommendations to the Board of Supervisors within forty-five (45) days from receipt of the application, except that when no report is issued within that time, the application will be deemed approved by the Commission. The Board of Supervisors shall then call a public hearing as provided by this Ordinance.
- 4. All fees shall be deposited to the general revenue fund of the County. Failure to approve the requested case shall not be deemed cause to refund the fee to the applicant.

**502 ZONING ADMINISTRATOR**

**502.1 Appointment and Duties of the Zoning Administrator**

A Zoning Administrator (Administrator) shall be designated by the Board of Supervisors to administer and enforce this Ordinance. Assistants to the Zoning Administrator shall be provided as the Board of Supervisors direct.

**502.2 Power and Duties of Zoning Administrator**

Duties of the Zoning Administrator shall include, but not be limited to, the following:

1. The review of applications for a zoning permit and the issuance of a certificate upon finding the provisions of this Ordinance would not be violated.
2. Upon finding that a provision of this Ordinance is violated, the Zoning Administrator shall notify the person responsible for the violation in writing indicating the nature of the violation and ordering the action necessary to correct it. The order for corrective action shall require discontinuance of illegal use of land or buildings; removal of illegal buildings, illegal additions to buildings, or illegal structural alternations; discontinuance of illegal work being done; other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.
3. Review zoning permit applications for development in the Bluffland Protection Overlay District.
4. Review zoning permit applications for development in the Floodplain Overlay District to insure that all necessary permits for floodplain construction have been obtained from Federal, State or local agencies, including the Iowa Natural Resources Council under Chapter 455A of the Code of Iowa and the U.S. Army Corps of Engineers and U.S. Environmental Protection Agency under Section 404 of the Federal Water Pollution Control Act of 1972, as amended.
5. Notify adjacent communities and counties and the Iowa Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Insurance Administration.
6. Suspend or revoke, in writing, a permit issued under the provisions of this Ordinance whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any Ordinance or regulation or any of the provisions of this Ordinance.
7. Refund any fee paid under this Ordinance, which was erroneously paid or collected.
8. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Ordinance.

**502.3 Appeals from Decision of Zoning Administrator**

Appeals from any decision of the Zoning Administrator may be made to the Zoning Commission or Board of Adjustment as provided for in this Ordinance.

## **503 PLANNING & ZONING COMMISSION**

### **503.1 Planning & Zoning Commission Created**

A Planning & Zoning Commission (Commission) is hereby established, as provided by Code of Iowa Section 335.8.

### **503.2 Commission Membership**

The Planning & Zoning Commission shall consist of five (5) members appointed by the Allamakee County Board of Supervisors. The five (5) members first appointed shall serve terms of the following: one (1), two (2), three (3), four (4) and five (5) years respectively; thereafter terms shall be for five (5) years. Any vacancy shall be filled in the same manner for the unexpired portion of the term. In the event of the absence from the County or in the incapacity of a member, the Board of Supervisors may appoint a substitute who shall serve as a member of the Commission, with the same powers and authority as the regular member, until such regular member has returned.

### **503.3 Officers**

The Commission shall annually select from its membership a Chairman and Vice Chairman, who will perform the usual duties pertaining to such offices. Officers will be selected on the first regular meeting in each year. All current officers are eligible for re-appointment. The Chairman and Vice Chairman shall take office immediately following their selection and shall hold office for a term of one (1) year.

### **503.4 Duties**

The Chairman will preside at all meetings, appoint committees, and perform such other duties as may be ordered by the Commission. The Vice Chairman shall act in the capacity of the Chairman in his/her absence and in the event the office of the Chairman becomes vacant, the Vice Chairman shall succeed to this office for the unexpired term and the Commission shall select a successor to the office of Vice Chairman for the unexpired term. The County Zoning Administrator shall serve as Secretary and record and maintain minutes of the meetings, insure that the minutes and adopted recommendations are properly published and recorded.

### **503.5 Meetings**

The regular meeting of the Commission shall be held on the third Monday of the month in which new or continuing business of the Commission is scheduled. Meetings will begin promptly at the posted time in the Board of Supervisors Room, Courthouse, Waukon, Iowa. When the regular meeting day falls on a legal holiday, the Commission shall select a suitable alternative day in the same month.

### **503.6 Special Meetings**

Special meetings will be called at the request of the Chairman, or of any three members of the Commission. Notice of the special meeting shall be given by the Zoning Administrator to the members of the Commission at least twenty-four (24) hours prior to such meeting and shall state the purpose and time of the meeting.

### **503.7 Public**

All regular and special meetings, subcommittee meetings, hearings, records and accounts shall be

open to the public, and shall comply with the open meetings law.

### **503.8 Quorum**

A majority of the total number of members will constitute a quorum (three (3) in the case of a five (5) member Commission). Without a quorum, no business will be transacted and no official action on any matter will take place. An affirmative vote of the majority of the total number of members present will be required for the exercise of the powers or functions conferred or imposed upon this Commission.

### **503.9 Order of Business**

Agenda: The Zoning Administrator will prepare an agenda for each meeting and send it to each commissioner five (5) days before the meeting. The order of business shall be as follows:

1. Roll call.
2. Approval of minutes.
3. Approval of Agenda
4. Time for citizens wishing to address the Commission on matters not on the established agenda.
5. Advertised Public Hearing(s). The Chairman will declare such a public hearing(s) open and state its purpose.
  - a. Staff Report, questions by Commission
  - b. Comments from Applicant, questions by Commission
  - c. Comments from Public
  - d. Close Public Hearing
  - e. Discussion by Commission and Motion for Action
6. Unfinished business of Commission.
7. Reports from Zoning Administrator, planning agency, etc.
8. New business.
9. Adjournment.

### **503.10 Motions**

Motions may be made by anyone on the Commission except the Chairman. The Chairman will restate the motion before a vote is taken.

### **503.11 Voting**

Voting will be by roll call by yeas and nays. Every Commission member and Chairman is required to cast a vote upon each motion. A member may abstain if there is a conflict of interest. A member who abstains from voting shall state the reason for the abstention at the time of voting. Prior to discussion of the matter under consideration, a member who plans to abstain from voting should so inform the Commission.

### **503.12 Commission Action**

Action by the Commission on any matter on which a hearing is held will not be taken until the hearing has been conducted.

### **503.13 Parliamentary Procedure**

The most recent revision of Roberts Rules of Order will govern the Commission meetings in all cases where these rules do not provide the procedures to be followed.

#### **503.14 Comprehensive Plan and Zoning Hearings**

Before the adoption or amendment of any part of the Comprehensive Plan, or recommending approval of an amendment to the Zoning Ordinance to the Board of Supervisors, the Commission will hold a public hearing on the matter. Notice of the time and place of the hearing will be given, not less than four (4) and no more than twenty (20) days prior to such hearing, by one publication in the newspapers of record.

#### **503.15 Meeting Attendance**

Commission members are expected to attend all regular and special meetings of the Commission. If a member has a valid excuse for nonattendance, the member shall notify the Zoning Administrator prior to the meeting. A Commission member will be asked to resign if at any time, the member has three (3) consecutive unexcused absences from a regular, special, or subcommittee meeting, or if total absences (whether excused or not) exceed forty percent (40%) of the total meetings in a calendar year. A review of attendance will be made at the end of each year.

#### **503.16 Amendments**

These rules may be amended at any regular or special meeting by a two-thirds vote of the members present.

### **504 BOARD OF ADJUSTMENT**

#### **504.1 Board of Adjustment Created**

A Board of Adjustment (Board) is hereby established, as provided by Code of Iowa Section 335.10.

#### **504.2 Board of Adjustment - Powers and Duties**

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

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Administrative Officer in enforcement of this ordinance.
2. To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this ordinance to decide such questions as are involved in determining whether special exceptions should be granted and to grant special exceptions with such conditions and safeguards as are appropriate under this ordinance or to deny special exceptions when not in harmony with the purpose and intent of this ordinance. A special exception shall not be granted by the Board of Adjustment unless and until:
  - a. A written application for a special exception is submitted indicating the section of this ordinance under which the special exception is sought and stating the grounds on which it is requested.
  - b. Notice shall be given at least fifteen (15) days in advance of the public hearing by publication in a newspaper of general circulation in the County.
  - c. The public hearing shall be held. Any party may appear in person, or by agent or attorney.
  - d. The names and addresses of the owners of all property within five hundred (500) feet of the property for which the change is requested, indicating their approval or denial.
  - e. The Board of Adjustment shall make a finding that it is empowered under the section of this ordinance described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.

3. In granting any special exception, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted shall be deemed a violation of this ordinance and punishable under the provisions described in this ordinance. The Board of Adjustment shall prescribe a time limit within the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception.
4. To authorize upon appeal, in specific cases, such variance from the terms of the Ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done.

