

HENRY COUNTY CODE OF ORDINANCES

2019

**CODIFIED BY:     JOSEPH BUFFINGTON**  
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**MOUNT PLEASANT, IOWA 52641**

# TABLE OF CONTENTS

<b>TITLE I ORGANIZATION AND STRUCTURE .....</b>	<b>1</b>
CHAPTER 1 ORDINANCE ADOPTION PROCEDURE .....	1
CHAPTER 2 GENERAL PROVISIONS REPEALED (RESERVED) .....	8
CHAPTER 3 LOCAL OPTION TAX .....	9
(CITY OF WAYLAND AND UNINCORPORATED AREAS OF HENRY COUNTY) .....	9
CHAPTER 4 LOCAL OPTION SALES AND SERVICE TAX .....	11
(CITIES OF MOUNT PLEASANT, NEW LONDON, COPPOCK, HILLSBORO, MOUNT UNION, OLDS, ROME, SALEM, WESTWOOD AND WINFIELD) .....	11
CHAPTER 5 VOTING PRECINCTS .....	13
CHAPTER 6 CEMETERY ORDINANCE .....	16
CHAPTER 7 STANDARD PENALTIES .....	19
<b>TITLE II PUBLIC SERVICES .....</b>	<b>21</b>
CHAPTER 1 UCC FEES REPEALED (RESERVED) .....	21
<b>TITLE III BUSINESS AND OCCUPATIONS (RESERVED) .....</b>	<b>22</b>
<b>TITLE IV STREETS, ROADS, PUBLIC WAYS AND TRANSPORTATION .....</b>	<b>23</b>
CHAPTER 1 E911 RURAL ADDRESS SYSTEM .....	23
CHAPTER 2 CLEARANCE OF SNOW OR ICE ON SECONDARY ROADS .....	29
CHAPTER 3 CONSTRUCTION AND RECONSTRUCTION OF ROADWAYS AND BRIDGES .....	34
<b>TITLE V PUBLIC ORDER, SAFETY AND HEALTH .....</b>	<b>37</b>
CHAPTER 1 NONPUBLIC WATER WELLS .....	37
CHAPTER 2 ONSITE WASTEWATER TREATMENT AND DISPOSAL SYSTEMS .....	41
CHAPTER 3 HAZARDOUS WASTE REPEALED (RESERVED) .....	47
CHAPTER 4 SOCIAL HOST .....	48
CHAPTER 5 TRASH COLLECTION .....	53
CHAPTER 6 COLLECT DELINQUENT ACCOUNTS HENRY COUNTY, IOWA .....	57
CHAPTER 7 COLLECT DELINQUENT ACCOUNTS HENRY COUNTY, IOWA .....	59
<b>TITLE VI PROPERTY AND LAND USE .....</b>	<b>61</b>
CHAPTER 1 SUBDIVISION ORDINANCE .....	61
CHAPTER 2 ZONING ORDINANCE .....	95
CHAPTER 3 AIRPORT ZONING ORDINANCE .....	139

CHAPTER 4 ALTERNATIVE ASSESSMENT OF WIND ENERGY CONVERSION PROPERTY.....	151
<b>TITLE VII SOCIAL AND HUMAN SERVICES.....</b>	<b>154</b>
CHAPTER 1 GENERAL RELIEF .....	154
CHAPTER 2 VETERAN AFFAIRS GENERAL ASSISTANCE REPEALED (RESERVED).....	175
<b>TITLE VIII CULTURE, EDUCATION AND RECREATION (RESERVED).....</b>	<b>176</b>
<b>TITLE IX FRANCHISES (RESERVED).....</b>	<b>177</b>
<b>TITLE X ADMINISTRATION.....</b>	<b>178</b>
CHAPTER 1 RECODIFICATION .....	178

## TITLE I ORGANIZATION AND STRUCTURE

### CHAPTER 1 ORDINANCE ADOPTION PROCEDURE

#### 1-1-1 PURPOSE

#### 1-1-2 DEFINITIONS

#### 1-1-3 GENERAL POWERS

#### 1-1-4 RULES OF CONSTRUCTION

#### 1-1-5 AMENDMENTS

#### 1-1-6 EFFECTIVE DATE OF ORDINANCE

#### 1-1-7 COUNTY AUDITOR

#### 1-1-8 CATCH LINES AND NOTES

#### 1-1-9 ALTERING CODE

#### 1-1-10 EXTENSION OF AUTHORITY

#### 1-1-11 RIGHT OF ENTRY

#### 1-1-12 MAINTAINING CODE OF ORDINANCES

#### 1-1-13 COUNTY ORDINANCE BOOK

#### 1-1-14 COPIES OF CODE

#### 1-1-15 SEVERABILITY

**1-1-1 PURPOSE.** The purpose of this ordinance is to compile the Henry County Code of Ordinances as referred by Iowa Code Chapter 331 in a manner that preserves the rights, privileges, and property of the county and its residents and promotes the public safety, convenience, and general welfare of Henry County, Iowa.

**1-1-2 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 Henry County, Iowa.
2. "Auditor" shall mean the County Auditor of Henry County, Iowa.
3. "Board," "Board of Supervisors," or "Supervisors" shall mean the Board of Supervisors of Henry County, Iowa.
4. "Board of Health" shall mean the Board of Health of Henry 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 Henry County, Iowa.
7. "County" shall mean the County of Henry, Iowa.
8. "County Attorney" shall mean the Henry County Attorney.

9. "County Engineer" shall mean the Henry 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 Henry 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. "Real property" includes lands, tenements and hereditaments.
23. "Recorder" shall mean the County Recorder of Henry County, Iowa.

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" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this County which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state and shall also 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. "Tenant" and "occupant" applied to a building or land, includes any person who occupies whole or a part of such building or land, whether alone or with others.

28. "Title of Office". Use of the title of any officer, employee, board or commission means that officer, employee, department, board or commission of the County;

29. "Writing" or "written" shall include printing, typing, lithographing, or other mode of representing words and letters.

30. "Year" shall mean a calendar year.

All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such other as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

**1-1-3 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)

**1-1-4 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.

**1-1-5 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])

**1-1-6 EFFECTIVE DATE OF AN ORDINANCE.** Upon final passage of an ordinance or amendment to an existing ordinance or code and upon a majority of the Board of Supervisors signing the ordinance, or the amendment to the existing ordinance, it will become effective upon publication, unless a subsequent effective date is provided within the ordinance or amendment.

**1-1-7 COUNTY AUDITOR.** The county auditor shall:

1. Promptly record each ordinance, or amendment to an existing ordinance, code, section or subsection passed by the Board with a statement of how the members of the Board voted.
2. Publish all proposed ordinances and all amendments in the manner required by the Code of Iowa, as amended, and by the ordinances of Henry County in at least one newspaper having general circulation within the county.
3. Authenticate all ordinances with his/her signature and certification as to the time and manner of publication. The county auditor's certification is presumptive evidence of the facts stated therein.
4. Maintain for public use copies of all effective county ordinances and codes.

**1-1-8 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.

**1-1-9 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)

**1-1-10 EXTENSION OF AUTHORITY.** When an act is required by an Ordinance the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed as to include all such acts performed by an authorized agent.

**1-1-11 RIGHT OF ENTRY.** Whenever necessary to make an inspection to enforce any Ordinance, or whenever there is reasonable cause to believe that there exists an Ordinance violation in any building or upon any premises within the jurisdiction of the County, any authorized official of the County may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same and to perform any duty imposed upon such official by Ordinance; provided that, except in emergency situations, such official shall first give the owner and/or occupant, if they can be located after reasonable effort, twenty-four (24) hour written notice of the authorized official's intention to inspect. In the event the owner and/or occupant refuses entry, the official is empowered to seek assistance from any court or competent jurisdiction in obtaining such entry.

**1-1-12 MAINTAINING CODE OF ORDINANCES.**

1. At least once every five years, the board shall compile a code of ordinances containing all the county ordinances in effect.

a. If a proposed code of ordinances contains only existing ordinances edited and compiled without change in substance, the board may adopt the code by ordinance.

b. If a proposed code of ordinances contains a proposed new ordinance or amendment, the board shall hold a public hearing on the proposed code before adoption. The auditor shall publish notice of the hearing as provided in Code of Iowa section 331.305. Copies of the proposed code of ordinances shall be available at the auditor's office and the notice shall so state. Within thirty days after the hearing, the board may adopt the proposed code of ordinances which becomes law upon publication of the ordinance adopting it. If the board substantially amends the proposed code of ordinances after a hearing, notice and hearing shall be repeated.

2. Ordinances and amendments which become effective after adoption of a code of ordinances may be compiled as a supplement to the code, and upon adoption of the supplement by resolution, become part of the code of ordinances.



3. An adopted code of ordinances is presumptive evidence of the passage, publication, and content of the ordinances therein as of the date of the auditor's certification of the ordinance adopting the code or supplement.

(Code of Iowa, Sec. 331.302 [10])

**1-1-13 COUNTY ORDINANCE BOOK.** All ordinances adopted by the Board of Supervisors shall be maintained in a separate book known as the Henry County Ordinance Book. The county attorney, the county sheriff, the magistrate's office, the county auditor and the Board of Supervisors shall maintain a copy of the Ordinance Book in each respective office. The county auditor shall provide final copies of each ordinance or amendment thereto to each office for placement in the County Ordinance Book maintained in each office.

Upon the request of any other county officer, the county auditor will provide a copy of the Ordinance Book to that office which copy will be maintained in the same manner as the copies in the office of the county auditor are maintained.

**1-1-14 COPIES OF CODE.**

1. The Board of Supervisors by resolution will set the fee which persons must pay for copies of all or part of the Henry County ordinances.

2. The County Auditor will provide one free copy of the County Ordinance Book to each incorporated municipality and each public library within the limits of Henry County which requests a copy of the ordinance book. The County Auditor also shall provide free copies of any changes or additions to the ordinances to each municipality and library that received a copy of the county ordinance book.

**1-1-15 SEVERABILITY.** If any section, provision, or part of the Code of Ordinances is adjudged invalid or unconstitutional, such adjudication will not affect the validity of the Code of Ordinances as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**ARTICLE 4. WHEN EFFECTIVE.** This ordinance shall be in effect after its final passage, approval and publication as provided for by law.

FIRST READING on its first consideration on the 17<sup>TH</sup> day of January 2019.

SECOND READING on its second consideration on the 22<sup>nd</sup> day of January 2019.

PASSAGE AND ADOPTION on the 24<sup>th</sup> day of January 2019.

APPROVED this 24<sup>th</sup> day of January 2019.

HENRY COUNTY BOARD OF SUPERVISORS

Attest:

Aye: \_\_\_\_\_  
Greg Moeller, Chairman

Aye: \_\_\_\_\_

Shelly Barber, Henry County Auditor

Marc B. Lindeen, Supervisor

Aye: \_\_\_\_\_  
Gary K. See, Supervisor

I certify that the foregoing was published on the \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Shelly Barber, Henry County Auditor

**Book 2019 Page 0407**

**TITLE I ORGANIZATION AND STRUCTURE**

**CHAPTER 2 GENERAL PROVISIONS REPEALED (RESERVED)**

See Title 1 Chapter 1

## TITLE I ORGANIZATION AND STRUCTURE

### CHAPTER 3 LOCAL OPTION TAX (CITY OF WAYLAND AND UNINCORPORATED AREAS OF HENRY COUNTY)

#### 1-3-1 LOCAL OPTION SALES AND SERVICE TAX

#### 1-3-2 EFFECTIVE DATE

An Ordinance establishing a local option sales and service tax applicable to transactions within the City of Wayland and the unincorporated areas of Henry County, Iowa.

Be it enacted by the Board of Supervisors of Henry County, Iowa;

**1-3-1 Local Option Sales and Services Tax.** There is imposed a local option sales and service tax applicable to transactions within the City of Wayland and the unincorporated areas of Henry County, Iowa.

The rate of the tax shall be 1% (one percent) upon gross receipts taxed under Chapter 422, Division IV, of the Iowa Code in the City of Wayland and the unincorporated areas of Henry County, Iowa.

The local sales and services tax is imposed on transactions occurring on or after January 1, 1996 within the City of Wayland and the unincorporated areas of Henry County. The tax shall be collected by all persons required to collect state gross receipts taxes. However, the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in Chapter 324 of the Iowa Code, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under Chapter 422A of the Iowa Code during the period the hotel and motel tax is imposed, on the gross receipts from the sale of natural gas or electric energy in a city or county where the gross receipts are subject to a franchise fee or user fee during the period the franchise or user fee is imposed, on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to Chapter 99E of the Iowa Code, and on the sale of rental or tangible personal property described in Section 422.45, subsections 26 and 27 of the Iowa Code.

All applicable provisions of the appropriate sections of Chapter 422, Division IV, of the Iowa Code are adopted by reference.

**1-3-2 Effective Date.** This ordinance shall be in effect after its final passage, approval and publication as provided by law.

Passed by the Board of Supervisors this 28<sup>th</sup> day of September, 1995.

/s/ Fred Strothman  
Fred Strothman, Chairman

/s/ Roger Tweedy  
Roger Tweedy, Vice-Chairman

/s/ Mike Hampton  
Mike Hampton, Board Member

Attest:

/s/ Carol McCulley  
Carol McCulley, Henry County Auditor  
and Commissioner of Elections

Recorded September 29, 1995  
Book 643 Page 1

**TITLE I ORGANIZATION AND STRUCTURE**  
**CHAPTER 4 LOCAL OPTION SALES AND SERVICE TAX**  
**(CITIES OF MOUNT PLEASANT, NEW LONDON, COPPOCK, HILLSBORO, MOUNT UNION, OLDS,**  
**ROME, SALEM, WESTWOOD AND WINFIELD)**

**1-4-1 LOCAL OPTION SALES AND SERVICE TAX**

**1-4-2 EFFECTIVE DATE**

An Ordinance establishing a local option sales and service tax applicable to transactions within the incorporated areas of the Cities of Mt. Pleasant, New London, Coppock, Hillsboro, Mt. Union, Olds, Rome, Salem, Westwood and Winfield, Iowa.

Be It Enacted by the Board of Supervisors of Henry County, Iowa:

**1-4-1 Local Option Sales and Services, Tax.** There is imposed a local option sales and services tax applicable to transactions within the incorporated areas of the Cities of Mt. Pleasant, New London, Coppock, Hillsboro, Mt. Union, Olds, Rome, Salem, Westwood and Winfield, Iowa.

The rate of the tax shall be 1% (one percent) upon the: gross receipts taxed under Chapter 422, Division IV, of the Iowa Code in the following Cities of Mt. Pleasant, New London, Coppock, Hillsboro, Mt. Union, Olds, Rome, Salem, Westwood and Winfield, Iowa.

The local sales and services tax is imposed on transactions occurring on or after October 1, 1995 within the incorporated areas of the Cities of Mt. Pleasant, New London, Coppock, Hillsboro, Mt. Union, Olds, Rome, Salem, Westwood and Winfield, Iowa. The tax shall be collected by all persons required to collect state gross receipts taxes. However, the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in Chapter 324 of the Iowa Code, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under Chapter 422A of the Iowa Code during the period the hotel and motel tax is imposed, on the gross receipts from the sale of natural gas or electric energy in a city or county where the gross receipts are subject to a franchise fee or user fee during the period the franchise or user fee is imposed, on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to Chapter 99E of the Iowa Code, and on the sale or rental of tangible personal property described in Section 422.45, subsections 26 and 27 of the Iowa Code.

All applicable provisions of the appropriate sections of Chapter 422, Division IV,

of the Iowa Code are adopted by reference.

**1-4-2 Effective Date.** This ordinance shall be in effect after its final passage, approval and publication as provided by law.

Passed by the Board of Supervisors on this 15th day of June, 1995.

/s/ Fred Strothman, Chairman  
/s/ Roger Tweedy, Vice-Chairman  
/s/ Mike Hampton, Board Member

Attest:

/s/ Carol McCulley, Henry County Auditor and Commissioner of Elections

Recorded June 15, 1995

Book 635 Page 338

**TITLE I ORGANIZATION AND STRUCTURE  
CHAPTER 5 VOTING PRECINCTS**

**1-5-1 PURPOSE**

**1-5-2 DEFINITIONS**

**1-5-3 BOUNDARIES OF VOTING  
PRECINCTS**

**1-5-4 REPEALER**

**1-5-5 SEVERABILITY CLAUSE**

**1-5-6 WHEN EFFECTIVE**

TITLE: Voting Precinct Ordinance for Henry County, Iowa.

Be It Enacted by the Board of Supervisors of Henry County, Iowa:

**1-5-1 Purpose.** The purpose of this ordinance is to establish voting precincts for Henry County, as required by Chapter 49.4, Code of Iowa.

**1-5-2 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 for casting and counting votes in elections.
2. "Township shall mean a civil and political subdivision of the county.

**1-5-3 Boundaries of Voting Precincts.** Henry County shall have nine (9) voting precincts, in addition to an absentee voting precinct as required by law, whose boundaries shall be as follows:

Precinct 1 – Jefferson Township to include the incorporated cities of Wayland, Olds, and the portion of Coppock within Henry County; that part of Wayne Township residents living west of James Avenue to 140<sup>th</sup> Street, east to highway 218, south to the township line.

Precinct 2 – Canaan and Scott townships to include the incorporated cities of Winfield and Mt. Union; that part of Wayne Township residents living east of James Avenue to 140<sup>th</sup> Street, east to highway 218, south to the township line.

Precinct 3 – Trenton, Tippecanoe, Marion, and Center Townships (excluding the portion of Center Township within Mt. Pleasant’s corporate boundaries) to include the cities of Rome and Westwood.

Precinct 4 – Mount Pleasant 1: Mount Pleasant Precinct 1 as defined by city ordinance and census blocks 190879704003008 and 190879704003042 in Center Township.



