

BUCHANAN COUNTY CODE OF ORDINANCES 2014

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TITLE I – POLICY AND ADMINISTRATION

CHAPTER 1

CODE OF ORDINANCES

1.01	Purpose	1.02	Definitions
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1.01 PURPOSE. This code of ordinances shall be known and may be cited as the Code of Ordinances of Buchanan County, Iowa 2014.

1.02 DEFINITIONS. Where words and phrases used in the Code of Ordinances are defined by state law, such definitions apply to their use and are adopted by reference. Those definitions so adopted which require further definition or are reiterated, and other words and phrases used herein, have the following meanings, unless specifically defined otherwise in another portion of the Code of Ordinances:

1. “Assessor” shall mean the County Assessor of Buchanan County, Iowa.
2. “Auditor” shall mean the County Auditor of Buchanan County, Iowa.
3. “Board,” “Board of Supervisors,” or “Supervisors” shall mean the Board of Supervisors of Buchanan County, Iowa.
4. “Board of Health” shall mean the Board of Health of Buchanan County, Iowa.
5. “Code” shall mean the specific chapter of the Code of Ordinances in which a specific subject is covered and bears a descriptive title word.
6. “Code of Ordinances” shall mean the Code of Ordinances of Buchanan County, Iowa.
7. “County” shall mean the County of Buchanan, Iowa.
8. “County Attorney” shall mean the Buchanan County Attorney.
9. “County Engineer” shall mean the Buchanan County Engineer.
10. “Measure” shall mean an ordinance, amendment of an ordinance, resolution or motion.
11. “Month” shall mean a calendar month.
12. “Oath” shall include an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words “affirm” and “affirmed” are equivalent to the words “swear” and “sworn.”
13. “Occupant” or “tenant”, applied to a building or land, shall include any person who occupies the whole or part of such building or land, whether alone or with others.
14. “Ordinances” shall mean the ordinances of Buchanan County, Iowa, as embodied into the Code of Ordinances, ordinances not repealed by the ordinance adopting the Code of Ordinances, and those enacted thereafter.

15. "Person" shall mean an individual, firm, partnership, domestic or foreign corporation, company, association of joint stock association, trust, or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof.
16. "Preceding" or "following" shall mean next before and next after, respectively.
17. "Property" shall include real property and tangible and intangible personal property unless clearly indicated otherwise.
18. "Property owner" shall mean a person owning private property in the County as shown by the County Auditor's plats of the County.
19. "Public place" shall include in its meaning, but is not restricted to, any County-owned open place, such as parks and squares.
20. "Public property" shall mean any and all property owned by the County or held in the name of the County by any of the departments, commissions or agencies within county government.
21. "Public way" shall mean any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
22. "Recorder" shall mean the County Recorder of Buchanan County, Iowa.
23. "Sidewalk" shall mean that surfaced portion of the street or roadway between the edges of the traveled way, surfacing, or curb line and the adjacent property line, intended for the use of pedestrians.
24. "State" shall mean the state of Iowa.
25. "Statutes" or "laws" shall mean the latest edition of the Code of Iowa, as amended.
26. "Street" or "highway" shall mean the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.
27. "Treasurer" shall mean the County Treasurer of Buchanan County, Iowa.
28. "Writing" or "written" shall include printing, typing, lithographing, or other mode of representing words and letters.
29. "Year" shall mean a calendar year.

1.03 GENERAL POWERS. The County may, except as expressly limited by the Iowa Constitution, and if not inconsistent with the laws of the Iowa General Assembly, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the County and of its residents, and preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents and each and every provision of the Code of Ordinances shall be deemed to be in the exercise of the foregoing powers and the performance of the foregoing functions.
(Code of Iowa, Sec. 331.301)

1.04 INDEMNITY. An applicant for any permit or license under this Code of Ordinances, by making such application, assumes and agrees to pay for all injury to or death of any person or persons whomsoever, and all loss of or damage to property whatsoever, including all costs and expenses incident

thereto, however arising from or related to, directly, indirectly or remotely, the issuance of the permit or license, or the doing of anything there under, or the failure of such applicant, or the agents, employees or servants of such applicant, to abide by or comply with any of the provisions of the Code of Ordinances or the terms and conditions of such permit or license. Such applicant, by making such application, forever agrees to indemnify the County and its officers, agents and employees, and agrees to save them harmless from any and all claims, demands, lawsuits or liability whatsoever for any loss, damage, injury or death, including all costs and expenses incident thereof, by reason of the foregoing. This section shall apply even though the County, or its officers, agents and employees, may have knowledge of any act, omission or condition which caused or contributed to such loss, damage, injury or death. The provisions of this section shall be deemed to be a part of any permit or license issued under the Code of Ordinances or any other ordinance of the County whether or not expressly recited therein.

1.05 RULES OF CONSTRUCTION. In the construction of the Code of Ordinances the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Board or repugnant to the context of the provisions.

1. Tense. Words used in the present tense include the future.
2. May. The word “may” confers a power.
3. Must. The word “must” states a requirement.
4. Shall. The word “shall” imposes a duty.
5. Gender. The masculine gender shall include the feminine and neuter genders.
6. Number. All words in the plural shall include the singular and all words in the singular include the plural unless the natural construction of the wording indicates otherwise.
7. Interpretation. All general provisions, terms, phrases, and expressions contained in the Code of Ordinances shall be liberally construed in order that the true intent and meaning of the Board may be fully carried out.
8. Extension of Authority. Whenever an officer or employee is required or authorized to do an act by a provision of the Code of Ordinances, the provision shall be construed as authorizing performance by a regular assistant, subordinate or a duly authorized designee of said officer or employee.

1.06 AMENDMENTS. All ordinances which amend, repeal or in any manner affect the Code of Ordinances shall include proper reference to title, division, chapter, section and subsection to maintain an orderly codification of ordinances of the County.
(Code of Iowa, Sec. 331.302 [4])

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

1.08 ALTERING CODE. It is unlawful for any unauthorized person to change or amend by additions or deletions, any part or portion of the Code of Ordinances, or to insert or delete pages or portions thereof, or to alter or tamper with the Code of Ordinances in any manner whatsoever which will cause the law of the County to be misrepresented thereby.
(Code of Iowa, Sec. 718.5)

1.09 STANDARD PENALTY. Unless another penalty is expressly provided by the Code of Ordinances for any particular provision, section or chapter, any person failing to perform a duty, or obtain a license required by, or violating any provision of the Code of Ordinances, or any rule or regulation adopted herein by reference shall be guilty of a simple misdemeanor.
(Code of Iowa, Sec. 331.302 [2])

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

CHAPTER 2

PARKS, NATURAL AREAS, AND RIVER ACCESS AREAS

2.01	Definitions	2.15	Domestic Refuse Not Permitted
2.02	Scope	2.16	Boats Unattended Not Permitted
2.03	Removal of Natural Features	2.17	Motor Vehicles Unattended Not Permitted
2.04	Use of Firearms Prohibited	2.18	Official Signs
2.05	Animals on Leash	2.19	Possession & Consumption of Beer Regulated
2.06	Hunting	2.20	Closing Time
2.07	Camping	2.21	Exceptions
2.08	Noise Producing Devices	2.22	Speed Restrictions
2.09	Recreation Uses Only	2.23	Hitching to Trees
2.10	Motor Vehicles	2.24	Fires
2.11	Fishing	2.25	Disturbance of the Peace
2.12	Trapping Restricted	2.26	Vandalism and Littering
2.13	Swimming Restricted	2.27	Violations and Enforcement
2.14	Reserving Park Facilities		

2.01 DEFINITIONS. Pursuant to the authority of Iowa Code Chapter 350 and Section 331.307, the Buchanan County Conservation Board hereby promulgates and places into effect the following regulations. The following terms, as used in this Chapter, have the meanings assigned hereto, unless a different meaning is clearly indicated.

1. “Board” shall mean the Buchanan County Conservation Board.
2. “Director” shall mean the Executive Director of the Conservation Board.
3. “Authorized representative” or “Designee” shall include park rangers and other persons designated from time to time by the Director.
4. “Area” shall mean all or any part of the land and/or water owned, leased, managed or by any other means under the control of the Board.
5. “Special use permit” shall mean any use permit issued by the Director pursuant to authority delegated by the Board, and signed by the Director or his authorized representative.
6. “Camp” or “camping” shall mean the use of a shelter such as a tent, trailer, motor vehicle, tarpaulin, or sleeping bag for temporary residence at a campground.
7. “Campground” shall mean any area designated by the board for camping.
8. “Campsite” shall mean a segment of a campground designated by the Conservation Board for camping by a camping unit or party.
9. “Camping unit” shall mean either a single tent not larger than 144 square feet in size at its base, pickup camper, motor vehicle, recreation trailer, tarpaulin, or sleeping bag used by a camping party. Camping is restricted to one basic unit per site except that a small tent or other type of camping unit may be placed on the site so long as the persons occupying the second unit are under 18 years of age and dependent members of the immediate family occupying the larger unit.

10. "Camping party" shall mean any individual, family, or informal unorganized group of not more than five persons occupying one campsite.
11. "Youth group" shall mean a group consisting of minor members of an established organization and chaperoned by at least one competent, mature adult for each 10 minors in the group using any number of camping units or occupying a group campground.
12. "Capacity" shall mean the maximum number of camping parties or camping units that the Board shall from time to time determine may occupy an area, campground, or campsite.
13. "Official signs" shall mean signs provided for by the Iowa DOT Manual on Uniform Traffic Control Devices for Iowa streets and highways and other signs designated from time to time by the Board.
14. "Noise" shall mean any loud, confused, or senseless shouting or outcry; a sound lacking in agreeable musical quality or which is noticeably unpleasant or excessively loud as to disturb others.
15. "Department" shall mean the Buchanan County Conservation Department.
16. "Vehicle" shall be defined the same as set forth in Iowa Code 321.1(90) "Vehicle".
17. "Off-road vehicle" means any self-propelled device used for transportation of a person or property and designed for primary use on surfaces other than a roadway or highway, including but not limited to all-terrain vehicles as defined in Iowa Code section 321.1(4), snowmobiles as defined in Iowa Code section 321G.1(20), swamp buggies, air sleds, tote bikes, and the like. The term does not include electric wheelchairs as defined in Iowa Code section 321.1(20B) "Electric Personal Assistive Mobility Device."

2.02 GENERAL REQUIREMENTS. The following provisions shall apply to the use of all areas:

1. Fees and charges for services or for the use of land, facilities, equipment, materials or supplies shall be established by the Board and collected by the Director or a Designee.
2. Persons desiring camping privileges shall produce means of photographic identification upon request of the Director or a Designee. Failure to produce such identification may be grounds for denial of camping privileges, at the discretion of the Director or a Designee.
3. It shall be unlawful for any person or persons to enter or use any facilities for which entrance or user fees are prescribed without payment of same, except those persons on official business or authorized by special permits.

2.03 REMOVAL OF NATURAL FEATURES. Mushrooms, asparagus, nuts, fruits, and berries may be harvested. Any other plant material, bird nests, rock formations, or cultural artifacts may not be altered or removed. Use of chain saws is prohibited.

2.04 USE OF FIREARMS PROHIBITED. The use by the public of firearms, and weapons of all kinds is prohibited on all Board controlled property except those areas designated as hunting areas by the Board pursuant to Section 2.06; provided, however, that use of BB guns and archery equipment shall be permitted when such use is for educational purposes and the Director or the Director's designee shall have inspected the educational shooting range prior to such use. Possession of firearms is prohibited between May 15 and October 1 in areas that the Board shall have designated as multi-use areas.

2.05 ANIMALS ON LEASH. It shall be unlawful for any person to permit a privately owned animal to run at large in an area. Such animal shall be deemed to be running at large unless the owner or handler carries such animal, leads it by a leash or chain not exceeding six (6) feet in length, or keeps it confined in or attached to a vehicle; provided, however, that it shall be lawful to permit dogs to run at large for the purpose of training or exercising them in or on all areas that the Board shall designate as hunting areas. Training of dogs is prohibited between March 15 and July 15. The Director or a Designee may, in the interest of public safety, order the removal of any animal at any time from any area.

2.06 HUNTING. Hunting shall be permitted only in such areas that the Board shall have designated for that purpose and shall conform to the requirements of this Chapter and all applicable state and federal laws and regulations. Hunting privileges may be revoked by any law enforcement officer for violation of this Chapter or any applicable state or federal laws or regulations. The use of lead shot for the purpose of shooting mourning doves within the boundaries of the Crumbacher Wildlife Area is prohibited. No firearms shall be permitted in any county multi-use area between May 15 and October 1.

In instances where a violation of this Section is alleged and appropriate circumstances exist, the County reserves the right to request that, upon conviction, the Court impose judgment on the violator for liquidated damages in amounts consistent with Iowa Code § 481A.130, in addition to any other penalties provided by law. The proceeds of liquidated damages imposed pursuant to this Section shall be remitted to the Treasurer of the State of Iowa as provided in Iowa Code § 481A.131.

2.07 CAMPING.

1. Registration is on a self-serve basis at the Fontana, Jakway, and Lime Creek areas. Instructions are posted at depositories located in those campgrounds.
2. Campers must register and pay fees within one hour of arrival. Campsites are not reservable.
3. When any campground is open and in usable condition all charges and fees shall be in effect and shall be enforced as set forth in the official fee schedule approved by the Board.
4. No camping party or camping unit of any kind shall occupy any campground more than 14 days out of any 28-day period without prior written approval by the Director.
5. A member of a registered camping party shall occupy each campsite or camping unit on the first night of the camping period and no campsite or camping unit shall be left unoccupied by the camping party for more than 24 hours. Unattended camping equipment still in place beyond the 24-hour limit is subject to impoundment. Camping equipment which may be impounded shall be removed and disposed of as provided by law.
6. Violation of any park regulation or state law by any member of a camping party shall be cause for revocation of such camping privileges and the entire camping party may be directed to leave the premises, at the discretion of the Director or a Designee.
7. It shall be unlawful to park any motor vehicle outside the parking area designated at each campsite, and not more than two licensed vehicles are permitted at any campsite.

8. Any non-registered person visiting a camping party in the campground must vacate the campground area by 10:30 p.m.
9. Camping is permitted only in areas and locations designated.
10. It shall be unlawful for any person to obtain a camping permit for use by a camping party of which he or she is not a member; provided, however, that parents and group leaders shall obtain a camping permit for use by youth groups. Persons under age 18 shall not be allowed to camp alone unless the Director or his authorized representative is contacted in advance by the parent or legal guardian and permission is granted.
11. Campers shall restore their campsites to the same approximate condition or better than when they found it.
12. Check out time for all campgrounds is 5:00 p.m.
13. The fee charged for use of the Fontana Park dump station by non-registered campers shall be equal to the fee charged to campers using electrical service at the Fontana Park campground.

2.08 EXCESSIVE NOISE. It shall be unlawful for any person in or on an area to:

1. Create, generate, or permit unreasonable or excessive noise between the hours of 10:30 p.m. and 6:00 a.m. For purposes of this paragraph, “unreasonable or excessive noise” shall be defined as sound that can be detected by the unaided human ear at a distance of 120 feet or more or from a distance equivalent to three campsites.
2. Use any radio, television, telephone, stereo, musical instrument, electric generator, or similar equipment under any circumstances between the hours of 10:30 p.m. and 6:00 a.m.
3. Operate or use any fixed, portable, or vehicular-mounted public address system or device, except when such use has been approved in writing by the Director or a Designee.

2.09 RECREATION USES ONLY. It shall be unlawful for any person to occupy any portion of any area for washing or repairing vehicles, advertising, political campaigning, hawking, peddling, or any other commercial activity or any other purpose not primarily recreational.

2.10 MOTOR VEHICLES. Operation of all vehicles in areas under the jurisdiction of the Board, except maintenance equipment of the Board and except as otherwise provided in this Chapter, shall be restricted to designated roadways and parking spaces. Operation of vehicles on designated roadways shall not exceed the posted speed limit. If no speed limit is posted, vehicles shall not exceed 15 miles per hour. All roadways and parking spaces in areas under the jurisdiction of the Board are public roads and operation on them is subject to all applicable statutes.

Operation of off-road vehicles is prohibited in all areas of Fontana Park and Three Elms Area, including roadways and parking spaces. Off-road vehicles may use the designated parking area on 125th Street as it runs through Fontana Park. Operation of off-road vehicles in designated roadways and parking spaces of all other properties under the jurisdiction of the Board is subject to Chapter 24 of the Buchanan County Code of Ordinances, including age restrictions, licensing, insurance and equipment requirements.

2.10A OFF-ROAD OPERATION OF VEHICLES. Operation of vehicles, including off-road vehicles, in any area under the jurisdiction of the Board other than a designated roadway or parking space, is prohibited unless the operator of such vehicle shall have acquired a special use permit for such use. Issuance of a special use permit for purposes of this paragraph is subject to the following restrictions:

1. Applicants for permits under this paragraph shall produce either a non-ambulatory permit issued by the Iowa Department of Resources, or a statement from the applicant's physician confirming that use of an off-road vehicle is medically indicated.
2. Issuance of such permit shall be at the discretion of the Director, who shall have sole authority to issue such permit. A permit shall not be issued unless the Director determines that the proposed operation will not significantly damage the quality of the area where it is to occur, that such operation will not significantly impact other users of the area where it is to occur, and that such operation will not require significant staff time to provide off-road access.
3. Operation of vehicles shall be restricted to those routes the Director shall specify on the permit.
4. Operation of vehicles shall be restricted to the start and termination times, date and area the Director shall specify on the permit.
5. The permit shall be firmly attached to the vehicle and be visible at all times.
6. Where appropriate, a duplicate of the permit shall be issued for any vehicle used to transport the vehicle to be operated off-road and shall be attached to the rearview mirror of the transport vehicle at all times.
7. Operation of vehicles shall be restricted to a maximum speed not exceeding five (5) miles per hour.
8. The Director shall not issue a permit for the operation of any vehicle whose ignition or exhaust systems shall have been modified in any manner that results in additional noise.
9. The operator of a vehicle used for hunting purposes shall transport game legally taken by the operator only. The operator shall not transport in the vehicle game taken by other members of the operator's party.

2.11 FISHING. All fishing done on lands and waters under the jurisdiction of the Board shall be done according to Iowa Department of Natural Resources regulations, Iowa law, and size limits posted by the Board. The privilege of fishing in an area under the jurisdiction of the Board may be revoked by any law enforcement officer for violation of Iowa law and/or this Chapter.

2.12 TRAPPING RESTRICTED. It shall be unlawful to trap or attempt to trap any wild animal in or on any area not designated as a hunting area by the Board, except those areas designated from time to time by the Board. All trapping done on lands and waters under the jurisdiction of the Board shall be done according to Iowa Department of Natural Resources regulations and Iowa law.

2.13 SWIMMING RESTRICTED. It shall be unlawful for any person to swim in waters under the jurisdiction of the Board. The Board assumes no responsibility for death or injury of persons resulting from swimming or wading in waters under its jurisdiction.

2.14 RESERVING PARK FACILITIES. Two of the three picnic shelters and the chapel area at Fontana Park may be reserved in advance for meetings, reunions, or similar gatherings by obtaining a special use permit at least five days in advance of the event at the Board's office at Fontana Park during normal business hours. Reservation fees are required in advance and are non-refundable. Picnic shelters which are not reserved will be available on a first come, first served basis.

2.15 DOMESTIC REFUSE NOT PERMITTED. It shall be unlawful for any person to transport garbage, refuse, or litter onto an area with intent to dispose of such garbage, refuse, or litter in or on an area.

2.16 BOATS UNATTENDED NOT PERMITTED. It shall be unlawful to leave unattended any boat or other form of water conveyance on or attached to any area, except those areas designated from time to time by the Board, for more than 12 consecutive hours. Any water conveyance left in violation of this section shall be removed and stored at the expense of its owner, which expense shall not be less than

\$25.00. If not reclaimed within six months of its removal, such water conveyance shall be considered abandoned and shall thereafter be disposed of as provided by law.

2.17 MOTOR VEHICLES UNATTENDED NOT PERMITTED. It shall be unlawful to leave any motor vehicle unattended on any area for more than 24 hours without permission of the Director or his authorized representative. Any motor vehicle left in violation of this section shall be removed and stored at the expense of its owner, which expense shall not be less than \$25.00. If not reclaimed within six months of its removal, all such motor vehicles shall be considered to be abandoned and shall thereafter be disposed of as provided by law.

2.18 OFFICIAL SIGNS. It shall be unlawful for any person to enter, use, or occupy any area or facilities within said area in disregard of any official signs.

2.19 CONSUMPTION OF ALCOHOLIC BEVERAGES. Beer and light wine (wine or beverages containing an alcoholic content of 6.25 percent or less by volume) may be consumed in areas administered by the Board; provided, however, that consumption of alcoholic beverages is prohibited on roads, parking lots, or in the immediate vicinity of the Fontana wild animal display. No person or group shall have in his, her, or their possession beer in a keg or other container larger than one quart, unless such person or group shall have obtained a special use permit from the Director. All requests for special use permits shall be in writing and shall be submitted to the Director not less than two weeks prior to the date of the event or activity. Any beer possessed in violation of this rule shall be subject to seizure by the Director or the Director's designee and shall be destroyed. All requests for special use permits shall be accompanied by a deposit and fee in amounts to be determined by the Board from time to time. The deposit shall be refunded to the applicant provided no complaints shall have arisen concerning the activity and provided the area where such activity shall have occurred is left in good order.

2.20 CLOSING TIME. All areas shall be closed to the public between the hours of 10:30 p.m. and 6:00 a.m. unless otherwise specified by the Board, in which case official signs shall be erected giving the public constructive notice of such change. The provisions of this section shall not apply to authorized camping by registered campers in designated camping areas.

2.21 EXCEPTIONS. Nothing in this Chapter shall prohibit or hinder the Board, the Director, park rangers or duly authorized agents or any other peace officer from performing his or her official duties.

2.22 SPEED RESTRICTIONS. The maximum speed of all vehicles operated in areas under the jurisdiction of the board shall be 15 miles per hour; but in no event shall any person operate a vehicle in such areas at a speed greater than is reasonable and proper, having due regard to the conditions then existing and the safety and welfare of other persons present in such areas.

2.23 HITCHING TO TREES. No horse or other animal shall be hitched or tied to any tree, shrub, or in such a manner as to result in injury to county property.

2.24 FIRES. No fire shall be built except in a place provided therefore, and such fire shall be extinguished when the site is vacated unless it is immediately used by some other party.

2.25 DISTURBANCE OF THE PEACE. It shall be unlawful for any person to engage in the following conduct in areas:

1. Quarreling, fighting, violent behavior, or other conduct that interferes with the use and enjoyment of such areas by persons lawfully engaged in activities approved for such areas.
2. Using profane, offensive, or obscene language that is intended to abuse the hearer.

2.26 VANDALISM AND LITTERING. It shall be unlawful for any person to:

1. Intentionally or recklessly destroy or deface property under the jurisdiction of the Board.
2. Deposit garbage, refuse, or litter in a location in or on an area other than a container or receptacle designed for such purpose.

2.27 VIOLATIONS AND ENFORCEMENT. In those instances where a violation of Section 2.06 of this Chapter is alleged, the County reserves the right to request that, upon conviction, the Court impose judgment for liquidated damages against the offender in amounts consistent with Iowa Code Section 481A.130, in addition to any other penalties provided by law. All liquidated damages received under this Section shall be remitted to the Treasurer of the State of Iowa as provided in Iowa Code Section 481A.131.

CHAPTER 3

INDUSTRIAL PROPERTY TAX EXEMPTIONS

3.01	Purpose	3.03	Duration
3.02	Partial Exemption	3.04	Effective Date

3.01 PURPOSE. The purpose of this Chapter is to provide for and authorize partial property tax exemptions for industrial property on which improvements have been made.

3.02 PARTIAL EXEMPTION. The provisions of Iowa Code Chapter 427B and specifically the schedule of partial exemptions from taxation set forth in Section 427B.3 are in effect and in force for property which is located in Buchanan County and which qualifies for such partial exemption pursuant to Section 427B.1, as amended.

3.03 DURATION. The partial exemption from taxation provided above shall remain in effect until this Chapter is repealed, or until the essential provisions of Chapter 427B are repealed by act of the Iowa General Assembly or adjudged invalid or unconstitutional, whichever shall occur first.

3.04 EFFECTIVE DATE. The provisions of this Chapter shall be in effect 30 days after a public hearing held in accordance with Iowa Code Section 335.6.

CHAPTER 4

LOCAL SALES AND SERVICES TAX

4.01 Local Option Sales and Service Tax Imposed

4.02 Effective Date

4.01 LOCAL OPTION SALES AND SERVICES TAX IMPOSED. There is imposed a local option sales and services tax application to transactions occurring within the following areas:

City of Aurora	City of Brandon	City of Fairbank
City of Hazleton	City of Independence	City of Jesup
City of Lamont	City of Quasqueton	City of Rowley
City of Stanley	City of Winthrop	
Unincorporated Areas of Buchanan County, Iowa		

The rate of the tax shall be one percent (1%) upon the gross receipts from the sale of goods and services taxed under Chapter 422, in the cities where the tax is imposed except those transactions exempted from the sales and services tax by Section 422B.8, Code. The local option sales and services tax is imposed on transactions occurring on or after July 1, 2000 within the incorporated areas of Aurora, Brandon, Hazleton, Lamont, Rowley, Quasqueton and Stanley. The local option sales and services tax is imposed on transactions occurring on or after July 1, 2003 within the incorporated areas of Fairbank, Independence, Jesup, and Winthrop and the unincorporated areas of Buchanan County. The tax imposed herein shall be collected by all persons required to collect state gross receipt taxes.

4.02 EFFECTIVE DATE. This Chapter shall be in effect July 1, 2003.

CHAPTER 4A

LOCAL SALES AND SERVICES TAX FOR SCHOOL INFRASTRUCTURE PURPOSES

4A.01 Tax Imposed

4A.02 Collection of Tax

4A.03 Use of Proceeds

4A.04 Effective Date and Termination
Date

4A.05 Repealer

4A.01 TAX IMPOSED. There is hereby imposed a local sales and services tax for school infrastructure purposes applicable to gross receipts of the sale within Buchanan County of good and services taxable under Iowa Code Chapter 422. The rate of the tax imposed herein shall be one percent (1%).

4A.02 COLLECTION OF TAX. The tax imposed herein shall be collected by all persons required to collect State gross receipts taxes.

4A.03 USE OF PROCEEDS. Proceeds from the tax imposed herein shall be utilized solely for those purposes set forth in Iowa Code Section 422E.1(3).

4A.04 EFFECTIVE DATE AND TERMINATION DATE. This ordinance and collection of the tax imposed herein shall be in effect commencing July 1, 2003 and terminating December 31, 2022.

4A.05 REPEALER. All ordinances and parts thereof in conflict with the provisions of this ordinance are hereby repealed; provided, however, that the tax provided for herein shall be imposed without regard to any other local sales and services taxes authorized by Iowa Code Chapter 422B and in effect in Buchanan County as of the effective date of this ordinance.

CHAPTER 5

SUSPENSION AND ABATEMENT OF REAL ESTATE TAXES

5.01	Purpose	5.04	Hearing
5.02	Application	5.05	Hearing
5.03	Initial Investigation		

5.01 PURPOSE. This Chapter is intended to implement Iowa Code Section 427.8 by prescribing procedures for the application, consideration, and determination of requests for suspension or abatement of real estate taxes.

5.02 APPLICATION. Any person who is unable to contribute to the public revenue and who desires the suspension or abatement of taxes on real property owned by the person shall execute a written verified petition to the Board of Supervisors. Each petition shall be accompanied by a statement of the applicant's financial condition, and an authorization for release of information.

5.03 INITIAL INVESTIGATION. Forms for the petition, statement of financial condition, and authorization for release of information shall be available at the office of the Buchanan County Treasurer. The Treasurer or the Treasurer's designee shall perform an initial investigation, which shall include review of the written information submitted by the applicant, and which may include requests for information from third parties, and shall make a preliminary determination of the eligibility of the applicant for the relief requested.

5.04 HEARING. If the Treasurer or the Treasurer's designee determines that the applicant is eligible for the relief requested, the Treasurer or the Treasurer's designee shall forward the petition and supporting documentation to the Board of Supervisors. The Board shall schedule a hearing on the application not later than 20 days after receipt. The applicant shall receive written notification of the date, time and place of hearing on the application.

5.05 HEARING. Hearing before the Board of Supervisors shall be an informal procedure without regard to the formal rules of evidence. The Board shall review the petition, supporting documentation, and any other written material which the applicant wishes to present. The applicant shall be permitted to make oral statements and the Board shall permit oral comment from any other interested person. At the conclusion of the hearing, the Board shall adopt a resolution which shall either allow or deny relief. If relief is to be allowed, the resolution shall specify the form of relief, whether by suspension or abatement. Upon such approval, the petition and resolution shall be filed with the Treasurer prior to March 1 of the current tax year.

CHAPTER 6

JAIL INMATE CHARGES

6.01	Purpose	6.06	Community Service
6.02	Definitions	6.07	Reimbursement Coordinator
6.03	Imposition of Charges	6.08	Discharge Procedures
6.05	Exceptions	6.09	Policies

6.01 PURPOSE. The purpose of this Chapter is to implement Iowa Code Section 356.7 respecting the imposition and collection of charges for room and board provided to inmates of the Buchanan County Jail.

6.02 DEFINITIONS. The following definitions shall apply to certain terms used in this Chapter.

1. “Inmate” shall mean a person housed in the Buchanan County Jail for a period of six consecutive hours or more.
2. “Jail” shall mean the Buchanan County Jail.
3. “Sheriff” shall mean the Buchanan County Sheriff or the Sheriff’s designee.

6.03 IMPOSITION OF CHARGES. The Sheriff is authorized to assess inmates a per diem charge representing costs of room and board incurred during the inmates’ incarceration and to implement procedures for collecting such charges. The Board of Supervisors shall determine the per diem charge upon recommendation of the ‘Sheriff, who may also recommend adjustments to the charge from time to time, as appropriate.

6.04 INMATES LIABLE. Subject to the provisions of Section 6.05 of this Chapter, the following classes of inmates shall be liable for charges under this Chapter:

1. Persons sentenced to serve a term of incarceration in the jail.
2. Persons found to be in contempt of court and ordered to serve a term of incarceration in the jail.
3. Persons held in custody in the jail at any time after arrest for a criminal offense or upon a complaint of probation or parole violation.

6.05 EXCEPTIONS. The provisions of this Chapter shall not be applied to the following classes of inmates:

1. Inmates whose incarceration does not result in a conviction, either because of deferral of judgment by the Court, dismissal of charges by the prosecuting attorney, or acquittal following trial.

6.06 COMMUNITY SERVICE. Subject to the approval of the Sheriff, an inmate may discharge all or a portion of the charges for which the inmate is liable by the performance of unpaid community service.

6.07 REIMBURSEMENT COORDINATOR. The Sheriff shall appoint a member of the jail staff to serve as a reimbursement coordinator. The person so appointed shall perform duties under this section in addition to any other duties he or she may have as a member of the jail staff. The reimbursement coordinator shall perform the following duties:

1. Interview each inmate to determine the inmate's ability to pay the charges assessed under this ordinance.
2. Establish a ledger for each inmate in which charges incurred by the inmate, repayment schedules, documentation of collection efforts, payments received, and other information which the sheriff may require shall be recorded. The ledger established under this subsection shall be in form suitable for audit.
3. Prepare and file claims for room and board reimbursement with the appropriate court.
4. Prepare and issue correspondence necessary for collection of unpaid charges.
5. Receive monies collected and see to the proper transfer of such collections to the Buchanan County Treasurer.
6. Conduct timely and regular reviews of each inmate ledger to insure that maximum efforts to collect any unpaid charges are in effect.
7. Perform such other duties which the Sheriff may from time to time direct.

6.08 DISCHARGE PROCEDURE. The reimbursement coordinator shall confer with each inmate immediately prior to the inmate's release from custody. The coordinator shall furnish the inmate with an invoice of the room and board charges incurred during the inmate's incarceration. If the inmate is immediately unable to satisfy all charges in full, the coordinator shall execute a written room and board reimbursement claim for the amount due and owing. The coordinator shall file the claim with the appropriate clerk of court within 48 hours of the inmate's release, exclusive of weekends and holidays. The claim shall be captioned according to the inmate's court case and shall conform to the requirements of Iowa Code Section 356.7(2). The inmate may also be asked to execute a written confession of judgment which shall conform to Iowa code chapter 676.

6.09 POLICIES. The Sheriff shall adopt written policies describing procedures for collections, handling of payments, and other appropriate matters. The Sheriff shall review and revise these policies from time to time as appropriate.

CHAPTER 7

PURCHASE OF TAX SALE CERTIFICATES

7.01	Purpose	7.06	Assignment of Tax Sale Certificates
7.02	Definitions	7.07	Purchase of Tax Sale Certificates
7.03	Purchasing Delinquent Taxes	7.08	Intent to Rehabilitate the Property
7.04	Procedure		
7.05	Verified Statement		

7.01 PURPOSE. The purpose of this Chapter is to allow the county and the cities within the county the opportunity to utilize Iowa Code Section 446.19A, as amended by the 78th General Assembly. Iowa Code Section 446.19A authorizes counties and cities to bid, purchase, or assign tax sale certificates on abandoned property if they demonstrate the intent to rehabilitate the abandoned property for habitation or build a residential structure to promote low to moderate income housing.

7.02 DEFINITIONS. For the purposes of this Chapter, the following terms shall be defined as follows:

1. “Abandoned” shall mean the same as in Iowa Code Section 657A.1(1).
2. “Low or moderate income families” shall mean the same as in Iowa Code Section 403.17.

7.03 PURCHASING DELINQUENT TAXES. Pursuant to Iowa Code Section 446.19A, as amended by the 78th General Assembly, the county and each city in the county are hereby authorized to bid on and purchase delinquent taxes and to assign tax sale certificates of abandoned property acquired under Iowa Code Section 446.19A.

7.04 PROCEDURE. On the day of the regular tax sale or any continuance or adjournment of the tax sale, the county treasurer on behalf of the county or a city, may bid for and purchase tax sale certificates on abandoned property or public nuisance property assessed as residential property or as commercial multifamily housing property a sum equal to the total amount due. The county or city shall not pay money for the purchase, but each of the tax-levying and tax-certifying bodies having any interest in the taxes shall be charged with the total amount due the tax-levying or tax-certifying body as its just share of the purchase price.

7.05 VERIFIED STATEMENT. Prior to the purchase, the county or city shall file with the county treasurer a verified statement that a parcel to be purchased is abandoned and deteriorating in condition, and that their intent is to rehabilitate the abandoned property to make it habitable for low to moderate income housing following rehabilitation.

7.06 ASSIGNMENT OF TAX SALE CERTIFICATES. After the date that a parcel is sold pursuant to Iowa Code Section 446.18, Section 446.38, or Section 446.39, if the parcel assessed as residential property or as commercial multifamily housing property is identified as abandoned pursuant to a verified statement filed pursuant to Section 7.05, a county or city may require the assignment of the tax sale certificate that had been issued for such parcel by paying to the holder of such certificate the total amount due on the date the assignment of the certificate is made to the county or city and recorded with the county treasurer. If the certificate is not reassigned by the county or city, the county or city whichever is applicable, is liable for the tax sale interest that was due the certificate holder pursuant to Iowa Code Section 447.1, as of the date of reassignment.

7.07 PURCHASE OF TAX SALE CERTIFICATES. The county or city may assign or reassign tax sale certificates obtained pursuant to this Chapter. Preference shall be given to purchasers who are low or

moderate income families or organizations that assist low or moderate income families to obtain housing. Persons who purchase certificates from the county or city pursuant to this Chapter are liable for the total amount due the certificate holder pursuant to Iowa Code Section 447.12.

7.08 INTENT TO REHABILITATE THE PROPERTY. All persons who purchase certificates from the county or city under this Chapter shall demonstrate the intent to rehabilitate the property for habitation if the property is not redeemed. In the alternative, the county or city may, if title to the property has vested in the county or city under Iowa Code Section 448.1, dispose of the property in accordance with Iowa Code Section 331.361 or Section 364.7 as applicable.

CHAPTER 8

ELECTION PRECINCTS

8.01	Purpose	8.04	Repealer
8.02	Definitions	8.05	Effective Date
8.03	General Provisions		

8.01 PURPOSE. The purpose of this ordinance is to establish voting precincts for Buchanan County.

8.02 DEFINITIONS. For use in this ordinance, the following terms or words shall be interpreted or defined as follows:

1. “Voting precinct” or “precinct” shall mean a county or municipal subdivision devised for casting and counting votes in elections.
2. “Township” shall mean a civil and political subdivision of the county, consisting of a parcel or territory six miles on each side.

8.03 GENERAL PROVISIONS. All voting precincts (except Independence Precincts established by the Independence City Council) shall be designated as follows:

AURORA PRECINCT shall consist of Buffalo Township, Madison Township, the City of Aurora, the City of Lamont and the City of Stanley which lies within the boundaries of Buchanan County.

BRANDON PRECINCT shall consist of Jefferson Township and the City of Brandon.

FAIRBANK PRECINCT shall consist of Fairbank Township and the City of Fairbank which lies within the boundaries of Buchanan County.

HAZLETON PRECINCT shall consist of Hazleton Township and the City of Hazleton.

INDEPENDENCE 1ST WARD PRECINCT shall consist of Washington Township and the City of Independence First Ward as drawn by the City of Independence.

INDEPENDENCE 3RD WARD PRECINCT shall consist of Sumner Township and the City of Independence Third Ward as drawn by the City of Independence.

JESUP PRECINCT shall consist of the City of Jesup which lies within the boundaries of Buchanan County.

MIDDLEFIELD/NEWTON PRECINCT shall consist of Middlefield Township and Newton Township.

PERRY/WESTBURG PRECINCT shall consist of Perry Township and Westburg Township.

QUASQUETON PRECINCT shall consist of Liberty Township and the City of Quasqueton.

ROWLEY PRECINCT shall consist of Cono Township, Homer Township and the City of Rowley.

WINTHROP PRECINCT shall consist of Byron Township, Fremont Township and the City of Winthrop.

8.04 REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

8.05 EFFECTIVE DATE. This ordinance and the precinct boundaries provided for herein shall become effective January 15, 2012.

CHAPTER 9

PIONEER CEMETERY COMMISSION

9.01	Purpose	9.06	Budget
9.02	Membership and Terms	9.07	Compensation
9.03	Officers	9.08	Validity
9.04	Organization	9.09	Repealer
9.05	Powers and Duties	10	Effective Date

9.01 PURPOSE. A Pioneer Cemetery Commission is hereby established to assume responsibility for jurisdiction and management of pioneer cemeteries in Buchanan County, Iowa, pursuant to Iowa Code Section 331.325.

9.02 MEMBERSHIP AND TERMS. The Commission shall consist of nine residents of Buchanan County, Iowa appointed by the Board of Supervisors as follows: Three members shall be appointed for a term expiring December 31, 2003, three members for a term expiring December 31, 2004, and three members for a term expiring December 31, 2005. Their successors shall thereafter be appointed for a term of three years, and all appointments to fill vacancies shall be for the remainder of the unexpired term.

9.03 OFFICERS. The Commission shall select a chair, vice-chair, secretary, and treasurer from among its membership. The Commission may select other officers as it may deem necessary.

9.04 ORGANIZATION. The Commission may establish rules and regulations governing its organization and procedure as it may deem necessary.

9.05 POWERS AND DUTIES.

1. The Commission shall exercise all powers and duties relating to pioneer cemeteries that may otherwise be exercised by township trustees pursuant to the Code of Iowa; provided, however, the Commission shall not have the authority to certify a tax levy.
2. The Commission shall compile a list of those burial sites in Buchanan County meeting the definition of a pioneer cemetery set forth in Iowa Code Section 331.325(1) and for which no provisions for care and maintenance have been made. The Commission shall complete said list not later than December 31, 2003 and shall file said list with the Board of Supervisors. The list shall include the precise location, the estimated number of graves, and any popular name of each site. The Commission may consult with historically knowledgeable individuals to assist in the compilation of the list.
3. The Commission may enter into agreements with public or private organizations interested in historical preservation to delegate to such organizations the responsibility for the protection and preservation of burial sites as provided for in Iowa Code Section 566.33
4. The Commission shall maintain complete records of its proceedings, the receipt and custody of funds including gifts and donations, and disbursements. Such records shall be subject to periodic audit.
5. The Commission shall establish a schedule of periodic physical inspection of all identified pioneer cemeteries.

6. The Commission shall comply with requirements imposed upon governmental subdivisions and agencies pursuant to Iowa Code Sections 566.31 through 566.35 inclusive.

9.06 BUDGET. The Commission shall submit a proposed budget including the amount of available funds and proposed expenditures to the County Auditor not later than January 31 of each year.

9.07 COMPENSATION. Members of the Commission shall receive no compensation for their services but may be reimbursed for necessary expenses incurred in the performance of their duties.

9.08 VALIDITY. Should any part of this ordinance be held invalid, the parts of this ordinance remaining unaffected by such holding shall be severable and shall continue to be in full force and effect.

9.09 REPEALER. All ordinances or parts of ordinances conflicting with the provisions of this ordinance are hereby repealed.

9.10 EFFECTIVE DATE. This ordinance shall be in full force and effect from and after the date of its passage and publication as required by law.

CHAPTER 10

ASSESSMENT OF WIND ENERGY CONVERSION PROPERTY

10.01	Purpose	10.07	Reporting Requirements
10.02	Definitions	10.08	Repeal of Special Valuation
10.03	Authority to Establish	10.09	Repealer
10.04	Establishment	10.10	Severability Clause
10.05	Amount of Valuation	10.11	Effective Date
10.06	Declaration of Special Valuation		

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

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

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

10.3 AUTHORITY TO ESTABLISH. The Buchanan County Board of Supervisors is authorized, pursuant to Iowa Code Chapter 427B.26 to provide by ordinance for special valuation of wind energy conversion property as provided in Section 4.

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

10.5 AMOUNT OF VALUATION. Wind energy conversion property, first assessed on or after the effective date of the ordinance, shall be valued by the Buchanan County Assessor for property tax purposes as follows:

1. For the first assessment year, at zero percent (0%) of the net acquisition cost.
2. For the second through sixth assessment years, at a percent of the net acquisition cost which rate increases by five percent (5%) each assessment year.
3. For the seventh and succeeding years, at thirty percent (30%) of the net acquisition cost.

10.6 DECLARATION OF SPECIAL VALUATION. The taxpayer shall file with the Buchanan County Assessor by February 1 of the assessment year in which the wind energy conversion property is first assessed for property tax purposes, a declaration of intent to have the property assessed at the value determined under Section 5 in lieu of the valuation assessment provisions in Iowa Code Sections 441.21(8)(b) and (c), and Iowa Code Sections 428.24 to 429.29.

If the taxpayer does not file with the Buchanan County Assessor by February 1 of the assessment year for which the person files a declaration of intent to have the property assessed as provided

above, then the declaration of intent shall be considered as a declaration filed for the following year.

10.7 REPORTING REQUIREMENTS. The following reports shall be filed annually with the Buchanan County Assessor by the taxpayer, in the first year, with the declaration of intent prescribed in Section 6; and by February 1 of each year thereafter:

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

10.8 REPEAL OF SPECIAL VALUATION. If in the opinion of the Buchanan County Board of Supervisors continuation of the special valuation provided under Section 4 ceases to be of benefit to Buchanan County, the Buchanan County Board of Supervisors may repeal the ordinance. Property specially valued under Section 4 prior to the repeal of the ordinance shall continue to be valued under Section 4 until the end of the nineteenth (19th) assessment year following the assessment year in which the property was first assessed.

10.9 REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

10.10 SEVERABILITY CLAUSE. If any section, provision, or other part of this ordinance shall be adjudged invalid or unconstitutional, said adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or other part thereof not adjudged invalid or unconstitutional.

10.11 EFFECTIVE DATE. This ordinance shall be effective after its final passage, approval, and publication as provided by law.

TITLE II – COMMUNITY SERVICES

CHAPTER 11

GENERAL ASSISTANCE

11.01	Policy	11.07	Assistance of an Extended Nature
11.02	Definitions	11.08	Application for Assistance
11.03	Forms	11.09	Initial Determination
11.04	Eligibility Standard	11.10	Appeal
11.05	Level of Benefits	11.11	Recovery and Reimbursement
11.06	Able-Bodied Persons		

11.01 POLICY. The Board of Supervisors shall provide for a general assistance program for the benefit of poor and needy persons domiciled in Buchanan County. The ultimate objective of such program shall be to assist such persons to become self-supporting and self-reliant. The benefits of the general assistance program shall be extended to all persons eligible, regardless of race, color, creed, gender, national background, character, or past or present conduct or behavior.

11.02 DEFINITIONS.

1. “Poor person” shall mean a person who has no property, exempt or otherwise, and is unable, because of physical and/or mental disability, to earn a living by labor.
2. “Needy person” shall mean a person who lacks sufficient income or resources to meet personal and/or family requirements for food, shelter, and/or medical care.
3. “General assistance” or “assistance” shall mean funds for the purchase of food/provisions, burial (See Burial Ordinance Chapter 12), rent, utilities, and emergency medical attention.
4. “Household” shall mean the individual applying for assistance and anyone else residing in the household.
5. “Liquid assets” shall mean cash on hand, checking, savings, and any other funds than can be accessed.
6. “Director” shall mean the Director of Community Services of Buchanan County, Iowa or a person designated by the Director.

11.04 ELIGIBILITY.

1. Individuals must have lived in Buchanan County for a minimum of 30 days prior to applying for assistance. Applicant may be asked to provide proof of residence.
2. Applicants must provide proof of income from the last 30 days for all members of the household. Eligibility will be determined based upon income guidelines established by the Board of Supervisors on an annual basis.
3. The liquid assets of the household must be less than the current income guidelines established by household side.
4. The assistance provided must prevent eviction and/or disconnection of utilities if applicable. The applicant must pay the remainder of the bill if required to prevent eviction or disconnection before the county will approve payment.

11.05 LEVEL OF BENEFITS. The maximum level of benefits to be provided for each item of general assistance for each person or that person's household shall be as follows:

1. Food/provisions: An amount not to exceed guidelines established by the Board of Supervisors on an annual basis. "Food/provisions" does not include soft drinks, alcoholic beverages, tobacco products, candy, pet food, and beauty products or cosmetics, but may include laundry soap, household cleaners, and other items needed for personal hygiene.
2. Rent: An amount not to exceed guidelines established by the Board of Supervisors on an annual basis. Assistance under this category shall not include deposits.
3. Utilities (gas, electricity, water, sewer, and garbage collection): The lesser of current amount due or an amount not to exceed guidelines established by the Board of Supervisors on an annual basis. Assistance under this category shall not include deposits, charges for cable television, internet, phone, or reconnection fees.
4. Medical services, dental services, and prescriptions: An amount not to exceed the reasonable value of such services, as actually required on an emergency basis. Dental care is only provided to alleviate pain and must be the most cost-effective service available to treat the issue. Medical and dental care must be pre-approved before treatment is provided. Applicant must apply for and accept insurance benefits for which they may be eligible.

11.06 ABLE-BODIED PERSONS. Able-bodied persons eligible for assistance under this Chapter shall actively seek employment. Such persons shall seek and accept any reasonable employment. A refusal or failure to actively seek employment or refusal or failure to accept reasonable employment offered shall disqualify such person from receiving future benefits under this Chapter. Such person may be required to provide reasonable proof that he or she is actively seeking employment.

11.07 ASSISTANCE OF AN EXTENDED NATURE. Individuals shall receive assistance no more than three times in a calendar year. Furnishing assistance for a period exceeding three times shall only be approved if the individual has applied for SSI and completed an Interim Assistance Reimbursement form.

11.08 APPLICATION FOR ASSISTANCE. Applications for assistance shall be submitted to the Community Services Department at the Buchanan County Courthouse in Independence, Iowa, during usual business hours upon forms provided by the Director. Applications should be completed by the head of the household. If the applicant or anyone in the household is or appears to be eligible for assistance from any other federal, state, or local source, the Director shall immediately refer the applicant to that source. It shall be the obligation of the applicant to immediately make application to that source and pursue such application with due diligence as a condition of eligibility for benefits under this Chapter. It is further the obligation of each person applying to establish his or her eligibility for any category of general assistance and the need for any item of assistance. The Director shall conduct a reasonable investigation concerning the applicant's eligibility and needs if needed. The applicant's file and the investigation findings of the Director shall be made available to the applicant upon request or to the applicant's attorney by written authorization.

11.09 INITIAL DETERMINATION. The Director shall make an initial determination of the eligibility and needs of the applicant at the time of the application unless additional information must be obtained before a decision may be made. Applicants will receive verbal notification of the decision and will be provided a written notification if more information is required. If an initial determination cannot be made, the Community Services Office will verbally notify the applicant of the decision after the

additional information has been received. If the applicant has completed an application within the past year, the Director need not receive a new application, but may update the current application and proceed to a determination of whether or not current assistance is warranted. Copies of pay stubs and other sources of income must be presented each time a person applies for assistance.

