

**BLACK HAWK COUNTY, IOWA  
(UNINCORPORATED AREAS)**

**ZONING ORDINANCE NO. 36**

AN ORDINANCE REPEALING ORDINANCE NO. 11, THE BLACK HAWK COUNTY AGRICULTURAL LAND PRESERVATION AND ZONING ORDINANCE, AND BY ENACTING IN LIEU THEREOF A NEW ORDINANCE NO. 36, THE BLACK HAWK COUNTY AGRICULTURAL LAND PRESERVATION AND ZONING ORDINANCE.

Be it Enacted by the Board of Supervisors of Black Hawk County, Iowa:

That Ordinance no. 11, the Black Hawk County Agricultural Land Preservation and Zoning Ordinance, be repealed and in its place a new Ordinance No. 36, the Black Hawk County Agricultural Land Preservation and Zoning Ordinance, be enacted.

RECOMMENDED FOR ADOPTION BY  
THE BLACK HAWK COUNTY PLANNING & ZONING COMMISSION  
ON:  
June 20, 1995

ADOPTED BY  
THE BLACK HAWK COUNTY BOARD OF SUPERVISORS  
ON:  
August 8, 1995

EFFECTIVE DATE:  
August 25, 1995

Updated  
June 25, 2013



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### NOTICE

The Ordinance text and the zoning maps are subject to occasional change through amendments to the Ordinance. Information to any specific property may be attained from the Planning and Zoning Office.

## PURPOSE AND OBJECTIVES

This Ordinance is adopted in accordance with the Black Hawk County Comprehensive Land Use Plan, 1980, as amended, and as permitted and specifically authorized in Chapters 352, Land Preservation and 335, County Planning and Zoning, Code of Iowa, as amended.

This Ordinance is intended and designed to meet the specific objectives of Chapter 335.5, Code of Iowa, as amended, to preserve the availability of agricultural land; to consider the protection of soil from wind and water erosion; to encourage efficient urban development patterns; to lessen congestion on the street or highway; to secure safety from fire, flood, panic, and other hazards; to protect health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public improvements.

Furthermore, this Ordinance is also intended and designed to meet the specific purpose of Chapter 352, Code of Iowa, as amended, to provide local citizens and local governments the means by which agricultural land may be protected from nonagricultural development pressures. This is accomplished by the creation of the Black Hawk County Comprehensive Plan, 1980, as amended, the adoption of this Agricultural Land Preservation Ordinance and the establishment of agricultural land preservation areas, as provided for in this Ordinance, so that land inside these areas shall be conserved for the production of food, fiber, and livestock, thus assuring the preservation of agriculture as a major factor in the economy of this county and state. It is further the intent of this Ordinance as authorized in Chapter 352 to provide for the orderly use and development of land and related natural resources in Iowa for residential, commercial, industrial, and recreational purposes, preserve private property rights, protect significant natural and historic resources and fragile ecosystems of this county including forests, wetlands, rivers, streams, lakes and their shorelines, aquifers, prairies, and recreational areas, to provide the efficient use and conservation of energy resources, and to promote the protection of soil from wind and water erosion.

SECTION I.  
TITLE

This Ordinance shall be known and may be cited and referred to as the "Black Hawk County, Iowa, Agricultural Land Preservation and Zoning Ordinance," Ordinance No. 36.

SECTION II.  
SPECIAL EXEMPTIONS

A. Agricultural Exemption

In accordance with the provisions of Chapter 335.2, Code of Iowa, no regulation or restriction adopted under the provisions of this Ordinance shall be construed to apply to land, farmstead, farm houses, farm barns, farm outbuildings or other buildings, structures or erections which are primarily adapted by reason of nature and area, for use for agricultural purposes, while so used:

1. Application. It shall be the responsibility of any person or group claiming that property is entitled to exemption on the basis of this section to demonstrate that the property is used for agricultural purposes.
2. Limitation. This exemption shall not apply to any structure, buildings, dam, obstruction, deposits or excavation in or on the floodplains of any river or stream.
3. Voluntary Compliance. It shall be the policy to seek voluntary compliance of the provisions of this Ordinance for agricultural uses, specifically, the minimum yard requirements of the applicable zoning district.

For any farm house constructed on a farm under this provision, no such farm house shall be requested to be rezoned or subdivided so as to be on less than the minimum lot size required for a farm house (farm dwelling) in the "A" Agricultural District, regardless of the zoning district that the farmhouse is located within for a minimum time period of fifteen (15) years.

B. Utility Exemption

With the exception of the Environmentally Sensitive "E-S" Overlay District, public utilities, as herein defined, shall be considered Principal Permitted Uses in all districts under this Ordinance and shall be subject to the review process described in this Section, as well as the requirements of the appropriate district.

Prior to authorization by the County, the Planning and Zoning Commission shall review each public utility proposal and provide a recommendation on the need for and appropriateness of the requested use to the County Board of Supervisors, who shall determine whether or not the project is approved. Public utility equipment such as poles (excluding towers), wires, cables, conduits, streets, railroads (including railroad spurs), trails, driveways, bridges, culverts, etc. are exempt from the review process.

SECTION III.  
INTERPRETATION OF STANDARDS

In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements and shall be literally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes. Where provisions or requirements of this Ordinance conflict, the most restrictive provision or requirement applies, unless otherwise specified.

SECTION IV.  
IOWA OPEN MEETINGS LAW

The Black Hawk County Zoning Commission, a public body, is subject to the terms, regulations and restrictions of the Iowa Open Meeting Law, Chapter 21 of the Code of Iowa as amended. Wherever in these Ordinances a conflict appears between the Ordinance and the open meeting law, the open meeting law shall control.



SECTION V.  
DEFINITIONS

- A. For the purpose of this Ordinance, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural; and the plural, the singular. The word "shall" is mandatory; the word "may" is permissive; the word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual; the words "used" or "occupied" include the words intended, designed, or arranged to be used or occupied.

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.

1. Abandoned Sign: "Abandoned sign" means an advertising device, which includes the structure, that has been allowed to become in a state of disrepair or which advertises a business or service no longer in existence.
2. Accessory Use or Structure: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to the principal use or structure.
3. Administrative Officer: The individual designated by this Ordinance to administer the zoning Ordinance and who is responsible for the enforcement of the regulations imposed by said Ordinance. This person may also be referred to as the "Zoning Administrator".
4. Agriculture: The use of land for agricultural purposes including farming, dairying, pasturage, agriculture, apiculture, horticulture, floriculture, viticulture, fish farm, and animal and poultry husbandry, and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of such accessory uses shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals.
5. Agricultural Area: An area meeting the qualifications of section 352.6 and designated under section 352.7 of the Code of Iowa.
6. Alley or Lane: A public or private way not more than thirty (30) feet wide affording generally secondary means of access to abutting property and not intended for general traffic circulation.
7. Apartment House: See Dwelling, Multiple.
8. Areas of Special Flood Hazard: The land within a community subject to a one percent or greater chance of flooding in any given year. This land is identified as Zone A on the Flood Hazard Boundary Map.
9. Automobile Salvage Yard: See Junk Yard.
10. Base Flood: The flood having one (1) percent chance of being equaled or exceeded in any given year. (see One Hundred (100) Year Flood).
11. Basement / Cellar: That portion of a building having more than one-half (½) of its height below grade. A basement / cellar is not included in computing the number of stories for the

purpose of height measurement. For floodplain management purposes only, a basement / cellar shall mean any enclosed area of a building having its floor or lowest level below ground level (sub grade) on all sides.

12. **Bed and Breakfast**: An owner-occupied dwelling unit that contains no more than four guest rooms where lodging, with or without meals, is provided for compensation.
13. **Billboard**: "Billboard" as used in this Ordinance shall include all structures regardless of the material used in the construction of the same, that are erected, maintained, or used for public display of posters, painted signs, wall signs, whether the structure be placed on the wall or painted on the wall itself, pictures or other pictorial reading matter which advertise a business or attraction which is not carried on or manufactured in or upon the premises upon which said signs or billboards are located.
14. **Block**: The property abutting on one side of the street and lying within the two nearest intersecting streets, an unsubdivided acreage or railway right-of-way.
15. **Boarding House**: A building other than a hotel, where for compensation, meals and lodging are provided for three (3) or more persons.
16. **Building**: Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property, but not including signs or billboards. A truck box/trailer or mobile home as defined in this Ordinance would not be allowed to be used as a building in any zoning district.
17. **Building, Height of**: The vertical distance from the average natural grade to the highest point of coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof.
18. **Building Official**: The agent so designated by the Board of Supervisors.
19. **Bulk Stations**: 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.
20. **Business or Commercial**: When used in this title, refers to the engaging in the purchase, sale or exchange of goods or services, or the operation for profit of offices, recreational, or amusement enterprises.
21. **Carport**: A roofed structure providing space for the parking of motor vehicles and enclosed on not more than two (2) sides. For the purposes of this Ordinance, a carport attached to a principal building shall be considered part of the principal building and subject to all yard requirements herein.
22. **Clinics**: A building or buildings used by physicians, lawyers, dentists, veterinarians, osteopaths, chiropractors, and allied professions for out-patient care of persons requiring such professional service.
23. **Common Sewer System**: A central sewer collecting system available to each platted lot and discharging into a treatment plant, lagoon or other systems which are approved by the Black Hawk County Department of Health. The design and location of a sewer system must be approved by the County Board of Health. The above definition is not to be construed to mean individual household, private sewage disposal systems.

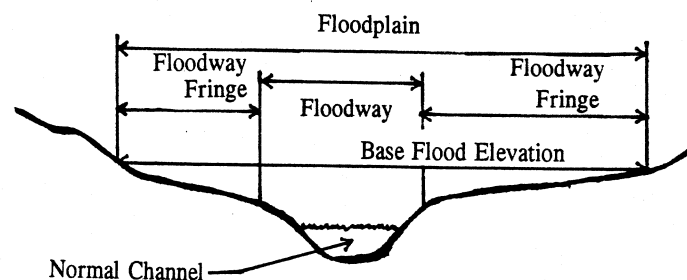
24. Common Water System: A central water supply system available to each platted lot approved by the County Department of Health.
25. Corn Suitability Rating (CSR): An index for ranking the productivity of soils and their suitability for row-crop production in Iowa.
26. Court: An open unobstructed, and unoccupied space other than a yard which is bounded on two (2) or more sides by a building on the same lot.
27. Day Nursery, Nursery School, or Day Care (Public): Any agency, institution, establishment or place which provides supplemental parental care and/or educational work, other than lodging overnight for six (6) or more children of pre-school age, for compensation.
28. Deck: A non-enclosed platform structure without a solid floor or wall system. Said platform will be comprised of permeable plank or board system. The structure shall not have a roof and any sides shall be comprised of a non-solid spindle or board design.
29. Department of Natural Resources (DNR): Where found in the Ordinance pertaining to floodplain management, this shall mean the Iowa Department of Natural Resources (IDNR), the State agency that has underlying floodplain permit authority for the State of Iowa.
30. Development: Any man-made 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.
31. District: A geographic section or sections of the county within which the use and occupancy of are controlled by this Ordinance.
32. Dump: A premises used for the disposal of "clean type" of fill material, such as dirt, rocks, and similar materials, but not including organic matter of any type, such as garbage or dead animals or portions thereof.
33. Dwelling: Any building or portion thereof which is designed or used exclusively for residential purposes, but not including a tent, cabin, trailer, mobile home, recreational vehicle, or similar motor vehicle.
34. Dwelling, Condominium: A multiple dwelling as defined herein whereby the fee title to each dwelling unit is held independently of the others.
35. Dwelling, Multiple: A residence designed for or occupied by three (3) or more families, with separate housekeeping and cooking facilities for each.
36. Dwelling, Row: Any one of three (3) or more attached dwellings in a continuous row, each such dwelling designed and erected as a unit on a separate lot and separated from one another by an approved wall or walls.
37. Dwelling, Single-Family: A detached residence designed for or used exclusively and occupied by one family only.

38. Dwelling, Two-Family: A residence designed for or used exclusively and occupied by two (2) families only, with separate housekeeping and cooking facilities for each.
39. Dwelling, Unit: A room or group of rooms which are arranged, designed or used as living quarters for the occupancy of one family containing bathroom and/or kitchen facilities.
40. Earth Home: An earth home is a structure that is below the ground on two (2) or more sides and is constructed with passive solar energy generation in mind. An earth home is to be considered a single-family dwelling for the purposes of this Ordinance. This definition is not to be construed or confused with the definition of a basement or cellar.
41. Existing Construction: For floodplain management purposes only, any structure for which the “start of construction” commenced before 11/17/82, the effective date of the first floodplain management regulations adopted by Black Hawk County. May also be referred to as “existing structure”.
42. 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. For the purpose of this Ordinance factory-built homes include mobile homes, manufactured homes and also include park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.
43. Factory-Built Housing: A factory-built structure designed for long-term residential use. For the purposes of these regulations, factory-built housing consists of two types: Mobile Homes and Manufactured Homes.
44. Family: One or more persons occupying a single dwelling unit, provided that unless all members are related by blood, marriage, or adoption, no such family shall contain over four (4) persons.
45. Farm: An area comprising thirty-five (35) contiguous acres, exclusive of streets and roads, or more which is used for agricultural purposes and the growing and production of all agricultural products thereon, and their storage on the area, or for the raising thereon of livestock. Division of said area by road does not render property non-contiguous.
46. Farmstead: The buildings and adjacent service areas of a farm, including sites where the buildings have been removed provided the land has not been cultivated. Cultivated ground may be allowed so as to meet the minimum lot size of 1.5 acres and may be allowed on splits of more than 1.5 acres when it is only included to square off the property.
47. Farm House: A house located on land operated as a farm which is, or will be occupied by a person engaged in agriculture on that same unit.
48. Farm Operation: A condition or activity which occurs on a farm in connection with the production of farm products and includes but is not limited to the marketing of products at roadside stand or farm markets, the creation of noise, odor, dust, fumes, the operation of machinery and irrigation pumps, ground and aerial seeding and spraying, the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides, and the employment and use of labor.
49. Farm Products: Those plants and animals and their products which are useful to people and includes but is not limited to forages and sod crops, grains and feed crops, dairy and dairy

products, poultry and poultry products, livestock, fruits, vegetables, flowers, seeds, grasses, trees, fish, honey, and other similar products, or any other plant, animal, or plant or animal product which supplies people with food, feed, fiber, or fur.

50. Feed Lot/Confinement Operation: An animal feeding area on which the principal use is the confinement of livestock, primarily for the purposes of concentrated feeding and growth prior to slaughter or the sale of products derived from such animals. The term does not include areas which are used for the raising of crops or other vegetation, and upon which livestock are allowed to graze or feed.
51. Fill: The placing, storing, or dumping of any material such as earth, clay, sand, rubble, or concrete upon the surface of the ground which results in increasing the surface elevation.
52. Flood: A temporary rise in stream's flow or stage that results in water overflowing its banks and inundating areas adjacent to the channel or an unusual and rapid accumulation of runoff of surface waters from any source.
53. Flood Elevation: The elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the one hundred (100) year flood elevation is that elevation of floodwaters related to the occurrence of the one hundred (100) year flood.
54. Flood Insurance Rate Map: The official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.
55. Flood Insurance Study: A study initiated, funded, and published by the Federal Insurance Administration for the purpose of evaluating in detail the existence and severity of flood hazards; providing the county with the necessary information for adopting a floodplain management program; and establishing actuarial flood insurance rates.
56. Floodplain: Any land area susceptible to being inundated by water as a result of a flood (see Figure 1).

**Figure 1: Floodplain Cross-Section**

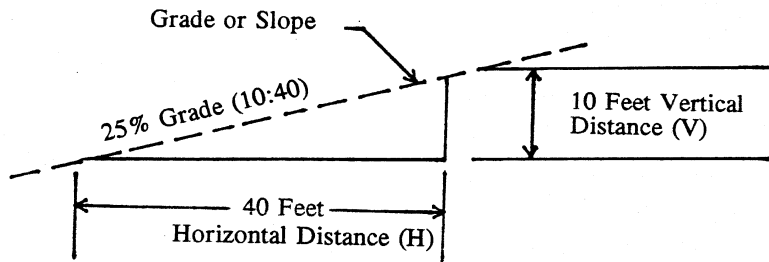


57. Floodplain Management: An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.
58. Flood Proofing: Any combination of structural or non-structural additions, changes, or adjustments to structures, including utility and sanitary facilities, which would preclude the

entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

59. Floodway: The channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not result in substantially higher flood levels and flow velocities (see Figure 1).
60. Floodway Fringe: Those portions of the floodplain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities (see Figure 1).
61. Floor Area: The sum of gross horizontal areas of all floors of a building.
62. Floor Area Ratio: The gross floor area of all buildings on a lot divided by the lot area on which the building or buildings are located.
63. Frontage: All the property on one side of a street between two intersecting streets (crossing or terminating) measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.
64. Garage, Private: An enclosed structure intended for the parking of the private motor vehicles of the families residing upon the premises.
65. Garage, Public: Any building or premises except those used as private or storage garages, used for equipping, refueling, servicing, repairing, hiring, selling, or storing motor-driven vehicles.
66. Garage, Storage: Any building or premises used for housing only of motor-driven vehicles 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.
67. Gasoline Filling Station or Convenience Store: Any building or premises used for the retail sale of products for the propulsion of motor vehicles and may include such products as kerosene, fuel oil, packaged naphtha, lubricants, tires, batteries, antifreeze, motor vehicle accessories, and other items customarily associated with the sale of such products; for rendering of services and making of adjustments and replacements to motor vehicles, and the washing, waxing, and polishing of motor vehicles, as incidental to other services rendered; and the making of repairs to motor vehicles except those of a major type. Repairs of a major type are defined to be spray painting, body, fender, clutch, transmission, differential, axle, spring, and frame repairs; major overhauling of engines requiring the removal of engine cylinder head or crankcase pan; repairs to radiators requiring the removal thereof; or complete recapping or retreading of tires.
68. Grade: The average level of the finished surface of the ground adjacent to the exterior walls of the building (see Figure 2).

**Figure 2: Grade**



$$\text{SLOPE CALCULATION} = V / H$$

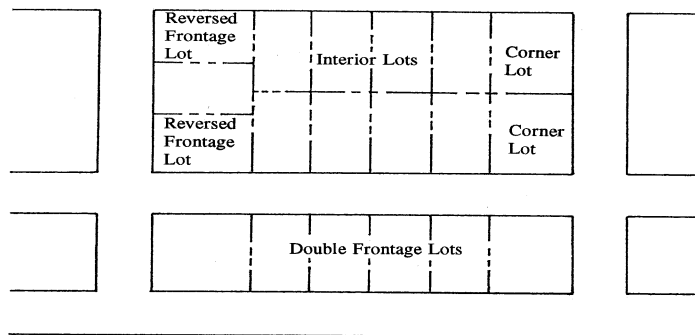
69. Grain Elevator: A structure or group of related structures whose primary purpose is, but not limited to, the receiving, selling, processing, storage, drying and transporting of bulk grain.
70. Group Home: A group home, or family home, means a community-based residential home which is licensed as a residential care facility under Chapter 135C or as a child foster care facility under Chapter 237 in the Iowa Code to provide room and board, personal care, habitation services, and supervision in a family environment exclusively for not more than eight (8) developmentally disabled persons and any necessary support personnel. However a group home or family home does not mean an individual foster family home licensed under Chapter 237 of the Code of Iowa.
71. Hazardous Waste: A hazardous waste as defined in Chapter 455B.411, Code of Iowa, as amended or designated as such by the Federal Environmental Protection Agency.
72. Historic Structure: Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) By an approved state program as determined by the Secretary of the Interior or (ii) Directly by the Secretary of the Interior in states without approved programs.
73. Home Occupation: A gainful occupation or profession conducted entirely within an enclosed dwelling unit which is clearly incidental and secondary to residential occupancy and does not change the character thereof.
74. Home Industry: Any gainful occupation or profession conducted entirely within an enclosed accessory building(s) and/or dwelling unit which is clearly incidental and secondary to the residential occupancy and does not change the character thereof.
75. Hotel: A building in which lodging is provided and offered to the public for compensation and which is open to transient guests, in contradistinction to a boarding house or rooming house.

76. Institution: A building occupied by a non-profit corporation or a non-profit establishment for public use.
77. Junk or Salvage: Scrap copper, brass, rope, rags, batteries, paper trash, tires and rubber debris, waste, iron, steel or other scrap ferrous or nonferrous materials, appliances, furniture, equipment, building demolition materials, structural steel materials, or similar materials. This definition shall also include junked, dismantled, or parts of motor vehicles. Motor Vehicles not currently licensed or registered with the Treasurer's Office as being "in storage" must be within an enclosed building if not within a junkyard as defined and permitted by this ordinance
78. Junk or Salvage Yard: Any area where junk, discarded or salvaged material or equipment are bought, sold, exchanged, baled, packed, disassembled, kept, stored, or handled, including house wrecking yards, auto wrecking activities, used lumber yards and places or yards for storage of salvaged building materials and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building, or used cars in operable condition, or salvaged materials incidental and necessary to manufacturing operations or contractors' storage yards.
79. Kennel, Dog (Commercial): Any parcel of land on which four (4) or more dogs, six (6) months old or older are kept for the purposes of breeding, grooming, boarding or other activities associated with the care of dogs for commercial purposes.
80. Kennel, Dog (Private): Any parcel of land on which four (4) or more dogs are kept, however, this shall not include breeding, grooming, boarding or other activities associated with the care of dogs other than the owner's dogs.
81. LESA System: Land Evaluation and Site Assessment (LESA), which was originally developed by the United States Department of Agriculture, is a locally adapted tool for determining the relative agricultural value of land. LESA is a two-part evaluation, Land Evaluation and Site Assessment, which creates a score between 0 and 300 points, with higher scores indicating higher agricultural viability. The LESA System is a tool to assist policy makers by offering them a more thorough, objective means of evaluating the agricultural potential of land during the decision-making process. It is a growth management tool geared toward agricultural land preservation. The LESA System adopted by Black Hawk County has factors and weights that were determined by a local committee of residents and experts in local government, agriculture, soils, and land use planning.
82. Livestock: Cattle, horses, sheep, swine, poultry or any other animal or fowl which are being produced primarily for commercial purposes.
83. Lot: For the purposes of this Ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area to provide such yards and other open space as are herein required. Such lot shall have frontage on a public street or private street and may consist of:
- a. A single lot of record;
  - b. A portion of a lot of record;
  - c. A combination of complete lots of record; or complete lots of record and portions of lots of record; or of portions of lots of record;
  - d. A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Ordinance.



- 84. Lot, Area: Total horizontal area within lot lines.
- 85. Lot, Corner: A lot abutting upon two (2) or more streets at their intersection (see Figure 3).
- 86. Lot, Depth of: The mean horizontal distance between the front and rear lot lines.
- 87. Lot, Double Frontage: A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot (see Figure 3).
- 88. Lot, Interior: A lot other than a corner lot (see Figure 3).
- 89. Lot, Lines: The lines bounding a lot.
- 90. Lot Line, Front: The line separating the lot from the street on which it fronts.
- 91. Lot Line, Rear: The lot line opposite and most distant from the front lot line.
- 92. Lot Line, Side: Any lot line other than a front or rear lot line.
- 93. Lot of Record: A lot the contract, deed or plat to which has been recorded in the office of the Recorder of Black Hawk County, Iowa, prior to November 18, 1982, or a parcel that was established prior to November 18, 1982 and has not been divided, subdivided, or otherwise modified. Acquisition of a portion of a property by a governmental entity shall not cause the remainder of the property to lose lot of record status.
- 94. Lot, 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 (see Figure 3).
- 95. Lot, Width: The width of a lot measured at the building line and at right angles to its depth.

**Figure 3: Examples of Lot Definitions**



- 96. Lowest Floor: The floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:
  - a. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section XVI, and
  - b. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
  - c. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the one hundred (100) year flood level, and

d. The enclosed area is not a "basement" as defined in this section.

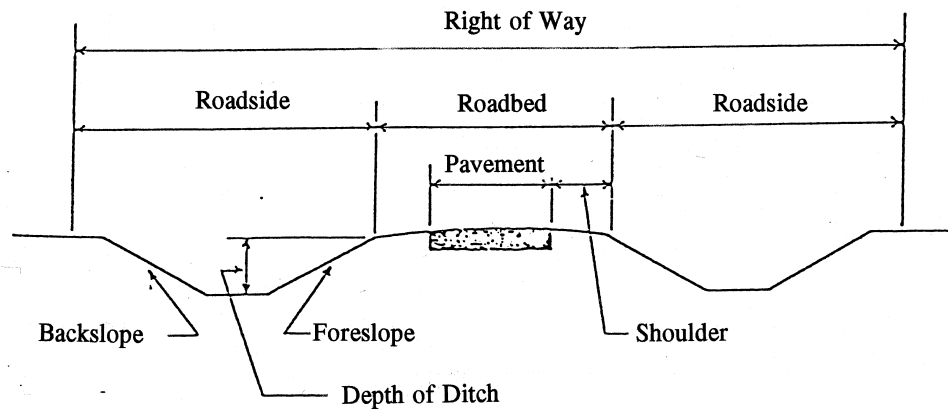
In cases where the lowest enclosed area satisfies criteria a, b, c, and d above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

97. Lumber Yard: A premises on which primarily new lumber and related building materials are sold.
98. Manufactured Home: A factory-built single-family structure, which is manufactured or constructed under the authority of 42 U.S.C. Sec. 5403, National Manufactured Home Construction and Safety Standards Act of 1974, and is to be used as a place for human habitation, but which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving it to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home is not a manufactured home unless it has been converted to real property and is taxed as a site-built dwelling. For the purpose of these regulations, a manufactured home built after June 15, 1976, shall bear the seal certifying that it is in compliance with the National Manufactured Home Construction and Safety Standards Act of 1974. For the purpose of these regulations, manufactured home shall be subject to the same standards as site-built dwellings.
99. Mobile Home: Any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall include any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home shall not be construed to be a travel trailer or other form of recreational vehicle. A mobile home shall be construed to remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. Nothing in this Ordinance shall be construed as permitting a mobile home in other than an approved location, as specified in this Ordinance.
100. Mobile Home Park or Trailer Park: Any lot or portion of a lot upon which two (2) or more mobile homes or trailers occupied for dwelling or sleeping purposes are located regardless of whether or not a charge is made for such accommodations.
101. Motel, Auto Court, Motor Lodge: A building or group of attached or detached buildings containing individual sleeping or living units for overnight auto tourists, with parking facilities conveniently located to each such unit, and may include accessory facilities such as swimming pool, restaurant, meeting rooms, etc.
102. New Construction (New Buildings, New Mobile or Manufactured Home Parks): For floodplain management purposes only, those structures or development for which the start of construction commenced on or after 11/17/82.
103. Nonconforming Use: The lawful use of any building or land that was established prior to or at the time of passage of this Ordinance or amendments thereto which does not conform after the passage of his Ordinance or amendments thereto with the use regulations of the district in which it is situated.
104. Nursing or Convalescent Home: A building or structure having accommodations and where care is provided for invalid, infirm, aged, convalescent, or physically disabled or injured persons, not including insane and other mental cases, inebriate, or contagious cases.