Precinct 5 – Mount Pleasant 2: Mount Pleasant Precinct 2 as defined by city ordinance and census blocks 190879703003025, 190879703003023, 190879703003032, 190879703003033, 190879703003034, 190879703003094, 190879703003099, 190879703002018, and 190879703003037 in Center Township.

Precinct 6 – Mount Pleasant 3: Mount Pleasant Precinct 3 as defined by city ordinance.

Precinct 7 – Mount Pleasant 4: Mount Pleasant Precinct 4 as defined by city ordinance and census blocks 190879704002026 and 190879704002027 in Center Township.

Precinct 8 – Salem and Jackson Townships to include the incorporated cities of Salem and Hillsboro.

Precinct 9 – Baltimore and New London Townships to include the incorporated city of New London.

**1-5-4 Repealer.** All other ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**1-5-5 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 part thereof not adjudged invalid or unconstitutional.

**1-5-6 When Effective.** This ordinance shall be in effect after its final passage, approval, and publication as provided by law.

PASSED on its first consideration on the 27th day of November, 2001.

PASSED on its second consideration on the 4th day of December, 2001.

FINAL Passage and Adoption on the 6th day of December, 2001.

Approved on this 6th day of December, 2001.

/s/ Gary K. See

Gary K. See, Chairman

/s/ Stan Young

Stan Young, Vice-Chairman

/s/ Marc B. Lindeen

Marc Lindeen, Member

Attest: /s/ Carol McCulley  
Carol McCulley, Henry County Auditor

I, Carol McCulley, Auditor of Henry County, Iowa, do hereby certify that the foregoing Ordinance was published as required by law on the 13th day of December, 2001, in the Mt. Pleasant News, New London Journal811d Winfield Beacon.

/s/ Carol McCulley  
Carol McCulley, Henry County Auditor

Recorded: Book 2012 Page 461

## TITLE I ORGANIZATION AND STRUCTURE

### CHAPTER 6 CEMETERY ORDINANCE

#### 1-6-1 TITLE

#### 1-6-2 ASSUMPTION OF JURISDICTION AND CONTROL OF PIONEER CEMETERIES

#### 1-6-3 MANAGEMENT OF THE CEMETERIES

#### 1-6-4 CEMETERY COMMISSION ORGANIZATION

#### 1-6-5 COUNTY LEVIES, FUNDS, BUDGETS, AND EXPENDITURES

#### 1-6-6 WHEN EFFECTIVE

WHEREAS, after notice was given and published as required by law, the adoption of this ordinance entitled HENRY COUNTY CEMETERIES ORDINANCE was considered for passage by the Henry County Board of Supervisors on the following dates:

1<sup>st</sup> Reading: 18<sup>th</sup> day of February, 1999 at 10:00 a.m.

2<sup>nd</sup> Reading:    day of Waived, 199   at 10:00 a.m.

3<sup>rd</sup> Reading:    day of Waived, 199   at 10:00 a.m.

WHEREAS the requirement for any additional consideration and vote before final passage of the amendment is hereby waived as provided for by Iowa Code section 331.302(5);

WHEREAS the county board of supervisors has the responsibility for controlling weeds growing in abandoned cemeteries pursuant to Chapter 317, Code of Iowa, (or protection and preservation of burial sites within its jurisdiction pursuant to Chapter 566, Code of Iowa, and may assume jurisdiction and control of pioneer cemeteries in the county pursuant to Iowa Code section 331.325;

WHEREAS the county board of supervisors finds that a cemetery commission should be created pursuant to Iowa Code section 331.325(3) to assume jurisdiction and management of the pioneer cemeteries in the county; and

WHEREAS the proposed ordinance was considered and voted on for passage and final approval on this 18<sup>th</sup> day of February, 1999

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF HENRY COUNTY, IOWA AS FOLLOWS:

**1-6-1 TITLE.** This Ordinance shall be known and may be cited and referred to as HENRY COUNTY CEMETERIES ORDINANCE.

## **1-6-2 ASSUMPTION OF JURISDICTION AND CONTROL OF PIONEER CEMETERIES**

Pursuant to Iowa Code section 331.325, commencing on the 18<sup>th</sup> day of February, 1999 the County Board of Supervisors for Henry County, Iowa shall assume jurisdiction and control of pioneer cemeteries in the county and with respect to pioneer cemeteries shall exercise the powers and duties of township trustees relating to the maintenance and repair of cemeteries as provided in sections 359.28 through 359.41.

### **1-6-1 MANAGEMENT OF THE CEMETERIES.**

**1-6-3-1** The Henry County Board of Supervisors or its designee and the Henry County Auditor shall comply with Iowa Code Chapter 566 and other applicable laws and regulations of the State of Iowa with respect to cemetery management, the management of funds donated, bequeathed, or which have been otherwise set aside for care and improvement of cemeteries, and for the protection, preservation, maintenance, and repair of cemeteries and burial sites which are within the jurisdiction of the county board of supervisors.

**1-6-3-2** Pursuant to Iowa Code section 331.325(3) a cemetery commission, hereafter referred to as the commission, is created by the Board of Supervisors. The commission shall assume jurisdiction and management of the pioneer cemeteries in Henry County. The Board of Supervisors delegates to the commission the duties and responsibilities of the Board of Supervisors for management of pioneer cemeteries in Henry County and for the protection and preservation of burial sites within the county's jurisdiction.

**1-6-3-3** The weed commissioner appointed by the Board of Supervisors for Henry County shall control weeds growing in abandoned cemeteries as provided for pursuant to Chapter 317, Code of Iowa.

### **1-6-4 CEMETERY COMMISSION ORGANIZATION**

**1-6-4-1** The commission shall consist of nine persons, residents of Henry County, Iowa, appointed by the Board of Supervisors, as follows: three members for a term expiring December 31, 1999; three members for a term expiring December 31, 2000; and three members for a term expiring December 31, 2001. Their successors shall be appointed for a term of three years, and all appointments to fill vacancies shall be for the remainder of the unexpired term.

**1-6-4-2** The commission shall select a chairperson, vice-chairperson, clerk, and such other offices as the commission shall deem necessary.

**1-6-4-3** The commission shall have authority to establish such rules and regulations governing its organization and procedure as it shall deem necessary.

**1-6-4-4** By January 31 of each year, the commission shall submit to the County Auditor for approval by the Board of Supervisors a proposed budget for the following fiscal year,

to include the amount of available funds and proposed expenditures.

**1-6-4-5** The commission may enter into an agreement with a public or private organization interested in historical preservation to delegate to the organization the responsibility for the protection and preservation of any burial site or sites as provided for pursuant to Iowa Code section 566.33.

**1-6-4-6** Records of proceedings, receipt and custody of funds, receipts of money, gifts and donations, and disbursements for the commission shall be maintained by the commission, commission's clerk, and county officers, and shall be subject to audit, in the same manner as set forth for townships pursuant to Iowa Code chapter 359 and as may otherwise be provided for by law.

**1-6-4-7** The commission shall serve at the will, discretion, and under the direction and control of the Henry County Board of Supervisors. The Board of Supervisors shall fix the compensation of the members, and officers of the commission and any persons employed to assist the cemetery commission.

**1-6-5 COUNTY LEVIES, FUNDS, BUDGETS, AND EXPENDITURES**

**1-6-5-1** Pursuant to Iowa Code section 331.325(4), the costs of management, repair, and maintenance of pioneer cemeteries shall be paid from the county general fund.

**1-6-5-2** Costs of control of weeds growing in abandoned cemeteries shall be paid, assessed, and recovered by the county as provided for by Iowa Code chapter 317.

**1-6-5-3** The county board of supervisors may levy taxes as provided by Iowa Code sections 331.402 and 331.424B and as may otherwise be provided for by law to pay for the cost of protection, preservation, maintenance and repair of cemeteries and burial sites as provided for herein.

**1-6-6 WHEN EFFECTIVE.**

**1-6-6-1** This ordinance shall be effective from and after the date of its adoption and publication as required by law.

Approved this 18<sup>th</sup> day of February, 1999

Attest:

/s/Carol McCulley

Carol McCulley

Henry County Auditor

HENRY COUNTY BOARD OF SUPERVISORS

Aye: /s/ Gary K. See

Aye: /s/ Marc Lindeen

Aye: /s/ Roger L. Beckman

I certify that the foregoing was published on the 8<sup>th</sup> day of March, 1999

/s/ Carol McCulley

Carol McCulley, Henry County Auditor

Recorded Book 751 Page 287

## TITLE I ORGANIZATION AND STRUCTURE

### CHAPTER 7 STANDARD PENALTIES

#### 1-7-1 TITLE

#### 1-7-2 STANDARD PENALTY

#### 1-7-3 COUNTY INFRACTIONS

#### 1-7-4 SAVINGS CLAUSE

#### 1-7-5 WHEN EFFECTIVE

**1-7-1 TITLE:** AN ORDINANCE ADOPTING STANDARD PENALTIES FOR VIOLATIONS OF THE HENRY COUNTY, IOWA CODE OF ORDINANCES, TITLE 1 CHAPTER 7 AND ALL AMENDMENTS THERETO, HENRY COUNTY, IOWA.

BE IT ENACTED by the Board of Supervisors of HENRY County, Iowa:

**1-7-2. STANDARD PENALTY.** Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least \$65.00 but not to exceed \$625.00. The court may order imprisonment not to exceed 30 days in lieu of a fine or in addition to a fine.

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

**1-7-3. COUNTY INFRACTIONS.** A violation of this Code of Ordinances or any ordinance or code herein adopted by reference or the omission or failure to perform any act or duty required by the same, with the exception of those provisions specifically provided under State law as a felony, an aggravated misdemeanor, or a serious misdemeanor, or a simple misdemeanor under Chapters 687 through 747 of the *Code of Iowa*, is a county infraction punishable by civil penalty as provided herein.

*(Code of Iowa, Sec. 331.307)*

1. Penalties. A county infraction is punishable by the following civil penalties:

- A. First Offense – Not to exceed \$750.00
- B. Each Repeat Offense – Not to exceed \$1,000.00

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

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

3. Criminal Penalties. This section does not preclude a peace officer from issuing a criminal citation for a violation of this Code of Ordinances or regulation if criminal penalties are also provided for the violation. Nor does it preclude or limit the authority of the County to enforce

the provisions of this Code of Ordinances by criminal sanctions or other lawful means.

**1-7-4. SAVINGS CLAUSE.**

If any section, paragraph, clause, or provision of this regulation shall be held invalid, the invalidity of such section, paragraph, clause, or provision shall not affect the validity of the remaining provisions of this regulation.

**1-7-5. WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed and approved this 21<sup>st</sup> day of August 2018.

HENRY COUNTY BOARD OF SUPERVISORS

Attest:

Aye: \_\_\_\_\_  
Greg Moeller, Chairman

\_\_\_\_\_  
Shelly Barber, Henry County Auditor

Aye: \_\_\_\_\_  
Marc B. Lindeen, Supervisor

Aye: \_\_\_\_\_  
Gary K. See, Supervisor

I certify that the foregoing was published on the \_\_\_\_ day of \_\_\_\_\_, 2018.

Recorded: Book 2018 Page 1918

**TITLE II PUBLIC SERVICES**

**CHAPTER 1 UCC FEES REPEALED (RESERVED)**



**TITLE III BUSINESS AND OCCUPATIONS (RESERVED)**

## TITLE IV STREETS, ROADS, PUBLIC WAYS AND TRANSPORTATION

### CHAPTER 1 E911 RURAL ADDRESS SYSTEM

#### 4-1-1 PURPOSE

#### 4-1-2 DEFINITIONS

#### 4-1-3 ASSIGNMENT OF ROAD NAMES

#### 4-1-4 STANDARDS FOR RURAL ROAD NAMES AND SIGNS

#### 4-1-5 RESPONSIBILITY OF INSTALLATION AND MAINTANANCE OF ROAD SIGNS

#### 4-1-6 ASSIGNMENT AND POSTING OF BUILDING NUMBERS

#### 4-1-7 RESPONSIBILITY FOR INSTALLATION AND MAINTENANCE OF BUILDING NUMBER SIGNS

#### 4-1-8 STANDARDS FOR BUILDING NUMBER SIGNS

#### 4-1-9 ENFORCEMENT AND PENALTIES

#### 4-1-10 SEVERABILITY CLAUSE

#### 4-1-11 EFFECTIVE DATE

HENRY COUNTY, IOWA RURAL ADDRESS SYSTEM. An Ordinance Establishing Standards, Guidelines and Requirements for Rural E-9-1-1 signing and addressing in Henry County, Iowa.

Be it enacted by the Board of Supervisors of Henry County, Iowa:

**4-1-1 Purpose.** The Purpose of this Ordinance is to establish the standards, guidelines and requirements for county-wide signing and addressing of roads and property for implementation of an Enhanced 911 emergency telephone system in Henry County, Iowa, in furtherance of the public interest and protection of the health, safety, and welfare of the people and preservation of property in Henry County, Iowa pursuant to Chapter 34A, and sections 331.302 and 331.384(1) (d), Code of Iowa.

**4-1-2 Definitions.** Definition of terms shall be that set forth or provided for in the Code of Iowa, except as set forth herein.

- a. "Board of Supervisors" shall mean the Henry County Board of Supervisors.
- b. "County" shall mean Henry County, Iowa.
- c. "E911 Board" shall mean the Joint 911 service board established for Henry County pursuant to Chapter 34A, Code of Iowa.
- d. "Roads", unless further described shall mean all public and private roads located outside the corporate limits of cities within Henry County, Iowa.
- e. "Property owner" shall mean the person, partnership, corporation, or other legal entity owning real estate as shown by the records of the Henry County auditor.

#### **4-1-3 Assignment of Road Names.**

a. The naming or numbering of all roads shall be the responsibility of the Board of Supervisors. The developer of a subdivision may make recommendations to the E911 Board regarding the naming or numbering of roads to be located within a subdivision. **(Amendment/February 6,2018)**

b. The system for naming:

(1) Roads that run in a north-south direction are generally called avenues and are named in alphabetical order beginning at the county's western boundary, each mile starting at the western-most road (A) and proceeding in sequence through the alphabet for each mile east of the western boundary. (... , B, C, D, etc.)

(2) Roads that run in an east-west direction are generally called "streets" and are numbered in sequence beginning with the number 100 on the road which is on or nearest to the northernmost boundary of the County and increasing by increments of 10 for each mile south of the northern boundary. (... , 110, 120, etc.)

c. Subdivisions. The official street designations within a new subdivision shall comply with the standards set forth in this ordinance. Any final plat shall show the assigned road name or number prior to recording. Only those names/numbers assigned by the Board of Supervisors are allowed on private road intersections. Any other roadway designation is in violation of this Chapter and shall be removed.

d. The E911 Service Board shall develop a map of Henry County depicting the proposed names and numbering of existing rural public and private roads to which this section applies. The Board of Supervisors may by resolution adopt by reference and approve the names and numbering of rural public and private roads as set forth in the map so proposed. The Board of Supervisors may by resolution make additions, correction, deletions, and modifications to the map after its approval and to the names and numbering of rural public and private roads in Henry County. Copies of the map and any additions, corrections, deletions, or modifications thereto, which have been approved by the Board of Supervisors shall be maintained at the Public Safety Center serving Henry County, Iowa and the office of the Board of Supervisors.

#### **4-1-4 Standards for Rural Road Names and Signs.**

a. Road signs erected at the side of the road in unincorporated areas of Henry County shall be mounted at a height of at least 5 feet above the grade level of the road.

b. The road identification signs, known commercially as marker blades, shall have white letters or numbers no less than 4" in height and shall have a green background for all public roads, and a blue background for private roads, and shall be made of reflective material of at least engineering grade aluminum. **(Amendment/February 6,2018)**

c. Road signs shall be erected in accordance with the statutes and regulations of the State of Iowa.

**4-1-5 Responsibility of Installation and Maintenance of Road Signs.**

a. Unless otherwise indicated in this section, the E911 Board shall be responsible for the purchase, installation, and maintenance of road identification signs at designated intersection with public roads in the unincorporated areas of the County.

b. Property owners within a subdivision shall be responsible for the purchase, installation, and maintenance of road identification signs at intersections within a subdivision.

c. Property owners of private roads shall be responsible for the purchase, installation, and maintenance of road identification signs at designated intersections with private roads in the unincorporated areas of the County.

d. In order to insure uniform installation and maintenance of road signs and in furtherance of the purposes of Chapter 34A, the Code, the E911 Board may provide for the purchase, installation, and maintenance of any or all road identification signs required by this ordinance, to be paid either from funds of the E911 Board or fees to be collected from property owners.

**4-1-6 Assignment and Posting of Building Numbers.**

The Board of Supervisors, upon recommendation of the E911 Board, shall assign building numbers for residences and businesses in unincorporated Henry County.

a. It shall be the responsibility of the Board of Supervisors to notify property owners of real estate on which residences or businesses are located of the building numbers assigned pursuant to this section.

**4-1-7 Responsibility for Installation and Maintenance of Building Number Signs.**

a. Unless otherwise indicated in this ordinance, it shall be the duty of the property owner to obtain, install, and maintain assigned building number signs at residences and businesses in the unincorporated area of the county.

b. In order to insure uniform installation and maintenance of building number signs and in furtherance of the purposes of Chapter 34A, Code of Iowa, the E911 Board may provide for the purchase, installation, and maintenance of any or all of the building number signs in the unincorporated area of the County, to be paid for either from funds of the E911 Board or fees collected from property owners.

**4-1-8 Standards for Building Number Signs.**

a. A sign displaying the building number assigned for each residence or business shall be erected and maintained according to these specifications. See attachment "A" describing sign to be used to display a building number.

b. The building number sign shall display the assigned number of the residence or business located on the property in four (4) inch high reflective numerals;

c. The building number sign shall be located:

(1) no closer than fifteen (15) feet and no farther than thirty (30) feet from the

near edge of the main access driveway to the residence or business;

(2) within one and a half (1 1/2) feet of the road right-of-way line or fence on the near side of the road.