11.10 APPEAL. Every applicant for whom relief is denied in whole or in part shall be informed of the right to appeal the decision. The applicant shall be informed of the method and time in which an appeal may be filed. An appeal must be made within ten (10) days of the decision and must be in writing stating the reason for the appeal. An applicant may file an appeal by directly notifying the Board of Supervisors of the applicant's intent to appeal or by requesting the Director to place the appeal upon the agenda of the Board of Supervisors. Upon receipt of such appeal, the Board shall adopt a resolution setting a date, time, and place for hearing on the appeal. The hearing shall be conducted at a session to occur not more than fifteen (15) days after receipt of the notice of appeal. The Board shall cause the applicant to be notified of the date, time, and place of hearing. At such hearing, the applicant shall have the opportunity to present all relevant evidence in support of the appeal, including documentation, and may call witnesses on his or her behalf. Neither party shall be bound by the technical rules of evidence. The applicant's file shall be admitted into evidence. The Board may question the applicant, and the Director shall present the Board with the reasons for the initial determination. The Board shall decide the appeal at the conclusion of the hearing or at a session to occur not more than five working days after the hearing.

11.11 RECOVERY AND REIMBURSEMENT. All recipients of general assistance shall reimburse Buchanan County for the costs of the benefits extended to them pursuant to this Chapter, except where such requirement would, in the judgment of the Director, cause undue hardship. To insure the fiscal soundness of the general assistance program, Buchanan County reserves the right to require able-bodied recipients to perform suitable labor for Buchanan County at the rate for minimum wages as determined by the United States government, and to avail itself of all means provided in Iowa Code Chapter 252 of recovering the costs of assistance paid out.

CHAPTER 12

BURIAL ASSISTANCE

12.01	Policy	12.06	Supplemental Assistance
12.02	Burial Allowance	12.07	Application
12.03	Collateral Resources	12.08	Appeal
12.04	Eligibility	12.09	Payment of Claim
12.05	Reimbursable Services	12.10	Disclaimer

12.01 POLICY. It is the intent and purpose of Buchanan County to assist in defraying the expense of funerals for indigent residents of Buchanan County. The Buchanan County Community Services Department shall be responsible for administering assistance under this Chapter.

12.02 BURIAL ALLOWANCE. The Director of the Community Services Department shall prescribe, subject to the approval of the Board of Supervisors, an amount which shall be the maximum burial allowance pursuant to this Chapter. The Director shall, from time to time, review and adjust the allowance, as appropriate.

12.03 COLLATERAL RESOURCES. Applicants for assistance under this Chapter shall furnish documentary proof of application for benefits from collateral resources available to defray the cost of the funeral service, including but not limited to veterans programs, Social Security, and insurance policies. In addition, survivors of the deceased may contribute additional funds toward the cost of the funeral service. Contributions of survivors shall not exceed a limit which the Director shall prescribe and adjust upon review from time to time, as appropriate, subject to approval of the Board of Supervisors. Collateral resources, except contributions of survivors, shall be applied against the maximum burial allowance, and the amount of assistance under this Chapter shall be the difference between the maximum burial allowance and the aggregate of available collateral resources, if any. Outstanding bills may be subtracted from the collateral resources before amount of assistance is determined.

12.04 ELIGIBILITY. Assistance under this Chapter shall not be available unless the deceased was a person who maintained legal settlement in Buchanan County according to criteria set forth in Iowa Code Section 252.16, and whose income and resources met eligibility standards approved and reviewed from time to time by the Board of Supervisors.

12.05 REIMBURSABLE SERVICES. Assistance under this Chapter shall be applied to defray the cost of the following services:

1. Opening and closing the grave.
2. Professional fees charged by the funeral provider.
3. Transportation of the body from place of death to the funeral home.
4. Expenses of services, including embalming, registration book, cards, dressing and cosmetic treatment of the deceased.
5. Use of a funeral coach and one additional vehicle.
6. Mileage between the location of the funeral service and the grave site.
7. Vault consisting of a standard grave box.
8. Standard model casket.

9. Cremation of the deceased's remains.

12.06 SUPPLEMENTAL ASSISTANCE. Assistance in addition to the maximum burial allowance may be allowed for unusual expenses, including but not limited to long distance transportation of the body of the deceased or oversized caskets. All applications for supplemental assistance under this section shall be accompanied by a memorandum from the funeral provider describing the necessity for such expense. The Director shall review and approve all applications for supplemental assistance.

12.07 APPLICATION. Applications for assistance under this Chapter shall be made at the Buchanan County Community Services Department upon forms provided by the Director. All such applications shall be filed and approved prior to the conclusion of funeral arrangements with the funeral provider. Applicants and funeral providers shall fully disclose all relevant information requested by the Director in considering the application. The Director shall immediately notify the funeral provider of the approval or denial of an application for assistance under this Chapter.

12.08 APPEAL. Every applicant, for whom relief is denied in whole or in part, shall be informed of the right to appeal the decision.

An applicant may appeal by directly notifying the Director or Board of Supervisors of the applicant's intent to appeal. The appeal shall be placed upon the agenda of the next regular session of the Board of Supervisors. The Board shall cause the applicant to be notified of the date, time and place of the meeting.

At such meeting, the applicant shall have the opportunity to present all relevant evidence in support of the appeal, including documentation, and may call witnesses in his or her behalf. Neither party shall be bound by the technical rules of evidence. The applicant's file shall be admitted into evidence. The Board may question the applicant, and the Director shall present the Board with the reasons for the initial determination.

The Board shall decide the appeal at the conclusion of the meeting or at a session to occur not more than five working days from the meeting.

12.09 PAYMENT OF CLAIMS. Payment of assistance under this Chapter shall be made upon submission by the funeral provider of a properly executed claim form to the Director. All such claims shall contain an itemized statement describing the nature and cost of each item of service rendered. The Director shall review all such claims prior to submission to the Board of Supervisors for payment.

12.10 DISCLAIMER. Nothing in this Chapter shall be construed as a regulation of the type and nature of funeral services or the specific arrangements for any funeral service, all of which matters shall remain within the discretion of the funeral provider and the survivors of the deceased.

CHAPTER 14

VETERANS AFFAIRS

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14.01 COMMISSION. There is hereby established the Buchanan County Commission of Veterans Affairs consisting of three persons, pursuant to Iowa Code Chapter 35B. Commissioners shall each possess the qualifications for appointment set out in Iowa Code Section 35B.3. Each commissioner shall attend the training course offered by the commission of veterans affairs of the State of Iowa within 12 months of the commissioner's appointment.

14.02 ADMINISTRATION. The Buchanan County Community Services Department shall administer the Veterans Assistance Program in Buchanan County, Iowa.

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

1. "Veteran" shall mean any of the following:
 - (a) A person who served in the armed forces of the United States at any time during the following dates and who was discharged under honorable conditions:
 - (i) World War I from April 6, 1917, through November 11, 1918.
 - (ii) Occupation of Germany from November 12, 1918, through July 11, 1923.
 - (iii) American expeditionary forces in Siberia from November 12, 1918, through April 30, 1920.
 - (iv) Second Haitian suppression of insurrections from 1919 through 1920.
 - (v) Second Nicaragua campaign with marines or navy in Nicaragua or on combatant ships from 1926 through 1933.
 - (vi) Yangtze service with navy and marines in Shanghai or in the Yangtze valley from 1926 through 1933.
 - (vii) China service with navy and marines from 1937 through 1939.
 - (viii) World War II from December 7, 1941, through December 31, 1946.
 - (ix) Korean Conflict from June 25, 1950, through January 31, 1955.
 - (x) Vietnam Conflict from February 28, 1961, through May 7, 1975.
 - (xi) Lebanon or Grenada from August 24, 1982, through July 31, 1984.
 - (xii) Panama service from December 20, 1989 through January 31, 1990.
 - (xiii) Persian Gulf Conflict from August 2, 1990, through the date the president or the Congress of the United States declares a cessation of hostilities. However, if the United States Congress enacts a date different from August 2, 1990, as the beginning of the Persian Gulf Conflict for purposes of determining whether a veteran is entitled to receive military benefits as a veteran of the Persian Gulf Conflict, that date shall be substituted for August 2, 1990.
 - (b) Former members of the reserve forces of the United States who served for at least twenty years in the reserve forces and who were discharge under honorable conditions. However, a member of the reserve forces of the United States who completed a minimum aggregate of ninety days of federal active duty, other than

training, and was discharged under honorable conditions, or was retired under Title 10 of the United States code shall be included as a veteran.

- (c) Former members of the Iowa National Guard who served at least twenty years in the Iowa National Guard and who were discharged under honorable conditions. However, a member of the Iowa National Guard who was activated for federal duty, other than training, for a minimum aggregate of ninety days, and was discharged under honorable conditions or was retired under Title 10 of the United States Code shall be included as a veteran.
 - (d) Former members of the active, oceangoing merchant marines who served during World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive, who were discharged under honorable conditions.
 - (e) Former members of the women's air force service pilots and other persons who have been conferred veterans status based on their civilian duties during World War II in accordance with federal Pub. L. No. 95-202, 38 U.S.C. §106.
 - (f) Former members of the armed forces of the United States if any portion of their term of enlistment would have occurred during the time period of the Korean Conflict from June 25, 1950, through January 31, 1955, but who instead opted to serve five years in the reserve forces of the United States, as allowed by federal law, and who were discharged under honorable conditions.
 - (g) Members of the reserve forces of the United States who have served at least twenty years in the reserve forces and who continue to serve in the reserve forces.
 - (h) Members of the Iowa National Guard who have served at least twenty years in the Iowa National Guard and who continue to serve in the Iowa National Guard.
 - (i) A resident of this state who served on federal active duty, other than training, in the armed forces of the United States and who was discharged under honorable conditions.
- 2. "Surviving spouse" shall mean an individual who was married to a veteran, as defined above, at the time of the veteran's death and has not since remarried.
 - 3. "Indigent veteran" shall mean a veteran or the surviving spouse that meets the household income guidelines established on an annual basis.
 - 4. "Assistance" shall mean food/provisions, rent/mortgage, transportation, fuel, lights, burial (see Burial Ordinance Chapter 12), and medical attention. Food/provisions does not include cigarettes or alcoholic beverages, but does include laundry soap, household cleaners, and other items of non-food nature used for personal hygiene.
 - 5. "Household" shall mean the individual veteran applying and all individuals living in the household, whether related or unrelated. In case the veteran is deceased, "household" shall mean the veteran's surviving spouse who has not since remarried and all individuals living in the household, whether related or unrelated.
 - 6. "Liquid assets" shall mean cash on hand, checking, savings, and any other funds that can be accessed.
 - 7. "Income" shall mean the net income from wages and unearned income such as Social Security and unemployment benefits, child support, and any other income received by the household in the last 30 days. Self-employment income will be based on the previous year's tax return and adjusted to reflect changes in income.
 - 8. "Commission" shall mean the Buchanan County Commission of Veterans Affairs.
 - 9. "Director" shall mean the director of the Buchanan County Community Services Department, or the Director's designee.

14.04 CATEGORIES. There shall be two (2) categories of veterans' assistance in Buchanan County:

1. Emergency assistance for indigent veterans; and,
2. Assistance of an extended nature for individuals that have signed an Interim Assistance Reimbursement Agreement.

14.05 APPLICATION REQUIREMENTS.

1. Applicant must submit a copy of the Veteran's discharge that states discharge is under other than dishonorable conditions (verified by a DD214).
2. Applicant must be a resident of Buchanan County for a minimum of 30 days prior to application. Verification of residency may be requested.
3. Applicant must provide proof of income from the prior 30 days.
4. Applicant must provide original bill for requested assistance.

14.06 ELIGIBILITY OF INDIGENT VETERANS. Emergency assistance shall be provided to an indigent veteran or surviving spouse who is in need of immediate assistance and cannot obtain sufficient funds from any other source. The liquid assets of the household must be less than the current income guidelines established by household size. The assistance provided must prevent eviction and/or disconnection of utilities if applicable. The veteran or surviving spouse must pay the remainder of the bill if required to prevent eviction or disconnection before the county will approve payment.

Assistance may be provided to veterans who are eligible for, and are awaiting approval and receipt of benefits under programs provided by state or federal laws, or whose actual needs, as defined within the limitations imposed by this Chapter, cannot be fully met by the assistance furnished under such programs.

Medical aid and hospital assistance will be granted in emergency situations when no other funding source is available.

14.07 LEVEL OF BENEFITS. The maximum level of benefits to be provided for each item of assistance for each veteran or that veteran's household shall be established on an annual basis by the Commission and approved by the Board of Supervisors. The following items are eligible for assistance:

1. Food and provisions. An amount not to exceed guidelines established by the Commission and Board of Supervisors on an annual basis. "Food/provisions" does not include soft drinks, alcoholic beverages, tobacco products, candy, pet food, and beauty products or cosmetics, but may include laundry soap, household cleaners, and other items needed for personal hygiene.
2. Rent or mortgage payments. Assistance under this category shall not include deposits.
3. Utilities (Gas, electricity, water, sewer, and garbage collection). Assistance under this category shall not include deposits, charges for cable television, internet, phone, or reconnection fees.
4. Emergency medical or dental services, and prescriptions. An amount not to exceed the reasonable value of such services, as actually required on an emergency basis. Dental care is only provided to alleviate pain and must be the most cost-effective service available to treat the issue. Medical and dental care must be pre-approved before treatment is provided. Applicant must apply for and accept insurance benefits for which they may be eligible.

5. One (1) grave marker upon the event of death and burial, if in Buchanan County, and one (1) replacement marker if the original marker is lost or stolen.

14.08 REQUIREMENTS FOR RECEIVING ASSISTANCE. An indigent veteran shall actively seek employment. A refusal or failure to actively seek employment or refusal or failure to accept reasonable employment offered shall disqualify the indigent veteran from receiving future assistance. The indigent veteran may be required to provide reasonable proof that employment is being actively sought.

14.09 LENGTH AND DURATION OF ASSISTANCE. Assistance provided to an indigent veteran or the surviving spouse will not exceed three instances of assistance in a twelve (12) month period. Assistance with both rent and utilities may be considered one instance if applied concurrently.

Application for VA pension/compensation or Social Security benefits shall be made if it appears the veteran or dependent has become permanently disabled. If a veteran or surviving spouse applies for SSI and is awaiting approval, an Interim Assistance Reimbursement form must be completed to allow the veteran to receive assistance beyond the three month limit.

14.10 APPLICATION FOR ASSISTANCE. Individuals must complete an Application for Assistance in the Community Services Office at the Buchanan County Courthouse during usual business hours. If, because of undue hardship, an indigent veteran cannot come to the Community Services office, an application will be mailed to the veteran. If the applicant or others in the household appear to be eligible for assistance from any other federal, state, or local source, the Community Services Office shall immediately refer the applicant to that source. It shall be the obligation of the applicant to immediately make application to that source and pursue such application with due diligence as a condition to be eligible for further relief under this policy. It is the obligation of each veteran applying to establish eligibility for any category of veterans' assistance and need for any item of assistance.

14.11 INITIAL DETERMINATION.

1. The Community Services Office shall make an initial determination of the eligibility and needs of the applicant at the time of application unless additional information must be obtained before a decision can be made. Applicants will receive verbal notification of the decision and will be provided a written notification if requested. If an initial determination cannot be made, the Community Services Office will verbally notify the applicant of the decision after the additional information has been made.

14.12 APPEAL. Every applicant, for whom relief is denied in whole or in part, shall be informed of the right to appeal the decision. The applicant shall be informed of the method and time which any appeal may be filed. An appeal must be made within ten (10) days of the decision and must be in writing stating the reason for the appeal.

If an appeal is requested, the appeal shall be to the Commission itself. An agenda for the appeal before the Commission shall be made and posted as required by Iowa Code Chapter 21. The appeal shall be heard before the Commission at its next regular monthly meeting. If the Commission's regular monthly meeting is scheduled more than ten (10) days beyond the date the appeal is filed, the Commission shall meet specially for the appeal. Any appeal taken before the Commission shall be closed pursuant to Iowa Code Section 21.5(1) (a), because the identity and particulars of the case are confidential under Iowa Code Sections 35B.10 and 35B.12.

14.13 APPEAL HEARINGS.

1. The applicant's appeal shall be heard de novo at the time scheduled in the agenda unless continuance is requested by the applicant. The applicant shall be permitted to present any evidence desired in support of the appeal, including testimony by the applicant and/or other witnesses, documentary evidence, and reasonable cross examination of other witnesses, if present. The technical rules of evidence shall not apply. The Commission may set reasonable times for the presentation of parties at any appeal. The applicant's file shall be admitted into evidence. The appeal will be tape recorded. When the Commission deliberates on the appeal, no parties shall be present.
2. The Commission shall decide the appeal within five (5) working days. The decision shall be based solely on the evidence submitted. The written decision shall be mailed to the applicant within four (4) working days. The decision shall state the reasons for action, together with any statute or ordinance applied.

14.14 PAYMENT PROVISION.

1. The Director shall submit claims received pursuant to this Chapter to the County Auditor for payment on regular claim dates established by the Board of Supervisors.
2. Payment will be provided directly to the vendor (landlord, utility company, ect.).

14.15 ACTIONS OF THE COMMISSION. In the event the Commission, in reviewing the actions of the Director, questions the approval of assistance to a veteran or surviving spouse, it shall not take action concerning such approval until it conducts a hearing. This hearing, the reasons for it, and notification to the applicant shall be given in the same manner as if the applicant had filed an appeal. This hearing shall proceed in the same manner as an appeal from the Director to the Commission.

TITLE III – TRANSPORTATION

CHAPTER 20

ROAD CLASSIFICATION/AREA SERVICE SYSTEM B

20.01	Purpose	20.05	Authority to Establish
20.02	Definitions	20.06	Resolution and Hearing
20.03	Area Service System A	20.07	Maintenance Policy
20.04	Powers of the Board	20.08	Exemption from Liability

20.01 PURPOSE. The purpose of this Chapter is to authorize classification of certain roads in the Area Service System in Buchanan County to provide for a reduced level of maintenance.

20.02 DEFINITIONS. For purposes of this Chapter, the following definitions shall apply:

1. “Area service system” shall mean those public roads in Buchanan County which are outside of incorporated areas and which are not highways under the administration of the United States or the State of Iowa.
2. “Area service system B” shall mean those roads included in the Area Service System which shall be subject to a reduced level of maintenance pursuant to this Chapter.

20.03 AREA SERVICE SYSTEM A. Roads included in the Area Service System which are maintained in conformance with applicable state statutes and regulations shall be designated as Area Service System A.

20.04 POWERS OF THE BOARD. All jurisdiction and control over Area Service System B roads as provided by this Chapter shall rest with the Board of Supervisors.

20.05 AUTHORITY TO ESTABLISH. The Board of Supervisors is empowered pursuant to Iowa Code Section 309.57 to classify secondary roads in the Area Service system to provide for a reduced level of maintenance on roads so designated.

20.06 RESOLUTION AND HEARING. Prior to the establishment of an Area Service System B and after consultation with the County Engineer, the Board shall adopt a resolution, which resolution shall describe the roads proposed to be classified in Area Service System B, shall establish the time, date and place of hearing on the resolution, and shall provide that the resolution will not become effective until after such hearing. Publication of notice of such hearing shall comply with Iowa Code Section 331.305. In addition, such resolution may provide for notice of hearing specifically directed to persons who may be directly affected by the proposed classification. At the completion of such hearings and after further consultation with the County Engineer, the Board may, by motion, declare that the resolution as originally proposed or as amended, is finally adopted.

20.07 MAINTENANCE POLICY. Only the minimum effort, expense, and attention will be provided to keep Area Service System B roads open to traffic. Bridges may not be maintained to carry legal loads but will be posted as appropriate to advise of any load limitations. For the various maintenance activities, the minimum maintenance on Area Service System B roads shall be as follows:

1. Blading. Blading or dragging will not be performed on a regular basis and a crown will not be maintained.
2. Snow and Ice Removal. Snow and ice will not be removed nor will the road surface be sanded.

3. **Surfacing Material.** No surfacing material will be applied to the surface although some type of material may be used in mud holes as directed by the County Engineer. If the possessor of property adjacent to a road which is classified in Area Service System B purchases or otherwise acquires rock for such road, from a quarry selected by the county, the county shall haul and apply the rock to the road.
4. **Signing.** Except for load limit posting for bridges and low water crossing signs, signing will not be continued or provided. However, all Area Service System B roads shall be identified as such with a sign at all points of access to warn the public of the lower level of maintenance.
5. **Weeds, Brush, Trees, and Alignment.** Mowing or spraying weeds, cutting brush, and tree trimming or removal will not be performed on a routine or regular basis, but may be performed at the discretion of the County Engineer or the Engineer's designee.
6. **Structures.** Bridges and culverts may not be maintained to carry legal loads. In the event it is deemed necessary to replace bridges or culverts because of failure or loss, replacement structures will be appropriate for the degree and extent of traffic on the structure. Handrails on bridges may not be replaced.
7. **Uniform width.** Uniform width for the traveled portion of the road will not be maintained.

20.08 EXEMPTION FROM LIABILITY. As provided in Iowa Code Section 309.57, Buchanan County, its officers, agents and employees are not liable for injury to any person or for damage to any vehicle or equipment which occurs proximately as a result of the maintenance of a road which is classified as Area Service System B, if the road has been maintained as provided in Section 20.07 of this Chapter.

CHAPTER 21

ROAD CLASSIFICATION/AREA SERVICE SYSTEM C

21.01 Purpose	21.05 Trespass
21.02 How Established	21.06 Reclassification
21.03 Access	21.07 Powers of the Board
21.04 Signs	21.08 Exemption from Liability

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

21.02 HOW ESTABLISHED.

1. Resolution: Roads may only be classified as Area Service C by resolution of the Board of Supervisors after consultation with the County Engineer. The resolution shall specify the level of maintenance effort and the persons who will have access rights to the road. The resolution shall allow access to the road only to the owner, lessee, or person in lawful possession of any adjoining land; an agent or employee of the owner, lessee, or person in lawful possession; an agent or employee of any public utility; or any peace officer, magistrate, or public employee whose duty it is to supervise the use or perform maintenance of the road.
2. Notice of Action: The Board shall conduct a hearing prior to acting on a resolution to establish an Area Service C Road. Notice of the hearing, including a description of the proposed action, the location of the prospective area service road, and the time, date, and place of the hearing shall be published as provided in Iowa Code Section 331.305.
3. Board Action: At the hearing, the Board shall receive any oral or written objection to the proposed action. After all objections have been received and considered, the Board, at the hearing or at an adjournment thereof, may take action on the proposal by resolution.

21.03 ACCESS. Access to any Area Service C Road shall be restricted by means of a gate or alternative barrier approved by the County Engineer. The County Engineer may, at his or her discretion, bill the owner or owners of the land adjoining the Area Service C Road for the cost of any such gate or alternative barrier, or replacement of such gate or alternative barrier.

21.04 SIGNS. The County shall install and maintain signs conforming to the Iowa State Sign Manual at all access points to Area Service C roads from other public roads, to warn the public of the presence of a section of road which has a lesser level of maintenance effort than other public roads, and to warn the public that access to such road is limited.

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

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

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

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

CHAPTER 22

CLEARANCE OF SNOW OR ICE ON HIGHWAYS

22.01 Purpose

22.02 Level of Service

22.03 Sequence of Service

22.04 Limitation on Service

22.05 Emergencies

22.01 PURPOSE. The purpose of this Chapter is to establish the policy of Buchanan County concerning clearance of snow or ice on and maintenance of its secondary road system during the winter months pursuant to Iowa Code Section 309.67. This policy shall be implemented within the amount of money budgeted for this service and contained in the County's secondary road budget as submitted to and approved by the Iowa Department of Transportation and adopted by the Board of Supervisors.

22.02 LEVEL OF SERVICE. Clearance of snow or ice and maintenance of the secondary road system during the winter months is primarily for the benefit of the residents of Buchanan County. Each storm has individual characteristics and must be dealt with accordingly. The portion of the roadway improved for travel will have compacted snow and ice on the surface. These conditions may be continuous, or they may be more concentrated on hills, in valleys, curves, and/or intersections. The County will use existing snow removal equipment to carry out the purposes of this Chapter. All clearance of snow or ice, sanding, salting, and other maintenance respecting winter conditions shall be accomplished within the amount of money budgeted for this service. The entire width of that portion of the road improved for travel may not be cleared of snow, ice, compacted snow and ice, or frost. Snow cleared from that part of the roadway improved for travel shall be placed on or in the adjacent shoulder, ditch, or right-of-way. Snow can be expected to accumulate adjacent to the traveled portion to the extent that a motorist's sight distance to both the left and right may be greatly reduced or impaired. The snow removed from intersections will be piled in its corners in piles of unequal height. The line of sight, sight distance, or visibility of motorists approaching these intersections may be greatly reduced or impaired. The County shall not be responsible for snow pushed or otherwise placed on the roadway or shoulders by others. Motorists shall drive their vehicles during these conditions with additional caution and watchfulness, with due attention to the surface of the roadway and to any reduced or impaired visibility, and are advised to reduce their speed at least 25 miles per hour below that legally permitted or advised under normal conditions. In respect to roadways that have only one lane open, motorists should exercise further extreme watchfulness and caution, and vehicle speed should not exceed 10 miles per hour. During these conditions, no additional warning or regulatory signs will be placed warning of impaired sight distances, visibility at intersections, road blockages, one-lane conditions, or that the road surface is slick or slippery, or what the advised speed should be.

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

1. Paved Routes

- a. The initial effort shall be to get all routes open to one-lane traffic as soon as possible after cessation of the storm and subject to the limitation of hours of operation specified in paragraph 3 of this subsection.
- b. After one-lane travel is possible, subsequent snow removal shall be conducted during normal working hours.

- c. Truck mounted snowplows and spreaders will not normally be in operation between the hours of 5:00 p.m. to 5:00 a.m. Trucks may be called off the road if snow and blowing reduce visibility and create hazardous working conditions.
- d. When required due to drifting snow, motor graders may be used to keep paved roads open and the opening of gravel roads may be delayed.
- e. It shall not be the policy of the County pursuant to this Chapter to provide a “dry” pavement condition.
- f. After roads have been plowed as provided in this subsection, intersections, hills, and curves may receive application of salt, sand or other abrasives. Thereafter, all roads may receive application of salt, sand or other abrasives. Following such application, and in the absence of subsequent snow or ice storms, salt, sand, or other abrasives shall not be replaced on any portion of the road system. This sequence of service shall be performed only between the hours of 7:30 a.m. to 4:00 p.m. each day, exclusive of Saturdays, Sundays, and legal holidays observed by County employees.

2. Unpaved Routes

- a. The initial effort shall be to get all routes opened to one-lane traffic as soon as possible after cessation of the storm and subject to the limitation of hours of operation specified in paragraph 3 of this subsection.
- b. After one-lane travel is possible, subsequent snow removal shall be conducted during normal working hours.
- c. Motor graders and/or truck plows shall not normally be in operation between the hours of 5:00 p.m. to 5:00 a.m. Gravel roads may not be plowed if winds are causing continual drifting.
- d. Snow may not be removed from roads classified in Area Service System B or roads where there are no homesteads.

3. Private Drives

The County shall not clear snow or ice from private drives. Normal snow removal operations may result in snow being deposited in private drives. Snow from private drives and house lots shall not be placed on the roadway or shoulders.

4. Mail Boxes

The County will replace mailboxes damaged during snow removal operations provided the damaged mailbox is delivered to the County Engineer’s office.

5. Time Limits

There shall be no time limit after a snowstorm ceases during which any of the above sequence of clearance, on paved or unpaved roads, shall take place.

22.04 LIMITATION ON SERVICE. The policy and level of service provided for in this Chapter may not include, and the following services may not be performed:

1. Sanding, salting, or placing of other abrasives upon a roadway that is slick, slippery, and dangerous due to the formation of frost.
2. Sanding, salting, or placing other abrasives upon paved roadways due to freezing rain that occurs outside the County's usual working hours.
3. Placing of additional warning or regulatory signs warning of impaired sight distances, visibility at intersections, road blockages, one-lane conditions, or that the road surface is slick or slippery, or what the advised speed should be.

22.05 EMERGENCIES. The sequence of service may be suspended during emergency conditions. An emergency condition shall be considered as one where a loss of life is probable, where a serious injury has occurred, or where extensive loss of property is imminent. The existence of an emergency condition shall be determined after consultation with the Sheriff's office. The County shall attempt to respond to all emergency conditions, either during or after a snowstorm.

In addition, the provisions of this Chapter shall be suspended in the event the Governor of Iowa, by proclamation, implements the State disaster plan, or the Chairman of the Board of Supervisors, by proclamation, implements the County disaster plan. If either event occurs, County personnel and equipment shall be immediately subject to the direction of the Governor or the Chairman of the Board of Supervisors as the case may be.

CHAPTER 23

UTILITY INSTALLATION

23.01	Title	23.05	County Engineer to Administer
23.02	Purpose	23.06	Authority to Establish
23.03	Definitions	23.07	Penalties
23.04	Powers of the Board of Supervisors	23.08	Severability Clause

23.01 TITLE. This Chapter may be known, cited, and referred to as the “Buchanan County Utility Installation Permit Ordinance.”

23.02 PURPOSE. The purpose of this Chapter is to insure uniform and reasonable installation of utility lines on and along County public secondary road rights-of-way that will protect and preserve the highway corridor potential future expansion, construction, and growth, and to insure that the future improvements in or along the public secondary road rights-of-way may occur at a reasonable cost to the County taxpayer. This also includes adoption of provisions for the inspection and regulation of utility installations, including the issuance of permits and the collection of inspection fees, and to provide penalties for the violation of this ordinance in order to protect public safety, health and welfare.

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

- A. Applicant: A person, an association of persons, company, corporation, or governmental entity desirous of placing a utility line on, under, or along the County’s secondary road system.
- B. Highway Corridor: A highway right-of-way and all that area within one hundred fifty (150) feet of the centerline of a County secondary road.
- C. Utility Line: A cable, pipeline, or tile line constructed either under ground or above ground on a County secondary road right-of-way or within one hundred fifty (150) feet of the centerline of a County secondary road, including but not limited to the following: water lines, telephone lines, fiber optic lines, electric lines, tile lines, pipelines, storm sewer lines, and sanitary sewer lines.

23.04 POWERS OF THE BOARD OF SUPERVISORS. An applicant shall not place a utility line on, under, or along the secondary road system without a utility permit issued by the Board of Supervisors. An applicant shall not place a utility line on, under or along the secondary road system that violates a utility permit issued by the Board of Supervisors. All jurisdiction and control over the issuance of a utility permit shall rest with the Board of Supervisors.

23.05 COUNTY ENGINEER TO ADMINISTER. The Buchanan County Engineer may make such rules and regulations, not inconsistent with this ordinance, as are necessary to carry out the administration of this ordinance. The utility permit form, and all amendments thereto, shall be adopted by the Board of Supervisors by resolution. Application forms shall be available from the Office of the Buchanan County Engineer. An application for a permit shall be approved by the Buchanan County Engineer and the Board of Supervisors. The Engineer may authorize construction of a utility line on, under, or along a County secondary road to commence prior to Board of Supervisors approval when circumstances require immediate action.

23.06 AUTHORITY TO ESTABLISH. The Board of Supervisors is empowered to establish and require a utility permit by the authority of Iowa Code Chapters 306, 319, 320, 331, 477, 478, 479, 479A, and 480.

23.07 PENALTIES. Violation of this ordinance is a County infraction under Iowa Code Section 331.307, punishable by a civil penalty of not more than \$500 for each violation. Each day that a violation occurs or is permitted to exist by the applicant constitutes a separate offense. In addition, the County may avail itself of alternative relief, as authorized by Section 331.307(8) and 331.307(9).

23.08 SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

CHAPTER 24

REGULATING THE OPERATION OF ALL-TERRAIN VEHICLES AND OFF-ROAD VEHICLES

24.01	Purpose	24.06	Exempt Vehicles
24.02	Definitions	24.07	Penalties
24.03	Operation on Roadways	24.08	Repealer
24.04	Unlawful Operation	24.09	Severability
24.05	Registration Requirements and Other Conditions		

24.01 PURPOSE. This ordinance shall identify regulations regarding all-terrain vehicles and/or off-road utility vehicles operation on the portion of county roads as designed by the Buchanan County Board of Supervisors.

24.02 DEFINITIONS. The definitions of terms used in this ordinance are:

- 1) All-terrain Vehicle as defined by Iowa Code section 321I.1 means a motorized vehicle with not less than three and not more than six nonhighway tires that is limited in engine displacement to less than one thousand two hundred cubic centimeters and in total dry weight to less than one thousand two hundred pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.
- 2) Off-road Utility Vehicle as defined by Iowa Code section 321I.1 means a motorized vehicle with not less than four and not more than eight nonhighway tires or rubberized tracks that have a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. "Off-road Utility Vehicle" includes the following vehicles:
 - a) "Off-road Utility vehicle – type 1" means an Off-road Utility Vehicle with a total dry weight of one thousand two hundred pounds or less and a width of fifty inches or less.
 - b) "Off-road Utility vehicle – type 2" means an Off-road Utility Vehicle, other than a type 1 Off-road Utility Vehicle, with a total dry weight of two thousand pounds or less, and a width of sixty-five inches or less.
 - c) "Off-road Utility vehicle – type 3" means an Off-road Utility Vehicle with a total dry weight of more than two thousand pounds or a width of more than sixty-five inches, or both.
- 3) Roadway as defined by Iowa Code section 321I.1 means that portion of a highway improved, designed, or ordinarily used for vehicular travel.

24.03 OPERATION ON ROADWAYS. A registered All-terrain Vehicle or Off-road Utility Vehicle may be operated on gravel roadways in Buchanan County pursuant to the restrictions in this ordinance and those restrictions imposed by the Code of Iowa. A person shall not operate an All-terrain Vehicle or Off-road Utility vehicle on gravel roads in Buchanan County unless the operator has a valid driver's license and is at least 16 years of age. A person under 18 years of age shall be required to take and pass an Iowa Department of Natural Resources approved ATV Education Course and must Carry a valid safety certificate on board as proof that the Iowa Department of Natural Resources approved ATV Education Course was successfully completed. A person may operate an All-terrain Vehicle and/or Off-road Utility Vehicle on county blacktop for a reasonable distance to reach the nearest gravel road. On gravel, operation of an All-terrain Vehicle and/or Off-road Utility Vehicle is only permitted on the roadway, not in the ditch. All-terrain Vehicle and Off-road Utility Vehicle operation may begin at sunrise and must cease at sunset.

24.04 UNLAWFUL OPERATION. A person shall not operate an All-terrain Vehicle and/or Off-road Utility Vehicle under any of the following conditions:

- 1) At a rate of speed greater than the thirty-five (35) miles per hour or greater than reasonable and/or proper under existing circumstances.
- 2) In a careless, reckless, or negligent manner so as to:
 - a) Endanger any person;
 - b) Cause injury or damage to person or property; or,
 - c) Create unnecessary skidding or sliding or cause any wheel or wheels to unnecessarily lose contact with the ground.
- 3) Without a lighted headlight and taillight.
- 4) In any tree nursery or planting in a manner which damages or destroys growing stock.
- 5) On public land, ice or snow in violation of official signs prohibiting such operation.
- 6) In any park, wildlife area, preserve, refuge or game management area, with the following exception:

A person shall be permitted to operate an All-terrain Vehicle and/or Off-road Utility Vehicle on public park roads and in parking lots of properties under jurisdiction of the Buchanan County Conservation Board, with the exception of Three Elms Area and Fontana Park. All-terrain Vehicles and/or Off-road Utility Vehicles shall be permitted in the designated parking area on 125th Street as it runs through Fontana Park.
- 7) Any portion of a meandered stream or the bed of a non-meandered stream which has been identified as a navigable stream or river by the Iowa Department of Natural Resources and which is covered by water. This provision does not apply to designated ATV riding areas, construction vehicles engaged in lawful activity and/or the operation of all-terrain vehicles on ice.
- 8) Upon an operating railroad right-of-way. An All-terrain Vehicle may be driven directly across a railroad right-of-way only at established crossings.
- 9) With more persons on the vehicle than it was designed to carry.
- 10) On any riding area or trail unless the trail is designated by signs as open to All-terrain and Off-road Utility Vehicle operation.
- 11) With a firearm in the person's possession unless it is unloaded and enclosed in a carrying case. However, a nonambulatory person may carry an uncased and unloaded firearm while operating or riding an All-terrain Vehicle or Off-road Utility Vehicle.
- 12) Under the age of 16.
- 13) Without a valid driver's license and proof of insurance.
- 14) Being less than 18 years of age without a valid safety certificate on board as proof of successful completion of an Iowa Department of Natural Resources approved ATV Education Course.

24.05 REGISTRATION REQUIREMENT AND OTHER CONDITIONS. Individuals who operate on gravel roadways in Buchanan County must register the All-terrain Vehicle or Off-road Utility Vehicle with the Iowa Department of Natural Resources. The following conditions apply:

- 1) The owner of each All-terrain Vehicle or Off-road Utility Vehicle shall be required to provide proof of ownership including but not limited to bill of sale, Iowa Department of Natural Resources registration or registration from the appropriate out-of-state authority, and Proof of Liability Insurance.
- 2) All-terrain Vehicles or Off-road Utility Vehicles registered in Iowa are required to display their current registration decal and carry their certificate on board.
- 3) All-terrain Vehicles or Off-road Utility Vehicles registered in another state are required to also display a valid Iowa Department of Natural Resources User Permit in addition to displaying their current registration decal and carrying their certificate on board.

24.06 EXEMPT VEHICLES. Registration shall not be required for All-terrain Vehicles and/or Off-Road Utility Vehicles used exclusively as farm implements or as identified by the Code of Iowa.

24.07 PENALTIES. Violation of the Ordinance shall constitute a Simple Misdemeanor punishable by a fine of \$65.00 to \$625.00 plus the applicable court surcharge and costs and/or up to thirty (30) days in jail.

24.08 REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

24.09 SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be judged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

TITLE IV – PUBLIC ORDER AND SAFETY

CHAPTER 30

UNIFORM RURAL ADDRESS SYSTEM

30.01 Purpose	30.04 System Implementation
30.02 Definitions	30.05 Maintenance-Penalty
30.03 System Extent	30.06 Vandalism-Penalty

30.01 PURPOSE. This Chapter mandates the use of a uniform rural address system for residents of Buchanan County, Iowa in order to promote the safety, convenience and general welfare of those residents, and provides for penalties. The uniform rural address system so established is in coordination with the Enhanced 9-1-1 emergency telephone service.

30.02 DEFINITIONS.

1. “Address identification markers” shall mean green signs measuring 8x20 inches, with white reflectorized numbers at least four inches tall, located upon a six-foot U-channel post at the end of each rural driveway.
2. “Base map” shall mean the map or maps used by the Planning and Zoning Office to initiate and maintain the uniform rural address system in Buchanan County.
3. “Business” shall mean any commercial operation conducted at a given location and separate from all other activities or uses at that location.
4. “Dwelling” shall mean a building, or a portion thereof, used for residential purposes.
5. “Uniform rural address system” shall mean the numbers assigned to each dwelling or business in Buchanan County, Iowa, and the numbers or names of the streets, avenues, boulevards or roads in Buchanan County.
6. “Planning and zoning administrator” shall mean the Buchanan County Planning and Zoning Administrator.
7. “Road identification markers” shall mean signs bearing the name of a street, avenue, boulevard, road or lane, and located at road intersections.

30.03 SYSTEM EXTENT. The extent of the uniform rural address system shall be over the entire unincorporated area of Buchanan County. All rural identification numbers in existence at the time of adoption of this Chapter as an ordinance shall be considered null and void.

30.04 SYSTEM IMPLEMENTATION. The Board of Supervisors shall direct the Planning and Zoning Administrator to establish base maps and assign numbers for all dwellings and businesses located in Buchanan County, but outside the corporate limits of any city. The Planning and Zoning Administrator shall verify the accuracy of the base maps to the extent reasonable and possible, and shall make any future corrections or updates.

The base maps shall include the names and numbers of the streets, avenues, boulevards and roads, along with the township maps showing location and address of each dwelling and business.

Each dwelling occupant or business operator shall be notified of the rural address by the Planning and Zoning Administrator. Such notification shall include the new address and the date of the system implementation.

All rural dwellings and businesses located on the north and west sides of streets, avenues, boulevards and roads shall have odd numbered addresses, while those dwellings and businesses located on the south and east sides shall have even numbered addresses. The lowest numbered address, outside of the unincorporated communities of Otterville and Littleton, shall be 1000 and shall be in the northwestern corner of Buchanan County. The highest numbered address shall be 3469 and located in the southeastern corner of Buchanan County.

All new businesses and dwellings shall be assigned an address by the Planning and Zoning Administrator, who shall also be notified of all road vacations, annexations or road name changes.

The Board shall direct the County Engineer to purchase and supervise the installation and maintenance of road identification markers, including replacement markers.

The Board of Supervisors shall direct the County Engineer to purchase and the Sheriff shall supervise the installation of all address identification markers. The markers shall be placed upon six-foot, U-channel posts approximately four feet above ground level at the end of each driveway. The markers shall be located on the left, or driver's side, upon entering a driveway or lane. Replacement address identification markers will be purchased by the County Engineer and installed by the Sheriff, at the expense of the occupant.

30.05 MAINTENANCE-PENALTY. Maintenance of address identification markers shall be the responsibility of the occupants of the respective properties upon which the markers are located. Occupants shall insure that address identification markers are visible from the adjacent roadway, and shall remove any obstructions to said visibility, such as vegetation or snow, and shall not install structures or objects which obstruct visibility.

In the event that an address identification marker is found to be damaged, obstructed or removed, the Sheriff shall serve notice of the alleged violation upon the current resident. Such a notice shall be in writing and shall include a statement of the reason for issuance, specify the remedial action desired, and allow a reasonable time for the performance of any action required. Notice may be served upon the occupant by personal service or by certified mail, return receipt requested. An occupant who fails to complete the remedial action specified in the notice within ten (10) days from the deadline date specified in the notice shall be guilty of a County infraction. Each day a violation is allowed to exist shall be considered a separate offense.

30.06 VANDALISM-PENALTY. Any person, who intentionally damages, defaces, removes, or destroys an address identification marker or road identification marker shall be guilty of a simple misdemeanor.

CHAPTER 31

HAZARDOUS SUBSTANCES AND WASTE

31.01	Purpose	31.06	Notifications
31.02	Definitions	31.07	Police Authority
31.03	Temporary Deputies	31.08	County Liability
31.04	Cleanup Required	31.09	Penalty
31.05	Liability for Cleanup Costs		

31.01 PURPOSE. In order to reduce the danger to public health, safety and welfare from the spills of hazardous substances, these regulations are promulgated to establish responsibility for the removal and cleanup of spills, leakage or release of hazardous substances which create an immediate or potential danger to the public health or safety within the limits of Buchanan County.

31.02 DEFINITIONS. For the purpose of this Chapter these terms shall have the following meanings:

1. “Hazardous waste” shall mean such wastes as defined in Iowa Code Section 455B.411(3) (a).
2. “Hazardous substance” shall mean any substance as defined in Iowa Code Section 455B.381(5).
3. “Hazardous condition” shall mean any circumstances as defined in Iowa Code Section 455B.381(4).
4. “Responsible person” shall mean the same as defined in Iowa Code Section 455B.381(7).
5. “Cleanup” shall mean the same as defined in Iowa Code Section 455B.381(1).
6. “Treatment” shall mean a method, technique, or process, including neutralization, designed to change the physical, chemical or biological character or composition of a hazardous substance so as to neutralize it or to render the substance non-hazardous, safer for transport, amenable for recovery and for storage, or to reduce it in volume. “Treatment” includes any activity or processing designed to change the physical form or chemical composition of a hazardous substance to render it non-hazardous.
7. “Authorized person” means the Buchanan County Emergency Management Coordinator or his or her duly appointed designee.

31.03 TEMPORARY DEPUTIES. The Buchanan County Emergency Management Coordinator may appoint the fire chief or assistant fire chief of any municipality as a temporary deputy and may delegate the duties of the Authorized Person to the temporary deputy. The temporary deputy shall have full authority over the scene of an incident involving a hazardous condition, pending the arrival at the scene of the Buchanan County Emergency Management Coordinator.

31.04 CLEANUP REQUIRED.

1. Whenever a hazardous condition is created so that a hazardous substance or waste or a constituent of a hazardous substance or waste has entered or may enter the environment, be emitted into the air, or discharged into any waters, including ground waters, the Responsible Person shall alleviate the condition by cleanup or treatment, as defined by Section 31.02(5) and (6) of this Chapter and shall restore

the affected area to its status prior to the hazardous condition as far as practicable. The Authorized Person may enlist the assistance of personnel from outside Buchanan County who are specially trained to deal with hazardous conditions, pursuant to an intergovernmental agreement for the provision of such assistance. The cost of cleanup or treatment shall be borne by the Responsible Person.

2. If the Responsible Person cannot be located within a reasonable period of time, or if the Responsible Person does not cause the cleanup or treatment to begin within a time reasonable in relation to the hazard and circumstances of the incident, the County may, by the Authorized Person, give notice which shall be reasonable considering the character of the hazardous condition. The notice shall state a deadline for accomplishing the cleanup or treatment and state that the County will proceed to procure cleanup or treatment services if the cleanup or treatment is not accomplished within the deadline. The notice shall set forth a reasonable estimate of the cost of cleanup or treatment and state that the Responsible Person will be billed for all costs associated with the cleanup or treatment, including but not limited to equipment rendered unserviceable, personnel costs (including overtime), disposal costs and any other costs associated with the cleanup or treatment.
3. If the bill for the above services is not paid within thirty (30) days, Buchanan County may proceed, after service of notice, either by certified mail or by one publication in a newspaper having general circulation within Buchanan County, and hearing before the Board of Supervisors, to obtain payment by all available legal means.
4. If the cost of cleanup or treatment is beyond the capacity of the County to finance it, the Authorized Person shall proceed pursuant to Iowa Code Section 455B.387(2), and immediately seek any state or federal funds available for such cleanup or treatment.

31.05 LIABILITY FOR CLEANUP COSTS. The Responsible Person shall be strictly liable to Buchanan County for all of the following:

1. Those costs set forth in Section 31.04(2) of this Chapter.
2. The reasonable costs incurred by the County to evacuate persons from the area threatened by a hazardous condition caused by the Responsible Person.
3. Reasonable damages for injury to, destruction, or loss of County property, including parks and roads, resulting from a hazardous condition caused by the Responsible Person, including the cost of assessing the injury, destruction or loss.

31.06 NOTIFICATIONS.

1. The Responsible Person shall notify the Buchanan Public Safety Center of the occurrence of a hazardous condition immediately after the onset or discovery of the hazardous condition. The dispatcher on duty at the Buchanan Public Safety Center shall then immediately notify the Buchanan County Emergency Management Coordinator, the appropriate law enforcement agency and any member of the appropriate fire department who has received special training in the handling and disposal of hazardous substances.
2. Any county or municipal employee or member of a law enforcement agency, city or township fire department, or ambulance service who discovers a hazardous condition shall immediately notify the Buchanan Public Safety Center. The Authorized Person shall notify proper state authority in the manner established by state regulation.

31.07 POLICE AUTHORITY. If the circumstances so require, the Authorized Person may:

1. Order the evacuation of persons to areas away from the site of a hazardous condition, and/or
2. Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to such site to persons engaged in cleanup or treatment.
3. No person shall disobey an order of the Authorized Person or any law enforcement official acting under direction of the Authorized Person issued under this Section.

31.08 COUNTY LIABILITY. Except where Buchanan County is the Responsible Person as defined in Section 31.02(4) of this Chapter, the County shall not be liable to any person for claims of damages, injuries, or loss resulting from any hazardous condition.

31.09 PENALTY. Any person violating any provision, section, or paragraph of this Chapter shall be guilty of a misdemeanor, and upon conviction, be subject to a fine not exceeding \$200 or be imprisoned for not more than thirty (30) days. Each day of violation shall constitute a separate offense.

CHAPTER 32

LITTER CONTROL

32.01	Purpose	32.03	Separation of Yard Wastes
32.02	Littering Prohibited	32.04	Violations

32.01 DEFINITIONS. For use in this Chapter, the following terms are defined:

1. “Refuse” shall mean any solid waste matter consisting of, but not limited to, garbage, junk vehicles (or parts thereof), machinery (or parts thereof), household trash, yard waste, commercial trash, building materials, trees, rocks, or similar material.
2. “Hazardous waste” or “industrial waste” shall mean chemicals such as poison, acids and caustics, infected materials, explosives, sewage sludge, and sludges and liquids created by factories, processing plants or other manufacturing enterprises.
3. “Litter” shall mean any refuse improperly discarded upon any public place within Buchanan County.
4. “Commercial collector of refuse” shall mean a person or firm who hauls refuse for compensation.
5. “Yard waste” shall mean debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.
6. “Degradable bags” shall mean any untreated paper bags.
7. “Compost” shall mean organic material resulting from biological decomposition of waste which can be used as a soil conditioner or soil amendment.
8. “Composting” shall mean the controlled, biological decomposition of selected solid organic waste materials under aerobic conditions resulting in an innocuous final product.

32.02 LITTERING PROHIBITED.

1. It shall be unlawful for any person to scatter, place or deposit any refuse, or hazardous and/or industrial wastes upon or along any public right-of-ways, stream, body of water, or upon any other public place within Buchanan County unless permitted by law.
2. No person or firm shall haul, transport or otherwise convey any refuse or hazardous or industrial waste within Buchanan County unless the same is contained in covered receptacles or is otherwise secured either to or within the vehicle so that the said waste matter does not fall or blow off or out of the vehicle hauling the same.