#### **504.3 Board Membership**

The Board shall consist of five (5) members to be appointed by the Board of Supervisors for a term of five (5) years, except that when the board shall first be created one (1) member shall be appointed for a term of five (5) years, one (1) for a term of four (4) years, one (1) for a term of three (3) years, one (1) for a term of two (2) years and one (1) for a term of one (1) year. The Board of Supervisors may remove members of the Board of Adjustment from office for cause upon written charges and after public hearing. The Board of Supervisors shall fill vacancies for the unexpired term of the member.

#### **504.4 Election of Chairman**

The Board shall annually elect its own chairman at the first meeting on or after January 1 of each year. Such chairman, or in his absence, the acting chairman may administer oaths and compel the attendance of witnesses. There shall be a fixed place of meeting and all meetings shall be open to the public. The presence of three (3) members shall be necessary to constitute a quorum. The concurring vote of the three (3) members shall be necessary on all matters upon which it is required to pass under the provisions of this Ordinance.

#### **504.5 Decisions**

The concurring vote of three (3) members of the Board shall be necessary to reverse any orders requirement, decision, or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinances or to effect any variation of this Ordinance. On all appeals, applications, and other matters brought before the Board, said Board shall inform, in writing all the parties involved of its decisions.

#### **504.6 Proceedings of the Board of Adjustment**

The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the Chairman, the Zoning Administrator, or at such other times as the Board may determine. The chairman or in his absence, the acting chairman, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be public record and be immediately filed in the office of the Board.

#### **504.7 Hearings, Appeals and Notice**

Appeals to the Board of Adjustment concerning interpretation or administration of this ordinance



may be taken by any person aggrieved or by any officer or bureau of the governing body of the County affected by any decision of the Administrative Officer. Such appeals shall be taken within a reasonable time, not to exceed sixty days or such lesser period as may be provided by the rules of the Board, by filing with the Zoning Administrator and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

**504.8 Notice**

The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notice thereof of not less than four (4) and not more than twenty (20) days, in the newspapers of record, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

**504.9 Appeal Fee**

A fee, as outlined in a "Fee Schedule" as approved by the Board of Supervisors by Resolution and placed on file in the Office of Zoning Administrator, shall be paid to the Zoning Administrator at the time the notice of appeal is filed. The Zoning Administrator shall forthwith pay over to the credit of the general fund of the County.

**504.10 Stay of Proceedings**

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator from whom the appeal is taken certifies to the Board after the notice of appeal is filed with him/her, that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the Zoning Administrator from whom the appeal is taken and on due cause shown.

**505 (RESERVED)**

**506 BUILDING PERMIT**

1. A building permit shall be required prior to initiation of any construction or development after the effective date of this ordinance. Such permit shall be obtained from the Zoning Administrator before any building or structure shall be erected, reconstructed or structurally altered to increase the exterior dimensions, height or floor area, or remodeled to increase the number of dwelling units or to accommodate a change in use of the building and/or premises or part thereof. The building permit shall state that the proposed construction complies with all provisions of this ordinance, and no subsequent modifications shall be made to plans or to actual construction that would be in violation of this ordinance.
2. Any building permit, under which no construction work has been commenced after the date of issue, or under which the proposed construction, reconstruction or alteration has expired by limitation shall be invalid. No work or operation shall take place under such permit after such expiration. A new building permit may be extended for one year by the Zoning Administrator at the regular permit fee.

**506.1 Application for Building Permit**

1. Application for a building permit shall be made prior to beginning construction on fully completed application forms obtained from the Zoning Administrator, and accompanied by such

plans and information necessary to determine that the proposed construction complies with all applicable provisions of this Ordinance.

2. The building permit shall be in effect for two (2) years from the date of issuance and can be renewed for one (1) year for the cost of the original permit.

### **506.2 Fees**

The Zoning Administrator is directed to issue a building permit as required by this ordinance for proposed construction, reconstruction, or alternation that complies with all provisions contained herein. A fee will be charged for each building permit application submitted as outlined in a "Fee Schedule" as approved by the Board of Supervisors by Resolution and placed on file in the Office of Zoning Administrator.

There shall be no fees charged to the United States Government, the State of Iowa, or any political subdivision thereof.

All fees are required and shall be paid to the Zoning Administrator, who shall keep a complete and accurate record of fees received and shall forthwith deposit them to the credit of the general revenue fund of the County.

### **506.3 Building Permit Required**

1. Except as provided in subsection 2 of this section, a building permit shall be required and obtained in accordance with the provisions of Section 506.1 of this Ordinance as follows:
  - a. Prior to construction of a structure or structural alteration of a structure that increases the exterior dimensions, height, or floor area or that increases the number of dwelling units or that accommodates a change in the use of the structure or a part of the structure.
  - b. Any mobile home located outside of a mobile home park.
2. A building permit shall not be required for the following:
  - a. Construction or structural alteration of any land, farmhouse, farm barn, farm outbuildings, or other structures provided they meet all of the following:
    - i. They are primarily adopted by reason of nature and area for use for agriculture.
    - ii. They are used for agriculture.
    - iii. They are not located in a Floodplain.
  - b. Construction or structural alteration in a Floodplain of mailboxes, apiaries, farm fences, or farm identification signs.
  - c. An attached garage or addition onto a house if the garage or addition is constructed within the two (2) year period of the original permit, and the garage or addition was noted on the original application for a building permit. If the garage or addition was not noted on the original application, a new permit must be issued.
3. The following nonagricultural uses and buildings, though customarily found in the agricultural areas of the County, or conducted, built or maintained by persons coincidentally engaged in agricultural pursuits, shall obtain a building permit in accordance with the provision of this Ordinance:
  - a. private golf courses
  - b. private lakes or ponds for recreational use by the general public, or a private club, lodge or association
  - c. stables or kennels operated as a business, club or association
  - d. sawmills
  - e. gravel and sand pits and rock quarries
  - f. travel trailer park or commercial campground
  - g. private parks

- h. private or commercial hunting preserves
  - i. home and farmstead home occupations
  - j. permanent roadside produce stands
  - k. sanitary landfills
4. Any farm dwelling, building or structure intended for permanent human habitation, while not requiring a building permit, shall comply with the same floodplain zoning regulations as nonagricultural single-family dwellings.
  5. The building permit shall state that the proposed construction complies with all provisions of this title, and no subsequent modifications shall be made to plans or to actual construction that would be in violation of this title.
  6. The building permit shall be accompanied by a site plan, showing existing and proposed structure, uses, open spaces, parking and loading facilities and other features affecting the use of the property.
  7. The Administrator shall not issue a building permit as contemplated hereunder for any building or structure requiring special access for handicapped persons as required by Chapter 104A of the 1983 Code of Iowa or the Americans with Disabilities Act as subsequently amended, or for any building or structure subject to thermal efficient energy conservation standards as set out in the State of Iowa Building Code as subsequently amended, until such time as the applicant has provided in writing to the Administrator a building permit from the State of Iowa Department of Public Safety stating that all applicable regulations there under have been complied with. The applicant shall be solely responsible for providing this permit to the Zoning Administrator. The County shall not be responsible for any inspections or certifications there under but shall rely upon the certifications of the Iowa Department of Public Safety indicating that compliance with the aforementioned sections has been determined.
  8. Applications for building permits shall be made prior to beginning construction on duly completed application forms obtained from the Zoning Administrator, accompanied by such plans and information necessary to determine that the proposed construction complies with all applicable provisions of this title.

**507                      VARIANCES**

**507.1    Variances Conditions Governing Applications; Procedures**

To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until:

1. A written application for a variance shall have been submitted demonstrating:
  - a. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district, and
  - b. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance, and
  - c. That the special conditions and circumstances do not result from the action or actions of the applicant, and
  - d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same district. No nonconforming use of neighboring lands, structures or buildings in the same district and no permitted use of land, structures or buildings in other districts shall be considered grounds for the issuance of a variance, and
  - e. The names and addresses of all property owners within five hundred (500) feet of the property for which the variance is required indicating their approval or denial will be

contacted by Certified mail.

2. Notice of public hearing shall be given not less than four (4) and not more than twenty (20) days as in accordance with this Ordinance, and
3. The public hearing shall be held at which time any party shall have been permitted to appear in person, by agent or by attorney, and
4. The Board of Adjustment shall make findings that the requirements described above in this section have been met by the applicant for a variance, and
5. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure, and
6. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

#### **507.2 Conditions of Variance**

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under the guidelines established by this Ordinance.

Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

The Zoning Administrator shall record the variance with the County Recorder and provide the applicant with a copy of the recorded variance. Recording fees shall be paid by the applicant.

#### **507.3 Decisions of the Board of Adjustment**

In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made, and to that end shall have powers of the Administrative Officer from whom the appeal is taken. The concurring vote of three members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the Administrative Officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in application of this ordinance.