(3) so that the numerals are legible and distinguishable to persons approaching the property from either direction traveling on the road by which the sign is located, and can be read by persons from a vertical height of between four and six feet above the road, and shall be kept free from obstructions;

(4) so that the top of the sign shall be placed no lower than four feet six inches (4'6") above the natural ground at point of installation.

(5) so that the post that secures the sign shall be embedded in the ground a minimum of two (2) feet.

d. It shall be the duty of the property owner to remove any different number which might be mistaken for, or confused with, the number assigned to said property.

e. In addition to the building number sign described above, the assigned building number may be affixed on each side of the rural mail box for said property.

#### **4-1-9 Enforcement and Penalties.**

a. Abatement - Special Assessments.

(1) If a property owner does not perform an action required by this ordinance within a reasonable time after notice, the county through the Board of Supervisors and E911 Board may perform the required action and assess the costs against the property for collection in the same manner as a property tax pursuant to section 331.384, Code of Iowa.

(2) The provisions of section 331.384, Code of Iowa, apply to special assessments imposed under this section, and by this reference are incorporated herein.

(3) Written notice shall be given to the property owner by certified mail to the property owner as shown by the records of the county auditor.

(4) Written notice shall state the action required to be performed by the property owner and the time within which the action is required.

(5) In an emergency, the county through the Board of Supervisors and E911 Board may perform any action which may be required without prior notice and assess the costs after notice to the property owner and hearing.

b. Interference with signs or installation and repair of signs.

It is a criminal offense for a person:

(1) who willfully and intentionally, without lawful authority, attempts to or in fact alters, defaces, injures, knocks down, or removes a road sign or building number sign which has been installed pursuant to this ordinance;

(2) who knowingly resists or obstructs anyone known by the person to be acting on behalf of the Board of Supervisors and the E911 Board to install, repair, or maintain a road sign or building number sign pursuant to this ordinance;

(3) who without lawful authority unintentionally alters, damages, knocks down, or removes a road sign or building number sign which has been installed pursuant to this ordinance and who fails to repair or replace the sign to its pre-existing condition or to pay for the cost of the repair or replacement of the sign.

A violation of this section is a simple misdemeanor for which civil penalty may be imposed as provided for in Title I Chapter 7 of the Henry County Code of Ordinances. **(Amendment/ August 28, 2018)**

**4-1-10 Severability Clause.**

If any of the provisions of this Ordinance are for any reason illegal or void, then the lawful provisions of this Ordinance, which are separate from said unlawful provisions shall be and remain in full force and effect, the same as if the Ordinance contained no illegal or void provisions.

**4-1-11 Effective Date.**

This Ordinance shall be in effect after its final passage, approval, and publication as provided by law.

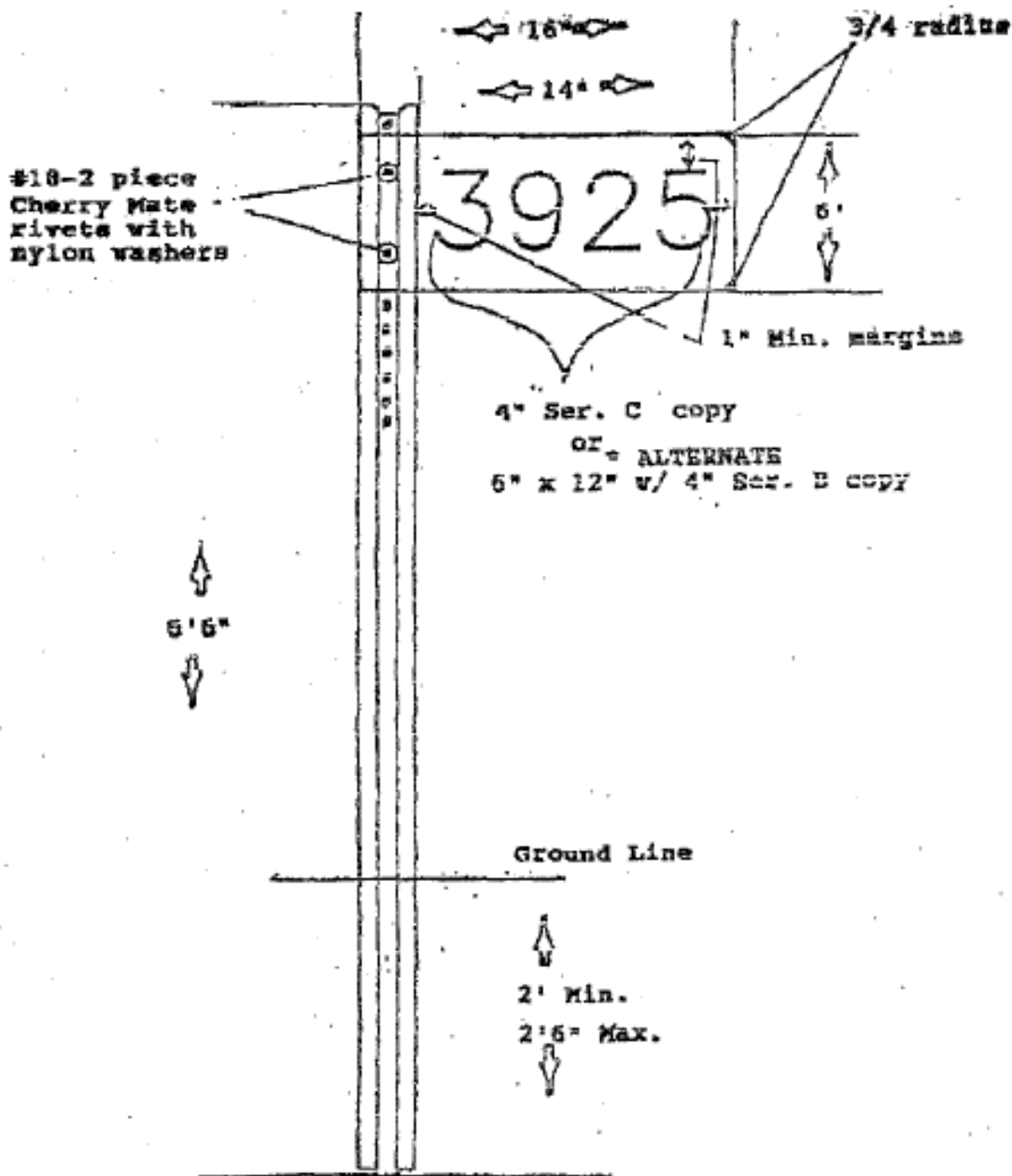
Approved this 28<sup>th</sup> day of July, 1994.

Recorded: Book 2012 Page 0484

/s/ Michael Hampton  
by Michael Hampton, Chairman  
for the Board of Supervisors,  
Henry County, Iowa  
/s/ Carol McCulley  
Carol McCulley, County Auditor  
Henry County, Iowa

ATTACHMENT "A"

TYPICAL RESIDENCE MARKER SIGN



**TITLE IV STREETS, ROADS, PUBLIC WAYS AND TRANSPORTATION**

**CHAPTER 2 CLEARANCE OF SNOW OR ICE ON SECONDARY ROADS**

**4-2-1 PURPOSE**

**4-2-2 LEVEL OF SERVICE**

**4-2-3 SEQUENCE OF SERVICE**

**4-2-4 LIMITATION OF SERVICE**

**4-2-5 EMERGENCY**

**4-2-6 REPEALER**

**4-2-7 SEVERABILITY CLAUSE**

**4-2-8 WHEN EFFECTIVE**

**AN ORDINANCE TO ESTABLISH THE POLICY AND LEVEL OF SERVICE IN RESPECT TO CLEARANCE OF SNOW OR ICE AND MAINTENANCE OF THIS COUNTY'S SECONDARY ROADS DURING THE WINTER MONTHS.**

**BE IT ORDAINED BY THE BOARD OF SUPERVISORS, HENRY COUNTY:**

**4-2-1 PURPOSE**

The purpose of this ordinance is to establish this County's policy and level of service in respect to clearance of snow or ice and maintenance of its secondary road system during the winter months pursuant to the provisions of Section 309.67, Code of Iowa. This policy and level of service are to be implemented within the amount of money budgeted for this service, and as contained in this County's secondary road budget as submitted to and approved by the Iowa Department of Transportation and adopted by the Board of Supervisors. The clearance of roads at any cost, under any circumstances, day or night, is not the County's policy. If emergency situations arise, the Budget may be revised.

**4-2-2 LEVEL OF SERVICE**

Clearance of snow or ice and maintenance of the secondary road system during the winter months is primarily for the benefit of the local residents of this county. Each storm has individual characteristics and must be dealt with accordingly. The portion of the roadway improved for travel will have upon it snow and ice in compacted condition. These conditions may be continuous, or they may be more concentrated on hills, in valleys, curves, and/or intersections. The County's existing snow removal equipment will be utilized for this purpose. On occasion County personnel may be rendered unavailable due to the requirements of the Omnibus Transportation Employee Testing Act of 1991. Except for "emergencies" as determined by the County Engineer's professional judgment, or his/her designee acting in his/her absence, on a case by case basis, 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 and as practicable. 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 lines of sight, sight distance, or visibility of motorists approaching these intersections may be greatly reduced or impaired. The County shall not be responsible for snow pushed or otherwise placed on the roadway or shoulders by others.

Motorists shall drive their vehicles during these conditions with additional caution and watchfulness, especially in respect to the surface of the roadway, and reduced or impaired visibility and are advised to reduce their speed at least 30 miles per hour below that legally permitted or advised under normal conditions. In respect to roadways that have only one lane open, further extreme watchfulness and caution should be exercised by the motorist, and their speed should not exceed 10 miles per hour. During these conditions, no additional warning or regulatory signs will be placed warning of impaired sight distances, visibility at intersections, road blockages, one-lane conditions, or that the road surface is slick or slippery, or what the advised speed should be.

#### **4-2-3 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 the ordinance, and shall determine when drifting, wind velocity, and additional snow or snowstorms require that the snow removal equipment be removed from the roadway, or that additional clearance of paved roads be accomplished prior to the clearance of gravel and dirt roads. The County Engineer's professional judgment, or his/her designee's, shall prevail, unless it is clearly erroneous.

##### **PAVED ROUTES 4-2-3-1**

1. The initial effort will be to get all routes open to two-lane traffic as soon as possible and or practicable. During initial snow removal operations, paved roads may only have one lane plowed for a period of time.
2. After two-lane travel is possible, subsequent snow removal will be carried on during normal working hours.
3. The truck mounted snow plows and spreaders will not normally be in operation between the hours of 6:00 P.M. - 5:00 A.M. The trucks may be called off the road if snow and blowing reduces visibility to hazardous working conditions, in the professional judgment of the Engineer or his delegated representative.
4. When required, due to drifting snow, motorgraders may be used to keep the paved roads open and the opening of gravel may be delayed.

5. It is not the policy of the County to provide a "dry" pavement condition.
6. After roads have been plowed, as provided in the section, intersections, hills, and curves may, but not necessarily, have placed on them, salt, sand, or other abrasives. These intersections, hills, and curves may not be re-sanded, re-salted, or have other abrasives replaced on them between snowstorms. **(Amendment/September 25, 2018)**

#### **UNPAVED ROADS 4-2-3-2**

1. The initial effort will be to get all routes opened to one-lane traffic as soon as possible and/or practicable after a storm has passed.
2. After one-lane travel is possible, subsequent snow removal will be carried on during normal working hours.
3. Motorgraders and/or truck plows will not normally be in operation between the hours of 6:00 P.M. - 5:00 A.M. The motorgraders and/or truck plows may be called off the road if snow and blowing reduces visibility to hazardous working conditions, in the professional judgment of the Engineer or his/her delegated representative.  
**(Amendment/September 25, 2018)**
4. Snow may not be removed from dirt roads or roads designated at Level B and Level C.  
**(Amendment/September 25, 2018)**

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

#### **PRIVATE DRIVES 4-2-3-3**

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

#### **4-2-4 LIMITATION OF SERVICE**

Notwithstanding anything else stated in this ordinance, the policy and level of service provided for in this ordinance shall not include the following, and the following services SHALL NOT BE PERFORMED:

1. Sanding, salting, or placing other abrasives upon the roadways that are slick, slippery, and dangerous due to the formation of frost.
2. Placing sand, salt, or other abrasives upon paved roadways that are slippery due to freezing rain occurring between 6:00 P.M. and 5:00 A.M. **(Amendment/September 25, 2018)**
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.

4. Sanding, salting, or placing abrasives upon any road, except for paved roads. If in the opinion of the County Engineer, or his/her designee, an "emergency" exists and ice has built up on hills and intersections on the gravel system that slope down to another road so as to become dangerous, abrasive material may be applied at these locations as crew and equipment availability allows.

This condition will not, take a higher priority than placing of abrasive material on the paved road system and will only be done after the paved roads are cleared of ice and snow. Abrasive material will also only be placed after other mechanical means have been tried and failed, such as scraping with motorgraders.

5. Removing of sand, salt, or other abrasives.

#### **4-2-5 EMERGENCY**

Service or the level or sequence of service may be suspended during "Emergency" conditions. An "Emergency" condition shall be considered as one where loss of life is probable, where a serious injury has occurred, or where extensive loss of property is imminent. These conditions should be verified through the County Civil Defense Director, physician, or Sheriff's Office. The County may respond to all "Emergency" conditions, either during or after a snowstorm. Any person who makes a false report of an "Emergency" to an officer, official, or employee of Henry County or who causes a false report to be so made shall, upon conviction, be subject to a fine of not more than \$100.00 or imprisonment of not more than 30 days in the County jail.

Service or the level or sequence of service shall be further suspended in the event the Governor, by proclamation, implements the State Disaster Plan, or the Chairman of the Board of Supervisors, by proclamation, implements the County Disaster Plan. If such occurs, the County personnel and equipment shall be immediately subject to the direction of the Governor or the Chairman of the Board of Supervisors, respectively.

#### **4-2-6 REPEALER**

All ordinances and resolutions or parts thereof, in conflict herewith are hereby repealed.

#### **4-2-7 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.

#### **4-2-8 WHEN EFFECTIVE**

This ordinance shall be in effect immediately after its final passage and publication as provided by law.

Passed and approved this 6<sup>th</sup> day of December, 2001.

Henry County Board of Supervisors

/s/ Gary K. See  
Chairperson

s/s Stan Young

s/s Marc B. Lindeen

ATTEST:

/s/ Carol McCulley  
County Auditor

First Reading: 12-4-01

Second Reading: 12-6-01

Approved: 12-6-01

Published: 12-13-01

Recorded: Book 2018 Page 1881

**TITLE IV STREETS, ROADS, PUBLIC WAYS AND TRANSPORTATION**

**CHAPTER 3 CONSTRUCTION AND RECONSTRUCTION OF ROADWAYS AND BRIDGES**

**4-3-1 PURPOSE**

**4-3-2 LEVEL OF SERVICE**

**4-3-3 DESIGN CRITERIA**

**4-3-4 REPEALER**

**4-3-5 SEVERABILITY CLAUSE**

**4-2-6 WHEN EFFECTIVE**

**AN ORDINANCE TO ESTABLISH A POLICY FOR THE CONSTRUCTION AND RECONSTRUCTION OF ROADWAYS AND BRIDGES ON THE HENRY COUNTY SECONDARY ROAD SYSTEM.**

**BE IT ORDAINED BY THE BOARD OF SUPERVISORS HENRY COUNTY:**

**4-3-1 PURPOSE**

The purpose of this ordinance is to establish Henry County's policy for the construction of roads, reconstruction of roads, construction of bridges, reconstruction of bridges and other roadway and drainage features associated with road and bridge construction.

**4-3-2 LEVEL OF SERVICE**

The level of service shall be based on traffic counts, pavement type, roadway geometrics and other data used in accepted engineering design as established by the County Engineer, Iowa Department of Transportation and the Federal Highway Administration.

**4-3-3 DESIGN CRITERIA**

In implementation, this policy shall set the minimum design standards that Henry County will follow in the construction or reconstruction of roads and bridges. These criteria shall be based on accepted engineering practices and standards established by the Iowa Department of Transportation and the Federal Highway Administration.

The County Engineer shall assure the minimum design standards established herein are adhered to in a uniform manner unless, in his or her professional judgment, a deviation from standards is warranted. Minimum design standards are not subject to discretionary enforcement. Any deviations must be documented as unreasonable and or impossible to implement by the County Engineer and/or the County Board of Supervisors.

**Road and Bridge Standards- HENRY COUNTY**

Henry County road and bridge standards for new or complete reconstruction projects shall be according to the current Iowa Department of Transportation **Instructional Memorandum Number 3.210**. I.M. 3.210 sets minimum design criteria and Henry County hereby sets their own standards for the following design elements:

1. **Bridge width:** Minimum bridge width will be 30 feet for FM and Class A roads and 24 feet for Class B or Class C roads.
2. **Roadway top Width :** The minimum roadway top will be 24 feet wide
3. **Surfacing:** New Granular Surfacing shall be applied at minimum a rate of 1800 tons per mile (approximately 4" deep). This may be applied in two applications not more than one year apart.
4. **Ditch Depth:** Ditch Depth will be a minimum of 3 feet
5. **Right of way:** The typical minimum right of way will be 50 feet from centerline on each side for paved roads and 33 feet from centerline on each side for non-paved roads.

#### **4-3-4 REPEALER**

All ordinances and resolutions, or parts thereof, in conflict herewith are hereby repealed.

#### **4-3-5 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.

#### **4-3-6 WHEN EFFECTIVE**

This ordinance shall be in effect immediately after its final passage and publication as provided by law. In addition, this ordinance shall remain in effect until such time the Board of Supervisors passes a future ordinance repealing this ordinance.

Passed and approved this 6<sup>th</sup> day of October, 2015.