32.03 SEPARATION OF YARD WASTES.

1. All yard wastes shall be separated by the owner or occupant from all other refuse accumulated on the premises, and shall be composted on the premises or placed in containers, packages, or degradable bags and set out for collection by commercial collectors of refuse.

2. Composting or other disposition of yard waste on the same premises where it originated does not require a permit. Such disposition shall not be deemed a nuisance; provided however that the methods and procedures used for such disposition do not violate any other applicable statute, regulation, or ordinance.

32.04 VIOLATIONS. Any person or firm violating any provision or requirement of this Chapter shall be guilty of a County infraction.

Any peace officer or officer or employee of Buchanan County is hereby authorized to enforce the provision of this Chapter.

CHAPTER 33

DRUG PARAPHERNALIA

33.01	Purpose	33.06	Manufacture, Delivery or Sale of Drug Paraphernalia
33.02	Controlled Substance Defined	33.07	Legislative Intent
33.03	Drug Paraphernalia Defined	33.08	Penalties
33.04	Determining Factors	33.09	Nuisance
33.05	Possession of Drug Paraphernalia		

33.01 PURPOSE. The purpose of this Chapter is to prohibit the use, possession with intent to use, manufacture and delivery of drug paraphernalia as defined herein.

33.02 CONTROLLED SUBSTANCE DEFINED. The term “controlled substance” as used in this Chapter shall be defined the same as the term “controlled substance” is defined in Iowa Code Chapter 124, as it now exists or is hereafter amended.

33.03 DRUG PARAPHERNALIA DEFINED. The term “drug paraphernalia” as used in this Chapter shall mean all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, concealing, containing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of Iowa Code Chapter 124. The term includes, but is not limited to:

1. Growing Kits. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
2. Processing Kits. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, sifting, or otherwise preparing controlled substances.
3. Isomerization Devices. Devices used, intended for use, or designed for use in increasing the potency by the process of isomerization of any species of plant which is or contains a controlled substance.
4. Testing Equipment. Equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.
5. Scales. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
6. Dilutents. Substances, such as quinine, hydrochloride, mannitol, mannite, dextrose or lactose, used, intended for use, or designed for use in cutting, adulterating, or diluting controlled substances.
7. Separators. Gins used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.
8. Mixing Devices. Blenders, bowls, containers, spoons and other objects used, intended for use, or designed for use in compounding controlled substances.
9. Containers. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

10. Storage Containers. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
11. Injecting Devices. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.
12. Ingesting-Inhaling Devices. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing heroin, marijuana, cocaine, hashish, or hashish oil into the human body, such as:
 - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - b. Water pipes;
 - c. Carburetion tubes and devices;
 - d. Smoking and carburetion masks;
 - e. Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand;
 - f. Miniature cocaine spoons and cocaine vials;
 - g. Chamber pipes;
 - h. Carburetor pipes;
 - i. Electric pipes;
 - j. Air driven pipes;
 - k. Chillums;
 - l. Bongs;
 - m. Ice pipes or chillers;
 - n. Straws;
 - o. Razor blades.

33.04 DETERMINING FACTORS. In determining whether an object is drug paraphernalia for the purpose of enforcing this Chapter, the following factors may be considered in addition to all other logically relevant factors:

1. Statements. Statements by an owner or by anyone in control of the object concerning its use.
2. Prior Convictions. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance.

3. Proximity to Violation. The proximity of the object in time and space, to a direct violation of Iowa Code Chapter 124.
4. Proximity to Substances. The proximity of the object to controlled substances.
5. Residue. The presence of any residue of controlled substances on the object.
6. Evidence of Intent. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object, to deliver it to a person whom he or she knows, or reasonably should know, intends to use the object to facilitate a violation of Iowa Code Chapter 124.
7. Innocence of an Owner. The innocence of an owner, or of anyone in control of the object, of a direct violation of Chapter 124 of the Iowa Code shall not by itself preclude a finding that the object is intended for use, or designed for use as drug paraphernalia.
8. Instructions. Instructions, oral or written, provided with the object concerning its use.
9. Descriptive Materials. Descriptive materials accompanying the object which explain or depict its use.
10. Advertising. National and local advertising concerning its use of the object.
11. Displayed. The manner in which the object is displayed for sale.
12. Licensed Distributor or Dealer. Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
13. Sales Ratios. Direct or circumstantial evidence of ratio of sales of the object(s) to the total sales of the business enterprise.
14. Legitimate Uses. The existence and scope of legitimate uses for the object in the community.
15. Expert Testimony. Expert testimony concerning use of the object.

33.05 POSSESSION OF DRUG PARAPHERNALIA. It is unlawful for any person to use, or to possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of Iowa Code Chapter 124.

33.06 MANUFACTURE, DELIVERY OR OFFERING FOR SALE OF DRUG PARAPHERNALIA. It is unlawful for any person to deliver, possess with the intent to deliver, manufacture with intent to deliver, or offer for sale drug paraphernalia, intending that the drug paraphernalia will be used, or knowing or having reasonable cause to believe that it will be used, or knowing that it is designed for use to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of Iowa Code Chapter 124.

33.07 LEGISLATIVE INTENT. It is the purpose and intent of the Board of Supervisors to promote the health, safety, and morals of the citizens of Buchanan County, Iowa. The use or administration of controlled substances is clearly illegal. The banning of all objects is closely associated with and adopted for the use of controlled substances is desirable because of the lack of social or practical purposes of such objects or paraphernalia, whether the use be by adults or minors. It is also the strong public policy of Buchanan County to protect children from unsupervised exposure to and familiarity with drug paraphernalia. In addition to education about such items in school and at home, it is also essential to discourage open use, possession, manufacture, and commerce in these drug related items.

33.08 PENALTIES. Any person, firm or corporation violating any provision, section, or paragraph of this Chapter shall be guilty of a simple misdemeanor. Each day a violation occurs shall constitute a separate offense.

33.09 NUISANCE. In addition to the above, or in lieu thereof, violation of this Chapter shall constitute a nuisance which may be abated in the manner provided in Iowa Code Section 331.384 or by injunction in the Iowa District Court.

CHAPTER 34

RESISTING ARREST

34.01 Resisting Arrest Prohibited

34.02 Penalty

34.01 RESISTING ARREST PROHIBITED. No person shall knowingly resist, oppose, impede, obstruct, or interfere with a police or law enforcement officer who is attempting to make an arrest, with or without a warrant.

34.02 PENALTY. Any person violating the provisions of this Chapter shall be guilty of a simple misdemeanor.

CHAPTER 35

INDECENT EXPOSURE

35.01	Definitions	35.03	Exempted Behavior
35.02	Indecent Exposure Prohibited	35.04	Penalty

35.01 DEFINITIONS. For use in this Chapter, the following terms are defined:

1. “Private parts” shall mean the pubic hairs, anus, vulva, genitals, penis, nipples of the female breast, or the buttocks.
2. “In public” shall mean in or on any road, street, sidewalk, park, land or building owned by a unit of government, any other property where the person in lawful possession and control of the property has not given his or her assent to the exposure, and any place which can be seen from the aforementioned areas.
3. “Expose” shall mean the act of allowing a private part to be actually visible and not covered by opaque material.

35.02 INDECENT EXPOSURE PROHIBITED. No person shall intentionally expose any of the person’s private parts in public to another person without the latter person’s express or implied consent.

35.03 EXEMPTED BEHAVIOR. Regardless of the foregoing limitations, this Chapter shall not be construed to prohibit participation in theatrical productions, performances, or exhibitions which, when taken as a whole, do not appeal to the prurient interest in sex, which do not portray sexual conduct in a patently offensive way, and which, taken as a whole, have serious literary, artistic, political, or scientific value.

35.04 PENALTY. Any person violating the provisions of this Chapter shall be guilty of a simple misdemeanor.

CHAPTER 36

FIREWORKS

36.01	Purpose	36.07	Determination Criteria
36.02	Definitions	36.08	Unused Fireworks
36.03	Sale or Display of Fireworks Prohibited	36.09	Exempt Usages
36.04	Permit to Public Fireworks Display	36.10	Seizure of Prohibited Fireworks
36.05	Permit Application Requirements	36.11	Suspension of Fireworks Permit
36.06	Investigation	36.12	Penalty

36.01 PURPOSE. The purpose of this Chapter is to implement the provisions of Iowa Code Sections 331.304(9) and 727.2 respecting the authority of Buchanan County to regulate the use of fireworks within its territory and to prohibit the unlawful use, sale, or possession of fireworks.

36.02 DEFINITIONS. For purposes of this Chapter, the following terms shall apply:

1. “Fireworks” shall mean and include any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and includes blank cartridges, firecrackers, torpedoes, sky rockets, roman candles, or other fireworks of like construction and any fireworks containing any explosive or inflammable compound, or other device containing any explosive substance. The term “fireworks” does not include goldstar-producing sparklers on wires which contain no magnesium or chlorate or perchlorate, flitter sparklers in paper tubes that do not exceed 1/8 of an inch in diameter, toy snakes which contain no mercury, or caps used in cap pistols.
2. “Organized group” shall mean any firm, partnership, corporation, association, or other organization of individuals which was not formed solely or primarily for the purpose of obtaining a fireworks permit as provided herein.
3. “Competent Operator” shall mean an individual who has been trained and is a licensed pyrotechnician (i.e., fireworks expert) to conduct the fireworks display.

36.03 SALE OR DISPLAY OF FIREWORKS PROHIBITED. Except as provided herein, it shall be unlawful for any person or association of persons to offer for sale, expose for sale, sell at retail, possess, or use to explode any fireworks within unincorporated areas of Buchanan County.

36.04 PERMIT FOR PUBLIC FIREWORKS DISPLAY. No person or organized group shall display or use to explode any fireworks unless such person or organized group shall have obtained a permit in writing therefore from the Board of Supervisors. All applications for such permits shall be filed in the office of the Auditor. The Board of Supervisors may upon application grant a permit for the supervised public display of fireworks by a municipality, fair association, amusement park, government entity, or other organized group approved by the Board of Supervisors when the fireworks display will be handled by a competent operator. A competent operator must meet the following fireworks safety requirements:

1. Be certified as a Display Fireworks Operator by the Pyrotechnics Guild International, Inc. Such certification involves formal fireworks safety training, passing a fireworks safety test with an 80% rate of accuracy, and working with a guild member on at least three formal fireworks displays; or
2. Possess a current, valid fireworks license issued by a state of the United States which requires formal safety training similar to that in 1) above; or

3. Demonstrate an equivalent degree of formal fireworks safety training and experience to the satisfaction of the Board.

If such permit is granted, the sale, possession, use, and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted pursuant to this Chapter shall be transferable.

36.05 PERMIT APPLICATION REQUIREMENTS. Applications for permit shall be available in the Auditor's office. All such applications shall be filed not less than fourteen (14) days in advance of the date of the display and shall include:

1. A request for permit and a statement concerning the reason for the proposed display.
2. If filed on behalf of an organized group, the name of the group and the name(s), copy of photo identification; date(s) of birth, and address(es) of the person or persons who will act as its agent(s) or representative(s).
3. Location, date, and time of the proposed display; an alternative rain date may also be indicated.
4. The name of the person or persons who will conduct the proposed display and a copy of the current certificate(s) or license(s) as a pyrotechnician.
5. An agreement indemnifying and holding Buchanan County harmless from any liability which may arise as a result of the proposed display.
6. A statement that the applicant will have in effect a policy of liability insurance which will cover the proposed display.
7. An application fee, to be determined by resolution of the Board of Supervisors. Such fee shall be refundable if the application is denied. Subject to the approval of such application, the fee shall be deposited in the County general fund.
8. A statement whether or not the applicant requires a permit from the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives to conduct the proposed display. If such a permit is required, the applicant shall attach a copy of such permit to the application for permit required by this Chapter.

36.06 INVESTIGATION. No permit shall be issued until the chief of the fire department having jurisdiction over the site of the fireworks display has approved the location and fire prevention measures.

36.07 DETERMINATION CRITERIA. The Board of Supervisors shall consider each of the following criteria in making its determination to grant or deny an application. In the event that an application is denied, the Board shall furnish the applicant with a written statement which shall specify in detail which of the following criteria the denial was based upon, as well as any other factors which were considered as bases for denying the application:

1. The size and location of the proposed display site as each relates to the potential for damage to nearby property or injury to persons.
2. The training, experience, and past reliability of the person or persons named in the application to conduct the proposed display. Specifically, whether a certified and licensed pyrotechnician will conduct the display.
3. The manner in which the applicant conducted any past displays.

4. Whether all of the requirements of an application for permit as set forth in Section 36.05 were complied with by the applicant.
5. The likelihood that the time and date of the display will unreasonably disturb nearby residents.
6. Any special safety considerations which the Board may determine to be unique to the particular proposed display and the applicant's proposed manner of dealing with such special safety considerations.

If an application is denied, the applicant shall be given an opportunity to amend the application and to resubmit it to the Board of Supervisors. The Board shall consider the amended application in light of its reasons for denial of the original application. If it appears that the amendments to the application adequately remedy the situation or situations which gave rise to the denial of the original application, the amended application for permit shall be granted.

36.08 UNUSED FIREWORKS. Any fireworks which remain unexploded or unfired after a permitted display is concluded shall be immediately disposed of in a safe manner considering the particular type of fireworks remaining.

36.09 EXEMPT USAGES. Nothing in this Chapter shall be construed to prohibit or regulate the use of fireworks in the following instances:

1. Flares used by railroads or other transportation agencies for signal purposes or illumination.
2. Sale or use of blank cartridges for a show or theatrical production.
3. Sale or use of blank cartridges for signal or ceremonial purposes at athletic events.
4. Use of blank cartridges by veterans' organizations.
5. Substances or preparations used for medicinal or fumigation purposes.

This Chapter further shall not be construed to prohibit any resident, dealer, manufacturer, or jobber from selling fireworks, provided that the same are to be shipped out of the State of Iowa.

36.10 SEIZURE OF PROHIBITED FIREWORKS. The Sheriff shall seize, take, remove, or cause to be removed at the expense of the owner all stocks of fireworks offered or exposed for sale, stored, or held in violation of this Chapter.

36.11 SUSPENSION OF FIREWORKS PERMIT. The Buchanan County Board of Supervisors or the Buchanan County Sheriff or his or her designee may suspend any permit issued pursuant to this Chapter should it be determined that the health, safety, and/or welfare of the public requires the suspension, or should the applicant/or operator fail to meet or follow the safety qualification as set out in this Chapter. Whenever a burn ban is issued by Buchanan County all permits issued pursuant to this Chapter shall be automatically suspended.

36.12 PENALTY. Violations of this Chapter may be punished as provided in Iowa Code Section 727.2 or as a County infraction.

CHAPTER 37

OPEN BURNING

37.01	Purpose	37.07	Extinguishment Authority
37.02	Compliance	37.08	Burn Bans
37.03	Notice	37.09	Exceptions
37.04	Notification Procedure	37.10	Penalty
37.05	Supervision	37.11	Severability Clause
37.06	Hazardous Material		

37.01 PURPOSE. The purpose of this ordinance is to enhance and coordinate protection from uncontrolled fires by establishing an appropriate procedure, with exceptions.

37.02 COMPLIANCE. No person shall cause a fire or explosion, or place any burning or combustible material or any incendiary or explosive device or material in or near any building or structure, or to surface debris or vegetative matter on the following locations: farm land or pasture land, including land subject to the regulations of the Federal Conservation Reserve Program; other rural ground; woodlands; or any part of the right-of-way of a highway, with the intent to destroy or damage such surface debris or vegetative matter, or with the knowledge that such property will probably be destroyed or damaged, without compliance with the provisions of this ordinance.

37.03 NOTICE. Any person intending to conduct open burning as described above shall give prior notice to the Buchanan County public safety dispatcher of the person's intent to conduct an open burn. The notice shall specify the exact location and nature of the intended open burn. Thereafter, the person giving notice shall not commence such open burning not less than two nor more than 24 hours after giving notice.

37.04 NOTIFICATION PROCEDURE. After receiving from a person notice of a proposed open burn, the dispatcher shall immediately advise by telephone or page an appropriate official of the fire district in which the burn is to occur of the notice. The fire official shall immediately determine whether wind and weather conditions are such that an open burn would cause an undue threat or hazard to life or property. If the fire official makes such determination, he or she shall immediately notify the person giving notice and shall direct such person to postpone the intended open burn. In such event, the person giving notice shall refrain from conducting an open burn until advised by the appropriate fire official that such burn can be conducted safely. If wind and weather conditions are such that an open burn would not cause an undue threat or hazard to life or property, the official shall so notify the person giving notice and permit the open burn to occur.

37.05 SUPERVISION. The person supervising the open burn shall supervise said burn at all times until the fire is completely extinguished. The person supervising the open burn shall have at his or her immediate disposal means of extinguishing the fire, including at least one approved fire extinguisher, dirt, sand, water barrel, garden hose, or water truck.

37.06 HAZARDOUS MATERIAL. The burning of any material or substance that results in the emission of a substance or substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive, flammable, or that is an irritant or that generates pressure through decomposition, heat, or other means shall not be permitted under any circumstances.

37.07 EXTINGUISHMENT AUTHORITY. The appropriate official of the fire district where the open burn is conducted shall have the authority to order the extinguishment of the fire by the person supervising said burn or by the fire department if said official determines that the open burn is creating or is adding to a hazardous or objectionable situation.

37.08 BURN BANS. Enforcement of this ordinance shall be suspended upon the imposition of a general burn ban ordered by the State fire marshal and shall be resumed at such time said general burn ban is rescinded.

37.09 EXCEPTIONS. Nothing in this ordinance shall be deemed to apply to the use of an outdoor fire for cooking or recreation; combustion of normal yard waste or debris resulting from construction or demolition; outdoor fireplaces; barbecue grills; operations in properly supervised landfills; or the combustion of trash in incinerators or trash burners constructed of metal, concrete, or heavy one-inch wire mesh, with openings of less than one square inch.

37.10 PENALTY. Violation of this ordinance shall be a County infraction under Iowa Code Section 331.307, punishable by a civil penalty not to exceed \$750 for each violation. In addition, the County may seek alternative relief in appropriate instances, as authorized by Iowa Code Sections 331.307(8) and 331.307(9). Officials of local fire districts that include areas in Buchanan County are authorized to issue citations to persons alleged to be in violation of this ordinance.

37.11 SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

TITLE V – HEALTH AND SANITATION

CHAPTER 40

NONPUBLIC WATER WELL REGULATIONS

40.01	Purpose	40.08	Types of Well Construction
40.02	Definitions	40.09	Rehabilitation or Reconstruction
40.03	Application	40.10	Water Distribution Systems
40.04	Nonconforming Wells	40.11	Well Disinfections
40.05	Variances	40.12	Water Sampling and Analysis
40.06	Location of Wells	40.13	Abandonment of Wells
40.07	General Construction Requirements	40.14	Closed Circuit Vertical Heat Exchange

40.01 PURPOSE. The purpose of this regulation is to protect the public health by protecting groundwater supplies from contamination by establishing uniform minimum standards and methods of well construction and reconstruction for nonpublic water supply wells.

40.02 DEFINITIONS.

1. Abandoned well: A well whose use has been permanently discontinued, or when its condition is such that continued use is impractical or no longer desired.
2. Administrative authority: The Buchanan County Board of Health, or its designated agent.
3. Anaerobic lagoon: An impoundment, the primary function of which is to store and stabilize organic wastes. The impoundment is designed to receive wastes on a regular basis, and the design waste loading rates are such that the predominant biological activity in the impoundment will be anaerobic. An anaerobic lagoon does not include:
 - a. A runoff basin which collects and stores only precipitation induced runoff from an open feedlot feeding operation, or;
 - b. A waste slurry storage basin which receives waste discharges from confinement feeding operations and which is designed for complete removal of accumulated wastes from the basin at least semiannually, or;
 - c. Any anaerobic treatment system which includes collection and treatment facilities for all off-gases.
4. Annular space: The open space between the well hole excavation and the well casing.
5. Cesspool: A covered excavation, lined or unlined, into which wastes from toilets or urinals are discharged for disposal.
6. Compensation for well interference: A payment to the owner of a nonregulated well for damages caused by a lowered water level in the well due to withdrawal of water for a permitted use.
7. Confinement building: A building used in conjunction with a confinement feeding operation to house animals.
8. Conforming well: A well that complies with the standards of this regulation, including wells properly plugged according to the Iowa Administrative Code (IAC).

9. Deep well: A well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least 5 feet thick located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.
10. Earthen manure storage basin: An earthen cavity, either covered or uncovered, which, on a regular basis, receives waste discharges from a confinement feeding operation if accumulated wastes from the basin are completely removed at least once each year.
11. Established grade: The permanent point of contact of the ground to artificial surface with the casing or curbing of the well.
12. Formed manure storage structure: A structure, either covered or uncovered, used to store manure from a confinement feeding operation, which has walls and a floor constructed of concrete, concrete block, wood, steel, or similar materials. Similar materials may include, but are not limited to, plastic, rubber, fiberglass, or other synthetic materials.
13. Grout: A material used to seal the annular space between the casing and the borehole and shall consist of neat cement, concrete, high solids bentonite slurry, or hydrated bentonite chips.
14. Health-related problem: Well water that contains any contaminant at a level that exceeds maximum contaminant levels, or health advisory levels as adopted by the Department of Natural Resources.
15. Heavy drilling fluid: Water used for drilling which because of the natural clay content of the borehole or by addition of bentonite grout has a solids density of at least 10 percent by weight or a mud weight of at least 9.25 lb/gal.
16. Low permeability material: A geological unit of unconsolidated material (usually clay or till) or bedrock (usually shale) that is all or partially saturated, and having permeability low enough to give water in the aquifer artesian head.
17. Nonpublic water supply well: A well that does not supply a public water supply system.
18. Non-regulated well: A well used to supply water at a rate of less than 25,000 gallons per day that does not need to have a water use permit.
19. Open feedlot: An unroofed or partially roofed animal feeding operation in which no crop, vegetation, or forage growth or residue cover is maintained during the period that animals are confined in the operation.
20. Permitted use: A use of water in excess of 25,000 gallons per day which requires a water use permit pursuant to the IAC and Iowa Code.
21. Pitless adapter: A device designed for attachment to one or more openings through a well casing and constructed so as to prevent the entrance of contaminants into the well through such openings, conduct water from the well, protect the water from freezing or extremes of temperature, and provide full access to the well and to water system parts within the well.
22. Pitless unit: An assembly which extends the upper end of the well casing to above grade.
23. Public water supply: A system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. The term includes (1) any collection, treatment, storage, and distribution facilities under control of the supplier

of water and used primarily in connection with the system; and (2) any collection (including wells) or pretreatment storage facilities not under the control of the supplier which are used primarily in connection with the system.

24. Pumps and pumping equipment: Any equipment or materials, including seals, tanks, fittings and controls utilized or intended for use in withdrawing or obtaining water for any use.
25. Rehabilitation or reconstruction: Modifying the original construction of a well. Rehabilitation or reconstruction includes, but is not limited to, deepening the well, installing a liner, installing or replacing a screen with one of a different diameter or length, installing a pitless adapter, extending the casing, or hydrofracturing a well. Replacing a screen with one of identical diameter and length, replacing a pitless adapter, or acidizing a well would be considered repair, not rehabilitation or reconstruction.
26. Runoff control basin: An impoundment designed and operated to collect and store runoff from an open feedlot.
27. Shallow well: A well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock (or equivalent retarding mechanism acceptable to the department) at least 5 feet thick, the top of which is located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.
28. Stuffing box: An approved receptacle in which packing may be compressed to form a watertight or airtight junction between two objects.
29. Well: Any excavation that is drilled, cored, driven, dug, bored, augured, jetted, washed or is otherwise constructed for the purpose of exploring for groundwater, monitoring groundwater, utilizing the geothermal properties of the ground, or extracting water from or injecting water into the aquifer. "Well" does not include an open ditch, drain tiles, an excavation made for obtaining or prospecting for oil, natural gas, minerals, or products mined or quarried, lateral geothermal heat exchange systems less than 20 feet deep, nor temporary dewatering wells such as those used during the construction of subsurface facilities only for the duration of the construction.
30. Well liner: A pipe used to line the inside of a well hole but not designed to hold hydraulic or structural loading. Liners must be installed within a casing or in an ungrouted open bore hole.
31. Well seal: A device used to cover or seal a well that establishes or maintains a junction between the casing of the well and the piping, electric conduit or equipment installed, so as to prevent water or other foreign material from entering the well at the uppermost terminal.
32. Well cap: A snug-fitting, watertight device used above flood level that excludes dust and vermin and allows for screened venting.
33. Well sanitary seal: A watertight fitting which uses mechanical compression that is installed on wells that terminate in a well house.
34. Well services: New well construction, well reconstruction, installation of pitless equipment, or well plugging.

40.03 APPLICABILITY. The provisions contained herein apply to all nonpublic water supply wells constructed for the purpose of domestic, livestock, irrigation, recreation, and commercial use, that are completed after the effective date of these rules. They shall also apply to existing water wells undergoing rehabilitation or reconstruction. Ponds and surface water supplies are not covered by these standards.

40.04 NONCONFORMING WELLS.

1. Certified well contractors shall ensure that the rehabilitation or reconstruction of nonconforming wells adheres to all applicable provisions of this Chapter or to comparable construction or installation requirements approved by the administrative authority.
2. When any construction or reconstruction is done on a nonconforming feature of a well, that feature shall be upgraded and brought into compliance with the material and installation standards contained in this Chapter.
3. This Chapter shall not apply to public water supply wells, horizontal heat pump installations, elevator shafts, underground storage tank monitoring wells, or monitoring wells for solid waste disposal facilities as covered in the IAC.
4. The administrative authority shall have the authority to visit well sites during any phase of the work without prior notice. The administrative authority shall by rule require the issuance of permits and the submission of water well logs. No well services shall be initiated until a permit has been issued by the proper authority. The administrative authority may also require posting of performance bonds and collection and submission of other data. The issuance of permits is covered in the IAC and shall be coordinated with the water withdrawal permits issued by the Iowa Department of Natural Resources as covered in the IAC. All well services shall be performed by a certified well contractor or the property owner as specified in the IAC.
5. It shall be the responsibility of the certified well contractor to ensure that a well construction permit has been issued prior to initiation of well services. It shall also be the responsibility of the certified well contractor to ensure that all well services are performed in accordance with the provisions of this Chapter.

40.05 VARIANCES.

1. Variances to these rules may be granted by the administrative authority if sufficient information is provided to substantiate equal protection and the need for such action. Variance requests and reasoning shall be in writing. Variance approvals or rejections shall also be in writing. Where permitting authority has not been delegated to the County, the department will review and grant or deny any variance requests within that jurisdiction.

40.06 LOCATION OF WELLS.

1. Wells shall be located with consideration given to the lot size, contour, porosity and absorbency of the soil, local groundwater conditions, flooding, and other factors necessary to implement the rules. The lack of specific distances to other possible sources of contamination, such as refuse disposal sites and high-pressure gas lines, does not minimize their potential hazard. These must be evaluated in each particular situation and a distance arrived at that is based on pertinent facts. The well contractor shall consult the administrative authority for assistance in determining a proper distance in such cases.
2. Minimum distances. The following minimum lateral distance shall apply for the common sources of contamination listed in the following table:

Table A

Sources of Contamination	Minimum Lateral Shallow Well	Distance (feet) Deep Well
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Formed manure storage structure, confinement building, feedlot solids	200	100
Settling facility, open feedlot		
Public water supply well	400	200

Sources of Contamination	All Wells
Earthen manure storage basin, runoff control basins and anaerobic lagoons	1000
Domestic wastewater lagoon	400
Sanitary landfills	1000
Preparation or storage area for spray materials, commercial fertilizers or chemicals that may result in groundwater contamination	100
Drainage wells	1000
Conforming wells	10
Nonconforming wells	100
Soil absorption field, any sewage treatment system with an open discharge, pit privy or septic tank discharge line	100
Septic tank, concrete vault privy, sewer of tightly joined tile or equivalent material, sewer-connected foundation drain, sewers under pressure	50
Sewer of cast iron with leaded or mechanical joints, sewer of plastic pipe with glued or compression joints, independent clear water drains, cisterns, well pits, or pump house floor drains	10
Hydrant	10
Property lines unless a mutual easement is signed and recorded by both parties	4
Liquid hydrocarbon storage tanks	100
Ditches, streams, ponds, or lakes	25

3. The minimum separation distance between a well and an anaerobic lagoon, earthen manure slurry storage basin, earthen manure storage basin, or runoff control basin shall be 400 feet if the lagoon or basin was permitted by the department after January 1, 1989, or if the applicant demonstrates through percolation testing that the seepage loss through the lagoon or basin does not exceed 1/16 inch per day (0.0625 inch/day). The percolation test shall meet the requirements of ASTM-1587 and the IAC.
4. The well shall be located so that no building interferes with reasonable access for cleaning, treatment, repair, testing, inspection and other maintenance. Wells shall not be located in basements.
5. No well shall be located on a property not owned by the well owner unless an easement allowing such placement is reviewed and approved by the administrative authority and the easement is legally recorded.

40.07 GENERAL CONSTRUCTION REQUIREMENTS.

1. Wells shall be planned and constructed to adapt to the geologic and groundwater conditions of the proposed well site to ensure reasonable utilization of every natural protection against contamination of the water-bearing formation(s) and exclusion of possible sources of contamination, to attempt to produce bacterially safe water which is free of health-related problems.

2. Water used in the construction process shall be obtained from a potable water source that will not result in contamination of the well. Water used for drilling shall be treated with 3 pints of 5.25 percent sodium hypochlorite solution per 100 gallons of water or 0.25 pounds of 65 percent sodium hypochlorite per 100 gallons of water or other additives to produce an equivalent concentration of chlorine residual (50ppm).
3. The upper terminal casing of all wells shall extend at least 12 inches above established grade or pump house floor, or the 100-year flood level, whichever is higher. A well cap or sanitary seal shall be installed immediately following well completion. A well cap shall be used on an exposed well, a sanitary seal only on a well terminating within a well house. Any openings in the cap or seal, such as for pump wiring or water depth measurement, shall be properly grommeted or sealed except properly screened and oriented vent openings.
4. The ground surface immediately adjacent to the well casing shall be compacted and graded so that surface water is diverted away from the casing. Well platforms are not recommended other than those used as pump house floors.
5. The IAC provides an administrative process for owners of non-regulated wells to receive compensation for well interference caused by permitted uses. To be eligible for compensation due to well interference, non-regulated wells constructed after July 1, 1986, must be constructed to allow for some potential well interference.
6. Allowance for potential well interference is accomplished by constructing a non-regulated well to anticipate a lowering of the static head of the well which may be caused by interference from a nearby permitted use well.
7. The well must be drilled deep enough to allow for setting the pump at least 10 feet or half the normal pumping drawdown, whichever is greater, below the initial recommended setting depth.
8. If the well draws from an unconfined aquifer, the static water level may drop to half the saturated thickness of the aquifer before well interference is considered, if the calculation in "12" above should indicate a shallower depth. Shallow aquifers that are only slightly confined may be classified as unconfined aquifers for this purpose.
9. Where a well penetrates a confined aquifer, the static water level is protected only to the top of the aquifer if the calculation in "12" above should indicate a deeper level.
10. Protected levels for flowing wells will be considered the top of the confined aquifer or 100 feet below the surface, whichever is higher. Flowing wells must be constructed to accommodate a pump capable of supplying a sufficient water supply at protected levels. The well design also needs to consider drought and reduced well efficiency.
11. A well that is used to withdraw more than 25,000 gallons of water per day requires a water use permit from the Iowa Department of Natural Resources. Upon obtaining such a permit, the well is called a permitted use. If a permitted use exists prior to the construction of a well without a water use permit, no compensation for well interference will be allowed unless a significant change in the permitted use occurs. A physical change to withdrawal facilities may be considered a significant change to a permitted use (e.g., moving the withdrawal location, installing a new well, or installing a higher capacity pump).
12. A person desiring to construct a well not requiring a water use permit should first obtain information concerning nearby permitted use wells. The Department of Natural Resources will provide information on permitted use wells upon request.

13. Permitted use wells shall be equipped with an access port having a minimum diameter of $\frac{3}{4}$ inch. The access port shall be fitted with a threaded cap or plug and be located to allow insertion of a steel tape or electric probe into the well for measurement of water levels. When a spool type of pitless adapter is used which obstructs clear access to the water, a $\frac{3}{4}$ -inch pipe shall be attached to the spool and brought to the surface below the well cap to allow water level measurements. Wells not requiring a water use permit should be constructed with an access port for water level measurement for possible future well interference concerns.
14. There may be local confining beds that serve an important protective function. Permitted use wells shall use casing and grouting to maintain a hydraulic separation between distinct aquifers separated by confining intervals. Extreme caution should be exercised in the construction of non-permitted use wells if allowing the well to connect aquifers across confining intervals, particularly in areas where that would open the aquifer to surficial contamination, i.e., in areas where the upper rock unit is unconfined or contains less than 40 feet of unconsolidated materials. The administrative authority shall be consulted for possible local regulations when interconnection of aquifers across confining intervals is anticipated.

40.08 TYPES OF WELL CONSTRUCTION.

1. In no case shall less than 20 feet of permanent casing be installed in wells drilled in unconsolidated materials. If the alluvial aquifer where the water is to be drawn from is covered by less than 40 feet of low permeability materials, the well screen shall be set at the bottom of the water-bearing aquifer or at least 60 feet from the surface. (Deeper depths may be required if nitrate contamination is excessive.) If more than 40 feet of low permeability materials are present above the aquifer, the casing shall extend down at least to the top of the aquifer.
2. Grout shall be placed to a minimum depth of 40 feet or along the full length of the casing where less than 40 feet of casing is set. Grouting the full length of the casing below 40 feet may be necessary to isolate any contaminated water lenses or aquifers. If a layer of low permeability material at least 5 feet thick is encountered less than 40 feet from the surface, the grout may be terminated no less than 5 feet below the top of this low permeability material, but in no case less than 20 feet from the ground surface. Grout must be placed in accordance with these regulations except when driving casing. When driving casing a #8 mesh bentonite or bentonite grout must be maintained around the outside of the casing. The bottom of driven casing must be equipped with a drive shoe.
3. The diameter of the borehole shall be at least 3 inches greater than the outside diameter of the well casing to the minimum grouting depth. When steel well casing pipe is installed using percussion methods, the annular space shall be at least 5 inches greater than the outside diameter of the well casing to a minimum depth of 25 feet.
4. If the depth of casing is greater than 40 feet, the annular space below 40 feet may be filled with heavy drilling fluid taken from the borehole as long as the top 40 feet of annular space is properly grouted. In this case, the annular space below 40 feet shall be kept as small as possible to avoid settling.
5. In consolidated material casing shall extend to a depth of at least 40 feet and be seated in firm rock. When the uppermost bedrock consists of creviced limestone or dolomite that does not produce water, the casing shall extend through the creviced formation, be seated in firm rock and be properly grouted.

6. For bedrock wells, full-length grouting of the casing is strongly recommended. Grout shall be placed to a minimum depth of 40 feet in accordance with these regulations, except when driving casing using percussion or casing-hammer/rotary drilling. When driving casing, #8 mesh bentonite or bentonite grout must be maintained around the outside of the casing. The bottom of driven casing must be equipped with a drive shoe. If a layer of low permeability material at least 5 feet thick is encountered less than 40 feet from the surface, the grout may be terminated no less than 5 feet below the top of this low permeability material, but in no case less than 20 feet from the ground surface. Where local conditions warrant, the administrative authority may require more extensive grouting to protect any aquifer(s) that are penetrated.
7. The borehole shall be at least 3 inches greater than the outside diameter of the well casing for the upper 40 feet or the minimum grouting depth. When steel casing pipe is installed using percussion, or casing-hammer/rotary methods, the annular space shall be at least 5 inches greater than the outside diameter of the well casing to a minimum depth of 25 feet. When bedrock wells are full-length pressure-grouted through the casing, the borehole diameter shall be 3 inches larger than the outside diameter of the casing for the minimum depth of at least 25 feet.
8. If the depth of casing is greater than 40 feet, the annular space below 40 feet may be filled with heavy drilling fluid taken from the borehole as long as the top 40 feet of annular space is properly grouted. In this case, the annular space below 40 feet shall be kept as small as possible to avoid settling.
9. In fractured rock where circulation of slurry cannot be maintained, grouting may be done with bentonite chips. The chips shall be hydrated with one gallon of water per bag of bentonite.
10. For bored or augured wells with concrete or clay tile casings at least 18 inches in diameter, buried-slab construction is required.
11. The concrete or vitrified clay pipe casing shall be terminated not less than 10 feet below ground surface and extend to a minimum depth of 20 feet. The casing shall be fitted with a reinforced concrete or steel plate into which a watertight steel or thermoplastic casing is firmly imbedded in or connected to a pipe cast or welded into the plate. This casing shall be at least 5 inches in diameter and shall extend from the plate to not less than 12 inches above established grade or the 100-year flood level, whichever is higher. A pitless adapter shall be installed below frost depth on the newly installed plastic or steel casing.
12. A 12-inch grout seal shall be poured over and around the plate. The annular space between the steel or thermoplastic casing and the borehole shall be backfilled with clean compacted soil free of debris or large organic material. During the backfilling process, the earth shall be thoroughly tamped to minimize settling. Grading around the well shall then be accomplished in accordance with these rules.
13. Sandpoint wells are typically constructed in sandy areas with a high water table. Groundwater in these areas is often susceptible to contamination. This type of construction is not recommended for potable water supply. Sandpoint wells shall meet the requirements of this Chapter except for casing depth and grouting requirements.
14. Drilling operations shall extend into but not through the formation confining the water. The casing shall then be installed and the annular space full-length pressure-grouted and extended into the confined water-bearing formation. Flow control from the well shall be provided by valved pipe connections or a receiving tank set at an altitude corresponding to that of the artesian head. Under no circumstances shall the water flow uncontrolled to

waste. A direct connection between the discharge pipe and a receiving tank, sewer, or other source of contamination is prohibited.

15. All materials utilized in well water construction shall conform to the standards of the American Water Works Association (AWWA), the American Petroleum Institute (API), the American Society for Testing and Materials (ASTM), and the National Ground Water Association (NGWA) except as modified by these standards.
16. Steel well casing pipe shall have the dimensions and weights specified in the IAC. Well casing shall be new steel pipe meeting one of the following standards: ASTM A 53-96, ASTM A 106-95, ASTM A 589-95a-Type I, II or III, API 5CT (5th Edition, 4/1/95), API 5D (3rd Edition, 8/1/92), or API 5L (41st Edition, 4/1/95). Copies of these standards are available for inspection at the Des Moines office of the Department of Natural Resources records center or may be obtained for personal use from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, or the American Petroleum Institute, 1220 L Street NW, Washington, DC 20005.
17. Each length of steel casing shall be legibly marked in accordance with API or ASTM marking specifications showing the manufacturer's or processor's name or trademark, size in inches, weight in pounds per foot, whether seamless or welded (type of weld) and the API or ASTM specification or trade monogram. All casing pipe joints shall be watertight welded construction or threaded couplings.

Table B

Minimum steel casing pipe and coupling weights and dimensions

Weight (lbs/ft)		Pipe		Couplings				
Size (in.)	Threads/Coupling	Plain End (in.)	Thick Dia.	Exter. Dia.	Inter.	Threads per/in	Exter. Dia. (in.)	Length (in.)
1	1.70	1.68	.133	1.315	1.049	11-1/2	1.576	2-5/8
1-1/4	2.30	2.27	.140	1.660	1.380	11-1/2	1.900	2-3/4
1-1/2	2.75	2.72	.145	1.900	1.610	11-1/2	2.200	2-3/4
2	3.75	3.65	.154	2.375	2.067	11-1/2	2.750	2-7/8
2-1/2	5.90	5.79	.203	2.875	2.469	8	3.250	3-15/16
3	7.70	7.58	.216	3.500	3.068	8	4.000	4-1/16
3-1/2	9.25	9.11	.226	4.000	3.548	8	4.625	4-3/16
4	11.00	10.79	.237	4.500	4.026	8	5.200	4-5/16
5	15.00	14.62	.258	5.563	5.047	8	6.296	4-1/2
6	19.46	18.97	.280	6.625	6.065	8	7.390	4-11/16
6-5/8 OD	20.00	19.49	.288	6.625	6.049	8	7.390	4-11/16
7 OD	20.00	19.54	.272	7.000	6.366	8 R	7.657	4-11/16
8	29.35	28.55	.322	8.625	8.071	8	9.625	5-1/16
10	41.85	40.48	.365	10.750	10.136	8	11.750	5-9/16
12	51.15	49.56	.375	12.750	12.090	8	14.000	5-15/16
14 OD	57.00	54.57	.375	14.000	13.250	8	15.000	6-3/8
16 OD	65.30	62.58	.375	16.000	15.250	8	17.000	6-3/4
18 OD	73.00	70.59	.375	18.000	17.250	8	19.000	7-1/8
20 OD	81.00	78.60	.375	20.000	19.250	8	21.000	7-5/8

R=Round Threads

18. Thermoplastic well casing pipe and couplings shall be new polyvinyl chloride (PVC) or acrylonitrile-butadiene-styrene (ABS) material produced to and meeting the ASTM F 480 standard and shall have a standard dimension ratio (SDR) of 21, 17, or 13.5, a dimension ratio (DR) of 18 or 14, or a schedule 40 or 80 rating depending upon the specification. Styrene-rubber thermoplastic well casing pipe, including ASTM F 480k, may not be used.
19. The thermoplastic well casing pipe, pipe couplings, cement, primer and other components used shall be approved for well casing pipe in potable water supplies by the NSF Standard Number 61 or the health effects portion of Standard Number 14 as they relate to well casing pipe, or an approved equivalent organization.
20. Each length of casing shall be legibly marked showing the manufacturer's or processor's name of trademark, size in inches, and the ASTM F 480 specification or trade monogram.
21. The thermoplastic pipe shall be assembled with either flush-threaded joints, integral-bell, solvent-cemented joints, one-piece solvent-cemented couplings or nonmetallic restrained joint system in a manner according to the specifications in ASTM F 480.
22. The following table provides specifications for maximum hydraulic collapse pressure (in feet of water head) to which PVC well casing of different strengths can be installed. Under no circumstances shall thermoplastic water well casing be driven.

Table C

PVC WELL CASING

Maximum Hydraulic Loading (in feet of water head) (1)

ASTM F 480 or ASTM 2241				C-900		ASTM 1785			
	SDR	SDR	SDR	DR	DR	SCH	SCH		
SIZE		21	17	13.5		18	14	40	80
4"	257'	496'	1,024'			353'	1,055'		
4 1/2"	257'	496'	1,024'						
5"	257'	496'	1,024'			236'	758'		
6"	257'	496'	1,024'	490'	956'	177'	678'		
8"	257'	496'	1,024'	490'	956'	121'	471'		
10"	257'	496'	1,024'	490'	956'	90'	404'		
12"	257'	496'	1,024'	490'	956'	74'	376'		
16"	257'	496'	1,024'	490'	956'	70'	350'		

(1) Determined by formula in ASTM F 480 with Poisson's ration of .38.

23. When cement grout is used with thermoplastic casing, the manufacturer's specifications for use shall be followed except in the top 40 feet.
24. Casing that is to be grouted shall have a minimum of two sets of centering guides attached to the casing so as to permit the unobstructed flow and deposition of grout.
25. Materials and procedures for grouting shall be as follows:
 - a. Concrete grout. The mixture, used with bored and augured wells, shall consist of cement, sand aggregate and water, in the proportion of one bag of cement (94 lbs.) and an equal volume of aggregate to not more than six gallons of clean water. Concrete grout shall not be used below the water table. Admixtures to reduce permeability or control setting time must meet ASTM Standard C 494-92. Concrete

grout may be used with permission of the administrative authority where large void spaces need to be filled.

- b. Neat cement grout. The mixture shall consist of one bag of cement (94 lbs.) to not more than six gallons of clean water. Admixtures to reduce permeability or control setting time must meet ASTM Standard C 494-92.
 - c. Bentonite grout. This is a mixture of water and commercial sodium bentonite clay manufactured for the purpose of water well grouting. Mixing shall be per manufacturer's specifications. Sodium-bentonite mixtures that have high viscosity but contain less than 10 percent solids, are designed for drilling purposes, and shall not be used as grout. Organic polymers used in grout mixtures must meet NSF Standard 60.
- 26. Exclusion. Drilling fluids and cuttings may not be used as grouting material to satisfy the minimum grouting requirement.
 - 27. Application. Grouting shall be performed by pumping the mixture into the annular space from the bottom upward through the casing or through a tremie pipe until the annular space is filled. Grouting shall be done in one continuous operation, if possible. The bottom of the tremie pipe must remain submerged in grout while grouting.
 - 28. Exceptions. The exceptions to this method of application are the use of buried-slab, percussion, or casing-hammer/rotary methods to construct a well. Another exception is where dry bentonite is required because circulation cannot be maintained.
 - 29. Pitless adapters and pitless units conforming to Pitless Adapter Standard – 97 as promulgated by the Water Systems Council are considered as complying with these regulations. A copy of this standard is available for inspection at the Des Moines office of the Department of Natural Resources records center or may be obtained for personal use from the Pitless Adapter Division, Water Systems Council, 800 Roosevelt Road, Bldg. C, Suite 20, Glen Ellyn, Illinois 60137.
 - 30. A pitless subsurface pipe connection to a well casing pipe shall be made with a weld-on, clamp-on, or bolt-on pitless adapter or weld-on or threaded pitless unit. It shall be constructed so as to prevent the entrance of contaminants into the well, conduct water from the well, and protect the water from freezing or extremes of temperature, and shall provide full access to the well and to water system parts within the well. It shall provide a pitless well cap for the top terminal of the well. Above-ground discharge pitless adapters are prohibited.
 - 31. Grouting pitless adapters and pitless units: After connecting a pitless adapter or unit, the area surrounding the unit must be uniformly filled with dry bentonite.
 - 32. If the pitless adapter is gasketed, the opening in the casing shall be sawed, to the diameter recommended by the manufacturer, with a hole saw and not cut with a torch. The pitless adapter used shall have the correct curvature to fit the diameter of the casing.
 - 33. Drilling fluid and mud remaining after construction of a well shall not be disposed of in a stream or storm sewer, nor shall these materials be discharged into a sanitary sewer without permission of the owner and operator of the wastewater treatment facility.

40.09 REHABILITATION OR RECONSTRUCTION.

1. All well rehabilitation or reconstruction must meet the requirements of this regulation. If the well feature needing rehabilitation/reconstruction cannot be brought into compliance with these rules, the well must be properly plugged.
2. Installing a liner. If the rehabilitation/reconstruction will involve the placement of a liner, the certified well contractor must then determine whether the proposed rehabilitation/reconstruction is to be done to correct a health-related problem. The work to be performed must then be done in accordance with the following:
 - a. The liner shall have a minimum of two sets of centering guides to allow the proper placement of grout. In no case shall the liner be driven into place.
 - b. The liner shall extend to the ground surface or top of the pitless adapter.
 - c. The annular space between the old casing and the liner shall be pressure-grouted in place throughout its entire length using an approved grout.
3. If the installation of a liner is to correct a problem that is not health related, then the liner shall extend at least ten feet above the static water level or, if a caving zone is present, shall extend above this region, and the liner may be pressure grouted in place if there is a sufficient annular space for proper application of the grout.
4. Liner material standards: Liners must meet well casing standards as defined in this regulation. Liners may be composed of either steel or thermoplastic with a minimum inside diameter of 4 inches. Steel liners must be new and have a minimum wall thickness of .188 inches schedule rating of SCH 40 or SCH 80. If the installation does not meet the definition of a liner, then casing material shall be used.