105. Obstruction: Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge, conduit, culvert, building, wire, fence, rock, gravel, junk, solid waste, refuse, fill, or other analogous structure or matter in, along, across, or projecting into any floodway which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the natural flow of the water would carry the same downstream to the damage or detriment of either life or property.
106. Occupancy Permit: A certificate issued by the County Building Inspector, stating that the building and use comply with the provisions of the Uniform Building Code.
107. One Hundred (100) Year Flood: A flood, the magnitude of which has a one (1) percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.
108. Parking Lot: A parcel of land devoted to unenclosed parking spaces.
109. Parking Space: An area of not less than one hundred eighty (180) square feet plus necessary maneuvering space for the parking of a motor vehicle. Space for maneuvering, incidental to parking or unparking shall not encroach upon any public right-of-way. Parking spaces for other than residential use shall be a surface material approved by the County Engineer.
110. Pavement or Paving: The pavement structure, or the upper surface of a pavement structure, or the materials of which the pavement structure is constructed.
111. Porch, Unenclosed: A roofed projection which has no more than fifty (50) percent of each outside wall area enclosed by a building or siding material other than meshed screens.
112. Principal Use: The main use of land or structures as distinguished from an accessory use.
113. Public Utilities: Public or quasi-public distributing or operating equipment for related services for telephone, electricity, cable television, gas, sewer, water, transportation and communication. For purposes of this Ordinance, a private, common water system and a common sewer system may be considered a public utility when a public or quasi-public system is not available and when the creating parties agree.
114. Recreational Vehicle: A vehicle which is: (a) built on a single chassis; (b) four hundred (400) square feet or less when measured at the largest horizontal projection (this provision is for floodplain management purposes only); (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
115. Regulatory Flood: A flood which is representative of large floods known to have occurred generally in the area and reasonably characteristic of what can be expected to occur in a particular stream. The regulatory flood generally has a frequency of approximately one hundred (100) years determined from an analysis of floods on a particular stream and other streams in the same general region.
116. Regulatory Flood Protection Elevation: The elevation to which uses regulated by this Ordinance are required to be elevated or floodproofed.

117. Right-of-Way: The land area the right to possession of which is secured or reserved by the contracting authority for road purposes (see Figure 4).
118. Road: All property intended for use by vehicular traffic, dedicated or intended for public or private road, street, alley, highway, freeway or roadway purposes or to public easements therefore.
119. Road, paved: A cement or asphalt road built to the specifications of the County Engineer.
120. Roadbed: The area of the roadway between the tops of foreslopes (see Figure 4).
121. Roadline: A dividing line between a lot, tract or parcel of land and a contiguous road.
122. Roadside: The area within the right-of-way and outside the shoulder lines of a roadbed (see Figure 4).
123. Roadside Stand: A temporary structure used seasonally for the sale of homegrown agricultural products.

**Figure 4: Examples of Road Definitions**



124. Rooming or Lodging House: A building or place where lodging or boarding is provided for compensation for three (3) or more, but not exceeding twenty (20) individuals, not open to transient guests, in contrast to hotels open to transients.
125. Sanitary Land Fill: Land utilized for disposing of solid or hazardous wastes in accordance with the rules and regulations of the Department of Environmental Quality.
126. Shoulder: That portion of the roadbed contiguous with the traveled way for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface courses (see Figure 4).
127. Sign: "Sign" means any structure or part thereof or device attached thereto or painted, or represented thereon, which displays or includes any letter, work, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of an announcement, direction, or advertisement. "Sign" includes "billboard" but does not include the flag, pennant, or insignia of any nation, state, city, or other political unit. Nor does it include any political, educational, charitable, philanthropic, civic, professional, religious, or like campaign, drive, movement, or event.
128. Sign, Exterior: A sign which directs attention to a business, profession, service, product or activity sold or offered upon the premises where such sign is located. An exterior sign is a

sign attached flat against a building or structure, or projecting out from a building or structure or erected upon the roof of a building or structure.

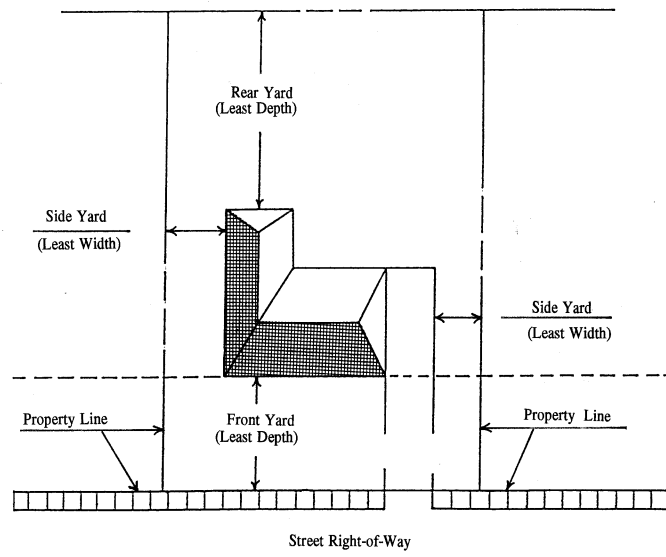
129. Sign, Free Standing or Post: Any sign that is not attached to a building erected or affixed in a rigid manner to any pole or post, including signs, or sign devices indicating the business transacted, services rendered or goods sold or produced on the premises by an occupant thereof.
130. Sign, Illuminated: A sign designed to give forth artificial light or through transparent or translucent material from a source of light within such sign, including but not limited to neon and exposed lamp signs.
131. Sign, Off-Site: A sign other than an on-site sign.
132. 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.
133. Special Permit: A use allowed in any district, where permitted by this Ordinance, after a public hearing by the Board of Adjustment and recommendation of the Planning & Zoning Commission, that meets the necessary conditions and safeguards for its operation, including a public or private use which possesses unique characteristics that may affect the community or surrounding area; and therefore deserves special consideration and permission before being established. Such use may also be referred to as a “special exception”, “use exception” or “conditional use”.
134. Stable, Private: A building or structure used or intended to be used for housing only of horses belonging to the owner of the property for non-commercial purposes.
135. Stable, Public and Riding Academy: A building or structure used or intended to be used for the housing only of horses on a fee basis. Riding instruction may be given in connection with a public stable or riding academy.
136. Stable, Riding Club: A building or structure used or intended to be used for the housing only of horses by a group of persons for noncommercial purposes.
137. Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling or roof next above it.
138. Story, Half: A space under a sloping roof which has the line of intersecting of roof decking and wall face not more than four (4) feet above the top floor level.
139. Street Line: A dividing line between a lot, tract or parcel of land and a contiguous street.
140. Street, Road, Drive, Alleys, or Entrance (Private): All property intended for use by vehicular traffic, but not dedicated to the public nor controlled and maintained by a political subdivision.
141. Street, Road, Alleys, Drive or Entrance (Public): All property intended for use by vehicular traffic, which has been dedicated to the public or deeded to a political subdivision.
142. Street, Road, Alleys, Drive or Entrance (Secondary Road System): All property intended for use by vehicular traffic which has been dedicated to the public and meets requirements

of the Code of Iowa and has been accepted into the county system by the Board of Supervisors.

143. 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.
144. Structure: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, billboards, and poster panels.
145. Subdivision: The accumulative effect of dividing an original lot of record, recorded prior to November 18, 1982, into three (3) or more lots for the purpose of immediate or future sale or transfer for development purposes. The term includes re-subdivision or replatting. When appropriate to the context, the word may relate to the process of subdividing or the land subdivided.
146. Substantial Damage: Damage of any origin sustained by a structure where by the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.
147. Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. For the purposes 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 project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions. Also, any improvement that increases the original floor area of a structure by 25 percent or more.
148. Technical Review Committee: A Committee of technical personnel whose primary function is to report to the Commission upon rezoning petitions or other technical matters deemed necessary by the Commission. This Committee shall serve the Commission in an advisory capacity and comment upon a petition's site characteristics, suitability, physical features, ecosystem, public services available, socioeconomic factors, and other concerns and matters that are relevant.
149. Towers: Any radio, television, telephone, wind generation, short-wave, cellular telephone, microwave antenna or tower or water tower.
150. Trailer or Mobile Home: See "Mobile Home."
151. Trailer or Mobile Home Park: See "Mobile Home Park or Trailer Park."
152. Travel Trailer: A vehicle customarily used for vacation or recreational purposes defined and licensed in accordance with Section 321.1 (39)(b), Code of Iowa.
153. Vacation or Recreational Cabin: A structure consisting of not more than four (4) sleeping rooms, kitchen and living area used as a temporary residence for recreational purposes. Such a structure shall meet all regulations for a single-family dwelling.

154. Yard: An open space on the same lot with a building or structure unoccupied and unobstructed by any portion of a structure from thirty (30) inches above the general ground level of the graded lot upward. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the least distance between the lot line and the main building shall be used. In measuring a yard for the purpose of determining the width of a side yard, the least distance between the lot line and the nearest permitted building shall be used.
155. Yard, Front: A yard extending across the full width of the lot and measured between the front lot line and the building (see Figure 5). For the purposes of this Ordinance, "front" is determined by the street where the address is derived.
156. Yard, Rear: A yard extending across the full width of lot and measured between the rear lot line and the building or any projections other than steps, unenclosed balconies or unenclosed porches (see Figure 5). On both corner lots and interior lots the opposite end of lot from the front yard.
157. Yard, Side: A yard extending from the front yard to the rear yard and measured between the side lot lines and the nearest building (see Figure 5).
158. Zoning Administrator: The administrative officer designated or appointed by the Board of Supervisors to administer and enforce the regulations contained in this Ordinance.

**Figure 5: Yard Definitions**



SECTION VI.  
ESTABLISHMENT OF DISTRICTS AND DISTRICT BOUNDARIES

A. Establishment of Districts

In order to classify, regulate, and restrict the location of trades and industries, and the location of buildings designed for specified uses, to regulate and limit the height and bulk of buildings hereafter erected or altered, to regulate and limit the intensity of the use of lot areas and to regulate and determine the area of yards, courts, and other open spaces within and surrounding such buildings, the unincorporated area of Black Hawk County, Iowa, is hereby divided into seven (7) classes of districts. The use, heights, and area regulations are uniform in each class of district, and said districts shall be known as:

- "A" Agricultural District
- "A-L" Agricultural-Limited District
- "A-R" Agricultural-Residential District
- "R-S" Residential-Suburban District
- "R-M" Residential-Multiple District
- "C" Commercial District
- "C-M" Commercial and Manufacturing District

In addition to the above listed districts, the designated environmentally sensitive areas within the unincorporated areas of Black Hawk County, Iowa, are hereby classified into an overlay district known as the:

- "E-S" Environmentally Sensitive Overlay District

B. District Boundaries and Official Zoning Maps

With the exception of the Environmentally Sensitive Overlay District, the boundaries of these districts are indicated upon the Official Zoning Maps of Black Hawk County, Iowa, which maps are made a part of this Ordinance by reference. The said Official Zoning Maps of Black Hawk County, Iowa, and all the notations, references and other matters shown thereon shall be as much a part of this Ordinance as if the notations, references, and other matters set forth by said maps were all fully described herein. The said Official Zoning Maps shall be on file in the office of the Zoning Administrator of Black Hawk County, Iowa, and shall bear the signature of the Chairman of the Board of Supervisors attested by the County Auditor, under the certification that these are the Official Zoning Maps referred to in Section VI of the Zoning Ordinance. The Official Zoning Maps shall show all amendments or changes and shall indicate the date of each amendment or change. It shall be the responsibility of the Zoning Administrator to see that the Zoning Maps are kept current at all times.

C. Interpretation of District Boundaries

Where uncertainty exists with respect to the boundaries of the various districts, except for the Environmentally Sensitive Overlay District, as shown on the Official Zoning Maps accompanying and made a part of this Ordinance, the following rules apply:



1. The district boundaries are either street line or alley lines unless otherwise shown, and where the districts designated on the maps accompanying and made a part of this Ordinance are bounded approximately by street lines or alley lines, the street lines or alley lines shall be construed to be the boundary of the district, street and alley right-of-way not included in zoned areas.
2. Where boundaries are indicated so they approximately follow lot lines and are not more than twenty (20) feet distance there from, such lot lines shall be interpreted to be the boundary of the district.
3. Boundaries indicated as approximately following section lines, quarter section lines, or quarter-quarter section lines shall be construed as following such lines.
4. Boundaries indicated as approximately following corporate limits shall be construed as following corporate limits.
5. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
6. Boundaries indicated as approximately following the center lines of rivers, streams, creeks or other waterways shall be construed to follow such center lines.
7. Where no other indication of the district boundary is made and no dimensions are shown, the location of the boundary shall be determined by the use of the scale appearing on the maps.
8. Publication of the legal description of the property or properties zoned or rezoned shall constitute an official amendment to the Official Zoning Map; and, as such, said maps or portions of said maps need not be published.

D. "E-S" Environmentally Sensitive Overlay District Maps

1. The boundaries of the "E-S" Environmental Sensitive Overlay District shall be the same as shown in the Official Soil Survey of Black Hawk County, published by the United States Department of Agriculture-Soil Conservation Service, December 1978, or from a soil map upon an aerial photograph compiled and attested by a Certified Soil Scientist or Soil Technician and on the flood insurance rate maps prepared as a part of the Flood Insurance Study for Black Hawk County and Incorporated Areas, dated July 18, 2011, as amended. These maps are hereby adopted by reference and declared to be the "E-S" Environmentally Sensitive Overlay District. The soil characteristics, notations, and explanatory materials contained with the Soil Survey and the flood profiles and all explanatory material contained with the Flood Insurance Study and the flood insurance rate maps are also declared to be a part of this Ordinance. Subsequent amendments and supplements to the survey and the Flood Insurance Study shall be adopted automatically.
2. The Environmentally Sensitive Overlay Districts shall include the corresponding designated areas:
  - a. As identified in the Soil Survey as indicated below:

1. Poor Bearing Capacity Soils: Soils rated as severe for either building site development or sanitary facilities for requested use.
  2. Excessive Slopes: Soils identified as having a "D" or "F" class slope or the special symbol for bedrock escarpments, other than bedrock escarpments, short steep slopes, and gullies.
  3. Aquifer Recharge Areas: Soils identified as alluvial, channeled, muck, and/or wetland, or soils identified as having bedrock less than sixty (60) inches from the surface or the special symbol for wetlands, spring, wet spots, depression or sink and rock outcrop.
  4. Surface Waters: Areas identified by symbols for water features including rivers and streams: perennial; double line and single line intermittent; not crossable with tillage implements, lakes, ponds and reservoirs; both perennial and intermittent, and wetlands.
- b. As identified in the Flood Insurance Study for Black Hawk County, Iowa, as indicated below:
1. Floodway (FW): The designated floodway on the flood boundary and floodway map.
  2. Floodway Fringe (FF): The designated floodway fringe on the flood boundary and floodway map.
  3. Shallow Flooding (SF): The designated "B" zone on the flood insurance rate map.
  4. General Floodplain (FP): The areas shown on the flood boundary and floodway map as being within the approximately one hundred (100) year flood boundary, but for which the floodway and the floodway fringe and base flood elevation were not determined by the Flood Insurance Study.

NOTE: The maps of the "E-S" Environmentally Sensitive Overlay District are available for review in the office of the Black Hawk County Zoning Administrator.

E. Interpretation of Environmentally Sensitive Overlay District Boundaries

The boundaries of the areas of the Environmentally Sensitive Overlay District shall be determined by scaling distances on the Flood Insurance Study Maps and the Soil Survey. Where interpretation is needed to determine the exact location of the boundaries of the districts as shown on the maps, the Zoning Administrator shall make the necessary interpretation according to the technical report. As for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Zoning Administrator shall advise the applicant of their possible options or alternatives.

SECTION VII.  
GENERAL REGULATIONS AND PROVISIONS

A. Dis-Incorporation

Any addition to the unincorporated area of the county resulting from disconnections by municipalities or otherwise shall be automatically classified as in the "A" Agricultural District until otherwise classified by amendment.

B. Conformance Required

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

C. Proposed Use Not Covered by Title

Any proposed use, including principal permitted uses and use exceptions, not covered in a District as a principal permitted use or use exception shall be referred to the Planning and Zoning Commission and Board of Supervisors for a decision as to the proper District and category in which said use should be permitted. The process requires an amendment to the Ordinance prior to addressing a specific site. Therefore, in order to add an unlisted use to a District, the Ordinance shall be amended as provided in Section XXIV (K), before a rezoning request can be submitted and/or any permit be issued for a specific site.

D. Required Yard Per Building

No yard or other open space or lot area requirement shall be considered as providing a yard or open space or lot area requirement for a building on any other lot, and no yards or other open space or lot area requirement about an existing building or any building hereafter constructed for the purpose of complying with the provisions of this Ordinance, shall be considered as providing a yard or open space or lot area requirement for any other building.

E. Road Vacation

Whenever any street, road or other public way is vacated by official action of the Board of Supervisors of Black Hawk County, the zoning district adjoining each side of such street, road or public way shall be automatically extended to the center of such vacation and all area included in the vacation shall be subject to all appropriate regulations of the extended districts.

F. One Principal Building Per Lot

Every building hereafter erected or structurally altered shall be located on a lot as defined herein and in no case shall there be more than one main building on one lot unless the yard and other requirements of this Ordinance are met for each structure as though it were on an individual lot.

G. Petitions

All petitions for rezoning, special permits, subdivision, variance, etc., must be in writing stating the exact legal description of land involved, the purpose for which the land is to be used, the disruption expected to be incurred on the area's natural setting, and the methods to be implemented to lessen the severity of disruption on the area. Said petitions must be received by the Zoning Administrator twenty-one (21) working days prior to a stated or special meeting of the Planning and Zoning Commission. A site plan shall be submitted with a petition.

H. Water Supply and Sewage Disposal

Every residence, business, trade, or industry hereafter established, which requires water supply and sewage disposal facilities, shall provide facilities which conform with the Well and Sewage Regulations of the County Department of Health and all other applicable regulations.

I. Street Frontage Required

Except as permitted in this Ordinance no lot shall contain any building used in whole or in part for residence purposes unless such lot abuts for at least forty (40) feet on at least one street, or unless it has an exclusive unobstructed private easement of access or right-of-way of at least twenty (20) feet wide to a street, and there shall be not more than one (1) single-family dwelling for such frontage or easement, except that a common easement of access at least twenty-four (24) feet wide may be provided for two (2) such single-family dwellings. For more than two (2) dwellings the access easement must be in conformance with the Guidelines for the Subdividing and Platting of Land Within Black Hawk County, Iowa.

J. Accessory Buildings

Minimum lot area, lot frontage, and yard requirements will be determined for each of the zoning district classifications. All accessory buildings shall be placed in the side or rear yard. An unattached accessory building shall maintain a clearance of three (3) feet (wall to wall) between the principal permitted building and the accessory building.

An accessory building which is not a part of the main building shall not occupy more than thirty (30) percent of the required rear yard and shall not exceed twenty (20) feet in height, however, this regulation shall not be interpreted to prohibit the construction of a four hundred and forty (440) square foot garage on a minimum rear yard.

Accessory buildings shall not exceed one thousand (1,000) square feet in conjunction with any one or two family residence. Accessory buildings may exceed the one thousand (1,000) square feet but shall not occupy more than six (6) percent of the lot on which said buildings are located. In no case shall the total accessory buildings in conjunction with any one or two family residence be larger than nine thousand (9,000) square feet. Note: This requirement does not affect buildings, structures or erections which are primarily adapted by reason of nature and area, for use for agricultural purposes, while so used, in accordance with Section II (A).

K. Corner Lots

The front yard regulation shall apply to each street side. Side and rear yard requirements determined by direction of front of principal building.

L. Front Yard

In any "R" district there shall be a minimum front yard required as stated in the yard requirements for that particular district; provided, however, that where lots comprising thirty (30) percent or more of the frontage within two hundred (200) feet of either side lot line are developed with buildings at a greater setback, the front yard setback shall be the average of these building setbacks and the minimum setbacks required for the undeveloped lots. In computing the average setback, buildings located on reversed corner lots or entirely on the rear half of lots shall not be counted. The required setback as computed herein need not exceed fifty (50) feet in any case. For the purposes of this Ordinance, "front" is determined by the street where the address is derived.

M. Required Yard Cannot Be Reduced

No lot shall be reduced in area so as to make any yard or any other open space less than the minimum required by this Ordinance. No part of a yard or other open space provided about any building or structure for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard or other open space required under this Ordinance for another building or structure. Off-street parking and loading areas may occupy all or part of any required yard or open space except as otherwise specified in this Ordinance.

N. Building Lines on Approved Plats

Whenever the plat of a land subdivision on record in the office of the County Recorder shows a setback building line along any frontage for the purpose of creating a front yard or side street yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in this Ordinance unless specific yard requirements in this Ordinance require a greater setback.

O. Pending Applications for Building Permits

Nothing herein contained shall require any change in the overall layout, plans, construction, size or designated use of any building, or part thereof, for which approvals and required building permits have been granted before the enactment of this Ordinance, the construction of which shall conform with such plans shall have been started prior to the effective date of this Ordinance and completion thereof carried on in a normal manner and not discontinued for reasons other than those beyond the builder's control.

P. Lot Area Computation

In all districts, lot area requirements shall be computed exclusive of street, road, alley, waterway, or highway right-of-way.

Q. Gasoline Filling Stations or Convenience Stores

No gasoline filling station, convenience store, or a commercial customer or employee parking lot for twenty-five (25) or more motor vehicles, or a parking garage or automobile repair shop, shall have an entrance or exit for vehicles within two hundred (200) feet along the same side of a street, of any school, public playground, church, hospital, public library, or institution for dependents or for children, except where such property is in another block or on another street which the lot in question does not abut.

No gasoline filling station, convenience store, or public garage shall be permitted where any fuel filling appliance is located within twelve (12) feet of any street line or within twenty-five (25) feet from any "R" district except where such appliance is within a building.

R. Dwelling Standards

The following standards shall apply to all new dwellings for which building permits have been issued.

1. The dwelling shall be affixed to a permanent foundation system, in accordance with the Uniform Building Code standards;
2. The minimum average dimension of the width and of the length of the main body of the dwelling unit shall not be less than twenty (20) feet.

S. Home Occupation Standards

The following standards and criteria shall apply to home occupations:

1. Clearly incidental and secondary to the use of the dwelling unit as a residence;
2. Conducted entirely within an existing dwelling unit;
3. Conducted by a member(s) of the family residing within the dwelling unit and no more than two (2) non-resident employees;
4. There shall be no evidence of such occupation being conducted within the dwelling unit, which is perceivable at or beyond the lot lines, by virtue of: outside storage, displays, noise, odors, smoke, vibration, heat, dust, electrical disturbances or excessive traffic generation;
5. Water, sewer, and waste disposal systems shall be subject to approval of the County Health Department;
6. Customer parking shall be provided and be as inconspicuous as possible on the premises;
7. Only one (1) identification sign may be displayed upon the lot, subject to the following requirements.
  - a. Contains only the name of the occupant and the nature of the occupation.
  - b. Shall not contain more than thirty-two (32) square feet and shall be no more than twelve (12) feet high or no more than twelve (12) feet in width.
  - c. Shall not be illuminated.
  - d. If located along a state or federal highway, an Iowa Department of Transportation permit must be obtained.

T. Home Industry Standards

The following standards and criteria shall apply to home industries:

1. Clearly incidental and secondary to the residential occupancy of a dwelling unit located upon the property;
2. Conducted entirely and confined within an accessory building(s) located upon the property. In no case shall said accessory building(s) exceed the maximum size limit as provided for in Section VII (J). Any commercial business operated out of a building(s) larger than provided for in Section VII (J) must be properly zoned for the use in question;
3. Conducted by a member(s) of the family residing within the dwelling unit located on the property and no more than two (2) non-resident employees;
4. There shall be no evidence of such industry being conducted within the accessory building(s) which is perceivable at or beyond the lot lines, by virtue of: outside storage, displays, noise, odors, smoke, vibration, heat, dust, electrical disturbances or excessive traffic generation;
5. Water, sewer, and waste disposal systems shall be subject to approval of the County Health Department;

6. Customer parking shall be provided and be as inconspicuous as possible on the premises;
7. Only one (1) identification sign may be displayed upon the lot, subject to the following requirements.
  - a. Contains only the name of the occupant and the nature of the occupation.
  - b. Shall not contain more than thirty-two (32) square feet and shall be no more than twelve (12) feet high or no more than twelve (12) feet in width.
  - c. Shall not be illuminated.
  - d. If located along a state or federal highway, an Iowa Department of Transportation permit must be obtained.