#### **Henry County Board of Supervisors**

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Greg Moeller – Chairman

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Gary K. See

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Marc B. Lindeen

ATTEST:

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Andrea Cook  
Henry County Deputy Auditor

First Reading: 9-29-2015

Second Reading: 10-1-2015

Approved: 10-6-2015

Published: \_\_\_\_\_

Recorded: Book 2018 Page 1880

**TITLE V PUBLIC ORDER, SAFETY AND HEALTH**

**CHAPTER 1 NONPUBLIC WATER WELLS**

**5-1-1 PURPOSE**

**5-1-2 ADOPTION OF STATE STANDARDS**

**5-1-3 DEFINITIONS**

**5-1-4 REQUIREMENTS**

**5-1-5 PERMITS**

**5-1-6 WELL LOGS**

**5-1-7 ENFORCEMENT**

**5-1-8 SAVINGS CLAUSE**

**5-1-9 VARIANCES**

**5-1-10 EMERGENCY CONSTRUCTION**

**5-1-11 EFFECTIVE DATE**

AN ORDINANCE ADOPTING, BY REFERENCE, THE PRIVATE WATER WELL CONSTRUCTION PERMIT RULES OF THE IOWA ADMINISTRATIVE CODE (CHAPTER 38) AND THE NONPUBLIC WATER WELL RULES OF THE IOWA ADMINISTRATIVE CODE (CHAPTER 49) AND ADOPTING RULES AND REGULATIONS GOVERNING NONPUBLIC WATER WELLS AND PROVIDING FOR PENALTIES FOR VIOLATIONS OF RULES AND REGULATIONS FOR HENRY COUNTY, IOWA.

WHEREAS, the State of Iowa has enacted legislation requiring a permit from the Department of Natural Resources prior to the construction of any new water wells in the State, and WHEREAS the Iowa Department of Natural Resources has adopted rules to implement the said statutory provisions (1987 Iowa Code Supplement 455B.18F); and

WHEREAS, the State of Iowa has enacted legislation setting the construction standards for nonpublic water wells in the State, and WHEREAS, the Iowa Department of Natural Resources has adopted rules to implement the said statutory provisions, and WHEREAS each county board of health is required to adopt standards for private water supplies at least as stringent but consistent with the standards adopted by the Environmental Protection Commission of the Iowa Department of Natural Resources (1987 Iowa Code Supplement 445B.172),

BE IT ENACTED BY THE BOARD OF SUPERVISORS OF HENRY COUNTY, IOWA:

**5-1-1 PURPOSE.**

These rules and regulations are adopted as mandated by 455B.172, Code of Iowa, to fix



standards relating to the design and construction of private water supplies and to regulate the construction, reconstruction and abandonment of water wells.

#### **5-1-2 ADOPTION OF STATE STANDARDS.**

There are hereby adopted, by reference, the provisions of Section (567), Chapters 38 and 49 of the Iowa Administrative Code, and all departmental rules and regulations of the Iowa Department of Natural Resources, formerly the Iowa Department of Water, Air and Waste Management, and the Environmental Protection Commission of the Iowa Department of Natural Resources pertaining to construction of new water wells, nonpublic water wells, water supply systems and pumping equipment which are now in effect and any changes or new rules and regulations that may later be adopted and become effective as part of the Iowa Code and Administrative Code. The said Chapters 38 and 49 of Iowa Administrative Code, Environmental Protection Commission (567), in their entirety shall henceforth be the private and nonpublic well rules of Henry County.

#### **5-1-3 DEFINITIONS.**

The following terms shall have these designated meanings:

- A. Board of Supervisors: The Board of Supervisors for Henry County, Iowa established pursuant to Chapter 331, Code of Iowa, or its authorized representative.
- B. Health Officer: Person designated by the Board of Supervisors to serve as its authorized representative for purposes of enforcement and administration of the rules and regulations governing nonpublic water wells. The Board of Supervisors designates the County Engineer or the Assistant County Engineer or the Assistant to the County Engineer for Henry County, Iowa to serve as Health Officer for purposes of this ordinance.
- C. Person: Any person, firm, association, organization, partnership, business, trust, corporation, company, trustee, syndicate, club, institution, agency, or entity recognized by law as the subject of rights and duties. The masculine, feminine, singular or plural is included in any circumstance.
- D. Department: Iowa Department of Natural Resources.

#### **5-1-4 REQUIREMENTS.**

- A. All nonpublic water wells, water supply systems and related pumping equipment shall be constructed, reconstructed or abandoned, when located within Henry County, Iowa, in accordance with Section (567), Chapters 38 and 49 of the Administrative Code of Iowa, and all departmental rules and regulations of the Iowa Department of Natural Resources, formerly the Iowa Department of Water, Air and Waste Management, now in effect and any changes or new rules and regulations that may become effective in the future.
- B. No nonpublic water well, water supply system or related pumping equipment shall be constructed, reconstructed or abandoned when located within Henry County, Iowa without first obtaining a permit from the Board of Supervisors.

#### **5-1-5 PERMITS.**

A. Application for permits: Each person desiring to obtain a permit required under these regulations shall submit to the Board of Supervisors an application for a permit in the form as prescribed by resolution of the Board of Supervisors, which shall contain, at a minimum, the following information: owner's name, correct street address or road, section and township, the type of system desired, with other pertinent information as may be required, and shall include information required on forms of the Department under I.A.C. 567-38.4.

B. Application fee: Before consideration of the application, the applicant shall pay an application fee in an amount set by the Board of Supervisors by resolution. The current fee shall be fixed in the amount of \$25.00, which fee may be changed by the Board of Supervisors by resolution, as permitted under I.A.C. 567-38.5.

C. Plans and specifications: Each person desiring to obtain a permit shall provide to the Health Officer sufficient plans and specifications and other desired information so that the Health Officer will be able to determine if the proposed project complies with standards required by these regulations.

D. Site inspection: Each application for a permit shall consent to an inspection of the site of the proposed project by the Health Officer, before construction, during construction, and upon completion of construction to insure that the project conforms to standards required under these regulations.

E. Approval by Health Officer: Upon approval of the application by the Health Officer, a non-public water supply system or well permit and permit warning card will be issued. Permits shall expire and have no further validity if the construction or reconstruction or abandonment is uncompleted within one calendar year from the date of issuance. To be valid, the permit shall be signed by the Health Officer upon initial authorization. No nonpublic water supply system or well shall be covered or so constructed to prevent final inspection and periodic monitoring by the Health Officer. Permit warning cards shall be displayed during the entire construction period so as to be plainly visible. A record shall be kept of final inspection results by the Health Officer.

F. Emergency permits may be issued as provided for under I.A.C. 567-38.7 by the Board of Supervisors or Health Officer as the designee of the Board of Supervisors.

#### **5-1-6 WELL LOGS.**

A completed well log, giving all required information, shall be submitted within a reasonable time after a new well is constructed.

#### **5-1-7 ENFORCEMENT.**

Any person who violates any provision of this ordinance commits a county infraction and shall be subject to the imposition of a civil penalty or other appropriate relief to abate or halt the violation as provided for in Title I Chapter 7 of the Henry County Code of Ordinances.

**(Amendment/ August 28, 2018)**

**5-1-8 SAVINGS CLAUSE.**

If any section, paragraph, clause, or provision of this regulation shall be held invalid, the invalidity of such section, paragraph, clause, or provision shall not affect the validity of the remaining provisions of this regulation.

**5-1-9 VARIANCES.**

Variances to these rules may be granted where there is substantial compliance with the standards of these regulations and there have been demonstrated practical difficulties or unnecessary hardships in carrying out the provisions of these regulations. Variances and reasoning shall be in writing as required by I.A.C. 567-49.4.

**5-1-10 EMERGENCY CONSTRUCTION.**

In the event of an emergency need for construction of a project to provide for water to sustain livestock or persons, the County Board of Supervisors or Health Officer as the designee of the Board of Supervisors, may grant a permit if emergency drilling is necessary to meet an immediate need for water in the manner and using forms prescribed by I.A.C. 567-38.6.

**5-1-11 EFFECTIVE DATE.**

These rules and regulations shall be in effect after their final passage, approval, publication and public hearings as provided for by law for ordinances to be adopted by the Board of Supervisors for Henry County, Iowa and after there has been a delegation of authority to the Board of Supervisors from the Department to issue private well construction permits pursuant to Iowa Administrative Code (567) Environmental Protection Chapter 38, Section 567-38.15.

Recorded Book 484 Page 161

**TITLE V PUBLIC ORDER, SAFETY AND HEALTH**

**CHAPTER 2 ONSITE WASTEWATER TREATMENT AND DISPOSAL SYSTEMS**

**5-2-1 PURPOSE**

**5-2-2 ADOPTION OF STATE STANDARDS**

**5-2-3 DEFINITIONS**

**5-2-4 REQUIREMENTS**

**5-2-5 PERMITS**

**5-2-6 ENFORCEMENT**

**5-2-7 ALTERNATIVE OR INNOVATIVE ON-SITE WASTEWATER TREATMENT AND DISPOSAL SYSTEMS**

**5-2-8 VARIANCES**

**5-2-9 SAVINGS CLAUSE**

**5-2-10 EFFECTIVE DATE AND REPEALER**

**AN ORDINANCE ADOPTING THE HENRY COUNTY BOARD OF HEALTH RULES AND REGULATIONS GOVERNING ON-SITE WASTEWATER TREATMENT AND DISPOSAL SYSTEMS**

**5-2-1 PURPOSE.**

These rules and regulations are adopted as mandated by 455B.172, Code of Iowa and Iowa Administrative Code, Environmental Protection (567), Title IV, WASTEWATER TREATMENT AND DISPOSAL, to fix and enforce standards relating to the construction, reconstruction, repair and operation of wastewater treatment and disposal systems in Henry County, Iowa, in areas outside the geographic limits of cities.

**5-2-2 ADOPTION OF STATE STANDARDS**

The following are adopted by reference as the standards and definitions to be applied for purposes of construction and enforcement of this ordinance: Chapter 455B, Code of Iowa, and the rules and regulations of wastewater treatment and disposal of the Iowa State Environmental Protection Commission and Iowa State Department of Natural Resources, formerly the Iowa Department of Water, Air and Waste Management, which are now in effect as part of the Iowa Administrative Code, Environmental Commission (567), and any new rules and regulations that may later be adopted and become effective as part of the Iowa Code and Administrative Code, including but not limited to Title IV, WASTEWATER TREATMENT AND DISPOSAL, and the following chapters contained in Title IV: Chapter 62, effluent and

pretreatment standards and Chapter 69, on-site wastewater treatment and disposal systems, Environmental Protection (567), Iowa Administrative Code.

### **5-2-3 DEFINITIONS.**

The following terms shall have these designated meanings:

A. Disposal System Contractor: as used in this ordinance is hereby defined and shall be construed to mean any person, firm or corporation engaged in the business of installing, constructing, reconstructing, repairing, extending or alternating a waste water disposal system. **(Amendment/ July 18, 2018)**

B. Environmental Health Department: Established by the Board of Health for Henry County, Iowa pursuant to Chapter 137, Code of Iowa, or its authorized representative.

C. Environmental Health Officer: Person designated by the Health Department to serve as its authorized representative for purposes of enforcement and administration of the rules and regulations governing wastewater treatment disposal.

D. Person: Any person, firm, association, organization, partnership, business, trust, corporation, company, trustee, syndicate, club, institution, agency, or entity recognized by law as the subject of rights and duties. The masculine, feminine, singular or plural is included in any circumstance.

### **5-2-4 REQUIREMENTS.**

A. All non-public on-site wastewater treatment and disposal systems, including private sewage disposal systems and semi-public sewage disposal systems, shall be constructed, reconstructed, altered or repaired, when located within Henry County, Iowa outside the geographic limits of a city, in accordance with Chapter 455B, Code of Iowa, and Chapter 69, Title IV, Environment Protection (567), Iowa Administrative Code, now in effect and any changes or new rules and regulations that may become effective in the future as part of the Iowa Code and Iowa Administrative Code concerning wastewater treatment and disposal.

B. No non-public on-site wastewater treatment and disposal system shall be constructed, reconstructed, altered or repaired when located within Henry County, Iowa in an area outside the geographic limits of a city without first obtaining a permit from the Health Department.

C. No permit by the Environmental Health Department shall be issued for the construction, reconstruction, alteration or repair of a disposal system which is not a private sewage disposal system, unless the plans and specification of the disposal system has been approved by the Director, Iowa State Department of Natural Resources, or a designee pursuant to Iowa Code 445B.174 and the applicant for the permit has obtained and holds a valid permit from the Director, Department of Natural Resources for the operation, installation, construction, addition to or modification of the disposal system.

D. No person, firm or corporation shall engage in the business of a "Disposal System Contractor" in the County without having first obtained a license therefore as herein required. Applications for such license shall be made to the Henry County Environmental Health, upon

forms furnished by said Department, setting forth such information therein as to identify the applicant and their background of training and experience. **(Amendment/ July 18, 2018)**

E. Before such Disposal System Contractor's license shall be issued, the applicant therefore shall file with the Henry County Environmental Health a surety company bond in the sum of at least Ten Thousand Dollars (\$10,000.00), which bond shall be conditioned that the principal therein shall properly observe all the ordinances of the County pertaining to the work of a Disposal System Contractor and all rules and regulations established by the County pertaining to such work, and shall further indemnify and save harmless the County and any and all persons therein for whom such licensee might work as a Disposal System Contractor against all losses and damages that may result by reason of inadequate, improper, or negligent workmanship by the Disposal System Contractor, servants, or employees of same, or by reason of furnishing unsatisfactory material by such licensee or their servants or employees in the performance of any work as a Disposal System Contractor; and a further condition of such bond shall state that the amount of said bond shall be and exist for the benefit of all persons injured or aggrieved by any violation of any ordinance of the County or any neglect to observe the provisions of any such ordinance or the rules and regulations established thereunder. Such bond may be renewable at the time the principal thereon shall renew their Disposal System Contractor license.

Upon failure or refusal of the applicant or licensee to furnish and maintain a bond as herein prescribed, their Disposal System Contractor license shall be revoked.

This bond may be cancelled as to future liability by the Surety upon thirty (30) days written notice to Henry County Environmental Health and the Disposal System Contractor sent by regular mail. The aggregate liability of the Surety to any and all persons, regardless of the number of claims made against this bond or the number of years this bond remains in force, shall in no event exceed the amount set forth above. Any revision of the bond amount shall not be cumulative. **(Amendment/ July 18, 2018)**

#### **5-2-5 PERMITS.**

A. Application for permits: Each person desiring to obtain a permit required under these regulations shall submit to the Environmental Health Department on application for a permit in the form as prescribed by resolution of the Environmental Health Department, which shall contain, at a minimum, the following information: owner's name, correct street address or road, section and township, the type of system desired, with other pertinent information as may be required.

B. Application fee: Before consideration of the application, the applicant shall pay an application fee in an amount set by the Henry County Board of Health by resolution. **(Amendment/ July 18, 2018)**

D. Site inspection: Each applicant for a permit shall consent to an inspection of the site of the proposed project by the Environmental Health Officer, before construction, during

construction, and upon completion of construction to ensure that the project conforms to standards required under these regulations.

E. Approval by Environmental Health Officer: Upon approval of the application by the Environmental Health Officer, an on-site wastewater treatment and disposal system permit will be signed and issued. Permits shall expire and have no further validity if the construction or reconstruction or abandonment is uncompleted within a period of one year (six months if complaint based) from the date of issuance. To be valid, the permit shall be signed by the Environmental Health Officer upon initial authorization. No on-site wastewater treatment and disposal system shall be covered or so constructed to prevent final inspection and periodic monitoring by the Environmental Health Officer. A record shall be kept of final inspection results by the Environmental Health Officer. **(Amendment/ July 18, 2018)**

#### **5-2-6 ENFORCEMENT.**

A. Any person who violates any provision of this ordinance commits a county infraction and shall be subject to the imposition of a civil penalty or other appropriate relief to abate or halt the violation as provided for in Title I Chapter 7 of the Henry County Code of Ordinances.

**(Amendment/ August 28, 2018)**

B. Any licensee who shall (1) neglect or refuse to comply with the provisions of this ordinance or the rules and regulations established thereunder by County ordinance or rules and regulations, or with the conditions under which any permit shall be issued, or (2) who shall falsify any statements in their application for license, or (3) who shall violate any provisions of any ordinance of the County, or (4) who shall violate any provisions of the laws of the state shall be subject to have his license suspended or revoked. Any license herein authorized to be issued may be suspended by Henry County Environmental Health as hereinafter set forth. If such license is suspended, the license and all evidence thereof shall be surrendered by the licensee and shall be held by Henry County Environmental Health until the final disposition is made of such suspension. **(Amendment/ July 18, 2018)**

C. It shall be unlawful for the suspended licensee or any one working in their behalf to do any work as a Disposal System Contractor while such suspension continues to exist. **(Amendment/ July 18, 2018)**

D. In connection with the notice of suspension, a statement in writing shall be prepared by Henry County Environmental Health suspending the license setting forth specifically the charges or grounds for which the license was suspended and the facts on which suspension is based, and such statement shall be served on the licensee at the same time the notice of suspension is served. **(Amendment/ July 18, 2018)**

E. In the event that a license issued under this ordinance is revoked, such person and all persons officially connected with such license shall be ineligible to obtain another Disposal System Contractor's license in the County for a period of one year from the date of such revocation. **(Amendment/ July 18, 2018)**

5-2-7 Appeal of Suspensions or Revocation of License.