#### **507.4 Appeals from the Board of Adjustment**

Any person or persons or any taxpayer, department, board or bureau of the County aggrieved by any decision of the Board of Adjustment may seek review of such decision of the Board of Adjustment by a court of record in the manner provided by the laws of the State and particularly by Chapter 335.18, Code of Iowa.

### **508 CONDITIONAL USE PERMITS**

Many land use activities, while not inherently inconsistent with other permitted uses in a particular zoning district, may have significant impact on the surrounding area. Conditional Use Permits for such uses allow special conditions to be "attached" to the development to address those impacts. The Conditional Use Permit process provides flexibility in identifying special conditions without making the Ordinance unreasonably complicated. The objective of the process is to en-

courage compatibility of the proposed development with the environment and with existing and future land uses in the area.

#### **508.1 Conditional Use Permit Required**

Those uses which require a Conditional Use Permit are listed in the Sections 201, 202, 203, 204, 205, 206, 207 and 208 Schedule(s) of Permitted and Conditional Uses, of this Ordinance, respectively.

#### **508.2 Issuance of Conditional Use Permit**

1. A Conditional Use Permit may be issued only after review and approval of the submitted application including any plans by the Board of Adjustment. An application and plan shall only be approved upon determination that the development, if completed as proposed, will comply with the provisions of this section.
2. The Conditional Use Permit shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the principal), shall identify the property involved, the proposed use and shall incorporate by reference the approved application and plan. The permit shall contain any special conditions or requirements lawfully imposed by the Board of Adjustment. The Zoning Administrator shall record the permit with the County Recorder and provide the applicant with a copy of the recorded permit. Recording fees shall be paid by the applicant.
3. All development shall occur strictly in accordance with such approved application and plan.

#### **508.3 Application for Conditional Use Permits**

1. The applicant for a Conditional Use Permit must be a person with the legal authority to take action in accordance with the permit such as the owners or lessees of the subject property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits, or their agents.
2. The application must be submitted on an approved form and must be complete. An application shall be complete when it contains all the information necessary for the Board of Adjustment to decide whether the development, if completed as proposed, will comply with all of the requirements of this section. Unless the Board informs the applicant at the hearing in what way the application is incomplete, the application shall be presumed to be complete. If incomplete, the Board shall offer the applicant the opportunity to complete the application, either at that hearing or at a continuation hearing.
3. To minimize planning costs to the developer, avoid misunderstandings or misinterpretations, and to ensure compliance with the requirements of this section, a pre-application conference between the developer and the Zoning Administrator is encouraged.

#### **508.4 Standards for Approval**

1. The Board shall review the proposed development for conformance to the following development criteria:
  - a. Compatibility. The proposed buildings or use shall be constructed, arranged and operated so as to be compatible with the character of the zoning district and immediate vicinity, and not to interfere with the development and use of adjacent property in accordance with the applicable district regulations. The proposed development shall not be unsightly, obnoxious or offensive in appearance to abutting or nearby properties.
  - b. Transition. The development shall provide for a suitable transition, and if necessary, buffer between the proposed buildings or use and surrounding properties.
  - c. Traffic. The development shall provide for adequate ingress and egress, with particular

- attention to vehicular and pedestrian safety and convenience, traffic flow and control, and emergency access.
- d. Environmental Protection. The development shall be planned and operated in such a manner that will safeguard environmental and visual resources. The development shall not generate excessive noise, vibration, dust, smoke, fumes, odor, glare, groundwater pollution or other undesirable, hazardous or nuisance conditions, including weeds.
2. If the Board concludes that all development criteria will be met by the development, it shall approve the application and plans unless it concludes, based on the information submitted at the hearing, that if completed as proposed there is a strong probability the development will:
    - a. Not adequately safeguard the health, safety and general welfare of persons residing or working in adjoining or surrounding property, or
    - b. Impair an adequate supply (including quality) of light and air to surrounding property, or
    - c. Unduly increase congestion in the roads, or the hazard from fire, flood or similar dangers, or
    - d. Diminish or impair established property values on adjoining or surrounding property, or
    - e. Not be in accord with the intent, purpose and spirit of the Zoning Ordinance or Land Use Policies.

#### **508.5 Burden of Persuasion**

1. The burden of persuasion as to whether the development, if completed as proposed, will comply with the requirements of this section is at all times on the applicant.
2. The burden of presenting evidence to the Board sufficient enough for it to conclude that the application does not comply with the requirements of this section is upon the person or persons recommending such a conclusion, unless the information presented by the applicant warrants such a conclusion.

#### **508.6 Board of Adjustment Action on Applications**

1. In considering whether to approve an application for a Conditional Use Permit, the Board shall proceed according to the following format:
  - a. The Board shall establish a finding of facts based upon information contained in the application and staff report presented at the Board hearing(s).
  - b. The Board shall consider such reasonable requirements or conditions to the permit as will ensure the development will satisfy the requirements of this section. A vote may be taken on such conditions before consideration of whether the permit should be approved or denied for any of the reasons set forth in Section 508.4.
  - c. The Board shall consider whether the application complies with all of the applicable development criteria set forth in Section 508.4. Separate votes may be taken with respect to each criterion. If the Board concludes that the application fails to meet one or more of the criteria, the application shall be denied.
  - d. If the Board concludes that all such criteria have been met, the application shall be approved unless it adopts a motion that the application fails to meet any of the approval standard set forth in Section 508.4. Separate votes may be taken with respect to each standard.
2. Any such motion regarding compliance or noncompliance of the application to the development criteria or approval standards shall specify the supporting reasons for the motion. It shall be presumed the application complies with all criteria and standards not specifically found to be unsatisfied.
3. Without limiting the foregoing, the Board may attach to a permit a condition limiting the duration of the permit.

4. All conditions or requirements shall be entered on the permit.

#### **508.7 Expiration of Permits**

1. A Conditional Use Permit shall expire automatically if within one (1) year after issuance, substantial action has not been taken to accomplish the purpose for which the permit was granted, after substantial action has been taken and subsequently such work is discontinued for a period of one (1) year, the permit shall immediately expire, or the conditional use has been established and subsequently is discontinued for a period of one (1) year, the permit shall immediately expire.
2. The Board may extend for a period up to one (1) year the date when a permit would otherwise expire if it concludes that the permit has not expired, the permit recipient has proceeded in good faith and with due diligence or conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods up to one (1) year upon the same findings. All such extensions may be granted without reversion to the formal processes and fees required for the original permit.
3. For purposes of this section, the Conditional Use Permit is issued when the Board votes to approve the application and plans. Substantial action shall include commencement of construction, erection, alteration, demolition or similar work required for the development authorized by the permit.

#### **508.8 Effect of Permit on Successors and Assigns**

1. A Conditional Use Permit authorizes the permit holder the use of land or structures in a particular way and subject to certain conditions. As such, it is transferable. However, no person (including successors or assigns of the original permit holder) may make use of the land or structures covered under such permit except in accordance with all terms and requirements of the permit, so long as the permit remains in effect.

#### **508.9 Amendments and Modifications**

1. Insignificant modifications to the approved permit are permissible upon authorization by the Zoning Administrator. A modification is insignificant if it has no discernible impact on neighboring properties, the general public or those intended to use or occupy the proposed development.
2. Minor modifications to the approved permit are permissible with the approval of the Board of Adjustment. Such permission may be obtained without a formal application, public hearing or payment of fees. A modification is minor if it has no substantial impact on neighboring properties, the general public or those intended to use or occupy the proposed development.
3. All other requests for modifications to the approved permit will be processed as new applications. New conditions may be imposed by the Board, but the applicant retains the right to reject such new conditions by withdrawing the request for modifications and proceeding under the terms and conditions of the original permit.
4. The permit holder requesting approval of modifications shall submit a written request (including plans as necessary) for such approval to the Administrator, and the request shall specifically identify the modifications. The Administrator shall determine whether the proposed modification falls within the categories set forth in Subsections 1, 2 and 3.
5. Approval of all modifications must be given in writing.