U. Bulk Requirements

All new structures shall conform to the building regulations established herein for the district in which each structure shall be located. Further, no existing structure shall be enlarged, reconstructed, structurally altered, converted or relocated in such a manner as to conflict or further conflict with the bulk regulations of this Ordinance for the district in which such structure shall be located. Minimum bulk requirements are listed in Table 1 below.

V. Towers and Wireless Communications

1. Regulation of all Towers: Towers as herein defined exceeding twenty (20) feet in height, including wind generation devices, shall be allowed upon approval of a special permit by the Board of Adjustment after recommendation of the County Planning and Zoning Commission, except as provided in Section VII (V)(2) and Section VII (V)(3). The base of any tower as herein defined shall be placed at least the height of the tower from any property line, except as provided herein.
2. Wireless Communications
  - a. Purpose: The provisions of this section are intended to regulate the location of new communication towers and antennas. The Telecommunications Act of 1996 restructured and deregulated many aspects of the Country's communication industry. New telecommunication providers entering the market desire to build a network that can require additional freestanding communication towers as well as antennas mounted on existing buildings and other structures. It is the desire of Black Hawk County to encourage an aesthetically pleasing local environment while encouraging the expansion of wireless technology, because it provides a valuable service to residents and businesspersons. It is not the County's goal to unreasonably discriminate among providers of functionally equivalent services; and to not have the effect of prohibiting, either directly or indirectly, the provisions of personal wireless services. It is the goal to encourage wireless providers to co-locate on existing towers or to mount antenna on buildings to minimize the visual impact of communication structures. If it is determined to be infeasible to co-locate new towers may be permitted, however monopole type towers shall be favored over guyed towers, and lattice towers shall be discouraged. Towers that require review by the Planning and Zoning Commission and or Board of Supervisors shall be allowed only after a determination on the need for and appropriateness of the requested use.

1. Goals
  - a. To minimize the adverse visual effects of communication structures through careful siting and locating.
  - b. To locate and engineer communications support structures to mitigate potential damage to adjacent properties from structural failure.
  - c. To allow for the reasonable location and efficient use of communication structures through co-location of carriers.
  - d. To preserve and improve the peace, safety, health, welfare, comfort, and convenience of the citizens of Black Hawk County.

b. Definitions, as used in this provision:

1. “Multiple use facilities (Co-location effort)” – wireless communication facilities that are shared with other existing or newly constructed uses, such as, but not limited to, (buildings, water towers, flagpoles, or other communications towers).
2. “Monopole tower” – a self-supporting, cylindrical, metallic pole.
3. “Lattice tower” – a tower supported by multiple legs that are connected by steel profiles that form a lattice.
4. “Guyed tower” – a tower that has a pole or lattice mainframe that is supported by guyed wires anchored to the ground.
5. “Camouflage Design” – a term describing a piece of art, or an architectural structure or element, that functions as a communications facility and aesthetically blends with the surrounding historical or aesthetically-sensitive environment. Examples of camouflage design include, but are not limited to, flag poles, clock towers, monuments, and church steeples. Camouflage design also applies in the architectural integration of communication facilities onto existing buildings, light poles, highway signs, water towers, etc. For the purposes of this Ordinance, a monopole tower with its antenna incorporated into or flush with the pole, and with support facilities and equipment that are effectively screened from view with a solid fence and or landscaping may be considered a camouflage design.
6. “Structure height” – The vertical distance measured from the base of the antenna support structure at natural grade to the highest point of the structure except that a lightening rod shall not be included in the measurements of structure height.
7. “Communications structure” – Any tower or any other structure that supports devices used in the transmission or reception of microwave energy, analog data transfer techniques, radio frequency energy, and other digital data transfer techniques.
8. “Minor Significance” – requests meeting the criteria as described in Section VII (V)(2)(c)(1) below and in compliance with all other provisions of the Zoning Ordinance.
9. “Major Significance” – requests meeting the criteria as described in Section VII (V)(2)(c)(2) below. Also, any deviation from the Design Standards shall classify a formerly minor significant request to this stature.

c. Process required for approval of wireless communications structures:



1. Minor Significance. Proposed structures shall be subject to staff review and approval by the Zoning Administrator or his/her designee, if any of the following are true:
  - a. Structures are less than 35 feet in height and at least 1,000 feet from any dwelling unit other than a dwelling unit located on the same parcel of land that the structure is located on.
  - b. Structures are co-located onto an existing communications facility or other structure provided that the proposed structures do not extend more than 15 feet above the height of the existing structure.
  - c. Structures are to be constructed using camouflage design, to visually disguise them or architecturally integrate them from the public view and their surroundings, provided that the structures are at least 1 mile from any other tower greater than 75 feet in height and provided that the structures are at least 1,000 feet from any dwelling unit other than a dwelling unit located on the same parcel of land that the structures are located on.
2. Major Significance. For structures that do not meet the requirements of “Minor Significance” the proposed structure shall be subject to one of the following two review processes:
  - a. Monopole structures that are at least 1 mile from any other tower greater than 75 feet in height and at least 1,000 feet from any dwelling unit other than a dwelling unit located on the same parcel of land that the structures are located on shall be subject to the review of the Planning and Zoning Commission on the need for and appropriateness of the requested use. The Commission shall approve the request as submitted, approve the request with additional conditions, or deny the request. In the case of denial, the Commission shall give written reasons therefore. The applicant may appeal the decision of the Planning and Zoning Commission by notifying in writing the Board of Supervisors. Such appeal shall be made within thirty (30) days of the Commission’s decision and shall specify what relief is requested of the Board of Supervisors. The Board shall hear said appeal as a committee of the whole within thirty (30) days and act upon the appeal at a regular Board meeting within sixty (60) days of appeal receipt.
  - b. All other structures subject to the review by the Planning and Zoning Commission and approval of the County Board of Supervisors.
- d. Where Permitted. A proposed structure is classified as a permitted use, upon approval as noted above in Section VII (V)(2)(c), if any of the following are true:
  1. “A” Agricultural District, “A-L” Agricultural-Limited District, and “C-M” Commercial-Manufacturing District:
    - a. When mounted on a building or existing structure or multiple use facilities.
    - b. When designed with camouflage design.
    - c. When the base of the structure is setback at least 1 mile from any other tower greater than 75 feet in height and at least 1,000 feet from any dwelling unit, other than a dwelling unit located on the

same parcel of land that the structure is located on, unless the applicant can satisfactorily prove to the Planning and Zoning Commission and the Board of Supervisors that there are no other multiple use facilities in the immediate vicinity that can be co-located on (due to structural, engineering, or economic infeasibility) and that there are no other locations within the immediate vicinity that can meet these requirements then the setback can be reduced to twice the height of the structure from said towers and dwelling units.

2. “A-R” Agricultural-Residential District, “R-S” Residential-Suburban District, “R-M” Residential-Multiple District, and “C” Commercial District:

- a. When mounted on a building or existing structure or multiple use facilities.
- b. When designed with camouflage design and the base of the structure is setback at least 1/2 mile from any other tower greater than 75 feet in height and at least 500 feet from any dwelling unit, other than a dwelling unit located on the same parcel of land that the structure is located on, unless the applicant can satisfactorily prove to the Planning and Zoning Commission and the Board of Supervisors that there are no other multiple use facilities in the immediate vicinity that can be co-located on (due to structural, engineering, or economic infeasibility) and that there are no other locations within the immediate vicinity that can meet these requirements then the setback can be reduced to twice the height of the structure from said towers and dwelling units.
- c. Lattice and guyed towers shall not be permitted in these zoning districts.

e. Design Standards. The proposed structure must comply with the following provisions prior to the issuance of any permits.

1. Necessity. The wireless communications company shall demonstrate that the antenna must be located where it is proposed in order to satisfy the antenna’s function in the company’s grid system.
2. Co-location effort. If the wireless communications company proposes to build a tower, as opposed to mounting the antenna on existing multiple use facilities within the required setback as described in Section VII (V)(2)(d), it shall demonstrate a reason of substantial nature describing the inability to co-locate. This demonstration shall utilize one or more of the following criteria to satisfactorily illustrate why co-location on existing multiple use facilities is infeasible:
  - a. Structural infeasibility. The wireless communications company shall provide a structural analysis to show the structural loading, minimum height, available space on the existing structure, or available ground space at the proposed site is inadequate to serve its needs for a viable communications structure site.
  - b. Engineering Infeasibility. The wireless communications company shall provide engineering studies to show that the existing multiple use facilities cannot be satisfactorily engineered to meet

the coverage and/or capacity demands of its customers or function in its grid system.

- c. Economic Infeasibility. Co-location on an existing multiple use facilities is an incentive to, and is in the economic best interest of, each wireless communication company as co-location reduces the cost to deploy each communication site. Where negotiation to co-locate on an existing multiple use facilities fails, the wireless communications company shall provide evidence, to include written assurances in the form of affidavits, that it could not obtain permission from owners of multiple use facilities to install its antennas on those facilities.

A request for a wireless communications tower may be denied if it is concluded that the applicant has not made a good faith effort to co-locate on multiple use facilities.

3. Structure Height. The applicant shall demonstrate, to the reasonable satisfaction of Black Hawk County, that the structure is the minimum height required to function satisfactorily while simultaneously providing adequate structural height for possible co-locators.
4. Setbacks from base of structure. The minimum setback of the base of the structure shall be at least the height of the structure from any property line and at least 1/2 the height of the structure from any building located on the same parcel of land that the structure is located on (except for support facilities such as equipment rooms) unless a greater setback is required under the provisions of this Ordinance.
5. Structure Safety. The applicant shall demonstrate through compliance with these regulations and submittal of engineering studies, that the proposed structure is safe and that the surrounding areas will not be negatively affected by structure failure or interference. Any such failure or interference shall be the responsibility of the applicant to remedy. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers, and all facilities shall have a fence installed around the antenna support structure and other equipment, unless the antenna is mounted on an existing structure or camouflage design is employed. The fence shall be a minimum of six (6) feet in height and shall not have barbed wire closer than six (6) feet to the ground.
6. Co-location. In order to reduce the number of communication structures in the community, new towers (except for camouflage designs) shall be required to accommodate other uses, including other wireless communication companies, as well as other emergency response users.
7. Site Plan. A full site plan shall be required for all communication structure sites, showing the structure, antenna, antenna support structure(s), building(s), fencing, access, property lines, and lease boundaries.

- f. Abandonment. All approvals for wireless communication towers shall be in effect only while the facilities are being operated on a continual basis. When the use is replaced or discontinued for a period of 1 year, the approvals will lapse; and the operator or property owner shall be required to remove the facility and all associated equipment and restore the property to its original or otherwise acceptable condition, subject to the approval of the Zoning Administrator or his/her designee, or re-submit for approval as if it is a new request.

3. Wind Energy Facilities

a. Applicability

1. The requirements of this Section shall apply to all wind energy facilities (large and small) for which an application for a Special Permit or building permit has been submitted to Black Hawk County after the effective date of this Section. No such wind energy facility shall be constructed after the effective date of this Section except in compliance with this Section.
2. Wind energy facilities for which a required permit has been properly issued prior to the effective date of this Section shall not be required to meet the requirements of this Section; provided, however, that any such pre-existing wind energy facility which does not provide energy for a continuous period of twelve (12) months shall meet the requirements of this Section prior to recommencing production of energy. However, no modification or alteration to an existing wind energy facility shall be allowed unless in compliance with this Section.

b. Purpose

1. The purpose of this Section is to provide a regulatory means for the construction and operation of large and small wind energy facilities in Black Hawk County, subject to reasonable restrictions, which will preserve the public health, safety, and welfare. Black Hawk County adopts these provisions to promote the effective and efficient use of the County's wind energy resource.

c. Findings

1. Black Hawk County finds and declares that:
  - a. Wind energy is an abundant, renewable and nonpolluting energy resource of the County and its conversion to electricity may reduce dependence on nonrenewable energy sources and decrease the air and water pollution that results from the use of conventional energy sources.
  - b. The generation of electricity from properly sited wind energy facilities, including small systems, can be cost effective and in many cases existing power distribution systems can be used to transmit electricity from wind-generating stations to utilities or other uses, or energy consumption at that location can be reduced.
  - c. Regulation of the siting and installation of wind energy facilities is necessary for the purpose of protecting the health, safety, and welfare of neighboring property owners and the general public.
  - d. Wind energy facilities represent significant potential aesthetic impacts because of their size, lighting, and shadow flicker effects, if not properly sited.
  - e. If not properly sited, wind energy facilities may present risks to the property values of adjoining property owners.

- f. Wind energy facilities may be significant sources of noise, which, if unregulated, can negatively impact adjoining properties.
- g. Without proper planning, construction of wind energy facilities can create traffic problems and damage local roads.
- h. If not properly sited, wind energy facilities can interfere with various types of communications.

d. Definitions

- 1. As used in this Section, the following terms are hereby defined:
  - a. Decommissioning: The process of use termination and removal of all or part of a large wind energy facility by the owner or assigns of the large wind energy facility.
  - b. FAA: The Federal Aviation Administration.
  - c. Facility Owner: The entity or entities having an equity interest in the wind energy facility, including their respective successors and assigns.
  - d. Hub Height: When referring to a wind turbine, the distance measured from ground level to the center of the turbine hub.
  - e. MET Tower: A meteorological tower used for the measurement of wind speed.
  - f. Site: The parcel(s) of land where a wind energy facility is to be placed. The Site can be publicly or privately owned by an individual or group of individuals controlling single or adjacent properties. Where multiple lots are in joint ownership or control, the combined lots shall be considered as one for purposes of applying setback requirements.
  - g. Total Height: When referring to a wind turbine, the distance measured from ground level to the blade extended at its highest point.
  - h. Use Termination: The point in time at which a wind energy facility owner provides notice to Black Hawk County that the wind energy facility or individual wind turbines are no longer used to produce electricity unless due to a temporary shutdown for repairs. Such notice of use termination shall occur no less than 30 days after actual use termination.
  - i. Wind Energy Facility, Large: A facility that generates electricity or performs other work consisting of one or more wind turbines not falling under the definition of a small wind energy facility under common ownership or operating control, and includes substations, MET towers, cables/wires and other buildings accessory to such facility, whose main purpose is to supply electricity to off-site customers, or any facility not falling under the definition of a small wind energy facility.
  - j. Wind Energy Facility, Small: A single wind energy system that generates electricity or performs other work, has a total height of one hundred twenty (120) feet or less or is affixed to an existing structure, has a power output rated capacity of 100 kilowatts or less, and is intended to primarily reduce the on-site consumption

of electricity. Any wind energy facilities not falling under this definition shall be deemed a large wind energy facility.

- k. Wind Farm: Two or more wind turbines under common ownership or control not falling under the definition of a small wind energy facility.
- l. Wind Turbine: A wind energy conversion system which converts wind energy into electricity through the use of a wind turbine generator, and includes the turbine, blade, tower, base, and pad.

e. Regulatory Framework

- 1. Large wind energy facilities may only be constructed in areas that are zoned “A” Agricultural District, “A-L” Agricultural-Limited District, and “C-M” Commercial-Manufacturing District upon approval of a Special Permit by the Board of Adjustment after recommendation of the County Planning and Zoning Commission.
- 2. Small wind energy facilities may be constructed in any zoning district as either a principal or accessory use. Small wind energy facilities that are constructed as an accessory use to a principal permitted use, and meet the setback, height, and power output requirements of this Section, shall not require Special Permit approval, and shall only require building permit approval. All small wind energy facilities that are constructed as a principal permitted use, or small wind energy facilities that do not meet the setback, height, or power output requirements of this Section, shall require Special Permit approval.
- 3. Application for a Special Permit, if required, for a large or small wind energy facility shall be submitted with the following information:
  - a. A properly filled out and signed application.
  - b. A signed statement indicating that the applicant has legal authority to construct, operate, and develop the wind energy facilities under state, federal and local laws and regulations, including Federal Aviation Administration (FAA), Federal Communications Commission (FCC), and state and local building codes.
  - c. A description of the number and kind of wind energy facilities to be installed.
  - d. A description of the large or small wind energy facilities’ height and design, including a cross section, elevation, and diagram of how the wind energy facilities will be anchored to the ground, prepared by a professional engineer licensed in the State of Iowa.
  - e. A statement from the applicant that all wind energy facilities will be installed in compliance with manufacturer’s specifications, and a copy of those manufacturer’s specifications.
  - f. A signed statement from the landowner(s) of the site stating that he/she will abide by all applicable terms and conditions of this Section and the Special Permit, if approved.
  - g. A statement indicating what hazardous materials will be used or stored on the site, and, how those materials will be stored.
  - h. A statement indicating how the wind energy facility will be lit, if applicable.

- i. For small wind energy facilities, a site plan showing the parcel boundaries and a legal description, support facilities, access, fencing, and all other buildings on the site and within the 100 feet beyond the site.
  - j. For large wind energy facilities, a site plan prepared by a professional engineer or surveyor licensed in the State of Iowa, drawn to a scale of not less than 1 inch to 100 feet (1 inch to 50 feet preferred), showing the parcel boundaries and a legal description, 2-foot contours for the subject site and 100 feet beyond the subject site, support facilities, access, proposed landscaping and fencing, and all other buildings on the site and within the 100 feet beyond the site.
  - k. Any utility or easement locations shall be indicated on the site plan.
  - l. For large wind energy facilities, photo exhibits visualizing the proposed wind energy facilities.
  - m. For large wind energy facilities, a signed statement from the landowner(s) of the site stating that a lease has been executed or has been agreed upon by all parties and will be executed if the applicant does not own the land.
4. If required, a plan for site grading, erosion control, storm water drainage, and storm water pollution prevention plan (SWPPP) shall be submitted to the County Engineer for review and approval prior to granting building permits.
  5. All other permits, including those for work done in rights-of-way, shall be applied for by the applicant to the appropriate agency prior to construction.
  6. Wind energy facilities shall not include offices, vehicle storage, or other outdoor storage. One accessory storage building may be permitted per large wind turbine at the Board of Adjustment's discretion. The size and location of any proposed accessory building shall be shown on the site plan. No other structure or building accessory to the wind energy facility is permitted unless used for the express purpose of the generation of electricity or performing other work related to the wind energy facility.
  7. An applicant may submit one Special Permit application for the entire large wind energy facility project or small wind energy project (if required) located in Black Hawk County, provided that a detailed map identifying the precise location of all proposed wind turbine towers is provided at time of submittal of Special Permit. For additional wind turbine towers proposed that were not detailed in a previous Special Permit approval, a new separate Special Permit shall be required, including a detailed map identifying the precise location of all proposed and existing wind turbine towers.
  8. No grading, filling, or construction shall begin until a building permit is issued. A separate building permit shall be required for each individual wind turbine tower and appurtenant facilities prior to construction of each wind turbine tower and appurtenant facilities to be constructed.
  9. For large wind energy facilities, a certificate of insurance with a minimum of \$2,000,000 liability coverage per incidence, per occurrence shall be required for the life of the facility. Each renewal period will require a copy of certificate of insurance be provided to Black Hawk

- County. An expired insurance certificate or an unacceptable liability coverage amount is grounds for revocation of the Special Permit.
10. For large wind energy facilities, the County shall require an irrevocable letter of credit, bond, or cash escrow, held in trust in favor of Black Hawk County, to recover the costs associated with removal of a use terminated large wind turbine tower and appurtenant facilities. The amount of the irrevocable letter of credit, bond, or cash escrow shall be set by the Board of Adjustment prior to Special Permit approval and shall remain in effect until released by Black Hawk County. The issuer of the irrevocable letter of credit or bond shall be suitable to the County.
  11. A wind energy facility authorized by Special Permit shall be started within twelve (12) months of Special Permit issuance and completed within thirty-six (36) months of Special Permit issuance, or in accordance with a timeline approved by the Board of Adjustment. Upon request of an applicant, and for good cause, the Board of Adjustment may grant an extension of time.
  12. For large wind energy facilities, the applicant shall submit a copy of all “as built plans” prepared by a professional engineer licensed in the State of Iowa including structural engineering and electrical plans for all towers following construction to the County to use for removal of large wind energy facility, if large wind energy facility owner or its assigns fails to meet the requirements of this Section or the Special Permit.
  13. For wind energy facilities requiring Special Permit, the Board of Adjustment may require additional conditions to ensure public health, safety, and welfare.
  14. Wind energy facilities that are constructed and installed in accordance with the provisions of this Section shall not be deemed to constitute the expansion of a nonconforming use or structure.
  15. Nothing in this Ordinance shall be deemed to give any applicant the right to cut down surrounding trees and vegetation on any property not on the applicant’s site to reduce turbulence and increase wind flow to the wind energy facility. Nothing in this Ordinance shall be deemed a guarantee against any future growth or construction or County approvals of future construction that may in any way impact the wind flow to any wind energy facility. It shall be the sole responsibility of the facility operator or owner to acquire any necessary wind flow or turbulence easements, or rights to remove vegetation.

f. General Requirements

1. Standards
  - a. No television, radio or other communication antennas may be affixed or otherwise made part of a wind energy facility, except pursuant to the regulations for wireless communication towers. Applications may be jointly submitted for wind energy facilities and wireless communication facilities.
  - b. Wind energy facilities shall utilize measures to reduce the visual impact of the facility to the extent possible. Facilities with multiple wind turbine towers shall be constructed with an appearance that is similar throughout the site, to provide reasonable uniformity in overall size, geometry, and rotational



speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades except as otherwise provided in this Section.

- c. Small wind energy facilities shall be used primarily to reduce the on-site consumption of electricity.
- d. For small wind energy facilities not requiring Special Permit approval, the maximum turbine power output rated capacity is limited to 50 kW. For small wind energy facilities requiring Special Permit approval, the maximum turbine power output rated capacity is limited to 100 kW. Power output rated capacity larger than 100 kW shall be deemed a large wind energy facility.
- e. At least one sign shall be posted on the tower at a height of five (5) feet warning of electrical shock or high voltage, harm from revolving machinery, and the hazard of falling ice. No brand names, logo or advertising shall be placed or painted on the tower, rotor, generator or tail vane where it would be visible from the ground, except that a system or tower's manufacturer's logo or insignia may be displayed on a system generator housing in an unobtrusive manner that is not visible off site.
- f. Towers shall be constructed to provide one of the following means of access control:
  - 1. Tower-climbing apparatus located no closer than twelve (12) feet from the ground.
  - 2. A locked anti-climb device installed on the tower.
  - 3. A locked, protective fence at least six feet in height that encloses the tower.
- g. Anchor points for any guy wires shall be setback ten (10) feet from any property line, and shall not be on or across any above-ground electric transmission or distribution lines, and shall not be located within an easement. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering from three to eight feet above the ground.

2. Design and Installation

- a. Wind energy facilities shall be painted a non-reflective, non-obtrusive color, such as grey, white, or off-white.
- b. For large wind energy facility sites, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the large wind energy facility to the natural setting and existing environment.
- c. Minimum lighting necessary for safety and security purposes shall be permitted. Techniques shall be implemented to prevent casting glare from the site, except as otherwise required by the FAA or other applicable authority.
- d. No form of advertising shall be allowed on the pole, turbine, blades, or other buildings or facilities associated with the use, except for reasonable identification of the manufacturer or contact information of the operator of the wind energy facility.
- e. All wind energy facilities shall be equipped with a redundant braking system. This includes both aerodynamic overspeed

- controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
- f. To the extent applicable, all wind energy facilities shall comply with all applicable building codes and standards.
  - g. Electrical controls, control wiring, and power lines shall be wireless or not above ground, except where wiring is brought together for connection to the transmission or distribution network, adjacent to that network. This provision can be waived by the Board of Adjustment for any wind energy facility approved by Special Permit if deemed appropriate by the Board.
  - h. All electrical components of the wind energy facility shall conform to relevant and applicable local, state, and national codes, and relevant and applicable international standards.
  - i. The owner of a wind energy facility shall defend, indemnify, and hold harmless Black Hawk County and their officials from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses, and liabilities whatsoever, including attorney fees, arising out of the acts or omissions of the operator or the operator's contractors concerning the construction or operation of the wind energy facility without limitation, whether said liability is premised on contract or tort. Owner's submittal for a building permit for a wind energy facility shall constitute agreement to defend, indemnify, and hold harmless Black Hawk County and their officials.
  - j. The owner of a large wind energy facility (applicant) shall reimburse the Black Hawk County for any and all repairs and reconstruction to the public roads, culverts, and natural drainage ways resulting directly from the construction of the large wind energy facility. A qualified independent third party, agreed to by Black Hawk County and the applicant, and paid for by the applicant, shall be hired to inspect the roadways and drainage ways to be used or effected during construction. This third party shall be hired to evaluate, document, videotape, and rate road and drainage way conditions prior to the construction of the large wind energy facility and again within 30 days after the large wind energy facility project is complete. Any damage done by the applicant or subcontractors shall be repaired or reconstructed at the applicant's expense.
  - k. Where wind energy facility construction cuts through a private or public drain tile field, the drain tile must be repaired and reconnected to properly drain the site to the satisfaction of Black Hawk County.
  - l. Any recorded access easement across private lands to a wind energy facility, in addition to naming the wind energy facility owner as having access to the easement, shall also name Black Hawk County as having access to the easement for purposes of inspection or decommissioning. If no such access easement exists, approval of the Special Permit for a wind energy facility

shall constitute granting to Black Hawk County a right to access the wind energy facility for purposes of inspection or decommissioning.