40.10 WATER DISTRIBUTION SYSTEMS.

1. Pump house appurtenances:
2. When pump houses are utilized, they shall be constructed above established grade permitting access to the well and pump for maintenance and repair. The pump room shall be provided with an independent floor drain that discharges to ground surface. The outside opening of this drain line shall be fitted with a brass, bronze or copper 10-mesh screen to exclude the entrance of pests.
3. The top of the well casing shall terminate at least 12 inches above the pump house floor. The pump house floor shall be constructed of concrete that is not less than 4 inches in thickness and is sloped away from the casing. A watertight seal to provide resiliency shall be provided between the casing and the pump house floor.
4. Wells are not permitted to be located within frost pits. Frost pits that do not contain wells within are permitted for the purpose of housing pressure tanks and valves, for example, provided they are not located closer than ten feet from any well. Frost pits shall be weatherproof and vermin-proof, with an independent floor drain or a sump pump provided.
5. The installation of pumps shall be planned and carried out so the pump will be:
 - a. Installed so that it and its surroundings are in a sanitary condition;
 - b. Properly sized so as to provide the volume of water necessary, where obtainable, for an adequate water supply;
 - c. Designed to meet the well characteristics and not exceed the yield of the well except when the available aquifer is low producing;

- d. Installed for operation without priming or breaking suction;
 - e. Installed in such manner as to provide adequate protection against contamination of the water supply from any surface or subsurface sources;
 - f. Installed in a manner so that it is accessible for maintenance, repair, and removal.
- 6. Pump motor lubricant or coolant oil shall be USDA- or FDA-approved food contact grade formulations.
 - 7. Every pump shall be installed with an above ground discharge, an approved subsurface pitless adapter or pitless unit, or an approved subsurface well casing pipe connection.
 - 8. Other power pumps located over the well shall be mechanically joined to the casing or on a pump foundation or stand in such a manner as to effectively seal the top of the well. A sanitary seal shall be used where the pump is not located over the well, and the pump delivery or suction pipe emerges from the top. If these units are located in a basement, all suction lines shall be elevated at least 12 inches above the floor and shall be encased in a protective galvanized steel pipe.
 - 9. A hand pump, hand pump head, stand, or similar device must have a closed and screened spout, directed downward. The pump must have a concrete slab at least 4 inches thick extending horizontally at least 1 foot in every direction from the well casing and sloped to divert water away from the casing. A watertight seal must be provided between the casing and the slab. A reciprocation pump rod must operate through a stuffing box.
 - 10. Wells must be properly disinfected by the pump installer as described in this regulation, after the installation or repair of pumps.
 - 11. No connection between a well or boring and another well, boring, water supply system, or contamination source is allowed unless the connection is protected by an air gap, protected by a backflow prevention device, or between wells or borings that meet the construction standards of this Chapter, are used for the same purpose, and have equivalent quality water supply.
 - 12. Pressure tanks should be sized by pump capacity and expected usage. They must be installed in accordance with manufacturers' directions and shall maintain a pressure of at least 15 pounds at highest point usage under normal demand.
 - 13. Filters and water treatment equipment shall be installed and operated in accordance with manufacturers' directions.

40.11 WELL DISINFECTION.

- 1. All new, repaired or rehabilitated wells shall be pumped to waste until the water is free of drilling mud, drill cuttings and sand, and the water is reasonably clear.
- 2. Wells shall be disinfected by the contractor following completion of construction and whenever the well seal or cap is removed and work is done within the casing. A chlorine solution such as a sodium or calcium hypochlorite shall be used. Chlorine compounds having special additives shall not be used.

3. The disinfectant shall be dispersed throughout the entire water column in the well. The disinfectant shall also be brought into contact with the inside of the well casing pipe above the static water level.
4. The disinfectant shall remain in the well for a minimum of two hours if a concentration of at least 100 mg/l chlorine is achieved, or a minimum of twenty-four hours if at least 50 mg/l is achieved.
5. For emergency situations, a contact time of a minimum of thirty minutes shall be provided at a chlorine concentration of at least 200 mg/l.
6. The amount of HTH or household bleach required for a chlorine concentration of 200 mg/l is given in the following table:

Table D

Amount of chlorine disinfectant required for every 25 feet of water in well:

Well Casing Diameter	4"	6"	8"	12"	18"	24"	30"	36"
Amount of pelleted HTH (in ounces containing 70 percent CA(OCL) ₂)	0.7	1.5	2.6	5.6	13	23	36	52
Amount of chlorine bleach (in pints containing 5.25 percent NaOCL)	0.5	1.2	2.1	4.7	10.6	18.8	29.3	42.2

7. The disinfectant shall be introduced into the well in a solution of disinfectant and water. The solution shall contain not more than eight ounces of disinfectant per five gallons of water. In no case shall pressed pellets of disinfectant, when used for shock chlorination, be introduced directly into the well without first being dissolved.

40.12 WATER SAMPLING AND ANALYSIS.

1. In all pressure water systems, provision shall be made for collection of water samples directly from the well by installation of a sampling faucet before the pressure tank, and prior to encountering any water treatment equipment. The sampling faucet shall be installed at least 12 inches above the floor, have a down-turned spout and be in an accessible location. All sample faucets shall be metal and have a smooth (nonthreaded) outlet.
2. The owner of a new, repaired, or rehabilitated well shall be responsible for submitting a water sample to a certified laboratory for coliform bacteria and nitrate analysis. The water sample shall be collected at least 10 days and not more than 30 days after a well is put into service following the construction, repair, or rehabilitation. The analysis results shall be submitted to the administrative authority.
3. If the water sample analysis detects presence of bacteria, the disinfection procedure described in these regulations shall be repeated.

40.13 ABANDONMENT OF WELLS.

1. Abandoned wells are a contamination hazard to the water bearing formation as well as a physical hazard for people.
2. Abandoned wells shall be properly plugged as required by IAC.

3. Under no circumstances shall abandoned wells be used for the disposal of debris, solid waste, septic tank sludge or effluents, or for any other type of unauthorized disposal of waste materials, or as a receptacle for field tile drainage.

40.14 CLOSED CIRCUIT VERTICAL HEAT EXCHANGERS.

1. These provisions apply to closed circuit vertical heat exchanger construction, and piping used must be 160 psi pressure-rated high-density polyethylene or polybutylene, connection to piping must use socket fusion or butt fusion joining methods, and piping must be pressure tested with air or potable water for 15 minutes at a pressure of 1.5 times the system operating pressure after installation in the borehole.
2. The annular space between the vertical heat exchanger piping and the borehole must be grouted as required in these regulations using an approved grouting method and material. Grout shall be placed at least in the top 40 feet. Any confining layers between aquifers shall be replaced with grout. Grouting must be performed within 24 hours of completion of a borehole.
3. Only food-grade or USP-grade propylene glycol or calcium chloride may be used as heat transfer fluid. Any other materials or additives must be NSF-approved for drinking water applications. A permanent sign must be attached to the heat pump specifying that only approved heat transfer fluids must be used.
4. A flow measurement device must be installed on each system.
5. Water make-up lines to the vertical heat exchanger must be protected with a backflow prevention device.

CHAPTER 41

ABANDONED WELLS

41.01	Purpose	41.06	Abandoned Well Plugging Procedures
41.02	Definitions	41.07	Designator Agent
41.03	Abandoned Well Plugging Schedule	41.08	Designation of Standby Wells
41.04	Abandoned Well Owner Responsibilities		
41.05	Abandoned Well Plugging Materials		

41.01 PURPOSE.

1. The purpose of this regulation is to implement Iowa Code Section 455B.190 by providing a schedule and required procedures for the proper plugging of abandoned wells to protect the groundwater by permanently sealing off contamination to individual aquifers.
2. This regulation governs the proper plugging of all abandoned wells in Buchanan County, Iowa. For additional guidance and background information, refer to “Guidelines for Plugging Abandoned Water Wells”, Technical Information Series 15, Geological Survey Bureau, Iowa Department of Natural Resources, 1987.

41.02 DEFINITIONS.

1. Abandoned well: A water well which is no longer in use or which is in such a state of disrepair that continued use for the purpose of accessing water is unsafe or impractical.
2. Agricultural lime: All calcium and magnesium products sold for agricultural purposes in oxide, hydrate, or carbonate form.
3. Approved: Accepted or acceptable under an applicable specification stated or cited in these rules.
4. Aquifer: A water-bearing geologic formation capable of yielding a usable quantity of water to a well or spring.
5. Bentonite: A naturally occurring highly plastic, colloidal clay composed largely of the mineral montmorillonite which expands upon wetting.
6. Bentonite grout (or slurry): A mixture of 10 percent processed bentonite (by weight) and water which is free of contaminants, turbidity and settleable solids.
7. Bentonite pellets: A form of processed bentonite which can be used directly for sealing applications in well plugging operations.
8. Bentonite products: The forms of bentonite which can be used for sealing materials in wells, including graded bentonite, bentonite pellets and bentonite grout.
9. Casing: A tubular retaining structure installed in an excavated hole to maintain the well opening.
10. Class 1 well: A well one hundred feet or less in depth and eighteen inches or more in diameter.
11. Class 2 well: A well more than one hundred feet in depth or less than eighteen inches in diameter.

12. Class 3 well: A sand point well or a well fifty feet or less in depth constructed by joining a screened drive point with lengths of pipe and driving the assembly into a shallow sand and gravel aquifer.
13. Concrete: A mixture of one sack (94 pounds) of portland cement, an equal amount by volume of sand and gravel or crushed stone and not more than six gallons of water which is free of contaminants, turbidity and settleable solids.
14. Confined aquifer: An aquifer in which the groundwater is under pressure greater than atmospheric pressure. The static water level in a well tapping a confined aquifer rises to level above the top of the aquifer.
15. Crushed stone: Class A road stone (predominantly limestone) well graded with six to sixteen percent fines which will pass a 200 sieve.
16. Department: Means the Department of Natural Resources created under Iowa Code Section 455A.2.
17. Designated agent: A person other than the state, designated by a county board of supervisors to review and confirm that a well has been properly plugged.
18. Director: The director of the department.
19. Filling materials: Agricultural lime, soil, sand, gravel, crushed stone and pea gravel used to occupy space between and below sealing materials in abandoned wells being plugged.
20. Frost pit: A sunken area located directly over or within four feet of a well and used to house the equipment for discharging water from a well into the water system.
21. Graded bentonite: Bentonite which is crushed and sized for pouring and easy handling. Like processed bentonite, it swells when hydrated with water and will form a plastic, essentially impermeable mass.
22. Gravel: Class B stone screened from river sand or quarried, and of such size as will pass a two and one-half inch screen 100 percent and be retained 100 percent on a three-quarter inch screen.
23. Groundwater: Any water beneath the surface of the earth.
24. Grout: Means, for the purposes of this chapter, a fluid mixture of cement and water (neat cement); sand, cement and water (sand cement grout) or bentonite and water (bentonite grout or slurry) of a consistency that can be forced through a pipe and placed as required.
25. Limestone: Sedimentary rock which contains greater than 50 percent calcium carbonate and has a strong reaction with hydrochloric acid (HCl).
26. Neat cement: A mixture of one sack (94 pounds) of portland cement to not more than six gallons of water which is free from contaminants, turbidity or settleable solids. Bentonite up to 2 percent by weight of cement may be added to reduce shrinkage.
27. Owner: The titleholder of the land where an abandoned well is located.
28. Pea gravel: Gravel sized from one-eighths inch in diameter.

29. Plug: The closure of an abandoned well with plugging materials by procedures which will permanently seal the well from contamination by surface drainage and permanently seal off the well from contamination into an aquifer. This involves the proper application of filling and sealing materials.
30. Processed bentonite: Bentonite which has been kiln dried and processed into pellets for direct use in well sealing applications or into powder or coarse granules for use in bentonite grout for sealing.
31. Registered water well contractor: A water well contractor registered with the department in accordance with section 567 – Chapter 37, Iowa Administrative Code.
32. Sand: Clean, medium textured quartz (concrete sand) and shall be at least 25 percent with diameters between 2.0 and 0.25 mm, less than 35 percent with diameters between 0.25 and 0.05 mm and less than five percent with diameters between 0.002 and .05 mm.
33. Sandpoint well: A small diameter water well constructed by joining a screened drive point with lengths of pipe and driving the assembly into a shallow sand and gravel aquifer.
34. Sand cement grout: A mixture of one sack (94 pounds) of portland cement, an equal amount by volume of sand and not more than six gallons of water which is free from contaminants, turbidity and settleable solids.
35. Sealing: The proper placement of sealing materials into an abandoned well to seal off flow into, out of or between aquifers.
36. Sealing materials: Bentonite products. Sealing materials may also include neat cement, sand cement grout and concrete.
37. Standby well: A water well which is temporarily taken out of service with the expectation of being returned to service at a future date.
38. Static water level: The water level in a water well or aquifer when the well is not flowing or being pumped; sometimes referred to as the water line.
39. Tremie pipe: A device, usually a small diameter pipe, that carries grouting materials to the bottom of the hole and which allows pressure grouting from the bottom up without introduction of air pockets.
40. Unconfined aquifer: An aquifer in which the static water level does not rise above the top of the aquifer, i.e., the pressure of the water in the aquifer is approximately equal to that of the atmosphere.
41. Water well: An excavation that is drilled, cored, bored, augured, washed, driven, dug, jetted, or otherwise constructed for accessing groundwater.

41.03 ABANDONED WELL PLUGGING SCHEDULE.

1. Class 1 wells abandoned prior to the effective date of this rule must be properly plugged by July 1, 1995.
2. Class 2 wells abandoned prior to the effective date of this rule must be properly plugged by July 1, 2000.

3. Class 3 wells abandoned prior to the effective date of this rule must be properly plugged by July 1, 2000.
4. All classes of wells abandoned prior to the effective date of this rule and located less than 200 feet from an active well supplying potable water, or located less than 660 feet from a point source of potential contamination which may include, but is not limited to, industrial waste sites; uncontrolled hazardous waste sites; petroleum storage areas; hazardous waste treatment, storage, or disposal areas; agricultural chemical storage areas; animal feedlots; and wastewater treatment facilities, must be properly plugged by July 1, 1993.
5. All classes of wells which are abandoned on or after the effective date of this rule must be properly plugged within 90 days of the date of abandonment.

41.04 ABANDONED WELL OWNER RESPONSIBILITIES.

1. The owner is responsible for insuring the abandoned well is plugged.
2. It is the responsibility of the owner to certify, on DNR Form 542-1226, Affidavit of "Well Plugging", that an abandoned well has been plugged in accordance with the requirements and time schedule contained in this Chapter. This affidavit must include confirmation of a water well contractor. Within 30 calendar days of the date the plugging was completed, the owner shall submit to the department a copy of said form, bearing the "as recorded" certification of the County Recorder.

41.05 ABANDONED WELL PLUGGING MATERIALS.

1. Approved sealing materials are bentonite products (graded bentonite, bentonite pellets and bentonite grout), neat cement, sand cement grout and concrete.
2. Approved filling materials include agricultural lime, soil, sand, pea gravel and crushed stone. The filling materials shall be free of debris, foreign matter and any toxic or agricultural chemical residue. Filling materials are not required for well plugging.

41.06 ABANDONED WELL PLUGGING PROCEDURES.

1. Abandoned wells must be checked before they are plugged in order to ensure there are no obstructions that may interfere with plugging operations. Drop pipes, check valves, pumps, and other obstructions shall be removed if practical.
2. Class 1 wells may be plugged by pouring filling and sealing materials from the top of the well or by using tremie pipes, except for sand cement grout or concrete placed below the static water level, which must be placed by tremie pipe or dumb bailer.
3. Filling materials of sand, gravel, crushed stone, pea gravel or agricultural lime shall be placed up to one foot below the static water level; soils are not permitted below the static water level due to naturally occurring bacteriological, organic, and inorganic contaminants. A minimum of one foot of bentonite pellets, graded bentonite or neat cement shall be placed on top of the filling material up to the static water level as a seal. Sand cement grout or concrete applied with a tremie pipe or dump bailer also may be used on top of the filling material up to the static water level and in standing water above the static water level to act as a seal. Filling material may then be added up to four feet below the ground surface.
4. It is preferable that the filling materials be omitted and that sealing materials be used to fill the entire well up to four feet below the ground surface. Sand cement grout or concrete shall be placed with a tremie pipe or dump bailer when used below the static water level. The

casing pipe and any curbing, frost pit or pump house structure shall be removed to a depth of four feet below the ground surface and shall be capped by a minimum of one foot of bentonite pellets, graded bentonite, neat cement, sand cement grout or concrete. The cap shall extend six or more inches beyond the outside diameter of the top of the remaining well casing and shall terminate three feet below the ground surface. The remaining three feet (below the ground surface) shall then be backfilled with soil and graded so that surface water is directed away from the abandoned well location.

5. In Class 2 wells other than bedrock wells, filling material consisting of sand, gravel, crushed stone or pea gravel shall be placed in the bottom of the well up to four feet below the static water level. A minimum of four feet of sealing materials consisting of any bentonite products or neat cement shall be added above the filling material up to the original static water level. If bentonite grout or neat cement is used, it shall be placed by tremie pipe. If graded bentonite or bentonite pellets are used, they may be added by pouring in place and agitating to avoid bridging. Sealing materials shall be added above the static water level up to four feet below the ground surface.
6. If bentonite grout is used from the static water level to the top of the well, it should be capped by neat cement, sand cement grout or concrete terminating four feet below the ground surface. It is preferable that the filling materials be omitted and that sealing materials be used to fill the entire well up to four feet below the ground surface.
7. Casing pipe and any curbing, frost pit or pump house structure shall be removed to a depth of four feet below the ground surface. The remaining four feet shall then be backfilled with soil and graded so that surface water is directed away from the abandoned well location.
8. In Class 2 bedrock wells, if the details of well construction are unknown, the well shall be tremied full of neat cement or bentonite grout up to four feet below the ground surface. If bentonite grout is used from the static water level to the top of the well, it should be capped by neat cement, sand cement grout or concrete terminating four feet below the ground surface.
9. The casing pipe and any curbing, frost pit or pump house structure shall be removed to a depth of four feet below the ground surface. The remaining four feet shall then be backfilled with soil and the surface shall then be graded to divert water away from the abandoned well location.
10. In bedrock wells completed in a single confined aquifer, a bridge plug or packer shall be placed at or below the bottom of the casing to stop the flow of water where the pressure in the confined aquifer causes the water to flow from the well to the surface. In such cases, filling materials shall be placed in the lower portion of the well before the bridge plug or packer is set.
11. Filling material consisting of pea gravel, crushed stone or gravel shall be placed from the bottom of the well up to ten feet below the bottom of the casing or confining layer, whichever is lower. Sealing materials consisting of any bentonite products, sand cement grout or neat cement shall be placed from the top of the filling material to at least ten feet above the bottom of the casing or confining layer or to the static water level, whichever is higher.
12. If bentonite grout, neat cement or sand cement grout is used, it shall be added by pouring in place and agitating to avoid bridging. The casing shall then be filled up to four feet below the ground surface with sealing materials. If bentonite grout is used from the static water level to the top of the well, it should be capped by neat cement, sand cement grout or concrete terminating four feet below the ground surface.

13. It is preferable that the filling materials be omitted and that approved sealing materials be used to fill the entire well up to four feet below the ground surface.
14. The casing pipe and any curbing, frost pit or pump house structure shall be removed to a depth of four feet below the ground surface. The remaining four feet shall then be backfilled with soil and graded so that surface water is directed away from the abandoned well location.
15. In bedrock wells completed in a single unconfined aquifer, the plugging procedure for these wells is the same as for bedrock wells completed in a single confined aquifer, except that a bridge plug or packer is not required to stop the flow of water since this problem will not exist in this type of well.
16. With bedrock wells completed in multiple aquifers, for the lowest aquifer, filling material consisting of pea gravel, crushed stone or gravel shall be placed from the bottom of the well up to ten feet below the bottom of the casing or confining layer, whichever is lower.
17. Neat cement tremied in place shall then be placed as a sealing material on top of the fill and extend upward at least twenty feet. Sealing materials shall then be placed in at least the top ten feet of each subsequent aquifer and extend at least ten feet into the confining layer or casing above. The same type of filling materials and sealing procedures shall apply for each subsequent aquifer.
18. Filling material may be placed from the top of the uppermost aquifer seal up to the static water level of the well. The casing shall then be filled with approved sealing or filling materials to four feet below the ground surface. If bentonite grout is used from the static water level to the top of the well, it should be capped by neat cement, sand cement grout, or concrete terminating four feet below the ground surface.
19. It is preferable that the filling materials be omitted and approved sealing materials be used to fill the entire well up to four feet below the ground surface. Sand grout or concrete shall be applied with a tremie line or dump bailer when applied below the static water level.
20. The casing pipe and any curbing, frost pit or pump house structure shall be removed to a depth of four feet below the ground surface. The remaining four feet shall then be backfilled with soil and graded so that surface water is directed away from the abandoned well location.
21. In Class 3 wells, the preferred method of plugging a sand point well is to pull the casing and sand point out of the ground, allowing the hole to collapse and fill. If the sand point and casing cannot be extracted, they shall be tremied full of neat cement or completely sealed with bentonite products.
22. The casing pipe and any curbing, frost pit or pump house structure shall be removed to a depth of four feet below the ground surface. The remaining four feet shall then be backfilled with soil and graded so that surface water is directed away from the abandoned well location.

41.07 DESIGNATED AGENT.

1. The Buchanan County Board of Supervisors shall appoint an individual to be responsible to review and confirm an abandoned well to be properly plugged, as required by this regulation. The designation is effective upon notification by the department by the chairperson of the Board of Supervisors. This notification will include the identity of the

designated agent and the length of appointment. Changes in a designated agent will require new notification by the chairperson to the department.

41.08 DESIGNATION OF STANDBY WELLS.

1. A standby well must be disinfected prior to being taken out of use for a long period of time and must be disinfected and, as a minimum, checked for bacteria and nitrates when placed back in service. Disinfection of standby wells shall be done in accordance with AWWA (American Water Works Association) Standard A100. The well must not be subject to contamination by surface drainage or from other causes, and the well casing must be provided with an airtight cover when the well is not in use.
2. Nothing in these rules shall be construed as exempting public water supply wells from requirements set forth in the Environmental Protection Commission rules, 567-Iowa Administrative Code.
3. In accordance with Iowa Code Section 4455B.181, a variance to these rules may be granted by the department provided sufficient information is submitted in writing to the department to substantiate the need for a variance and assure the protection of all aquifers penetrated by the affected well.
4. When satisfactory justification has been submitted to the director substantially demonstrating that a variance to these rules will result in equivalent effectiveness or improved effectiveness, a variance to these rules may be granted by the director.
5. A denial or a variance may be appealed to the Environmental Protection Commission pursuant to 567-Chapter 7, Iowa Administrative Code.

CHAPTER 42

PRIVATE SEWAGE DISPOSAL SYSTEMS

42.01	Purpose	42.09	Insurance
42.02	Definitions	42.10	Abandonment
42.03	General Requirements	42.11	Variances
42.04	Permit Requirements	42.12	Appeals
42.05	Inspection	42.13	Enforcement
42.06	Water Lines/Utility Service Lines	42.14	Severability Clause
42.07	Wells	42.15	Supplemental Power
42.08	Septic Contractor & System Design Engineer License		

42.01 PURPOSE.

To protect the health of residents of Buchanan County, to prevent increased health risks due to private sewage disposal systems and to implement state private sewage disposal system standards.

42.02 DEFINITIONS.

1. “County Sanitarian” shall mean the Buchanan County Environmental Health & Zoning Administrator, located in the Buchanan County Environmental Health & Zoning department.
2. “Health hazard” shall mean any condition, structure, or object, which can or has the potential to cause injury or sickness to human or animal life, or cause damage to the environment.
3. “Public sewer” shall mean a wastewater treatment and disposal facility owned and operated by a corporate public entity such as a city or sanitary sewer district.
4. “Reconstruction” shall mean the action of reconstructing, i.e., the act of a constructing again; reestablishing; reassembling.
5. “Repair” shall mean the change or reconstruction or the renewal of any part of an existing system. Media component replacements to packaged treatment units or treatment unit parts under maintenance contract by certified maintenance providers are exempt.
6. “Soil scientist” shall mean an individual who practices investigating and evaluating the interactions between water, soil minerals, plants, and other living organisms that are used to prepare a soil scientists’ reports for subsurface ground absorption systems, including infiltration galleries; land application of residuals such as sludge, septage, and other wastes; spray irrigation of wastewater; soil remediation at conventional rates; land application of agricultural products; processing residues, bioremediation, and volatilization; soil erodibility and sedimentation; and identification of hydric soil and redoximorphic features.

All terms used herein as defined in Iowa Administrative Code 567 – Chapter 69

42.03 GENERAL REQUIREMENTS.

1. Discharge Restrictions. It is prohibited for any household waste, from other than an approved system designed to do so, to discharge (unless permitted under NPDES General Permit #4) to any ditch, stream, lake, pond, natural or artificial waterway, county drain tile, surface water drain tile,

or to the surface of the ground. Such material shall be disposed of in such a sanitary manner as is prescribed by these regulations.

2. State Code Adopted. All private sewage disposal systems located in the County, including the corporate boundaries of incorporated cities and towns, shall be constructed and equipped in accordance with the specifications and requirements set forth in the most current edition of the Iowa Administrative Code 567 – Chapter 69 and to such additional requirements as are prescribed by the regulations of the Board of Health. The county has fully adopted Iowa Administrative Code 567 – Chapter 68.
3. Permit Required. No person shall begin repair, construction, alteration, or reconstruction of any private sewage disposal system in the County that would affect the treatment or disposal of the waste without first having obtained a permit as set out in this chapter. The permit for repair, construction, alteration, or reconstruction of the private sewage disposal system shall be obtained prior to the construction of or addition to any dwelling or building to be served by this system.
4. Update of Failed System. In the event that a private sewage disposal system should fail, or otherwise be found to cause a health hazard, and a public sanitary sewer is not available, said system shall be made to conform to these regulations.
5. Septic contractor certification. Any septic contractor or system design engineer, who designs, constructs, installs, alters, or repairs or provides maintenance of any private sewage disposal system in the County, must have a current license, issued by the Board of Health.

42.04 PERMIT REQUIREMENTS.

1. Permit Application. Any person desiring a permit shall file with the County Sanitarian an application stating the owner's name, mailing address, and phone number along with the property address, legal description, and building type in addition to other information as required by the Board of Health on the most current edition of the Private Sewage Disposal System New Construction Permit Application available through the Environmental Health & Zoning office.
2. Percolation Test or Soil Analysis Required. The results of a soil percolation test or a professional soil analysis must be submitted as an attachment to the private sewage disposal system new construction permit application. Prior to a percolation test or soil analysis being performed, a site assessment shall be performed by the department and either the home owner or contractor, but preferably both to determine the location of the proposed location of the system and the depth at which a soil percolation test should be performed.
3. Sketch Required. The application must also include a sketch of the property with approximate dimensions showing the dwelling served, the location of any wells on the property, the location of any wells on neighboring property within 100 feet of the property boundary, and a sketch of the proposed system to be installed. Any deviation from the plans or specifications appearing on the application must be approved by the County Sanitarian. Prior to issuance of a permit, the site shall be assessed by the Department at the discretion of the administrative authority after completion of the percolation test or soil analysis.
4. Fee Requirement. Upon approval of the application by the County Sanitarian, the signed permit shall be issued upon payment of the required applicable fees made payable to the County Treasurer's office.
5. Fees. Fees will be set and revised by the Board of Health.

6. Valid Period. Permits shall have validity for a maximum of twelve (12) months from the time of issuance, during which time the private sewage disposal system shall be completed. Percolation tests or soil analyses shall be valid as long as the site evaluated is not modified in any way. Any extension of the validity for a permit or percolation test or soil analysis may be approved by the County Sanitarian.

42.05 INSPECTION.

1. Notification. The Environmental Health & Zoning office shall be notified orally by telephone or in person, not less than twenty-four (24) hours, between the hours of 8:00 A.M. and 4:30 P.M., Monday through Friday, except County observed holidays, before the work is to be inspected.
2. Inspection. No part of any private sewage disposal system shall be used, covered, or constructed so as to deny the mandatory inspection by the County Sanitarian. A private sewage disposal system is considered ready for inspection when the house sewer, septic tank, distribution box, and secondary treatment are in place and connected, but not covered.
3. Availability of Permit. The installer of any private sewage disposal system shall have a copy of the permit on the job site and be available for review by the Environmental Health & Zoning staff or designees.
4. Drawing Required. When the private sewage disposal system has been completed, a drawing shall be completed by the County Sanitarian showing the exact layout of the septic tank, all distribution boxes, the secondary treatment system, wells on the property or within a 100 feet of the system, and the location of the structure to be served by the system. This drawing shall have dimensions from two (2) fixed corners of the dwelling or structure or other permanent landmark to the center of the septic tank(s) and distribution boxes. Digital photos may also be taken of pertinent features and kept in the Environmental Health and Zoning office. A copy of such shall be provided to the owner upon completion.

42.06 WATER LINE/UTILITY SERVICE LINES.

No service water line or other service utility lines shall be installed within 10 feet, so as to interfere with and/or prohibit the installation or repair of a private sewage disposal system.

42.07 WELLS.

If a private sewage disposal system is to be constructed, reconstructed, altered, or repaired and a well is located less than the minimum distance as set out in Iowa Administrative Code 567 – Chapter 69, then the well shall be abandoned and properly plugged. The well must be plugged according to rules established in the Iowa Administrative Code 567 – Chapter 39.

42.08 SEPTIC CONTRACTOR AND SYSTEM DESIGN ENGINEER LICENSE.

1. Septic Contractor License. Beginning July 1, 2017, any person, firm, or corporation desiring to construct, alter, repair, or provide maintenance of any private sewage disposal system in the County, shall first file for a license and approval with the County Sanitarian, conditioned on the faithful performance of all duties and regulations required by the Board of Health, and all ordinances and regulations of the County and the Iowa Department of Natural Resources governing private sewage disposal systems.

- a. Persons desiring to obtain a Buchanan County license to install, repair, alter, or maintain private sewage disposal systems must be a holder in good standing of certification as a Certified Installer of Onsite Wastewater Treatment Systems, either Basic or Advanced levels, as provided through the National Environmental Health Association. Continuing education credits to be defined by the National Environmental Health Association. Those contractors that only act as maintenance providers within Buchanan County, are recommended to obtain the CIOWTS certification, but shall be a manufacturer certified maintenance provider for those units that they service.
 - b. The Board of Health will issue a Contractor's license, valid for a period of twelve months beginning on July 1, provided the applicant is the holder in good standing and has met the continuing education requirements of such certification.
 - c. An annual license fee may be established by the Board of Health and shall be paid at the time of application.
 - d. License fees will be determined by the Board of Health.
 - e. The septic contractor license may be revoked by the Board of Health or its designee if terms of this chapter or any part of County ordinances are violated. The contractor may only be reinstated at the discretion of the Board of Health.
 - f. Application for renewal of license, when the license has been revoked, will not be allowed for a period of one (1) year from the date of revocation.
 - g. An appeal hearing on license denial or revocation may be requested in writing to the Buchanan County Board of Health.
2. System design engineers. All system design engineers desiring to perform services within the County must be a state licensed or registered engineer. System design engineers must maintain the credential requirements pertaining to their engineering registration with the State or any other applicable requirements. System design engineers are not required to obtain their CIOWTS credential, but it is highly recommended.

42.09 INSURANCE.

1. Proof of Insurance. Any contractor desiring to construct, reconstruct, alter, or repair any private sewage disposal system within the County shall file with the Environmental Health & Zoning office a certificate of insurance indicating that the contractor is carrying liability insurance and that the contractor and his/her agents and/or employees are covered while carrying out actions governed by this ordinance. The policy shall also provide for a least ten working days advance notice by the insurer to the local authority of termination of the policy by the insured or insurer. The contractor liability limits shall be set by the Board of Health.

42.10 ABANDONMENT.

1. Abandonment Required. Septic tanks, pump tanks, and holding tanks that are no longer in use shall be properly abandoned. The tank must be emptied of all wastes and then either removed or have the lid crushed in and filled with dirt or sand as to eliminate the danger of the tank inadvertently collapsing.
2. Receipt of Pumping. Prior to a septic tank being abandoned, receipt indicating that the tank has been pumped at a time after the structure was uninhabited or the septic tank was disconnected from the structure shall be provided to the Environmental Health & Zoning office.

3. Notification. The Environmental Health & Zoning office shall be notified orally by telephone or in person, not less than twenty-four (24) hours, between the hours of 8:00 A.M. and 4:30 P.M., Monday through Friday, except County observed holidays, before abandonment is to occur.
4. Inspection. The County Sanitarian shall be present for the abandonment of the tank. If the County Sanitarian is unable to attend, pictures may be used as evidence of abandonment upon approval by the County Sanitarian.

42.11 VARIANCES.

Variances to these regulations may be requested of the Board of Health. The Board of Health may or may not approve, based on evidence provided. Variances shall be requested by the property owner in writing and addressed to the Board of Health, submitted to the Environmental Health & Zoning Administrator by noon at least seven (7) days prior to the next regularly scheduled Board of Health meeting. The request should be accompanied by any evidence that the requestor wishes to have the Board of Health consider. All decisions regarding this topic shall be issued in writing to the requestor.

42.12 APPEAL.

Any person who feels aggrieved by any notice or order made by the County Sanitarian or the Board of Health shall have the right to appeal to the Board of Health at the next regular meeting. The Board of Health by majority vote may modify, withdraw, or order compliance with said notice or order.

42.13 ENFORCEMENT.

Violation of this ordinance is a County infraction under Iowa Code Section 331.307, punishable by a civil penalty of not more than \$750 for each violation. Each day of noncompliance may be deemed as a separate offense. In addition, the County may avail itself of alternative relief, as authorized by Section 331.307(8) and 331.307(9).

42.14 SEVERABILITY CLAUSE.

In any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

42.15 SUPPLEMENTAL POWER.

No section, clause, or provision of this ordinance shall limit the power of the County Sanitarian or Board of Health to obtain injunctive or other relief or to enforce Public Health Laws or Ordinances or standards in any other lawful manner.

ADOPTED AND PASSED by the Board of Supervisors of the County of Buchanan this 19th day of September 2016.

CHAPTER 43

NUISANCE REGULATIONS

43.01	Purpose	43.07	Violation
43.02	Definitions	43.08	Jurisdiction
43.03	Major Nuisances	43.09	Validity
43.04	Investigation/Notice of Abatement	43.10	Effective Date
43.05	Appeal	43.11	Enforcement
43.06	Court Action		

43.01 PURPOSE. The Buchanan County Board of Supervisors, pursuant to the authority granted in Chapters 331 and 657 of the Code of Iowa, and through its designee, the Buchanan County Board of Health, determines to regulate, control, correct and abate nuisances, as defined herein, and to provide penalties for violations.

43.02 DEFINITIONS.

1. Board of Health: The five-member group appointed by the Buchanan County Board of Supervisors, in accordance with Chapter 137.4, Code of Iowa.
2. Health Department: The Board of Health or its authorized representatives.
3. Nuisance: An act, failure to act, or any condition which is offensive to the senses, or which is an obstruction to the free use of property; any use of property which gives rise to noxious or offensive odors, gases, vapors, smoke, dust, pollen or fumes which injure or threaten the health or safety of individuals or the public; any storage, collection, discharge or deposit of any waste, offal, filth, garbage, refuse, dead animals or contaminated materials in any private or public shelter or protection for rodents; or the failure to secure areas or structures against unauthorized access, where such access threatens the health or safety of persons, or is an attractive nuisance to children.

43.03 MAJOR NUISANCES.

1. The erecting or using any building or area which occasions noxious exhalations, offensive smells, or other annoyances that become injurious and dangerous to the health, comfort or property of individuals or public.
2. The causing or allowing of any offal, filth or noisome substance to be collected or to remain in any structure or area to the prejudice of others.
3. The corrupting or rendering unwholesome or impure the water of any river, stream or pond to the injury of others.
4. The emission of dense smoke, noxious fumes, or fly ash.
5. Dense growth of all weeds, vines, brush or other vegetation so as to constitute a health, safety or fire hazard.

43.04 INVESTIGATION/NOTICE OF ABATEMENT.

1. The Health Department shall investigate complaints of nuisances in Buchanan County and shall, upon determining that a nuisance does exist, order said nuisance abated within a specified, reasonable time. Said order shall be as follows:

- a. Be in the form of a Certified Letter, Return Receipt Requested Letter, served in person to the owner of the property where the nuisance is located, or posted in a conspicuous place in or about the premises where the nuisance is located;
 - b. State the nuisance violation;
 - c. Specify a reasonable time for abatement of nuisance;
 - d. Specify the appeal procedures to said abatement order, including the name and address of the chairman of the Board of Health.
2. Said order may contain an outline of possible remedial action which, if taken, shall constitute compliance with the provisions of this regulation.

43.05 APPEAL.

1. Any person aggrieved by the determination of the Buchanan County Health Department of a health nuisance may, within twenty (20) days of notification, appeal said determination to the Board of Health. The appeal shall be in writing and shall include the reasons for refuting the nuisance determination. The Board of Health shall meet within thirty (30) days of receipt of appeal, at which time the appellant may appear. Following a review of the information presented, the Board of Health may modify, withdraw or concur with the determination of the Health Department.
2. An appeal of the Board of Health decision must be filed with the Clerk of Court's office within twenty (20) days of issuance of said decision.

43.06 COURT ACTION.

1. If any person is found guilty of erection, causing or continuing a nuisance, the Court may, in addition to the fine imposed, if any, or to the judgment for damages or cost for which a separate execution may issue, order that such nuisance be abated or removed at the expense of the defendant, and, after inquiry into and estimating as nearly as may be possible the sum needed to defray the expenses of such abatement, the Court may issue a warrant therefore.
2. Instead of issuing such warrant, the Court may order the same to be stayed upon motion by the defendant, and upon the defendant's entering into any undertaking to Buchanan County, in such sum and with such surety as the Court may direct, conditioned either that the defendant will discontinue said nuisance, or that, within a time specified by the Court, the defendant will cause the same to be abated and removed, as either is directed by the Court; and, upon the defendant's failure to perform the condition of the defendant's undertaking, the same shall be forfeited and the Court, upon being satisfied of such default, may order such warrant forthwith to issue, and action may be brought on such undertaking.
3. The expense of abating a nuisance by virtue of a warrant can be collected by the officer in the same manner as damages and costs are collected on execution, except that the materials of any buildings, fences, or other things that may be removed as a nuisance may be first levied upon and sold by the officer, and if any of the proceeds remain after satisfying the expense of the removal, such balance must be paid by the officer to the defendant, or to the owner of the property levied upon; and if said proceeds are not sufficient to pay such expenses, the officer must collect the residue.

43.07 VIOLATION. It shall constitute a violation of this ordinance if any person or place is deemed to be a health nuisance.

43.08 JURISDICTION. The provisions of this regulation shall apply throughout Buchanan County, Iowa, including the cities therein.

43.09 VALIDITY. If any section, paragraph or clause of this regulation shall be held invalid, such invalidity shall not affect any of the remaining provisions of these regulations.

43.10 EFFECTIVE DATE. The effective date of this regulation shall be July 1, 1989.

43.11 ENFORCEMENT. Violations of any of the provisions of this ordinance may be prosecuted as a County infraction, pursuant to Section 331.307, Code of Iowa, or as an aggravated misdemeanor pursuant to Chapter 657, Code of Iowa. Each day of noncompliance may be deemed as a separate offense.

CHAPTER 44

QUARANTINE AND ISOLATION PROGRAM

44.01	Purpose	44.04	Inconsistent Regulations
44.02	Quarantine and Isolation Regulations		Repealed
44.03	Savings Clause	44.05	Effective Date

44.01 PURPOSE. The purpose of this ordinance is to provide for the quarantine and isolation, when necessary, of persons with quarantinable disease. Enactment of this ordinance is authorized by Iowa Code Section 137.6(2).

44.02 QUARANTINE AND ISOLATION REGULATIONS.

1. Definitions:

- a. “Board” shall mean the Buchanan County Board of Health.
- b. “Communicable disease” shall mean the impairment of a person’s normal state because of the effect of a specific infectious agent or its toxic products that can be transmitted to another person.
- c. “Department” shall mean the Buchanan County Public Health Department located at 1413 First Street West, Independence, Iowa and the Environmental Health Department located at 210 Fifth Avenue Northeast, Independence, Iowa.
- d. “Isolation” means the physical separation of persons diagnosed by a licensed physician to be infected with a quarantinable disease, or who are disease carriers for the usual period of communicability of that disease, in such locations marked by placards and under such conditions devised to prevent the direct or indirect conveyance of the infectious agent or contagion to susceptible individuals.
- e. “Quarantinable disease” shall mean a communicable disease that, because of its characteristics and symptomology, presents a risk of serious harm to the health of the general public and that may require imposition of isolation or quarantine measures to prevent its spread. The term “quarantinable disease” shall include, but is not limited to, the following: cholera; diphtheria; infectious tuberculosis; plague; smallpox; measles; yellow fever; viral hemorrhagic fevers, including Lass, Marburg, Ebola, Crimean-Congo, South American, and others not yet isolated or named; and severe acute respiratory syndrome (SARS).
- f. “Quarantine” shall mean the limitation of freedom of movement of a person or persons who have been exposed to a quarantinable disease to within specific limits marked by placards, for a period of time equal to the longest usual incubation period of disease, to prevent the spread of disease.

2. General Provisions.

- a. Voluntary confinement. Prior to instituting mandatory isolation or quarantine the Board may request that a person or group of persons voluntarily confine themselves to a private home or other facility.
- b. Quarantine and Isolation. The Board is authorized to impose and enforce quarantine and isolation restrictions. If the Board confirms the presence of a quarantinable disease

in Buchanan County, persons exposed to or infected with an active quarantinable disease may be quarantined or isolated as the particular situation requires.

3. Conditions and Principles. The Board shall observe all of the following conditions and principles when isolating or quarantining persons.
 - a. Isolation or quarantine measures shall be the least restrictive means necessary to prevent the spread of communicable disease or suspected communicable disease to others.
 - b. Isolated persons shall be confined separately from quarantined persons.
 - c. The health status of isolated or quarantined persons shall be monitored regularly to determine if such persons require continued isolation or quarantine.
 - d. If a quarantined person is subsequently diagnosed with a quarantinable disease, the individual shall promptly be removed to isolation.
 - e. Isolated or quarantined persons shall be immediately released when the Board determines they pose no substantial risk of transmitting a quarantinable disease.
 - f. The needs of isolated or quarantined persons shall be addressed in an organized and competent manner including, but not limited to, providing adequate food, clothing, shelter, means of communicating with those in and outside of isolation or quarantine, medication, and competent medical care. "Providing" as used in this section means that the County shall assist in the acquisition of any of the listed items and shall not assume financial liability to purchase said items.
 - g. The premises used for isolation or quarantine shall be maintained in a safe and hygienic manner and shall be so designated to minimize the likelihood of further transmission of infection to the isolated or quarantined person.
 - h. To the extent possible, cultural and religious beliefs shall be considered in addressing the needs of persons in isolation and quarantine premises and establishing and maintaining the premises.
4. Isolation and Quarantine Premises.
 - a. Isolation and quarantine premises shall be prominently designated by appropriate signs prescribed and furnished by the Board and posted on all sides of the building/premises wherever access is possible. Placement of signs or placards shall be at the discretion of the Board.
 - b. Persons in isolation or quarantine shall obey the rules and orders of the Board and shall not go beyond the perimeter of the isolation or quarantine premises. Persons not under isolation or quarantine restrictions shall not enter isolation or quarantine premises unless authorized by the Board.
 - c. The Board may authorize physicians, health care workers, or others access to individuals in isolation or quarantine as necessary to meet the needs of the isolated or quarantined persons.
 - d. Only personnel authorized by the Board shall enter the isolation or quarantine premises. If law enforcement assistance is necessary to enforce an isolation or

quarantine order, the Board shall provide the law enforcement agency with a list of individuals authorized to enter the premises.

5. Isolation and Quarantine.

- a. Temporary Isolation and Quarantine Without Notice. The Board may immediately isolate or quarantine a person or persons through an oral order only if delay of imposing isolation or quarantine measures would significantly jeopardize the Board's ability to prevent or limit the transmission of a quarantinable disease or possible quarantinable disease to others. A written order shall follow as soon as reasonably possible after the oral order is issued and in all cases within 24 hours of issuance of the oral order if continued isolation or quarantine is necessary to prevent or limit the transmission of a quarantinable disease.
- b. Written Order. A written order shall be signed by the Chairman of the Board or the Chairman's designee, and shall include all of the following:
 - i. The name(s) of the person or persons subject to isolation or quarantine.
 - ii. The premises subject to isolation or quarantine measures.
 - iii. The date and time at which isolation or quarantine restrictions shall commence.
 - iv. The suspected quarantinable disease.
 - v. A description of the less restrictive alternatives that were attempted and were unsuccessful, or that were considered and rejected and the reasons such alternatives were rejected.
 - vi. A statement of compliance with **Division 3-Conditions and Principals** of these rules.
 - vii. The legal authority under which the order issued.
 - viii. The medical basis upon which isolation or quarantine measures are justified.
 - ix. A statement advising the isolated or quarantined person or persons of the right to appeal the written order pursuant to **Division 6-Appeal Procedure** of these rules and the rights of individuals subject to quarantine and isolation as listed in **Division 7-Rights of Persons Subject To Isolation and Quarantine** of these rules.

6. Appeal Procedure.

- a. The recipient of an order imposing isolation or quarantine restrictions may appeal such order by mailing a written appeal within ten (10) days of receipt of the written order, addressed to the Buchanan County Board of Health, 1413 First Street West, Independence, Iowa 50644.
- b. Unless stayed by order of the Board or the District Court, the written order for quarantine or isolation shall remain in force and effect until the appeal is finally determined and disposed of on the merits.
- c. The Board shall conduct the appeal in accordance with the following procedures:

- i. The appeal hearing shall be held as soon as is practicable, but not later than five (5) days from the date of receipt by the Board of the appeal notice.
 - ii. The hearing may be held by telephonic or other electronic means if necessary to prevent additional exposure to the quarantinable disease.
 - iii. The appellant shall have the right to introduce evidence on all issues relevant to the order.
 - iv. The Board shall deliberate the appeal immediately at the conclusion of the presentation of evidence. The Board shall decide the appeal by majority vote and may modify, withdraw, or order compliance with the order.
 - v. The Board shall electronically record the appeal proceedings and shall preserve any items of physical evidence submitted.
 - d. The appellant may petition for judicial review of the final decision of the Board by filing an action in District Court within thirty (30) days after the date on which the Board renders its final decision.
7. Rights of Persons Subject to Isolation or Quarantine Orders. All persons subject to isolation and quarantine orders have the following rights:
- a. The right to be represented by legal counsel;
 - b. The right to be provided with prior notice of the date, time and location of any hearing;
 - c. The right to participate in any hearing;
 - d. The right to respond and present evidence and argument on the person's behalf in any hearing;
 - e. The right to cross-examine witnesses;
 - f. The right to view and copy all records in the possession of the Board that relate to the subject of the written order.
8. Implementation and Enforcement of Isolation and Quarantine Orders.
- a. If the Iowa Department of Public Health orders the quarantine or isolation of a Buchanan County resident, the Board may assist in the implementation of the order in the same manner and to the same extent as though the Board had issued the order.
 - b. Pursuant to Iowa Code Sections 137.21 and 139A.25(1), any individual who violates a lawful Board order for isolation or quarantine, whether written or oral, shall be guilty of a simple misdemeanor. Each additional day of neglect or failure to comply with such order after notice of violation by the Board shall constitute a separate offense.
 - c. The Board may petition the District Court for a temporary restraining order to enforce a Board order for isolation or quarantine.

44.03 SAVINGS CLAUSE. If any provision of this Chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of this Chapter that can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared to be severable.

44.04 INCONSISTENT REGULATIONS REPEALED. Any regulations or portions of regulations of the Buchanan County Code of Ordinances in conflict with any provision of this Chapter are hereby repealed in that respect only.

44.05 EFFECTIVE DATE. The provisions of this Chapter shall take effect and be in full force and effect upon the approval of the Buchanan County Board of Health and Buchanan County Board of Supervisors and upon publication in a newspaper in general circulation within Buchanan County.

TITLE VI – PROPERTY AND LAND USE

CHAPTER 50

ZONING

50.01	Purpose	50.14	“C” Commercial District
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50.01 PURPOSE. This ordinance is designed to allow for the orderly growth of the rural, unincorporated areas of Buchanan County for the general good of the citizens of this county, while maintaining the natural resources of the county and coordinating residential, commercial, industrial and agricultural uses throughout the county. This ordinance is designed to implement the goals and objectives of the residents of Buchanan County, as adopted in the Comprehensive Plan. This ordinance is adopted to regulate the use of land and structures, the height and size of buildings and their location, the size of lots, yards and other open spaces in the rural, unincorporated areas of Buchanan County.

50.02 TITLE. This ordinance shall be known as the “Buchanan County, Iowa, Zoning Ordinance.”

50.03 FARM EXEMPTION. Except to the extent required to implement Section 335A.27, Code of Iowa, this ordinance shall not apply to land, farm houses, farm buildings or other structures which are primarily adopted by reason of nature and area, for use for agricultural purposes. However, this ordinance shall apply to any structure, building, dam, obstruction, deposit or excavation in or on the flood plains of rivers in Buchanan County, Iowa.

50.04 OPEN MEETINGS. The Buchanan County Zoning Commission and the Buchanan County Zoning Board of Adjustment shall be subject to all the requirements of Chapter 21, Code of Iowa, which deals with official meetings open to the public.

50.05 ZONING DISTRICTS. In order to classify and regulate the location of trades and industries, and the location of buildings designed for specified uses, to regulate the height and bulk of buildings hereafter erected or altered, to regulate the intensity of the use of lot areas and to regulate and determine the areas of yards, courts, and other open spaces within and surrounding such buildings, the unincorporated area of Buchanan County, Iowa, is hereby divided into nine districts, whose use, height and area regulations are uniform within each of the following districts:

“A-1” Prime Agricultural

“A-2” Agricultural

“R-1” Residential

“R-2” Residential

“R-3” Residential

“C” Commercial

“C-M” Commercial Manufacturing

“I” Industrial

“F-P” Flood Plain

The boundaries of these districts are indicated upon the Official Zoning Maps of Buchanan County, Iowa. The Official Zoning Maps are made a part of this ordinance by reference and shall be on file and open to the public in the office of the Buchanan County Zoning Administrator, who shall be appointed by the Board of Supervisors to administer and enforce the provisions of this ordinance. Where uncertainty exists with respect to the boundaries of the various districts as shown on the Official Zoning Maps, the following rules shall apply:

1. Boundaries indicated as approximately following the centerline of roads, lot lines, rivers, waterways or railroads shall be construed to follow such centerlines, and in the event of a change in the river, stream, creek or other waterway, shall be construed to be the new centerline of the waterway.
2. Boundaries indicated as approximately following section lines, quarter section lines, quarter-quarter section lines, shall be construed as following such lines.