The Board of Supervisor shall hear and decide appeals from an order to suspend or revoke a license to do business as a Disposal System Contractor. Such appeal shall be taken within a period of not more than thirty (30) days by filing with the Environmental Health Officer and with the Board of Supervisors a notice of appeal specifying the grounds thereof. When notice of the appeal is filed, the Environmental Health Officer shall transmit all of his records or certified copies thereof regarding the appeal to the Board of Supervisors including a copy of the letter suspending or revoking the license to do business as a Disposal System Contractor. The Board of Supervisors shall take action upon this appeal within thirty (30) days. If said Board of Supervisors finds that the basis of suspension is substantiated by the facts, the license shall be revoked forthwith, but if the basis of suspension is not established by the evidence submitted, the license shall be reinstated. **(Amendment/ July 18, 2018)**

#### **5-2-8 ALTERNATIVE OR INNOVATIVE ON-SITE WASTEWATER TREATMENT AND DISPOSAL SYSTEMS.**

Proposals to use alternative or innovative on-site wastewater treatment and disposal systems shall be made and considered for approval by the Health Department as provided by Iowa Administrative Code, Environmental Protection (567), paragraph 567-69.15 (445B). The Environmental Health Department shall be empowered to refuse to grant a permit for an alternative or innovative system unless an enforceable agreement is obtained to require present and future owners to bring the system into compliance with rule requirements.

#### **5-2-9 VARIANCES.**

Variances to these rules may be granted by the Department of Natural Resources or in the case of private sewage disposal systems by the Henry County Board of Health where there is substantial compliance with the standards of these regulations and there have been demonstrated practical difficulties or unnecessary hardships in carrying out the provisions of these regulations. **(Amendment/ July 18, 2018)**

#### **5-2-10 SAVINGS CLAUSE.**

If any section, paragraph, clause, or provision of this regulation shall be held invalid, the invalidity of such section, paragraph, clause, or provision shall not affect the validity of the remaining provisions of this regulation.

#### **5-2-11 EFFECTIVE DATE AND REPEALER.**

This ordinance adopting the Henry County Board of Health rules and regulations governing on-site wastewater treatment and disposal systems shall be in effect after their final passage, approval, publication and public hearings as provided for by law for rules to be adopted by the Health Department and ordinances to be adopted by the Board of Supervisors for Henry County, Iowa. The Henry County ordinance passed by the Henry County Board of Supervisors



December 7, 1979 effective upon its publication on January 14, 1980, entitled: "RULES AND REGULATIONS GOVERNING THE CONSTRUCTION, USE, OPERATION AND MAINTENANCE OF DISPOSAL SYSTEMS, INCLUDING PRIVATE SEWAGE SYSTEMS, SEPTIC TANKS AND SANITARY PRIVIES WITHIN ANY AREA OF HENRY COUNTY, IOWA," hereinafter referred to as the "1980 Rules and Regulations," shall be and is hereby repealed one year from the effective date of this ordinance. Prosecutions for a violation of the 1980 Rules and Regulations are permitted if the violation occurred prior to the effective date of this ordinance. The 1980 Rules and Regulations shall apply only to the construction, reconstruction, alteration or repair of on-site wastewater treatment and disposal systems commenced prior to the effective date of this ordinance.

Recorded Book 485 Page 152

**TITLE V PUBLIC ORDER, SAFETY AND HEALTH  
CHAPTER 3 HAZARDOUS WASTE REPEALED (RESERVED)**

See supervisor's resolution Passed June 26, 1992.

**TITLE V PUBLIC ORDER, SAFETY AND HEALTH  
CHAPTER 4 SOCIAL HOST**

**5-4-1-1 SHORT TITLE**

**5-4-1-2 PURPOSE; FINDINGS**

**5-4-2-1 DEFINITIONS**

**5-4-3-1 PROHIBITED ACTS**

**5-4-3-2 EXCEPTIONS**

**5-4-4-1 ENFORCEMENT**

**5-4-5-1 VIOLATIONS**

**5-4-6-1 REPEALER**

**5-4-7-1 SEVERABILITY CLAUSE**

**5-4-8-1 EFFECTIVE DATE**

**AN ORDINANCE REGULATING AND PROVIDING PENALTIES FOR SOCIAL HOSTS OF ALCOHOL PARTIES INVOLVING MINORS,**

WHEREAS, chapter 331.302, Code of Iowa, as amended, provides for the adoption of county legislation, and establishes procedures whereby motions, resolutions, amendments or ordinances in the unincorporated areas of any County within the State; and prescribes the rights, duties and authority of certain County officials in relation thereto; prescribes a procedure of enforcing the rules, regulations, and orders of the various Boards in order to effectuate the provisions of said Chapter; and prescribes penalties for the violations of the provisions thereof; and

WHEREAS, the said Board of Supervisors has held its public hearings on said final report, having published notice of time and place of such public hearings as required by said Chapter; and

WHEREAS, the passage, adoption and enforcement of the provisions hereinafter contained are deemed necessary to protect the public interest, welfare, health, and safety within Henry County, Iowa by prohibiting the services to and consumption of alcoholic beverages by persons under the age of twenty-one (21) at premises located in Henry County; THEREFORE:

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF HENRY COUNTY, IOWA AS FOLLOWS:

**5-4-1**

**5-4-1-1 SHORT TITLE.** This ordinance shall be known and may be cited and referred to as the Social Host Ordinance of Henry County, Iowa.

**5-4-1-2 PURPOSE; FINDINGS:** The purpose of this chapter is to protect the public interest, welfare, health, and safety within Henry County, Iowa by prohibiting the services to and consumption of alcoholic beverages by persons under the age of twenty-one (21) at

premises located in Henry County. The Henry County Board of Supervisors finds that the occurrence of social gatherings at premises where alcoholic beverages are served to or consumed by persons under the age of twenty-one (21) is harmful to such persons themselves and a threat to public welfare, health, and safety. The Henry County Board of Supervisors further finds that persons under the age of twenty-one (21) often obtain alcoholic beverages at such gatherings and that persons who are in control of such premises know or have reason to know of such service and/or consumption and will be more likely to ensure that alcoholic beverages are neither served or consumed by persons under the age of twenty-one (21) at these gatherings. Based on these findings, the Henry County Board of Supervisors has deemed it necessary to enact the following regulations in Henry County, Iowa.

## **5-4-2**

**5-4-2-1 DEFINITIONS:** The following words, terms, and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**ALCOHOLIC BEVERAGE:** Any beverage containing more than one-half of one percent of alcohol by volume including alcoholic liquor, wine, and beer.

**EMERGENCY RESPONDERS:** Firefighters, law enforcement officers, emergency medical service personnel, and other personnel having emergency response duties.

**ENFORCEMENT SERVICES:** The salaries and benefits of emergency responders for the amount of time actually spent responding to or remaining at an event, gathering, or party and administrative costs attributable to the incident; the actual costs for medical treatment for any injured emergency responder, and the costs of repairing any damage to equipment or vehicles.

**EVENT, GATHERING, OR PARTY:** Any group of three (3) or more persons who have assembled or gathered together for a social occasion or other activity where an underage person has consumed or possessed an alcoholic beverage.

**PARENT:** Any person having legal custody of a juvenile: a) as natural parent, adoptive parent, or stepparent; b) as a legal guardian; or c) as a person to whom legal custody has been given by order of the court.

**PERSON:** Any individual, partnership, corporation, or any association of one or more

individuals.

**PREMISES:** Any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.

**SOCIAL HOST:** Any person who aids, conducts, allows, entertains, organizes, supervises, controls, or permits an event, gathering, or party. This includes, but is not limited to: a) The person(s) who owns, rents, leases, or otherwise has control of the premises where the event, gathering, or party takes place; b) the person(s) in charge of the premises; or c) the person(s) who organized the event. If the social host is a juvenile, then the parent(s) of that juvenile will be jointly and severally liable for any violation of this chapter.

**UNDERAGE PERSON:** Any individual under the age of twenty-one (21).

### **5-4-3**

**5-4-3-1 PROHIBITED ACTS:** It is unlawful for any social host to host an event, gathering, or party on premises when the person knows or reasonably should know that an underage person has consumed an alcoholic beverage, or possessed an alcoholic beverage with the intent to consume it, and the person fails to take reasonable steps to prevent the possession or consumption by the underage person. A social host who hosts such an event, gathering, or party does not have to be present at the time the prohibited act occurs.

**5-4-3-2 EXCEPTIONS:** This chapter does not apply to conduct solely between an underage person and his or her parents while present in the parents' household, to legally protected religious observances, and to situations where underage persons are lawfully in possession of alcoholic beverages during the course and scope of employment.

### **5-4-4**

**5-4-4-1 ENFORCEMENT:** The provision of this chapter shall be enforced by deputies of the Henry County Sheriff's Office. The Henry County Sheriff's Office shall have primary but not exclusive enforcement responsibility for this chapter.

**(Amendment/ August 28, 2018)**

**5-4-5**

**5-4-5-1 VIOLATIONS:** Any person who violates any provision of this ordinance commits a county infraction and shall be subject to the imposition of a civil penalty or other appropriate relief to abate or halt the violation as provided for in Title I Chapter 7 of the Henry County Code of Ordinances.

**5-4-6**

**5-4-6-1 REPEALER.** All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

**5-4-7**

**5-4-7-1 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.

**5-4-8**

**5-4-8-1 EFFECTIVE DATE.** This Ordinance shall be in effect after its final passage, approval and publication as provided by law.

DATED this 11<sup>th</sup> day of March, 2010.

/s/ Gary See, Chairman

The above Ordinance was passed and approved on the 11<sup>th</sup> day of March, 2010, and was signed by the Chairman on the 11<sup>th</sup> day of March, 2010.

ATTEST:

/s/ Hettie Maschmann, Auditor

Date: March 11, 2010

1<sup>st</sup> Reading March 4, 2010

2<sup>nd</sup> Reading March 9, 2010  
3<sup>rd</sup> Reading March 11, 2010

I hereby certify that the foregoing was published as Ordinance No. - in the Mount Pleasant News on the 26<sup>th</sup> day of March 2010.  
Recorded Book 2010 Page 0824

/s/ Hettie Maschmann, Auditor

Date April 28, 2010

	AYES	NAYS
Marc Lindeen	<u>X</u>	_____
Gary See	<u>X</u>	_____
Kent White	<u>X</u>	_____

**TITLE V PUBLIC ORDER, SAFETY AND HEALTH  
CHAPTER 5 TRASH COLLECTION**

<b>5-5-1-1</b>	<b>ESTABLISHMENT OF COLLECTION CENTERS</b>	<b>5-5-1-5</b>	<b>MAINTANANCE OF CENTERS</b>
		<b>5-5-1-6</b>	<b>POSTING OF CENTERS</b>
<b>5-5-1-2</b>	<b>TRASH CONTAINERS</b>	<b>5-5-4-1</b>	<b>VIOLATION AND PENALTY</b>
<b>5-5-1-3</b>	<b>TRASH REMOVAL</b>	<b>5-5-5-1</b>	<b>VALIDITY</b>
<b>5-5-1-4</b>	<b>LOCATION OF CENTERS</b>	<b>5-5-6-1</b>	<b>WHEN EFFECTIVE</b>

An ordinance providing for establishment of trash collection centers in the unincorporated area of Henry County, Iowa, for regulation of use of said centers, and for enforcement of regulations established.

Whereas there is deemed a need for the health and safety of Henry County, Iowa to provide an efficient and safe method for collection of solid wastes from residences in the unincorporated area of Henry County for disposal in an authorized sanitary landfill or dump-site; THEREFORE:

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF HENRY COUNTY, IOWA AS FOLLOWS:

**5-5-1**

**5-5-1-1 ESTABLISHMENT OF COLLECTION CENTERS.** The Board of Supervisors is authorized to establish by resolution Trash Collection Centers (Collection Centers), in such numbers and locations it might approve, which may be located upon land owned by Henry County, Iowa or upon premises for which use has been acquired by lease or other agreement with the property owner.

**5-5-1-2 TRASH CONTAINERS.** At Collection Centers the Board of Supervisors shall provide containers for the deposit and collection of solid waste, to be obtained by purchase, lease or other agreement of contract.

**5-5-1-3 TRASH REMOVAL.** The Board of Supervisors shall provide for the removal of solid waste from Collection Centers on, at least, a weekly basis. Solid waste from Collection Centers shall be transported for disposal at a sanitary disposal project established pursuant to Chapter 455B, Code of Iowa.



**5-5-1-4 LOCATION OF CENTERS.** Collection Centers shall be established only in the unincorporated area of Henry County, Iowa.

**5-5-1-5 MAINTANANCE OF CENTERS.** The Board of Supervisors shall provide for the general upkeep and maintenance of Collection Centers.

**5-5-1-6 POSTING OF CENTERS.** The Board of Supervisors shall cause the Collection Centers to be posted by signs clearly visible to persons at points of access by roadway or walkway leading into the Collection Centers, which shall state as follows: **(Amendment May 29, 2012)**

HENRY COUNTY TRASH COLLECTION CENTERS  
FOR USE BY HENRY COUNTY RESIDENTS  
LIVING IN UNINCORPORATED AREA ONLY  
COMPLIANCE WITH USE REGULATIONS REQUIRED  
VIOLATORS WILL BE PROSECUTED

**5-5-2**

**5-5-2-1** The Board of Supervisors is authorized to establish by resolution regulations not inconsistent with the provisions of this Ordinance for the control of use of Collection Centers. Regulations adopted shall be posted at each Collection Center.

**5-5-2-2** Collection Centers shall be used only for the collection and disposal of solid waste from the domestic activities of residences located in the unincorporated area of Henry County, Iowa. Persons residing outside of Henry County or within cities in Henry County shall not enter or use the Collection Centers except for the purposes of maintenance and cleaning of Collection Centers, authorized trash removal, or assisting a resident of the unincorporated area of Henry County, Iowa in delivery of trash for deposit at the Collection Center in compliance with this Ordinance. Entry onto the site of Collection Centers, except for purposes authorized by the Ordinance is prohibited.

**5-5-2-3** Solid waste shall be deposited only inside containers provided at Collection Centers. Nothing shall be placed, left or allowed to remain outside of those containers. Nothing shall be left at Collection Centers if containers are full.

**5-5-2-4** The following materials shall not be deposited or left at Henry County Trash Collection Centers: radioactive waste, hazardous substances and wastes (EXCEPT USED MOTOR OIL), agricultural chemicals and chemical containers, wire, machinery, equipment, motor vehicles, animal carcasses, flammable liquids, explosive materials, incendiary devices, dangerous

weapons and ammunition, or any item too large to be placed within the containers provided at Collection Centers. **(Amendment May 29, 2012)**

**5-5-2-5** Burning materials shall not be brought to the Collection Centers and fires shall not be started at the Collection Centers.

**5-5-2-6** Scavenging at Collection Centers is prohibited. No person shall scavenge, rummage through refuse or waste materials, or remove materials discarded by others at the Collection Centers unless authorized by the Board of Supervisors to remove waste materials from the Collection Centers.

**5-5-2-7** Each residence in the unincorporated area is authorized to deposit at Trash Collection Centers no more than six trash bags or cans of solid waste per week.

### **5-5-3**

**5-5-3-1** Terms used in this Ordinance shall be defined in a manner consistent with definitions set forth in the Code of Iowa.

### **5-5-4**

**5-5-4-1** **VIOLATION AND PENALTY** Any person who violates any provision of this ordinance commits a simple misdemeanor and shall be subject to the imposition of a criminal penalty or other appropriate relief to abate or halt the violation as provided for in Title I Chapter 7 of the Henry County Code of Ordinances. All or part of a sentence to pay a fine or jail may be suspended upon the condition that the defendant perform unpaid community service consisting of clean-up of Henry County Trash Collection Centers or highway right-of-way. **(Amendment/ August 28, 2018)**

### **5-5-5**

**5-5-5-1** **VALIDITY.** If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. All other ordinances, orders, or resolutions in conflict with the provisions of the Ordinance are hereby repealed.

### **5-5-6**

**5-5-6-1** **WHEN EFFECTIVE.** This Ordinance shall be effective from and after the date of its

adoption as provided by law.

Adopted this 12<sup>th</sup> day of December, 1986.

Henry County Board of Supervisors

/s/ Roger Tweedy

Roger Tweedy

/s/ Sheldon Kongable

Sheldon Kongable

Book 455 page 109

Amendment May 29, 2012 Book 2012 Page 1399

**TITLE V PUBLIC ORDER, SAFETY AND HEALTH  
CHAPTER 6 COLLECT DELINQUENT ACCOUNTS HENRY COUNTY, IOWA**

- 5-6-1 DISTRICT AREA**
- 5-6-2 GENERAL BASIS AND CLASSIFICATION**
- 5-6-3 DEFINITION OF DELINQUENT ACCOUNTS**
- 5-6-4 BILLING DATE; PENALTY FOR LATE PAYMENT**
- 5-6-5 WHEN EFFECTIVE**

**TITLE: Wastewater Ordinance for Henry County, Iowa.**

**It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare, and convenience of Henry County to collect charges from all users who contribute wastewater to the County's treatment works. The proceeds of such charges so derived will be used for the purpose of operating, maintaining, and retiring the debt for such public wastewater treatment works.**

**Be it enacted by the Board of Supervisors of Henry County, Iowa:**

**5-6-1. District Area.** The "district area" is the area including the formerly incorporated city of Mt. Union and 200 yards surrounding the border of that area.

**5-6-2. General Basis and Classification.**

- (a) The user charge system shall generate adequate annual revenues to pay costs of annual operation and maintenance costs, and the costs for debt retirement associated with financing the treatment works which the County by this article designates to be paid by the user charge system.
- (b) Those portions of the total user charge collected which is designated for operation and maintenance purposes, replacement purposes and debt retirement purposes, as established in Section 3 hereof, shall be deposited in a separate non-lapsing fund, to be known as the "sewer revenue fund."
- (c) Monies which have been transferred from other sources to meet temporary shortages in the operation, maintenance and replacement fund shall be returned to their respective accounts upon appropriate adjustment of the user charge rates for operation.

**5-6-3. Means of Determination and Specific Rates.** Rates shall be determined annually by resolution of the Henry County Board of Supervisors.

**5-6-4. Billing Date; Penalty for Late Payment.**

- (a) Accounts shall be billed semi-annually by special assessment.
- (b) A late payment penalty of one and one-half (1 1/2) percent per month of the user charge bill will be added to each delinquent bill.
- (c) Delinquent accounts shall be collected pursuant to Iowa Code Section 445.37.