- m. Any wind energy turbine or facility that does not produce energy for a continuous period of twelve months shall be considered abandoned and shall be removed in accordance with the removal provisions of this Section. Failure to abide by and faithfully comply with this Section or with any and all conditions that may be attached to the granting of any building permit for a wind energy facility shall constitute grounds for the revocation of the permit by Black Hawk County.
- n. A large wind energy facility owner and operator shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project, and shall provide updated information on such to the Planning and Zoning Department.
- o. Wind energy facilities exceeding one hundred twenty (120) feet hub height shall be of a monopole (tubular) design except in unusual circumstances as deemed appropriate by the Board of Adjustment as part of the Special Permit approval. For wind energy facilities not exceeding one hundred twenty (120) feet hub height, monopole (tubular) type towers shall be favored over guyed towers, and lattice towers shall be discouraged. For towers that require Special Permit approval, the Board of Adjustment shall have authority to determine required design elements, including type and height.

g. Setbacks

- 1. The following setbacks and separation requirements shall apply to all wind turbines:
  - a. Each wind turbine associated with a large wind energy facility shall be set back from the nearest non-participating land-owner's property line and from any other wind turbine a distance of no less than 1.5 times its total height.
  - b. Each wind turbine associated with a small wind energy facility shall be set back from the nearest property line a distance of no less than 1.5 times its total height, except that a wind turbine associated with a small wind energy facility may be located closer than 1.5 times its total height if written consent from the property owners to which the proposed tower would be located closer than 1.5 times its total height is obtained, or if approved by Special Permit. In such cases, the minimum set back from the nearest property line shall be a distance of no less than 0.5 times its total height. As part of the Special Permit approval, the Board of Adjustment may grant a waiver to the setback requirements where strict enforcement would not serve the public interest and where it is demonstrated that such a setback will not have an adverse impact on the adjoining properties, however the setback shall generally not be less than 0.5 times the total height.

- c. Wind energy facilities must meet all utility setbacks and/or easements. The owner of the wind energy facility is responsible for contacting the appropriate entities to determine the location of all above and underground utility lines on the site including, but not limited to, electricity, natural gas, cable television, communication, fiber optic, etc.

h. Height

1. Small wind energy facilities not requiring Special Permit approval shall be limited to eighty (80) feet hub height.
2. Small wind energy facilities requiring Special Permit approval shall be limited to one hundred twenty (120) feet hub height.
3. Large wind energy facilities shall not be limited in height, except as imposed by the Board of Adjustment as part of the Special Permit approval.

i. Noise and Vibration

1. Except during short-term events including severe windstorms, audible noise due to wind energy facility operations shall not exceed sixty (60) dBA, when measured at the site property lines. If audible noise exceeds sixty (60) dBA the offending wind turbine must be inoperable until repairs are completed, or a waiver is obtained from affected property owners in accordance with Subsection (f) below.
2. Wind energy facilities shall not create an audible steady, pure tone such as a whine, screech, hum, or vibration.
3. In the event the ambient noise level (exclusive of the development in question) exceeds the applicable standard given above, the applicable standard shall be adjusted so as to equal the ambient noise level. The ambient noise level shall be expressed in terms of the highest whole number sound pressure level in dBA, which is succeeded for more than five (5) minutes per hour. Ambient noise levels shall be measured at the site property lines. Ambient noise level measurement techniques shall employ all practical means of reducing the effect of wind-generated noise at the microphone. Ambient noise level measurements may be performed when wind velocities at the proposed project site are sufficient to allow wind turbine operation, provided that the wind velocity does not exceed thirty (30) mph at the ambient noise level measurement location.
4. Any noise level emanating from a wind energy facility falling between two whole decibels shall be determined to be the higher of the two.
5. Any noise monitoring or measurements, with the need determined by the Black Hawk County Planning Staff, shall be paid for by the applicant or wind energy facility owner.
6. In the event the noise levels resulting from the wind energy facility exceed the criteria listed above, a waiver to said levels may be granted provided that the following has been accomplished:
  - a. Written consent from the affected property owners has been obtained stating that they are aware of the wind energy facility and the noise limitations imposed by this Ordinance, and that

consent is granted to allow noise levels to exceed the maximum limits otherwise allowed; and,

- b. A permanent noise impact easement has been recorded in the Office of the Black Hawk County Recorder which describes the benefited and burdened properties and which advises all subsequent owners of the burdened property that noise levels in excess of those permitted by this Ordinance may exist on or at the burdened property.

j. Minimum Ground Clearance

1. For small wind energy facilities, the minimum distance between the ground and any part of the rotor or blade system shall be fifteen (15) feet.
2. For large wind energy facilities, the minimum distance between the ground and any part of the rotor or blade system shall be thirty (30) feet.

k. Signal Interference

1. The applicant or wind energy facility owner shall mitigate any interference with electromagnetic communications, such as radio, telephone, computers, communication devices, or television signals, including any public agency radio systems, caused by any wind energy facility. However, in no case shall a wind energy facility be located within the microwave path of an emergency communication tower.

l. Shadow Flicker

1. Wind energy facilities shall attempt to avoid shadow flicker in any off-site residences. The wind energy facility owner and/or operator shall make reasonable efforts to minimize or mitigate shadow flicker to any off-site residence to the satisfaction (determination) of the Zoning Administrator. Any off-site residence owner or wind energy facility owner may appeal the determination of the Zoning Administrator to the Board of Adjustment, as provided in Section XXIV (D)(3)(a).

m. Ice Shedding

1. The wind energy facility owner and/or operator shall ensure that ice from the wind turbine blades does not impact any off-site property.

n. Waste Management

1. All hazardous waste generated by the operation and maintenance of the facility, including, but not limited to lubricating materials, shall be handled in a manner consistent with all local, state, and federal rules and regulations.

o. Safety

1. Wind turbine towers shall not be climbable up to fifteen (15) feet above ground level and all large wind turbine tower access ladders must be located inside of the tower.
2. All access doors to wind turbine towers and electrical equipment shall be locked.
3. Any accessory structure on site of a large wind energy facility shall have a concrete roof to protect the structure from snow and ice shedding.
4. Appropriate warning and caution signage shall be placed on wind turbine towers, electrical equipment, and large wind energy facility entrances.
5. A large wind energy facility site and all structures shall have an annual inspection report of structural stability by a professional engineer licensed in the State of Iowa, at cost to the large wind energy facility owner, with a report filed with the Black Hawk County Planning and Zoning Department. Any deficiencies found shall be repaired in a timely manner.
6. The owner/operator of a large wind energy facility shall test for stray voltage before, during, and after construction upon request by the Zoning Administrator.
7. All substations shall be fenced to prevent public access. The provisions of Section II (B) shall apply.
8. The owner/operator of a large wind energy facility shall post and maintain at each facility a clearly posted 24-hour a day manned telephone number in case of an emergency.
9. The owner/operator of a large wind energy facility shall provide qualified personnel to conduct training sessions to emergency responders whenever requested.
10. The owner/operator of a large wind energy facility shall provide a company representative to accompany the Fire Department Fire Inspector during site visits. The owner/operator of a large wind energy facility shall comply with all applicable laws regarding those inspections.
11. The owner/operator of a wind energy facility shall be responsible for the total cost of any incident(s) that occur on or at their facilities and/or properties.

p. Removal

1. All wind generators and appurtenances shall be removed from the site within six (6) months of use termination notice to Black Hawk County by the owner of the facility or its assigns, or within three (3) months of permit revocation by Black Hawk County. Upon request of the owner or assigns of the wind energy facility, and for good cause, the Zoning Administrator may grant a reasonable extension of time.
2. The site shall be stabilized, graded, and cleared of any debris by the owner of the facility or its assigns. If site is not to be used for agricultural practices following removal, site shall be seeded to prevent soil erosion.
3. Any foundation shall be removed to a minimum depth of four (4) feet below grade, or to the level of the bedrock if less than four (4) feet below grade, by the owner of the facility or its assigns. Following removal, the

location of any remaining wind turbine foundation shall be identified on a map as such and recorded with the deed to the property with the Office of the Black Hawk County Recorder.

4. Any access roads shall be removed, cleared, and graded by the owner of the facility or its assigns, unless the property owner wants to keep the access road. Black Hawk County will not be assumed to take ownership of any access road unless through official action of the Board of Supervisors.
5. Any expenses related to the decommissioning and removal shall be the responsibility of the wind energy facility owner, including any expenses related to releasing any easements.
6. Removal shall conform to the contract between property owner and the owner/operator of a wind energy facility, in addition to the requirements set forth in this Ordinance.

q. Violation and Permit Revocation

1. All wind energy facilities shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should a wind energy facility become inoperable, or should any part of the wind energy facility be damaged, or should a wind energy facility violate a permit condition, the owner/operator shall remedy the situation within three (3) months after written notice from Black Hawk County. Upon request of the owner or assigns, and for good cause, the Zoning Administrator may grant a reasonable extension of time.
2. Notwithstanding any other abatement provision, if the wind energy facility is not repaired or made operational or brought into compliance after said notice, the Board of Supervisors may, after a public meeting at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, (1) order either remedial action within a specified timeframe, or (2) order revocation of the permit and require the removal of the wind energy facility within three (3) months. For large wind energy facilities not removed within the specified time period, Black Hawk County shall have the right to use the irrevocable letter of credit, bond, or cash escrow to cover the costs associated with removal of the large wind energy facility.
3. Any wind energy facility that does not meet the requirements of this Ordinance, including, but not limited to those dealing with noise, height, setback, or visual appearance, or does not meet any conditions attached to approval of the wind energy facility, shall be deemed an unlawful structure and shall provide grounds for the revocation of the permit.

W. Land Evaluation and Site Assessment (LESA) System

Black Hawk County has adopted, in a separate Report, a LESA System and shall use it to evaluate agricultural land viability in relation to its land use decision-making processes. All requests for zoning ordinance map amendments, use exceptions permits, and conditional use permits shall be evaluated using LESA. The Zoning Administrator or designee shall calculate LESA scores on the parent parcel. The Zoning Administrator or designee has the authority to make interpretations, within the parameters set in the LESA worksheets, to calculate the score.

For the purposes of implementing the Black Hawk County LESA System, parent parcels having scores in the following ranges shall be classified in the following manner:

<u>Classification</u>	<u>LESA Score Range</u>
Low Agricultural Value	0-196
Moderate Agricultural Value	197-241
High Agricultural Value	242-300

General regulations for each classification range are as follows:

Low Agricultural Value: Sites classified as having low value for agriculture may allow development, but it is strongly suggested that the County determine and consider what factors cause the LESA score to be classified as “low”. Once determined, the County should discourage development that may occur in environmentally sensitive areas including areas with wetlands, floodplains, steep slopes, and poor soils. In summary, having a low score does not assure a property owner that a rezone or development will automatically be approved. It does however provide the property owner with some level of assurance that the site does not have significant agricultural value and that the likelihood of development is possible.

Moderate Agricultural Value: Sites classified as having moderate value for agriculture will provide some latitude for the County to consider development on a case-by-case basis. Obtaining a moderate score does not assure a rezoning request will be approved nor does it necessarily doom a request either. These sites will provide the County an opportunity to determine whether there are overwhelming factors that should prevent or allow development. Again, it is strongly suggested that the County determine and consider what factors caused the LESA score to be classified as “moderate”.

High Agricultural Value: Land that is classified as having high value agricultural land means that development should be strongly discouraged in almost every case. Generally, these sites are reserved for agricultural activities and protected from urban development or urban use encroachment. Only under very unique circumstances are these sites to be developed and only after compelling evidence is provided. The Board of Supervisors shall give written reasons as to the specific, unique circumstances and compelling evidence before approving a rezoning request on high value agricultural land. For the purpose of defining “unique circumstances” and “compelling evidence”, Black Hawk County shall consider, but not be limited to the criteria below. Meeting one or more of these criteria will not constitute approval, as each request will be reviewed and evaluated based on its individual circumstances:

1. Area has not been in active row crop production or conservation reserve program (CRP) for the previous fifteen (15) years.
2. Area is not conducive to production by reason of parcel size or shape.
3. Area is compatible with surrounding uses by reason of similar adjacent uses.



**Table 1: Bulk Requirements**

District Use	Maximum Height	Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard
<b>Agricultural “A” &amp; Agricultural-Limited “A-L” Districts</b>						
Farm Dwelling	--	35 Acres	330 Feet	50 Feet	25 Feet	50 Feet
Mobile Home	--	35 Acres	330 Feet	50 Feet	25 Feet	50 Feet
Single Family Dwelling (when permitted)	--	1.5 Acres	150 Feet	50 Feet	25 Feet	50 Feet
Other Permitted Structures	--	--	--	50 Feet	25 Feet	50 Feet
Accessory Buildings	--	--	--	50 Feet	25 Feet <sup>1</sup>	50 Feet <sup>1</sup>
<b>Agricultural-Residential “A-R” District</b>						
Single Family	2.5 stories or 35 Feet, whichever is lower.	1.5 Acres	150 Feet	50 Feet	25 Feet	50 Feet
Other Permitted Structures		1.5 Acres	150 Feet	50 Feet	25 Feet	50 Feet
Accessory Buildings	18 Feet	--	--	50 Feet	25 Feet <sup>1</sup>	50 Feet <sup>1</sup>
<b>Residential-Suburban “R-S” District</b>						
Single Family	2.5 Stories or 35 Feet, whichever is lower	15,000 Sq. Feet	80 Feet	30 Feet	10 Feet	30 Feet
Other Permitted Uses		7,500 Sq. Feet	80 Feet	30 Feet	10 Feet	30 Feet
Accessory Buildings	1 Story or 18 Feet, whichever is lower	--	--	30 Feet	10 Feet <sup>1</sup>	30 Feet <sup>1</sup>
<b>Residential-Multiple “R-M” District</b>						
Single Family	3 Stories or 45 Feet, whichever is lower, except additional height for additional stories may be added at a rate of 2 Feet in height for each foot that the structure is setback from the required yard lines	7,500 Sq. Feet	75 Feet	30 Feet	10 Feet	30 Feet
Two Family		10,000 Sq. Feet	75 Feet	30 Feet	10 Feet	30 Feet
Multiple Family		10,000 Sq. Feet	75 Feet	30 Feet	10 Feet	30 Feet
Mobile Home Park Unit Requirements		1 Acre 1,500 Sq. Feet	100 Feet 25 Feet	30 Feet 10 Feet	10 Feet 10 Feet	30 Feet 10 Feet
Other Permitted Structures		7,500 Sq. Feet	75 Feet	30 feet	10 Feet	30 Feet
Accessory Buildings	1 Story or 18 Feet, whichever is lower.	--	--	30 Feet	10 Feet <sup>1</sup>	30 Feet <sup>1</sup>
<b>Commercial “C” District</b>						
Permitted Structures	2 Stories or 35 Feet, whichever is lower	7,500 Sq. Feet	50 Feet	30 Feet	10 Feet	30 Feet
Accessory Buildings		--	--	30 Feet	10 Feet <sup>1</sup>	30 Feet <sup>1</sup>
<b>Commercial-Manufacturing “C-M” District</b>						
Principal and Conditional Uses	3 Stories or 48 Feet, whichever is lower	7,500 Sq. Feet	50 Feet	30 Feet	10 Feet	--

Notes:

Lot area requirements shall be computed exclusive of street, road, alley, waterway, or highway right-of-way.

<sup>1</sup> Accessory buildings to be placed in the rear yard may reduce the minimum side and rear yard requirements to four (4) feet. Accessory buildings to be placed in the side or front yard (if permitted) may reduce the minimum side yard requirements to ten (10) feet.

SECTION VIII.  
NATURAL RESOURCE PROTECTION AND PRESERVATION

A. Intent

In accordance with the Black Hawk County Comprehensive Plan it is the intent of this section to recognize, and to preserve the natural processes of land, as land undergoes change for man's use. This Ordinance identifies the functions of the land which provide important public benefits and have designed provisions to protect those functions. The public benefits arrived by the protection of natural functions of lands include:

1. The preservation of important productive lands and renewable resources;
2. Protection of public safety by reducing the risks of natural hazards, specifically flooding;
3. Protection of public resources such as water supplies and the water quality of our lakes, rivers, and aquifers; and
4. Protection of public and private economic resources from expenditures and property values loss due to environmental degradation.

For purposes of this Ordinance, land shall be identified by function(s) and may be further classified as either sensitive or significant. Identification and classification of lands shall be based upon the explanatory materials, notations, and maps found in (a) the official Soil Survey of Black Hawk County, Iowa, published by the United States Department of Agriculture Soil Conservation Service, December 1978 (as amended), (b) The Flood Insurance Study for Black Hawk County, published by Federal Emergency Management Agency-Federal Insurance Administration, July 18, 2011 (as amended), (c) The Black Hawk County Conservation Resource Inventory, submitted to the Black Hawk County Conservation Board, March 1981, (d) Soil Conservation Service Building Site Development Report, and (e) Soil Conservation Service Sanitary Facilities Report. Subsequent amendments and supplements to the survey, study, and inventory shall be adopted automatically.

B. Sensitive Lands

Sensitive lands are those areas where substantial evidence indicates that uncontrolled or incompatible development could result in damage to the environment, to life or to property.

1. Identification: Those lands shall include those as specified in Section VI (D), Establishment of Districts and District Boundaries: "E-S" Environmentally Sensitive Overlay District Maps. They include: (a) floodplains, (b) surface waters, (c) aquifer recharge areas, (d) excessive slopes, and (e) poor bearing capacity soils, and (f) soils having a Land Evaluation (LE) score from the LESA System of below 40 points.
2. Permitted and Conditional Uses: Subject to Section XVI, General Regulations and Provisions of the "E-S" Environmentally Sensitive Overlay District and Section XVII, Use Regulation for "E-S" Environmentally Sensitive Overlay District.
3. Performance Standards: Subject to Section XVI, General Regulations and Provisions of the "E-S" Environmentally Sensitive Overlay District and Section XVII, Use Regulation for "E-S" Environmentally Sensitive Overlay District.

C. Significant Lands

Significant lands are agricultural lands of highly productive soils, renewable resource lands, which promote the long-term productivity of an area by contributing to water, soil, or vegetation cover conservation, and fragile lands.

1. Identification:

- a. Agricultural Lands of Highly Productive Soils: Shall be defined as a parcel of land having a Land Evaluation and Site Assessment (LESA) System score of 242 and above. Determination regarding the LESA score shall be calculated using the adopted Black Hawk County Land Evaluation and Site Assessment (LESA) System Report, as amended.

Soil boundaries shall be determined from the soil maps found in the official Soil Survey of Black Hawk County, Iowa, as amended.

It shall be noted that it is the policy of Black Hawk County, Iowa, rich in fertile productive soils to maintain this nonrenewable resource for future generations to employ in the production of food and fiber; therefore, such lands shall be preserved as "A" Agricultural District, unless there are extenuating circumstances.

- b. Other Significant Lands: Shall be identified by reference from the Black Hawk County Conservation Resource Inventory. These lands shall include wetlands, recreational lakes, forest covers, forest reservations, rivers and streams, river and stream banks, open and native prairies and wildlife habitats, as designated upon the established priority list approved by the County Board of Supervisors, as amended.

2. Permitted and Conditional Uses:

- a. Agricultural Lands of Highly Productive Soils: Subject to Section II, Special Exemption; Section IX, Use Regulation for "A" Agricultural District; Section XVI, General Regulations and Provisions of the "E-S" Environmentally Sensitive Overlay District; and Section XVII, Use Regulation for "E-S" Environmentally Sensitive Overlay District.

- b. Other Significant Lands: Lands as designated upon the established priority list approved by the Black Hawk County Board of Supervisors, as amended, shall be preserved in their natural, undisturbed state and are not to be used for economic gain, including but not limited to using land for development, the storage of equipment, machinery or crops.

3. Performance Standards:

Shall be applicable to the appropriate section(s) of the Ordinance.

4. Incentives for Preservation:

In accordance with Chapter 427.1, Code of Iowa, as amended, the Black Hawk County Board of Supervisors may grant a tax exemption to other significant lands as designated upon the established priority list, as a mandate.

SECTION IX.  
USE REGULATION FOR "A" AGRICULTURAL DISTRICT

General Regulations: The "A" Agricultural District is designed to serve the agricultural community and protect agricultural land from encroachment of urban land uses. Furthermore, in accordance with Chapters 335 and 352, Code of Iowa, as amended, it is the intent to preserve the availability of agricultural land and to encourage efficient urban development patterns. This district is not to be used for other than agricultural subdivisions, unless in existence at the time of adoption of this Ordinance.

In the "A" Agricultural District, the following provisions, regulations, and restrictions shall apply:

A. Principal Permitted Uses

1. Agricultural and incidental agricultural related uses.
2. Feedlots and confinement facilities for livestock.
3. Specialized animal farms including but not limited to fowl, rabbits, mink, chinchilla, and bees.
4. Specialized horticultural operations including orchards, viticulture, truck gardens, Christmas tree farms, floriculture, wholesale nurseries, raising of tree fruits, nuts and berries, sod, private or wholesale greenhouses, and vegetable raising.
5. Stables, private. Located at least fifty (50) feet from all boundary lines of the property on which located.
6. Forest, forest preserves and environmentally significant lands.
7. Hiking and horseback riding trails.
8. Public or private utility structures, transmitting stations and towers, and equipment necessary for the operation thereof. These uses shall be allowed only after the recommendation on the need for and appropriateness of the requested use from the County Planning and Zoning Commission and approval of the County Board of Supervisors. Towers shall be permitted in accordance with Section VII (V).
9. Parks, recreation areas, wildlife preserves, and game refuges owned by governmental agencies.
10. Structures or methods for the conservation of soil.
11. Farm dwellings.
12. Single-family dwellings in existence prior to the adoption of this Ordinance, including a farmstead to be severed from the farm. Only one split per dwelling unit that existed prior to November 18, 1982 shall be allowed, with front yard, side yard, and rear yard requirements applicable to the zoning district in which it is located.
13. Single-family dwellings upon lots of record. More than one contiguous lot of record may be combined for purposes of meeting minimum yard area and setback requirements. No portion of said lot or lots shall be used or sold in a manner that diminishes compliance or

increases non-compliance with yard area and setback requirements, or causes a decrease in lot area. For any single-family dwelling constructed upon a lot of record or multiple lots of record, no such dwelling shall be requested to be rezoned or subdivided from the lot or lots of record for a minimum time period of fifteen (15) years. The provisions of Section XIX (E) shall also apply.

14. Any use erected or maintained on behalf of or pursuant to the authorization of Black Hawk County, for the use by Black Hawk County.
15. Mobile homes, in accordance with Section XXI of this Ordinance.
16. Kennels, private, located at least fifty (50) feet from all boundary lines of the property on which located.
17. Seed and feed dealerships provided, however, there is no evidence of showroom or other commercial activities perceivable at or beyond the lot lines.
18. Home occupations in accordance with Section VII (S).

B. Accessory Uses

1. Accessory buildings and uses customarily incidental to any of the above uses in accordance with Section VII (J).
2. Roadside stands, offering for sale any agricultural products or other products produced on the premises.
3. Church directional signs.
4. Home Industries in accordance with Section VII (J) and (T).

C. Height Regulations

Shall be those specified in Section VII, subsection "U".

D. Water and Sewer Systems

Subject to approval of the County Department of Health.

E. Minimum Lot Area, Lot Frontage, and Yard Requirements for "A" Agricultural Districts

Shall be those specified in Section VII, subsection "U".

SECTION X.  
USE REGULATION FOR "A-L" AGRICULTURAL LIMITED DISTRICT

General Regulations: The "A-L" Agricultural Limited District is designed to reinforce the "General Regulations" of the "A" Agricultural District and in addition to provide for those activities which may be interrelated with agriculture.

In the "A-L" Agricultural-Limited District, the following provisions, regulations, and restrictions shall apply:

A. Principal Permitted Uses

1. Any use permitted in the "A" Agricultural District.
2. Stables, public and riding academies, clubs, and other structures for housing horses. Any such structure shall be located at least fifty (50) feet from all boundary lines of the property on which located.
3. Grain elevators with usual accessory structures.
4. Church or other place of worship, including parish house and Sunday School building.
5. Cemeteries, including mausoleums and crematories, provided that any mausoleum and crematory shall be distant at least two hundred (200) feet from adjacent property and street and highway lines.
6. Schools, both public and private educational institutions, preschools, and day nursery or care facilities.
7. Institutions of a religious, charitable, philanthropic or similar nature.
8. Veterinary clinics, but not nearer than six hundred and sixty (660) feet from any zoned residential district, incorporated boundary line or dwelling other than the lessee or owner of the site.
9. Private airport grass (non-pavement) landing strips and associated facilities. This provision shall be authorized only after the recommendation of the County Planning and Zoning Commission and approval of the County Board of Supervisors.

B. Accessory Uses

1. Accessory buildings and uses customarily incidental to any of the above uses in accordance with Section VII (J).
2. Other accessory uses as allowed in the "A" District.

3. Church bulletin boards.

C. Height Regulations

Shall be those specified in Section VII, subsection "U".

D. Water and Sewer Systems

Subject to approval of the County Department of Health.

E. Minimum Lot Area, Lot Frontage, and Yard Requirements for "A-L" Agricultural Limited District

Shall be those specified in Section VII, subsection "U".

F. Uses Exceptions

In accordance with Section XXIV, subsection "D" of this Ordinance, none of the following uses shall be established or reconstructed, structurally altered, enlarged or moved unless the Board of Adjustment approves the issuance of a conditional use permit.

1. Commercial extraction uses, to include the removal of sand, clay, shale, gravel, topsoil, or similar extractive and mining operations, not including borrow pits being operated for state, county, or private projects where material is not being sold or removed from the property where it originates.
2. The processing, manufacturing, storage or distribution of "value added" agricultural products. For the purpose of this Ordinance, a "value added" agricultural product is an agricultural commodity or the processing of an agricultural commodity that is changed to enhance the value. This includes the processing or manufacturing of agricultural products into a finished product, and/or the marketing and distribution of those products. The principle owner(s) of a proposed "value added" use shall be actively engaged in the production of the agricultural product, and must remain actively engaged in the production of the agricultural product and must remain the principle owners(s). The Board of Adjustment shall make a determination that a proposed use is a "value added" agricultural use. If a site is determined to be a "value added" agricultural use, the board shall review the request, heavily scrutinizing for proper spatial relationship to adjoining districts with respect to prevailing winds, traffic patterns, service facilities such as sewer, water, roads and public safety (police and fire), compatibility with surrounding land uses, and other similar considerations in addition to a determination that a proposed use will meet the standards listed in Section XXIV (G)(1)(f). Requests will be scored with the LESA System, but due to their nature and connection to an agricultural activity, requests that have a "High Agricultural Value" may be considered more acceptable for development than other requests.
3. Private, commercial and non-commercial recreational areas, including parks, playgrounds, golf courses and country clubs, boy scout, girl scout, service and church camps, campgrounds, hunting and fishing clubs, private gun clubs, outdoor paintball facilities, skeet shooting ranges and similar uses. Non-commercial areas, such as non-profit clubs, etc. shall only be regulated by this part when organized events or activities occur more than 12 times in a calendar year. This provision shall not be construed to mean automobile race

tracks, drag strips, go-cart tracks, and/or activity areas for motorcycles, mini bikes, and snowmobiles, miniature golf courses, drive-in theaters, and similar commercial uses.