## **CHAPTER 6**

### **ENFORCEMENT AND PENALTIES**

#### **601 VIOLATION AND PENALTIES**

1. Any person, firm, or corporation who shall violate or fail to comply with the provisions of this ordinance shall be guilty of a County Infraction and upon conviction shall be fined not more than seven hundred fifty dollars (\$750.00) or imprisoned for not more than thirty (30) days and shall pay all costs and expenses involved in the prosecution of the violation. Each day such continued violation shall constitute a separate offense.
2. In case a building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this Ordinance, the appropriate authorities of Allamakee County, in addition to other remedies, may institute injunction, mandamus, civil infractions or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, or to correct or abate such violations, or to prevent the occupancy of said building, structure or land.
3. All reasonable expenses incurred by Allamakee County in proceeding to enforce any order issued by the Zoning Administrator may be recovered by suit in the event Allamakee County is the prevailing party. Allamakee County may certify the amount of such expense to the extent awarded, together with a description of the property, to the County Treasurer, who shall enter the same upon the tax books as cost for obtaining compliance with the order of the Zoning Administrator and said amount shall be collected as other taxes;
4. Peace officers, when called upon by Allamakee County or its authorized representatives, including the Zoning Administrator, shall assist in the enforcement of the rules, regulations and lawful orders of the Commission.
5. No person shall interfere with the authorized agents of Allamakee County or peace officers in the discharge of any duty imposed by law or rules of the County Zoning Ordinance or Subdivision Regulations.
6. In the event any person is aggrieved by any decision or order made by the Zoning Administrator, he/she may appeal to the Board of Adjustment. Any person or persons aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the County, may present to a court of record a petition, duly verified, within thirty (30) days after the filing of the decision in the office of the Board of Adjustments, in the manner set forth in Code of Iowa, and judicial review may then take place as provided by Code of Iowa.

## **CHAPTER 7**

### **SUBDIVISION OF LAND**

#### **701 SUBDIVISIONS – GENERAL PROVISIONS**

##### **701.1 Purpose**

The purpose of this chapter is to establish minimum standards for the design, development and improvement of all new major subdivisions, minor agricultural subdivisions exempted from zoning regulation by Section 335.2 of the Code of Iowa as amended, and minor non-agricultural subdivisions and re-subdivisions so that existing developments will be protected and so that adequate provisions and streets are made by the landowner and developer for public services and to



promote the health, safety and general welfare of the present and future citizens of Allamakee County, Iowa, all in accordance with and as permitted by the provisions of Chapter 354, Code of Iowa.

### **701.2 Rules of Interpretation**

For use in this chapter, certain terms or words used herein shall be interpreted or defined as follows: Words used in the present tense shall include the future; the singular shall include the plural; the plural shall include the singular and the term “shall” shall always be mandatory.

In the event that there is a conflict or inconsistency between the heading of a chapter, section or subsection of this ordinance and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.

Reference numbers to the Code of Iowa sections are those in effect on the date of the adoption of this Ordinance. Future changes in the numbering of the Code of Iowa sections are intended to be incorporated herein by reference without future amendment of this Ordinance. Amendments to Code sections which are the same or substantially similar to those in effect on the date of the adoption of this Ordinance are incorporated by this reference. These Code of Iowa references are for convenience and continuity of enforcement and shall in no event be construed to make this Ordinance or any part thereof invalid.

### **701.3 Subdivision Review and Approval By Governing Bodies-Waiver Of Review Between Governing Bodies**

A proposed subdivision plat must be approved by resolution of all governing bodies having review jurisdiction before it can be recorded.

1. Review jurisdiction shall be established and agreed to by Allamakee County and the individual cities in the County pursuant to Section 354.8 and 354.9 of the Code of Iowa, as amended.
2. If a governing body that has review jurisdiction over a proposed subdivision plat chooses to waive their review jurisdiction, a resolution stating such shall be attached to the plat upon recording.

### **701.4 Regulated Subdivisions, Unregulated Exemptions, Platting and Recording of Regulated Subdivisions**

1. A subdivision is the division of a tract of land into three or more parcels by repeated or simultaneous division.
2. Regulations or restrictions adopted under the provisions of the Allamakee County Zoning Ordinance and Subdivision Regulations shall apply to only two types of subdivisions. Minor Non-agricultural Subdivisions and Major Subdivisions. Regulations or restrictions adopted under the provisions of the Allamakee County Subdivision regulations shall apply to Minor Agricultural subdivisions, which are exempt from zoning regulations under Section 335.2 of the Code of Iowa, as amended.
3. MINOR NON-AGRICULTURAL SUBDIVISION PLAT PROCEDURE: A minor non-agricultural subdivision plat shall adhere to the procedures and use the forms adopted from time to time by the Allamakee County Board of Supervisors for review and approval.
4. MINOR AGRICULTURAL SUBDIVISION PLAT PROCEDURE: A minor agricultural subdivision plat shall adhere to the procedures and use the forms adopted from time to time by the Allamakee County Board of Supervisors for review and approval.
5. MAJOR SUBDIVISION PLAT PROCEDURES: A major subdivision plat shall adhere to the procedures and use the forms adopted from time to time by the Allamakee County Board of Supervisors for review and approval.

6. **EXEMPTIONS:** Regulations or restrictions adopted under the provisions of this Chapter shall not be construed to apply in the following instances or transactions:
  - a. The division of land into burial lots in a cemetery.
  - b. Divisions along established aliquot part lines and government lot lines shall be permitted without requiring a subdivision plat.
  - c. Any conveyance of an easement.
  - d. Divisions by conveyance to a governmental agency for public improvements, including an acquisition plat of land divided for right-of-way purposes.
  - e. A conveyance of land or interest therein for use of right-of-way by a railroad or other public utility subject to State or Federal regulations, where such conveyance does not involve the creation of any new public or private street or easement of access.
  - f. A conveyance of land or interest therein to adjoining property owner(s) of vacated right-of-way by a railroad or other public utility subject to State or Federal regulations, where such conveyance does not involve the creation of any new parcel.
  - g. A conveyance of land to the State or County for right-of-way or other public use when such acceptance is in the public interest and not for the purpose of circumventing these regulations.
  - h. An auditor's plat.
  - i. A resurvey plat or a lot line retracement plat.
  - j. A property line adjustment plat or a lot line adjustment plat.
7. However, whether exempt or not from subdivision regulation by Allamakee County, all subdivision plats and plats of survey shall conform to Chapter 354 and 355 of the Code of Iowa and no subdivision plat shall be accepted for recording unless accompanied by the attachments as described in Section 354.11 of the Code of Iowa.

## **702 REVIEW AND APPROVAL**

### **702.1 Plat Review Committee**

1. The Board of Supervisors shall appoint a Plat Review Committee, consisting of representation from the Offices of the Auditor, Recorder, Planning and Development, E-911 Coordinator and County Engineer.
2. In such capacity, the Plat Review Committee shall review all major subdivisions, minor agricultural subdivisions and all minor non-agricultural subdivisions by adhering to the procedures and using the forms adopted from time to time by the Allamakee County Board of Supervisors for such review and approval.
3. The Committee shall appoint a plat review agent to have the authority to sign on behalf of the Committee.

### **702.2 Planning and Zoning Commission Review**

The Planning and Zoning Commission shall review all major subdivisions and minor non-agricultural subdivisions by adhering to the procedures and using the forms adopted from time to time by the Allamakee County Board of Supervisors for such review and approval.

### **702.3 Board of Supervisors Review and Approval**

The Board of Supervisors shall review all major subdivisions and minor agricultural subdivisions and other minor non-agricultural subdivisions by adhering to the procedures and using the forms adopted from time to time by the Allamakee County Board of Supervisors for such review and approval.

## 703 DEFINITIONS

For the purpose of this Chapter, certain terms and words are hereby defined. The following rules shall apply unless inconsistent with the plain meaning of the context of this Chapter.

**1. Acquisition Plat**

The graphical representation of the division of land or rights in land, created as the result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain

**2. Aliquot Part**

A fractional part of a section within the United States public land survey system of which only the fractional parts "one-half", "one-quarter", "one-half of one-quarter", or "one-quarter of one-quarter" shall be considered an aliquot part of a section.

**3. Auditor's Plat**

A subdivision plat required by either the auditor or the assessor, prepared by a surveyor under the direction of the auditor.

**4. Block**

An area of land within a subdivision that is entirely bounded by streets or highways, and/or the exterior boundaries of the subdivision.

**5. Building Line**

The line of the outside wall of the building or any projection thereof nearest the street.

**6. Commission**

The Planning and Zoning Commission of Allamakee County, Iowa

**7. Conveyance**

An instrument filed with a recorder as evidence of the transfer of title of land, including any form of deed or contract.

**8. County**

Allamakee County, Iowa

**9. County Auditor**

The County Auditor of Allamakee County, Iowa

**10. County Board**

The Board of Supervisors of Allamakee County, Iowa

**11. County Board of Adjustments**

The County Board of Adjustments of Allamakee County, Iowa

**12. County Engineer**

The County Engineer of Allamakee County, Iowa

**13. County Recorder**

The County Recorder of Allamakee County, Iowa

**14. County Treasurer**

The County Treasurer of Allamakee County, Iowa

**15. Cul-de-sac**

A street having one end open to traffic and the other end terminated by a vehicular turnaround encompassed with a minimum diameter of eighty (80) feet, or greater as determined by the County Engineer.

**16. Division**

Dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than a public highway easement, shall not be considered a division for the purpose of this chapter.

**17. Easement**

A grant of the right to use a strip of land for specific purposes by the general public, a corporation, or certain persons.