**5-6-5. When Effective.** This ordinance shall be in effect \_\_\_\_\_, 2017 after its final passage, approval, and publication as provided by law.

PASSED on its first consideration on the \_\_\_\_ day of \_\_\_\_\_, 2017.

PASSED on its second consideration on the \_\_\_\_ day of \_\_\_\_\_, 2017.

FINAL Passage and Adoption on the \_\_\_\_ day of \_\_\_\_\_, 2017.

Approved on this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Marc B Lindeen, Supervisor

\_\_\_\_\_  
Gary K See, Supervisor

\_\_\_\_\_  
Greg Moeller, Supervisor

Attest: \_\_\_\_\_  
Shelly Barber, Henry County Auditor

I, Shelly Barber, Auditor of Henry County, Iowa, do hereby certify that the foregoing Ordinance was published as required by law on the \_\_\_\_ day of \_\_\_\_\_, 2017, in the Mt. Pleasant News, New London Journal and Winfield Beacon.

\_\_\_\_\_  
Shelly Barber, Henry County Auditor

**Recorded Book 2017 Page 1128**

**TITLE V PUBLIC ORDER, SAFETY AND HEALTH  
CHAPTER 7 COLLECT DELINQUENT ACCOUNTS HENRY COUNTY, IOWA.**

- 5-7-1 DISTRICT AREA**
- 5-7-2 GENERAL BASIS AND CLASSIFICATION**
- 5-7-3 DEFINITION OF DELINQUENT ACCOUNTS**
- 5-7-4 BILLING DATE; PENALTY FOR LATE PAYMENT**
- 5-7-5 WHEN EFFECTIVE**

**TITLE: Wastewater Ordinance to Collect Delinquent Accounts for Henry County, Iowa.**

**It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare, and convenience of Henry County to collect charges from all users who contribute wastewater to the County's treatment works. The proceeds of such charges so derived will be used for the purpose of operating, maintaining, and retiring the debt for such public wastewater treatment works.**

**Be it enacted by the Board of Supervisors of Henry County, Iowa:**

**5-7-1. District Area.** The "district area" is the area including the formerly incorporated city of Mt. Union and 200 yards surrounding the border of that area.

**5-7-2. General Basis and Classification.**

- (d) The user charge system shall generate adequate annual revenues to pay costs of annual operation and maintenance costs, and the costs for debt retirement associated with financing the treatment works which the County by this article designates to be paid by the user charge system.
- (e) Those portions of the total user charge collected which is designated for operation and maintenance purposes, replacement purposes and debt retirement purposes, as established in Section 3 hereof, shall be deposited in a separate non-lapsing fund, to be known as the "sewer revenue fund."
- (f) Monies which have been transferred from other sources to meet temporary shortages in the operation, maintenance and replacement fund shall be returned to their respective accounts upon appropriate adjustment of the user charge rates for operation.

**5-7-3. Definition of Delinquent Accounts.** For the purposes of this Ordinance, "Delinquent Accounts" are user accounts which have overdue payments outstanding as of the effective date of this ordinance.

**5-7-4. Billing Date; Penalty for Late Payment.**

- (d) Delinquent accounts shall be collected through a one-time special assessment on September 30<sup>th</sup>, 2017.
- (e) A late payment penalty of one and one-half (1 ½) percent per month of the user charge bill will be added to each delinquent bill.
- (f) Delinquent accounts shall be collected pursuant to Iowa Code Section 445.37.

**5-7- 5. When Effective.** This ordinance shall be in effect \_\_\_\_\_, 2017 after its final passage, approval, and publication as provided by law.

PASSED on its first consideration on the \_\_\_\_ day of \_\_\_\_\_, 2017.

PASSED on its second consideration on the \_\_\_\_ day of \_\_\_\_\_, 2017.

FINAL Passage and Adoption on the \_\_\_\_ day of \_\_\_\_\_, 2017.

Approved on this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Marc B Lindeen, Supervisor

\_\_\_\_\_  
Gary K See, Supervisor

\_\_\_\_\_  
Greg Moeller, Supervisor

Attest: \_\_\_\_\_  
Shelly Barber, Henry County Auditor

**Recorded Book 2017 Page 1129**

## TITLE VI PROPERTY AND LAND USE

### CHAPTER 1 SUBDIVISION ORDINANCE

- 6-1-1-1 SHORT TITLE
- 6-1-2-1 DEFINITIONS
- 6-1-3-1 JURISDICTION
- 6-1-4-1 APPLICATION PROCEDURES
- 6-1-4-2 CLASSIFICATION OF SUBDIVISIONS
- 6-1-4-3 DISCUSSION OF REQUIREMENTS
- 6-1-4-4 APPLICATION FOR PRELIMINARY PLAT APPROVAL
- 6-1-4-5 CONTENTS OF THE PRELIMINARY PLAT
- 6-1-4-6 APPLICATION ACCEPTANCE
- 6-1-4-7 DISTRIBUTION OF PRELIMINARY PLAT
- 6-1-4-8 REVIEW OF PRELIMINARY PLAT
- 6-1-4-9 REVIEW OF PRELIMINARY PLAT BY SOIL CONSERVATION DISTRICT
- 6-1-4-10 NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT
- 6-1-4-11 PUBLIC HEARING BY COUNTY BOARD
- 6-1-4-12 RECORD OF APPROVAL
- 6-1-4-13 EFFECT OF APPROVAL OF PRELIMINARY PLAT
- 6-1-4-14 EFFECTIVE PERIOD OF PRELIMINARY PLAT APPROVAL
- 6-1-4-15 EXTENSION OF TIME LIMITATIONS
- 6-1-4-16 APPLICATION FOR FINAL PLAT APPROVAL
- 6-1-4-17 CONTENTS OF THE FINAL PLAT
- 6-1-4-18 APPLICATION ACCEPTANCE
- 6-1-4-19 REVIEW OF FINAL PLAT
- 6-1-4-20 PUBLIC MEETING BY COUNTY BOARD
- 6-1-4-21 COUNTY BOARD ACTION
- 6-1-4-22 RECORD OF APPROVAL
- 6-1-4-23 RECORDING FINAL PLAT
- 6-1-4-24 FAILURE TO CONSTRUCT REQUIRED IMPROVEMENTS
- 6-1-4-25 PLATS IN UNINCORPORATED AREAS WITHIN TWO MILES OF THE CORPORATE LIMITS OF CITIES AND TOWNS.
- 6-1-4-26 AUDITOR'S PLATS
- 6-1-5-1 DESIGN AND DEVELOPMENT STANDARDS
- 6-1-5-2 ACRE SUBDIVISION
- 6-1-5-3 SUITABILITY OF THE LAND FOR SUBDIVISION
- 6-1-5-4 STREET ALIGNMENT
- 6-1-5-5 STREET RIGHT-OF-WAY
- 6-1-5-6 DISCHARGE OF SURFACE WATER
- 6-1-5-7 CURVES IN STREETS – HORIZONTAL AND VERTICAL
- 6-1-5-8 INTERSECTIONS
- 6-1-5-9 ALLEYS
- 6-1-5-10 FRONTAGE OR MARGINAL ACCESS STREETS
- 6-1-5-11 DEAD-END STREETS (CUL-DE-SACS)
- 6-1-5-12 STREET NAMES
- 6-1-5-13 BLOCKS
- 6-1-5-14 LOTS
- 6-1-5-15 CHARACTER OF DEVELOPMENT
- 6-1-5-16 EASEMENTS ALONG STREAMS
- 6-1-5-17 UTILITY AND DRAINAGE EASEMENTS
- 6-1-5-18 PUBLIC OPEN SPACES
- 6-1-6-1 REQUIRED IMPROVEMENTS



**6-1-6-2 SUBMISSION OF THE FINAL CONSTRUCTION PLANS**  
**6-1-6-3 CONTENTS OF FINAL CONSTRUCTION PLANS**  
**6-1-6-4 REVIEW OF FINAL CONSTRUCTION**  
**6-1-6-5 CONSTRUCTION OF IMPROVEMENTS**  
**6-1-6-6 INSPECTION**  
**6-1-6-7 FINAL INSPECTION**  
**6-1-6-8 ACCEPTANCE OF IMPROVEMENTS**  
**6-1-6-9 REPORT TO COUNTY BOARD**  
**6-1-6-10 MAINTENANCE BOND**  
**6-1-6-11 STREET IMPROVEMENTS**

**6-1-6-12 ROAD ASSOCIATION AGREEMENT**  
**6-1-6-13 GRADING**  
**6-1-6-14 GENERAL REQUIREMENTS FOR INSTALLATION OF UTILITIES**  
**6-1-6-15 WATER SUPPLY**  
**6-1-6-16 SANITARY SEWER**  
**6-1-6-17 STORM SEWER**  
**6-1-7-1 VARIATIONS AND EXCEPTIONS**  
**6-1-7-2 ENFORCEMENT AND PENALTIES**  
**6-1-7-3 CHANGES AND AMENDMENTS**  
**6-1-7-4 REPEALER**  
**6-1-7-5 SAVING CLAUSE**  
**6-1-7-6 EFFECTIVE DATE**

AN ORDINANCE prescribing minimum requirements for the design and development of new subdivisions and re-subdivisions of land in the unincorporated area of Henry County; providing for the enforcement of these regulations; and for the repeal of all other ordinances or resolutions in conflict herewith.

**6-1-1**

**6-1-1-1 SHORT TITLE.** This resolution may be known and cited as the “Subdivision Regulations” for Henry County, Iowa.

**6-1-2**

**6-1-2-1 DEFINITIONS.** For the purpose of this ordinance, certain terms and words are hereby defined. Words used in the present tense shall include the future, the singular number shall include the plural, and the plural the singular; the word “shall” is a mandatory, the word “may” is permissive.

Auditor’s Plat: A plat prepared at the request of the County Auditor to clarify property descriptions for the purpose of assessment and taxation.

Board: The Henry County Board of Supervisors.

Building Line: A line on a plat between which line and public right-of-way line no buildings or structures may be erected.

Cul-de-sac: A dead-end street permanently closed to through traffic being terminated by vehicular turn-around.

Easement: A right-of-way granted for the purpose of limited private, public and quasi-public uses across private land.

Health Department: Refers to the Board of Health for Henry County, established pursuant to Chapter 137, Code of Iowa, their published approved rules and regulations and as they apply to sub-division development.

Local Residential Street: A local service street used primarily for access to abutting property.

Lot: A portion of a subdivision or other plot or parcel of land which is, or in the future, may be, offered for sale, conveyance, transfer or improvement.

Proprietor's Plat: A plat as defined herein submitted by the owner of the land being platted, or his agent, or other private entity, acting with the consent of the owner.

Resubdivision/Replat: Any subdivision of land, except a property line adjustment, which has previously been included in a recorded plat. In appropriate context it may be a verb referring to the act of preparing a plat of previously subdivided land. Resubdivision / replats shall follow the same procedure as set forth for a, minor or major subdivision, whichever may be applicable.

**(Amendment/ July 22, 2014)**

Sketch plat: A freehand sketch drawing which depicts the proposed division of a tract of land, which meets the requirements of this Ordinance.

**(Amendment/ January 24, 2005)**

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

1. ARTERIAL STREET: Any street serving major traffic movements which is designed primarily as a traffic carrier between cities and towns or between various sections of the County, which forms part of a network of through streets, or which provides service and access to abutting properties only as a secondary function.
2. COLLECTOR STREET: Any street designed primarily to gather traffic from local streets and carry it to the arterial system.

3. COUNTY ROAD: Any street, other than a highway, which is not located within a platted subdivision approved by the County.
4. CUL-DE-SAC: A street having one end connection with a public street and being terminated at its other by a vehicular turn-around.
5. DEAD-END STREET: A local street having only one (1) outlet connecting to another street.
6. HIGHWAY: An officially designated federal or state numbered highway, or other major street or road designated by the County as a thoroughfare.
7. LOCAL STREET: A street designed primarily to provide access to abutting properties and to discourage through traffic.
8. MARGINAL ACCESS STREET: A local street which is parallel with an adjacent highway or arterial street and which provides access to abutting properties and provides protection from fast, through traffic on the highway or arterial street.
9. PRIVATE STREET: All land between right-of-way lines dedicated to the public, but not accepted in a governmental road system.
10. PUBLIC STREET: All land between right-of-way lines dedicated to and accepted by a governmental agency. **(Amendment/ January 24, 2005)**

Subdivision: The division of a quarter-quarter section of land or government lot into two (2) or more lots, parcels, or other divisions of land for the purpose, whether immediate or future, of transfer of ownership, building development or lease. The term includes resubdivision and when appropriate to the context, shall relate to the process of subdividing or the land subdivided.

1. MAJOR SUBDIVISION: All subdivisions not classified as either a property line adjustment, simple division, or minor subdivision, including but not limited to any size subdivision requiring new public or private streets, or the extension of any public facilities, or the creation of any public improvements.
2. MINOR SUBDIVISION: A subdivision of land which meets the following criteria:
  - A. All new lots shall front on and have direct access from an existing public street.
  - B. No new public or private street shall be created or sought to be dedicated or contemplated to project through the proposed subdivision.
  - C. No more than four (4) lots shall be created.
  - D. No new lot shall conflict with any provisions or portion of the County Zoning Ordinance or this Ordinance.
3. SIMPLE DIVISION: A subdivision of a tract which meets the following criteria:
  - A. No more than three (3) parcels are created per quarter-quarter section.
  - B. No new parcel shall conflict with any provision or portion of the County Zoning Ordinance or this Ordinance.
4. PROPERTY LINE ADJUSTMENT: A subdivision of one (1) or more lots or parcels which meets the following criteria:
  - A. No additional lots or parcels shall be created.

B. No part of the divided lot or parcel of land will be transferred to anyone but the owner or owners of a lot or parcel of land abutting that part of the divided lot or parcel of land to be transferred.

C. No new lot or parcel shall conflict with any provision or portion of the County Zoning Ordinance or this Ordinance. **(Amendment/ January 24, 2005)**

### **6-1-3**

#### **6-1-3-1 JURISDICTION**

It shall be unlawful for any person being the owner, agent or person having control of any land within Henry County and the extra territorial plat jurisdiction of a municipality to create a subdivision unless by a plat, in accordance with the regulations contained herein. Such plat shall first be submitted to the Henry County Health Department for sewage disposal and water arrangements. It shall be then submitted to the Board of Supervisors for approval or disapproval. No plat shall be recorded and no lots shall be sold from such plat unless and until approved as herein provided and all public lands and rights dedicated to the governing body having jurisdiction for the area in which it is located.

### **6-1-4**

#### **6-1-4-1 APPLICATION PROCEDURES**

The regulations set forth by this Ordinance shall apply to all subdivisions of land, as defined herein, located within the jurisdiction of the County:

1. No plat of any subdivision within the application of this Ordinance has any validity until the plat has been prepared, approved and acknowledged in the manner prescribed in this Ordinance.
2. The subdivision of any tract or parcel of land for the purpose of sale, transfer or lease with the intent of evading the provisions of this Ordinance shall not be permitted. All such described subdivisions shall be subject to all the requirements contained in this Ordinance.
3. No permit, license or certificate shall be issued by a department, official or public employee of the County vested with such duty or authority, for any use, building or other purpose on a parcel or tract which is not a lot of record at the effective date of adoption of this Ordinance or which has not been approved and recorded in accordance with the provisions of this Ordinance. Any permit, license or certificate issued in conflict with the provisions of this Ordinance shall be null and void and of no effect whatever.
4. No public improvements shall be made by the County Board with County funds, nor shall any County funds be expended for road maintenance, road improvements, or any other services in any area that has been subdivided after the effective date of this Ordinance, unless such subdivision and streets have been approved in accordance with

the provisions of this Ordinance and the street accepted by the County Engineer as a public street. **(Amendment/ January 24, 2005)**

**6-1-4-2 CLASSIFICATION OF SUBDIVISIONS:**

Except as provided in Article IV Section 2 sub section 5, whenever any division of a tract or parcel into two (2) or more parcels is proposed, before any contract is made for the sale of any part thereof, and before any zoning permit is issued for the erection of any structure upon such land, the owner of the land, or his authorized agent, shall apply and secure approval of the particular type of division, as described below, proposed.

1. The procedure for approval of a major subdivision, as defined in Article I section 2, shall consist of a:
  - A. Sketch plat, as described in Article IV section 3.
  - B. Preliminary plat, as described in Article IV sections 4-15.
  - C. Final construction plans, as described in Article VI sections 2-9.
  - D. Final plat, as described in Article IV sections 16-24.
2. The procedure for approval of a minor subdivision, as defined in Article I section 2, shall consist of a:
  - A. Sketch plat, as described in Article IV section 3.
  - B. Preliminary plat, as described in Article IV sections 4-15.
  - C. Final plat, as described in Article IV sections 16-24.
3. The procedure for approval of a simple division, as defined in Article I section 2, shall consist of a:
  - A. Sketch plat, as described in Article IV section 3.
4. The procedure for approval of a property line adjustment, as defined in Article I section 2, shall consist of a:
  - A. Sketch plat, as described in Article IV section 3.
5. Regulations or restrictions adopted under the provisions of this Ordinance shall not be construed to apply in the following instances or transactions:
  - A. The division of land into burial lots in a cemetery.
  - B. A conveyance of land or interest therein for use of right-of-way by a railroad or other public utility subject to State or Federal regulations, where such conveyance does not involve the creation of any new public or private street or easement of access.
  - C. A conveyance of land or interest therein to adjoining property owners of vacated right-of-way by a railroad or other public utility subject to State or Federal regulation, where such conveyance does not involve the creation of any new parcel.
  - D. A conveyance of land to the State or County for right-of-way or other public use when such acceptance is in the public interest and not for the purpose of circumventing these regulations.