SECTION XI.  
USE REGULATION FOR "A-R" AGRICULTURAL-RESIDENTIAL DISTRICT

General Regulations: The "A-R" Agricultural-Residential District is designed to provide for single-family dwellings in conjunction with agriculture at a low density, where (for minor subdivisions) common utilities are not available and on-site facilities must be utilized. It is further the intent of this district to be applied to land in predominantly agricultural areas for rural residential use, in accordance with the policies of the Comprehensive Plan. This district is not to be utilized to accommodate major subdivisions, unless public sanitary sewer and public water is available or may be extended at the time of development. All such subdivisions shall comply with the Subdivision Ordinance and the "Procedural Guidelines for Subdivision Platting in the unincorporated areas of Black Hawk County."

In the "A-R" Agricultural-Residential District, the following provisions, regulations, and restrictions shall apply:

A. Principal Permitted Uses

- 1. Single-family dwellings.
- 2. Agricultural and incidental agricultural related uses, including specialized horticultural operations, but not including feedlots and confinement facilities for livestock, unless in compliance with Section XI (A)(3) of this Ordinance.
- 3. Specialized animal farms and livestock subject to the following maximum density requirements:

<u>Size and Type of Animal</u>	<u>Density</u>
Large Animals: Horses, cattle, elk, deer, and similar animals.	1/20,000 square feet
Intermediate Animals: Sheep, swine, goats, lama, emu and similar animals.	1/5,000 square feet
Small Animals: Poultry, fowl, rabbits, mink, chinchilla, and other similar animals.	1/1,500 square feet

Or any combination that does not exceed the above animal unit limitations. For large animals, the minimum area required per animal unit shall be 20,000 square feet, however there shall be a minimum lot area of at least 40,000 square feet to have any. Animals under six (6) months old shall not be included in the density limit. Said uses shall be operated to meet County Health Department standards and that nuisance conditions shall not be created



for neighboring properties as determined by the County Health Department. Note: More restrictive deed restrictions may supersede the above standard.

4. Stables, private, located at least fifty (50) feet from all boundary lines of the property on which located. The area devoted to such use shall be kept in a clean and sanitary condition, as determined by the County Health Department.
5. Public utility structures and equipment necessary for the operation thereof. This use shall be allowed only after the recommendation on the need for and appropriateness of the requested use from the County Planning and Zoning Commission and approval of the County Board of Supervisors. Towers shall be permitted in accordance with Section VII (V).
6. Home occupations in accordance with Section VII (S).
7. Group Homes.

B. Accessory Uses

1. Accessory buildings and uses customarily incidental to any of the above uses in accordance with Section VII (J).
2. Roadside stands, offering for sale any agricultural products or other products produced on the premises.
3. Home industries in accordance with Section VII (J) and (T).

C. Height Regulations

Shall be those specified in Section VII, subsection "U".

D. Water and Sewer Systems

Subject to approval of County Department of Health.

E. Minimum Lot Area, Lot Frontage, and Yard Requirements for "A-R" Agricultural Residential District

Shall be those specified in Section VII, subsection "U"

F. Sign and Parking Regulations

See Sections XXII and XX, respectively.

SECTION XII.  
USE REGULATION FOR "R-S" RESIDENTIAL-SUBURBAN DISTRICT

General Regulations: The "R-S" Residential-Suburban District is designed to provide for the development of both low and moderate density single-family dwellings within subdivisions by encouraging the maximum use of existing subdivisions, and as an orderly expansion of existing residential development. This district is not to be utilized to accommodate major subdivisions, unless public sanitary sewer and public water is available or may be extended at the time of development. All such subdivisions shall comply with the Subdivision Ordinance and the "Procedural Guidelines for Subdivision Platting in the unincorporated areas of Black Hawk County."

In the "R-S" Residential-Suburban District, the following provisions, regulations, and restrictions shall apply:

A. Principal Permitted Uses

1. Single-family dwellings.
2. Schools, both public and private educational institutions, preschools and day care or nursery facilities.
3. Churches or other places of worship, including parish dwelling and accessory buildings.
4. Public or private community parks and playgrounds, but not to include commercial recreation.
5. Public utility structures and equipment necessary for the operation thereof. This use shall be allowed only after the recommendation on the need for and appropriateness of the requested use from the County Planning and Zoning Commission and approval of the County Board of Supervisors. Towers shall be permitted in accordance with Section VII (V).
6. Home occupations in accordance with Section VII (S).
7. Group homes.

B. Accessory Uses

1. Accessory buildings and uses customarily incidental to any of the above uses in accordance with Section VII (J).
2. Church bulletin boards.

3. Church directional and community recognition signs.

4. Specialized animal farms and livestock subject to the requirements of Section XI (A) (3)

C. Height Regulations

Shall be those specified in Section VII, subsection "U".

D. Water and Sewer Systems

Shall require both a common water and common sewage treatment system, subject to approval by the County Department of Health.

E. Minimum Lot Area, Lot Frontage and Yard Requirements for "R-S" Residential-Suburban District

Shall be those specified in Section VII, subsection "U".

F. Sign and Parking Regulations

See Sections XXII and XX, respectively.

G. Uses Exceptions.

In accordance with Section XXIV, subsection "D" of this Ordinance, none of the following uses shall be established or reconstructed, structurally altered, enlarged or moved unless the Board of Adjustment approves the issuance of a conditional use permit.

1. Home Industries in accordance with Section VII (J) and (T).

SECTION XIII.  
USE REGULATION FOR "R-M" RESIDENTIAL-MULTIPLE DISTRICT

General Regulations: The "R-M" Residential-Multiple District is designed to provide for mixed residential development within subdivisions by encouraging the maximum use of existing subdivisions, and as an orderly expansion of existing residential development. This district is not to be utilized to accommodate major subdivisions, unless public sanitary sewer and public water is available or may be extended at the time of development. All such subdivisions shall comply with the Subdivision Ordinance and the "Procedural Guidelines for Subdivision Platting in the unincorporated areas of Black Hawk County."

In the "R-M" Residential-Multiple District, the following provisions, regulations, and restrictions shall apply:

A. Principal Permitted Uses

1. Single family, two-family and multiple family dwellings.
2. Mobile home parks and subdivisions, in accordance with Section XXI of this Ordinance.
3. Institutions of a religious, educational, or philanthropic nature, including libraries.
4. Hospitals, day nurseries or care facilities, nursing and convalescent home and medical clinics.
5. Private clubs, lodges, and similar uses.
6. Hotels and motels, including hostels, boarding and lodging houses.
7. Funeral homes and mortuaries.
8. Public utility structures and equipment necessary for the operation thereof. This use shall be allowed only after the recommendation on the need for and appropriateness of the requested use from the County Planning and Zoning Commission and approval of the County Board of Supervisors. Towers shall be permitted in accordance with Section VII (V).
9. Public or private community parks and playgrounds, but not to include commercial recreation.
10. Home occupations in accordance with Section VII (S).
11. Group Homes.

B. Accessory Uses

1. Accessory buildings and uses customarily incidental to any of the above uses in accordance with Section VII (J).
2. Specialized animal farms and livestock subject to the requirements of Section XI (A) (3)

C. Height Regulations

Shall be those specified in Section VII, subsection "U".

D. Water and Sewer Systems

Shall require both a common water and a common sewage treatment system, subject to approval by the County Department of Health.

E. Minimum Lot Area, Lot Frontage and Yard Requirements for "R-M" Residential-Multiple District

Shall be those specified in Section VII, subsection "U".

F. Sign and Parking Regulations

See Sections XXII and XX, respectively.

G. Uses Exceptions.

In accordance with Section XXIV, subsection "D" of this Ordinance, none of the following uses shall be established or reconstructed, structurally altered, enlarged or moved unless the Board of Adjustment approves the issuance of a conditional use permit.

1. Home Industries in accordance with Section VII (J) and (T).

SECTION XIV.  
USE REGULATION FOR "C" COMMERCIAL DISTRICT

General Regulations: The "C" Commercial District is designed to provide for commercial and normal business uses with interior storage required to serve the general needs of the residents of the rural areas of the county. This district is not to be utilized to accommodate major subdivisions, unless public sanitary sewer and public water is available or may be extended at the time of development. All such subdivisions shall comply with the Subdivision Ordinance and the "Procedural Guidelines for Subdivision Platting in the unincorporated areas of Black Hawk County."

In the "C" Commercial District, the following provisions, regulations, and restrictions shall apply:

A. Principal Permitted Uses

1. Residential uses are permitted when physically a part of a principal permitted use, subject to Site Plan Review as provided in Section XXV, including a determination that the residential use(s) is/are secondary and customarily incidental to the principal permitted use. Examples would include a multi-story building where the main floor is dedicated to a principal permitted use and additional floors are dedicated for residential uses, or a single-story building where the majority of the building is primarily adapted and used for a principal permitted use with an incidental residence. Each residence shall be considered a separate principal permitted use for purposes of calculating minimum lot area.
2. Public or private utility structures, transmitting stations and towers, and equipment necessary for the operation thereof. These uses shall be allowed only after the recommendation on the need for and appropriateness of the requested use from the County Planning and Zoning Commission and approval of the County Board of Supervisors. Towers shall be permitted in accordance with Section VII (V).
3. Any of the following retail, service, or recreation establishments, provided they do not have outside storage:
  1. Antique shop
  2. Apparel shop
  3. Appliance store, sales and service
  4. Art supply shop and galleries
  5. Automobile accessory and new parts store
  6. Bait shops
  7. Bakery
  8. Banks and other financial institutions

9. Barber shop
10. Beauty parlor
11. Bicycle sales and repair shop
12. Book store
13. Business and computer equipment or supply retail store
14. Camera shop
15. Candy retail shop
16. Car wash
17. Carpenter shop
18. Clothing repair, seamstress
19. Commercial indoor recreation facilities including bowling alleys, billiard and pool halls, theater (indoor), skating rinks, ballrooms and dance studios, game arcades, tennis courts, swimming pools, handball courts, archery, paintball facilities, gymnasiums and other similar indoor uses
20. Commercial parking lots
21. Contractors' equipment, interior storage
22. Delicatessen
23. Diaper service
24. Drapery shop
25. Department store
26. Drive-in eating establishment
27. Drug store
28. Electrical supply store
29. Fish markets
30. Florist and retail nursery shop
31. Food storage
32. Fruit and vegetable market
33. Furniture store
34. Furniture upholstery shop
35. Gasoline or convenience stores, but does not include a service station or body repair shop
36. Gift shops
37. Grocery store
38. Hardware store
39. Hobby or craft store
40. Household appliance sales and repair
41. Ice storage
42. Jewelry and watch sales and repair shop
43. Laboratory, dental or medical
44. Landscaping supply shop
45. Lawnmower repair shop
46. Laundromat
47. Locksmith
48. Manufacture or treatment of products clearly incidental to the conduct of a retail business conducted on the premises
49. Music store and studios
50. Paint and wallpaper store
51. Pet shop
52. Photographic studio, printing and developing establishments
53. Plumbing, heating, or electrical contractor shops
54. Post office substation

- 55. Pottery Shop
- 56. Radio and television sales and service
- 57. Restaurant, cafe, and soda fountain
- 58. Shoe repair shop
- 59. Sporting goods store
- 60. Tack shop
- 61. Tailor shop
- 62. Toy store
- 63. Travel bureau or agency
- 64. Variety store

4. Any of the following business or professional offices, provided they do not have outside storage:

- 1. Accountants
- 2. Architects
- 3. Artists
- 4. Church offices
- 5. Civil engineers
- 6. Collection agency
- 7. Credit bureau
- 8. Dental offices
- 9. Entertainment bureau
- 10. Insurance
- 11. Lawyers
- 12. Medical offices
- 13. Nurses registry
- 14. Psychologists
- 15. Public stenographers
- 16. Real estate

B. Accessory Uses

- 1. Accessory buildings and uses customarily incidental to any of the above uses.
- 2. Interior storage of merchandise incidental to the principal use.

C. Height Regulations

Shall be those specified in Section VII, subsection "U".

D. Water and Sewer Systems

Subject to approval of the County Department of Health.

E. Minimum Lot Area, Lot Frontage and Yard Requirements for "C" Commercial District

Shall be those specified in Section VII, subsection "U".

F. Sign and Parking Regulations



See Sections XXII and XX, respectively.

SECTION XV.  
USE REGULATION FOR "C-M" COMMERCIAL - MANUFACTURING DISTRICT

General Regulations: The "C-M" Commercial - Manufacturing District is designed to provide for uses, with exterior storage or industrial character, which due to their size and nature would not be compatible with general rural development patterns of Black Hawk County. The district is further designed to permit the normal operation of all industries, subject to prescribed regulation needed to control congestion and to protect non-industrial uses. Since this is the least restrictive of any district, many uses are permissible which involve hazardous operations or circumstances, or create conditions or effects which, if not properly managed, could be unhealthy, offensive or injurious to workers or the public-at-large. For this reason and because the performance standards set forth in this Ordinance provide only limited control, it is necessary that any application for "C-M" District be heavily scrutinized for proper spatial relationship to adjoining districts with respect to prevailing winds, traffic patterns, service facilities such as sewer, water, roads and public safety (police, fire and emergency response), compatibility with surrounding land uses, and other similar considerations. This district is not to be utilized to accommodate major subdivisions, unless public sanitary sewer and public water is available or may be extended at the time of development. All such subdivisions shall comply with the Subdivision Ordinance and the "Procedural Guidelines for Subdivision Platting in the unincorporated areas of Black Hawk County."

In the "C-M" Commercial-Manufacturing District, the following provisions, regulations, and restrictions shall apply:

A. Principal Permitted Uses

Any of the following uses, provided they are adjacent to and served by a paved road:

1. Any use permitted in the "C" Commercial District.
2. Agricultural retail/service outlets and farm implement establishments for display, hire and sales (excluding auctions), including repair work clearly incidental and secondary to the primary use.
3. Animal hospital, veterinary clinic or commercial kennel; providing an exercising runway shall be at least six hundred and sixty (660) feet from any "R" District, incorporated boundary line or dwelling other than the lessee or owner of the site.
4. Cabinet Manufacturing.
5. Dairy retail store.
6. Distribution, storage, or manufacture of food products.
7. Exterminator sales.
8. Gasoline or convenience store with a service station, but does not include body repair or used parts wrecking and storage.
9. Hatcheries.
10. Commercial laundries.

11. Machine shop.
12. Monument sales yard.
13. Wholesale warehouse or storage warehouse/business including mini-storage.

B. Height Regulations

Shall be those specified in Section VII, subsection "U".

C. Water and Sewer Systems

Subject to the approval of the County Department of Health.

D. Minimum Lot Area, Lot Frontage and Yard Requirements for "C-M" Commercial-Manufacturing District

Shall be those specified in Section VII, subsection "U".

E. Sign and Parking Regulations

See Sections XXII and XX, respectively.

F. Use Exceptions

In accordance with Section XXIV, subsection "D" of this Ordinance, none of the following uses shall be established or reconstructed, structurally altered, enlarged or moved unless the Board of Adjustment approves the issuance of a conditional use permit.

1. Clothes dry cleaning and/or dyeing establishments using flammable cleaning fluids with a flash point higher than one hundred degrees (100°) Fahrenheit.
2. Milk processing or distributing station other than a retail business conducted on the premises.
3. Sales auctions such as automotive, farm implement, livestock, furniture/appliances and similar uses.
4. Tire shop, including vulcanizing and retreading.
5. Public airport.
6. Asphalt plants.
7. Coal, coke, wood, and other raw material storage yards.
8. Concrete mixing and concrete products manufacturing.
9. Rental of equipment commonly used by contractors.
10. Blacksmith or cooperage works.
11. Enameling, lacquering, or japanning.
12. Bulk storage and pumping of agricultural chemicals and fertilizers.
13. Foundry casting lightweight metals to include smelting of tin, copper, zinc, or iron ores.
14. Auto body repair shop, but does not include parts wrecking and storage.
15. Hide tanning.
16. Junk, salvage, or scrap metal yards. Junk, metal or rags, storage or baling, where the premises upon which such activities are conducted are wholly enclosed within a building, wall or solid fence, not less than six (6) feet in height, completely obscuring the activity. Such junk yards must comply with the fifty (50) foot setback requirements for all junk and scrap metal and must screen such material from any road.
17. Laboratories, experimental, or testing.
18. Locker plant and storage for retail sales only.

19. Manufacture, storage, refining, extraction, and pumping of chemicals, fertilizers, or petroleum products.
20. Printing and/or publishing houses.
21. Rendering facilities, or its products, refining and wholesale storage.
22. Slaughter houses, meat packing and processing plants, and stock yards.
23. Commercial or wholesale seed processing and storage.
24. Sawmill, planing mill, including manufacture of wood products.
25. Cement, lime gypsum, or plaster of paris manufacture.
26. Explosive manufacture or storage.
27. Taverns, Night Clubs and similar uses, provided that the principal building is located at least six hundred (600) feet from any "R" Residential District, incorporated boundary line, or dwelling other than the lessee or owner of the site.
28. Automobile, motorcycle, truck, trailer or recreation vehicle establishments for display, hire and sale (including sales lots), including repair work clearly incidental and secondary to the primary use.
29. Creamery, bottling, ice manufacturing and cold storage plant.
30. Lumber yards and building material sales yard.
31. Commercial outdoor recreation facilities including automobile race tracks, drag strips, go-cart tracks, and/or activity areas for motorcycles, mini-bikes and snowmobiles, miniature golf courses and driving ranges, drive-in theaters, water slides, and similar outdoor recreation facilities.
32. Manufacturing or assembly of any product not listed as a principle permitted use.
33. Any principal permitted use listed above that is not adjacent to and served by a paved road.

SECTION XVI.  
GENERAL REGULATIONS AND PROVISIONS OF THE  
"E-S" ENVIRONMENTALLY SENSITIVE OVERLAY DISTRICT

A. Intent

It is the intent of this Ordinance, in accordance with the Black Hawk County Comprehensive Land Use Plan and Chapters 335 and 352, Code of Iowa, as amended, that environmentally sensitive areas be protected from irreparable damage caused by development. Environmentally sensitive areas are those areas where substantial evidence indicates that uncontrolled or incompatible development could result in damage to the environment, to life, to property or an area where long-term interest is of either local, state, national or global significance. Any area identified within the Environmental Sensitive Overlay District or sites that upon individual analysis indicates elements of sensitivity or significance shall be subject to the conditions and the performance standards as provided for in this Ordinance. Furthermore, developers of such sites shall take necessary steps to protect such areas from degradation. The Environmentally Sensitive Overlay District acts in conjunction with the underlying zoning district or districts. Development within the Overlay District must conform to the requirements of both districts or the more restrictive of the two.

B. Identification

The "E-S" Environmentally Sensitive Overlay District shall include those areas as specified in Section VI of this Ordinance.

C. Findings of Fact

Lands within the "E-S" Environmentally Sensitive Overlay District exhibit characteristics that may possess:

1. A hazard potential to human activities in or around the resource; a physical threat to human activities, life or property; a vulnerability or sensitivity of a resource which may be easily destroyed through inappropriate use or exploitation; an immediacy of threat to a resource which may result in an identifiable degradation stemming from development pressures; or the importance of a resource in meeting human needs rather than recognition for its inherent qualities.
2. Furthermore, the flood hazard areas of Black Hawk County are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the health, safety, and general welfare of the community.

3. These flood losses, hazards and related adverse effects are caused by: (1) the occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flood, and (2) the cumulative effect on obstructions on floodplains, which causes increases in flood heights and flood water velocities.
4. This Ordinance relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources.

D. Administration

1. Appointment, Duties, and Responsibilities of Zoning Administrator.
  - a. The Zoning Administrator is hereby appointed to implement and administer the provisions of this Ordinance and will herein be referred to as the Administrator.
  - b. Duties and Responsibilities of the Administrator shall include, but not necessarily be limited to, the following:
    1. Review all environmentally sensitive area development permit applications to insure that the provisions of this Ordinance will be satisfied.
    2. Review all environmentally sensitive area development permit applications to insure that all necessary permits and plans have been obtained from and approved by federal, state or local governmental agencies, including approval when required from the Department of Natural Resources for floodplain construction.
    3. Record and maintain a record for floodplain development of: (1) the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures in the Flood Plain District, or (2) the elevation (in relation to mean sea level) to which new or substantially improved structures have been flood proofed.
    4. Notify adjacent communities and/or counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Insurance Administrator.
    5. Keep a record of all permits, appeals, variances and such other transactions and correspondence pertaining to the administration of this section.
    6. Submit to the Federal Insurance Administrator an annual report concerning the county's participation and floodplain development, utilizing the annual report form supplied by the Federal Insurance Administration.
    7. Notify the Federal Insurance Administration of any annexations or modifications to the county's boundaries.
    8. Review subdivision proposals to insure such proposals are consistent with the purpose of this Ordinance and advise the Commission and the Board of Supervisors of potential conflicts.

c. Environmentally Sensitive Area Development Permit:

1. Permit Required - An Environmentally Sensitive Area Development Permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of mobile homes.
2. Application for Permit - Application for an Environmentally Sensitive Area Development Permit shall be made on forms supplied by the Administrator and shall include the following information:
  - a. Description of the work to be covered by the permit for which application is to be made. A development plan of all proposed and existing structures on the site.
  - b. Legal description of the land on which the proposed work is to be done.
  - c. General description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.
  - d. Indication of the use or occupancy for which the proposed work is intended.
  - e. All necessary permits have been obtained from appropriate federal, state, or local governmental agencies.
  - f. For developments involving more than five (5) acres, the elevation of the one hundred (100) year flood.
  - g. Elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of buildings or of the level to which a building is to be flood proofed, for floodplain development.
  - h. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
  - i. Approved proposed methods of water supply and sanitary sewage treatment.
  - j. Such other information as the Administrator deems reasonably necessary for the purpose of this Ordinance, including but not limited to: (1) a valley cross section(s), (2) elevation and topographic information, (3) photographs showing existing land uses and vegetation, (4) building plans and materials, (5) flood protection or flood proofing methods, and (6) proposed filling, dredging, grading, rechanneling.

3. Action on Permit Application - The Administrator shall, within a reasonable time, make a determination as to whether the proposed environmentally sensitive development as proposed, meets the applicable provisions and standards of this Ordinance and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for conditional uses or variances until approved by the appropriate county board or commission. In reviewing proposed development, the Administrator shall obtain, review and reasonably utilize any available flood plain information or data from Federal, State or other sources.
4. Construction and Use to be as Provided in Application and Plans - Environmentally Sensitive Area Development Permits issued on the basis of approved plans and applications authorized only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance and shall be punishable as provided in Section XXVII.

Within floodplain areas, the applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, flood proofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of any structure. The Administrative Officer shall maintain a record of the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and whether such structures contain a basement or, if such structures have been flood proofed, the elevation to which the structure is flood proofed.

5. Subdivision Review - The Administrator shall review all subdivision proposals within the Flood Plain (Overlay) District to assure that such proposals are consistent with the purpose and spirit of this Ordinance and shall advise the Board of Supervisors of potential conflicts. Flood Plain Development in connection with a subdivision shall require a Flood Plain Development Permit as provided in this Ordinance. For proposals greater than fifty (50) lots or five (5) acres, the subdivider shall be responsible for providing flood elevation data.

SECTION XVII.  
USE REGULATION FOR "E-S" ENVIRONMENTALLY SENSITIVE OVERLAY DISTRICT

Within the "E-S" Environmentally Sensitive Overlay District, areas are identified per Section VI of this Ordinance. This section shall prescribe permitted uses, conditional uses, and performance standards for those areas. Development within the Overlay District must conform to the requirements of both the zoning district and the Overlay District or the most restrictive of the Ordinance's requirements.

A. Floodplains

1. Intent: It is the intent of this section to promote the public health, safety and general welfare by minimizing those flood losses described in Section XVI, Findings of Fact, with provisions designed to: (a) preserve and protect the natural character of the lands within this district, and their values for flood control and water holding capacity, maintenance of water quality, benefits of recharge of groundwater, wildlife, recreation and conservation, reduced soil erosion and sedimentation, and woodland management, (b) reserve sufficient floodplain area for the conveyance of flood flows so that flood heights and velocities will not be increased, (c) restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities, (d) require that uses vulnerable to floods, including public utilities which serve such uses, be protected against flood damage at the time of initial construction, or substantial improvement, (e) protect individuals from buying lands which are unsuited for intended purposes because of flood hazards, (f) reduce public expenditures for construction of flood control works, emergency action and post-disaster assistance, (g) reduce loss of life, injury, and hardship due to floods, and (h) assure that eligibility is maintained for property owners in the county to purchase flood insurance through the National Flood Insurance Program.
2. Warning and Disclaimer of Liability: The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside the floodplain or land uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of Black Hawk 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.
3. Divisions of the Floodplain: The floodplain areas within Black Hawk County are hereby divided into the following districts: (a) Floodway District ("F-W"), (b) Floodway Fringe District ("F-F"), (c) General Floodplain District ("F-P"), and (d) Shallow Flooding District



("S-F"). The boundaries are shown on the Official Flood Insurance Study maps. Within these districts all uses not allowed as permitted uses or permissible as conditional uses are prohibited unless a variance to the terms of this Ordinance is granted after due consideration by the Board of Adjustment.

a. Floodway District ("F-W"):

General Intent: It is the intent of the Floodway District ("F-W") that the identified area is designed to carry floodwaters and should be protected from developmental encroachment.