**18. Final Plat**

The map or drawing of a Major Subdivision in its final form which is submitted with its accompanying material to the County for approval and which, if approved, will be sub-

mitted to the County Recorder for recording.

**19. Forty-acre Aliquot Part**

One-quarter of one-quarter of a section.

**20. Governing Body**

A City Council or the Board of Supervisors, within whose jurisdiction the land is located, which has adopted ordinances regulating the division of land.

**21. Government Lot**

A tract, within a section, which is normally, described by a lot number as represented and identified on the township plat of the United States public land survey system.

**22. Land Division**

A division or subdivision of a tract, which meets the following criteria:

- a. No more than two (2) parcels are created.
- b. No new parcel shall conflict with any provisions of the County Zoning Ordinance and Subdivision Regulations.

**23. Lease**

A contractual agreement by which an owner of real property (the landlord) gives the right of possession to another (a tenant) for a specific period of time (term) and for a specified consideration (rent).

**24. Lot**

For the purpose of this Chapter, a lot is a tract of land represented and identified by number or letter designation on an official plat.

**25. Metes and Bounds Description**

A description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.

**26. Official Plat**

An auditor's plat or a subdivision plat that meets the requirements of this chapter and has been filed for record in the offices of the Recorder, Auditor and Assessor.

**27. Parcel**

A part of a tract of land.

**28. Performance Bond**

A surety bond or cash deposit made out to Allamakee County in an amount equal to 125% of the full cost of improvements as estimated by the County Engineer, and the surety bond or cash deposit being legally sufficient to secure to the county that the improvements will be constructed in accordance with the county's requirements.

**29. Permanent Real Estate Index Number**

A unique number or combination of numbers assigned to a parcel of land pursuant to Code of Iowa, Section 441.29.

**30. Plat of Survey**

The graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered surveyor, in accordance with Chapter 354, Code of Iowa.

**31. Property Line Adjustment:**

A division of one (1) or more lots or parcels which meets the following criteria:

- a. No part of the divided parcel of land will be transferred to anyone but the owner or owners of a lot or parcel of land abutting that part of the divided lot or parcel of land to be transferred.
- b. No parcel shall conflict with any provision or portion of the County Zoning Ordinance and Subdivision Regulations.

**32. Proprietor**

A person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding a mortgage, easement, or lien interest.

**33. Street**

The entire width between the boundary lines of every way intended for public use for the purpose of vehicular and pedestrian traffic and for the placement of utilities. The term "street" shall include avenue, circle, drive, highway, lane, place, thoroughfare, or any other similar designation.

- a. **Major Street:** A Street and/or road of considerable continuity connecting various sections of the county, villages, or cities. Minimum street right-of-way shall be sixty-six (66) feet wide. The minimum width of traveled roadway shall be twenty-two (22) feet.
- b. **Minor Street:** A Street designed primarily to provide access to abutting properties and to discourage through traffic. Minimum street right-of-way shall be sixty-six (66) feet wide. The minimum width of traveled roadway shall be twenty-two (22) feet. Also to include cul-de-sac.
- c. **Private Street:** All land between right-of-way lines but not accepted in a governmental road system.
- d. **Public Street:** All land between right-of-way lines dedicated to and accepted by a governmental agency.
- e. **Frontage Street:** A street which is parallel with an adjacent highway or major street and which provides access to abutting properties and provides protection from fast, through traffic on the highway or major street.

**34. Sub-divider**

A person, firm or corporation undertaking the subdivision or re-subdivision of a tract or parcel of land.

**35. Subdivision**

The division of a tract of land into three or more parcels by repeated or simultaneous division.

- a. **MAJOR SUBDIVISION:** All subdivisions not classified as minor agricultural or non-agricultural subdivisions, including but not limited to any size subdivision requiring new public or private streets, or the extension of any facilities, or the creation of any public improvements.
- b. **MINOR AGRICULTURAL SUBDIVISION:** A subdivision of land which meets the following criteria:
  - 1. All new parcels shall front on or have direct access from an existing public street.
  - 2. No new public or private street shall be created or sought to be dedicated or contemplated to project through the proposed subdivision.
  - 3. All new parcels are intended to be used for agricultural purposes and shall continue to be used consistent with the agricultural exemptions of Section 335.2 of the Iowa Code, as amended, and shall bear the following legend in an outline box on the face of the recorded plat:

**Agricultural Exemption Legend**-This plat is for agricultural purposes only and is intended for agricultural uses in conformity with Section 335.2 of the Iowa Code, as amended

- 4. No new parcel shall conflict with any provisions or portion of the Allamakee County Subdivision Regulations.
  - 5. The subdivision contains no new development lots.
  - 6. The subdivision lies wholly within the Ag-1 zoning district.
- c. **MINOR NON-AGRICULTURAL SUBDIVISION:** A subdivision of land, which meets the following criteria:
  - 1. All new parcels shall front on or have direct access from an existing public street.

2. No new public or private street shall be created or sought to be dedicated or contemplated to project through the proposed subdivision.
3. No new parcel shall conflict with any provisions or portion the County Zoning Ordinance and Subdivision Regulations.

**36. Subdivision Plat**

The graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each parcel within the plat and a succinct name or title that is unique for the county where the land is located.

**37. Surveyor**

A registered land surveyor who engages in the practice of land surveying pursuant to Chapter 542B, Code of Iowa.

**38. Tract**

An aliquot part of a section, a lot within an official plat, or government lot.

**39. Zoning Administrator**

The Administrative Officer designated or appointed by the Allamakee County Board of Supervisors to administer and enforce the regulations contained in this Ordinance.

**704 PRELIMINARY PLAT**

**704.1 Requirements of Preliminary Plat**

The sub-divider shall first prepare and file with the Zoning Administrator five (5) full size plans and five (5) ledger size (11" x 17") copies of a preliminary Plat of Survey of adequate size and scale so all features are easily readable showing all, or part, of the following:

1. Title, scale, north point and date;
2. Subdivision boundary lines, showing dimensions, bearings, angles and references to sections, townships and range lines or corners;
3. Present and proposed streets, alleys and sidewalks, with their right-of-way, in or adjoining the subdivision, including dedicated widths, approximate gradients, types and widths of surfaces, curbs and planting strips, and location of street lights;
4. Proposed layout of lots, showing number, dimensions, radii, chords and the square-foot areas of lots that are not rectangular;
5. Building setback or front yard lines (showing at least one (1) typical lot);
6. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, streets, or other public, semipublic, or county purposes;
7. Present and proposed easements, showing locations, widths, purposes and limitations;
8. Present and proposed utility systems, including sanitary and storm sewers other drainage facilities, water lines, gas mains, electric utilities, street lighting and other facilities, with the size, capacity, invert elevation and location of each (showing at least one (1) typical lot);
9. Proposed name of the subdivision which shall not duplicate lanes and streets, or resemble existing names in the county;
10. Names and addresses of the owner(s), subdivider, builder, and engineer, surveyor, or architect who prepared the preliminary Plat of Survey, and the engineer, surveyor or architect who will prepare the final Plat of Survey;
11. Existing and proposed zoning of the proposed subdivision and adjoining property;
12. A general summary description of any protective covenants or private restrictions to be incorporated in the final Plat of Survey;
13. Contours at vertical intervals of not more than five feet if the general slope of the site is less than ten percent, and at vertical intervals of not more than ten feet if the general slope is ten percent or greater, unless the Commission waives this requirement. (United States Geological Survey Quadrangular maps may be acceptable if above criteria can be met.)
14. The grade percentage of all new driveways, streets and alleys.

#### **704.2 Referral of Preliminary Plat**

The Zoning Administrator shall forthwith refer one (1) full size copy of the preliminary Plat of Survey to the Plat Review Committee, County Engineer, one (1) full size copy to County Auditor and one (1) full size copy to Allamakee County E-911 for review. Five (5) copies shall be reviewed by the Commission.

#### **704.3 Review of Preliminary Plat**

The Plat Review Committee shall, upon receiving the completed Application for Land Division (Form A) and preliminary plat, as soon as possible by meeting at least weekly, act by commenting and making recommendations upon the application and plat. The Committee shall then set forth its comments and recommendations in writing, whether of approval, modification, or disapproval directed to the Planning and Zoning Commission and the applicant.

The Planning and Zoning Commission shall, upon receiving the comments and recommendations of the Plat Review Committee, as soon as possible, but not more than thirty (30) days thereafter, consider the comments and recommendations of the Plat Review Committee, negotiate with the sub-divider on changes deemed advisable and the kind and extent of improvements to be made and pass upon the preliminary plat as originally submitted or modified. If the Planning and Zoning Commission does not act within (30) thirty days, the preliminary plat shall be deemed to be approved, provided however, that the sub-divider may agree to an extension of the time for a period not to exceed an additional sixty (60) days. The Planning and Zoning Commission shall then set-forth its comments and recommendations in writing, whether of approval, modification, or disapproval.