The Board of Supervisors may amend, supplement or change the boundaries or regulations herein and subsequently established. However, no such change or amendment shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least four (4) days notice of the time and place of such hearing shall be published in a paper of general circulation in Buchanan County. As part of any amendment changing land from one zoning district to another zoning district, 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 or the adjournment of the hearing. The conditions must be reasonable and satisfy public needs which are directly caused by the requested change. In case, however, of a protest against the change signed by the owners of twenty (20) percent or more either of the area included in the proposed change, or the area immediately adjacent to the proposed change and within five hundred (500) feet of the boundaries of the proposed change, the amendment shall not become effective except by the favorable vote of all members of the Board of Supervisors.

Prior to any action by the Board of Supervisors, a rezoning petition requesting such amendment or change to the boundaries or ordinance shall be presented to the Zoning Commission for review. Said rezoning petition shall contain the legal description of the property involved, the existing and requested zoning classifications, and shall also be signed by the owners of at least fifty percent of the property involved in the request.

Should a rezoning petition be denied by the Board of Supervisors, no new petition covering the same property shall be considered by the Board of Supervisors for a period of six months from the date of the initial petition filing.

50.06 DEFINITIONS.

1. Accessory Structure: A structure located on the same lot with, and subordinate to, the principal structure.
2. Accessory Use: A use of a building or lot clearly incidental to the principal use of said building or lot.

3. Agriculture: The science and art of farming; the work of cultivating the soil, producing crops and raising livestock.
4. Airport: A place where aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair, accommodations for passengers and offices.
5. Alley: A narrow public street normally located behind structures facing opposite roadways and meant as secondary access to said structures, or the property upon which the structures are located.
6. Alteration: Any physical change, or addition to structures or land.
7. Apartment House: A building in which the rooms are arranged in sets of one or more for the purpose of human habitation and normally for rent or lease.
8. Appeals: A procedure granted to the Board of Adjustment allowing any person aggrieved by a decision of the Zoning Administrator to have said decision reviewed.
9. Basement: A building part with at least one-half of its height located below the surrounding ground level, and without a ground level entrance.
10. Billboard: All structures that are used for display of signs advertising a message, a business or attraction which is not carried on upon the premises where the structure is located, and larger than one hundred square feet.
11. Buildable Area: That area of a lot remaining after the minimum yard requirements have been met.
12. Building: A structure, of more or less permanent construction, having a roof and intended to be used for sheltering people, animals, property or business activity.
13. Building Height: The vertical distance measured from the average natural grade of the surrounding terrain to the top of the structure.
14. Bulk Stations: Distribution stations used for the storage and wholesale distribution of flammable liquids or liquefied petroleum products with a total capacity of twelve thousand gallons or more.
15. Bulletin Board: A structure upon which notices, bulletins and displays are temporarily placed.
16. Business: A retail or wholesale operation involving the exchange of goods or services, and the sale or storage of such goods.
17. Business Permit: A secondary, commercial or commercial-manufacturing use conducted entirely within an accessory building by a member of the family residing at this location, and with no more than two, non-resident assistants, and where said business is not a nuisance by virtue of excessive noise, odors, electrical disturbances or traffic generation, and allowed by an annual permit from the Board of Supervisors.
18. Church: A building for public religious worship.
19. Clinic: A structure commonly used for outpatient medical care.
20. Crop Suitability Rating: An index for ranking the productivity of soils and their suitability for crop production in Iowa, commonly called "CSR."

21. Day Nursery: Any institution, establishment or place which provides supplemental parental care and/or pre-school education for six or more children for pay.
22. Development: Any man-made change altering the existing use of a parcel of land.
23. District: A geographic area of Buchanan County within which the use of structures and premises, including heights, yards, etc., are regulated by this ordinance.
24. Dump: An area used for the disposal of non-polluting material, such as rocks, trees, brush or cement.
25. Dwelling: A building, or a portion thereof, used for residential purposes.
26. Dwelling, single family: A dwelling occupied by one family only.
27. Dwelling, two family: A dwelling occupied by two families, with separate housekeeping facilities for each family.
28. Dwelling, multiple: A dwelling designed for three or more families, with separate housekeeping facilities for each family.
29. 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 more than four persons.
30. Farm: An area comprising thirty-five (35) or more contiguous acres which is used for agricultural purposes and the growing and production of agricultural products thereon, their storage on the area, or for the raising thereon of livestock. Division of said area by roadways does not render the property non-contiguous.
31. Farmstead: The buildings, including the dwelling unit, and adjacent service area of the farm.
32. Feed Lot: A parcel of land 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.
33. Feed Lot, Commercial: A feed lot in which more than one thousand hogs, five hundred cattle or sheep, or ten thousand fowl are on feed at any one time.
34. Flood: A general and temporary condition of partial or complete inundation of normally dry land areas resulting from an overflow of streams or rivers, or from the unusual and rapid runoff of surface waters from any source.
35. Flood Plain: That area, normally adjacent to rivers or streams, which have been or may be hereafter covered by floodwater.
36. Floor Area: The total sum of all floors of a building, normally measured in square feet.
37. Floor Area Ratio: The total floor area of all buildings on a lot divided by the lot area on which the building or buildings are located.
38. Frontage: All that property between a structure and the road that it faces.
39. Garage, Private: An enclosed structure intended for the parking of the motor vehicles.

40. Garage, Public: Any building used for equipping, refueling, servicing, repairing or storing motor vehicles.
41. Grade: The average level of the finished surface of the ground adjacent to the exterior walls of a structure.
42. Grain Elevator: A structure or group of related structures whose primary purpose is the receiving, selling, processing, storage, drying or transporting of grain.
43. Home Occupation: A secondary use carried on entirely within the residence where there is no evidence of such occupation being conducted on the premises by virtue of large displays, or excessive noise, odors, electrical disturbances or traffic generation, and with no more than one non-resident assistant, and where no more than one-half of the floor area of any one floor is devoted to such use, and allowed by an annual permit from the Buchanan County Board of Supervisors.
44. Hotel: A building in which lodging is offered and provided to the public for compensation, and normally includes an eating room and lounge for the guests.
45. House, Boarding or Lodging: A dwelling in which rooms are offered and let to the public for compensation for overnight stay.
46. Junk or Salvage: Old, used or scrap metals, rags, batteries, paper, trash, tires and other rubber debris, inoperable appliances, discarded furniture, used building materials, or similar materials. This definition shall include dismantled or wrecked vehicles, vehicular parts and inoperable farm equipment and machinery.
47. Junk or Salvage Yard: Any area not completely enclosed within a building where waste; trash; scrap metal, plastic or wood; rags; used paper, bottles, appliances, furniture, equipment and building material are disassembled, kept, stored or handled. The presence of three (3) or more inoperable or unlicensed vehicles, or three (3) or more inoperable, used machinery and farm implements located on any tract of land shall constitute prima facie evidence of a junk or salvage yard.
48. Kennel: An area upon which four or more dogs, six months of age or older, are kept for the purposes of breeding, grooming, boarding or care.
49. Lot: An area of land, less than thirty-five (35) acres, with fixed boundaries, used or intended to be used for one structure and its accessory structures, and not divided by a public roadway or alley.
50. Lot Line: The boundary line between different parcels of land.
51. Lot of Record: A lot which is part of a recorded subdivision, or a lot which was recorded in the office of the Buchanan County Recorder prior to the adoption of this ordinance on June 10, 1974.
52. Lumber Yard: A business dealing with wood already sawed into boards of various sizes and related construction materials.
53. Manufactured Home: A factory-built dwelling that meets or exceeds the minimum construction standards set by the federal government and so noted upon said dwelling, and which does not have permanently attached to it, wheels, axles or hitch. A mobile home is a manufactured home if the vehicular frame is modified for placement, and it is placed upon a permanent foundation; and the mobile home vehicle title is surrendered to the County Assessor and the dwelling is entered upon the tax rolls.

- 54. Maps, Official Zoning: Those drawings of Buchanan County which designate the various zoning districts, and adopted by the Buchanan County Board of Supervisors by resolution, and on file in the office of the Zoning Administrator.
- 55. Mobile Home: Any vehicle without motive power used or so constructed or manufactured as to permit its being used as a conveyance upon the public streets and highway, so designed, constructed or reconstructed so as to permit the vehicle to be used as a place for human habitation by one or more persons, but shall also include any such vehicle with motive power not registered as a motor vehicle.
- 56. Mobile Home Park: Any lot upon which two or more mobile homes are located and occupied.
- 57. Motel: A hotel designed primarily for those traveling by vehicle, usually with direct access from each room to a vehicular parking area.
- 58. Non-conforming Use: The lawful use of any property that was established prior to the enactment of this ordinance, or any subsequent amendment, which does not conform to the requirements of the ordinance following the enactment in the district in which the use is located.
- 59. Non-conforming Structure: The lawful existence of any structure that was established prior to the enactment of this ordinance, or any subsequent amendment, which no longer conforms to the requirements of the ordinance following enactment, in the district in which the structure is located.
- 60. Nursing Home: A building having accommodations and care for invalid, infirm, aged, convalescent, or physically disabled persons.
- 61. Obstruction: Any structure which impedes the flow of water.
- 62. Park: An area of land, either public or private, normally limited to recreational or scenic uses.
- 63. Parking Lot: An area of land, or structure, designed to accommodate the temporary placement of motor vehicles.
- 64. Parking Space: That minimum amount of area required for the parking of one motor vehicle.
- 65. Pavement: The driving surface of a road covered with solid material, such as, asphalt, concrete or brick.
- 66. Principal Use: The primary and single use of land or structures.
- 67. Public Agency: Any tax-supported group or subdivision of such group.
- 67A. Public Hunting Area: Any area specifically designated by an agency of the federal, state, or county government as open to members of the public for the hunting of game birds and animals.
- 68. Quarry: An area where sand or rock is excavated or removed on a regular basis for the purposes of commercial sale.
- 69. Regulatory Flood: The amount of overflow water from a stream, creek, or river that has the frequency of occurrence of approximately one hundred years, as determined by the Iowa Department of Natural Resources.

70. Rezoning: An amendment or a change in the Buchanan County Zoning Ordinance or Official Zoning Maps.
71. Right-of-Way: That area of land secured for use by a public agency, generally for roads, pipelines, cables, etc.
72. Road: All land and bridges intended for public use as a way of traveling between places, including the entire right-of-way.
73. Road, Private: All land and bridges intended for private use as a way of traveling between places.
74. Roadside Stand: A temporary structure used to prepare, display and sell products and merchandise.
75. Sanitary Landfill: Land used for the disposal of organic or hazardous wastes as authorized by the Buchanan County Board of Supervisors, and in accordance with state and federal regulations.
76. Sawmill: The location and/or business where logs and timber are cut into boards, shingles, etc., and stored.
77. School: A building or buildings used for teaching and learning purposes.
78. Sign: A publicly displayed board, placard, etc., bearing information in visual form.
79. Sign, Exterior: A sign attached to a building.
80. Sign, Free Standing or Post: A sign not attached to a building.
81. Stable: A structure used or intended for the housing of horses.
82. Story: That portion of a building between the floor and the ceiling or roof above.
83. Structure: Anything constructed or erected on the ground or is attached to something located on the ground.
84. Subdivision: The process and result of dividing a parcel of land into three or more lots for developmental purposes other than agricultural.
85. Summer Cottage: A dwelling designed for temporary occupancy during the year.
86. Technical Review: The report compiled by the Zoning Administrator for presentation to the Zoning Commission during the consideration of rezoning requests. The report is designed to assist the commissioners in determining, among other things, site characteristics, suitability, physical features, eco-systems, public services available, wildlife considerations, soil ratings, legal descriptions, etc.
87. Travel Trailer or Motor Home: A licensed vehicle customarily used for recreational or vacation purposes.
88. Truck Garden: An area of land less than thirty-five acres upon which vegetable, fruit, etc. are produced for sale.
89. Utility: Those businesses, either public or private, providing service for the general public, such as, but not limited to telephone, electricity, water, sewer, gas and cable television.

90. Variance: Authority granted to the Board of Adjustment which allows relief from the exact terms or requirements of the Zoning Ordinance where such relief will not be contrary to the public interest and where, due to the conditions peculiar to a certain property and not the result of actions by the property owner, a literal enforcement of the Zoning Ordinance would result in unnecessary and undue hardship.
91. Yard: That area on a parcel of land between the lot lines and the structure located on that parcel.
92. Yard, Front: The yard extending across the full width of a lot in the direction of the structure is facing, and extending from the front of the structure to the front lot line.
93. Yard, Rear: The yard extending across the full width of a lot in the opposite direction a structure is facing, and extending from the rear of the structure to the rear lot line.
94. Yard, Side: The yard extending from the front yard to the rear yard and extending from the side lot lines to the structure.
95. Zoning Administrator: The person designated or appointed by the Board of Supervisors to administer and enforce the provisions of the Zoning Ordinance and the Comprehensive Plan.
96. Zoning Board of Adjustment: A five-member group of County residents responsible to hear and decide appeals and requests for variances.
97. Zoning Commission: A nine-member group of County residents whose purpose it is to make recommendations to the Board of Supervisors on amendments to the Zoning Ordinance and to the Official Zoning Maps.

50.07 GENERAL PROVISIONS.

1. Any addition to the unincorporated area of Buchanan County shall be automatically placed in the "A-1" Agricultural District.
2. No structure or land shall be used or altered without conforming with the requirements of this ordinance, except as hereinafter provided.
3. Within an agricultural district, a farmstead in existence at the time of enactment of this ordinance, June 10, 1974, may be severed from the farm, with a minimum of two acres per dwelling.
4. No yard or lot area requirement shall be considered as providing a yard or lot area requirement for any structure on any other lot.
5. Whenever any road is vacated by the Board of Supervisors, the zoning district on each side of the road shall be extended to the center of the vacated road.
6. All applications for rezoning, variances, appeals and special permits must be in writing and include the legal description of the property involved, the present and proposed zoning classification and the reason for the request.
7. No lot shall be reduced in area so as to make any yard less than the minimum required for that zoning district.
8. Off-street parking and locating areas may occupy all or part of any required yard, except as specified elsewhere in this ordinance.

9. Whenever a yard requirement in any other ordinance, regulations or agreement is more restrictive than the requirements in this ordinance, those more restrictive requirements shall apply.
10. Temporary structures used in conjunction with construction work are allowed in all districts during the period the work is being done, with the structures being removed upon completion of the work.
11. Accessory buildings may be constructed in a required yard, but shall not occupy more than thirty (30) percent of the yard.
12. No basement shall be occupied for dwelling purposes unless at least one story of the building above the basement has been completed.
13. A summer cottage may be located in agricultural or flood plain districts along any river provided the yards comply with the "R-2" Residential District requirements, and a permit has been received from the Iowa Department of Natural Resources.
14. A dwelling shall not be erected, constructed, or moved to or within 200 yards of a Public Hunting Area; provided, however, that this prohibition shall not be applicable to the erection, construction, or moving of a dwelling on or to a farm, a lot of record, or a subdivision platted and recorded prior to the date of adoption of this ordinance, nor to the replacement of a dwelling which has been destroyed by casualty or disaster and which was in existence on the date of adoption of this ordinance.

50.08 FAMILY HOMES. The intent of this section is to assist in improving the quality of life of developmentally disabled persons by integrating them into the mainstream of society by making available to them community residential opportunities in the residential areas of this County. This section shall be liberally construed.

1. Developmentally disabled means a disability of a person which has continued or can be expected to continue indefinitely and which is one of the following:
 - a. Attributable to mental retardation, cerebral palsy, epilepsy, autism, or a mental or nervous disorder.
 - b. Attributable to any condition found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons, or requires treatment and services similar to those required for the persons.
 - c. Attributable to dyslexia resulting from a disability described in either paragraph (a) or (b).
2. Family home means a community-based residential home which is licensed as a residential care facility under Chapter 135C, Code of Iowa, or a child foster care facility under Chapter 237, Code of Iowa, to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight developmentally disabled persons and any necessary support personnel. However, family home does not mean an individual foster family home licensed under Chapter 237, Code of Iowa.
3. Permitted use means any use authorized in all residential zoning districts.

4. Residential means regularly used by its occupants as a permanent place of abode, which is made one's home as opposed to one's place of business and which has housekeeping and cooking facilities for its occupants only.

A family home shall be considered a residential use of property for the purposes of zoning, and shall be a permitted use in all residential zones or districts, including all single-family residential zones or districts of the County. However, all new family homes shall be located at least one-quarter mile from any other family home.

Any restriction, condition or covenant in a subdivision plan or plat prohibiting use of a property as a family home for the developmentally disabled to the extent of the prohibition shall be considered null and void.

50.09 "A-1" AGRICULTURAL DISTRICT. This district is intended to serve the agricultural community and protect the natural resources of the area by limiting the encroachment of urban land uses into this district. In so doing, the following uses are allowed in this district:

1. Principal Permitted Uses:
 - a. Agricultural and incidental agricultural related uses.
 - b. Feedlots and confinement facilities for livestock.
 - c. Specialized animal farms, including but not limited to, fowl, rabbits, mink, bees, and chinchillas.
 - d. Specialized horticultural operations including orchards, truck gardens, Christmas tree farms, wholesale nurseries, floriculture, viticulture, greenhouses, and sod farms.
 - e. Stables and kennels.
 - f. Forest reserves, timbers.
 - g. Any use conducted by a public agency, including structures for such use.
 - h. Public utility structures and uses, including pipeline warning signs.
 - i. Transmitting towers and stations.
 - j. Single family dwellings, if one of the following conditions apply:
 - i. The dwelling was in existence at the time of adoption of this ordinance;
 - ii. The dwelling is, or can be located upon a Lot of Record;
 - iii. One-half the lot consists of a combination of the following soil types, which have a Crop Suitability Rating less than 55 or prime agricultural:

41	63B	110B	241B	408C
41B	63C	159	284	776
41C	110	159C	284B	776C

2. Accessory Uses:
 - a. Home Occupations.

- b. Bulletin boards and signs, no larger than twenty-five (25) square feet, pertaining to home occupations or any material grown or treated within the district, provided the signs are located on the property in which such materials are grown or treated.
 - c. Organizational signs, including city, school and church recognition signs.
 - d. Accessory structures and uses customarily incidental to the principal uses listed above.
 - e. Dwellings for persons employed on the premises, or a member of the immediate family which owns the farm.
 - f. Summer cottages.
 - g. Seed and feed dealerships.
 - h. Roadside stands.
3. Height Regulations: Any structure hereafter erected or structurally altered may not be of such height as to be in conflict with any Buchanan County regulations, more specifically "The Independence Municipal Airport Height Zoning Ordinance."

4. Minimum lot areas and yard requirements are as follows:

Setback Use	Lot Area	Lot Width	Front	Side	Rear
Dwelling	2 acres	200 ft.	50 ft.	25 ft.	50 ft.
Kennels/Stables	5 acres	200 ft.	50 ft.	50 ft.	50 ft.
Summer Cottage	8000 sq. ft.	80 ft.	30 ft.	10 ft.	30 ft.
Bulletin Boards/signs			10 ft.	10 ft.	10 ft.
Accessory Structures			10 ft.	10 ft.	10 ft.
Transmitting Towers			(One-half total height)		
Other Structures			10 ft.	10 ft.	10 ft.

50.10 "A-2" LIMITED AGRICULTURAL DISTRICT. The purpose of the "A-2" District is to allow similar and interrelated agricultural uses as those in the "A-1" District, but which cannot be specifically defined as agricultural. In the "A-2" District, the following provisions and restrictions apply:

- 1. Principal Permitted Uses:
 - a. Any use permitted in the "A-1" District.
 - b. Veterinary clinics.
 - c. Grain elevators.
 - d. Airports.
 - e. Parks, golf courses, outdoor recreational areas, pools, campgrounds.
 - f. Churches, pastors' residence, Sunday School buildings.

- g. Cemeteries, mausoleums.
- 2. Accessory Uses:
 - a. Accessory buildings and uses customarily incidental to any of the principal uses.
- 3. Height Regulations: Same as specified in the “A-1” District.
- 4. Minimum lot areas, yard setbacks for the “A-2” District are as follows:

Use	Lot Area	Lot Width	Yards		
			Front	Side	Rear
Dwellings	2 acres	200 ft.	50 ft.	25 ft.	50 ft.
Cemetery	20 acres	N/A	25 ft.	25 ft.	25 ft.
Churches	2 acres	200 ft.	50 ft.	25 ft.	50 ft.
Veterinary Clinic	2 acres	200 ft.	50 ft.	50 ft.	50 ft.

50.11 ”R-1” RESIDENTIAL DISTRICT. The “R-1” Residential District is intended to provide for the development of both low and moderate density land uses and structures in the unincorporated areas of Buchanan County.

- 1. Principal Permitted Uses:
 - f. Single and two-family dwellings.
 - g. Schools, both public and private.
 - h. Churches, pastors’ residence, Sunday School buildings.
 - i. Hospitals, clinics, funeral homes.
 - j. Parks, playgrounds, pools, golf courses.
 - k. Public utility structures and uses.
- 2. Accessory Uses:
 - a. Buildings customarily with, but incidental to, the principal uses allowed.
 - b. Bulletin boards, home occupation signs and signs for principal uses.
 - c. Home occupations and business permits.
- 3. Height Regulations:

Same as in an “A-1” Agricultural District.
- 4. Minimum lot areas and yard setbacks for the “R-1” District are as follows:

Use	Lot Area	Lot Width	Yards		
			Front	Side	Rear
Dwellings	2 acres	200 ft.	50 ft.	25 ft.	50 ft.
Subdivision dwelling*	1 acre	100 ft.	30 ft.	30 ft.	30 ft.

Other Structures			30 ft.	30 ft.	30 ft.
Access Structures			30 ft.	10 ft.	10 ft.

*Shall have either common water or common sewer systems, or both

50.12 "R-2" MULTIPLE RESIDENTIAL DISTRICT. The intent of the Multiple Residential District is to provide for mixed residential development, including subdivisions, where common sewers and common water utilities are available.

1. Principal Permitted Uses:

- a. Any use permitted in the "R-1" Residential District.
- b. Multiple family dwellings.
- c. Hotels, motels.
- d. Mobile home parks.
- e. Boarding houses, lodges, apartments.

2. Accessory Uses:

- a. Accessory buildings and uses customarily incidental to the principal uses.
- b. Home occupation and business permits.
- c. Bulletin boards and signs no larger than twenty-five (25) square feet, pertaining to home occupations or any material grown or treated within the District, provided the signs are located on the property in which such materials are grown or treated.
- d. Retail shops inside hotels, motels.

3. Height Regulations:

- a. In addition to the height requirements of the "A-1" Agricultural District, no principal building shall exceed three stories or forty-five (45) feet in height, whichever is lower, except additional height for additional stories may be added at the rate of two feet in height for each one foot that the building is set back from the required yard lines.
- b. No accessory structure shall exceed one story or eighteen (18) feet in height, whichever is lower.

4. Water and Sewer Systems: All dwellings, hotels, motels, apartments, etc., shall have common water and common sewer systems, as approved by the Buchanan County Health Department. Existing lots of record and lots having a minimum area of two acres shall be allowed to use an individual septic system and individual well, subject to approval by the Buchanan County Health Department.

5. Minimum lot area and yard requirements for the "R-2" District are as follows:

Use	Lot Area *	Lot Width	Yards		
			Front	Side	Rear
Dwellings:					
Single-family	8,000 sq. ft.	66 ft.	30 ft.	10 ft.	30 ft.
Two-family	10,000 sq. ft.	66 ft.	30 ft.	10 ft.	30 ft.

Multiple	10,000 sq. ft.	66 ft.	30 ft.	10 ft.	30 ft.
Mobile home park	12,960 sq. ft.	96 ft.	10 ft.	10 ft.	10 ft.
Motels, Hotels	37,800 sq. ft.	270 ft.	50 ft.	10 ft.	30 ft.

*The lot area requirements are exclusive of road right-of-way easements.

50.13 “R-3” RESIDENTIAL DISTRICT. The intent of the “R-3” Residential District is to provide for single family dwellings in a rural setting, and may include low density agriculture as provided for in the permitted uses categories. This district is not designed for moderate to high population density. In the “R-3” District the following provisions and restrictions shall apply:

1. Principal Permitted Uses:
 - a. Single family dwellings.
 - b. Truck gardening.
 - c. Animals subject to the following maximum density requirements:
 Large animals: Horses, cattle, buffalo, deer, elk, etc.: 1/acre.
 Intermediate animals: Hogs, sheep, goats, dogs, and etc.: .5/acre.
 Small animals: Poultry, rabbits, mink, pigeons, and etc.: .25/acre.
 - d. Any combination that does not exceed the above listed animal limitations.
2. Accessory Uses:
 - a. Accessory buildings, such as private garages, storage sheds, etc.
 - b. Home occupations and business permits.
 - c. Private stables. (see above listed limitations)
 - d. Roadside stands.
 - e. Bulletin boards and signs, no larger than twenty-five (25) feet, pertaining to Home Occupations or Business Permits, or any material grown or treated within the district, provided the signs are located on the property in which such materials are grown or treated.
3. Height Regulations:

Structures shall not exceed three stories or forty (40) feet in height, whichever is lower, measured from the average height of the surrounding ground.
4. Water and Sewer Systems:

Individual septic systems and private water wells are allowed, subject to approval of the Buchanan County Health Department.
5. Minimum lot areas, frontage and yard requirements are as follows:

Use	Lot Area	Width	Front	Side	Reat
Dwelling	2 acres	150 ft.	50 ft.	25 ft.	50 ft.
Animal Structures			50 ft.	50 ft.	50 ft.

Stables			50 ft.	50 ft.	50 ft.
Bulletin boards and signs			10 ft.	30 ft.	10 ft.

50.14 COMMERCIAL DISTRICT. The intent of the “C” District is to provide for commercial business uses to serve the general needs of the residents of the rural areas of Buchanan County. In the “C” District, the following provisions and restrictions shall apply:

1. Principal Permitted Uses:

- a. Single family dwellings are permitted when physically attached to, or a part of a business, office or recreational establishment.
- b. Any business, service or recreational establishment such as the following:

Accounting business	Automobile parts stores
Agricultural buss/service outlets	Bait shops
Antique shops	Bakeries
Apparel shops, seamstress/tailors	Banks/financial institutions
Appliance stores, sales and service	Barber shops
Architects and civil engineers	Beauty parlors
Art galleries	Book stores
Art supply shops	Business machine, computers
Camera Shops	Locksmiths
Candy stores	Medical offices/clinics
Dental offices	Music stores
Department stores	Newspaper offices
Drug stores	Paint/carpet/wallpaper
Electrical supply stores	Parking lots, commercial
Florists	Radio and TV stations
Fruit and vegetable markets	Radio and TV stations
Furniture stores	Real estate agencies
Gift shops	Recreation facilities, indoor
Grocery stores	Restaurants and cafes
Hardware stores	Sporting goods stores
Hobby or craft stores	Taverns/bars/lounges
Insurance offices	Toy stores
Jewelry/watch businesses	Travel bureaus
Laundromats	Variety stores
Lawyer/attorney offices	

2. Accessory Uses:

- a. Billboards, bulletin boards and signs.
- b. Home Occupations.

3. Height Regulations:

- a. In addition to the height requirements of the “A-1” Agricultural District, no principal building shall exceed three stories or forty-five (45) feet in height, whichever is lower, except additional height for additional stories may be added at the rate of two feet in height for each one foot that the building is set back from the required yard lines.

4. Minimum lot areas and yard requirements are as follows:

Use	(In Feet)	Width*	Yards		
	Lot Area		Front	Side	Rear
Business/shops/stores	12,400 sq. ft.	82.5	25	10	25
Restaurants, cafes, taverns, grocery stores, recreation facilities, Laundromats	2 acres	150	25	10	25
Accessory Uses			10	10	10

*Lot areas measured exclusive of roads, streets, alleys.

50.15 COMMERCIAL-MANUFACTURING DISTRICT. The intent of the “C-M” District is to provide for light manufacturing, with these businesses. In the “C-M” district the following provisions and restrictions apply:

1. Principal Permitted Uses:
 - a. Any use allowed in the “C” District.
 - b. Bookbinding, printing, publishing.
 - c. Carpenter shops.
 - d. Car, truck or tractor washes.
 - e. Dry cleaners.
 - f. Exterminating businesses.
 - g. Lawn and garden vehicle sales and service.
 - h. Lumber yards, building material sales.
 - i. Monument sales.
 - j. Plumbing and heating shops.
 - k. Sale auction businesses.
 - l. Sign painting businesses.
 - m. Storage warehouse businesses.
 - n. Tire sales, manufacturing, vulcanizing and retreading.
 - o. Vehicular sales, service, repairs.
2. Accessory Uses:
 - a. Billboards, bulletin boards, signs.
 - b. Accessory uses and structures incidental to permitted uses.

3. Height Regulations:
 - a. Same as in a “C” Commercial District.
4. Minimum lot areas and yard requirements are as follows:

Use	Lot Area	Lot Width	Yards		
			Front	Side	Rear
Principal Uses			25 ft.	25 ft.	25 ft.
Accessory Uses			10 ft.	10 ft.	10 ft.

50.16 INDUSTRIAL DISTRICT. The intent of the “I” Industrial District is to provide for heavy industrial uses and structures which, due to their size and nature, would not be compatible in any other district. The following provisions and restrictions apply:

1. Principal Permitted Uses:
 - a. Any use permitted in the “C-M” District, except there shall be no residential uses in the Industrial District.
 - b. Acid manufacture and storage.
 - c. Agricultural seed processing and storage.
 - d. Bottling businesses and breweries.
 - e. Carpet, rug and bag cleaning and manufacture.
 - f. Carting, express, hauling and storage yards.
 - g. Chemical manufacture and storage.
 - h. Coal, coke yards.
 - i. Concrete and cement manufacture and concrete plants.
 - j. Contractor’s equipment storage yards or plant.
 - k. Cooperage works.
 - l. Cosmetic and pharmaceutical manufacture.
 - m. Creameries.
 - n. Cylinder recharging.
 - o. Enameling, lacquering businesses.
 - p. Explosive manufacture and storage.
 - q. Extraction and the processing of stone, sand, gravel, soil.
 - r. Chemical fertilizer manufacture.
 - s. Flammable liquid storage.

- t. Foundries, kilns, casting shops.
 - u. Hatcheries.
 - v. Insulation manufacture.
 - w. Laboratories.
 - x. Livestock sale and auction barns.
 - y. Machine shops, tooling and dieing.
 - z. Manufacture or assembly of electrical appliances or motors.
 - aa. Petroleum, liquid or gaseous, or its products, refining and wholesale
 - bb. storage, or the extraction thereof.
 - cc. Rendering works.
 - dd. Sawmills, planing mills.
 - ee. Sign manufacture, repair – electrical.
 - ff. Slaughterhouses, meatpacking and processing plants, and stockyards.
 - gg. Smelting of metals.
 - hh. Tanneries.
 - ii. Vehicular assembly.
 - jj. Vehicular salvage or junk storage and wrecking yards.
2. Accessory Uses:
- a. Billboards, bulletin boards and signs.
 - b. Accessory structures and uses customarily incidental to the principal uses and structures.
3. Height Regulations:
- a. Same as the “C-M” District.
4. Minimum Lot Areas, Frontage and Yard Setback Requirements:

Use	Lot Area	Width	Yards		
			Front	Side	Rear
Principal Structures			25 ft.	10 ft.	25 ft.
Accessory Structures			10 ft.	10 ft.	10 ft.

50.17 FLOOD PLAIN DISTRICT. The intent of the “F-P” Flood Plain District is to protect the environmentally sensitive areas of Buchanan County from irreparable damage caused by development. These areas, located along the rivers and streams of Buchanan County have been shown to have the ability of becoming

inundated with floodwaters at the rate of once every one hundred years. The basis for locating these areas will rest with the Iowa Department of Natural Resources, although the general location of these areas can be found on the Flood Hazard Boundary Maps provided by the U.S. Department of Housing and Urban Development, and the Wapsipinicon River and Malone Creek Flood Plain Information prepared by the U.S. Army Corps of Engineers.

1. Principal Permitted Uses:*

- a. Summer cottages.
- b. Recreational uses, such as marinas, docks, swimming areas, parks, playgrounds, wildlife and nature preserves, hunting and fishing areas, hiking/biking trails, camping areas, etc.

**All structures located in the designated flood plain of Buchanan County after the effective date of this ordinance shall have a permit from the Iowa Department of Natural Resources.*

50.18 AGRICULTURAL LAND PRESERVATION AREAS. It is recognized that the primary resource in Buchanan County is the production of agricultural commodities. It is further non-farm development that will ultimately undermine this resource. It is the intention of this district to provide for the establishment of voluntary agricultural land preservation areas in accordance with Chapter 352, Code of Iowa, and the provisions of this ordinance.

1. Creation of Agricultural Land Preservation Areas:

- a. An owner or owners of farmland may submit a proposal to the County Board of Supervisors for the creation of an agricultural land preservation area within the county. An agricultural land preservation 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 area.
- b. The proposal shall include a legal description of the proposed area, including its boundaries. The territory shall be as compact and as nearly adjacent as feasible, requiring a map outlining the proposed area.
- c. Land shall not be included in an agricultural land preservation area without the consent of the owner.
- d. Agricultural land preservation areas shall not exist within the limits of a city.
- e. The County Board 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 a state park, state preserve, state recreation area, or sovereign lake.
- f. Agricultural areas may be created in a county which has adopted zoning ordinances with the exception that the use of the land in agricultural areas is limited to farm operations.

2. Principal Permitted Uses:

- a. Farm operations as defined in Chapter 352, Code of Iowa.
- b. Residences constructed for occupation by a person engaged in farming or in a family farm operation. Nonconforming, pre-existing residences may be continued in residential use.

- c. Property of a public or private utility, or a pipeline company.
- 3. Exceptions: The Board of Supervisors may permit any use not listed in an agricultural land preservation area, provided it meets the following requirements:
 - a. The use is consistent with the purposes set forth in Chapter 352.1, Code of Iowa, and is consistent with the Buchanan County Comprehensive Plan and does not interfere with farming operations in the district.
 - b. The use does not materially alter the stability of the overall land use pattern in the area.
- 4. Procedure:
 - a. Within thirty (30) days of receipt of a proposal for an agricultural land area which meets the statutory requirements, the Board of Supervisors shall provide notice of the proposal by publishing notice in a newspaper of general circulation in the county. Within forty-five (45) days after receipt, the Board of Supervisors shall hold a public hearing on the proposal.
 - 5. Within sixty (60) days after receipt, the Board of Supervisors shall adopt the proposal, or any Resisting Arrest Prohibited
 - 6. Penalty
 - b. Modification of the proposal it deems appropriate, unless to do so would be inconsistent with the purposes of this ordinance.
- 5. Certification:
 - a. The Board of Supervisors shall file with the Buchanan County Auditor and Buchanan County Recorder the legal description of the agricultural land preservation area.
 - b. Upon creation, the description of the area shall be incorporated onto the Official Buchanan County Zoning Maps.
- 6. Withdrawal:
 - a. At any time after three (3) years from the date of creation of an agricultural land preservation area, an owner may withdraw from said area by filing with the Board of Supervisors a request for withdrawal containing a legal description of the land to be withdrawn and a statement of reasons for the withdrawal. The Board of Supervisors shall, within sixty (60) days of receipt of the request, approve or deny the request for withdrawal.
 - b. At any time after six (6) years from the date of creation of an agricultural land preservation area, an owner may withdraw from said area by filing with the Board of Supervisors a notice of withdrawal containing the legal description of the land to be withdrawn.
 - c. The Board of Supervisors shall cause the description of that agricultural land preservation area filed with the Buchanan County Auditor and Recorder to be modified to reflect such withdrawal.
 - d. Said modification shall be made by the withdrawal of described boundary from the Official Buchanan County Zoning Maps.
 - e. Withdrawal shall be effective on the date of recording.

- f. The agricultural land preservation areas from which the land is withdrawn shall continue in existence even if smaller than three hundred (300) acres after withdrawal.
- 7. Incentives for Agricultural Land Preservation Area Creation:
 - a. A political subdivision or 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 land preservation 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 land preservation area, or unless the service is provided to the landowner on the same basis as others having the service.
 - b. A farm or farm operation located in an agricultural land preservation 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 paragraph does not apply if the nuisance results from the negligent operation of the farm or farm operation. This does not apply to actions or proceedings arising from injury or damage to person or property caused by the farm or farm operation before the creation of the agricultural area. This 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, unless the injury or damage is caused by an act of God.
 - c. 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 Iowa Department of Natural Resources shall give priority to the use of water resources by a farm or farm operation, exclusive of irrigation, located in an agricultural land preservation area over all other uses, except the competing uses of water for ordinary household purposes.
 - d. A person shall not bring an action or proceeding based on a claim of nuisance arising from a farm operation unless the person proceeds with mediation as provided in Iowa Code Chapter 654B.
 - e. If a defendant is a prevailing party in an action or proceeding based on a claim of nuisance and arising from a farm operation conducted on farmland within an agricultural area, the plaintiff shall pay court costs and reasonable attorney fees incurred by the defendant, if the court determines that the claim is frivolous.

50.19 NONCONFORMING USES.

- 1. General Intent:
 - a. This section deals with lots, structures and uses 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.
 - b. It is the intent of this ordinance to permit these nonconformities to continue until they are removed or abandoned, but not to encourage nonconformities to be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

- c. 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.
2. Nonconforming Use of Land: The lawful use of land upon which no structure is erected or located 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:
 - a. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.
 - b. 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 Board of Supervisors.
3. Nonconforming Use of Structures: If a lawful use of a structure, or a structure and land in combination, exists at the effective date of adoption or amendments 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:
 - a. 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.
 - b. 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 more restricted classification.
 - c. When nonconforming use of a structure or premises is discontinued or abandoned for one (1) year, the structure or premises shall not thereafter be used except in conformity with the regulations of the district in which it is located, unless an extension is granted by the Board of Supervisors.
4. 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:
 - a. No such structure may be enlarged or altered in a way which increases its nonconformity.
 - b. Should such structure be destroyed by any means to the extent that it is deemed unusable, reconstruction and subsequent usage shall be in complete conformity with the provisions of this ordinance.
5. Nonconforming Lots of Record: In any district in which a single-family dwelling is permitted, notwithstanding limitations imposed by other provisions of this ordinance, then a single-family dwelling and accessory buildings may be erected on a Lot of Record. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable to the district.

6. 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 repair shall not affect those structures deemed unusable by said officials.

50.20 VEHICULAR PARKING.

1. In all districts, space for parking of vehicles shall be provided in accordance with the following schedule; however no parking area required shall be less than one thousand square feet in area except for dwellings, and business stores under one thousand square feet in area:
 - a. Vehicle sales and service garages – 50% of total floor area.
 - b. Financial, professional offices – 75% of total floor area (at least 10 spaces).
 - c. Bowling alleys – 5 spaces per lane.
 - d. Churches, schools – 1 space for each 6 seats.
 - e. Dance and assembly halls – 200% of floor area.
 - f. Dwellings – 2 spaces per family unit.
 - g. Funeral homes – 1 space for each 5 seats.
 - h. Furniture, appliance and small retail stores – 50% of floor area.
 - i. Hospitals – 1 space for each 3 beds.
 - j. Hotels, motels – 1 space for each bed.
 - k. Manufacturing plants – 1 space for every 3 seats.
 - l. Nursing, convalescent and retirement homes – 1 space per 4 beds.
 - m. Restaurants, taverns, clubs, etc. – 1 space for every three seats.
 - n. Retail stores, supermarkets, etc. – 250% of floor area.
 - o. Schools, theaters, enclosed sport arenas – 1 space per 4 seats in main auditorium.
 - p. Hotels, motels, lodges, boarding houses – 1 space per unit.
 - q. Warehouses, wholesale businesses – 1 space per 2 employees.
2. Any use of premises not specifically mentioned herein shall have parking spaces in the amount required for the most similar use mentioned.
3. Parking lots shall provide a permanent fence or shrubbery screen on all sides abutting a Residential District.

50.21 SIGNS.

1. In all districts where permitted, and subject to Iowa Department of Transportation regulations, billboards and signs are further subject to the following prohibitions:
 - a. No sign may encroach upon or overhang a County road right-of-way.
 - b. No sign may be lighted in such a manner which impairs the vision of the driver of any motor vehicle.
 - c. No sign may obstruct the view of any road or railroad so as to render dangerous the use of the road or railroad.
 - d. No sign may imitate or resemble an official county traffic control sign, signal or device.
 - e. No sign may obscure or physically interfere with an official traffic sign, signal or device.

50.22 BOARD OF ADJUSTMENT. Members of the Buchanan County Board of Adjustment, hereafter referred to as the Board, shall be appointed by the Board of Supervisors for a term of five years. The Board is empowered to adopt rules of procedure, elect officers, reject or allow variances and appeals to this Zoning Ordinance, or its interpretation, and to keep a public record of all of these in the office of the Zoning Administrator. A majority of the board shall reside outside the corporate limits of any city.

The Board may, in appropriate cases and subject to appropriate conditions and safeguards, make variances to the terms of this ordinance in harmony with its general purpose and intent, and in accordance with the general or specific rules herein contained, and provide that any property owner aggrieved by the action of the Board of Supervisors in the adoption of this regulation may petition this Board directly to modify the regulations as applied to such property owners.

The specific powers of the board are as follows:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter or any ordinance adopted pursuant thereto.
2. To authorize in specific cases, such variance from the terms of this ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this ordinance will result in unnecessary hardship, and so that the spirit of this ordinance shall be observed and substantial justice done.

50.23 VIOLATION PROVISION.

1. Any violation of this ordinance may be prosecuted as a County infraction pursuant to Section 331.307, Code of Iowa.
2. The Zoning Administration, or any other Buchanan County representative duly authorized by the Board of Supervisors, may issue a civil citation to any person who commits a violation of this ordinance.
3. The citation may be served by personal service as provided in Rule of Civil Procedure 1.305, or by certified mail addressed to the respondent at the respondent's last known mailing address, return receipt requested, or by publication in the manner provided in rule of civil procedure 60 and subject to the conditions of Rule of Civil Procedure 1.311.

4. A copy of the citation shall be retained by the issuing officer, and one copy shall be sent to the Clerk of the District Court. The citation shall serve as notification that a civil offense has been committed and shall contain the name and address of the respondent; the name or description of the infraction; the location and time of the infraction; the amount of civil penalty to be assessed or the alternate relief sought, or both; the manner, location and time in which the penalty may be paid; the time and place of court appearance; the penalty for failure to appear in court.
5. If the person named in the citation is served as provided in this section and fails without good cause to appear in response to the civil citation, judgment shall be entered against the person cited.
6. A violation of this ordinance may be a civil offense punishable by a civil penalty of not more than five hundred dollars (\$500) for each violation, or if the violation is a repeat offense, a civil penalty not to exceed seven hundred and fifty dollars (\$750) for each repeat offense. Each day that a violation occurs or is allowed by the respondent to exist constitutes a separate offense. A person found guilty of a County infraction is liable for the court costs and fees. If a person is found not guilty of a County infraction or the action is dismissed, the County is liable for the court costs and court fees.
7. Seeking a civil penalty, as authorized in this section, does not preclude Buchanan County from seeking alternative relief from the court in the same action.
8. Buchanan County shall have the burden of proof that a violation occurred and that the respondent committed the violation, or allowed the violation to occur on property under his or her control. The proof shall be by clear, satisfactory and convincing evidence. The court shall ensure that the respondent has received a copy of the charges and that the respondent understands the charges. The respondent may question all witnesses who appear for Buchanan County and the respondent may produce evidence or witnesses on his own behalf. The respondent may be represented by counsel of the respondent's own selection and at the respondent's own expense. The respondent may enter a plea admitting or denying the violation.
9. When judgment has been entered against a respondent, the court may do any of the following:
 - a. Impose a civil penalty by entry of a personal judgment against the respondent.
 - b. Direct that payment of the civil penalty be suspended or deferred under conditions imposed by the court.
 - c. Grant appropriate alternative relief ordering the respondent to abate or cease the violation.
 - d. Authorize Buchanan County to abate or correct the violation.
 - f. Order that Buchanan County's costs for abatement or correction of the violation be entered as a personal judgment against the respondent or assessed against the property where the violation occurred, or both.
10. If a respondent willfully violates the terms of an order imposed by the court, the failure is contempt.
11. The magistrate or district associate judge shall have jurisdiction to assess or enter judgment for costs of abatement or correction in an amount not to exceed the

jurisdictional amount for a money judgment in a civil action pursuant to Section 631.1(1), Code of Iowa, for magistrates, and Section 602.6306(2), Code of Iowa, for district associate judges. If Buchanan County seeks abatement or correction costs in excess of those amounts, the case shall be referred to the district court for hearing and entry of an appropriate order. The procedure for hearing in the district court shall be the same procedure as that for a small claims appeal pursuant to Section 631.13, Code of Iowa.

12. A respondent or Buchanan County may file a motion for a new trial or may appeal the decision of the magistrate or district associate judge to the district court. The procedure on appeal shall be the same as for a small claim pursuant to Section 631.13, Code of Iowa. A factual determination made by the trial court, supported by substantial evidence as shown in the record, is binding for purposes of appeal relating to the violation at issue, but shall not be admissible or binding as to any future violation for the same or similar ordinance provision by the same respondent.
13. The issuance of a civil citation for a County violation, or any ensuing court proceeding, does not provide an action for false arrest, false imprisonment or malicious prosecution.
14. Nothing in this section precludes the prosecution of violations of this ordinance as a simple misdemeanor, pursuant to Section 331.302(2), Code of Iowa.

50.24 VALIDITY. Should any section or provision of this ordinance be declared invalid by a court of competent jurisdiction, that decision shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

50.25 EFFECTIVE DATE. This ordinance shall be in full force and effect from and after June 21, 1991, as authorized by Chapter 358A, Code of Iowa. This ordinance was amended June 5, 1995.

CHAPTER 51

FLOOD PLAIN MANAGEMENT

51.01	Statutory Authority, Findings of Fact and Purpose	51.05	Administration
51.02	Definitions	51.06	Nonconforming Uses
51.03	General Provisions	51.07	Penalties for Violation
51.04	Establishment of a Flood Plain District	51.08	Amendments

51.01 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.

1. The Legislature of the State of Iowa has in Chapter 331, Code of Iowa, as amended, delegated the power to counties to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of Buchanan County or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents.
2. Findings of Fact:
 - a. The flood hazard areas of Buchanan County are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.
 - b. These flood losses, hazards, and related adverse effects are caused by:
 - I. The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and
 - II. The cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.
3. Statement of Purpose. It is the purpose of this Chapter to protect and preserve the rights, privileges and property of Buchanan County and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Section 51.01(2)(a) of this Chapter with provisions designed to:
 - a. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities;
 - b. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement;
 - c. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard; and
 - d. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

51.02 DEFINITIONS.

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

1. BASE FLOOD – A flood having one (1) percent chance of being equaled or exceeded in any given year. (See ONE HUNDRED (100) YEAR FLOOD).
2. BASEMENT – Any enclosed area of a building, including storms shelters, and maintenance rooms, which has its floor or lowest level below ground level (subgrade) on all sides. (See LOWEST FLOOR).
3. DEVELOPMENT – Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials. "Development" does not include "minor projects" or "routine maintenance of existing buildings and facilities" as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.
4. EXISTING CONSTRUCTION – Any structure for which the "Start of Construction" commenced before the effective date of the first floodplain management regulations adopted by the community. This term may also be referred to elsewhere as an "existing structure."
5. EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION – A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by a community.
6. EXPANSION OF EXISTING FACTORY-BUILT HOMES PARK OR SUBDIVISION – The preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
7. FACTORY-BUILT HOME – Any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this Chapter, the term "factory-built homes" includes mobile homes, manufactured homes and modular homes and also includes "recreational vehicles" which are placed on a site for more than 180 consecutive days and are not fully licensed for and ready for highway use.
8. FACTORY-BUILT HOME PARK – A parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
9. FLOOD – A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
10. FLOOD ELEVATION – The elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of floodwaters related to the occurrence of the 100-year flood.

11. FLOOD INSURANCE RATE MAP (FIRM) – 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.
12. FLOODPLAIN – Any land area susceptible to being inundated by water as a result of a flood.
13. 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, flood proofing and floodplain management regulations.
14. FLOODPROOFING – Any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.
15. FLOODWAY – The channel of a river or stream and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.
16. 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.
17. HISTORIC STRUCTURE – Any structure that is:
 - a. Listed individually in the National Register of Historic Places, maintained by the United States Department of Interior, or preliminarily determined by the Secretary of the Department of the Interior as meeting the requirements for individual listing of the National Register;
 - b. Certified or preliminarily determined by the Secretary of the Department 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 Department of the Interior; or,
 - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (1) an approved state program as determined by the Secretary of the Department of the Interior or (2) directly by the Secretary in states without approved programs.
18. 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 51.04(1)(d)(i) of this Chapter, and
 - b. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and

- c. Mechanical and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level, and
- 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.