1. Principal Permitted Uses - The following uses shall be permitted within the Floodway District to the extent they are not prohibited by any other Ordinance (or allowed according to the underlying zoning district) and provided they do not require placement of structures, dwellings, factory built homes, fill or other obstruction, the storage of materials or equipment, excavation, or alteration of a watercourse.

a. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting, but not including livestock feedlots.

b. Industrial-commercial uses such as loading areas, parking areas, airport landing strips.

c. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

d. Residential uses such as lawns, gardens, parking areas and play areas.

e. Such other open space uses similar in nature to the above uses.

2. Conditional Uses - The following uses which involve structures (temporary or permanent), fill, storage or materials or equipment may be permitted only upon issuance of a Conditional Use Permit. Such uses must also meet the applicable provisions of the Floodway District Performance Standards.

a. Uses or structures accessory to open space uses.

b. Circuses, carnivals, and similar transient amusement enterprises.

c. Extraction of sands, gravel, and other materials.

d. Marinas, boat rentals, docks, piers, and wharves.

- e. Utility transmission lines, underground pipelines.
  - f. Other uses similar in nature to uses described above which are consistent with the provisions of the performance standards and the general spirit and purpose of this section.
3. Performance Standards - All Floodway District uses allowed as a permitted or conditional use shall meet the following standards.
- a. No use shall be permitted in the Floodway District that would result in any increase in the one hundred (100) year flood level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
  - b. All uses within the Floodway District shall:
    - 1. Be consistent with the need to minimize flood damage.
    - 2. Use construction methods and practices that will minimize flood damage.
    - 3. Use construction materials and utility equipment that are resistant to flood damage.
  - c. No use shall affect the capacity or conveyance of the channel or floodway or any tributary to the main stream, drainage ditch, or any other drainage facility or system.
  - d. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable performance standards of the Shallow Flooding ("S-F") and Floodway Fringe ("F-F") Districts and shall be constructed or aligned to present the minimum possible resistance to flood flows.
  - e. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.
  - f. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the Floodway District within the time available after flood warning.
  - g. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
  - h. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.

- i. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.
- j. Mobile homes shall not be permitted.
- k. Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall a) be on the site for fewer than one hundred eighty (180) consecutive days, and b) be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions. A recreational vehicle that is accessory to a principal permitted use and is fully licensed and ready for highway use may be on the site for more than 180 consecutive days for storage purposes only and not living quarters.

b. Floodway Fringe District ("F-F"):

General Intent: It is the intent of the Floodway Fringe District that the identified area is designed to preserve and protect the natural character of the lands within the district and their values for flood control and water holding capacity. The areas within this district should be protected from developmental encroachment.

- 1. Principal Permitted Uses - The following uses shall be permitted within the "F-F" Floodway Fringe District to the extent they are not prohibited by any other Ordinance (or underlying zoning district) and provided they do not require the placement of dwellings or factory built homes. All uses shall meet applicable performance standards of the Floodway Fringe District.
  - a. Any use permitted in a Floodway District as a principal permitted use.
- 2. Conditional Uses - The following uses involving structures (temporary or permanent), fill, storage of materials or equipment may be permitted only upon issuance of a conditional use permit. Such use must also meet the applicable provisions of the Floodway Fringe District performance standards.
  - a. Any conditional use permitted in a Floodway District.
  - b. Subdivisions and new or substantially improved residential buildings, in accordance with Section XVII (A)(3)(b)(3).
- 3. Performance Standards - All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards.

- a. All structures shall: (1) be adequately anchored (including factory built homes) to prevent flotation, collapse or lateral movement of the structure, (2) be constructed with materials and utility equipment resistant to flood damage, and (3) be constructed by methods and practices that minimize flood damage.
- b. New or Substantially Improved Residential Buildings: New or substantially improved residential structures shall have the lowest floor, (including basements) elevated a minimum of three (3) feet above the one hundred (100) year flood level. The preferred method of elevation shall be on piles, posts, piers or columns, or on walls or a crawl space. Enclosures created by a crawl space or solid walls below the base flood elevation shall only be used for building access, vehicle parking, and storage of materials that have low damage potential. Enclosures shall be constructed of flood resistant materials and utilities must be raised a minimum of three (3) feet above the base flood elevation. Enclosures must be floodable and have openings as provided in Section XVII (A)(3)(d) below. The methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. Elevation on fill shall be discouraged to protect flood storage capacity and to prevent flood heights from increasing due to a loss of flood storage capacity. When permitted, elevation on fill shall be upon compacted fill which shall, at all points, be no lower than three (3) feet above the one hundred (100) year flood level and extend at such elevation at least eighteen (18) feet beyond the limits of any structure erected thereon. Elevation on fill shall not be permitted when the natural grade is more than two (2) feet below the base flood elevation unless compensatory storage is created to offset any loss of flood storage. Compensatory storage shall not include excavation areas that create ponds or low-lying areas likely to have their storage capacity exhausted by non-floodwaters. All new or substantially improved residential buildings shall be provided with a means of access that will be passable by wheeled vehicles during the 100-year flood.
- c. Non-Residential Buildings: All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of three (3) feet above the one hundred (100) year flood level, or together with attendant utility and sanitary systems, be flood proofed to such a level. When flood proofing is utilized, a professional engineer registered in the State of Iowa shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the one hundred (100) year flood; and that the structure, below the one hundred (100) year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are

flood proofed shall be maintained by the Zoning Administrator.

d. All New and Substantially Improved Structures:

1. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:
  - a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
  - b) The bottom of all openings shall be no higher than one (1) foot above grade.
  - c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

2. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
3. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

e. Factory Built Homes:

1. Factory built homes, including those placed in existing factory built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements are that:
  - (a) over-the-top ties be provided at each of the four corners of the factory built home with two (2) additional ties per side at intermediate locations for factory built homes fifty (50) feet or more in

length or one (1) such tie for factory built homes less than fifty (50) feet in length;

(b) frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points for factory built homes fifty (50) feet in length or four (4) such ties for homes less than fifty (50) feet in length;

(b) all components of the anchoring system be capable of carrying a force of 4800 pounds; and

(d) any additions to the factory built home be similarly anchored.

2. Factory Built homes, including those placed in existing factory built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of three (3) feet above the one hundred (100) year flood level.

3. Factory built homes not being placed in existing factory built home parks or subdivisions shall be placed on lots or pads elevated so that the lowest floor of the factory built home will be a minimum of three (3) feet above the 100 year flood level. In addition, the tie-down specifications enumerated within subparagraph (1) above must be met and adequate surface drainage and access for a hauler must be provided. New factory built home parks, expansions to existing factory built home parks, and factory built home parks where the repair, reconstruction or improvement of the streets, utilities, and pads equals or exceeds 50% or more of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced shall provide:

(a) lots or pads that have been elevated so that the lowest floor of the factory built homes will be a minimum of three (3) feet above the 100 year flood level;

(b) adequate surface drainage;

(c) access for a hauler; and

(d) ground anchors for factory built homes.

f. Utility and Sanitary Systems:

1. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Waste water treatment facilities shall be provided with a level of flood protection equal to or greater than three (3) feet above the one hundred (100) year flood elevation.

2. On site waste disposal systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
  3. New or replacement water supply systems shall be designed to eliminate infiltration of flood waters into the system. Water supply treatment facilities shall be provided with a level of protection equal to or greater than three (3) feet above the one hundred (100) year flood elevation.
  4. Utilities such as gas and electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
- g. Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall either a) be on the site for fewer than one hundred eighty (180) consecutive days, b) be fully licensed and ready for highway use, or c) meet the permit requirements for "manufactured homes" of this Section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.
- h. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of three (3) feet above the one hundred (100) year flood level. Other material and equipment must either be similarly elevated or: (1) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (2) be readily removable from the area within the time available after flood warning.
- i. Flood control structural works such as levees, flood walls, etc., shall provide, at a minimum, protection from a one hundred (100) year flood with a minimum of three (3) feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.
- j. No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch, or other drainage facility or system.
- k. Subdivisions (including factory built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals shall meet the applicable performance

standards. Subdivision proposals intended for residential development shall provide all lots with a means of vehicular access that will remain dry during occurrence of the one hundred (100) year flood.

1. The exemption of detached garages, sheds, fences, flag poles and similar structures from the 100 year flood elevation requirements may result in increased premium rates for insurance coverage of the structure and contents; however, said detached garages, sheds, fences, flag poles and similar accessory type structures are exempt from the 100 year flood elevation requirements when:
  1. The structure shall not be used for human habitation.
  2. The structure shall be designed to have low flood damage potential.
  3. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
  4. Structures shall be firmly anchored to prevent flotation, which may result in damage to other structures.
  5. The structure's service facilities such as electrical and heating equipment shall be elevated or flood proofed.
  6. A professional engineer registered in the State of Iowa shall certify that these requirements are met.

c. General Floodplain District ("F-P"):

General Intent: The "F-P" General Floodplain District reflects those areas which would be inundated during a one hundred (100) year flood, but for which specific flood elevations and floodway and floodway fringe limits have not been established. It is the intent of the "F-P" District to impede the restrictions and performance standards of the "F-W" and "F-F" Districts after a determination is made to identify the floodway and floodway fringe areas on an individual basis. The areas within this district should be protected from development encroachment.

1. Principal Permitted Uses: As specified, principal permitted uses for either the "F-W" Floodway or the "F-F" Floodway Fringe Districts.
2. Conditional Uses: As specified, conditional uses for either the "F-W" Floodway or the "F-F" Floodway Fringe Districts.
3. Performance Standards: The applicant shall provide the Department of Natural Resources with sufficient technical information to make a determination as to whether the land involved is either partly or wholly within the floodway or floodway fringe and to determine the one hundred (100) year flood elevation.



- a. All uses or portions thereof to be located in the floodway as determined by the Department of Natural Resources shall meet the applicable standards of the "F-W" Floodway District.
- b. All uses or portions thereof to be located in the floodway fringe as determined by the Department of Natural Resources shall meet the standards of the "F-F" Floodway Fringe District.
- d. Shallow Flooding (Overlay) District ("S-F"):
  - 1. Principal Permitted Uses: All uses within the Shallow Flooding District shall be permitted to the extent that they are not prohibited by any other Ordinance (or underlying zoning district) and provided they meet the applicable performance standards of the Shallow Flooding District.
  - 2. Performance Standards: The performance standards for the Shallow Flooding District shall be the same as the performance standards for the Floodway Fringe District with the following exceptions:
    - a. In shallow flooding areas designated as an AH Zone on the Flood Insurance Rate Map, the minimum flood proofing/flood protection elevation shall be equal to the elevation as specified on the Rate Map.
    - b. In shallow flooding areas designated as an AH Zone on the Flood Insurance Rate Map, require adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

B. Poor Bearing Capacity Soils

- 1. Intent: It is the intent of this section to promote the public health, safety and general welfare by minimizing losses that may occur by not considering soil potentials. For structures, soils should be sufficiently stable that cracking or subsidence from setting or shear failure of the foundation does not occur. Severe ratings were determined for each soil from estimates of the shear strength, compressibility, shrink-swell potential, soil texture, plasticity and in-place density, potential frost action, soil wetness, depth to seasonal high water table, depth to bedrock, slope, presence of large stones and boulders, susceptibility to flooding and erosion hazard.
- 2. Principal Permitted Uses: All uses within the "E-S" Environmentally Sensitive Overlay District identified as poor bearing capacity soils shall be permitted to the extent that they are not prohibited by any other Ordinance, other provisions of this Ordinance or underlying zoning district and provided they meet the applicable performance standards for poor bearing capacity soils.
- 3. Conditional Uses: All uses within the "E-S" Environmentally Sensitive Overlay District identified as poor bearing capacity soils shall be permitted to the extent that they are not prohibited by any other Ordinance, other provisions of this Ordinance or underlying zoning district conditional use and provided they meet the applicable performance standards for poor bearing capacity soils.

4. Performance Standards: All uses upon poor bearing capacity soils allowed as permitted or conditional use shall meet the following standards:
  - a. All structures to be placed upon soils rated as severe for building site development, Soil Survey of Black Hawk County, Iowa, shall submit to the Zoning Administrator a plan reviewed by the District Soil Conservationist. Said plan shall be in a manner prescribed by the District Soil Conservationist and may include but not limited to: methods of soil conditioning, special design applications, increase in construction effort, site planning or required maintenance.
  - b. All water and sewer systems to be placed upon soils rated as severe for sanitary facilities, Soil Survey of Black Hawk County, Iowa, shall submit to the Zoning Administrator a plan approved by the County Environmental Health Supervisor. Said plan shall be in a manner prescribed by the County Environmental Health Supervisor and may include but not limited to: special design applications, increase in construction effort, methods of site conditioning, site planning and required maintenance.

C. Excessive Slopes

1. Intent: It is the intent of this section to promote the public health, safety and general welfare by minimizing soil loss that may occur by not considering the effects of soil erosion upon an individual site, adjacent lands and the surface and subsurface water quality of the county. For the development of structures upon slopes exhibiting erosion hazard, methods shall be employed that will: (1) preserve the aesthetics of the site and surrounding area, (2) offer protection from mass movement, (3) limit soil transport, and (4) decrease excess water runoff and sedimentation.
2. Principal Permitted Uses: All uses within the "E-S" Environmentally Sensitive Overlay District identified as excessive slopes shall be permitted to the extent that they are not prohibited by any other Ordinance, other provisions of this Ordinance or underlying zoning district and provided they meet the applicable performance standards for excessive slopes.
3. Conditional Uses: All uses within the "E-S" Environmentally Sensitive Overlay District identified as excessive slopes shall be permitted to the extent that they are not prohibited by any other Ordinance, other provisions of this Ordinance or underlying zoning district conditional uses and provided they meet the applicable performance standards for excessive slopes.
4. Performance Standards: All uses upon excessive slopes allowed as permitted or conditional use shall meet the following standards:
  - a. All structures to be placed upon soils identified as excessive slopes, Section VI (D)(2)(a)(2), shall submit to the Zoning Administrator a plan reviewed by the District Soil Conservationist. Said plan shall be in a manner prescribed by the District Soil Conservationist and may include but not limited to: methods of soil stabilization, special design applications, maintaining of the vegetation cover, increase in construction effort, site planning or required maintenance.

- b. All water and sewer systems to be placed upon soils rated as excessive slopes shall submit to the Zoning Administrator a plan reviewed by the County Environmental Health Supervisor. Said plan shall be in a manner prescribed by the County Environmental Health Supervisor and may include but not limited to: special design applications, increase in construction effort, methods of site conditioning, site planning and required maintenance.

D. Aquifer Recharge Areas

1. Intent: It is the intent of this section to promote the public health, safety and general welfare by minimizing the affects that unplanned land development may have on the quality of water found in subsurface aquifers. Water recharge occurs throughout Black Hawk County; however, the areas identified in Section VI (D)(2)(a)(3) have the greatest potential for recharge. Aquifers are replenished in recharge areas -- areas of interchange between the aquifer and the earth's surface and the point where precipitation and surface water infiltrate the aquifer. Wise planning of development in recharge areas is particularly important because of the danger of polluting the water supply.
2. Principal Permitted Uses: All uses within the "E-S" Environmentally Sensitive Overlay District identified as aquifer recharge areas shall be permitted to the extent that they are not prohibited by any other Ordinance, other provisions of this Ordinance or underlying zoning district and provided they meet the applicable performance standards for aquifer recharge areas.
3. Conditional Uses: All uses within the "E-S" Environmentally Sensitive Overlay District identified as aquifer recharge areas shall be permitted to the extent that they are not prohibited by any other Ordinance, other provisions of this Ordinance or underlying zoning district conditional uses and provided they meet the applicable performance standards for aquifer recharge areas.
4. Performance Standards: All uses upon aquifer recharge areas allowed as permitted or conditional uses shall meet the following standards:
  - a. All structures and uses to be placed upon aquifer recharge areas shall submit to the Zoning Administrator a plan reviewed by the District Soil Conservationist. Said plan shall be in a manner prescribed by the District Soil Conservationist and may include but not limited to: methods of soil conditioning, special design applications, increase in construction effort, site planning, required maintenance, or appropriate methods to protect the aquifer.
  - b. All water and sewer systems to be placed upon aquifer recharge areas shall submit to the Zoning Administrator a plan reviewed by the County Environmental Health Supervisor. Said plan shall be in a manner prescribed by the County Environmental Health Supervisor and may include but not limited to special design applications, increase in construction effort, methods of site conditioning, site planning, required maintenance, alternative design or methods of safe disposal.
  - c. Structures or uses prohibited. The following structures or uses shall be prohibited within the "E-S" Environmentally Sensitive Overlay District, identified as aquifer recharge areas, Section VI (D)(2)(a)(3):

1. Sanitary land fills.
2. Livestock feed lots.
3. Junk or salvage yards.
4. Kennel, dog, including private.
5. Stables, private and public.
6. Gasoline or filling stations or convenience store.
7. The manufacturing, compounding, processing, packaging or treatment of cosmetics, pharmaceutical, and food products.
8. Chemical manufacture or wholesale storage of chemicals.
9. Explosive manufacture or storage.
10. Fertilizer and/or agricultural chemical manufacture, blending or storage.
11. Garbage, offal or dead animal reduction or dumping.
12. Petroleum, flammable liquids and gasses, and minerals or their products, exploration, refining or storage.
13. Slaughter houses and stockyards, distillation of bones, glue, size or gelatin manufacture, hide treatment and storage.
14. Smelting of tin, copper, zinc, or iron ores.
15. Storage of industrial waste, sludge, oils, chemicals and solvents.

E. Surface Waters

1. Intent: It is the intent of this section to promote the public health, safety and general welfare by minimizing the affect that unplanned land development may have on the quality of water found in surface rivers, streams, lakes, ponds, reservoirs, and wetlands. Surface waters are sensitive areas. Developmental activity within and adjacent to the watercourse has profound effects on stream hydrology, channel geometry and water quality. It shall be the intent of this section to establish a floating buffer zone upon and adjacent to surface waters within the county not afforded the protection offered under Section XVII(A), Floodplains, of this Ordinance. It is the purpose of this section to maintain safe water quality within the surface waters by retaining areas within the floating buffer zone in its natural condition.
2. Principal Permitted Uses: All uses within the "E-S" Environmentally Sensitive Overlay District identified as surface waters, shall be permitted to the extent that they are not prohibited by any other Ordinance, other provisions of this Ordinance or underlying zoning district, and provided they meet the applicable performance standards for surface waters.
3. Conditional Uses: All uses within the "E-S" Environmentally Sensitive Overlay District identified as surface waters shall be permitted to the extent that they are not prohibited by any other Ordinance, other provisions of this Ordinance or underlying zoning district conditional uses and provided they meet the applicable performance standards for surface waters.
4. Performance Standards
  - a. Establishment of the Surface Water Floating Buffer Zone. All surface waters not afforded the protection offered under Section XVII (A), Floodplains, of this Ordinance shall establish upon and adjacent to it a floating buffer zone. For purposes of this Ordinance, the floating buffer zone shall be defined as a land strip adjacent to the shoreline necessary to maintain existing water quality. The width of the floating buffer zone shall be a minimum of one hundred (100) feet unless upon

the determination of the Zoning Administrator it is determined that the surface waters can be protected on less than the minimal distance. The administrator shall consider: (1) the soil type and how surface water filters into the ground; (2) the types and amount of vegetative cover and how it stabilizes the soil, and/or (3) the slope of the land with the buffer zone and how significant it is for retaining sediment from reaching the streams.

- b. All structures and uses, including septic systems, to be placed upon surface waters and adjacent floating buffer zones shall submit to the Zoning Administrator a plan reviewed by the District Soil Conservationist and County Environmental Health Supervisor. Said plan shall be in a manner prescribed by the District Soil Conservationist and County Environmental Health Supervisor and may include but not limited to special design applications, staged development practices, the use of temporary vegetation and mulching, permanent vegetation seedings, retention of the natural condition, wherever feasible, alterations caused by unusual topography, the construction of sediment basins or silt traps, and required maintenance.
- c. Structures or uses prohibited. The structures and uses listed under Section XVII (D)(4)(c) shall be prohibited within the "E-S" Environmentally Sensitive Overlay District, identified as surface waters.

SECTION XVIII.  
AGRICULTURAL LAND PRESERVATION AREA OVERLAY

Intent: It is the intent of this section to provide for the establishment of voluntary agricultural land preservation areas, hereinafter referred to as agricultural areas, in accordance with Chapter 352 of the State Code of Iowa, as amended, and the provisions of this Ordinance. Black Hawk County and the State of Iowa recognize the importance of preserving the limited supply of agricultural land. Conversion of farmland to urban development and other non-farm uses reduces future food production capabilities and may ultimately undermine agriculture as the major economic activity in Black Hawk County and Iowa.

A. Creation of Agricultural Areas

1. An owner or owners of farmland may submit a proposal to the County Board of Supervisors for the creation of an agricultural area within the county. An agricultural area, at its creation, shall include at least three hundred (300) acres of farmland, however, a smaller area may be created if the farmland is adjacent to an established agricultural area or to farmland subject to an agricultural land preservation ordinance.
2. The proposal shall include a description of the proposed area, including its boundaries. The territory shall be as compact and as nearly adjacent as feasible.
3. Land shall not be included in an agricultural area without the consent of the owner.
4. Agricultural areas shall not exist within the corporate limits of any city.

B. Principal Permitted Uses

The following uses shall be permitted in an agricultural area.

1. Farm operations as defined in Chapter 352, State Code of Iowa, as amended.
2. Residences constructed for occupation by a person engaged in farming or in a family farm operation. Nonconforming preexisting residences may be continued in residential use.
3. Property of a telephone company, city utility as defined in Section 390.1, public utility as defined in Section 476.1, or pipeline company as defined in Section 479.2 of the State Code of Iowa.
4. Exceptions. The County Board of Supervisors may permit any use not listed above in an agricultural area only if it finds all of the following:

- a. The use is not inconsistent with the purposes set forth in Chapter 352, State Code of Iowa, as amended.
- b. The use does not interfere seriously with the farm operations within the area.
- c. The use does not materially alter the stability of the overall land use pattern in the area.

C. Procedures

1. Within thirty (30) days of receipt of a proposal to create or expand an agricultural area which meets the statutory requirements the County Board of Supervisors shall provide notice of the proposal by publishing notice in a newspaper of general circulation in the county. The notice shall provide an explanation, declare that all documents are available for public scrutiny, and set forth the date, time, and place of the hearing. Within forty-five (45) days after receipt, the County Board of Supervisors shall hold a public hearing on the proposal.
2. Within sixty (60) days after receipt of the petition, the County Board of Supervisors shall adopt or modify the proposal. Modifications may include adding land from other interested landowners and / or excluding land inconsistent with the purposes of agricultural areas. The County may consult with the Department of Natural Resources when creating or expanding an agricultural area contiguous to a location which is under the direct supervision of the Department, including state park, state preserve, state recreation area, or sovereign lake.

D. Certification

1. Upon the creation of an agricultural area, its description shall be filed by the County Board of Supervisors with the County Auditor and placed on record in the office of the County Recorder.
2. Upon creation, the description of the agricultural area shall be overlaid upon the Official Black Hawk County Zoning Map(s) by the County Zoning Administrator.

E. Withdrawal

1. At any time after three (3) years from the date of creation of an agricultural area, an owner may withdraw from an agricultural area by filing with the County Board of Supervisors a request for withdrawal containing a legal description of the land to be withdrawn and a statement of the reasons for the withdrawal. The County Board of Supervisors shall, within sixty (60) days of receipt of the request, approve or deny the request for withdrawal.
2. At any time after six (6) years from the date of creation of an agricultural area, an owner may withdraw from an agricultural area by filing with the County Board of Supervisors a notice of withdrawal containing a legal description of the land to be withdrawn.

3. The County Board of Supervisors must notify the County Auditor and the County Recorder of changes in the legal description of the agricultural area.
4. Said modification shall be made by the withdrawal of described boundary from the Official Black Hawk County Zoning maps by the County Zoning Administrator.
5. Withdrawal shall be effective on the date of recording.
6. The agricultural area shall continue to exist even if smaller than three hundred (300) acres after withdrawal.

F. Incentives for Agricultural Area Creation

1. Limitation on power of certain public agencies to impose public benefit assessments or special assessments. Per Subsection 352.10 in the Code of Iowa, the County, a political subdivision or a benefited district providing public services such as sewer, water, or lights or for non-farm drainage shall not impose benefit assessments or special assessments on land used primarily for agricultural production within an agricultural area on the basis of frontage, acreage, or value, unless the benefit assessments or special assessments were imposed prior to the formation of the agricultural area, or unless the service is provided to the landowner on the same basis as others having the service.
2. Nuisance restriction. Per Subsection 352.11 of the Code of Iowa, a farm or farm operation located in an agricultural area shall not be found to be a nuisance regardless of the established date of operation or expansion of the agricultural activities of the farm or farm operation. This subsection:
  - a. Does not apply if the nuisance results from the negligent operation of the farm or farm operation or in violation of federal or state statute or regulation.
  - b. Does not apply to actions or proceedings arising from the injury or damage to person or property caused by the farm or farm operation before the creation of an agricultural area.
  - c. Does not affect or defeat the right of a person to recover damages for injury or damage sustained by the person because of the pollution or change in condition of the waters of a stream, the overflowing of the person's land, or excessive soil erosion onto another person's land.
3. Water priority. In the application for a permit to divert, store, or withdraw water and in the allocation of available water resources under a water permit system, the Department of Natural Resources shall give priority to the use of water resources by a farm or farm operations, exclusive of irrigation, located in an agricultural area over all other uses except the competing uses of water for ordinary household purposes (Subsection 352.11.2).
4. Limitation of state regulation. In order to accomplish the purposes set forth in this Ordinance and Chapter 352, State Code of Iowa, as amended, a rule adopted by a state agency which would restrict or regulate farms or farm operations may contain standards which are less restrictive for farms or farm operations inside an agricultural area than for farms or farm operations outside such an area. A rule containing such a discrimination shall not for the fact of such discrimination alone be found or held to be unreasonable,



arbitrary, capricious, beyond the authority delegated to the agency, or characterized by an abuse of discretion or clearly unwarranted exercise or discretion (Subsection 352.12).