E. A conveyance of land in forty-acre aliquot part or government lots.  
**(Amendment/ January 24, 2005)**

**6-1-4-3 DISCUSSION OF REQUIREMENTS:** Before preparing a sketch plat, the developer should discuss with the Planning and Zoning Administrator the requirements and procedure for approval of a property line adjustment, simple division or minor or major subdivision. The Planning and Zoning Administrator shall also advise the developer, where appropriate, to discuss the proposal with those officials who must eventually approve these aspects of the subdivision coming within their jurisdiction.

**APPLICATION FOR SKETCH PLAT APPROVAL:** An application for sketch plat approval shall be filed, upon the form provided, with the Planning and Zoning Administrator. The application shall include information and documentation as prescribed by the Planning and Zoning Administrator. The application shall contain the following information and documentation:

1. The names, addresses and telephone numbers of the owner of the land and the developer, if other than the owner.
2. The proposed name of the subdivision or the name of the property owner, if no subdivision name has been chosen.
3. The street address or general location and legal description of the subject property.
4. The present and proposed uses and zoning district classification of the subject property.
5. A copy of any existing protective covenants or deed restrictions on the subject property.
6. A statement of any existing easements affecting the subject property.
7. A statement of preliminary proposals for providing water supply, sanitary sewage treatment, utilities, storm water drainage and other improvements.
8. Two (2) copies of the sketch plat as described below.
9. A statement by the person preparing the application attesting to the truth and correctness of all information and documentation presented with the application.
10. A certificate from the County Treasurer that the land for which a property line adjustment or a simple division as being considered free from certified taxes and certified special assessments.

**CONTENTS OF THE SKETCH PLAT:** The sketch plat may be drawn as a freehand sketch at a legible scale. It is recommended that a sketch plat for a subdivision be depicted on a blackline/blueline print copy of the appropriate page of the County Auditor's Official Plat Book, which is on record in the office of the County Auditor. The sketch plat shall show the following:

1. The date of the document, approximate true north arrow and the scale of the document.
2. General location of the property by section, township and range.
3. The location of property lines, existing right-of-ways and easements; and the location, width, and names of all existing or platted streets or easements of access within or immediately adjacent to the subject property.

4. In the case of a major subdivision plat, the approximate location and width of proposed public or private streets.
5. The approximate location, dimension and area of all existing and proposed lots or parcels.
6. The approximate location, dimension and area of all property proposed to be set aside for park or playground use, or other public or private recreation.

REVIEW OF SKETCH PLAT: The Planning and Zoning Administrator shall review the application and determine the appropriate subdivision classification for the sketch plat. The Planning and Zoning Administrator shall confer with the developer and the County Engineer to develop a mutually acceptable sketch plat for a major subdivision.

SKETCH PLAT APPROVAL OF A PROPERTY LINE ADJUSTMENT: Following such review of the sketch plat for a property line adjustment, the Planning and Zoning Administrator shall either approve the sketch plat with or without specified conditions, to be accepted by the developer as a condition of such approval or disapprove the sketch plat. The Planning and Zoning Administrator shall notify, in writing, the developer of his decision.

1. Approval of the sketch plat shall signify the general acceptability of the proposed property line adjustment with respect to compliance with the requirements of the County Zoning Ordinance and this Ordinance and shall be deemed to be authorization to proceed with preparation of necessary instruments for conveyance of a portion of one (1) lot or parcel to the owner of an adjoining lot or parcel. A plat of survey shall be prepared for the division. One (1) copy of the plat of survey shall be prepared by an Iowa registered land surveyor and filed with the Planning and Zoning Administrator before final approval may be given on the sketch plat application. A copy of said decision shall be recorded simultaneously with any and all instruments filed with the County Recorder which transfer the ownership of said property being divided.

Such instruments shall contain a deed restriction directing the County Auditor to combine the portion of land described in the instrument with the adjoining tract or parcel to create a single parcel. A copy of such instrument shall be submitted for review by the Planning and Zoning Administrator prior to being recorded to insure that said deed restriction is included.

1. Disapproval of the sketch plat shall signify the general unacceptability of the proposed property line adjustment with respect to compliance with the requirements of the County Zoning Ordinance and this Ordinance; however, the developer may appeal the decision of the Planning and Zoning Administrator to the Board of Supervisors for final determination.

SKETCH PLAT APPROVAL OF A SIMPLE DIVISION: Following such review of the sketch plat for a property tract division, the Planning and Zoning Administrator shall either approve the sketch plat with or without specified conditions to be accepted by the developer as a condition of such approval or disapprove the sketch plat. The Planning and Zoning Administrator shall notify, in writing, the developer of his decision. :

1. Approval of the sketch plat shall signify the general acceptability of the proposed property division with respect to compliance with the requirements of the County Zoning Ordinance and this Ordinance. A plat of survey shall be prepared for as follows:

A. In the event a forty-acre aliquot part or government lot is proposed to be divided into two (2) parcels, it shall be required that only the parcel being conveyed have a plat of survey prepared of it. However, as allowed by Code of Iowa, Section 354.4, at the discretion of the County Auditor, an order may be given to require both parcels to have a plat of survey prepared of them. In the event only the parcel being conveyed has a plat of survey prepared, the decision on the sketch plat application shall be conditional upon no further divisions taking place in that forty-acre aliquot part or government lot until such time as all parcels in said forty-acre aliquot part or government lot have had a plat of survey prepared of them.

B. Proposed to be divided into three (3) parcels simultaneously, it shall be required that all three (3) parcels in that forty-acre aliquot part or government lot have a plat of survey prepared of them.

C. In the event a forty-acre aliquot part or government lot was divided into two (2) parcels prior to March 10, 1980 and it is proposed that one (1) of the two (2) parcels be divided into two (2) parcels, resulting in no more than three (3) parcels within the boundaries of the forty-acre aliquot part or government lot, only the two (2) new parcels shall be required to have a plat of survey prepared of them.

D. In the event a forty-acre aliquot part or government lot was divided into two (2) parcels after March 10, 1980 and it is proposed that one of the two parcels be divided into two (2) parcels, neither parcel shall be able to be divided unless a plat of survey has been prepared of all parcels located in said forty-acre aliquot part or government lot.

One (1) copy of the plat of survey shall be prepared by an Iowa registered land surveyor and filed with the Planning and Zoning Administrator before final approval may be given on the sketch plat application. A copy of said decision shall be recorded simultaneously with any and all instruments filed with the County Recorder which transfer the ownership of said property being divided.

2. Disapproval of the sketch plat shall signify the general unacceptability of the proposed simple division with respect to compliance with the requirements of the County Zoning Ordinance and this Ordinance; however, the developer may appeal the decision of the Planning and Zoning Administrator to the Board of Supervisors for final determination.

**EFFECTIVE PERIOD OF SKETCH PLAT FOR A SIMPLE DIVISION OR PROPERTY LINE ADJUSTMENT:** Within one (1) year from the day the Planning and Zoning Administrator approves a sketch plat application for a simple division or a property line adjustment, the developer shall cause the approved deed and approved sketch plat application to have been recorded in the Office of the County Recorder. If the developer fails to record said instruments within the appropriate time



period, the sketch plat application shall be void.

**SKETCH PLAT APPROVAL OF A MINOR OR MAJOR SUBDIVISION:** Following such review of a sketch plat for a minor or major subdivision, the Planning and Zoning Administrator shall either approve the sketch plat with or without specified conditions to be accepted by the developer as a condition of such approval or disapprove the sketch plat. The Planning and Zoning Administrator shall notify, in writing, the developer of his decision.

1. Approval of the sketch plat shall signify the general acceptability of the proposed minor or major subdivision with respect to compliance with the requirements of the County Zoning Ordinance and this Ordinance and shall be deemed to be authorization to proceed with the preparation of a preliminary plat as described in Article IV sections 4-15.
2. Disapproval of the sketch plat shall signify the general unacceptability of the proposed minor or major subdivision with respect to compliance with the requirements of the County Zoning Ordinance and this Ordinance; however, the developer may appeal the decision of the Planning and Zoning Administrator to the Board of Supervisors for final determination. **(Amendment/ January 24, 2005)**

**6-1-4-4 APPLICATION FOR PRELIMINARY PLAT APPROVAL:** An application for preliminary plat approval shall be filed, upon the form provided, with the Planning and Zoning Administrator for submission to the Board of Supervisors. The application shall contain the following information and documentation:

1. The names, addresses and telephone numbers of the owner of the land and the developer, if other than the owner
2. The names, addresses and telephone numbers of all professional consultants advising the developer with respect to the proposed subdivision.
3. The proposed name of the subdivision.
4. The street address or general location and legal description of the subject property.
5. The present and proposed zoning district classification of the subject property.
6. The existing and proposed uses of the subject property.
7. A statement of any protective covenants or deed restrictions, in outline form, which are proposed to be recorded with the final plat.
8. A statement of proposed method of water supply, of sanitary sewage treatment and of disposal of storm waters from the subject property.
  - A. In the event private water wells are to be the proposed method of water supply, the developer shall submit evidence of the availability of water on the site.
  - B. In the event onsite wastewater treatment and disposal systems are to be the proposed method of sanitary sewer treatment, as provided in Article VI section 11, the developer shall submit evidence of the suitability of the soil for onsite wastewater treatment and disposal systems on the site.
9. A statement of the general nature and type of improvements proposed for the

subdivision, and in what manner the developer intends to provide for their installation, e.g., actual construction, monetary guarantee, etc. The approximate time that such improvements will be completed shall be indicated.

10. Six (6) blackline/blueline print copies of the preliminary plat as described in Article IV section 5, below, along with one (1) reduced (8 1/2" x 11" or 8 1/2" x 14") copy of the preliminary plat.

11. Two (2) blackline/blueline print copies of the plans showing the typical cross sections and center line profiles, with approximate grades, of all proposed public or private streets.

12. One (1) blackline/blueline print copy of the Erosion and Sedimentation Control Plan, approved by the appropriate Soil Conservation District, to show the plan of reducing erosion and controlling sediment on the subdivision site during and after construction, prepared in accordance with this Ordinance and the standards and specifications of the Soil Conservation District.

13. A statement by the person preparing the application attesting to the truth and correctness of all information and documentation presented with the application.

**(Amendment/ January 24, 2005)**

**6-1-4-5 CONTENTS OF THE PRELIMINARY PLAT:** The preliminary plat shall be prepared by a registered engineer or registered land surveyor at a convenient scale of not less than one (1) inch equals three hundred (300) feet; provided, however, that those areas of more than forty (40) acres may be at a scale of one (1) inch equals four hundred (400) feet. The preliminary plat shall show the following:

1. The name of the proposed subdivision and an identification clearly stating that the document is a preliminary plat.
2. The date of the document, approximate true north point and the scale of the document.
3. The names and addresses of the owner of the land, the developer, if other than the owner, and the registered engineer and/or registered land surveyor who prepared the preliminary plat.
4. A description of the subject property, giving the location and dimensions of all boundary lines to be expressed in feet and decimals of a foot, with reference to section or quarter section lines.
5. The following existing conditions shall be shown on the preliminary plat:
  - A. The location, right-of-way width, surfacing width and names of all existing streets and easements of access, railroad right-of-ways, and utility easements within the subdivision and within two hundred (200) feet thereof.
  - B. The location of any existing permanent buildings within the proposed subdivision and existing buildings in projected alignment of any proposed public or private streets outside of the proposed subdivision and within two hundred (200) feet thereof.

C. The location of pertinent features such as water bodies, wetlands, wooded areas, parks, cemeteries, bridges and other permanent structures.

D. The location of all existing sanitary and storm sewers, culverts, water mains, gas lines and other underground installations within or immediately adjacent to the proposed subdivision.

E. The location of water courses, drainage ditches and areas subject to flooding. Proposed subdivisions located within areas subject to flooding shall include a contour line depicting the boundary of one hundred (100) year flood.

F. Contour lines or spot elevations related to some established bench mark or mean sea level or other datum having the following intervals, as follows:

Major Subdivision

1. Five (5) foot contour intervals for ground slopes of ten (10) percent or more;

2. Two (2) foot contour intervals for ground slopes of less than ten (10) percent; and

3. Spot elevations where the ground is too flat for contours.

Minor Subdivision

1. Ten (10) foot contour intervals.

2. Spot elevations where the ground is too flat for contours.

3. The location, elevation and descriptions of the bench mark controlling the survey.

6. The following information with respect to the manner in which the subject property is to be developed shall be included on the preliminary plat:

A. The location, dimensions, identification number and lot area of all proposed lots.

B. The location, right-of-way width, surfacing width and names of all proposed public or private streets.

C. The location, width and purpose of all proposed easements.

D. The location and type of all proposed utilities.

E. The location, dimensions and area of all property proposed to be set aside for park or playground use, or other public or private reservation, with designation of the purpose thereof, and conditions, if any, of the dedication or reservation.

F. The location and width of all proposed building setback lines.

G. Indication of the use of all proposed lots, if other than single-family dwellings.

7. A vicinity map adequately covering the area within one-half (1/2) mile radius of the proposed subdivision, at a scale of not less than (1) inch equals two thousand (2000) feet, showing the relation of the plat to the surrounding properties, streets, parks, schools and major commercial or industrial developments, and the boundary of the drainage area affecting the plat.

8. A certificate to be signed by the Planning and Zoning Administrator approving the

preliminary plat with respect to compliance with the requirements of the County Zoning Ordinance.

9. A certificate to be signed by the County Engineer approving the preliminary plat with respect to proposed public improvements, if any.

10. A resolution for approval of the County Board to be signed by the Chairman and attested by the County Auditor

11. If applicable, a resolution for approval of the City Council to be signed by the Mayor and attested by the City Clerk, along with other appropriate certificates as may be required by the City. **(Amendment/ January 24, 2005)**

**6-1-4-6 APPLICATION ACCEPTANCE:** The application shall be considered as officially filed after it has been examined by the Planning and Zoning Administrator and found to contain the information and documentation essential for proper review. Lack of complete information and documentation shall be deemed cause for refusal of official filing. **(Amendment/ January 24, 2005)**

**6-1-4-7 DISTRIBUTION OF PRELIMINARY PLAT:** The Planning and Zoning Administrator shall transmit copies of the preliminary plat to the County Engineer, the appropriate school district superintendent, appropriate district soil conservationist, appropriate fire department, the County Sheriff and such other official body or agency as may be directed by the County Board. In addition to a copy of the preliminary plat, two (2) copies of the typical cross sections of the streets shall be transmitted to the County Engineer. **(Amendment/ January 24, 2005)**

**6-1-4-8 REVIEW OF PRELIMINARY PLAT:** Comments and recommendation shall be filed with the Planning and Zoning Administrator as soon as practical, but normally within fifteen (15) working days. Copies of the Planning and Zoning Administrator's comments and recommendations as well as those of the responding individuals and agencies shall be submitted to the Board of Supervisors. **(Amendment/ January 24, 2005)**

**6-1-4-9 REVIEW OF PRELIMINARY PLAT BY SOIL CONSERVATION DISTRICT:** The preliminary plat shall not be approved unless it includes a complete plan for soil erosion and sedimentation control, developed in accordance with the technical standards and specifications of the appropriate District Soil conservationist and approved by the Soil Conservation District. The developer shall attach a statement to the erosion and sedimentation control plan certifying that construction and/or development will be done in accordance with the plan. The appropriate District Soil Conservationist shall notify, in writing, the developer and the Planning and Zoning Administrator that the erosion and sedimentation control plan has been approved, approved subject to modifications or disapproved. If disapproved, the Soil Conservation District shall submit to the Planning and Zoning Administrator, with a copy to the

developer, a statement setting forth reasons for disapproval, and indicating in what way this plan fails to conform to the technical standards and specifications of the Soil Conservation District. In addition, the Soil Conservation District may submit written comment on the other materials submitted for its review.

The date of approval of the erosion and sedimentation control plan by the Soil Conservation District shall be its effective date. Any improvements pursuant to the development of the land from that date forward shall be undertaken in conformance with the plan.

The developer and subsequent landowners shall be liable for the successful implementation and completion of this plan. Any changes in the plan will require approval of the appropriate District Soil Conservationist. **(Amendment/ January 24, 2005)**

**6-1-4-10 NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT:** The preliminary plat shall not be approved unless it includes a copy of an approved NPDES Permit issued by the Iowa Department of Natural Resources for a parcel or tract of land with a total area of one (1) acres or more. **(Amendment/ January 24, 2005)**

**6-1-4-11 PUBLIC HEARING BY COUNTY BOARD:** After receipt of the written recommendation on the proposed subdivision from the Planning and Zoning Administrator, the County Board shall hold a public hearing on the proposed subdivision application.

**COUNTY BOARD ACTION:** The County Board shall consider the Planning and Zoning Administrator's recommendation and shall either disapprove the preliminary plat; shall refer it back to the Planning and Zoning Administrator for further consideration of specified matters; or shall, by resolution, approve the preliminary plat, with or without specified conditions to be accepted by the developer as a condition of such approval. Adoption of such a resolution shall require an affirmative vote of at least a majority of those voting. **(Amendment/ January 24, 2005)**

**6-1-4-12 RECORD OF APPROVAL:** Any resolution adopted by the County Board approving a preliminary plat shall be given an official resolution number and shall be spread in the minutes of proceedings of the County Board.