- 19. MINOR PROJECTS – Small development activities (except for filling, grading, excavating) valued at less than \$500.00
- 20. NEW CONSTRUCTION – Those structures or development for which the start of construction including, but not limited to, new buildings or factory-built home parks, commenced on or after the effective date of the first floodplain management regulations adopted by the community.
- 21. NEW FACTORY-BUILT HOME PARK OR SUBDIVISION – A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the first floodplain management regulations adopted by the community.
- 22. 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.
- 23. 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;
 - c. Designed to be self-propelled or permanently towable by a light duty truck; and,
 - d. Designed primarily as a temporary living quarters for recreational, camping, travel, or seasonal use and not for use as a permanent dwelling.
- 24. ROUTINE MAINTENANCE OF EXISTING BUILDINGS AND FACILITIES – Repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:
 - a. Normal maintenance of structures such as re-roofing, replacing roofing tiles, and replacing siding, soffit, and fascia;
 - b. Exterior and interior painting, wall papering, tiling, carpeting, cabinets, counter tops, and similar finish work;
 - c. Basement sealing;
 - d. Repairing or replacing damaged or broken window panes, overhead doors, or walk doors; and,

- e. Repairing plumbing systems, electrical systems, heating or air conditioning systems, and repairing wells or septic systems as authorized by the County Sanitarian.
25. SPECIAL FLOOD HAZARD AREA – The land within Buchanan County subject to a “100-Year Flood.” This land is identified as Zones A, AE, A1-A30, AO and AH on the community’s Flood Insurance Rate Map.
26. START OF CONSTRUCTION – Includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
27. STRUCTURE – Anything constructed or erected on the ground or attached to the ground including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, and other similar uses.
28. SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.
29. SUBSTANTIAL IMPROVEMENT – Any improvement to a structure which satisfies either the following criteria:
- a. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (i) before the “start of construction” of the improvement, or (ii) if the structure has been “substantially damaged” and is being restored, before the damage occurred.
- This term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of the “historic structure” provided the alteration will not preclude the structure’s designation as an “Historic Structure.”
- b. Any addition which increased the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.
28. VARIANCE – A grant of relief by a community from the terms of the floodplain management regulations.

29. VIOLATION – The failure of a structure or other development to be fully compliant with the community’s floodplain management regulations.

51.03 GENERAL PROVISIONS.

1. Lands to Which this Chapter Apply. The provisions of this Chapter shall apply to all lands and uses which have significant flood hazards. The Buchanan County and Incorporated Areas Flood Insurance Rate Maps (FIRM), dated June 16, 2015, which was prepared as part of the Buchanan County and Incorporated Areas Flood Insurance Study, shall be used to identify such flood hazard areas and all areas shown thereon to be within the boundaries of the 100-year flood shall be considered as having significant flood hazards. Where uncertainty exists with respect to the precise location of the 100-year flood boundary, the location shall be determined on the basis of the 100-year flood elevation at the particular site in question. The Buchanan County and Incorporated Areas Flood Insurance Study is hereby adopted by reference and is made a part of this Chapter for the purpose of administering floodplain management regulations.
2. Compliance. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this Chapter and other applicable regulations which apply to uses within the jurisdiction of this Chapter.
3. Abrogation and Greater Restrictions. It is not intended by this Chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Chapter imposes greater restrictions, the provision of this Chapter shall prevail. All other ordinances inconsistent with this Chapter are hereby repealed to the extent of the inconsistency only.
4. Interpretation. In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.
5. Warning and Disclaimer of Liability. The standards required by this Chapter are considered reasonable for regulatory purposes. This Chapter does not imply that areas outside the designated areas of significant flood hazard will be free from flooding or flood damages. This Chapter shall not create liability on the part of Buchanan County or any officer or employee thereof for any flood damages that from reliance of this Chapter or any administrative decision lawfully made thereunder.
6. Severability Clause. If any section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.

51.04 FLOODPLAIN MANAGEMENT STANDARDS.

1. General Floodplain Standards

All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where 100-year flood data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe, and (ii) the 100-year flood level. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

- a. All development within the areas of significant flood hazard shall:
 - i. Be consistent with the need to minimize flood damage.
 - ii. Use construction methods and practices that will minimize flood damage.
 - iii. Use construction materials and utility equipment that are resistant to flood damage.
 - iv. Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
- b. Residential buildings – All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed subject to favorable consideration by the Buchanan County Floodplain Manager, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.

All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

- c. Non-residential buildings – All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be 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 100-year flood; and that the structure, below the 100-year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum, 1988) to which any structures are flood proofed shall be maintained by the Administrator.
- d. All new and substantially improved structures:
 - i. Fully enclosed areas below the “lowest floor” (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:
 - (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (2) The bottom of all openings shall be no higher than one foot above grade.

- (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
 - (4) Such areas shall be used solely for parking of vehicles, building access, and low damage potential storage.
 - ii. 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.
 - iii. 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. Such new and substantially improved structures shall be constructed 1.0 ft. above the 100-year flood elevation.
- e. Factory-built homes:
 - i. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.
 - ii. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- f. Utility and Sanitary Systems:
 - i. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
 - ii. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.
 - iii. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.
 - iv. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

- g. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated, or (i) not be subject to major flood damage and be anchored to prevent movement, resist flotation, or collapse due to floodwaters, or (ii) be readily removable from the area within the time available after flood warning. Methods of anchoring shall be used as authorized by the Buchanan County Zoning or Floodplain Manager.
- h. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.
- i. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
- j. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this Chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the area of significant flood hazard. Subdivision final plats shall include the 100-year flood elevation for the desired area and specify the lowest elevation for each lot prior to its recordation.
- k. Accessory Structures to Residential Uses
 - i. Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied:
 - (1) The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 sq. ft. in size. Those portions of the structure located less than 1 foot above the BFE must be constructed of flood-resistant materials.
 - (2) The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.
 - (3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
 - (4) The structure shall be firmly anchored to resist flotation, collapse and lateral movement.
 - (5) The structure's service facilities such as electrical and heating equipment shall be elevated or flood proofed to at least one foot above the base flood elevation.

(6) The structure's walls shall include openings that satisfy the provisions of Chapter 51.04(1)d of this Ordinance.

- ii. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

1. Recreational Vehicles

- i. Recreational vehicles are exempt from the requirements of Section 51.04(1)(e)(ii) of this Chapter regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

(1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and

(2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect-type utilities and security devices and has no permanently attached additions.

- ii. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Section 51.04(1)(e) of this Chapter regarding anchoring and elevation of factory-built homes.

- m. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

2. Special Floodway Provisions

In addition to the General Floodplain Standards, uses within the floodway must meet the following applicable standards. The floodway is that portion of the floodplain which must be protected from developmental encroachment to allow the free flow of floodwaters. Where floodway data has been provided in the Flood Insurance Study, such data shall be used to define the floodway. Where no floodway data has been provided, the Department of Natural Resources shall be contacted to provide a floodway delineation. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

- a. No use shall be permitted in the floodway that would result in any increase in the 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 shall:
 - i. Be consistent with the need to minimize flood damage.
 - ii. Use construction methods and practices that will minimize flood damage.

- iii. 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 of 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 General Floodplain standards 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 LP cylinders which may be explosive or injurious to human, animal, or plant life is prohibited. Storage of other material may be allowed if readily removable from the floodway 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 crossing shall be buried in the stream bed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

51.05 ADMINISTRATION.

- 1. Appointment, Duties and Responsibilities of Floodplain Administrator.
 - a. The Zoning Administrator is hereby appointed to implement and administer the provisions of this Chapter and will herein be referred to as the Administrator.
 - b. Duties of the Administrator shall include, but not necessarily be limited to the following:
 - I. Review all flood plain development permit applications to see that the provisions of this Chapter will be satisfied.
 - II. Review floodplain development applications to see that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources for floodplain construction.
 - III. Record and maintain a record of the elevation (in relation to North American Vertical Datum, 1988) of the Lowest Floor (including basement) of all new or Substantially Improved Structures. .
 - IV. Record and maintain a record of the elevation (in relation to North American Vertical Datum, 1988) to which all new or Substantially Improved Structures have been Flood proofed. .

- V. Record and maintain a record of the elevation (in relation to North American Vertical Datum 1988) of all electrical and heating equipment.
- VI. Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
- VII. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Chapter.
- VIII. Perform site inspection to ensure compliance with the standards of this Chapter.

2. Floodplain Development Permit.

- a. Permit Required – A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.
- b. Application for Permit – Applications shall be made on forms furnished by the Administrator and shall include the following:
 - I. Description of the work to be covered by the permit for which application is to be made.
 - II. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.
 - III. Indication of the use or occupancy for which the proposed work is intended.
 - IV. Elevation of the One Hundred (100) Year Flood.
 - V. Elevation (in relation to North American Vertical Datum, 1988) of the Lowest Floor (including basement) of buildings or of the level to which a building is to be Floodproofed.
 - VI. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
 - VII. Such other information as the Administrator deems reasonably necessary (e.g., drawings, authorization of 100-year flood elevation, elevation certificate supplied by a licensed engineer or surveyor, or a site plan) for the purpose of this Chapter.
- c. Action on Permit Application – The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this Chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons

therefor. The Administrator shall not issue permits for variances except as directed by the Board of Adjustment.

- d. Construction and Use to be as provided in Application and Plans – Floodplain Development Permits issued based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State 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 Chapter, prior to the use or occupancy of any structure.

3. Variance.

- a. The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this Chapter that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards.
 - I. Variances shall only be granted upon: (1) a showing of good and sufficient cause, (2) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (3) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.
 - II. Variances shall not be issued within any designated Floodway if any increase in flood levels during the One Hundred (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.
 - III. Variances shall only be granted upon a determination that the variance is the minimum means necessary, considering the flood hazard, to afford relief.
 - IV. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this Chapter, the applicant shall be notified in writing over the signature of the Administrator that: (1) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (2) such construction increases risks to life and property.
 - V. All variances granted shall have the concurrence or approval of the Department of Natural Resources.
- b. Factors Upon Which the Decision of the Board of Adjustment Shall be Based – In passing upon applications for variances, the Board shall consider all relevant factors specified in other sections of this Chapter and:

- I. The danger to life and property due to increased flood heights or velocities caused by encroachments.
 - II. The danger that materials may be swept on to other land or downstream to the injury of others.
 - III. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 - IV. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - V. The importance of the services provided by the proposed facility to the County.
 - VI. The requirements of the facility for a floodplain location.
 - VII. The availability of alternative locations not subject to flooding.
 - VIII. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - IX. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
 - X. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - XI. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwater expected at the site.
 - XII. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical, and water systems), facilities, streets, and bridges.
 - XIII. Such other factors which are relevant to the purpose of this Chapter.
- c. Conditions Attached to Variances – Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to variances granted as it deems necessary to further the purpose of this Chapter. Such conditions may include, but not necessarily be limited to:
- I. Modification of waste disposal and water supply facilities.
 - II. Limitation of periods of use and operation.
 - III. Imposition of operational controls, sureties, and deed restrictions.
 - IV. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Chapter.
 - V. Flood proofing measures.

51.06 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Chapter, but which is not in conformity with the provisions of this Chapter, may be continued subject to the following conditions:
 - a. If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Chapter.
 - b. Uses or adjuncts thereof that are or become nuisances shall be entitled to continue as nonconforming uses.
2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this Chapter. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

51.07 PENALTIES FOR VIOLATION.

Violations of the provisions of this Chapter or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this Chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred dollars or imprisoned for not more than thirty days. Nothing herein contained shall prevent Buchanan County from taking such other lawful action as provided by Iowa Code Section 331.307.

51.08 AMENDMENTS.

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

ADOPTED AND PASSED by the Board of Supervisors of the County of Buchanan this 8th day of June, 2015.

**CHAPTER 52 AS AMENDED
ORDINANCE NUMBER 17-02
BUCHANAN COUNTY, IOWA AIRPORT LAND USE AND HEIGHT OVERLAY
ZONING ORDINANCE
INDEPENDENCE MUNICIPAL AIRPORT, INDEPENDENCE, IOWA**

Preamble

BE IT ORDAINED BY THE BUCHANAN COUNTY, IOWA BOARD OF SUPERVISORS:

THIS IS AN ORDINANCE REPEALING TITLE VI, CHAPTER 52, AIRPORT HAZARDS AND TALL STRUCTURES ORDINANCE, INCLUDING THE AIRPORT ZONING MAP AND ALL OF THE AMENDMENTS THERETO; AND ENACTING IN LIEU THEREOF AS NEW ORDINANCE NUMBER 17-02, THE BUCHANAN COUNTY AIRPORT ZONING ORDINANCE INCLUDING THE AIRPORT LAND USE AND HEIGHT ZONING MAP, AND SHALL BE INTEGRATED INTO THE COUNTY CODE OF ORDINANCES. ORDINANCE NUMBER 17-02 IS CREATED FOR THE PURPOSE OF PROTECTING HEALTH, WELFARE, AND PUBLIC SAFETY WITHIN A SPECIFIC AREA IN PROXIMITY TO THE INDEPENDENCE, IOWA AIRPORT.

Section 1 –Introduction

This ordinance shall regulate and restrict the height of structures, objects, and growth of natural vegetation, as well as land uses; otherwise regulating the use of property, within the vicinity of the Independence Municipal Airport. Creation of appropriate zones and establishing the boundaries thereof, as well as providing for changes in the restrictions and boundaries of such zones is vested in this Ordinance. The Independence Airport Land Use and Height Zoning Maps are incorporated into and made part of this Ordinance. The Ordinance also provides for the enforcement of the Ordinance, the recognition of Board of Adjustment; and imposition of penalties related to the implementation of this Ordinance.

Section 2 – Authority

Iowa Code Section 329.3 *Airport Zoning* empowers local municipalities to zone airports including height restrictions and land uses.

Section 3 – Statement of Purpose and Findings

The Independence Municipal Airport (hereafter referred to as “the Airport”) is acknowledged as an essential public facility to the State of Iowa and the local community. The creation or establishment of an airport hazard is a public nuisance and poses a potential concern to the surrounding communities served by the Airport.

There shall be no creation or establishment of a hazard that endangers the public health, safety, welfare, and impact an individual’s quality of life, nor prevent the safe movement of aircraft at the Airport. For the protection of the public health, safety, and general welfare, and for the

promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of airport hazards.

The prevention of airport hazards shall be accomplished, to the extent legally possible, by proper exercise of the police power. The prevention of new airport hazards, and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards, are considered to be a public purpose for which the City of Independence and Buchanan County may raise and expend public funds, as an incident to the operation of airports, to acquire or property interest therein.

Section 4 – Short Title

This Ordinance shall be known and may be cited as the Airport Ordinance, and it is referred to as “the Ordinance” within the following sections.

Section 5 – Applicability

This Ordinance encompasses a general area around the Airport. Specific dimensions associated with the zoning boundary are shown in the Airport Land Use and Height Zoning Maps.

Section 6 – Definitions

The following definitions shall be utilized for terms as appropriate to the Ordinance.

1. **Air Traffic** (*FAA FAR Sec. 1.1*) – Aircraft operating in the air or on an airport surface, exclusive of loading ramps and parking areas.
2. **Airport** (*FAA FAR Sec. 152.3*) – Any areas of land or water that is used, or intended for use, for the landing and takeoff of aircraft. Any appurtenant areas that are used, or intended for use, for airport buildings, other airport facilities, or rights-of-way; and all airport buildings and facilities located on the areas specified in this definition.
3. **Airport Elevation** (*FAA AC 150/5190-4A*) – The highest point on an airport’s usable landing area measured in feet from sea level.
4. **Airport Environs** – The land use and people in the areas surrounding an airport which can be directly affected by the operation of the airport.
5. **Airport Hazard** (*FAA FAR Sec. 152.3*) – Any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near a public airport that obstruct the airspace required for the flight of aircraft landing or taking off at the airport; or is otherwise hazardous to aircraft landing or taking off at the airport.
6. **Airport Layout Plan (ALP)** (*FAA FAR Sec. 152.3*) – The plan of an airport showing the layout of existing and proposed airport facilities.
7. **Airport Overlay Zones** – A zone intended to place additional land use conditions on land impacted by the airport while retaining the existing underlying zone. The FAR Part 77 Surfaces and RPZs have been combined to create five airport overlay zones. The five

specific zones create a comprehensive area focused on maintaining compatible land use around airports.

- a. **Zone A** – is intended to provide a clear area that is free of above ground obstructions and structures. This Zone is closest to the individual runway ends.
 - b. **Zone B** – is a critical overlay surface that reflects the approach and departure areas for each runway at an airport. The size of Zone B is predicated upon the type of approach (visual, non-precision, or precision) that a specific runway has and the type/size of aircraft utilizing the runway.
 - c. **Zone C** – includes those areas that are parallel to the runway pavement and extend 1,050 feet from the edge of the primary surface.
 - d. **Zone D** – is typically elliptical in shape, depending upon the runway types and configurations at an individual airport.
 - e. **Zone E** – is the outermost zone of the overlay areas and has the least number of land use restriction considerations. The zone begins at the edge of the horizontal surface and is 4,000 feet in width paralleling the horizontal surface.
8. **Airport Reference Code (ARC)** – The ARC is an FAA coding system used to relate airport design criteria to the operational and physical characteristics of the airplanes intended to operate at the airport.
9. **Airport Reference Point (ARP)** (*FAA AC 150/5300-13*) – The latitude and longitude of the approximate center of the airport.
10. **Airport Zoning Permit** – Airport zoning permit allowing new development or alteration or expansion of a nonconforming use.
11. **Airside** – That portion of the airport facility where aircraft movements take place, airline operations areas, and areas that directly serve the aircraft, such as taxiway, runway, maintenance and fueling areas.
12. **Airspace** – The space lying above the earth or above a certain area of land or water that is necessary to conduct aviation operations.
13. **Approach and Runway Protection Zone Map** – The Approach and Runway Protection Zone Map is compiled from the criteria in FAR Part 77, “Objects Affecting Navigable Airspace.” It shows the area affected by the Airport Zoning Ordinance and includes the layout of runways, airport boundaries, elevations, and area topography. Applicable height limitation areas are shown in detail.
14. **Approach Slopes** (*FAA Part 77*) – The ratios of horizontal to vertical distance indicating the degree of indication of the Approach Surface. The various ratios include:
 - a. **20:1** – For all utility and visual runways extended from the primary surface a distance of 5,000 feet.

- b. **34:1** – For all non-precision instrument runways extended from the primary surface for a distance of 10,000 feet.
- 15. **Approach Surface** (*FAA AC 150/5190-4A*) – A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
- 16. **Avigation Easement** – A grant of a property interest in land over which a right of unobstructed flight in the airspace is established.
- 17. **Building Codes** – Codes, either local or state, that control the functional and structural aspects of buildings and/or structures. Local ordinances typically require proposed buildings to comply with zoning requirements before building permits can be issued under the building codes.
- 18. **Commercial Uses** – Commercial uses means a use category including land uses or activities involving the production, processing, manufacturing, or sale of goods or services for financial gain, including uses that provide merchandise to the general public. Accessory uses may include offices, storage, food service, or other amenities primarily for the use of employees and parking.
- 19. **Compatibility** – The degree to which land uses or types of development can coexist or integrate.
- 20. **Easement** (*FAA AC 5020-1*) – The legal right of one party to use a portion of the total rights in real estate owned by another party. This may include the right of passage over, on, or below property; certain air rights above the property, including view rights; and the rights to any specified form of development or activity, as well as any other legal rights in the property that may be specified in the easement document.
- 21. **Federal Aviation Administration (FAA)** – A federal agency charged with regulating air commerce to promote its safety and development; encourage and develop civil aviation, air traffic control, air navigation; and promoting the development of a national system of airports.
- 22. **Federal Aviation Regulations (FAR)** – Regulations established and administered by the FAA that govern civil aviation and aviation-related activities.
 - a. **FAR Part 36** (*FAA FAR Sec. 36.1*) – Regulation establishing noise standards for the civil aviation fleet.
 - b. **FAR Part 91** (*FAA FAR Sec. 91.1*) – Regulation pertaining to air traffic and general operating rules, including operating noise limits.
 - c. **FAR Part 150** (*FAA FAR Sec. 150.1*) – Regulation pertaining to airport noise compatibility planning.

- d. **FAR Part 161** (*FAA FAR Sec. 161.1*) – Regulation pertaining to notice and approval of airport noise and access restrictions.
- e. **FAR Part 77** (*FAA FAR Sec. 77.1*) – Objects Affecting Navigable Airspace – Part 77 (a) establishes standards for determining obstructions in navigable airspace; (b) defines the requirements for notice to the FAA Administrator of certain proposed construction or alteration; (c) provides for aeronautical studies of obstructions to air navigation to determine their effect on the safe and efficient use of airspace; (d) provides for public hearings on the hazardous effect of proposed construction or alteration on air navigation; and (e) provides for establishing antenna farm areas.

23. **General Aviation Airport** – Any airport that is not an air carrier or a military facility.
24. **Height** – Height is utilized for the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the Official Airport Land Use and Height Zoning Map; height shall be measured as the highest point of a structure, tree, or other object of natural growth, measured from the mean sea level elevation unless otherwise specified.
25. **Hold Harmless Agreement** – An agreement which holds airport sponsors or jurisdictions harmless for alleged damages resulting from airport operations. Such agreements are recorded in deeds or permits as a condition of approval of a regulatory land use decision.
26. **Industrial, Wholesale Trade, and Storage Uses** – A use category including the following use types:
- a. Industrial development or uses involved in the research, design, manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or customers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales (typically 10% or less of the total gross floor area). Relatively few customers come to the site.
 - b. Industrial, manufacturing, wholesale trade, and warehouse/storage uses including uses that produce goods from raw or finished materials, uses that distribute goods in large quantities to primarily wholesale customers, or provide for storage or warehousing of goods, either in enclosed buildings or outdoors. Few customers, especially the general public, come to the site. Accessory activities may include sales, offices, parking, and storage.
27. **Imaginary Surfaces** (*FAA FAR Part 77.25*) – Those areas established in relation to the airport and to each runway consistent with FAR Part 77 in which any object extending above these imaginary surface, by definition, is an obstruction.

- a. **Transitional Surface** – The transitional surface extends outward and upward at right angles to the runway centerline and extend at a slope of seven feet horizontally for each one foot vertically (7:1) from the sides of the primary and approach surfaces. The transitional surfaces extend to the point at which they intercept the horizontal surface at a height of 150 feet above the established airport elevation.
 - b. **Horizontal Surface** – The horizontal surface is a horizontal plane located 150 feet above the established airport elevation and encompasses an area from the transitional surface to the conical surface. The perimeter is constructed by generating arcs from the center of each end of the primary surface and connecting the adjacent arcs by lines tangent to those arcs.
 - c. **Conical Surface** – The conical surface extends upward and outward from the periphery of the horizontal surface at a slope of 20 feet horizontally for every one foot vertically (20:1) for a horizontal distance 4,000 feet.
 - d. **Approach Surface** – The approach surface is longitudinally centered on the extended runway centerline and extends outward and upward from the end of the runway primary surface. The approach slope of a runway is a ratio of 20:1, 34:1, or 50:1, depending on the approach type. The length of the approach surface varies from 5,000 to 50,000 feet and also depends upon the approach type.
28. **Incompatible Land Use** (FAA FAR Sec. 150.7) – The use of land which is normally incompatible with the aircraft and airport operations (such as, but not limited to, homes, schools, nursing homes, hospitals, and libraries).
29. **Itinerant Operation** (FAA AC 150/5325-4B) – Takeoff or landing operations of airplanes going from one airport to another airport that involves a trip of at least 20 miles. Local operations are excluded.
30. **Land Use Compatibility** – The coexistence of land uses surrounding the airport with airport-related activities.
31. **Lighting and Marking of Hazards to Air Navigation** – Installation of appropriate lighting fixtures, painted markings or other devices to such objects or structures that constitute hazards to air navigation.
32. **Mitigation** – The avoidance, minimization, reduction, elimination or compensation for adverse environmental effects of a proposed action.
33. **Navigation Aids (NAVAID)** – Any facility used by an aircraft for guiding or controlling flight in the air or the landing or takeoff of an aircraft.
34. **Navigable Airspace** – The airspace above minimum altitude for safe flight, and includes the airspace needed to ensure safety in takeoff and landing of aircraft.
35. **Noise Exposure Contours** – Lines drawn around a noise source indicating constant energy levels of noise exposure. DNL is the measure used to describe community exposure to noise.

36. **Noise Impact** – A condition that exists when the noise levels that occur in an area exceed a level identified as appropriate for the activities in that area.
37. **Noise Sensitive Area (FAA AC 91-36D)** – Defined as an area where noise interferes with normal activities associated with the area's use. Examples of noise-sensitive areas include residential, educational, health, and religious structures and sites, and parks, recreational areas (including areas with wilderness characteristics), wildlife refuges, and cultural and historical sites where a quiet setting is a generally recognized feature or attribute.
38. **Non-Conforming Use** – Any pre-existing structure, tree, or use of land that is inconsistent with the provisions of the local land use or airport master plans.
39. **Object (FAA AC 150/5300-13)** – Includes, but is not limited to above ground structures, NAVAIDs, people, equipment, vehicles, natural growth, terrain, and parked aircraft.
40. **Obstacle Free Zone (OFZ) (FAA 150/5300-13)** – The OFZ is the airspace below 150 feet above the established airport elevation and along the runway and extended runway centerline that is required to be clear of all objects, except for the frangible visual NAVAIDs that need to be located in the OFZ because of their function, in order to provide clearance protection for the aircraft landing or taking off from the runway, and for missed approaches.
41. **Obstruction (FAA AC 150/5190-4A)** – Any structure, growth, or other object, including a mobile object, which exceeds a limiting height, specific to its geographic location relative to the runway/airport.
42. **Off-Airport Property** – Property that is beyond the boundary of land owned by the airport sponsor.
43. **On-Airport Property** – Property that is within the boundary of land owned by the airport sponsor.
44. **Overlay Zone** – A mapped zone that imposes a set of requirements in addition to those of the underlying zoning district.
45. **Primary Surface (FAA AC 150/5190-4A)** – A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in FAR Part 77. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
46. **Primary Runway (FAA AC 150/5325-4B General Definition)** – The runway used for the majority of airport operations. Large, high-activity airports may operate two or more parallel primary runways.

47. **Public Assembly Use** – Means a structure or outdoor facility where concentrations of people gather for purposes such as deliberation, education, shopping, business, entertainment, amusement, sporting events, or similar activities, but excluding air shows. “Public assembly use” does not include places where people congregate for relatively short periods of time, such as parking lots and bus stops, or uses approved by the FAA in an adopted airport master plan.
48. **Public Use Airport** (*FAA AC 150/5190-6*) – Means either a publicly owned airport or a privately owned airport open for public use.
49. **Residential and Accommodation Uses** – Mean a use category that includes the following use types:
- a. **Residential uses** that provide living accommodations, including sleeping, eating, cooking and sanitary facilities, to one or more persons, and where tenancies typically last longer than 30 days.
 - b. **Accommodation uses** characterized by visitor-serving facilities that provide temporary lodging in guest rooms or guest units, for compensation, and with an average length of stay of less than 30 days. Accessory uses may include pools and other recreational facilities for the exclusive use of guests, limited storage, restaurants, bars, meeting facilities, and offices.
50. **Runway Protection Zone (RPZ)** (*FAA AC 150/5300-13*) – An area off the runway end designed to enhance the protection of people and property on the ground.
51. **Runway Safety Area** (*FAA AC 150/5300-13*) – A defined surface surrounding the runway prepared or suitable for reducing the risk of damage to airplanes in the event of an overshoot, or excursion from the runway.
52. **Structure** – Any object constructed or installed by humans, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines, including the poles or other structures supporting the same.
53. **Utility Runway** – A utility runway constructed for and intended to be used by propeller driven aircraft of 12,500 pounds gross weight or less.
54. **Variance** - An authorization for the construction or maintenance of a building or structure, or for the establishment or maintenance of a use of land that is prohibited by a zoning ordinance. A lawful exception from specific zoning ordinance standards and regulations predicated on the practical difficulties and/or unnecessary hardships on the petitioner being required to comply with those regulations and standards from which an exemption or exception is sought.
55. **Visual Approach** – An approach to an airport conducted with visual reference to the terrain.

56. **Visual Runway** (FAA AC 150/5300-13) – A runway without an existing or planned straight-in instrument approach procedure.
57. **Visual Flight Rules (VFR)** (FAA FAR Sec. 170.3) – Rules that govern the procedures for conducting flight under visual conditions. The term “VFR” is also used in the United States to indicate weather conditions that are equal to or greater than minimum VFR requirements. In addition, “VFR” is used by pilots and controllers to indicate the type of flight plan.
58. **Wetland** – Land on which water covers the soil or is present either at or near the surface of the soil or within the root zone, all year or for varying periods of time during the year, including during the growing season. (FAA AC 150/5200-33A) Wetlands provide a variety of functions and can be regulated by local, state, and Federal laws. Normally, wetlands are attractive to many types of wildlife, including many which rank high on the list of hazardous wildlife species.
59. **Wildlife Attractants** – Means any human-made structure, land-use practice, or human-made or natural geographic feature that can attract or sustain hazardous wildlife within the landing or departure airspace or the airport’s air operations area. These attractants include, but are not limited to, architectural features, landscaping, waste disposal sites, wastewater treatment facilities, agricultural or aquaculture activities, surface mining, or wetlands.
60. **Wildlife Hazards** – Means species of wildlife (birds, mammals, reptiles), including feral animals and domesticated animals not under the control, that are associated with aircraft strike problems, are capable of causing structural damage to airport facilities, or act as attractants to other wildlife that pose a strike hazard.

Section 7 – Air Space Obstruction Zones

The Airport Land Use and Height Overlay Zoning Districts are illustrated on the official Independence Airport Land Use and Height Zoning Map, attached and made part of this Ordinance. Such official Airport Land Use and Height Zoning Map may be amended, and all notations, references, elevations, data, zone boundaries, and other information thereon, is hereby adopted as part of this Ordinance.

Section 8 – Land Use Safety Zones

FAR Part 77 Surfaces and RPZs have been combined to create five airport overlay zones. These five zones are designed to maintain compatible land uses around the Airport. The zones shall be evaluated for compatible land uses.

8.A Definition of Zones

Five airport overlay zoning districts are prescribed within this Ordinance. Specific dimensions for the individual zones for each runway end are noted in the following tables and text. The Airport Land Use and Height Zoning Maps should be evaluated to determine the specific area of impact associated with each zone.

Zone A – Runway Protection Zone (RPZ)

Zone A is intended to provide a clear area that is free of above-ground obstructions and structures. This zone is closest to the individual runway ends. The dimensional standards for this zone are the same as those described in the *Airport Design AC (AC 150/5300-13 Change 11)* and are shown in the following table.

Table 1: Zone A Dimensional Requirements

Runway Ends	Approach Visibility Minimums ¹	Dimensions			
		Length L feet	Inner Width W₁ feet	Outer Width W₂ feet	RPZ acres
Runway 18	Non-Precision	1,700	1,000	1,510	48.978
Runway 36	Non-Precision	1,700	1,000	1,510	48.978

- ¹ The RPZ dimensional standards are for the runway end with the specified approach visibility minimums. The departure RPZ dimensional standards are equal to or less than the approach RPZ dimensional standards. When an RPZ begins other than 200 feet beyond the runway end, separate approach and departure RPZs should be provided. Refer to FAA AC 150/5300-13, Change 11, Appendix 14 for approach and departure RPZs.

Source: *FAA AC 150/5300-13, Change 11, Airport Design Standards*

Zone B – Approach Surface

Zone B is a critical airport overlay zoning surface that reflects the approach and departure areas for each runway at an airport. The size of Zone B is predicated upon the type of approach (visual, non-precision, or precision) that a specific runway has and the type/size of aircraft utilizing the runway. The following table illustrates the various sizes of Zone B based upon the specific runway criteria. A portion of Zone B is overlain by Zone A because the approach surface and RPZ overlap the entire length of the RPZ. Consequently, the length of Zone B begins at the inner edge of the RPZ.

Zone C – Transitional Surface

Zone C includes those areas that are parallel to the runway pavement and extend 1,050 feet from the edge of the primary surface paralleling the runway and extended runway centerline until they reach the end of Zone A at a 90 degree angle. The specific dimensions for Zone C are based upon various options for the primary surface that is predicated upon the type of approach and critical aircraft.

Zone D – Horizontal Surface

Zone D is typically elliptical in shape, depending upon the runway types and configurations at individual airports.

Zone E – Conical Surface

Zone E is the outermost zone of the airport overlay zoning areas and has the least number of land use restriction considerations. The zone begins at the edge of the horizontal surface and is 4,000 feet in width paralleling the horizontal surface.

Table 2: Airport Overlay Zones B-E Dimensional Standards

Item	Runway Dimensional Standards (Feet)	
	Runway 18	Runway 36
Primary surface width and Zone B inner width	500	500
Zone B end width	3,500	3,500
Zone B length	10,000	10,000
Zone C width	1,050	1,050
Zone D radius	10,000	10,000
Zone E width	4,000	4,000

Source: *FAA AC 150/5300-13, Change 11, Airport Design Standards*

8.B Zone Compatibility

The following tables shall be utilized to evaluate land use compatibility for various land use classifications.

Uses identified as **compatible** shall not require additional review. However, consideration should be given to the following areas of concern:

1. Noise sensitive related issues
2. High concentrations of people
3. Tall structures
4. Visual obstructions
5. Wildlife and bird attractants
6. Flammable substances and materials
7. Electrical, navigation, and radio interference

Uses found to be **NOT compatible** shall be precluded from development within the specific zone.

Uses found to require **additional review** shall be evaluated for general compatibility utilizing the *Compatible Land Use Planning Checklist* and the seven primary areas of concern noted above.

Table 3: Independence Municipal Airport Zone Chart

<i>C = Compatible</i>	<i>AR = Additional Review Required</i>		<i>NC = Not Compatible</i>		
Land Uses	Zone A	Zone B	Zone C	Zone D	Zone E
Residential Activities					
Single Family Uses (1 dwelling per lot)					
<i>Detached Single Family Dwelling</i> (i.e. farm dwelling, detached single family)	NC	AR	AR	AR	C

house, manufactured/modular homes if converted to real property and taxed)					
<i>Detached Zero Lot Line Dwelling</i> (i.e. condominium)	NC	AR	AR	AR	C
<i>Attached Single Family Dwelling</i> (i.e. townhouses)	NC	AR	AR	AR	C
Two Family Uses (i.e. two principal dwelling units within one building on the same parcel)	NC	AR	AR	AR	C
Multi-Family Uses (i.e. three or more principal dwelling units within a single building on the same parcel, apartments such as condominium, elder, assisted living, townhouse-style)					
<i>Low-Rise</i> (1-3 levels)	NC	AR	AR	AR	C
Group Living Uses (i.e. assisted living, group care facilities, nursing and convalescent homes, independent group living)	NC	AR	AR	AR	C
Manufactured Housing Parks	NC	AR	AR	AR	C
Commercial Activities					
Eating and Drinking Establishments (i.e. restaurants, cafes, coffee shops, fast food restaurants, bars, nightclubs, taverns, cocktail lounges)	NC	AR	AR	C	C
Quick Vehicle Servicing Uses (i.e. full-serve and mini-serve gas station, unattended card key service stations, car washes)	NC	AR	AR	C	C
Office Uses (i.e. business, government, professional, medical, or financial)					
<i>General Office</i> (i.e. professional offices, financial businesses, government offices)	NC	AR	AR	AR	C
<i>Low-Rise</i> (1-3 levels)	NC	AR	AR	AR	C
<i>Medical/Dental Office</i> (i.e. medical and dental clinics, chiropractic clinics, physical therapy clinics)	NC	AR	AR	AR	C
Retail Uses (i.e. sale, lease, or rent of new or used products)					
<i>Sales-Oriented</i> (i.e. appliances, convenience stores, bakeries, electronics, furniture, garden supplies, gas stations, groceries, hardware, malls, strip malls, videos)	NC	AR	AR	AR	C
<i>Personal Service-Oriented</i> (i.e. retail service-banking establishments, laundromats/dry cleaning, quick printing services, beauty/tanning salons, funeral homes)	NC	AR	AR	AR	C

<i>C = Compatible</i>	<i>AR = Additional Review Required</i>			<i>NC = Not Compatible</i>	
Land Uses	Zone A	Zone B	Zone C	Zone D	Zone E
<i>Repair-Oriented</i> (i.e. consumer goods-electronics, office equipment, appliances)	NC	AR	AR	AR	C
<i>Hospitality-Oriented</i> (hotels, motels, convention centers, meeting halls, event facilities)	NC	AR	AR	AR	C
<i>Low-Rise</i> (1-3 levels)	NC	AR	AR	AR	C
<i>Outdoor Storage and Display-Oriented</i> (i.e. outdoor storage-lumber yards, vehicles sales, landscape material and nursery product sales, farm supply and equipment sales)	NC	AR	AR	AR	C
Surface Passenger Services (i.e. passenger terminals for buses, rail services, local taxi and limousine services)	NC	AR	AR	C	C
Vehicle Repair Uses (i.e. vehicle repair or service shops, alignment shops, tire sales)	NC	AR	AR	C	C
Industrial/Manufacturing Activities					
Industrial Service Uses (i.e. machine shops, tool repair, towing and vehicle storage, building supply yards, heating/plumbing/electrical contractors, exterminators, janitorial services, fuel oil distributors, solid fuel yards)	NC	AR	AR	AR	C
Manufacturing and Production Uses (i.e. manufacturing, processing, fabrication, packaging or assembly of goods)					
<i>Technical/Light Manufacturing</i> (i.e. electrical components, engineering, scientific and research, office, computer hardware/software, optical, pharmaceuticals, printing/photo facilities, publishing)	NC	AR	AR	AR	C
<i>General Manufacturing</i> (i.e. manufacturing, compounding, assembling or treatment of most articles, materials, or merchandise)	NC	AR	AR	AR	C
<i>Heavy Manufacturing</i> (i.e. concrete and asphalt plants, meat packing plants, wet corn milling, manufacturing of animal feed,	NC	AR	AR	AR	C

paper/paperboard mills, ethanol plants)					
Mining and Extraction Uses	NC	AR	AR	AR	C
Salvage Operations (i.e. firms that collect, store, and dismantle damaged or discarded vehicles, machinery, appliances, and building material)	NC	C	C	C	C
Self-Service Storage Uses (i.e. mini-warehouses/storage facilities)	NC	C	AR	C	C
<i>C = Compatible</i> <i>AR = Additional Review Required</i> <i>NC = Not Compatible</i>					
Land Uses	Zone A	Zone B	Zone C	Zone D	Zone E
Warehouse and Freight Uses (i.e. major wholesale distribution centers, general freight storage, railroad switching yards, bus/rail car storage lots, parcel service, grain terminals)	NC	C	C	C	C
Waste-Related Uses (i.e. recycling centers, sanitary landfills, waste transfer stations, composting, energy recovery plants, sanitary and water treatment facilities, sanitary collection/pumping facilities, hazardous waste collection sites)	NC	AR	AR	AR	AR
Wholesale Sales Uses (i.e. sale, lease, or rental of products to retailers for industrial, institutional, or commercial business users)	NC	AR	AR	AR	C
Institutional Activities					
Basic Utility Uses (i.e. utility substation facilities, electrical substations, water and sewer lift stations, water towers)	NC	AR	AR	AR	C
College and Universities (i.e. public or private colleges and universities, technical colleges, seminaries)	NC	AR	AR	AR	C
Community Service Uses (i.e. public, nonprofit, or charitable nature providing a local service to the people)					
<i>General Community Service</i> (i.e. libraries, museums, transit centers, park and ride facilities, senior/community/neighborhood centers, police and fire stations)	NC	AR	AR	AR	C
<i>Community Service-Shelter</i> (i.e. transient housing)	NC	AR	AR	AR	C

Daycare Uses (i.e. childcare centers, adult daycare, preschools, after school programs)	NC	AR	AR	AR	C
Detention Facilities (i.e. prisons, jails, probation centers, juvenile detention homes, halfway houses)	NC	AR	AR	AR	C
Educational Facilities (i.e. public and private schools)					
<i>General Educational Facilities</i> (i.e. public and private elementary, middle, junior, and senior high schools including religious, boarding, military schools)	NC	AR	AR	AR	C
<i>Specialized Education Facilities</i> (i.e. specialized trade, business, or commercial courses, nondegree-granting schools)	NC	AR	AR	AR	C
Hospitals (i.e. hospitals, medical centers)	NC	AR	AR	AR	C
<i>C = Compatible</i> <i>AR = Additional Review Required</i> <i>NC = Not Compatible</i>					
Land Uses	Zone A	Zone B	Zone C	Zone D	Zone E
Religious Assembly Uses (i.e. churches, temples, synagogues, mosques, Masonic, eagles, moose, or elk lodges)	NC	AR	AR	AR	C
Infrastructure Activities					
Communication Transmission Facility Uses (i.e. broadcast, wireless, point to point, emergency towers and antennae)	NC	AR	AR	AR	AR
Parking Uses (i.e. ground lots, parking structures)	AR	C	C	C	C
Transportation Uses (i.e. highways, interstates, local and county roads)	AR	C	C	C	C
Utility Uses (i.e. solar power generation equipment, wind generators, wind farms)	NC	AR	AR	AR	AR
Agricultural Uses (i.e. commercial cultivation of plants, livestock production)					
<i>Plant-related</i> (i.e. crop farming, vegetable, fruit, and tree, wholesale plant nurseries)	AR	AR	AR	C	C
<i>Animal-related</i> (i.e. livestock operations, dairy farms, horse farms)	AR	AR	AR	C	C
<i>Resident-related</i> (i.e. single-family)	NC	AR	AR	AR	C

home, mobile home if converted to real property and taxed)					
<i>Facility-related</i> (i.e. fuel bulk storage/pumping facility, grain elevator, livestock/seed/grain sales)	NC	AR	AR	AR	AR
Water Bodies (i.e. open bodies containing water), Wildlife Areas, and Floodplains					
<i>Man-made resources</i> (i.e. mining and extraction, water detention ponds, wetlands)	NC	AR	AR	AR	AR
<i>Naturally occurring</i> (i.e. lakes, ponds, prairie pot holes, rivers, streams, wetlands)	NC	AR	AR	C	C
Wildlife Preservation Areas (i.e. petting zoos, wildlife rehabilitation centers, zoos)	NC	AR	AR	AR	C
Floodplains	AR	AR	AR	C	C
Parks and Recreation Activities					
Commercial Recreational Uses (i.e. facilities used for physical exercise, recreation, or culture)					
<i>Outdoor</i> (i.e. campgrounds, tennis/swimming facilities, drive-in theaters, skating rinks, pavilions, amphitheaters)	NC	AR	AR	AR	C
<i>Indoor</i> (i.e. physical fitness centers, health clubs, bowling alleys, skating rinks, billiard halls, arcades, indoor theaters)	NC	AR	AR	AR	C
C = Compatible AR = Additional Review Required NC = Not Compatible					
Land Uses	Zone A	Zone B	Zone C	Zone D	Zone E
<i>Golf</i> (i.e. golf driving ranges, outdoor miniature golf, 9+ hole courses)	NC	AR	AR	C	C
Utility Uses (i.e. amusement/theme parks, fairgrounds, racetracks, sports arenas)	NC	AR	AR	AR	AR
Parks (i.e. aquatic, mini, private, sports, neighborhood, school, community)	NC	AR	AR	C	C
Casino	NC	AR	AR	AR	C

Section 9 – Airport Overlay Zoning Maps

The Airport Land Use and Height Overlay Zoning Districts established by this Ordinance are shown on the Airport Land Use and Height Zoning Maps. Such Official Airport Land Use and

Height Zoning Maps may be amended, and all notations, references, elevations, data, zone boundaries, and other information thereon, is hereby adopted as part of this Ordinance.

Section 10 – Ordinance Administration

It shall be the duty of the Independence Zoning Administrator and Buchanan County Zoning Administrator, referred to herein as the “Airport Zoning Administrator,” within their respective jurisdictions to administer the regulations prescribed herein for their respective communities. Applications for permits and variances shall be made to the appropriate Airport Zoning Administrator upon forms furnished by said Airport Zoning Administrator. Applications for action by the Board of Adjustment shall be forthwith transmitted by the Airport Zoning Administrator should an applicant request review. Permit applications shall be either granted or denied by the appropriate Airport Zoning Administrator according to the regulations prescribed herein.

Section 11 – Airport Overlay Zoning Permits

It shall be the duty of the applicant to provide the Airport Zoning Administrator with sufficient information to evaluate the proposed action. This information shall include but not be limited to the following as noted in the *Compatible Land Use Planning Checklist*:

- Contact information
- Structure information
- Site information
- Drawing information
- Certification
- Identify current and potential compatibility concerns

The Airport Zoning Administrator shall evaluate the proposal based upon information provided by the applicant. The Airport Zoning Administrator shall approve the permit if after evaluation, the proposed project is found to be adequately compatible. Should the proposed project be found to be incompatible after review, the Airport Zoning Administrator shall deny the permit. Should the permit be denied, the applicant shall have the right to request a variance or an appeal as prescribed in this Ordinance.

Section 12 – Hazardous Markings and Lighting

Lighting and marking requirements will be determined through an FAA 7460-1 airspace analysis. The owner of any structure, object, natural vegetation, or terrain is hereby required to install, operate, and maintain such markers, lights, and other aids to navigation necessary to indicate to the aircraft operators in the vicinity of an airport the presence of an airport hazard. Hazardous markers and lights shall be installed, operated, and maintained at the expense of the jurisdiction.

Section 13 – Height Limitations

No structure, object, natural vegetation, or terrain shall be erected, altered, allowed to grow or be maintained within any airport zoning district established by this Ordinance to a height in excess of the applicable height limitations set forth in this Ordinance. The permitted height shall not exceed the difference between the grade elevation and the height limitation numbers illustrated on the “Official Independence Airport Land Use and Height Map” within the various airport zoning districts encompassed by this Ordinance.

An FAA 7460-1 airspace review shall provide a portion of the information necessary to evaluate potential height impacts. However, it shall not be the sole source of review.

Section 14 -- Airport Zoning Commission

The commission so appointed shall be known as the Airport Zoning Commission and shall make a formal recommendation on all changes to this Ordinance. In adopting, amending, and repealing airport zoning regulations, the governing body of a city shall follow the procedure in Iowa Code Sections 414.4 and 414.6 and the board of supervisors of a county shall follow the procedure in Iowa Code Sections 335.6 and 335.8.

The Airport Zoning Commission shall consist of five total members, two members from each jurisdiction, selected from each jurisdiction’s existing planning and zoning commission by the governing body, and one additional member to act as chairperson and to be selected by a majority vote of the members selected for the Airport Zoning Commission. The terms of the members of the Airport Zoning Commission shall be for six years excepting that when the commission is first created, one of the members appointed by each jurisdiction shall be appointed for a term of two years and one for a term of four years. Members may be removed for cause by the appointing authority upon written charges after public hearing. Vacancies shall be filled for the unexpired term of any member whose office becomes vacant in the same manner in which the member was selected.

Section 15 - Airport Board of Adjustment

The governing bodies of the jurisdictions under this ordinance shall provide for the appointment of an Airport Board of Adjustment, as provided in Iowa Code Section 414.7 for a city, or as provided in Section 335.10 for a county. The Board of Adjustment has the same powers and duties, and its procedures and appeals are subject to the same provisions as established in Iowa Code Sections 414.9 to 414.19 for a city, or Sections 335.12 to 335.21 for a county.

The Board of Adjustment shall consist of five total members, two members from each jurisdiction, selected from each jurisdiction’s existing board of adjustment by the governing body thereof, and one additional member to act as chairperson to be selected by a majority vote of the members selected for the Airport Board of Adjustment. The terms of the members of the Board of Adjustment shall be for five years, excepting that when the board shall be created, one of the members appointed by each jurisdiction shall be appointed for a term of two years and one for a term of four years. Vacancies shall be filled for the unexpired term of any member whose office becomes vacant in the same manner in which that member was selected. Members shall be removable for cause by the appointing authority upon written charges and after public hearing.

The concurring vote of a majority of the board shall be necessary to do any of the following:

- a. Reverse any order, requirement, decision, or determination of any administrative official.
- b. Decide in favor of the applicant on any matter upon which the board is required to pass under any regulations adopted pursuant to Iowa Code Chapter 329.
- c. Effect any variance from any regulations adopted pursuant to Iowa Code Chapter 329.

Section 16 – Variances

Any person desiring to erect, alter, or increase the height of any structure, object, or to permit the growth of any natural vegetation, or otherwise use his property in violation with any section of this Ordinance, may apply to the Board of Adjustment for variance from such regulation. No application for variance to the requirements of this Ordinance may be considered by the Board of Adjustment unless a copy of the application has been submitted to the Airport Zoning Administrator for an opinion as to the aeronautical effects of the variance. If the Airport Manager does not respond to the Board of Adjustment within fifteen (15) days from receipt of the copy of the application, the Board may make its decision to grant or deny the variance. There shall be a non-refundable application fee paid by the applicant, the amount of which will be set by the jurisdiction in question.