5. Statement of prime agricultural soils. If the damages are to be paid by the state and the land to be condemned is within an agricultural area as provided in Chapters 352.12; 335.27; and 6B.3, Code of Iowa, and this Ordinance a statement disclosing whether any of that land is classified as Class I or Class II land under the United States Department of Agriculture Soil Conservation Service Land Capability Classification System contained in the Agriculture Handbook Number 210, 1961 edition and, if so classified, stating that the Class I and Class II land is reasonably necessary for the work of internal improvement for which condemnation is sought.

## SECTION XIX. NONCONFORMING USES

### A. General Intent

Within the districts established by this Ordinance, or amendments that may later be adopted, there exist lots, structures, buildings, and uses of land 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 amendments.

1. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed or abandoned, but not to encourage their survival. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
2. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which substantial improvements have been made.
3. Any use in existence at the time of adoption of this Ordinance which was not an authorized "nonconforming use" under the previous zoning Ordinance shall not be authorized to continue as a nonconforming use pursuant to this Ordinance, or amendments thereto.

### B. Nonconforming Use of Land

The lawful use of land upon which no building or structure is erected or constructed which becomes nonconforming under the terms of this Ordinance as adopted or amended may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming use shall be enlarged, increased or extended to occupy a greater area of the parcel, or land, in question than was occupied at the effective date of adoption or amendment of this Ordinance.
2. If any such nonconforming use of land ceases for a period of more than one (1) year, any subsequent use of such land shall conform to the district regulations for the district in which such land is located, unless an extension is granted by the Commission.

3. No such nonconforming use shall be moved in whole, or in part, to any other portion of the lot or parcel which was not occupied by such use at the effective date of adoption or amendment of the Ordinance.

C. Nonconforming Use of Structures

If a lawful use of a structure, or of a structure and land 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 entirely or in part to a use not permitted by this Ordinance in the district in which it is located, shall be enlarged, extended, reconstructed, or structurally altered, unless the use is changed to a use permitted in the district in which such structure is located.
2. Any nonconforming use of a structure 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. No such use shall be extended to occupy any land outside such building.
3. If no structural alterations are made, a nonconforming use of a structure may be changed to another nonconforming use of a similar nature within the same or a more restricted classification.
4. When a nonconforming use of a structure, building or premises (including mobile homes) is discontinued or abandoned for one (1) year, the structure shall not thereafter be used except in conformance with the regulations of the district in which it is located, unless an extension is granted by the Commission.

D. Nonconforming Structures

Where a nonconforming structure exists at the effective date of adoption or amendment of this Ordinance, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such structure may be enlarged or altered in a way which increases its nonconformity.
2. Should such structures be destroyed by any means to an extent of fifty (50) percent or more of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

E. Nonconforming Lots of Record

In any district in which a single-family dwelling is permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on a lot of record, herein defined, or multiple lots of record, provided the yard area and setback requirements are met. This provision shall apply even though such lot or lots fail to meet the requirements for area or width, or both, that are generally applicable in the district. However, the lot area requirements provided in Section XXIII (N) shall still apply. No portion of said lot or lots shall be used or sold in a manner that diminishes compliance or increases non-compliance with yard area and setback requirements, or causes a decrease in lot area.

F. Nonconforming Status Exemption

The following exemptions shall apply to any use that would be deemed nonconforming by the provisions of this section, subject to the following provisions:

1. In an "A" Agricultural District, existing dwellings, including mobile homes, that were lawful prior to the adoption of this Ordinance or amendments thereof that would be declared nonconforming. Such dwellings and customary accessory buildings shall qualify for an exemption which shall permit said use to be enlarged, extended, reconstructed, replaced, or structurally altered. All dwellings and structures located within an "E-S" Environmentally Sensitive Overlay District shall conform to the applicable provisions of said overlay district.
2. Any use for which a special permit has been issued, without further action.

G. Repairs and Maintenance

All nonconforming structures may be repaired for normal maintenance. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition any building declared to be unsafe by any official charged with protecting the public safety, upon order of such official. Said maintenance or restoring shall not be valued at fifty (50) percent or more of the structure's value prior to construction.

H. Certification of Nonconforming Uses

All nonconforming uses and structures shall be recorded and identified in the official nonconforming use file maintained by the Zoning Administrator. The file shall include, but not limited to, the property location and identification and the current use of the structure or land. Nonconforming uses not included may be subsequently added to the file when accompanied by an affidavit of proof that such nonconforming use was legally established prior to the effective date of this Ordinance.

I. Moratorium on Applied Regulations

All principal permitted and accessory uses which would be deemed nonconforming under the provisions of this Ordinance, but would have been permitted under the previous zoning district, as indicated upon the Official Black Hawk County Zoning Maps, as amended, shall be permitted to be developed for a period of one (1) year from the adoption date of this Ordinance. This provision shall not be construed to allow a lessening of standards, rules, regulations or restrictions contained herein.

SECTION XX.  
PROVISIONS FOR AUTOMOBILE PARKING

- A. In the "C" Commercial and "C-M" Commercial-Manufacturing Districts in connection with every industrial, commercial, business, trade, institutional, recreational, or similar uses, off-street space for parking and storage of vehicles shall be provided in accordance with the following schedule; however, no parking area required hereunder shall be less than one thousand (1,000) square feet in area except in the case of dwellings and retail stores and shops under one thousand (1,000) square feet. A parking space shall contain not less than one hundred eighty (180) square feet plus necessary maneuvering for the parking of a motor vehicle. Space for maneuvering, incidental to parking or unparking, shall not encroach upon any public right-of-way. Parking spaces for other than residential use shall be of a surface material approved by the County Engineer.
  
- B. Where a parking lot does not abut on a public or private street, road, alley, or easement of access, there shall be provided an access drive not less than ten (10) feet in width in case of a dwelling, and not less than twenty (20) feet in width in all other cases leading to the loading or unloading spaces and parking or storage areas required hereunder in such manner as to secure the most appropriate development of the property in question; provided however, such easement of access or access drive shall not be located in any agricultural or residence district, except where serving a permitted use in an agricultural or residence district.

TABLE 2. PARKING REQUIREMENTS

USE	PARKING REQUIREMENT
Animal Hospital and Veterinary Clinic	1 for each 200 sq. ft. of floor area
Automobile or Farm Implement Sales and Service Garages	1 for each 2 employees
Barber Shops and Beauty Parlors	1 for each chair plus one
Bowling Alleys	3 for each lane
Clothing Stores, Grocery Stores, Hardware Stores, Jewelry Stores, Pharmacies	1 for each 300 sq. ft. of floor area
Church or Temple	1 for each 6 seats
Community Center, Library, and Museum	11 plus 1 for each 300 sq. ft. in excess of 2,000 sq. ft. of floor area
Dental and Medical Clinics	1 for each 300 sq. ft. of floor area, except in any "R" District, where 3 plus 1 additional per 400 sq. ft. in excess of 1,000 sq. ft. of floor area
Drive-In Restaurant	3 for each employee on maximum shift
Financial Institutions, Business Offices, Professional Offices, and Studios	1 for each 300 sq. ft. of floor area
Frozen Food Lockers, Laundries, and Dry-Cleaning	1 for each 300 sq. ft. of floor area
Furniture and Household Appliance Sale and Service Establishments	1 for each 500 sq. ft. of floor area
Hospitals	1 for each 4 beds
Indoor Theaters	1 for each 4 seats
Mortuary or Funeral Home	1 for each 100 sq. ft. of floor area
Motel and Hotel	1 for each unit or suite plus 1 for each 100 sq. ft. of commercial floor area
Printing, Publishing, and Engraving Establishments	1 for each 500 sq. ft. of floor area
Private Club or Lodge	5 plus 1 for each 200 sq. ft. in excess of 1,000 sq. ft. of floor area
Residential Dwelling	2 spaces per dwelling unit
Restaurants, Cafes, Nightclubs	1 for each 100 sq. ft. of floor area
Sanitarium, Nursing, Rest, or Convalescent Home	1 for each 6 beds
Schools and Public Buildings	1 for each classroom or office room plus 1 for each 11 seats in main auditorium, stadium, or place of public assembly
Skating Rink	1 for each 100 sq. ft. of floor area
Warehouse, Storage, and Manufacturing Operations	1 for each 2 employees plus 1 for each vehicle used by the industry
Wholesale Display and Sales Rooms and Offices	1 for each 300 sq. ft. of floor area
In the case of any use which is not specifically mentioned herein, the provisions for a similar use mentioned shall apply.	

- C. Every parcel of land hereafter used as a public or private parking area, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements:
1. No part of any parking space shall be closer than five (5) feet to any established highway, road, street, or alley right-of-way line. In case the parking lot adjoins an "R" District, it shall be set back at least five (5) feet from the "R" District boundary and shall be effectively screen planted.
  2. All required off-street parking area, including any commercial parking lot, for more than five (5) vehicles shall be of a surface material approved by the County Engineer, shall be so graded and drained as to dispose of all surface water accumulation within the area and shall be so arranged and marked as to provide for orderly and safe loading and unloading and parking and storage of self-propelled vehicles.
  3. Any lighting used to illuminate any off-street parking area including any commercial parking lot shall be so arranged as to reflect the light away from adjoining premises in any "R" District.
- D. In any "R" Residence District abutting a "C" Commercial or "C-M" Commercial-Manufacturing District, off-street parking lots shall be permitted in accordance with the following requirements:
1. Said off-street parking lot shall not extend further than two hundred (200) feet into an "R" Residence District or to the nearest street, whichever is closer.
  2. Off-street parking lots located in an "R" Residence District shall provide front and side yards in accordance with the district in which it is located. Provided further that front or side yards shall be used for fences, walks or landscaping only, with no vehicular parking in said yard area. Provided further that where a contiguous development of lots is used for parking purposes, no side yard shall be required for abutting parking lots having a common side lot line.
  3. Off-street parking lot in any "R" Residence District shall provide a permanent fence of shrubbery screen on all side yards of the abutting "R" Residence District. Such screen to be located in the provided side yard.
  4. Off-street parking lots on any "R" Residence District shall be developed with an all weather, dust free surface. Such surfacing shall be approved by the County Engineer. Provided further that such parking lots shall be maintained in an orderly manner free from refuse or debris.
  5. All lighting for said off-street parking lots shall be such that no light is directed or reflected on adjacent residential properties.

SECTION XXI.  
REQUIREMENTS FOR LOCATION OF MOBILE HOMES  
AND MOBILE HOME PARKS

- A. Mobile homes to be used for dwelling purposes shall be placed only in mobile home parks except as may be herewith set forth. A mobile home park may be established in only designated districts provided a permit is secured as set forth herein.
- B. 1. Permit: It shall be unlawful for any person to maintain or operate a mobile home park within the unincorporated areas of Black Hawk County unless such person shall have first obtained a special permit therefore as set forth in the Ordinance.
2. Application for Permit: Any person desiring to operate a mobile home park shall first file application for approval of site location with the County Zoning Commission. Applications shall be in writing, signed by the applicant, and shall contain the name and address of the applicant, the location and legal description of the site, and a site plan, and shall have attached thereto the written consent of seventy-five (75) percent of the property owners within two hundred (200) feet of any part of the premises to be occupied for such use, exclusive of any public street or highway right-of-way.
3. After consideration of the application, the County Zoning Commission shall submit its recommendations to the Board of Supervisors and said Board shall then grant or deny the application.
4. After approval of the site has been obtained and before issuance of a permit for construction, the applicant must file with the administrative officer of the County Zoning Commission proof of compliance with all requirements of the Department of Health of the State of Iowa.

Required as proof of such compliances shall include the following:

- a. An approved set of plans showing lot and street layout.
- b. Sewage and disposal systems.
- c. Water supply and distribution system.
- d. Electrical distribution and lighting.

When such approved plans have been submitted to the Administrative Officer, he shall then issue a permit for the construction of such facilities on the approved site.

C. Mobile Homes Located Other than in Mobile Home Parks

1. A mobile home may be placed on a farm as the principal dwelling unit. Also, one (1) mobile home may be placed on a farm in addition to an existing permanent dwelling, provided the occupant of said mobile home is a member of the immediate family of the property owner, is actively engaged in the conduct of agricultural operation of said farm and a "Request for Mobile Home" form is filed with the Zoning Administrator. For the purpose of this section, the immediate family shall be interpreted as father, mother, son, daughter, wife, husband, brother, sister, grandparent or grandchild. The preceding provision is not to be construed to permit two (2) mobile homes on one farm.

2. A special use permit for mobile homes used as temporary living quarters during construction of a principal dwelling may be issued by the Administrative Officer after approval of the County Zoning Commission. The Commission shall determine the expiration date of the permit.
3. A mobile home may be used as a temporary office upon obtaining a permit from the Zoning Administrator. Said permit shall be authorized for a period not exceeding one hundred eighty (180) days.
4. Nothing in this Ordinance shall be construed as permitting a mobile home to be used for commercial, storage, or other uses except for human habitation.

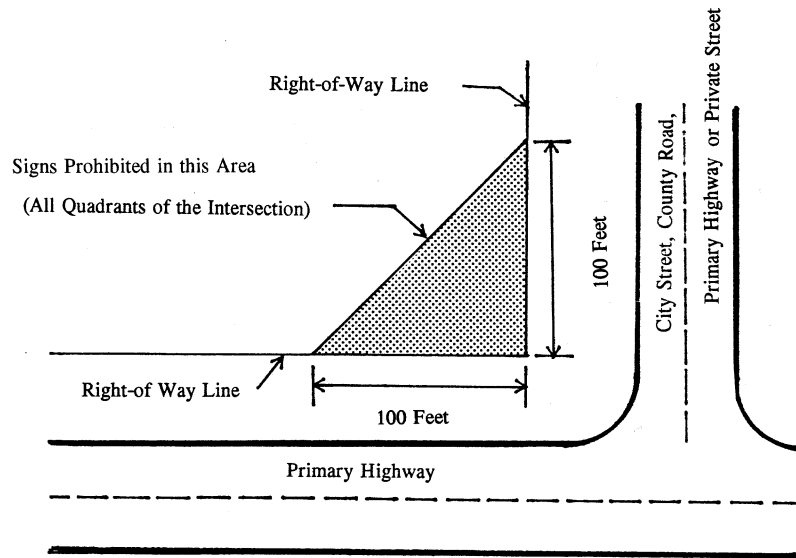


SECTION XXII.  
OUTDOOR ADVERTISING SIGNS AND BILLBOARDS

- A. General Intent: It is the intent of the County not to unduly restrict outdoor advertising signs and billboards in the rural area. However, placement and construction of outdoor advertising signs and billboards should be compatible with surrounding land uses and preserve property values of surrounding properties, should protect existing businesses which are adequately identified and advertised from a proliferation of signs which reduce the effectiveness of individual signs, should not disrupt agricultural operations or take agricultural operations out of production, should not distract adjoining residences, and should not distract nor reduce visibility for moving vehicular traffic. The regulations governing outdoor advertising signs and billboards shall comply with all State and Federal regulations.
- B. Regulation of All Signs: The regulations contained in this Section shall apply to and regulate signs in all Districts. No sign shall be located, erected, or maintained except in compliance with these regulations. Such signs shall obtain a building permit and zoning approval prior to construction.
1. Exemptions: The regulations contained in this Section shall not apply to:
- a. Signs erected by, or on behalf of, or pursuant to the authorization of a governmental body;
  - b. Official signs of a non-commercial nature erected by public utility companies;
  - c. Signs painted on or otherwise permanently attached to currently licensed and operable motor vehicles, which vehicles are not stored in open areas or primarily used as signs;
  - d. Signs located within buildings;
  - e. On-site directional signs on public or private property not to exceed six (6) square feet per sign and bearing no advertising matter;
  - f. Warning signs, no trespassing, no hunting and similar signs on private property;
  - g. "For Sale" and "Garage Sale" type signage less than six (6) square feet only on days of sale on private property;
  - h. Temporary signs relating to construction not to exceed thirty-two (32) square feet in area on private property and to be removed upon completion of the construction;
  - i. Temporary banners or portable type signage not to exceed a sixty (60) day period and not to exceed ninety (90) cumulative days per calendar year on private property;
  - j. Political signs on private property in compliance with State Code;
  - k. Off-site directional signs for any public or parochial school, hospital or other non-profit fraternal institutions on private property not to exceed six (6) square feet per sign; and;
  - l. Signs of a patriotic, religious, charitable, or civic character or signs for institutions of an educational, religious, philanthropic or eleemosynary character, provided said sign(s) shall be on private property and not contain more than thirty-two (32) square feet.

2. Prohibited Signs:
    - a. Signs with flashing or moving parts;
    - b. Non-affixed signs (e.g., signs that are not permanently affixed to a building, structure or the ground, except as permitted in Section XXII (B)(1)(i);
    - c. Non-exempt signs in street rights-of-way; and;
    - d. Signs which resemble traffic control signs or devices.
  3. Maintenance: All signs, together with all of their supports, braces, buys, and anchors, shall be kept in repair and in proper state of preservation and working order. The display surfaces of all signs shall be kept painted or posted at all times. The Building official may order the removal of any sign that is not maintained in accordance with this section after sixty (60) days from receipt of notice by owner of said sign.
  4. Non-Conforming Signs: If a sign is enlarged or relocated, it must comply with the code. If it is repaired or changed in any other way and the costs to repair or change exceed 50% of the total value of the sign, it must be replaced and all code requirements must be followed.
  5. Parcels Abutting Residential Use (division by road does not render a parcel non-abutting):
    - a. Where permitted, no sign shall face the front or side lot line of a residential use.
    - b. Where permitted, no sign except a wall sign shall be located within one hundred (100) feet of a property line of a residential use.
  6. No sign or billboard which faces any public parkway, public square or entrance to any public park, public or parochial school, church or cemetery or similar institution shall be permitted within three hundred (300) feet thereof.
- C. Off-premise Advertising and Billboards:
1. Shall be limited to the “C” Commercial and “C-M” Commercial-Manufacturing Districts;
  3. Shall not be permitted within the triangular area formed by a line connecting two points each one hundred (100) feet back from the point where the street right-of-way lines meet, or would meet, if extended (see Figure 6 below);
  4. Shall be set back from any proposed or existing right-of-way line of any county road, street or highway as shown on the official adopted street plan, at least as far as the required front yard depth for a principal building in such district and shall not extend over any property line;
  5. Shall not be permitted where the majority of buildings in a block are exclusively residences on both sides of the street; and;
  6. Upon recommendation of the Planning and Zoning Commission and approval from the Board of Supervisors.

**Figure 6: Sight Distance at Intersections**



D. On-premise Advertising in the Commercial and Commercial-Manufacturing Districts:

1. Any exterior wall sign shall pertain only to a use conducted within the building and be integral or attached thereto. No wall sign may exceed ten (10) percent of the wall or project over any street line or extend more than six (6) feet over any building line or setback requirement whether fixed to the building or any other structure. In no case shall any wall sign project more than four (4) feet above the roofline. Where the lot abuts a residential use, the exterior sign shall be attached flat against the building and shall not face the side of the abutting residential lot; however, this does not apply to the side of the building which is opposite that side abutting the residential use (division by road does not render a parcel non-abutting).
2. One post, pole or monument sign provided, however, that said sign shall not have a surface area greater than two (two) square feet for every foot of linear street frontage not to exceed one hundred and fifty (150) square feet on any one side thereof and not more than two (2) sides of said sign shall be used for advertising purposes. For post or pole signs, the bottom of said sign or surface area thereof shall not be less than ten (10) feet above the surface of the ground upon which it is erected. A post, pole or monument sign shall not be deemed to include any sign advertising the trade name, merchandise or service of any person, firm or corporation who pays a consideration for the privilege of placing, maintaining, or using any portion of said sign to the owner or occupant of the premises upon which said sign is erected or placed. Said sign shall not extend over street right-of-way lines nor otherwise obstruct or impair the safety of pedestrians or motorists. Additional post, pole or monument sign(s) may be allowed as long as they are no closer than one hundred and fifty (150) feet from any other post, pole or monument sign and the maximum square footage of all post, pole or monument signs does not exceed three hundred (300) square feet. Directional signs to facilitate the orderly flow of traffic with a maximum area of six (6) square feet each shall be permitted and shall not be included in the maximum square footage. A logo is permitted on the directional signs, but shall not exceed ten (10) percent of the total sign area.

3. Monument sign(s) are prohibited within the triangular area formed by a line connecting two points each one hundred (100) feet back from the point where the street right-of-way lines meet, or would meet, if extended (see Figure 6 above). Post or pole signs are permitted within the triangular area, provided they are erected and maintained with a minimum unobscured visual sight area of ten (10) feet measured from grade to bottom of sign.
4. Any roof sign, provided such sign shall not project more than fifteen (15) feet above the roofline and pertains only to a use conducted within the building.

E. Advertising in the Agricultural and Residential Districts

1. In the “A” Agricultural District, “A-L” Agricultural-Limited District, “A-R” Agricultural-Residential District, “R-S” Residential-Suburban District and the “R-M” Residential-Multiple District outdoor advertising signs and billboards are prohibited, except when accessory and customarily incidental to any principal permitted use within these districts. Any incidental accessory sign within these districts shall pertain only to a use conducted within the property except as provided for in this section. Any incidental accessory sign shall not contain more than thirty-two (32) square feet and shall be no more than twelve (12) feet high or no more than twelve (12) feet in width, and shall not be illuminated.
2. Home Occupations and Home Industries: Only one (1) identification sign may be displayed upon the lot, subject to the following requirements.
  - a. The sign contains only the name of the occupant and the nature of the occupation.
  - b. The sign shall not contain more than thirty-two (32) square feet and shall be no more than twelve (12) feet high or no more than twelve (12) feet in width.
  - c. The sign shall not be illuminated.
  - d. If located along a state or federal highway, an Iowa Department of Transportation permit must be obtained.

SECTION XXIII.  
EXCEPTIONS AND VARIATIONS OF THE USE, HEIGHT,  
AND AREA REGULATIONS

The district regulations as set forth in this section shall qualify or supplement, as the case may be, the district regulations appearing elsewhere in this Ordinance.

- A. Public, semi-public or public service buildings, hospitals, institutions, or schools, when permitted in a district, may be erected to height not exceeding sixty (60) feet and churches and temples may be erected to a height not exceeding seventy-five (75) feet if the building is set back from side and rear yard lines heretofore established an additional foot for each two (2) feet of building height above the height limit otherwise imposed in the district in which the building is located.
- B. Single-family and two-family dwellings may be increased in height by not more than ten (10) feet when the side and rear yards are increased over the yard requirements of the district in which they are located by not less than ten (10) feet, but they shall not exceed three (3) stories in height.
- C. Chimneys, cooling towers, elevators, bulkheads, fire towers, monuments, wind generators, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers and spires, church steeples, radio towers or necessary mechanical apparatus, may be erected to any safe height not in conflict with existing or hereafter adopted regulations of Black Hawk County, Iowa.
- D. Accessory buildings may be built in a required rear yard, but shall not occupy more than thirty (30) percent of the rear yard.
- E. No basement shall be occupied for dwelling purposes unless at least one (1) story of the house above the basement has been completed. This variation is not to be construed to prohibit earth-sheltered subterranean dwellings.
- F. Every part of a required yard shall be open to the sky, unobstructed except for accessory buildings in the rear yard and except for the ordinary projections of skylights, sills, belt course, cornices, building overhangs, and ornamental features projecting not to exceed twenty-four (24) inches, and except the usual projection of steps or stoops with a landing abutting an entrance with said landing not to exceed five (5) feet by five (5) feet. Landings exceeding this shall meet the setback requirements for a deck. Also except ramps for handicap accessibility, provided that such ramps provide as large of setback as possible while still meeting the minimum standards of the Americans with Disabilities Act (ADA).
- G. For the purpose of side yard requirements, a two-family group house or multiple dwelling shall be considered as one building occupying one lot.
- H. Buildings that are to be used for storage purposes only may exceed the maximum number of stories permitted in the district in which they are located but such buildings shall not exceed the number of feet of building height permitted in such districts.
- I. Temporary buildings that are used in conjunction with construction work only may be permitted in any district during the period the work is under way, but such temporary buildings shall be removed upon the completion of the construction work as determined by the Administrative Officer.

- J. More than one (1) industrial, commercial, multiple dwelling or institutional building may be erected upon a single lot or tract in a district permitting these uses, but the yards and open spaces required around the boundaries of the lot or tract shall not be encroached upon by any such buildings nor shall there be any change in the intensity of use regulations.
- K. Where more than thirty (30) percent of the frontage in a block has been built up with buildings having a front yard, then the building line of the buildings to be erected shall conform to the natural building line of the block as determined by the existing buildings. However, no building need set back more than fifty (50) feet.
- L. The Board of Adjustment shall review, may modify, and may, by special permit, issue a special exemption to the following uses, subject to the provisions of Section XXIV of this Ordinance. Said use may be located in any zoning district but otherwise restricted by other provisions of this Ordinance:
1. Any use erected or maintained on behalf of or pursuant to the authorization of any municipal, county, state or federal government agency, excluding any use erected or maintained on behalf of or pursuant to the authorization of Black Hawk County in an "A" Agricultural District or "A-L" Agricultural-Limited District.
  2. Commercial, amusement or recreational development for temporary periods.
  3. Radio and television broadcasting studios and stations.
  4. Temporary, portable asphalt paving plants for short-term projects.
- M. A deck or unenclosed porch may project not more than twelve (12) feet into the required yard setback. This will not be interpreted in any way to authorize any structure to project over a platted building line, property line or road right-of-way line. Said structure is defined as a non-enclosed structure and at no time can such structure be enclosed.
- N. In any district where there is neither a public water supply or a private water supply serving three (3) or more lots or principal permitted uses, or public sanitary sewer or a private sanitary sewage treatment system serving three (3) or more lots or principal permitted uses, the minimum lot area shall be one and one half (1 ½) acres per lot or one and one half (1 ½) acres per principal permitted use if more than one principal permitted use per lot.