1. In the event that substantial changes, or modifications are made by the Planning and Zoning Commission or disapproval of the plat cause the revised preliminary plat to be resubmitted in the same manner as the original plat.
2. If approved, the Planning and Zoning Commission shall express its approval as "conditional approval" and state the conditions of such approval, if any.
3. The action of the Planning and Zoning Commission shall be noted on two (2) copies of the preliminary plat, referenced and attached to any conditions determined. One (1) copy shall be returned to the sub-divider and the other copy retained by the Zoning Administrator.
4. The "conditional approval" by the Planning and Zoning Commission shall not constitute final acceptance of the addition or sub-division by the County but an authorization to proceed with preparation of the final plat

#### **704.4 Effective Period of Preliminary Plat Approval**

The sub-divider shall, within twelve (12) months of the conditional approval of the preliminary plat by the Planning and Zoning Commission, prepare and file five (5) large full sets and eight (8) copies (8 ½" X 14") or larger of the final plat (at least one 8 ½" x 14" copy for scanning purposes) and other required documents with the Zoning Administrator as set forth in this chapter. Upon their failure to do so within the time specified, the "conditional approval" of the preliminary plat shall be null and void unless an extension of time is applied for and granted by the Planning and Zoning Commission. The final plat shall conform substantially to the preliminary plat as approved and, if desired by the sub-divider, it may constitute only that portion of the approved preliminary plat which he/she proposes to record and develop at the time, provided however, that such portion conforms to all requirements of the Allamakee County Zoning Ordinance and Subdivision Regulations.

## **705 FINAL PLAT**

### **705.1 Requirements of Final Plat**

The final plat shall be clearly and legibly drawn to a scale of not more than one (100) hundred feet to one (1) inch with permanent ink. It shall show:

1. The title under which the subdivision is to be recorded;
2. The date of the document, approximate true north arrow and the scale of the plat. The scale shall be clearly stated and graphically illustrated by a bar scale on each plat sheet.
3. The names and addresses of the owner(s) of the land, the developer, if other than the owner(s), and the engineering firm or surveying firm that prepared the final plat.
4. The location by section, township, range, county and state and including descriptive boundaries of the Subdivision, based on accurate traverse, giving angular and linear dimensions which must mathematically close.
5. The exact location and layout of lots, public or private streets with accurate dimensions in feet and decimals of feet, interior angles, length and radii, arcs and intermediate tangents of all curves, and with all other information necessary to reproduce the plat on the ground.
6. The location of all existing and new streets within the Subdivision.
7. The names and right-of-way width of all existing and new streets within the Subdivision. If new names are needed, they should be distinctive. Street names must be approved by the Allamakee County E-911 Board.
8. The lot number and area of each lot within the Subdivision. The data on the area of each lot may be shown in a table format on the plat page on which said lot is drawn.
9. The location of all easements shall be clearly identified, and if already on record, the recorded reference of such easement. If an easement is not definitely located on record, a statement of such easement shall be included. The width of the easements, with sufficient ties to locate it definitely with respect to the Subdivision must be shown. If the easement is being dedicated by the final plat, it shall be properly referenced in the owner's certification of identification.
10. A statement by the proprietors and their spouse, if any, as required by Chapter 354.11 Code of Iowa.
11. A certificate signed by a licensed land surveyor, as required by Chapter 355, Code of Iowa.

### **705.2 Action by Plat Review Committee**

The Zoning Administrator shall transmit sufficient copies of the final plat and other submittal materials to the Plat Review Committee for review and approval, before submission to the Planning and Zoning Commission. The Plat Review Committee shall, upon receiving the completed final plat submission, as soon as possible by meeting at least weekly, act by commenting and making recommendations in writing, whether of approval, modification, or disapproval directed to the Planning and Zoning Commission and the applicant.

### **705.3 Action by Planning and Zoning Commission**

The Planning and Zoning Commission shall, upon receiving the final plat from the Plat Review Committee, as soon as possible, but not more than thirty (30) days thereafter, consider the final plat submission and act by commenting and making recommendations upon the final plat submission. The Planning and Zoning Commission shall then set forth its comments and recommendations in writing, whether of approval, modification, or disapproval directed to the Board of Supervisors in the form of a resolution showing its action.



#### **705.4 Action by the County Board of Supervisors**

Upon recommendation of approval or denial by the Planning and Zoning Commission, the Board of Supervisors shall, within a reasonable time, approve, disapprove or waive the right to review the final plat.

1. In the event that the Board of Supervisors disapproves the final plat, such disapproval shall be expressed in writing and shall point out wherein the proposed plat is objectionable.
2. In the event that the plat is found to be acceptable and in accordance with this Section and the Code of Iowa, the Board of Supervisors shall accept the same.
3. The passage of a resolution by the Board of Supervisors accepting the plat, signed and attached to final plat shall constitute final approval of the platting of the area shown on the plat. The sub divider or owner(s) shall cause such plat to be recorded in the office of the County Recorder.

#### **705.5 Final Plat Attachments**

The final plat shall have the following attached to it:

1. A correct description of the subdivision land.
2. A certificate by the proprietor(s) and his/her spouse, if any, that the subdivision is with the free consent and is in accordance with the desire of the proprietor(s) and spouse. This certificate must be signed and acknowledged by the proprietor(s) and spouse before some officer authorized to take the acknowledgments of deeds.
3. An attorney's opinion showing that the fee title to the subdivision land is in the owner's name and that the land is free from encumbrances other than those secured by an encumbrance bond.
4. A certificate from the County Treasurer that the subdivision land is free from taxes.
5. A statement of Approval of Subdivision name by County Auditor.
6. A certificate of dedication of streets and other public property; if applicable.
7. A statement of restriction of all types that run with the land and become covenants in the deeds of lots.
8. If the mortgage holders have not signed the final plat a notarized consent to plat form is required from the mortgage holders.
9. Recommendation of Approval of Final Sub-division Plat (**FORM C**) or Recommendation of Approval of Plat of Survey (**FORM D**).
10. If within two (2) miles of the corporate limits of a city that has extended its two (2) mile territorial application as per Code of Iowa Section 354.9, an approving resolution from the City.
11. A certified resolution from Allamakee County Board of Supervisors stating approval or waiving the right to review.

### **706 MAJOR SUBDIVISION**

#### **706.1 General Requirements**

The following general requirements shall be followed by all major subdividers;

1. Relation to Existing Streets:
  - a. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
  - b. The arrangement of streets in a subdivision shall either provide for the continuation or appropriate projection of existing principal streets in surrounding areas or conform to a plat for the neighborhood approved by the Commission to meet a particular situation

- where topographical or other conditions made continuance or conformance to existing streets impracticable.
- c. A street that is dedicated to the county must have documentation as to the exact cost of the street provided by the developer.
2. Acreage Subdivisions:
    - a. Where the plat submitted covers only a part of the subdivider's plat, a sketch of the prospective future systems of the unsubmitted part shall be furnished and the street system of the part submitted shall be considered in the light of adjustments in connection with the street system of the part not submitted.
    - b. Where the parcel is subdivided into larger tracts than for building lots, such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.
    - c. Subdivisions showing unplatted strips or unplatted private streets controlling access to public ways will not receive approval.
  3. Minor or Major Streets:
    - a. Minor streets shall have a traveled roadway width of twenty-two (22) feet, and minimum right-of-way of sixty-six (66) feet. Minor streets shall not be accepted into the county road system.
    - b. Major Street shall have a minimum width of twenty-two (22) feet, and minimum right-of-way of sixty-six (66) feet. All utilities, trees, decorative fences, and walls etc. shall be placed to minimize sight obstructions for vehicular travel. Sidewalks, boulevards, and curb & gutter maybe required along major streets. Major streets generally will not be accepted into the public county road system unless the Board of Supervisors approves the dedicated street as necessary to the traveling public.
    - c. Minor Streets that are cul-de-sac streets are permitted where topography and other conditions justify their use. Such streets shall not be longer than one thousand (1,000) feet unless physical conditions warrant a longer length and the Plat Review Committee recommends a longer length. Cul-de-sacs shall terminate with a turnaround, having an outside roadway diameter of a least eighty (80) feet and street right-of-way diameter of at least one hundred (100) feet. The right-of-way width of the straight portion of such streets diameter shall be a minimum of sixty-six (66) feet. The property line at the intersection of the turnaround and the straight portion of the street shall be rounded at a radius of not less than thirty-one (31) feet. The property line frontage on a cul-de-sac shall be a minimum of sixty-six (66) feet.
  4. Frontage Streets:
    - a. Where a subdivision abuts or contains an existing or proposed highway or major street, the Commission may require frontage streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
    - b. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Commission may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential district, or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.
  5. Street Geometrics:
    - a. Street jogs with centerline offsets of less then one hundred fifty (150) feet shall be avoided.
    - b. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on streets.
    - c. When connecting street lines deflect from each other at any one point by more then ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight

- distance of not less than two hundred (200) feet for minor and major streets, and of such greater radii as the Commission shall determine for special cases. Also trees and brush shall be cleared for public service vehicles.
- d. Horizontal curves shall have a minimum of 125 feet radius to centerline of street.
  - e. Streets crossing bodies of water shall have structures designed by the landowner/developer to ensure access for public service vehicles according to state and federal guidelines.
6. Intersections:
- a. Insofar as is practical, acute angles between streets at their intersection are to be avoided.
  - b. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than seventy (70) degrees.
7. Street Names:  
The proposed names of new streets shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the Allamakee County E-911Board.
8. Street Grades:
- a. Street grades, wherever feasible, shall not exceed twelve (12) percent, with due allowance for reasonable vertical curves.
  - b. No Street shall have less than two (2) percent cross slope.
9. Blocks:
- a. No block may be more than one thousand, three hundred twenty (1,320) feet or less than five hundred (500) feet in length between the centerlines of intersecting streets, except where, in the opinion of the Commission, extraordinary conditions unquestionably justify a departure from these limits.
  - b. In blocks over seven hundred (700) feet in length, the Commission may require at or near the middle of the block a public way or easement of not less than ten (10) feet in width for use by pedestrians and/or as an easement for public utilities.
10. Lots:
- a. The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
  - b. Minimum lot dimensions and sizes shall conform to the requirements of the zoning ordinance, provided:
    - i. Residential lots where not served by public sewer shall not be less than one hundred fifty (150) feet wide nor less than forty three thousand five-hundred and sixty square feet (43,560) (1 acre) excluding right-of-way.
    - ii. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
    - iii. Corner lots for residential use shall have an extra ten (10) feet of width to permit appropriate building setback from and orientation to both streets.
  - c. The subdividing of the land shall be such as to provide each lot with satisfactory access to an existing public street.
  - d. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.
  - e. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.
11. Building Lines:  
Building lines conforming to zoning standards shall be shown on all lots within the platted area. Where the subdivided area is not under zoning control, the Commission may require building lines in accordance with the needs of each subdivision.
12. Easements:
- a. Easements across lots or centered on rear or side lot lines shall be provided for utilities

where necessary and shall be at least ten (10) feet wide.

- b. Drainage Easements shall be provided where an alteration in drainage occurs and prevents from building on a lot.
13. Plat Markers.  
Markers shall be placed at all block corners, angle points, points of curves in streets, and all such intermediate points as shall be required by the County Engineer. The markers shall be of such material, size, and length as may be approved by the County Engineer.

## **707 MINOR SUBDIVISION**

### **707.1 General Requirements**

The following general requirements shall be followed by all minor sub-dividers;

1. Lots:
  - a. The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
  - b. Minimum lot dimensions and sizes shall conform to the requirements of the zoning ordinance, provided:
    - i. Residential lots where not served by public sewer shall not be less than one hundred fifty (150) feet wide nor less than forty three thousand five-hundred and sixty square (43,560) feet (1 acre) excluding road right of way and easements.
    - ii. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
    - iii. Corner lots for residential use shall have an extra ten (10) feet of width to permit appropriate building setback from and orientation to both streets.
  - c. The subdividing of the land shall be such as to provide each lot with satisfactory access to an existing public street.
  - d. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.
2. Building Lines:  
Building lines conforming to zoning standards may require building lines in accordance with the needs of each subdivision.
3. Easements:
  - a. Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least ten (10) feet wide.
  - b. Drainage Easements shall be provided where an alteration in drainage occurs and prevents from building on a lot.
4. Private Streets:
  - a. Shall have a traveled minimum surfaced roadway width of twenty-two (22) feet.
  - b. Minimum street right-of-way shall be sixty-six (66) feet wide.
  - c. Adequate design and maintenance of streets by the landowner/developer shall provide access for public service vehicles.
5. Plat Markers:
  - a. Markers shall be placed at all block corners, angle points, points of curves in streets, and all such intermediate points as shall be required by the County Engineer.
  - b. The markers shall be of such material, size, and length as approved by the County Engineer.

## **708 IMPROVEMENTS REQUIRED**

The subdivider shall install and construct all improvements required by this section. All required improvements shall be installed and constructed in accordance with the specifications and under the supervision of the Board of Supervisors.

1. Streets:

All streets within the platted area which are dedicated for public use shall be brought to the grade approved by the Board of Supervisors after receiving the report and recommendations of the County Engineer. Water lines, sewer lines and any other utilities are to be constructed to each lot if required prior to street construction.

2. Roadways:

All private roadways becoming a part of the public County Road System shall be surfaced with a dust free surface, preferably Portland cement concrete or with asphalt concrete over a crushed stone base as the County Engineer and Board of Supervisors may require.

3. Curb and Gutter:

Curbs and gutters may be required on streets. All curbs and gutters shall be constructed to the grade approved by the Board of Supervisors after receiving the report and recommendations of the County Engineer.

4. Sidewalks:

The Board of Supervisors may require sidewalks if they are considered necessary for the general welfare and safety of the public. Sidewalks shall be constructed to the grade approved by the Board of Supervisors after receiving the report and recommendations of the County Engineer.

5. Water Lines:

- a. The subdivider shall connect with a public water system, when available, and provide a water connection for each lot with service pipe installed to the property line in accordance with county water standards, procedures and supervision as required by the Allamakee County Board of Health.
- b. Where a public water supply is not available, private water well must be installed as per Chapter 49 Code of Iowa or Community Well Standards as per Iowa Department of Natural Resources.

6. Sewers.

- a. Where a public sewer is reasonably accessible, the subdivider shall connect or provide for the connection with such sanitary sewer, shall provide within the subdivision the sanitary sewer system, and shall be required to make the sewer accessible to each lot in the subdivision. Private on-site sanitary sewers shall be stubbed into each lot. Sewer systems shall be approved by the Allamakee County Board of Health and the construction subject to the supervision of the Allamakee County Board of Health.
- b. Where sanitary sewers are not available, other facilities as approved by the Allamakee County Board of Health and the State Department of Natural Resources must be provided for the adequate disposal of sanitary wastes.
- c. Adequate provisions shall be made for the disposal of storm waters, subject to the approval of the State Department of Natural Resources and to the supervision of the County Engineer.

7. Street Lights.

Streetlights may be required on all streets and roadways within the platted area. All streetlights shall be located and constructed to specifications approved by the Board of Supervisors after receiving the report and recommendation of the County Engineer.

## **709 COMPLETION OF PUBLIC IMPROVEMENTS AND PERFORMANCE BOND**

Before the Board of Supervisors will accept any dedicated public county improvements the County Engineer shall require public improvements and installations be inspected and completed, or

that a performance bond (125% of estimated cost) payable to the county, or a Letter of Credit, guaranteeing completion and approved by the County Attorney and the Board of Supervisors.

Improvements will be accepted only after their construction has been completed, and no public funds will be expended in the subdivision until such improvements have been completed and accepted by the Board of Supervisors.

**710 VARIANCES**

Where, in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this chapter would result in extraordinary hardship to the sub-divider, because of unusual topography or other conditions, the Board of Adjustment may vary, modify or waive the requirements so that substantial justice may be done and the public interest secured. Provided, however, that such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this chapter. In no case shall any variance or modification be more than a minimum easing of the requirements and in no instance shall it be in conflict with any zoning ordinance provision, and such variances and waivers may be granted only by affirmative vote of 60% of the Board of Adjustment.

**711 AMENDMENTS**

Amendments of this chapter shall be accomplished by the same procedure as provided in Section 501, Amendments to the Zoning Ordinance and Subdivision Regulations.

**CHAPTER 8**

**SUBDIVISION OF LAND FOR THE PURPOSE OF CLUSTER RESIDENTIAL DEVELOPMENT**

**801 DEFINITION**

Residential Cluster Development is a form of land development in which principal buildings and structures are grouped together on a site, thus leaving the remaining land area for common open space, conservation, agriculture, recreation, or public and semi-public uses. The primary consideration, however, is the preservation of some portion of the site for agricultural, environmental, or recreational use.

**802 PURPOSE**

1. It is the purpose of this ordinance to permit residential cluster development in order to;
  - a. encourage creative and flexible site design that is sensitive to the land's natural features and adapts to the natural topography,
  - b. protect environmentally sensitive areas of a development site and permanently preserve open space, natural features, and prime agricultural lands,
  - c. decrease or minimize nonpoint-source pollution impacts by reducing the amount of impervious surfaces in site development,
  - d. promote cost savings in infrastructure installation and maintenance by such techniques as reducing the distance over which utilities, such as water and sewer lines, need to be extended or by reducing the width or length of streets, and
  - e. provide opportunities for social interaction and walking and hiking in open space areas.