Section 17 – Appeals

Any person, property owner, or taxpayer impacted by any decision of this Ordinance may appeal to the Airport Board of Adjustment. Such appeal, by application, shall be taken to the Board within a reasonable time, but not longer than thirty (30) days. The Zoning Administrator shall forthwith transmit to the Board an application and all documentation constituting the record upon which the appealed action is requested. In exercising their powers, the Board may, in conformity with the provisions of the law, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination as it believes proper and to that end will have the powers of the Airport Zoning Administrator. There shall be a non-refundable application fee paid by the applicant, the amount of which will be set by the jurisdiction in question. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Airport Zoning Administrator, or to decide in favor of the applicant on any matter which it is required to pass under this Ordinance, provided that the action of the Board shall not become effective until after the written decision or resolution of the Board, setting forth the full reason for its decision and the vote of each participating member as documented in its minutes. Said written decision or resolution shall be filed in the office of the Airport Zoning Administrator and shall be open to public inspection.

Section 18 – Nonconformities

Any preexisting nonconforming structure, tree, or use, shall not be replaced, rebuilt, altered, allowed to grow higher, or replanted, so as to constitute a greater airport hazard than it was when this Ordinance or amendments to it were adopted. A nonconforming structure in existence at the adoption hereof that was not a lawful, or authorized under previous zoning ordinances, shall not be authorized to continue as a nonconforming building or structure pursuant to this Ordinance, or

amendments thereto. Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed or abandoned, but not to encourage their survival. Further, any nonconforming structures, buildings, uses, parcels, or lots shall be subject to the nonconforming regulations of the community in which the property in question is located.

Section 19 – Judicial Review

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment may appeal to the Court of Record as provided in Iowa Code, Section 414.15.

Section 20 – Penalties

If any building or structure is erected, constructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Ordinance, the appropriate City or County may, in addition to other remedies, seek injunctive relief, commence a municipal or county infraction action, mandamus, or other appropriate lawful action necessary to prevent, correct, or abate such violation. A violation of this Ordinance shall be deemed a violation of the appropriate City or County Code and thus constitute a municipal or county infraction, a civil offense punishable by a civil penalty, order of abatement and the entry of a judgment for costs of abatement or correction, pursuant to Iowa Code section 364.22 or 331.307. Any construction started without a permit or which does not comply with the requirements of the corresponding Code of Ordinances shall be removed immediately. The City Council or County Board of Supervisors may, without limitation, provide for the abatement of such infraction, and may pursue any combination of remedies available. Each day that a violation is continued shall constitute a separate violation.

Section 21 – Conflicting Regulations

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to height or structures, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

Section 22 – Severability

If any provision of this Ordinance, or the application thereof to any person or circumstances, is held invalid or unconstitutional by a court of competent jurisdiction, said holding shall not affect other provisions or applications of the Ordinance, and to this end, the provisions of this Ordinance are declared to be severable.

Section 23 – Adoption, Amendment, and Repealing Regulations

In adopting, amending, and repealing airport zoning regulations, the governing body of a city shall follow the procedure in Iowa Code Sections 414.4 and 414.6 and the board of supervisors of a county shall follow the procedure in Iowa Code Sections 335.6 and 335.8. Any and all

amendments made to this Ordinance shall also be made in accordance with Section 14, contained herein.

Section 24 – Effective Date

This is an ordinance repealing Title VI, Chapter 52, Airport Hazards and Tall Structures Ordinance of Buchanan County Iowa, including Airport Zoning Map and all of the amendments thereto;

And enacting in lieu thereof as new Ordinance Number 17-02, the Buchanan County, Iowa Airport Zoning Ordinance including Airport Land Use and Height Zoning Map, and it shall be integrated into the Buchanan County Code of Ordinances. Ordinance Number 17-02 is an ordinance created for the purpose of protecting health, welfare, and public safety within a specific area of Buchanan County in proximity to the Independence, Iowa Airport.

Ordinance Number 17-02, “Buchanan County, Iowa Airport Zoning Ordinance”, as adopted, shall be in full force and effect upon publication, recording, and/or posting, as may be required by law.

Adopted this 24th day of April 2017.

CHAPTER 53

SEXUALLY ORIENTED ESTABLISHMENTS

53.01	Purpose	53.19	Cause for Revocation
53.02	Findings	53.20	Nature of Revocation
53.03	Jurisdiction	53.21	Right to Hearing Prior to Denial, Suspension, Revocation, Prompt Judicial Review, Right to Provisional License Pending Judicial Review
53.04	Definitions		
53.05	Classifications		
53.06	Standards of Conduct and Operation		
53.07	Live Public Semi-Nudity on Premise		
53.08	Exhibition of Sexually Explicit Films	53.22	Notices
53.09	Exterior Portions of Sexually Oriented Businesses	53.23	Transfer of License
53.10	Loitering, Exterior Lighting, and	53.24	Hours of Operation
53.11	Signage	53.25	Employee License Violation Imputed to Business Licensee
53.12	Persons Younger than Eighteen Prohibited	53.26	Siting Criteria
53.13	License Required; Application	53.27	Applicability to Existing Businesses Procedure
53.14	Issuance of License	53.29	Violations and Penalties
53.15	Fees	53.30	Repealer
53.16	Periodic Inspection	53.31	Savings Clause
53.17	Expiration of License	53.32	Effective Date
53.18	Cause for Suspension		

53.01 PURPOSE. The purposes of this Chapter are to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of Buchanan County, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the County. The provisions of this Chapter are not intended to impose any limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented material; to restrict or deny access by adults to sexually oriented materials protected by the First Amendment; to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market; nor to condone or legitimize the distribution of legally obscene material.

53.02 FINDINGS. Based on evidence made available to this Board of the adverse secondary effects of adult usage of sexually explicit materials and patronage of sexually oriented businesses, and based on findings, interpretations, and narrowing constructions incorporated in both state and federal court cases, the Board of Supervisors finds that the regulatory provisions of this Chapter are within its constitutional power to enact, are designed to serve the County's substantial interest in preventing many of the negative secondary effects associated with sexually oriented businesses, are narrowly tailored to that end, and provide reasonable alternative avenues for the communication of sexually explicit material within the County. The Board makes the following specific findings:

1. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the unlicensed operators of these establishments.
2. Employees of sexually oriented businesses, as defined in this Chapter, often engage in certain types of illicit sexual behavior.

3. Sex acts occur at unregulated sexually oriented businesses, especially those that provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.
4. Communities have suffered adverse aesthetic impacts caused by sexually oriented businesses, including sexually graphic and unsanitary litter in and around adult bookstores and other sexually oriented businesses.
5. Persons often frequent certain adult theatres, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex acts in or near the premises of such establishments, or for the purpose of purchasing or selling illicit drugs.
6. Sexually transmitted diseases may be spread by activities occurring in sexually oriented businesses, including but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis, salmonella, campylobacter and shigella infections, chlamydia, myoplasma and ureoplasma infections, trichomoniasis, and chancroid.
7. Seminal fluid is often found in the areas of sexually oriented businesses where persons view films.
8. A reasonable licensing procedure is an appropriate mechanism to impose reasonable regulation on the owners and operators of sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent responsibility on the operators of such establishments to see to it that they are operated in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the County.
9. The removal of doors on booths and the requirement of sufficient lighting in adult theaters advance a substantial governmental interest in curbing illegal and unsanitary sexual activity occurring in these establishments.
10. Requiring licensees of sexually oriented businesses to maintain information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and thus enabling the prosecution of criminal behavior.
11. There is a rational basis for the belief that an applicant for a license of a sexually oriented business who has been convicted of a sexually related crime may engage in conduct in contravention of this Chapter.
12. The general health, safety, and welfare of the citizens of the County will be promoted by the enactment of this ordinance.

53.03 JURISDICTION. The provisions of this Chapter shall apply to all of the areas of Buchanan County, Iowa outside incorporated cities and towns.

53.04 DEFINITIONS. For purposes of this Chapter, the words and phrases defined in this section shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

1. **ADULT ARCADES:** Any place open to the public and in which coin-operated, slug-operated, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are Regularly Used to display images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on matter exhibiting or describing Specified Sexual Activities or Specified Anatomical Areas.
2. **ADULT BOOKSTORE, ADULT NOVELTY STORE, ADULT VIDEO STORE:** A commercial establishment that has a significant or substantial portion of its stock-in-trade, derives a significant or substantial portion of its revenues, devotes a significant or substantial portion of its interior business space or advertising, or maintains a substantial section of its sales or display space to the sale or rental, for any form of consideration, of any one or more of the following:
 - a. Books, magazines, periodicals or other printed matter; photographs, films, motion pictures, videocassettes, compact discs, slides, or other visual representations that are distinguished or characterized by an emphasis on the exhibition or description of Specified Sexual Activities or Specified Anatomical Areas;
 - b. Instruments, devices, or paraphernalia designed for use or marketed primarily for the stimulation of human genitalia or for use in sadomasochistic practices.

The term “Adult Bookstore, Adult Novelty Store, or Adult Video Store” shall also include a commercial establishment that regularly maintains one or more Adult Arcades.

3. **ADULT CABARET:** A commercial establishment that regularly features:
 - a. Persons who appear Semi-Nude;
 - b. Live performances that are distinguished or characterized by an emphasis on the exposure of Specified Sexual Activities or Specified Anatomical Areas;
 - c. Display of films, motion pictures, video cassettes, slides, DVDs, or other photographic reproductions that are distinguished or characterized by an emphasis on the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or
 - d. Entertainers who engage in dancing or performances that are intended to appeal to the sexual interest or for the sexual stimulation of patrons of the establishment.
4. **ADULT MOTEL:** A motel, hotel, or similar commercial establishment that:
 - a. Offers accommodations to the public for any form of consideration and that provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, other photographic reproductions, or live performances that are distinguished or characterized by an emphasis on the

depiction or description of Specified Sexual Activities or Specified Anatomical Areas and that advertises the availability of such material by means of a sign visible from the public right-of-way, or by means of any on- or off-premises advertising, including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or

- b. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
 - c. Allows a tenant or occupant of a sleeping room to sublet the room for a period of time that is less than ten (10) hours.
- 5. **ADULT MOTION PICTURE THEATRE:** A commercial establishment where films, motion pictures, videocassettes, slides, DVDs, or similar photographic reproductions that are distinguished or characterized by an emphasis on the exhibition or description of Specified Sexual Activities or Specified Anatomical Areas are regularly shown for any form of consideration.
 - 6. **ADULT THEATER:** A theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear in a State Of Nudity or live performances that are distinguished or characterized by an emphasis on the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.
 - 7. **CONTROLLING INTEREST:** The power directly or indirectly to direct the operation, management or policies of a business or entity, or to vote twenty percent (20%) or more of any class of voting securities of a business. The ownership, control, or power to vote twenty percent (20%) or more of any class of voting securities of a business shall be presumed, subject to rebuttal, to be the power to direct the management, operation or policies of the business.
 - 8. **DISTINGUISHED OR CHARACTERIZED BY AN EMPHASIS ON:** The dominant or principal theme of the object described by such phrase.
 - 9. **EMPLOY, EMPLOYEE, and EMPLOYMENT:** Any person who performs any service on the premises of a Sexually Oriented Business, on a full-time, part- time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and the act of engaging the services of such an individual; provided, however, that the term “employee” shall not include a person exclusively on the premises for repair or maintenance of the premises or equipment or fixtures therein or for the delivery of goods to the premises.
 - 10. **ESCORT:** A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person and who agrees or offers to privately model lingerie or privately perform a striptease for such other person.
 - 11. **ESCORT AGENCY:** A person or business association which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

12. **ESTABLISH or ESTABLISHMENT:** The term or terms shall mean and include any of the following:
 - a. The opening or commencement of any Sexually Oriented Business as a new business;
 - b. The conversion of an existing business, whether or not a sexually oriented business, to any Sexually Oriented Business; or
 - c. The addition of any Sexually Oriented Business to any other existing Sexually Oriented Business.
13. **LICENSED DAY-CARE CENTER:** A facility licensed by the State that provides care, training, education, custody, treatment, or supervision for children for less than twenty four (24) hours a day, regardless of whether the facility is operated for a profit or charges for the services it renders.
14. **LICENSEE:** A person in whose name a license to operate a Sexually Oriented Business has been issued, and/or the individual or individuals listed as an applicant or applicants on the application for a license to operate a Sexually Oriented Business.
15. **NUDITY or A STATE OF NUDITY:** The public display of human male or female genitalia, pubic area, vulva, anus, or the anal cleft or cleavage with less than a fully opaque covering, or the public display of the female breast with less than a fully opaque covering of any part of the nipple and areola.
16. **OPERATE or CAUSE TO OPERATE:** To cause to function or to put or keep in a state of doing business.
17. **OPERATOR:** Any person on the premises of a Sexually Oriented Business who is authorized to exercise overall operational control of the business, who causes the business to function, or who puts or keeps the business in operation, without regard to whether or not that person is an owner, part owner, or licensee of the business.
18. **PERSON:** An individual, proprietorship, partnership, corporation, association or other legal entity.
19. **REGULARLY FEATURES, REGULARLY SHOWS or REGULARLY USES:** A consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the Sexually Oriented Business.
20. **SEMI-NUDE or STATE OF SEMI-NUDITY:** A state of dress in which opaque clothing covers no more than the genitalia, anus, anal cleft or cleavage, pubic area, vulva, and nipple and areola of the female breast, as well as portions of the body covered by supporting straps or devices; provided, however, that the term “semi-nude” or “state of semi-nudity” shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, leotard, bathing suit, halter top, or other wearing apparel provided that the female areola and nipple are not exposed in whole or part.

21. **SEMI-NUDE MODEL STUDIO:** Any place where a person who regularly appears in a state of semi-nudity is provided money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons; provided, however, that the term “semi-nude model studio” shall not apply to a modeling class operated:
- a. By a college, junior college, or university supported entirely or partly by taxation;
 - b. By a private college or university that maintains and operates educational programs in which credits are transferable to college, junior college, or university supported entirely or partly by taxation; or
 - c. In a structure:
 - i. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and
 - ii. Where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class.
22. **SEXUAL ENCOUNTER CENTER:** A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
- a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - b. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or is semi-nude.
23. **SEXUALLY ORIENTED BUSINESS:** Commercial activity consisting of an Adult Arcade, Adult Bookstore, Adult Novelty Store, Adult Video Store, Adult Cabaret, Adult Motel, Adult Motion Picture Theater, Adult Theater, Escort Agency, or Semi-Nude Model Studio.
24. **SPECIFIED ANATOMICAL AREAS:** Human genitalia, anus, cleft of the buttocks, or the nipple or areola of the female breast.
25. **SPECIFIED CRIMINAL ACTIVITY:** Conviction of a violation of any of the following offenses:
- a. Iowa Code Section 728.2 (dissemination and exhibition of obscene materials to minors); Iowa Code Section 728.3 (admitting minors to premises where obscene material is exhibited); Iowa Code Section 728.4 (rental or sale of hard-core pornography); Iowa Code Section 728.5 (public indecent exposure in certain establishments); Iowa Code Section 728.12 (sexual exploitation of a minor); Iowa Code Section 709.2-4 (sexual abuse); Iowa Code Section 709.8 (lascivious acts with a child); Iowa Code Section 709.9 (indecent exposure); Iowa Code Section 709.12 (indecent contact with a child); Iowa Code Section 709.14 (lascivious conduct with a minor); Iowa Code Section 709C.1 (criminal

transmission of human immunodeficiency virus); Iowa Code Section 711.4 (extortion); Iowa Code Section 725.1-4 (prostitution, pimping, pandering, leasing premises for prostitution);

- b. Criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses; or
- c. An act or acts in another jurisdiction that would have constituted any of the foregoing offenses if the act or acts had been committed in Iowa; for which:
 - i. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
 - ii. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense; or
 - iii. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period.
- d. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

26. SPECIFIED SEXUAL ACTIVITY: The term means either of the following:

- a. A sex act or acts as defined in Iowa Code Section 702.17; or
- b. Excretory functions as part of or in connection with any of the activities described in Subsection (a) above.

27. TRANSFER OF OWNERSHIP OR CONTROL: This term or terms shall mean any of the following:

- a. The sale, lease, or sublease of a business;
- b. The transfer of securities that constitute a controlling interest in a business, whether by sale, exchange, or similar means; or
- c. The establishment of a trust, gift, or other similar legal device that transfers the ownership or control of a business, except for transfer by bequest or other operation of the law upon the death of the person possessing the ownership or control.

28. VIDEO ROOM: The room, booth, or area where a patron of a Sexually Oriented Business would ordinarily be positioned while watching a film, videocassette, or other video reproduction.

53.05 CLASSIFICATIONS. Sexually Oriented businesses shall be classified as follows:

1. Adult Bookstores, Adult Novelty Stores, Adult Video Stores;
2. Adult cabarets;
3. Adult Motels;
4. Adult Motion Picture Theaters;
5. Adult Theaters;
6. Escort Agencies;
7. Semi-Nude Model Studios; and
8. Sexual Encounter Centers.

53.06 STANDARDS OF CONDUCT AND OPERATION. Entertainers and Employees of any Sexually Oriented Business shall adhere to the following standards of conduct while on the premises:

1. No employee or entertainer shall be in a State Of Nudity or clad in less than opaque and complete attire, costume or clothing so as to expose to view any Specified Anatomical Area, unless such entertainer or employee is separated from any and all customers by a window or other partition which is maintained free of holes or other structural openings which would permit physical contact between such entertainer or employee and any customer within the viewing area and customers are not permitted within four (4) feet of the window or other partition. However, a single opening in such window or partition, allowing for payment for entertainment, by a customer to the entertainer, shall be permitted, in which event customers shall be permitted to be within two (2) feet of the window or other partition to allow customers to reach the opening.
2. No employee or entertainer shall perform:
 - a. Any Specified Sexual Activities; or
 - b. The displaying of any Specified Anatomical Area, except as provided for in Paragraph 1 of this subsection.
3. No employee or entertainer who is either not separated from any and all customers as provided in paragraph 1 of this subsection, or in an area of the premises not open to customers, shall be in a State Of Nudity or in less than opaque and complete attire, costume or clothing as described in Paragraph 1 of this subsection.
4. No employee or entertainer shall knowingly touch, fondle or caress any Specified Anatomical Area of another person, whether such area is clothed, unclothed, covered or exposed, or knowingly permit another person to touch, fondle or caress any Specified Anatomical Area of such employee or entertainer, whether such area is clothed, unclothed, covered or exposed.

5. No entertainer shall be visible from any public place during the hours of his or her employment, or apparent hours of his or her employment, while such entertainer is in a State Of Nudity or clad in such attire, costume or clothing to expose to view any Specified Anatomical Area or while performing any entertainment, either while clothed or in a State Of Nudity.
6. No entertainer or employee shall solicit, demand or receive any payment or gratuity from any customer for any act prohibited by this Chapter.
7. No entertainer shall receive any payment or gratuity from any customer, except through an opening in the window or partition separating such entertainer from a customer, as described in Paragraph 1 of this subsection.

53.07 LIVE PUBLIC SEMI-NUDITY ON PREMISES.

1. It shall be a violation of this Chapter for a licensee required to obtain a sales tax permit to knowingly or intentionally violate Iowa Code Section 728.5. It shall be a violation for any person on the premises of a Sexually Oriented Business subject to Iowa Code Section 728.5 to knowingly or intentionally appear in a State Of Nudity.
2. It shall be a violation of this Chapter for an employee to knowingly and intentionally appear Semi-Nude on the premises of a Sexually Oriented Business unless the employee, while Semi-Nude, remains not less than six (6) feet from any patron or customer and on a stage at least two (2) feet from the floor.
3. It shall be a violation of this Chapter for an employee, while Semi-Nude on the premises of a Sexually Oriented Business, to knowingly or intentionally receive any pay or gratuity directly from any patron or customer or for any patron or customer of a Sexually Oriented Business to knowingly or intentionally pay or give any gratuity directly to any Sexually Oriented Business employee, while said employee is Semi-Nude.
4. It shall be a violation of this Chapter for an employee, while Semi-Nude in a Sexually Oriented Business, to knowingly or intentionally touch a customer or patron or the clothing of a customer or patron or for a customer or patron to knowingly intentionally touch an employee or the clothing of an employee, while said employee is Semi-Nude.

A sign in a form to be prescribed by the Board of Supervisors and summarizing the provisions of Paragraphs 1 through 4 of this Section, shall be posted near the entrance of the Sexually Oriented Business in such a manner as to be clearly visible to patrons upon entry onto the premises.

53.08 EXHIBITION OF SEXUALLY EXPLICIT FILMS. The operator of a Sexually Oriented Business other than an Adult Motel that exhibits on the premises in a video room of less than one hundred fifty (150) square feet of floor space a film, video cassette, DVD, or other video reproduction Distinguished Or Characterized By An Emphasis On the display of Specified Sexual Activities or Specified Anatomical Areas shall comply with the following requirements:

1. No alteration in the configuration or location of a manager's station depicted in the diagram submitted with the application for license pursuant to Section 53.13 may be made without the prior approval of the Director.
2. It is the duty of the owners and Operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present on the premises.
3. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station to every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
4. It shall be the duty of the owners and Operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in subsection 3 remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted in the application filed pursuant to Section 53.13 of this Chapter.
5. No video room may be occupied by more than one person at any time.
6. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access to an illumination of not less than one foot-candle as measured at the floor level.
7. It shall be the duty of the owners and Operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present on the premises.

53.09 EXTERIOR PORTIONS OF SEXUALLY ORIENTED BUSINESSES.

1. It is unlawful for an owner or Operator of a Sexually Oriented Business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.
2. It is unlawful for the owner or Operator of a Sexually Oriented Business to allow the exterior portion of the Sexually Oriented Business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings or pictorial representations of any manner except to the extent permitted by the provisions of this Chapter.
3. It is unlawful for the owner or Operator of a Sexually Oriented Business to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a Sexually Oriented Business if the following conditions are met:

- a. The establishment is a part of a commercial multi-unit center; and
- b. The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

Nothing in this Chapter shall be construed to require the painting of an otherwise unpainted exterior portion of a Sexually Oriented Business.

53.10 LOITERING, EXTERIOR LIGHTING, AND MONITORING REQUIREMENTS.

1. The Operator of a Sexually Oriented Business shall:
 - a. Post conspicuous signs stating that loitering on the premises is prohibited;
 - b. Designate one or more employees to monitor continually the activities of persons on the premises by visual inspection at least or inspection by use of video camera and monitors; and
 - c. Provide lighting of the exterior premises of sufficient intensity to permit continual visual inspection or video monitoring to prohibit loitering thereon.

If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within a manager's station or at a cash register where an employee is regularly present.
2. It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

53.11 SIGNAGE.

1. Notwithstanding any other ordinance, code or regulation to the contrary, it is unlawful for the owner or Operator of any Sexually Oriented Business or any other person to erect, construct, or maintain any sign for the Sexually Oriented Business other than one primary sign and one secondary sign, as provided herein.
2. Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:
 - a. Not contain any flashing lights;
 - b. Be a flat plane, rectangular in shape;
 - c. Not exceed seventy-five (75) square feet in area; and
 - d. Not exceed ten (10) feet in height or ten (10) feet in length.
3. Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.

4. Each letter forming a word on a primary sign shall be of a solid color and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.
5. Secondary signs shall have only one display surface. Such display surface shall:
 - a. Be a flat plane, rectangular in shape;
 - b. Not exceed twenty (20) square feet in area;
 - c. Not exceed five (5) feet in height and four (4) feet in width; and
 - d. Be affixed or attached to any wall or door of the enterprise.
 - e. The provisions of Paragraph “a” of subsection 2 and of Subsections 3 and 4 shall also apply to secondary signs.
6. At any Sexually Oriented Business, the following are required:
 - a. A sign, on which upper-case letters are at least two (2) inches high and lower-case letters are at least one (1) inch high, shall be conspicuously displayed in the common area at the principal entrance and shall read as follows:

*THIS ADULT ENTERTAINMENT BUSINESS IS REGULATED BY
BUCHANAN COUNTY, IOWA.
ENTERTAINERS ARE:*

1. *Not permitted to engage in any type of sexual conduct on the premises or in prostitution;*
2. *Not permitted to be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola, or any portion of the pubic region, buttocks and/or genitals, except when separated from customers by the window or partition between the entertainer and customers.*
3. *Not permitted to receive any payment or gratuity from any customer, except through an opening in the window or partition separating such entertainer from a customer.*
- b. Neither entertainment nor any photograph, drawing, sketch or other pictorial or graphic representation thereof displaying any Specified Anatomical Area shall be visible from a public place.
- c. The premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one foot-candle as measured at the floor level, and such illumination must be maintained at all times that any customer is present in or on the premises.

53.12 PERSONS YOUNGER THAN EIGHTEEN PROHIBITED.

1. It is unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a Sexually Oriented Business at any time that the Sexually Oriented Business is open for business.
2. It shall be the duty of the Operator of each Sexually Oriented Business to ensure that an attendant is stationed at each public entrance to the Sexually Oriented Business at all times during regular business hours. It shall be the duty of the attendant to prohibit any person under the age of eighteen (18) years from entering the Sexually Oriented Business. It shall be presumed that an attendant knew a person was under the age of 18 unless such attendant asked for and was furnished:
 - a. A valid operator's, commercial operator's, or chauffeur's license; or
 - b. A valid personal identification certificate issued by the State, reflecting that such person is 18 years of age or older.

53.13 LICENSE REQUIRED; APPLICATION PROCEDURE.

1. It shall be unlawful for any person to operate a Sexually Oriented Business in the County without a valid Sexually Oriented Business license.
2. It shall be unlawful for any person to be an Employee of a Sexually Oriented Business in the County without a valid Sexually Oriented Business employee license.
3. An applicant for a Sexually Oriented Business license or Sexually Oriented Business employee license shall file in person at the office of the County Zoning Administrator a completed application made on a form provided by the Auditor. The application shall be signed by the applicant and notarized. An application shall not be considered completed unless it contains all information required in Paragraphs "a" through "e" below:
 - a. The applicant's full name and any other names, including trade names, used in the preceding five (5) years.
 - b. Current business address or another mailing address of applicant.
 - c. Written proof of age, in the form or copy of a birth certificate and a picture identification document issued by a governmental agency.
 - d. If the application is for a Sexually Oriented Business license, the business name, legal description of the property where the Sexually Oriented Business is to be located, mailing address and phone number of the Sexually Oriented Business, and the name and business address of the statutory agent or other agent authorized to receive service of process on behalf of the Sexually Oriented Business.

- e. A statement of whether the applicant has been convicted of Specified Criminal Activity as defined in this Chapter, and if so, the name(s), date(s) and place(s) of occurrence of the offense or offenses involved, the jurisdiction and the dates of conviction of each offense, and dates of release from confinement, where applicable.

The information provided pursuant to paragraphs “a” through “e” of this Subsection shall be supplemented in writing by certified mail, return receipt requested, sent to the Zoning Administrator within ten (10) working days of a change of circumstance that would render the information originally submitted as false or incomplete.

- 4. An application for a Sexually Oriented Business license shall be accompanied by a sketch or diagram showing the floor plan of the premises, including a statement of total floor space to be occupied by the Sexually Oriented Business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Applicants subject to Sections 53.07 and 53.08 of this Chapter shall submit a diagram meeting the requirements of those sections.
- 5. If a person who wishes to operate a Sexually Oriented Business is an individual, he or she shall sign the application for a license as applicant. If a person who wishes to operate a Sexually Oriented Business is other than an individual, each officer, director, general partner, each other person who will manage, supervise, or control the premises, and each other person who will participate in decisions relating to management and control of the business shall sign the application for a license as applicants. Each applicant must be qualified under Section 53.14 of this Chapter and each applicant shall be considered a licensee if a license is granted.

53.14 ISSUANCE OF LICENSE.

- 1. Upon the filing of a completed application for a Sexually Oriented Business license under Section 13 above, the Zoning Administrator shall immediately issue a provisional license that shall be valid pending issuance of the license or denial of the application, provided the application appears to be in order. Within twenty (20) working days of the filing date of the completed application, the Zoning Administrator shall issue either a license or a notice of intent to deny the application. The Zoning Administrator shall not issue a provisional license or a license if any of the following is true:
 - a. An applicant is less than eighteen (18) years of age.
 - b. An applicant has failed to provide information as required by Section 53.13 of this Chapter or has falsely answered a question or request for information on the application form.
 - c. The license application fee has not been paid.
 - d. An applicant has committed a violation of Subsections (1), (2), and (3) of Section 53.07, Section 53.16(1), or Section 53.19(2) of this Chapter within the previous year.

- e. The premises of the Sexually Oriented Business are not in compliance with the interior configuration requirements of this Chapter.
 - f. An applicant has been convicted of Specified Criminal Activity.
2. Upon the filing of a completed application for a Sexually Oriented Business employee license under Section 13 above, the Zoning Administrator shall immediately issue a provisional license that shall be valid pending issuance of the license or denial of the application, provided the application appears to be in order. Within twenty (20) working days of the filing date of the completed application, the Zoning Administrator shall issue either a license or a notice of intent to deny the application. The Zoning Administrator shall not issue a provisional license or a license if any of the following is true:
- a. The applicant is less than eighteen (18) years of age.
 - b. The applicant has failed to provide information as required by Section 53.13 of this Chapter for issuance of a license or has falsely answered a question or request for information on the application form.
 - c. The license application fee has not been paid.
 - d. An applicant has committed a violation of Subsections 7(1), (2), and (3) of Section 53.07, Section 53.16(1), or Section 53.19(2) of this Chapter within the previous year.
 - e. An applicant has been convicted of Specified Criminal Activity.
3. The license, if granted, shall state:
- a. The name(s) of the person or persons to whom it is granted;
 - b. The number of the license issued to the licensee(s);
 - c. The expiration date; and
 - d. The address of the Sexually Oriented Business. If the license is issued pursuant to Subparagraph 2 above, the license shall contain the address of the Sexually Oriented Business where the licensee shall be employed.
4. The Sexually Oriented Business license shall be posted in a conspicuous place at or near the entrance to the Sexually Oriented Business so that it may be easily read at any time.
5. An employee of a Sexually Oriented Business shall keep the employee's license in a readily accessible place on the premises where the licensee is employed and shall produce such license for inspection upon request by a law enforcement officer or other County official enforcing the provisions of this Chapter.

53.15 FEES.

1. **FILING FEE REQUIRED.** Each application for a license under this Chapter shall be accompanied by payment of the filing fee in accordance with the established fee schedule. No action shall be taken on any application until the required fee is paid in full.
2. **FEE SCHEDULE.** The Board of Supervisors shall establish the initial fee schedule required by this Chapter and shall adjust the same from time to time.
3. **FEE REFUND.** An applicant shall not be entitled to a refund of the fee paid, regardless of whether the application for license is granted or denied.

53.16 PERIODIC INSPECTION.

1. Sexually Oriented Businesses and Sexually Oriented Business employees shall permit agents of the County to inspect, from time to time, the portions of the Sexually Oriented Business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this Chapter, when the Sexually Oriented Business is open for business. A licensee's knowing or intentional refusal to permit such an inspection shall constitute a violation of this Section for purposes of license denial, suspension, and/or revocation. The County shall narrowly construe this Section to authorize reasonable inspection of licensed premises pursuant to this Chapter, and shall avoid harassment or an excessive pattern of inspection.
2. The provisions of this Section do not apply to areas of an Adult Motel that are leased by a customer for use as the customer's permanent or temporary habitation.

53.17 EXPIRATION OF LICENSE.

1. Each license shall remain valid for a period of one (1) calendar year from the date of issuance unless otherwise suspended or revoked. A license may be renewed only by filing an application and payment of a fee as provided in Sections 53.13 and 53.15 of this Chapter.
2. Applications for renewal should be made at least ninety (90) days before the license's expiration date. If an application for renewal is made less than ninety (90) days before the expiration date, the expiration of the license will not be affected.

53.18 CAUSE FOR SUSPENSION.

1. The County shall issue a letter of intent to suspend a Sexually Oriented Business license for a period not to exceed thirty (30) days, if the Sexually Oriented Business licensee has violated a provision of this Chapter or has knowingly permitted an employee to violate a provision of this Chapter.
2. The County shall issue a letter of intent to suspend a Sexually Oriented Business employee license for a period not to exceed thirty (30) days, if the employee has violated a provision of this Chapter.

53.19 CAUSE FOR REVOCATION.

1. The County shall issue a letter of intent to revoke a Sexually Oriented Business license or a Sexually Oriented Business employee license, if the respective licensee commits two (2) or more violations defined in Subsection 2 below within a twelve (12) month period.
2. The County shall issue a letter of intent to revoke a Sexually Oriented Business license or Sexually Oriented Business employee license if:
 - a. The licensee knowingly gave false information in the application for a Sexually Oriented Business license or Sexually Oriented Business employee license;
 - b. The licensee knowingly engaged in or permitted the possession, use, or sale of a controlled substance on the licensed premises;
 - c. The licensee knowingly engaged in or permitted prostitution or soliciting for prostitution on the licensed premises;
 - d. The licensee knowingly operated the Sexually Oriented Business when the license for the premises was suspended;
 - e. The licensee knowingly engaged in or permitted any Specified Sexual Activity to occur in or on the licensed premises.
3. A business licensee shall be liable for the acts of an employee only pursuant to the standard established in Section 53.25 of this Chapter.

53.20 NATURE OF REVOCATION. Subject to the provisions of Section 53.21 below, revocation of a license shall continue for two (2) years and the licensee shall not be issued a Sexually Oriented Business license or Sexually Oriented Business employee license for two (2) years from the date revocation becomes effective, provided that, if the conditions of Section 53.21(2) of this Chapter are met, a provisional license shall be granted pursuant to that section. If revocation was based on a violation of Subsection 53.19(2)(a) of this Chapter and if the Zoning Administrator finds that the basis for the revocation has been corrected or abated, the Zoning Administrator shall reissue the license to the licensee, provided that at least ninety (90) days shall have elapsed since the effective date of the revocation. If the license was revoked under Subsections 53.19(2)(b), (c), (d), or (e) of this Chapter, the Zoning Administrator shall not issue another license to the licensee until at least two (2) years have elapsed from the date of revocation.

53.21 RIGHT TO HEARING PRIOR TO DENIAL, SUSPENSION, REVOCATION; PROMPT JUDICIAL REVIEW; RIGHT TO PROVISIONAL LICENSE PENDING JUDICIAL REVIEW.

1. If the Zoning Administrator determines that cause under this Chapter exists to warrant the denial of an application for a license or for the suspension or revocation of a license, the Zoning Administrator shall notify the applicant or licensee (hereafter "Respondent") in writing of the intent to deny the application or suspend

or revoke the license. The notification shall specify the grounds for the proposed action. The notification shall be given by personal delivery or by certified mail to the most current business address or other mailing address for the Respondent on file with the Zoning Administrator. If the Respondent intends to appeal the proposed action of the Zoning Administrator, the Respondent shall submit a written request to the Zoning Administrator for an appeal hearing before the Board of Supervisors within ten (10) working days of the receipt of such notice. Failure of the Respondent to file timely a request for such appeal hearing shall be deemed a waiver of the right to appeal, and the action of the Zoning Administrator shall be final.

The Zoning Administrator shall notify the Respondent in writing of the hearing date before the Board of Supervisors within five (5) days of the receipt of the respondent's written request. The Board of Supervisors shall conduct the appeal hearing within twenty (20) working days of the receipt of Respondent's request. At the hearing, the Respondent shall have the right to be represented by counsel, present evidence and witnesses on the Respondent's behalf, and cross-examine any of the County's witnesses. The Zoning Administrator shall also be represented by counsel, and shall bear the burden of proving the grounds for denying the application or for the suspension or revocation of the license by a preponderance of the evidence. The hearing shall take no longer than two (2) days, unless extended to meet the requirements of due process and proper administration of justice.

The Board of Supervisors shall issue a written decision within five (5) days after the hearing. If the decision of the Board is to uphold the action of the Zoning Administrator, the decision shall set out the grounds for the decision. The denial of the application or the suspension or revocation of the license shall become final immediately for purposes of appeal, but shall not take effect or be enforced until thirty (30) days thereafter. If the decision is to reverse the action of the Zoning Administrator, the Zoning Administrator shall immediately issue or reissue, as the case may be, a license to the Respondent.

2. An applicant or licensee (hereafter "Aggrieved Party") may challenge or appeal the decision of the Board of Supervisors or seek a declaration of rights concerning such action and/or concerning this Chapter, upon factual or constitutional grounds or both, to a Court of competent jurisdiction within thirty (30) days after issuance of the Board of Supervisor's written decision. Upon the filing of any such Court action, the Zoning Administrator shall immediately issue the Aggrieved Party a provisional license. The Zoning Administrator shall supply the Court with any documents, reports, or transcripts relevant to the lawsuit within fifteen (15) days after receiving notice of the lawsuit. The provisional license shall allow the Aggrieved Party to continue operation of the Sexually Oriented Business or to continue employment as a Sexually Oriented Business employee and shall remain in effect until the Court shall have rendered judgment on the merits of the Aggrieved Party's action.

In lieu of the procedure described above, the Aggrieved Party may, within thirty (30) days after issuance of the Board of Supervisor's written decision, elect to require the County to file in a Court of competent jurisdiction a petition seeking a declaratory judgment, on the issue of the validity of the decision of the Board of Supervisors and/or the constitutionality of the provisions of this Chapter. Such an election must be made in writing and be delivered to the County Attorney's office

within thirty (30) days of issuance of the Board of Supervisor's written decision. Upon the delivery of the election notice to the County Attorney's office, the Zoning Administrator shall immediately issue the Aggrieved Party a provisional license. The provisional license shall allow the Aggrieved Party to continue operation of the Sexually Oriented Business or to continue employment as a Sexually Oriented Business employee and shall remain in effect until the Court shall have rendered judgment on the merits of the action.

This section shall be liberally construed to permit the uninterrupted operation of the Sexually Oriented Business or the uninterrupted employment of the Sexually Oriented Business employee during the course of any Court action challenging this Chapter or an adverse licensing decision under this Chapter.

53.22 NOTICES.

1. Any notice required or permitted to be given by the Zoning Administrator or any other County office, division, department or other agency under this Chapter to any applicant, operator or owner of an establishment may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the permit, a transfer application that has been received by the Zoning Administrator, or any notice of address change that has been received by the Zoning Administrator. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the Zoning Administrator shall cause it to be posted at the principal entrance to the establishment.
2. Any notice required or permitted to be given to the Zoning Administrator by any person under this Chapter shall not be deemed given until and unless it is received in the office of the Zoning Administrator.
3. It is the duty of each owner who is so designated on a permit application and each Operator to furnish a notice to the Zoning Administrator in writing of any change of residence or mailing address.

53.23 TRANSFER OF LICENSE. A licensee shall not transfer his or her license to another, nor shall a licensee operate a Sexually Oriented Business under the authority of a license at any place other than the address designated in the Sexually Oriented Business license application.

53.24 HOURS OF OPERATION. No Sexually Oriented Business other than an Adult Motel shall be or remain open for business between 2:00 a.m. and 6:00 a.m. on a weekday, or between 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday. However, a Sexually Oriented Business that holds a liquor license or retail beer permit entitling the holder to sell alcoholic liquor or beer on Sunday may remain open between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday; provided, however, that no entertainer or employee of such business nor any other person shall be permitted to appear in A State Of Nudity or Semi-Nudity on the premises of such business on Sunday.

53.25 EMPLOYEE LICENSE VIOLATION IMPUTED TO BUSINESS LICENSEE. Notwithstanding any provision to the contrary, for the purposes of this Chapter, an act by an Sexually Oriented Business employee that constitutes grounds for suspension or revocation of

that employee's license shall be imputed to the Sexually Oriented Business licensee for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or any person who managed, supervised, or controlled the business premises, knew or reasonably should have known that such act was occurring and failed to prevent such act. It shall be a defense to liability under this Chapter that the person to whom the violative act is imputed was powerless to prevent the act.

53.26 SITING CRITERIA.

1. It shall be a violation of this Chapter to operate or cause to be operated a Sexually Oriented Business in any zoning district other than those designated as C (Commercial), C-M (Commercial-Manufacturing), or I (Industrial) districts in the Buchanan County Zoning Ordinance.
2. It shall be a violation of this Chapter to operate or cause to be operated a Sexually Oriented Business within one thousand (1000) feet of:
 - a. A church, synagogue, mosque, temple, or any other structure that is used primarily for religious worship and related religious activities;
 - b. A public or private educational facility, including nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities. The term "school" includes the school campus or grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
 - c. A boundary of a Residential "R" District as defined in the Buchanan County Zoning Ordinance;
 - d. A park, playground, or plaza open for use by the public;
 - e. A cemetery;
 - f. A licensed day-care facility; or
 - g. Another Sexually Oriented Business.
3. For the purpose of enforcing the provisions of Subsection 2 of this Section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest property line of the premises where a Sexually Oriented Business is located to the nearest property line of the premises of a use listed in Subsection 2. The presence of a County, City or other political subdivision boundary shall be not be relevant for purposes of calculating and applying the distance requirement of this Section.
4. For purpose of enforcing Subsection 2(g) of this Section, the distance between any two Sexually Oriented Businesses shall be measured in a straight line, without regard to existence of intervening structures, objects, or political boundaries, from the closest exterior wall of the structure in which each business is located.

53.27 APPLICABILITY TO EXISTING BUSINESSES. The provisions of this Chapter shall apply to all Sexually Oriented Businesses and Sexually Oriented Business employees described herein, whether such business or activities were established or commenced before, on, or after the effective date of this Chapter. All Sexually Oriented Businesses in operation, along with their employees, on the effective date of this Chapter shall be granted a De Facto Temporary License to continue operation or employment. The Temporary License shall be valid for one hundred eighty (180) days following such effective date. All Sexually Oriented Businesses and Sexually Oriented Business employees shall apply for a license pursuant to this Chapter prior to the expiration of said period to continue operations and employment. Sexually Oriented Businesses shall make any necessary alterations to the interior configurations of the regulated business premises to conform to this Chapter prior to the expiration of said period in order to continue operations.

53.28 NONCONFORMING USE.

1. Any Sexually Oriented Business in operation as of the effective date of this Chapter that is in violation of Section 53.26 of this Chapter but is otherwise in lawful operation shall be deemed a nonconforming use pursuant to Section 50.19 of the Buchanan County Code of Ordinances. The nonconforming use will be permitted to continue for a period not to exceed one (1) year, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming use shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two or more Sexually Oriented Businesses are within one thousand (1000) feet of one another and otherwise in a permissible location, the Sexually Oriented Business that was first established and continually operating at a particular location shall be deemed the conforming use.
2. A Sexually Oriented Business in lawful operation as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the Sexually Oriented Business license, of a use listed in Subsection 53.26(2) of this Chapter within one thousand (1000) feet of the Sexually Oriented Business. This paragraph shall be applicable only to the renewal of a valid license, and shall not apply when an application is made for a license after the applicant's previous license has expired or been revoked.

53.29 VIOLATIONS AND PENALTIES. Violations of the provisions of this Chapter shall be deemed County infractions pursuant to Iowa Code Section 331.307.

53.30 REPEALER. All previous ordinances or parts of previous ordinances in conflict with the provisions of this Chapter are hereby repealed upon final passage and approval of this Chapter.

53.31 SAVINGS CLAUSE. If any section, provision, or part of this Chapter shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of this Chapter as a whole, or any section thereof, or part thereof, not adjudged invalid or unconstitutional.

53.32 EFFECTIVE DATE. This Chapter shall be in full force and effect upon its final passage, approval and publication as required by law.

CHAPTER 54

WIND TURBINES

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54.04	Procedures	54.09	Release of Liability
54.05	District Regulations		

54.01 PURPOSE. This Chapter establishes regulations for the installation and operation of Wind Energy Conversion Systems (WECS) within Buchanan County. The purpose of this regulation is to promote the safe, effective, and efficient use of wind energy conversion systems to reduce the on-site consumption of utility-supplied electricity. In addition, this ordinance provides a permitting process for wind energy systems to ensure compliance with the provisions of the requirements and standards established or referenced herein. The provisions of this ordinance shall not guarantee wind rights or establish access to the wind.

54.02 DEFINITIONS.

1. “WECS” shall mean Wind Energy Conversion System. That is, an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations, and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy maybe used on-site and/or distributed into the electrical grid.
2. “Aggregated Project” shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but also included as part of the aggregated project.
3. “Commercial WECS” shall mean a WECS of equal to or greater than one-hundred (100) kilowatts in total name plate generating capacity.
4. “Non-Commercial WECS” shall mean a WECS of less than one-hundred (100) kilowatts in total name plate generating capacity.
5. “Fall Zone” shall mean the area, defined as the furthest distance from the tower base, in which a guyed tower could collapse in the event of a structural failure. This area is commonly similar to the total height of the structure.

6. "Tower Height" shall mean the height above grade of the fixed portion of the tower, excluding the wind turbine itself.
7. "Total Height" shall mean the height above grade to a rotor blade at its highest point.
8. "Feeder Line" shall mean any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the WECS.
9. "Meteorological Tower" shall mean those towers which are erected primarily to measure wind speed and directions plus other data relevant to site WECS. Meteorological towers do not include towers and equipment used by airports, the Iowa Department of Transportation, or other similar applications to monitor weather conditions.
10. "Micro-WECS" shall mean a WECS of one (1) kilowatt name plate generating capacity or less and utilizing supporting towers of forty (40) feet or less.
11. "Nacelle" shall mean the key components of the wind turbine, including the gearbox, yaw system, and electrical generator.
12. "Property line" shall mean the boundary line of the area over which the entity applying for a WECS permit has legal control for the purposes of installation of a WECS. This control may be attained through fee title ownership, easement, or other appropriate contractual relationship between the project developer and landowner.
13. "Rotor diameter" shall mean the diameter of the circle described by the moving rotor blades.
14. "Substation" shall mean any electrical facility designed to convert electricity produced by wind turbines to a voltage greater than thirty-five thousand (35,000) volts (35 kilovolts) for interconnection with high voltage transmission lines. High voltage transmission lines shall be located outside of the road right of way.
15. "Tower" shall mean the tower of a wind turbine which shall include the vertical structures that support the electrical generator, rotor blades, or meteorological equipment.

16. "Transmission Line" shall mean those electrical power lines that carry voltages of at least sixty-nine thousand (69,000) volts (69 kilovolts) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
17. "Public conservation lands" shall mean land owned in fee title by County, State, or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, State Scientific and Natural Areas, Federal Wildlife Refuges, Hunting Preserve, and Waterfowl Production Areas. For the purpose of this Chapter, public conservation lands will also include lands owned in fee title by non-profit conservation organizations. Public conservation lands do not include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.
18. "Wind turbine" shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

54.03 APPLICABILITY. It shall be unlawful to construct, erect, install, alter, or locate any WECS within unincorporated Buchanan County, without rezoning the area of the proposed site to "A-2" Agricultural District and being authorized by the Buchanan County Board of Supervisors ("BOS") in a public hearing.

54.04 PROCEDURES.

1. Applications for a WECS Permit shall be made on a permit application to Buchanan County for any WECS proposed in unincorporated Buchanan County.
2. No WECS or wind turbine shall be constructed, erected, converted, installed, reconstructed, enlarged, located, relocated, structurally altered, or otherwise developed including the placement of additional buildings and appurtenances without obtaining a zoning placement permit and being in full compliance with the terms of this section and other applicable codes, regulations, and policies adopted by the County, State, or Federal Government.
3. Rezoning or map amendment shall be applied for and reviewed under the procedures established in this Ordinance, except where noted below. Reasonable fees shall be charged for rezoning per parcel or tract of land as well as a fee for each tower included in the application. Said fees shall be determined by the Buchanan County Zoning Department.

4. The application for all WECS shall include the following information:
 - a. The name(s) and address of the project applicant.
 - b. The name of the project owner.
 - c. The legal description of the site where development is planned.
 - d. Evidence that the applicant is the owner of the property where development is planned or written approval of the property owner authorizing the applicant to make the application for the WECS.
 - e. A preliminary description of the project including: number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.
 - f. Preliminary site layout, including the location of property lines, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures. The site layout shall include distances and be drawn to scale or include accurate dimensions with aerial photos or drawings.
5. The building permit (after zoning approval) for the Commercial WECS shall include:
 - a. Final site plan.
 - b. Final legal description.
 - c. Engineer's certification.
 - d. The latitude and longitude of individual wind turbines.
 - e. A U.S. Geological Survey topographical map, or map with similar data, or the property and surrounding area, including any other WECS within ten (10) rotor diameters of the Proposed WECS.
 - f. Location of wetlands, scenic, and natural areas [including bluffs] within one thousand three-hundred twenty (1,320) feet of the proposed WECS. [dependent on DNR/Iowa Code]
 - g. An acoustical analysis.
 - h. Federal Aviation Administration (FAA) Permit Application.

- i. Location of all known Communications Towers within two (2) miles of the proposed WECS.
 - j. Discontinuation and Decommissioning Plan.
 - k. Description of potential impacts on nearby WECS and wind resources on adjacent properties.
6. In addition to the rezoning fee, the applicant must also file a bond in an amount determined by the Buchanan County Board of Supervisors and approved by the Buchanan County Engineer. Said bond shall be from a surety company authorized to do business in the State of Iowa and Buchanan County. The bond shall be conditioned that the applicant under this section will pay to the county any and all damages caused to the streets, highways, and bridges, by applicant.
 7. Aggregated Projected Procedures: Aggregated Projects may jointly submit a single application and be reviewed under joint proceedings, including notices, hearings, reviews, and as appropriate, approvals.