SECTION XXIV.  
ADMINISTRATION AND ENFORCEMENT

A. Organization

The administration of this Ordinance is vested in the following four (4) offices of the government of Black Hawk County: County Board of Supervisors, Planning and Zoning Commission, Board of Adjustment, and the Zoning Administrator.

B. Basis of Regulations

Regulations are made in accordance with the Comprehensive Plan and designed to preserve the availability of agricultural land; to consider the protection of soil from wind and water erosion; to encourage efficient urban development patterns; to lessen congestion in the street; to secure safety from fire, flood, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to promote the conservation of energy resources; to promote reasonable access to solar energy; and to facilitate the adequate provision of transportation, water sewerage, schools, parks, and other public requirements.

C. Board of Supervisors

1. Jurisdiction: The Board of Supervisors of Black Hawk County, Iowa, shall discharge the following duties under this Ordinance:
  - a. Appoint a Zoning Administrator whose responsibilities it will be to enforce the provisions of this Ordinance.
  - b. Appoint members of the Board of Adjustment as provided for in this Ordinance.
  - c. Appoint members to the Planning and Zoning Commission as provided for in this Ordinance.
  - d. Receive and decide upon all recommendations concerning amendments, supplements, and changes presented by the Planning and Zoning Commission.
  - e. Receive from the Planning and Zoning Commission all recommendations on the effectiveness of this Ordinance.
  - f. To decide all matters upon which it is required to pass under this Ordinance, or by Statute or Regulation.

D. Board of Adjustment

1. Creation: The Board of Adjustment, as established under applicable provisions of the Iowa State Statutes, is the Board of Adjustment referred to in this Ordinance.
2. Appointment-Terms-Removal: The Board shall consist of five (5) members to be appointed by the Board of Supervisors for a term of five (5) years. A majority of the members of the Board of Adjustment shall be persons residing within the county but outside the corporate limits of any city. Members of the Board of Adjustment may be removed from office by the Board of Supervisors for cause upon written charges and after public hearing. Vacancies shall be filled by the Board of Supervisors for the unexpired term of the member affected.

3. Powers and Duties: The Board of Adjustment is hereby vested with the following powers and duties:
  - a. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Ordinance.
  - b. To hear and pass on all applications for special exceptions, in the manner prescribed in this Ordinance, after receiving written recommendations from the Planning and Zoning Commission.
  - c. To hear and pass on all applications for variances from the terms provided in the Ordinance in the manner prescribed and subject to the standards herein.
  - d. To carry out those duties required by Statute or Regulation.
  
4. Meetings and Rules: The Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this article. Meetings shall be held at the call of the chairperson and at such other times as the board may determine. The chairperson, or in his/her absence, the acting chairperson, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public. Meetings requiring action will require that the Board hold at least one (1) public hearing, notice of which shall be given by local newspaper not less than four (4) nor more than twenty (20) days before the date of the hearing. Landowners of record within five hundred (500) feet of the property in question shall receive a courtesy notice (not required by State Code) by mail about the proposed action. Landowner of record shall be considered the person or entity listed as the "tax mail to" contact from the records of the County Assessor and shall not include any road as defined herein.
 

The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be public record and be filed in the office of the Zoning Administrator.

The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this title, or to effect any variation in application of this title.
  
5. Finality of Decisions of the Board of Adjustment: All decisions and findings of the Board of Adjustment on appeals applications for a variance, or application for a special exception, after a hearing, shall, in all instances, be final administrative decisions and shall be subject to judicial review as by law may be provided.

E. Variances

1. Purpose and Findings of Fact: The Board of Adjustment, after a public hearing, may determine and vary the regulations of this Ordinance in harmony with the general purpose and intent, only in the specific instances hereinafter set forth, where the Board of Adjustment makes written findings of fact in accordance with the standards hereinafter prescribed.



2. Application for Variance: An application for a variance shall be filed in writing with the Zoning Administrator. Said application shall contain such information as the Board of Adjustment may, by rules, require.
3. Standards for Variance: The Board of Adjustment shall not vary the regulations of this Ordinance, as authorized in this Section, unless there is evidence presented to it in each specific case that:
  - a. The variance will not be contrary to the public interest, will be in harmony with the general purpose and intent of the Ordinance and substantial justice will be done; and;
  - b. Where owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship.

Special conditions shall include, but not be limited to, a property owner who can show that his property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of a specific piece of property or where by reason of exceptional topographical conditions or other extraordinary or exceptional situations, the strict application of the terms of this Ordinance actually prohibits the use of the property in a manner reasonably similar to that of other property in the district.

4. Further Requirements: The Board shall further find that:
  - a. The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; and;
  - b. That the variance will not be injurious to the surrounding landowners, or otherwise detrimental to the public welfare.

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 title and punishable under this Ordinance.

Under no circumstances shall the Board of Adjustment grant a variance to allow for 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 the District.

If a variance is sought to permit a structure within four (4) feet or less of a property line, the request must be accompanied by a certified survey that shows the location of the proposed structure in relation to the property lines.

5. Variances granted involving any regulation of Section XVII Use Regulation for the “E-S” Environmentally Sensitive Overlay District must meet the following applicable standards:
  - a. Variances shall not be issued within any designated floodway if any increase in flood levels during the 100-year flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

- b. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this Ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (1) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (2) such construction increases risks to life and property.
- c. All variances granted shall have the concurrence or approval of the Iowa Department of Natural Resources (IDNR).

F. Appeals

Any person or persons, or any board, taxpayer, department, board or bureau of the county aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the state.

G. Use Exception and other Powers of the Board of Adjustment

1. Use Exception:

- a. Purpose: The development and administration of this Ordinance is based upon the division of the County into Zoning Districts, within which Districts the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses which, because of their unique characteristics, cannot be properly classified in any particular District or Districts, without consideration in each case, of the impact of those uses upon neighboring land and of the public need for the particular use at the particular locations. Such use exceptions fall into two categories:
  - 1. Uses publicly operated or traditionally affected with a public interest, and
  - 2. Uses entirely private in character, but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.
- b. Initiation of Use Exceptions: Any person having a freehold interest in land, a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest of an exclusive possessory interest, either of which is specifically enforceable, may file an application to use such land for one (1) or more of the special exceptions provided for in this Ordinance in the zoning district in which the land is located.
- c. Application for Special Exception: An application for a special exception shall be filed with the Zoning Administrator on a form as the Zoning Administrator shall prescribe. The application shall be accompanied by such plans and/or date prescribed by the Board of Adjustment and shall include a statement indicating the section of this Ordinance under which the special exception is sought and stating the grounds on which it is requested.

- d. **Hearing on Application:** Upon receipt in proper form of the application and statement referred to, the Board of Adjustment shall hold at least one (1) public hearing on the proposed special exception. Notice of time and place of such hearing shall be published not less than four (4) days nor more than twenty (20) days in advance of the public hearing in a newspaper of general circulation in Black Hawk County. Before an appeal is filed with the Board of Adjustment, the appellant shall pay to the County the fees as specified in the Schedule of Fees on file at the office of the Zoning Administrator.
- e. **Authorization:** For each application for a special exception the Zoning Administrator shall prepare and file with the Board of Adjustment finding and recommendations, including the recommended stipulations of additional conditions and guarantees that are deemed necessary for the protection of the public interest.
- f. **Standards:** No special exception shall be granted by the Board of Adjustment unless such Board shall find:
  - 1. That the establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
  - 2. That the special exception will not be injurious to the use and enjoyment of other property already permitted, nor substantially diminish and impair property values within the neighborhood;
  - 3. That the establishment of special exceptions will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
  - 4. That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided;
  - 5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and;
  - 6. That the special exception shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Board of Adjustment.
- g. **Conditions and Guarantees:** Prior to the granting of any special use, the Board of Adjustment shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the special exception as is deemed necessary for the protection of the public interest and to secure compliance with the Standards and requirements specified in Subsection (f) above. In all cases in which special exceptions are granted, the Board of Adjustment shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being complied with.
- h. **Denial and Revocation of Special Exception:**

1. Denial of Special Exception. No application for a special exception that has been denied wholly or in part by the Board of Adjustment shall be resubmitted for a period of one (1) year from the date of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Board of Adjustment.
  2. Revocation of a Special Exception. In any case where special exception has not been established within one (1) year after the date of granting thereof, then, without further action by the Board of Adjustment the use on review or authorization shall be null and void.
- i. Other Powers of the Board of Adjustment: The Board of Adjustment is hereby vested with the following additional authority and jurisdiction:
1. Interpretation of District Map. Where the application of the rules for interpretation of district boundaries contained in this Ordinance leaves a reasonable doubt to the boundary between two (2) Zoning Districts the Board of Adjustment after notice to the owners of the property and after public hearing, shall interpret the Map in such a way as to carry out the intent and purposes of this Ordinance.
  2. Temporary Uses and Permits. The Board of Adjustment may issue a permit for the temporary use of a building or premises in any district for a purpose or use that does not conform to the regulations prescribed by this Ordinance, provided that such use be of a true temporary nature and does not involve the erection of substantial buildings. Such permit shall be granted in the form of a temporary and revocable permit for not more than a twelve (12) month period, subject to such conditions as will safeguard the public health, safety, convenience, and general welfare.

H. Planning and Zoning Commission

1. Creation: The Planning and Zoning Commission of Black Hawk County, as established under the applicable provisions of the Iowa State Statutes, is the Planning and Zoning Commission referred to in this Ordinance.
2. Membership: The Planning and Zoning Commission shall consist of seven (7) members to be appointed by the Board of Supervisors for a term of five (5) years. A majority of the members of the Planning and Zoning Commission shall be persons residing within the county but outside the corporate limits of any city. Vacancies shall be filled by the Board of Supervisors for only the unexpired term of the member affected. All members of the Commission shall serve without compensation except for actual expenses, which shall be subject to the approval of the Board of Supervisors. Immediately following their appointment the members of the Planning and Zoning Commission shall meet, organize, elect such officers as it may deem necessary, and adopt and later change or alter, rules and regulations of organization and procedure consistent with County Ordinances and state laws. The Commission shall keep written records of its proceedings which shall be open at all times to public inspection.

3. Powers and Duties: The Planning and Zoning Commission shall hold the following powers and discharge the following duties under this Ordinance:
  - a. Make such surveys, studies, maps, plans, or charts of the whole of the County, which in the opinion of the Commission bears relation to the Comprehensive Plan and shall bring to the attention of the Board of Supervisors, and may publish its studies and recommendations.
  - b. Review all plans, plats, or re-plats or subdivision or re-subdivision of land embraced in the County, laid out in lots or plats with the streets, alleys, or other portions intended for public dedication to the County.
  - c. Make careful and comprehensive studies of present conditions and future growth of the County with due regard to its relation to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the County and its environment which will promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development.
  - d. Hold at least one (1) public hearing before the adoption of any such comprehensive plan, notice of which shall be given by local newspaper not less than four (4) nor more than twenty (20) days before the date of the hearing. The adoption of the plan shall be by resolution of the Commission carried by the affirmative vote of a simple majority of the members.
  - e. Consider any proposed amendments or modifications of the adopted Comprehensive Plan. If the Planning and Zoning Commission disapproves the proposed change it may be adopted by the Board of Supervisors only by the affirmative vote of at least two-thirds (2/3) of the Board of Supervisors members.
  - f. Recommend to the Board of Supervisors changes in the zoning regulations or districts.
  - g. File recommendations, within thirty (30) days, in connection with any proposed changes in the zoning regulations or districts made by the Board of Supervisors.
  - h. Expend all sums of money appropriated, and expend all gifts, donations or payments received by the county for county plan purposes.
  - i. Contract debts within the limits of income for the present year.
  - j. Review and provide recommendations on all variances involving Floodway District regulations, prior to Board of Adjustment review.
  - k. Review and provide recommendations on all special exceptions prior to Board of Adjustment review.

I. Zoning Administrator

1. Designation of Zoning Administrator: The Zoning Administrator shall be designated by the Black Hawk County Board of Supervisors.

2. Powers and Duties of the Zoning Administrator: The Zoning Administrator shall enforce this Ordinance and in addition thereto and in furtherance of said authority, shall:
  - a. Issue all zoning permits and collect applicable fees.
  - b. Process all applications for variances, special exceptions, and rezoning for referral to the Board of Adjustment and Planning and Zoning Commission.
  - c. Respond to complaints of alleged violations to the Ordinance.
  - d. Provide and maintain a public information service relative to all matters arising out of this Ordinance.
  - e. Provide proper forms to the public for the zoning process.
  - f. Review site plans for conformance with the Ordinance.
  - g. Carry out the administrative duties for both the Planning and Zoning Commission and the Board of Adjustment.
  - h. Shall act as the Secretary to the Planning and Zoning commission and the Board of Adjustment.
  - i. Insure that public notices of hearings are properly advertised in local newspapers, and that notice is provided to the parties of interest.

J. Secretary of the Planning and Zoning Commission and the Board of Adjustment

1. Jurisdiction: The Secretary of the Planning and Zoning Commission and the Secretary of the Board of Adjustment shall be the Zoning Administrator.
  - a. The Secretary of the Planning and Zoning Commission shall attend all meetings of the Commission, take full and accurate minutes of the proceedings, prepare all necessary reports and documents for and on behalf of the Commission, and perform such duties and functions as may be necessary for the orderly recording of the business of the Commission.
  - b. The Secretary of the Board of Adjustment shall attend all meetings of the Board, take full and necessary reports and documents for and on behalf of the Board, and perform such other duties and functions as may be necessary for the orderly recording of the business of the Board.

K. Amendments to this Ordinance

1. Procedure: The regulations, restrictions, zoning designation and boundaries may from time to time, be amended, supplemented, changed, modified, or repealed, but no such amendments shall be made without public hearings first before the Planning and Zoning Commission and then the County Board of Supervisors. However, the regulation, restriction, zoning designation or boundary shall not become effective until after a public hearing at which parties in interest and citizens shall have an opportunity to be heard. The notice of the time and place of the hearing shall be published not less than four (4) days nor more than twenty (20) days in advance of the public hearing in a newspaper of general local

circulation, but in no case shall the public hearing be held earlier than the next regularly scheduled Board of Supervisors meeting following the published notice. Landowners of record within five hundred (500) feet of the property in question shall receive a courtesy notice (not required by State Code) by mail about the proposed action. Landowner of record shall be considered the person or entity listed as the “tax mail to” contact from the records of the County Assessor and shall not include any road as defined herein. Following the hearings, the County Board of Supervisors shall conduct the necessary readings regarding the Ordinance amendment, as outlined in the Code of Iowa.

In case the Planning and Zoning Commission does not approve the change, or, in the case of a protest filed with the Board of Supervisors against such change signed by the owner of twenty (20) percent or more, either of the area included in such propose change, or the area within five hundred (500) feet of the boundary of such proposed change, such amendment shall not be passed except by the favorable vote of two-thirds (2/3) of all members of the Board of Supervisors. Whenever any petition for an amendment, supplement or change of the zoning or regulations herein contained or subsequently established shall have been denied by the Board of Supervisors, then no new petition covering the same property or the same property and additional property or any part thereof of the same property shall be filed with or considered by the Board of Supervisors until six (6) months shall have elapsed from the date of the first petition. This shall become effective sixty (60) days after adoption by the Board of Supervisors.

As part of an ordinance changing land from one zoning district to another zoning district or an ordinance approving a site development plan, the Board of Supervisors may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property owner before the public hearing required under this section or any adjournment of that hearing. The conditions must be reasonable and imposed to satisfy public needs which are directly caused by the requested change in zoning district.

L. Applications for Rezoning and Use Exceptions

Applications shall contain the following items:

- a. The legal description and local address, if available, of the property to be rezoned.
- b. The present zoning classification and the zoning classification requested for the property.
- c. The existing use and proposed use of the property.
- d. The names and addresses of the property owners within five hundred (500) feet of the property in question.
- e. A statement of the reasons why the applicant feels the present zoning classification should be changed.
- f. A statement indicating how the proposed change relates to the County Policy Statements.
- g. A plat showing the locations, dimensions, and use of the applicants's property and all property within five hundred (500) feet thereof, including streets, alleys, railroads, and other physical features.

- h. Assurances that all applicable fees are paid.
- i. Publication of the legal description of the property or properties zoned or rezoned shall constitute an official amendment to the Official Zoning Maps; and, as such, said maps or portions of said maps need not be published.
- j. The signature of the property owner.



SECTION XXV.  
SITE PLAN REVIEW

A. Purpose

In accordance with the Comprehensive Plan of Black Hawk County, it is essential that new developments and structure alterations to existing 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 promote the health, safety, and general welfare of the public.

B. Application

Applications for all the Board of Supervisors, Planning and Zoning Commission, or Board of Adjustment action shall require the information described in Section XXV (E) of this Ordinance.

A site plan for uses other than major changes, multiple residential dwelling units, commercial, office and industrial shall accompany the "Building Permit Application." Major changes shall include additions to an existing building which increase the existing floor area by more than fifty (50) percent of the floor area of the building proposed to be added on to, or new buildings with a floor area exceeding fifty (50) percent of the floor area of all existing or approved principal buildings. The applicant shall provide a site plan in duplicate drawn to scale, showing the actual dimensions of the lot to be built upon, existing buildings, the size, shape and location of the proposed structure to be erected, and such other information as may be necessary to provide for the enforcement of this Ordinance. A record of application and plats shall be kept in the County Zoning Office.

C. Procedure

A site plan for a proposal listed in Section B above 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 shall immediately forward copies of the Site Plan to the County Engineer, the County Environmental Health Officer, and the District Soil Conservationist for their review and recommendation. The Zoning Administrator will place the site plan upon the agenda of the next regular meeting.

1. The Planning and Zoning Commission shall review the Site Plan proposal and receive a report from the County Engineer, the County Health Officer, the District Soil Conservationist, and the Zoning Administrator. The Commission shall make its determination of conditions for approval of the site plan within sixty (60) days of the first meeting. If no action is forthcoming within the sixty (60) days, the site plan shall be deemed approved and a building permit may be issued, provided all other approvals have been secured.
2. The developer may appeal the conditions of the Planning and Zoning Commission placed on the proposed development by notifying in writing the Board of Supervisors. Such appeal shall be made within thirty (30) days of the Commission's decision and shall specify what relief is requested of the Board of Supervisors. The Board shall hear said appeal as a committee of the whole within thirty (30) days and act upon the appeal at a regular Board meeting within sixty (60) days of appeal receipt.

3. A building permit may only be issued after Planning and Zoning Commission approval or decision of the Board of Supervisors on appeal.

D. 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 Black Hawk County may be adjusted to a wide variety of circumstances and topography, and to insure reasonable and orderly growth in rural Black Hawk County.

1. All proposed developments shall conform to the Land Use Policies of the Comprehensive Plan of Black Hawk County; the Black Hawk County Zoning Ordinance; the Black Hawk County Subdivision Guidelines and procedure, where applicable; such other county Ordinances as may pertain to such developments; and any applicable rules and regulations of the Department of Transportation, the Department of Health, the Department of Natural Resources, and other agencies of the State of Iowa.
2. Internal roads and streets shall be adequately constructed to accommodate the traffic generated. Entrances and exits on to public streets shall not unduly increase congestion or traffic hazards on the public streets and the proposed site.
3. The proposed development shall be designed with appropriate regard for topography, surface drainage, soil potentials, natural drainageways and streams, wooded areas, and other naturally sensitive areas which lend themselves to protection from degradation.
4. 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 outletted into roadside drainage facilities in excess of the existing runoff prior to development.
5. 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. And to such end, 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.
6. The proposed development shall be designed not to unduly increase the public danger of fire, explosion, and other safety hazards on the general public and the persons residing or working in adjoining or surrounding property.

E. Information on Site Plan

The purpose of the Site Plan is to show the facts needed to enable the Planning and Zoning Commission to determine whether the proposed development meets the requirements of this Ordinance and complies with the standards listed in D above.

1. The Site Plan shall conform to the following specifications:

- a. Location map showing relationship to surrounding roads, streams, and public facilities.
  - b. Scale of Site Plan shall not be more than one (1) inch to equal fifty (50) feet. Scale shall be shown in legend.
  - c. Name and address of landowner and developer.
  - d. Date, north marker, name of proposed development.
  - e. Existing buildings, utilities, railroads, right-of-ways, easements, location, and name of existing roads, stands of trees, and drainageways.
  - f. Location and name of adjoining subdivisions, subdivision lots therein, and names of the adjoining landowners.
  - g. Existing and proposed contour lines at intervals of two (2) feet, with a minimum of two (2) contours, when deemed necessary.
  - h. Zoning district classification; type of water supply and sewage disposal and storm sewer disposal.
  - i. Other information as necessary to describe how the standards in D above will be satisfied.
  - j. Proposed location of buildings, parking lots, etc.
2. Above said specifications may be amended, waived, or modified by the favorable vote of at least two-thirds (2/3) vote of all the members of the Commission.

F. Fees

Fees pertaining to permits and actions required by this Ordinance shall be in accord with the Schedule of Fees, as adopted by resolution by the County Board of Supervisors. A copy of the Schedule of Fees shall be on file in the Zoning Administrator's office.

SECTION XXVI.  
BUILDING PERMITS

A. Building Permits Required

Building permits shall be required in accordance with the following, except that no permit shall be required for agricultural or utility uses in accordance with Section II of this Ordinance.

1. No land shall be occupied or used, and no building hereafter erected or structurally altered shall be occupied or used in whole or in part for any purpose whatsoever, until a building permit is issued by the County Building Inspector, stating that the building and use comply with the provisions of this Ordinance.
2. No change of use shall be made in any building or part thereof, now or hereafter erected or structurally altered, unless such changes are in conformity with the provisions of this Ordinance and a permit is issued therefore by the County Building Inspector.
3. Nothing in this section shall prevent the continuance of a nonconforming use as hereinbefore authorized, unless a discontinuance is necessary for the safety of life or property.
4. In accordance with this section, building permits shall be obtained from the County Building Inspector before starting or proceeding with the erection, construction, moving in, or the structural alteration of a building or structure. Building permits shall be issued to complying applicants within seven (7) days after application is made and appropriate records and copies of permits shall be maintained as a matter of public record.
5. A building permit shall become null and void six (6) months after the date on which it is issued unless within such six (6) month period construction, building, moving, remodeling or reconstruction of a structure is commenced or a use is commenced.

**B. Building Permit Application Procedure**

Applicants for a Building Permit shall be required to provide the following:

1. A plat, in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon or used, the size, shape and location of the building to be erected, the dimensions of the required yards, parking and open spaces, and a vicinity map of the lot to be built upon or used.
2. Such information as may be necessary to provide for the enforcement of this Ordinance.

**SECTION XXVII.  
VIOLATION AND PENALTY**

Violations of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with the approval of any request required

under this Ordinance) shall constitute a civil penalty, which is a county infraction. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined as scheduled:

First offense – two hundred fifty dollars (\$250.00);

Second offense – five hundred dollars (\$500.00);

Third or subsequent offenses – seven hundred fifty dollars (\$750.00).

Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Black Hawk County from taking such lawful action as is necessary to prevent or remedy any violation.

SECTION XXVIII.  
ENFORCEMENT AND FEES

A. Enforcement

The Board of Supervisors shall appoint an Administrative Officer, and it shall be the duty of said officer to enforce this Ordinance. Such Administrative Officer may be a person holding other public office in the County, or in a city or other governmental subdivision within the County. The Board of Supervisors is authorized to pay to such officer out of the general fund such compensation as it shall deem fit.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or land is used in violation of this Ordinance, the Board of Supervisors, in addition to other remedies, shall institute any proper action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct business, or use in or about such premises.

B. Fees

Fees pertaining to permits and actions required by this Ordinance shall be in accord with the Schedule of Fees, as adopted by resolution by the County Board of Supervisors. A copy of the Schedule of Fees shall be on file in the Zoning Administrator's office. The following fees will be charged by the County.

1. Rezoning application fee.
2. Variance application fee.
3. Special exception application fee.
4. Building permit application fee.
5. Agricultural area petition fee, to cover the publication, notification, and recording costs.

SECTION XXIX.  
REPEALER AND VALIDITY

A. Repealer

All ordinances and resolutions, or any part thereof, in conflict with all or any part of this Ordinance are hereby repealed.

B. Validity

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, that 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.

SECTION XXX.  
EFFECTIVE DATE

Passed and adopted by the Black Hawk County Board of Supervisors the 18<sup>th</sup> day of July, 1995 and the 8<sup>th</sup> day of August, 1995. This Ordinance, as adopted, shall be in full force and effect from and after this 25<sup>th</sup> day of August, 1995.

This Ordinance, which was published on August 25, 1995 in the Waterloo Courier, shall replace Black Hawk County Ordinance Number 11 and any subsequent amendments to that Ordinance.

\_\_\_\_\_  
Miriam Turnbull, Chairperson  
Black Hawk County Board of Supervisors

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jack Roehr  
Black Hawk County Board of Supervisors

\_\_\_\_\_  
Date

\_\_\_\_\_  
Sonia Johannsen  
Black Hawk County Board of Supervisors

\_\_\_\_\_  
Date

\_\_\_\_\_  
Leon Mosley  
Black Hawk County Board of Supervisors

\_\_\_\_\_  
Date

\_\_\_\_\_  
Brian Quirk  
Black Hawk County Board of Supervisors

\_\_\_\_\_  
Date

Attest:

\_\_\_\_\_  
Grant Veeder  
Black Hawk County Auditor

\_\_\_\_\_  
Date

SECTION XXXI.  
ADDITIONS, CORRECTIONS AND AMENDMENTS



Copies of the document known as the Black Hawk County, Iowa, Agricultural Preservation Zoning Ordinance No. 36, adopted August 25, 1995, on file as set out herein, may be amended from time to time as authorized by law and provided for in said Ordinance.