### 803 DEFINITIONS

As used in this ordinance, the following words and terms shall have the meanings specified herein:

**Buffer:** Land maintained in either a natural or a landscaped state and used to screen or mitigate the impacts of development on surrounding areas, properties, or right-of-way.

**Buildable Area:** The area of any lot or parcel excluding Bluffland Impact Areas, wetlands, easements, and any other areas that cannot be developed due to restrictions or natural features.

**Building:** Any structure used or intended for supporting or sheltering any use or occupancy.

**Cluster or Clustering:** A site-planning technique that concentrates buildings and structures in specific areas on a lot, site, or parcel to allow the remaining land to be used for recreation, open space, or preservation of features or structures with environmental, historical, cultural, or other significance. The techniques used to concentrate buildings may include, but shall not be limited to, reduction in lot areas, or density requirements, with the resultant open space being devoted by deed restrictions to one or more uses.

**Cluster Development, Residential:** A land development project in which the site planning technique of clustering dwelling units is employed.

**Common Open Space:** The portion of the site set aside in perpetuity as open space. This area may include freshwater wetlands, floodplains or flood-hazard areas, stream corridors, prime agricultural lands, habitats of endangered wildlife (as identified on applicable federal or state lists), scenic views, historical or cultural features, archaeological sites, or other elements to be protected from development, as well as easements for public utilities. To the greatest degree practicable, common open space shall be designated as a single block and not divided into unconnected small parcels located in various parts of the development.

**Conceptual Review:** A review of the initial site plan by the Planning and Zoning Commission is required. During this review the developers, subdividers, or their representative(s), at a meeting of the Planning Commission, will identify the major components of the proposed development and define how they meet the requirements for cluster residential sites. This review should be scheduled sufficiently in advance, (at least 90 days) of the planned submission of the preliminary plat to allow the deadlines set forth in Chapter 7 (Subdivision of Land) to be met.

**Development:** The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; mine, excavation, landfill, or land disturbance; or any change in use, or alteration or extension of use, of land.

**Gross area:** The total area of the site, including public and private right-of-ways.

**Infrastructure:** The facilities and services needed to sustain residential, commercial, industrial, institutional, and other activities. (streets, potable water systems, storm water systems, sewer systems, street lighting, electrical transmission and distribution systems, etc).

**Land Development Project:** A project in which one or more lots, tracts, or parcels of land are to be developed or redeveloped as a coordinated site for a complex of uses, units, or structures, including, but not limited to, planned development or cluster development for residential, commercial, institutional, recreational, open space, or mixed uses as are provided for in the zoning ordinance and subdivision regulations.

**Lot:** A parcel of land whose boundaries have been established by some legal instrument, such as a recorded deed or recorded plat and recognized as a separate unit of land for purposes of transfer of title.

**Net Area:** The portion of the cluster development that may be developed or used for common open space, excluding major and minor streets, right of ways and other publicly dedicated areas.

**Nonpoint Source Pollution:** Pollution affecting a body of water from diffuse sources, such as polluted runoff from agricultural areas draining into a river or stream. Nonpoint source pollution can be contrasted with point source pollution, where discharges occur to a body of water at a single location, such as discharges from a chemical factory, urban runoff, or from a roadway storm drain.

**Site Plan:** The development plan for one or more lots or parcels on which is shown the existing and the proposed conditions and uses of the property.

**Street, Major:** See definitions in Chapter 7, Subdivision of Land.

**Street, Minor:** See definitions in Chapter 7, Subdivision of Land.

**Structure:** See definition for Building in this Chapter.

#### **804 APPLICABILITY; GENERAL PROVISIONS**

1. A residential cluster development shall be permitted as a right in the following zoning districts: A-1 (Agricultural District) and R-1 (Rural Residential District):
  - a. All principal and accessory uses authorized in the applicable zoning district(s) shall be allowed in the cluster development. In addition, multifamily dwellings, duplexes, and town houses may be permitted for a cluster development located in a residential zoning district that does not otherwise allow structures containing multiple dwelling units. Such structures and uses shall be as shown in the Cluster Housing Site Plan, as approved or amended.
2. The following provisions shall apply to any residential cluster development, regardless of the general requirements of the applicable residential zoning district:
  - a) The minimum area of the cluster development shall be five (5) acres.
  - b) Maximum lot coverage, floor area ratios, building height, and parking requirements for the applicable zoning district shall apply to the cluster development.
  - c) Maximum lot coverage (buildings, hard surfaced areas, etc.) shall not exceed 20%.
  - d) The Planning Commission may allow for a 25% reduction in the minimum lot widths or depths, to encourage a development plan that better fits the site.
  - e) The Commission may allow for a development density that is 25% greater than developments that are not clustered. For example, a parcel that would support 8 three acre lots (24 acres plus all easement and street right of ways) may be approved for a maximum density of 10 lots of one acre or greater.
  - f) All setbacks, yards and other dimensional standards otherwise required by the Zoning Ordinance shall be required in a cluster development.
  - g) Each lot shall front on a public or private street.
  - h) No more than one principal building or structure may be placed on a lot in accordance with the general standards of the zoning ordinance.
  - i) Not less than (25) percent of the site shall be conveyed as common open space in the manner provided for in section 810. Common open space can be utilized for the placement of common sewer systems, storm sewer systems and potable water systems.
  - j) A Homeowners Association shall be established and this Association shall be responsible to maintain/establish all perimeter fences between the development and the neighboring landowners that each individual landowner would otherwise be responsible for.
  - k) Cluster development lots served by a private septic system shall not be less than one acre of buildable area, exclusive of Right of Way and easements, and must contain a reserve backup area for a replacement septic system.



**805 PROCEDURES FOR REVIEW**

The developer shall submit a development site plan to the Planning and Zoning Commission for a Conceptual Review. Once the conceptual site plan has been approved by the Commission, the developer may submit the Land Division Application and subdivision plat as provided for in Chapter 7 (Subdivision of Land).

**806 REVIEW CRITERIA**

1. During the review of a conceptual site plan, the Planning and Zoning Commission shall determine whether the plan satisfies the following criteria:
  - a. the site plan satisfies the requirements of sections 803, 804, and 805, above;
  - b. buildings and structures are adequately grouped so at least twenty-five (25) percent of the total area of the site is set aside as common open space;
  - c. the common open space can be easily accessed by pedestrians;
  - d. the site plan establishes, where applicable, an upland buffer of vegetation of at least [50] feet in depth adjacent to wetlands and surface waters, including creeks, streams, springs, lakes, and ponds;
  - e. individual lots, buildings, structures, streets, and parking areas are situated to minimize the alteration of natural features, natural vegetation, and topography;
  - f. existing scenic views or vistas are permitted to remain unobstructed, especially from public streets or other public areas;
  - g. the site plan accommodates and preserves any features of historic, cultural, or archaeological value;
  - h. floodplains, wetlands, and areas in the Bluffland overlay district are protected from development;
  - i. the cluster development advances the purposes of this ordinance as stated in section 801, above; and
  - j. other standards, to be determined by the Commission, such as the contiguity requirement for common open space, especially common open spaces that may be suited or reserved for agricultural uses.
2. The planning and zoning commission may, in its opinion, apply such special conditions or stipulations to its approval of a residential cluster development as may be required to maintain harmony with neighboring uses and to promote the objectives and purposes of the comprehensive plan and the zoning and subdivision ordinances.
3. If the planning and zoning commission finds that the requirements of paragraph 1 above are satisfied, it shall approve the residential cluster development, subject to any special conditions or stipulations pursuant to paragraph 2 above, any density bonus pursuant to section 805, above, and any reductions [or waivers] pursuant to section 808, below.

**807. CONVEYANCE OF OPEN SPACE**

1. Common open space provided by a residential cluster development shall be conveyed as follows:
  - a. To Allamakee County and accepted by it for park, open space, agricultural, or other specified use or uses, provided that the conveyance is approved by the planning and zoning commission and the Board of Supervisors, and is in a form approved by the Allamakee County Attorney; or
  - b. To a nonprofit organization whose principal purpose is the conservation of open space or

- c. to an association, corporation or trust owned or to be owned by the owners of lots or dwelling units within the residential cluster development, or to owners of shares with in a cooperative development. If such a corporation or trust is used, ownership shall pass with the conveyances of the lots or dwelling units. The conveyance shall be as approved by the Planning and Zoning Commission and shall be in a form approved by the County Attorney.
2. In any case, where the common open space in a residential cluster development is conveyed pursuant to subparagraph a, b, or c above, a deed restriction enforceable by Allamakee County shall be recorded that provides that the common open space shall:
- a. be kept in the authorized condition(s); and
  - b. not be developed except as approved by the Commission pursuant to the site plan.