54.05 DISTRICT REGULATIONS.

1. WECS may be permitted as a Principal Permitted Use in the “A-2” Agricultural District, as set forth in the Buchanan County Ordinance, so long as bulk requirements and setback requirements are addressed. Said bulk requirements are shown in Table 1 below.
2. Setbacks: Substations and Accessory Facilities
 - a. Minimum setback standards for substations, feeder lines, and fences shall be consistent with the standards for accessory structures established in the Buchanan County Zoning Ordinance.
 - b. Substation setbacks:
 - I. Ten (10) feet, structure setback from road right-of-way located wholly outside the right-of-way.
 - II. Property lines ten (10) feet; structure setback from property lines; side yard.

Table 1.

WECS Setback Requirements: Wind Turbines and Meteorological Towers

	Wind Turbine - Non-Commercial Micro WECS	Wind Turbine – Non-Commercial WECS	Wind Turbine – Commercial WECS	Meteorological Towers
Property Lines	1.1 times the total height or the distance of the fall zone as certified by a professional engineer plus 10 feet.	1.1 times the total height or the distance of the fall zone as certified by a professional engineer plus 10 feet.	1.25 times the total height.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.
Neighboring Dwellings¹	1,000 feet. This setback requirement may be reduced by the Zoning Administrator subject in maintaining adequate health and safety requirements or waived by the dwelling occupant or owner.	1,000 feet.	1,200 feet.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.
Road Rights-of-Way²	The distance of the fall zone as certified by a professional engineer plus 10 feet or 1.1 times the total height.	The distance of the fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.	1.1 times the height may be reduced for minimum maintenance roads.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.

¹ The setback for dwellings shall be reciprocal in that no dwelling shall be constructed within one-thousand two-hundred (1,200) feet of a commercial wind turbine; unless a release of liability is received from the WECS.

² The setback shall be measured from future rights-of-way if a planned change or expanded right-of-way is known.

Other Rights-of-Way (Railroads, grasslands, or hunting preserve)	The lesser of 1.1 times the total height or the fall by a professional engineer plus 10 feet.	The lesser of 1.1 times the total height or the distance of the fall zone as certified by a professional engineer plus 10 feet.	The lesser of 1.1 times the total height or the distance as certified by a professional engineer plus 10 feet.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.
Public conservation lands managed as grasslands, or hunting preserve	600 feet or 200 yards.	600 feet or 200 yards.	600 feet or 200 yards.	600 feet or 200 yards.
Wetlands	NA	NA	NA	NA
Other structures	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.
Other existing WECS	NA	NA	To be determined through cup review based on: relative size of the existing and proposed WECS, alignment of the WECS relative to the predominant winds, topography, extent of the wake interference impacts on existing WECS, other setbacks required waived for multiple turbine projects including aggregated projects.	The fall zone, as certified by a professional engineer plus 10 feet or 1 times the total height. Extent of wake interference impacts on existing WECS shall be considered.

54.06 REQUIREMENTS AND STANDARDS.

1. Safety Design Standards
 - a. Engineering Certification: For all WECS, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation, and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.
 - b. Clearance: Rotor blades or airfoils must maintain at least thirty (30) feet of clearance between their lowest point and the ground.
 - c. Warnings: For all commercial WECS, a sign or signs shall be posted on the tower, transformer, and substation warning of high voltage.
2. Height Standard
 - a. Total height – Non-Commercial WECS shall have a total height of less than two hundred feet.
 - b. Total Height must also be in compliance with all municipal airport ordinances within Buchanan County or adjoining counties. This shall include, but not be limited to, the Independence Municipal Airport Ordinance as well as the Oelwein Municipal Airport Ordinance.
 - c. Commercial WECS shall be in compliance with Section 54.06(2)(b), above, as well as all setback requirements as outlined in Table 1.
3. Meteorological towers may be guyed.
4. Color and Finish: All wind turbines and towers that are part of a commercial WECS shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matte or non-reflective. Exceptions may be made for meteorological towers, where concerns exist relative to aerial spray applicators.
5. Lighting: Lightning, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations. Red strobe lights are preferred for night-time illumination to reduce impacts on migrating birds. Red pulsating incandescent lights should be avoided. Exceptions may be made for meteorological towers, where concerns exist relative to aerial spray applicators.
6. Other Signage: All signage on site shall comply with Sign Regulations of the Buchanan County Ordinance. The manufacturer's or owner's company name and/or logo may be placed upon the nacelle or base of the WECS.

7. Feeder Lines: All communications and feeder lines, equal to or less than thirty-four and one-half (34.5) kilovolts in capacity, installed as part of a WECS shall be buried where reasonably feasible.
8. Waste Disposal: Solid and hazardous waste, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state, and federal regulations.
9. Impact on Public Infrastructure: Reimbursement of all costs related to excessive wear and tear to any public infrastructure such as, but not limited to, county roads and bridges, and to any highway system, storm water management related improvements and/or public utilities that are caused by the construction, maintenance, or removal of any WECS shall be reimbursed to the affected local government. A determination shall be made by the Board of Supervisors after consultation with the County Engineer or applicable official to establish if excessive wear and tear or damage has occurred and to estimate the costs of repair for said work. Any damage to any haul routes, as determined by the County Engineer, shall be reimbursed to the local government affected and shall be billed to the corporation or company owning said WECS to be paid within forty-five (45) days of issuance and may be subject to late charges, interest, or penalties as allowed by law. All haul routes shall be reviewed and approved by the County Engineer on use of any county roads prior to construction, maintenance, or removal of any WECS. In order to review proposed haul routes and/or work locations, WECS manufacturer(s) or owner(s) and/or their contractors shall contact the County Engineer a minimum of one (1) month prior to starting any work in the County. In addition to the rezoning fee, the applicant must also file a bond in an amount determined by the Buchanan County Board of Supervisors and approved by the Buchanan County Engineer. Said bond shall be from a surety company authorized to do business in the State of Iowa and Buchanan County. The bond shall be conditioned that the applicant under this section will pay to the County any and all damages caused to the streets, highways, and bridges, by applicant.
10. Discontinuation and Decommissioning: A WECS shall be considered discontinued after one (1) year without energy production, unless a plan is developed and submitted to the Buchanan County Zoning Administrator outlining the steps and schedule for returning the WECS to service.
 - a. All WECS and accessory facilities shall be removed to a depth of seven (7) feet including footing and foundations within one-hundred eighty (180) days of the discontinuation of use.

- b. Each Commercial WECS shall have a decommissioning plan outlining the anticipated means and cost of removing each WECS at the end of their serviceable life or upon becoming discontinued.
- c. The cost estimates associated with a decommissioning plan shall be made by a competent party; such as a professional engineer, a contractor capable of decommissioning WECS, or such other person with suitable expertise or experience with decommissioning WECS.
- d. The decommissioning plan shall identify the financial resources that will be available to pay for the decommissioning and removal of the WECS accessory facilities.
- e. Buchanan County will require financial security in the form of a cash escrow, and irrevocable letter of credit or a performance bond to ensure that decommissioning of a Commercial WECS or Non-Commercial WECS is completed as required in this procedure.

54.07 OTHER APPLICABLE STANDARDS.

- 1. Noise: The noise level measured at the property line of the property on which the WECS has been installed shall not exceed sixty (60) decibels (dBA). In the event of an alleged nuisance, Buchanan County shall request that the decibel level be determined by the Iowa Department of Natural Resources.
- 2. Electrical codes and standards: All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.
- 3. Federal Aviation Administration: All WECS shall comply with FAA standards and permits, including the Independence Municipal Airport Ordinance and Oelwein Municipal Airport Ordinance.
- 4. Uniform Building Code: All WECS shall comply with the State Building Code adopted by the State of Iowa.
- 5. Interference: The applicant(s) shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. The applicant(s) shall notify all communication tower operators within two miles of the proposed WECS location upon application to Buchanan County for permits. No WECS shall be constructed so as to interfere with Buchanan County or Iowa Department of Transportation microwave transmissions.
- 6. A WECS Permit may be revoked any time the WECS does not comply with the rules and regulations set forth in this ordinance or WECS Permit. The

revocation of the WECS Permit requires the WECS to be physically removed within one-hundred eighty (180) days.

54.08 WECS PERMIT PROCESS. All WECS Permit applications shall be approved by the Buchanan County Board of Supervisors following the standards and procedures as set forth in the Buchanan County Zoning Ordinance.

54.09 RELEASE OF LIABILITY. Buchanan County shall be fully released of any liability associated with any WECS built in unincorporated Buchanan County.

CHAPTER 55

MICROWAVE RADIO PATH ORDINANCE

55.01	Purpose	55.06	Permitting Requirement
55.02	Definitions	55.07	Review and Action by Authorities
55.03	Boundaries and Standards of District	55.08	Enforcement
55.04	Uses in Underlying Zones	55.09	Severability Clause
55.05	Noninterference Requirements	55.10	Effective Date

55.01 PURPOSE. The intent of this chapter is to protect the public health, safety, and general welfare in regard to the efficient and unobstructed flow of microwave radio communications for the Buchanan County Public Safety Radio System and other emergency responders in Buchanan County. The pathways between the radio towers must be maintained free of obstructions to provide clear communications. Effective radio communications are essential for quick response in emergency situations and for the operation of the County's public safety agencies.

55.02 DEFINITIONS.

1. "Structure" shall mean anything erected, reconstructed, altered, repaired, relocated, or portable, the use of which requires a location on a parcel of land. It includes a movable structure: it is located on land which can be used for housing, business, commercial, industrial, agricultural, or office purposes, either temporary or permanently. Structures include, but are not limited to buildings, fill areas, water towers, silos, radio and TV towers, signs and billboards, outdoor movie theater screens, and telephone poles.
2. "Microwave Path" shall mean the three-dimensional Fresnel zone or zones between transmitting and receiving microwave antennas of the Buchanan County Public Safety Radio System, as mapping by the Geographic Information Systems (GIS) Service within Buchanan County's GIS Department.
3. "Path 1" shall be the microwave radio communications path beginning at the Buchanan County Court House radio tower, known as the "Court House Site", to the County's central radio tower, known as the "Independence Site".
4. "Path 2" shall be the microwave radio communications path beginning at the Central Radio Tower, known as the "Independence Site", to the water tower located at Aurora, known as the "Aurora Site".
5. "Path 3" shall be the microwave radio communications path beginning at the water tower located at Aurora, known as the "Aurora Site", to the tower located at the Fairbank maintenance shed, known as the "Fairbank Site".

6. “Path 4” shall be the microwave radio communications path beginning at the tower located at the Fairbank maintenance shed, known as the “Fairbank Site”, to the water tower located at Jesup, known as the “Jesup Site”.
7. “Path 5” shall be the microwave radio communications path beginning at the water tower located at Jesup, known as the “Jesup Site”, to the water tower located at Rowley, known as the “Rowley Site”.
8. “Path 6” shall be the microwave radio communications path beginning at the water tower located at Rowley, known as the “Rowley Site”, to the Buchanan County Court House radio tower, known as the “Court House Site”.

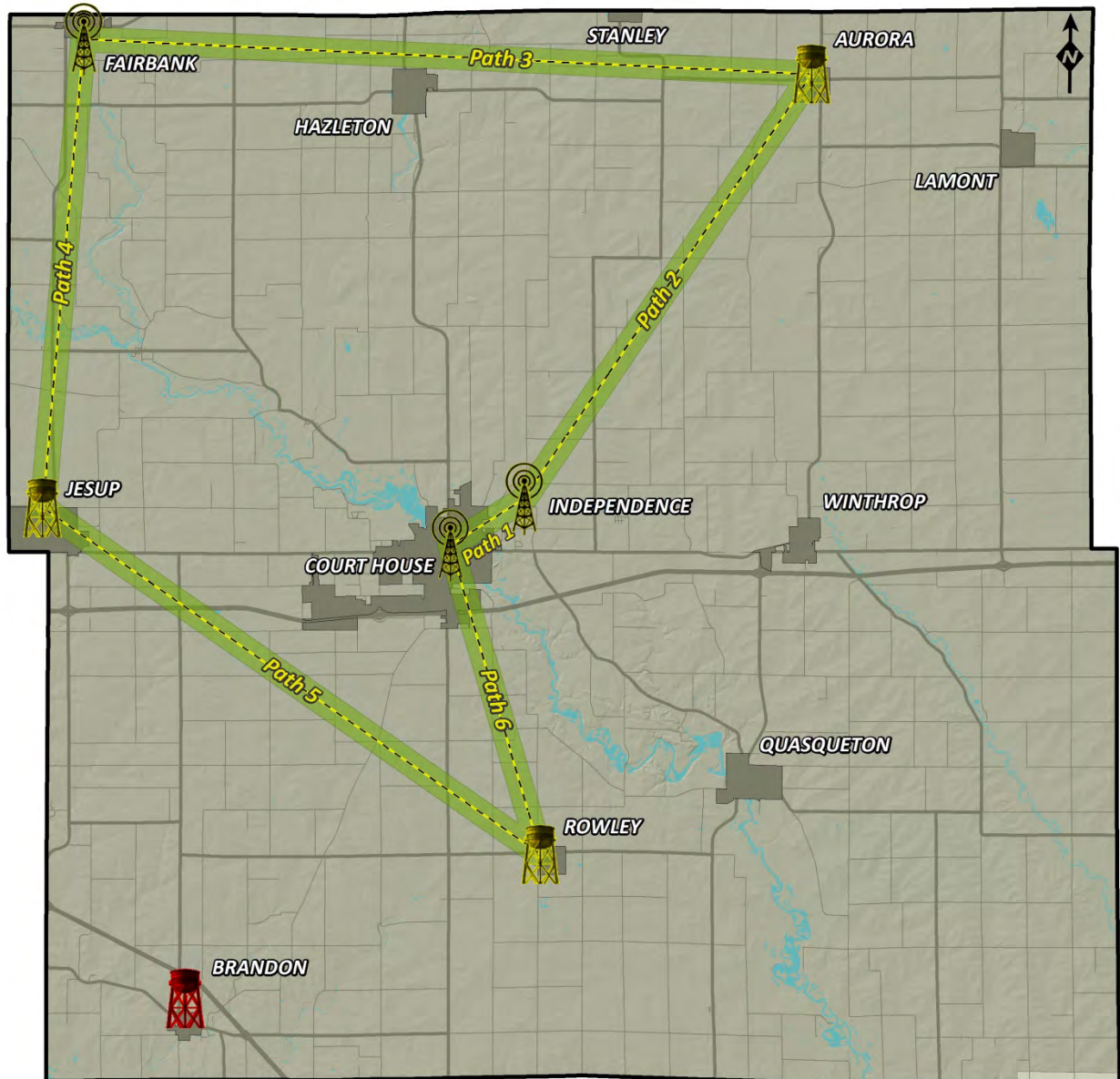
55.03 BOUNDARIES AND STANDARDS OF DISTRICT. Boundaries and standards of the overlay district are based on the “Path Study for the Buchanan County Public Safety Radio Microwave Link System.” This study is on file at the Buchanan County GIS Department. Boundaries and standards are detailed below:

1. Boundaries: The district shall encompass an area two hundred (200) feet in width stretching the entire length of each path (path locations are shown graphically on the adopted zoning maps for Buchanan County, Town of Fairbank, Town of Jesup, Town of Rowley, and City of Independence).
2. Standards: The standards of the underlying district shall apply. However, to meet the intent of this district, the following additional standards shall apply:
 1. No structure, as defined in the Zoning Chapters, Chapters 50-56, shall be constructed or erected in the Microwave Radio Path District that exceeds sixty (60) feet in height. Height of proposed structures shall be measured from the grade existing at the time of adoption of this ordinance.
 2. Structure(s) attached to existing structure(s) may not, in aggregate, exceed sixty (60) feet in height above the grade existing at the time of the adoption of this ordinance.
 3. Exceptions:
 - i. Due to path limitations, the maximum structure height for Path 2, from the Independence Site to the Aurora Site, and Path 3, from the Aurora Site to the Fairbank Site, is to be determined by their path data. For these paths, the maximum height is to be determined by the structure being 20 feet below the three-dimensional Fresnel zone or zones of the path at any location

along the path as referred to in the microwave path elevations below.

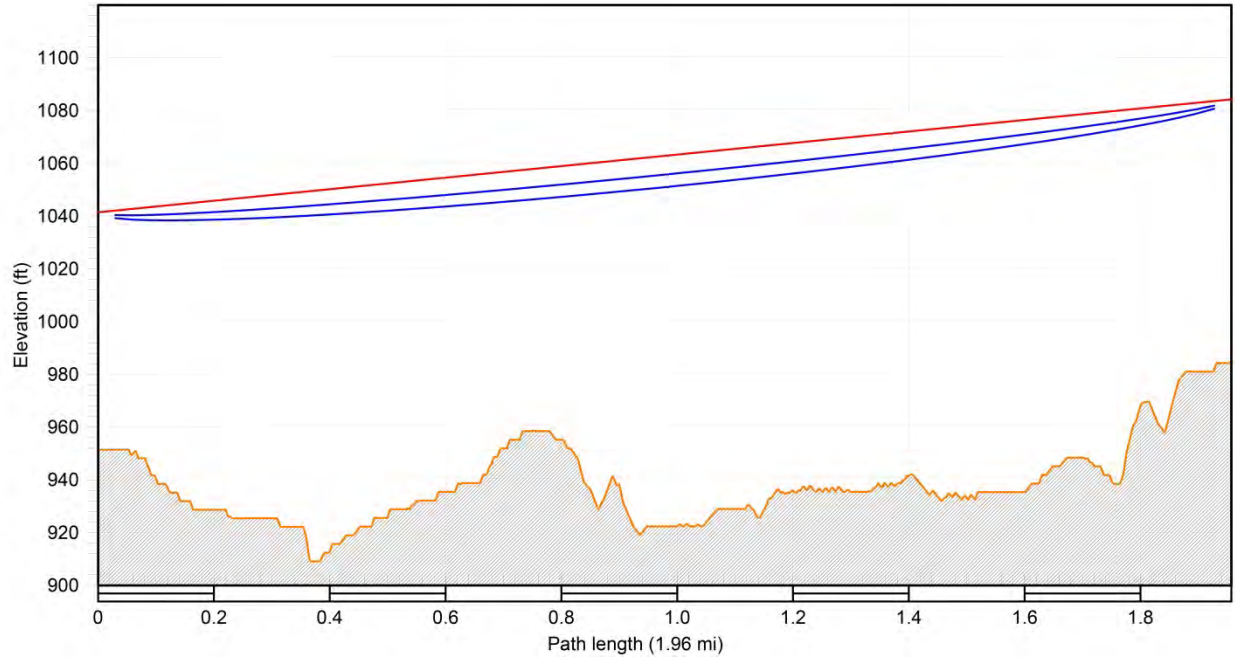
- ii. Due to variations in ground topography, a proposed structure may exceed 60 feet in height provided it does not meet or exceed the following Mean Sea Level (“AMSL”) elevations and encroach on a microwave path as referred to in the microwave path elevations below.

A map of the paths is as follows.



Note: Future paths from the Jesup water tower to Brandon and Brandon to the Rowley water tower may be required. If this path is implemented, the Jesup to Rowley path may be eliminated.

Path 1: Court House Site to Independence Site



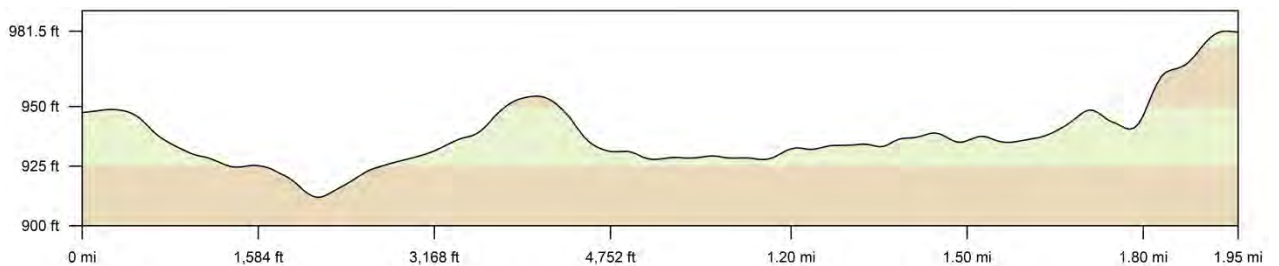
Courthouse Site

Latitude: 42° 28' 14.00" N
Longitude: 91° 53' 19.00" W
Site Elevation: 951 ft. AMSL
Antenna Height: 90.0 ft. AGL
From Antenna Diameter: 2 ft
From Antenna Beam Angle: 2°

Path Length: 1.96 miles
From Tx Freq: 17,865.0 MHz
To Tx Freq: 19,425.0 MHz

Independence Site

Latitude: 42° 29' 08.30" N
Longitude: 91° 51' 22.80" W
Site Elevation: 984 ft. AMSL
Antenna Height: 140.0 ft. AGL
To Antenna Diameter: 2 ft
To Antenna Beam Angle: 2°

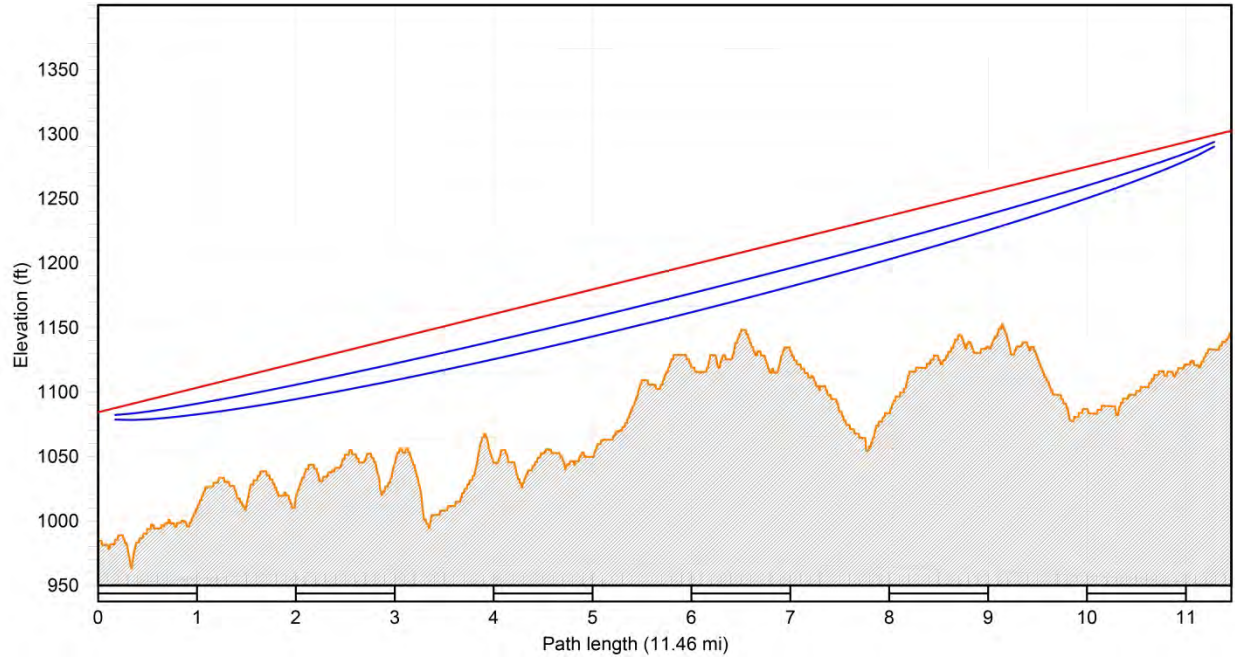


Line Distance: 1.96 mi
Climb Elevation: 116.1 ft
Climb Distance: 1.1 mi

Terr Distance: 1.96 mi
Descend Elevation: 82.4 ft
Descend Distance: 4,360 ft

Elev Gain: 33.7 ft
Min Elevation: 911.9 ft
Max Elevation: 981.5 ft

Path 2: Independence Site to Aurora Site



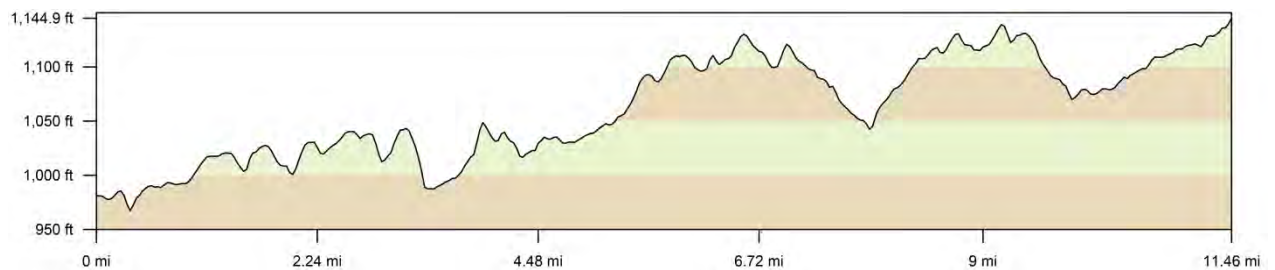
Independence Site

Latitude: 42° 29' 08.30" N
 Longitude: 91° 51' 22.80" W
 Site Elevation: 984 ft. AMSL
 Antenna Height: 100.0 ft. AGL
 From Antenna Diameter: 3 ft
 From Antenna Beam Angle: 2.1°

Path Length: 11.46 miles
 From Tx Freq: 11,345.0 MHz
 To Tx Freq: 10,855.0 MHz

Aurora Site

Latitude: 42° 37' 23.00" N
 Longitude: 91° 43' 49.00" W
 Site Elevation: 1147 ft. AMSL
 Antenna Height: 165.0 ft. AGL
 To Antenna Diameter: 3 ft
 To Antenna Beam Angle: 2.1°

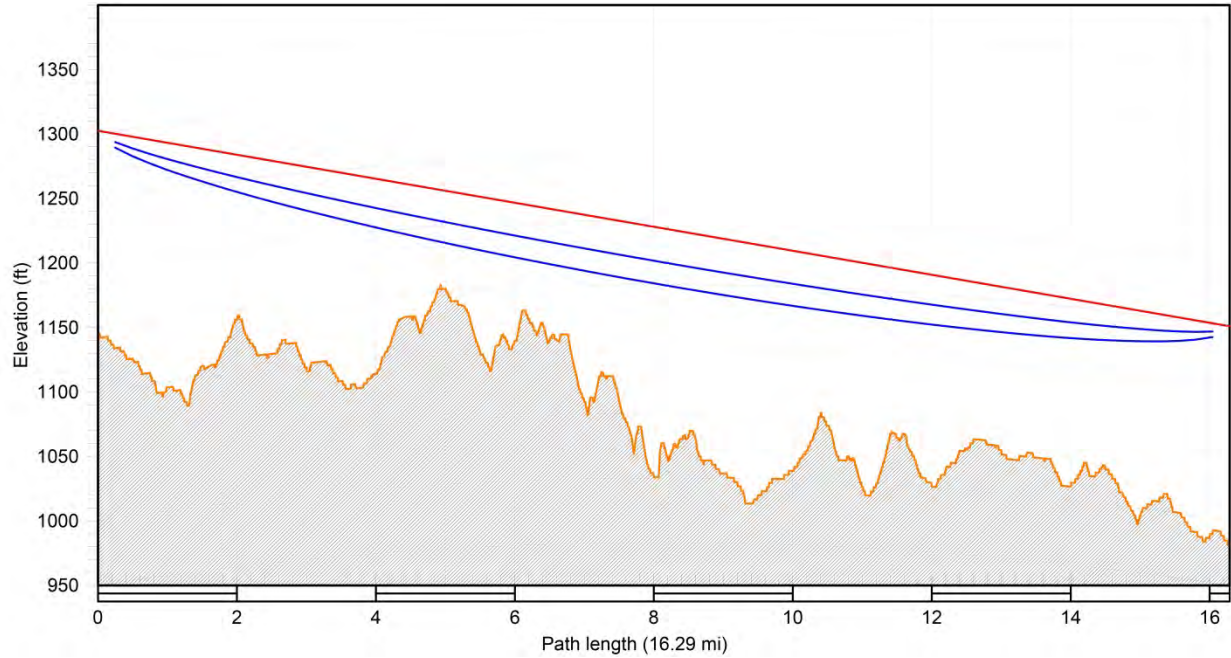


Line Distance: 11.46 mi
 Climb Elevation: 630.5 ft
 Climb Distance: 6.8 mi

Terr Distance: 11.46 mi
 Descend Elevation: 466.7 ft
 Descend Distance: 4.6 mi

Elev Gain: 163.8 ft
 Min Elevation: 967.4 ft
 Max Elevation: 1,144.9 ft

Path 3: Aurora Site to Fairbank Site



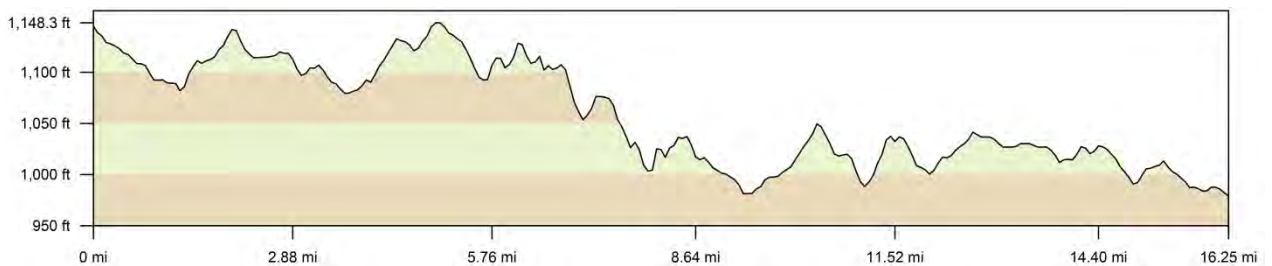
Aurora Site

Latitude: 42° 37' 23.00" N
Longitude: 91° 43' 49.00" W
Site Elevation: 1147 ft. AMSL
Antenna Height: 165.0 ft. AGL
From Antenna Diameter: 6 ft
From Antenna Beam Angle: 1.9°

Path Length: 16.29 miles
From Tx Freq: 6,093.45 MHz
To Tx Freq: 6,345.49 MHz

Fairbank Site

Latitude: 42° 38' 03.00" N
Longitude: 92° 02' 58.00" W
Site Elevation: 981 ft. AMSL
Antenna Height: 185.0 ft. AGL
To Antenna Diameter: 6 ft
To Antenna Beam Angle: 1.9°

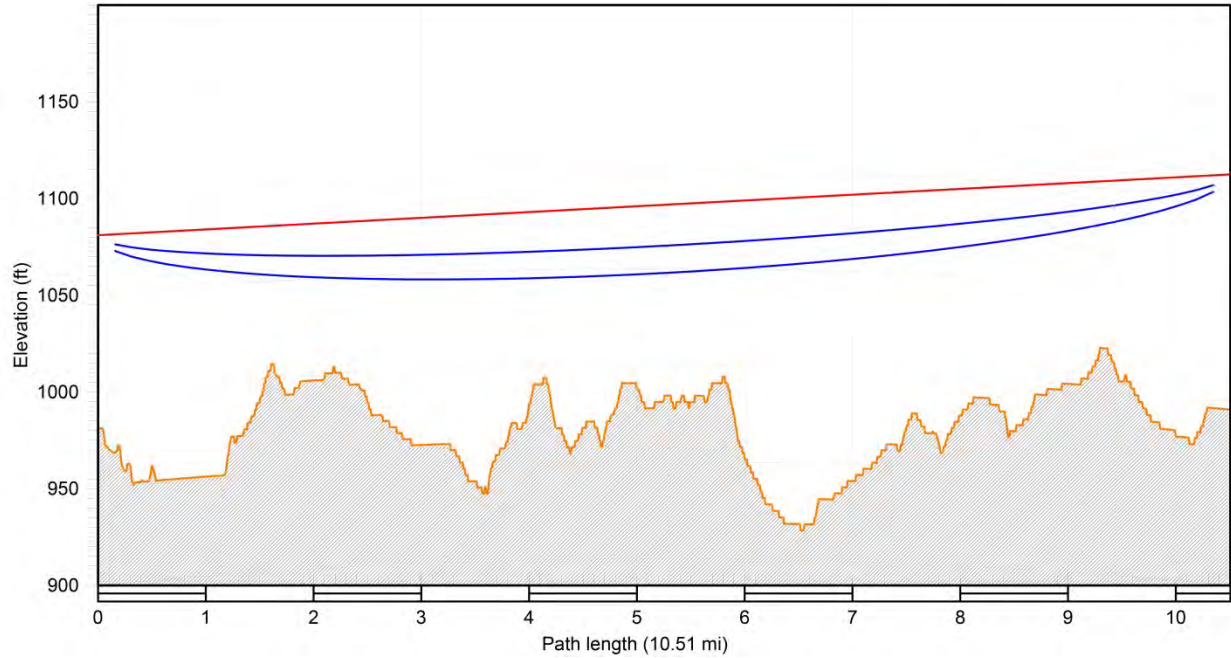


Line Distance: 16.29 mi
Climb Elevation: 514.2 ft
Climb Distance: 7.3 mi

Terr Distance: 16.29 mi
Descend Elevation: 680.0 ft
Descend Distance: 9.0 mi

Elev Gain: -165.8 ft
Min Elevation: 979.1 ft
Max Elevation: 1,148.3 ft

Path 4: Fairbank Site to Jesup Site



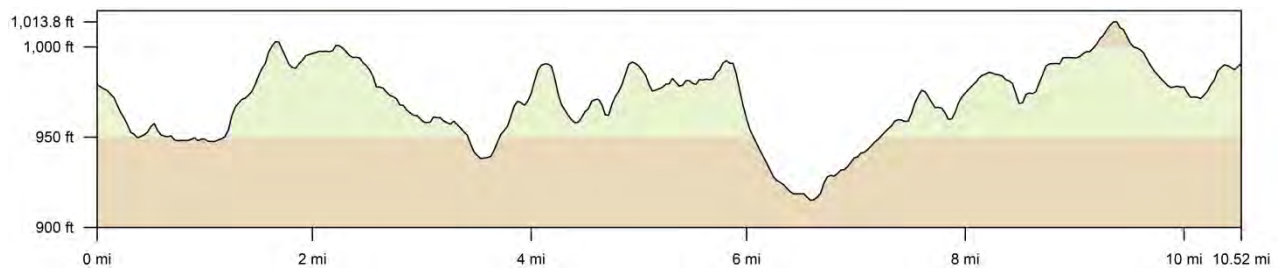
Fairbank Site

Latitude: 42° 38' 03.00" N
Longitude: 92° 02' 58.00" W
Site Elevation: 981 ft. AMSL
Antenna Height: 120.0 ft. AGL
From Antenna Diameter: 3 ft
From Antenna Beam Angle: 2.1°

Path Length: 10.51 miles
From Tx Freq: 11,305.0 MHz
To Tx Freq: 10,815.0 MHz

Jesup Site

Latitude: 42° 28' 57.00" N
Longitude: 92° 04' 00.00" W
Site Elevation: 992 ft. AMSL
Antenna Height: 120.0 ft. AGL
To Antenna Diameter: 3 ft
To Antenna Beam Angle: 2.1°

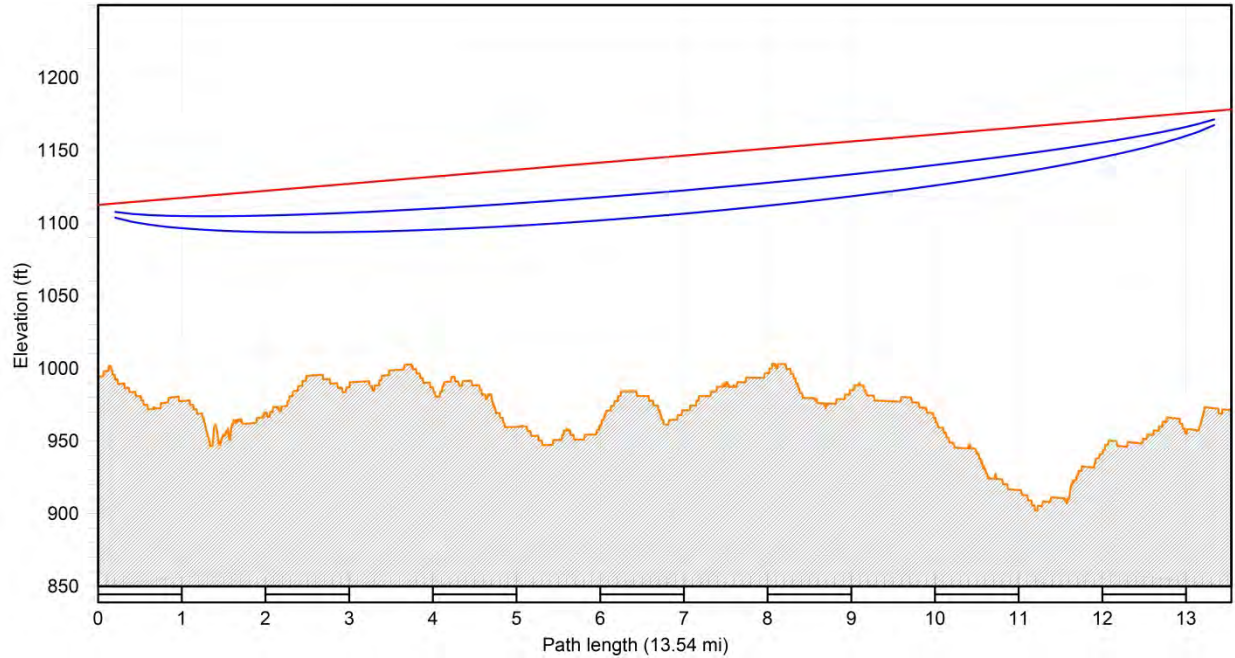


Line Distance: 10.51 mi
Climb Elevation: 362.1 ft
Climb Distance: 5.3 mi

Terr Distance: 10.51 mi
Descend Elevation: 350.3 ft
Descend Distance: 5.2 mi

Elev Gain: 11.9 ft
Min Elevation: 915.0 ft
Max Elevation: 1,013.8 ft

Path 5: Jesup Site to Rowley Site



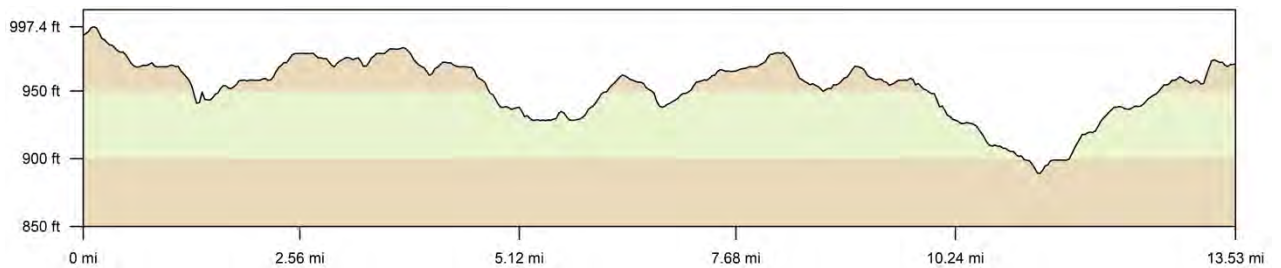
Jesup Site

Latitude: 42° 28' 57.00" N
Longitude: 92° 04' 00.00" W
Site Elevation: 992 ft. AMSL
Antenna Height: 120.0 ft. AGL
From Antenna Diameter: 6 ft
From Antenna Beam Angle: 1.9°

Rowley Site

Path Length: 13.54 miles
From Tx Freq: 6,286.19 MHz
To Tx Freq: 6,034.15 MHz

Latitude: 42° 22' 14.16" N
Longitude: 91° 50' 56.99" W
Site Elevation: 971 ft. AMSL
Antenna Height: 160.0 ft. AGL
To Antenna Diameter: 6 ft
To Antenna Beam Angle: 1.9°

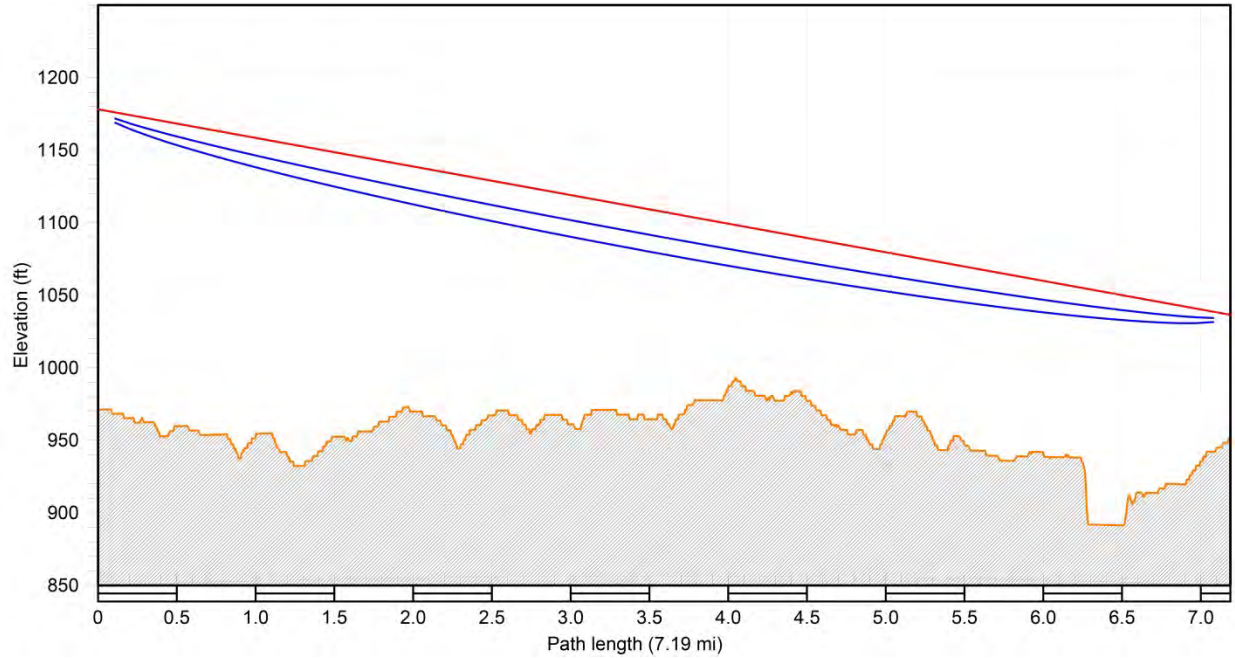


Line Distance: 13.54 mi
Climb Elevation: 304.6 ft
Climb Distance: 6.8 mi

Terr Distance: 13.54 mi
Descend Elevation: 325.5 ft
Descend Distance: 6.6 mi

Elev Gain: -20.8 ft
Min Elevation: 889.0 ft
Max Elevation: 997.4 ft

Path 6: Rowley Site to Court House Site



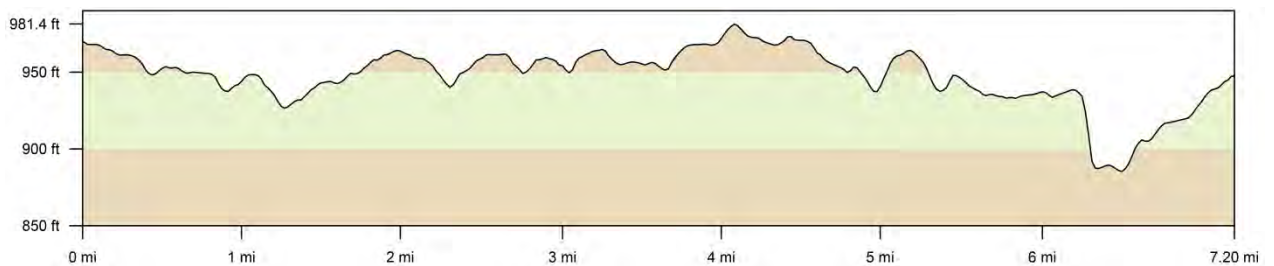
Rowley Site

Latitude: 42° 22' 14.16" N
Longitude: 91° 50' 56.99" W
Site Elevation: 971 ft. AMSL
Antenna Height: 160.0 ft. AGL
From Antenna Diameter: 2 ft
From Antenna Beam Angle: 3.4°

Path Length: 7.19 miles
From Tx Freq: 11,305.0 MHz
To Tx Freq: 10,815.0 MHz

Court House Site

Latitude: 42° 28' 14.00" N
Longitude: 91° 53' 19.00" W
Site Elevation: 951 ft. AMSL
Antenna Height: 85.0 ft. AGL
To Antenna Diameter: 2 ft
To Antenna Beam Angle: 3.4°



Line Distance: 7.19 mi
Climb Elevation: 260.7 ft
Climb Distance: 3.6 mi

Terr Distance: 7.19 mi
Descend Elevation: 283.4 ft
Descend Distance: 3.6 mi

Elev Gain: -22.7 ft
Min Elevation: 885.3 ft
Max Elevation: 981.4 ft

55.04 USES IN UNDERLYING ZONES. All principal, conditional, accessory, and nonconforming uses shall be according to the underlying districts, except that uses shall also adhere to the standards detailed in this section.

55.05 NONINTERFERENCE REQUIREMENT. Notwithstanding any provision to the contrary in the Buchanan County Code of Ordinances, or any other applicable zoning or building regulation, no application for authority, whether by building permit or by zoning authorization such as land use permit, conditional use permit, or variance, to erect a new structure that will be at least sixty (60) feet in height above ground or to increase the height of an existing structure so that it will be at least sixty (60) feet in height above ground, may be approved until and unless the requirements of this Chapter have been met.

55.06 PERMITTING REQUIREMENT. Any person or entity intending to construct, erect, or modify a Structure which is or will be at least sixty (60) feet in height above the grade existing at the time of the adoption of this ordinance, shall submit an application to the Buchanan County GIS Department for a finding of no detrimental impact prior to commencement of construction or modification. The application shall include any documentation completed for Antenna Structure Registration from the Federal Communications Commission (FCC) as well as any documentation related to an Obstruction Evaluation or Airport Airspace Analysis from the Federal Aviation Administration (FAA). A copy of the application must also be provided to the Buchanan County Zoning Department for their review and approval. Final approval will be granted by The Buchanan County Board of Supervisors at a public hearing.

55.07 REVIEW AND ACTION BY AUTHORITIES.

- A. Upon receiving an application, the Buchanan County GIS Department and other authorities identified below shall take the actions set out herein.
1. *Preliminary finding of detrimental impact or no detrimental impact.* Within ten (10) business days of receipt of application, the Buchanan County GIS Department shall make a preliminary finding on whether there may be a detrimental impact upon the Buchanan County Public Safety Radio System's microwave path or paths, and report that determination to the developer, owner, or agent who filed the application for the permit.
 - a. If the Buchanan County GIS Department reports a preliminary finding of no detrimental impact, that report shall release the Buchanan County Board of Supervisors to review the application and grant it if it meets the requirements of the applicable codes, such as the provisions in the Ordinances of Buchanan County, Iowa.
 - b. If the Buchanan County GIS Department reports a preliminary finding of possible detrimental impact, the Buchanan County GIS Department shall require the applicant to cause an engineering study to be prepared and sealed

by a licensed engineer and submitted to the Buchanan County GIS Department to confirm whether the structure will have a detrimental impact upon the system's microwave path or paths and, if so, the extent of that impact.

2. *Finding of detrimental impact or no detrimental impact.* Upon receipt of that engineering study, the Buchanan County GIS Department shall review it and any other relevant evidence available to the GIS Department and, as soon as practicable, make a finding of whether a detrimental impact exists, and report that finding to the Buchanan County Building Department, Buchanan County E-911 Executive Board, and the Buchanan County Zoning Department, with a copy to the developer, owner, or agent who filed the application for the permit.
 - a. If the Buchanan County GIS Department reports a finding of no detrimental impact, that report shall release the Buchanan County Board of Supervisors to review the application and grant it if it meets the requirements of the applicable codes in the Ordinances of Buchanan County, Iowa.
 - b. If the Buchanan County GIS Department reports a finding of detrimental impact, the other Buchanan County Board of Supervisors shall, in consultation with the Buchanan County GIS Department, work with the applicant to mitigate that detrimental impact. To do so, the applicant may (i) redesign and/or relocate the structure to eliminate its detrimental impact or (ii) negotiate with the County to design, engineer, and install (using a contractor approved by the County) any or all additional equipment or modifications necessary to eliminate that detrimental impact. A negotiated mitigation shall include posting of a performance guarantee ensuring design and installation of that equipment and conveyance of that equipment along with all necessary easements for access to and maintenance of that equipment to the County.

55.08 ENFORCEMENT. Violation of this ordinance is a County infraction under Iowa Code Section 331.307, punishable by a civil penalty of not more than \$750 for each violation. Each day of noncompliance may be deemed as a separate offense. In addition, the County may avail itself of alternative relief, as authorized by Section 331.307(8) and 331.307(9). Officials of

55.09 SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

55.10 EFFECTIVE DATE. This ordinance shall become effective sixty (60) days from adoption by the Buchanan County Board of Supervisors.

Adopted by the Board of Supervisors on February 22, 2016, Effective April 22, 2016.