1. Following County Board action, the Planning and Zoning Administrator shall notify, in writing, the developer of the County Board's decision.
2. If the preliminary plat is approved by the County Board, the Planning and Zoning Administrator shall return a signed blackline/blueline print copy of such plat to the developer. **(Amendment/ January 24, 2005)**

**6-1-4-13 EFFECT OF APPROVAL OF PRELIMINARY PLAT:** Approval of the preliminary plat shall not constitute final acceptance of the subdivision by the County Board, but shall signify merely the general acceptability of the proposed subdivision. Such approval shall be deemed to be authorization to proceed with the preparation of the final construction plans and the final plat. **(Amendment/ January 24, 2005)**

**6-1-4-14 EFFECTIVE PERIOD OF PRELIMINARY PLAT APPROVAL:** Within one (1) year from the day the County Board approves a preliminary plat, the developer shall apply for final plat approval or the first part thereof if phased. If the subdivision is phased, the developer shall apply for final plat approval of the second phase within two (2) years, the third phase with three (3) years, the fourth phase and the balance thereof within five (5) years from the date the preliminary plat was approved by the County Board. If the developer fails to apply for final plat approval within the appropriate time period, the preliminary plat, or remaining phase thereof, shall be void unless the developer requests an extension of time prior to the date originally required for submission of the final plat, or any part thereof if phased. **(Amendment/ January 24, 2005)**

**6-1-4-15 EXTENSION OF TIME LIMITATIONS:** The County Board may grant an extension of time of not more than two (2) years from the date required for submission of a final plat or any part thereof if phased. If a developer applies for an extension of time of submission of any part of a phased subdivision, which is subsequently granted by the County Board, equal extensions are automatically granted for each of the remaining phases. A developer may apply only once for an extension of time, whether or not the preliminary plat is phased. If the County Board refuses to grant an extension of time, the developer shall apply for approval of the final plat, or the appropriate phase thereof is phased, to the County Board within the appropriate time originally required or sixty (60) days from the day the extension request is denied by the County Board. **(Amendment/ January 24, 2005)**

**6-1-4-16 APPLICATION FOR FINAL PLAT APPROVAL:** Following the approval of the preliminary plat in the case of a minor subdivision, or of the preliminary plat and final construction plans in the case of a major subdivision, the developer, if he wishes to proceed with the subdivision, shall file, upon the form provided, an application for final plat approval with the Planning and Zoning Administrator for submission to the County Board. The application shall contain the following information and documentation:

1. The names, addresses and telephone numbers of the owner of the land and the developer, if other than the owner.
2. The names, addresses and telephone numbers of all professional consultants advising the developer with respect to the subdivision.
3. The approved name of the subdivision.
4. A copy of any protective covenants or deed restrictions affecting the subdivision.
5. The performance guarantee, if required, as described in Article VI sections 2-9. If the required improvements have been completed in lieu of a performance guarantee, then a certificate signed by the County Engineer approving the installation of any required improvements.
6. Copies of the final plat of the following types and sizes, all of which shall bear the

original signatures on the required certificates, as described below.

A. Eight (8) blackline/blueline print copies of the final plat.

B. One (1) reduced copy which is either 8 1/2" x 11" or 8 1/2" x 14", of the final plat.

7. A statement from the mortgage holders or lien holders, if any, as required by Section 354.11, Code of Iowa, as amended.

8. An opinion by an attorney-at-law, as required by Section 354.11, Code of Iowa, as amended.

9. A certificate to be signed by the County Treasurer, as required by Section 354.11, Code of Iowa, as amended.

10. Such other and further information as the County Board may deem necessary or appropriate to a full and proper consideration and disposition of the particular application.

11. A statement by the person preparing the application attesting to the truth and correctness of all information and documentation presented with the application.

**(Amendment/ January 24, 2005)**

**6-1-4-17 CONTENTS OF THE FINAL PLAT:** The final plat shall be prepared by a registered land surveyor at a convenient scale of not less than one (1) inch equals one hundred (100) feet. The final plat shall show the following:

1. The approved name of the subdivision.

2. The date of the document, approximate true north arrow and the scale of the plat. The scale shall be clearly stated and graphically illustrated by a bar scale on each plat sheet.

3. The names and addresses of the owner of the land, the developer, if other than the owner, and the engineering firm or surveying firm that prepared the final plat.

4. The location by section, township, range, county and state and including descriptive boundaries of the subdivision, based on accurate traverse, giving annular and linear dimensions which must mathematically close.

5. The exact location and layout of lots, public or private streets with accurate dimensions in feet and decimals of feet, interior angles, length and radii, arcs and intermediate tangents of all curves, and with all other information necessary to reproduce the plat on the ground.

6. The location of all existing and new streets within the subdivision.

7. The names and width of all existing and new streets within the subdivision.

8. The lot number and area of each lot within the subdivision. The data on the area of each lot may be shown in a table format on the plat page on which said lot is drawn.

9. The location of all easements shall be denoted by fine dashed lines, clearly identified, and if already on record, the recorded reference of such easement. If an easement is not definitely located on record, a statement of such easement shall be included. The width of the easements, with sufficient ties to locate it definitely with respect to the subdivision

must be shown. If the easement is being dedicated by the final plat, it shall be properly referenced in the owner's certification of identification.

10. The recorded reference of any protective covenants or deed restrictions affecting the subdivision shall be shown as a notation on the final plat.

11. A statement by the proprietors and their spouse, if any, as required by Chapter 354.11, Code of Iowa, as amended.

12. A certificate signed by a registered land surveyor, as required by Chapter 355, Code of Iowa.

13. A certificate to be signed by the Planning and Zoning Administrator approving the final plat with respect to compliance with the requirements of the County Zoning Ordinance.

14. A certificate to be signed by the County Engineer approving the final plat with respect to public improvements, if any.

15. A resolution for approval of the County Board to be signed by the Chairman and attested by the County Auditor.

16. If applicable, a resolution for approval of the City Council to be signed by the Mayor and attested by the City Clerk, along with other appropriate certificates as may be required by the City. **(Amendment/ January 24, 2005)**

**6-1-4-18 APPLICATION ACCEPTANCE:** The application shall be considered as officially filed after it has been examined by the Development Director and found to contain the information and documentation essential for proper review. Lack of complete information and documentation shall be deemed cause for refusal of official filing. **(Amendment/ January 24, 2005)**

**6-1-4-19 REVIEW OF FINAL PLAT:** The Planning and Zoning Administrator shall transmit copies of the final plat to the County Engineer. Copies of the Planning and Zoning Administrator's comments and recommendations, as well as those of the County Engineer, shall be submitted to the County Board. **(Amendment/ January 24, 2005)**

**6-1-4-20 PUBLIC MEETING BY COUNTY BOARD:** The County Board shall consider the proposed final plat at public meeting. Notice of the public meeting shall be given as specified in Chapter 21, Code of Iowa, as amended. **(Amendment/ January 24, 2005)**

**6-1-4-21 COUNTY BOARD ACTION:** The County Board shall, within sixty (60) days from the date of application acceptance for final plat approval, either disapprove the final plat or shall, by resolution, approve the final plat and accept the dedication of all streets, easements, parks and other public grounds for public use. Adoption of a resolution shall require an affirmative vote of at least a majority of those voting. **(Amendment/ January 24, 2005)**



**6-1-4-22 RECORD OF APPROVAL:** Any resolution adopted by the County Board approving a final plat shall be given an official resolution number and shall be spread in the minutes of proceedings of the County Board.

1. The Planning and Zoning Administrator shall notify, in writing, the developer of the County Board's decision.

2. If the final plat is approved by the County Board, the Planning and Zoning Administrator, after having retained two (2) blackline/blueline print copy and one (1) reduced copy of such plat, shall return all other copies to the developer, who shall retain one (1) blackline/blueline print copy and distribute the others as follows:

A. One (1) blackline/blueline print copy, at a size of not greater than 11" x 17", to each of the following: County Engineer, County Auditor, County Assessor, and the appropriate City, if any.

B. One (1) blackline/blueline print copy, at a size of not greater than 11" x 17", to the County Recorder, to be recorded in accordance with the provisions of Chapter 354, Code of Iowa. **(Amendment/ January 24, 2005)**

**6-1-4-23 RECORDING FINAL PLAT:** Approval of the final plat by the County Board shall be null and void if the final plat is not recorded with the County Recorder within ninety (90) days after the date of approval, unless an extension is requested by the developer within that time and granted by the County Board. **(Amendment/ January 24, 2005)**

**6-1-4-24 FAILURE TO CONSTRUCT REQUIRED IMPROVEMENTS:** In the event a developer has posted a performance guarantee in lieu of actual construction of required improvements, the County Board may thirty (30) days prior to the expiration of the performance guarantee review the development of the subdivision and may direct the County Engineer to proceed with and execute the performance guarantee in order to assure that the required improvements are completed. **(Amendment/ January 24, 2005)**

**6-1-4-25 PLATS IN UNINCORPORATED AREAS WITHIN TWO MILES OF THE CORPORATE LIMITS OF CITIES AND TOWNS.**

With regard to subdivisions located in the corporate limits of cities and towns having Plan Commissions established in accordance with Chapter 373, Code of Iowa, 1973, the provisions of this ordinance shall not apply. However, the Plan Commission and the City or Town Council may agree to waive such requirements as are contained in their local ordinances to the end that the Planning Commission and Council are satisfied that equally suitable regulations shall be placed on these subdivisions by the Henry County Board of Supervisors under the provisions of this ordinance. In such instance, the Henry County Board of Supervisors shall furnish the city or

town plan commission with a copy of the said subdivision, as approved, certifying that all requirements of the Henry County Subdivision ordinance have been met.

The purpose of this section is to facilitate the orderly processing of subdivisions in unincorporated areas within two (2) miles of the corporate limits of cities and towns and to avoid conflicting regulations while at the same time assuring that provisions are made for proper and orderly future growth of the County and its cities and towns.

**6-1-4-26 AUDITOR'S PLATS**

With regard to Auditor's plats as distinguished from proprietor's plats the Board of Supervisors shall have the right to waive provisions governing preliminary approval and public improvements outlined in these regulations providing there is on file with the Board of Supervisors a copy of the request of the Henry County Auditor ordering such plat and a letter from said Auditor stating that the plat as submitted meets the requirements for which he has ordered the plat.

**6-1-5**

**6-1-5-1 DESIGN AND DEVELOPMENT STANDARDS**

No subdivision plat shall be approved by either the County Engineer or by the Board of Supervisors unless it conforms to the following minimum standards and requirements, except those plats referred to in Article IV, Section 8, Auditor's Plats.

**6-1-5-2 ACRE SUBDIVISION**

Whenever the area is divided into lots containing one (1) or more acres and there are indications that such lots will eventually be re-subdivided into smaller building lots, consideration shall be given to the street and lot arrangement of the original subdivision so that additional minor streets can be opened which will permit a logical arrangement of smaller lots.

**6-1-5-3 SUITABILITY OF THE LAND FOR SUBDIVISION**

1. If the Board of County Supervisors finds that land proposed to be subdivided is unsuitable for subdivision development due to flooding, bad drainage, steep slopes, rock formations, and other such conditions as may increase the danger of health, life, or property or aggravate erosion of flood hazards; and, if, from adequate investigations, conducted by all the public agencies concerned, it has been determined that in the best interest of the public the land should not be platted and developed for the purpose proposed, the Board of County Supervisors shall not approve the land for subdivision unless adequate methods are formulated by the subdivider for meeting the problems that will be created by the subdivision and development of the land.

2. The Board of County Supervisors may refuse to approve what it considers to be scattered or premature subdivision of land which involve danger or injury to the public health, safety, welfare, or prosperity by reason of lack of adequate water supply, schools, proper drainage, good roads and transportation facilities or other public services; or which would necessitate an excessive expenditure of public funds for the supply of such services, such as, undue maintenance costs for adequate roads.

**6-1-5-4 STREET ALIGNMENT**

1. The arrangement of streets in new subdivisions shall make provision for the continuation of the principal existing streets in adjoining subdivisions, or for a proper intersection where said streets in the new subdivision shall connect therewith, or their proper projection where adjoining property is not subdivided insofar as they may be necessary for public requirements. The width of such streets in new subdivisions shall not be less than the minimum street widths established herein. The street arrangement shall also be such as to cause no hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it.
2. The platting of half streets shall be discouraged. Whenever there exists a dedicated or platted half street adjacent to the tract to be subdivided, the other half of the street shall be platted.
3. Where the parcel of land is subdivided into larger tracts than ordinarily used for building lots, such parcel shall be divided so as to allow for the opening and the ultimate extension of adjacent minor streets. Easements, providing for the future opening and extension of such streets or thoroughfares, may at the discretion of the governing body, be made a requirement of the plat.
4. Where a subdivision abuts or contains an existing or proposed major or arterial street, the Board may require a parallel access street, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
5. Streets with centerline offsets of less than one hundred and fifty (150) feet shall be avoided.

**6-1-5-5 STREET RIGHT-OF-WAY**

The dedication of right-of-way for streets measured from lot line to lot line shall meet the following standards:

1. Subdivision Collector shall provide a moderate speed, free-flow access and distribution facility between secondary and residential development roads and shall be constructed in substantial compliance with the following design standards:

Right-of-Way, minimum width: 66 feet  
Traffic surface, minimum width: 24 feet  
Traffic surface, maximum vertical grade: 10%  
Grading, maximum slope: 3:1 ratio

2. Residential Service shall provide a low speed, low volume access to abutting property that effectively eliminates through traffic and shall be constructed in substantial compliance with the following design standards:

Right-of-Way, minimum width: 66 feet, may be reduced to 50' if street is paved and includes curb and gutter  
Traffic surface, minimum width: 24 feet  
Traffic surface, maximum vertical grade: 12%  
Grading, maximum slope: 3:1 ratio

3. Marginal Access shall provide a low speed, limited access serving no more than six (6) abutting lots and shall be constructed in substantial compliance with the following design standards:

Right-of-Way, minimum width: 40 feet  
Traffic surface, minimum width: 20 feet  
Traffic surface, maximum-vertical grade: 15%  
Grading, maximum slope: 3:1 ratio

4. Commercial Service shall provide a slow speed, high volume access to abutting commercial and higher density residential properties and shall be constructed in substantial compliance with the following design standards:

Right-of-Way, minimum width: 40 feet  
Traffic surface, minimum width: 22 feet  
Traffic surface, maximum vertical grade: 10%  
Grading, maximum slope: 3:1 ratio  
Traffic surface, intersection turning radius: 50 feet  
Traffic surface shall be constructed of a permanent dust-free surface.

5. Agricultural Access shall provide a low speed, low volume access for lots designated exclusively for agricultural, non-buildable or open space purposes provided that these lots will generate traffic that is seasonal or infrequent in nature and kept to a minimum length.

Right-of-Way, minimum width: 25 feet  
Traffic surface, minimum width: 10 feet

6. When the subdivision is located on only one side of an existing street, one half (1/2) of the required right-of-way, measured from the center line of the existing roadway shall be dedicated. **(Amendment/ January 24, 2005)**

**6-1-5-6 DISCHARGE OF SURFACE WATER**

1. All streets shall be designed so as to provide for the discharge of surface water from the pavement and from the right-of-way by grading and drainage. For adequate drainage, the minimum street grade shall not be less than one half of one percent (0.5%). **(Amendment/ January 24, 2005)**

2. The Board of County Supervisors shall not approve the streets which will be subject to inundation or flooding. All streets must be located at elevations which will make them flood-free in order that portions of the subdivision will not be isolated by floods. The Board of County Supervisors shall require profiles and elevations of streets in order to determine the advisability of permitting the proposed subdivision activity. **(Amendment/ January 24, 2005)**

**6-1-5-7 CURVES IN STREETS – HORIZONTAL AND VERTICAL**

Horizontal curves:

1. A tangent at least one hundred (100) feet long shall be introduced between reverse curbs on arterial and collector streets.
2. Where there is a deflection angle of more than ten (10) degrees in the alignment of a street, a curve with a radius adequate to insure safe sight distance shall be made. The minimum radii of curves shall be:

<u>Street Type</u>	<u>Minimum Curve Radius</u>
Arterial	300 feet
Collector	300 feet
Minor	100 feet

**(Amendment/ January 24, 2005)**

Vertical Curves:

1. Every change in grade shall be connected by a vertical curve constructed so as to afford a minimum sight distance of two-hundred (200) feet, said sight distance being measured from a driver's eyes, which are assumed to be four and one-half (4 ½) feet above the pavement surface, to an object four (4) inches high on the pavement. Profiles of all streets showing natural and finished grades, drawn to

an approved scale, shall be required by the Board of County Supervisors.

**6-1-5-8 INTERSECTIONS**

1. Streets shall intersect as nearly as possible at right angles, and no intersection shall be at an angle of less than sixty (60) degrees.
2. Street curb intersections shall be rounded by radii of at least twenty (20) feet. When the smallest angle of street intersection is less than seventy-five (75) degrees, the Board of County Supervisors may require curb radii of greater length. Wherever necessary to permit the construction of a curb having desirable radius without reducing the sidewalk at a street corner to less than normal width, the property line at such street corner shall be rounded or otherwise set back sufficiently to permit such curb construction.
3. No lot or other parcel of land which abuts on and has access to either a collector or a minor street shall have a service drive, curb cut, or other means of access to an arterial street within seventy-five (75) feet of the right-of-way of any street which intersects such arterial street on the side on which such lot or parcel is located.

**6-1-5-9 ALLEYS**

Alleys shall be provided to give access to the rear of all lots used for commercial and industrial purposes. Alleys shall not be provided in residential blocks except in cases where the subdivider produces evidence of the need for alleys which is satisfactory to the Board of County Supervisors.

**6-1-5-10 FRONTAGE OR MARGINAL ACCESS STREETS**

Where the proposed subdivision abuts upon or contains an existing or proposed arterial street or highway on which traffic volumes and vehicular speeds warrant special safety considerations, the Board of County Supervisors may require that marginal access streets be provided in order that no lots front on such existing or proposed arterial street or highway.

**6-1-5-11 DEAD-END STREETS (CUL-DE-SACS)**

Minor terminal or dead-end streets or courts which are designed so as to have one end permanently closed shall be provided at the closed end and at intervals not longer than (1000) feet with a turnaround having a radius at the outside of the pavement of at least fifty (50) feet and a radius at the outside of the right-of-way of at least sixty (60) feet. Dead-end streets shall contain no more than 20 lots subject to the following surface requirements.

1 to 6 lots; gravel surface required.

7 to 14 lots; seal coat surface required.

15 to 20 lots; concrete curb and gutter required.

All road surfacing is subject to the requirements of Article Five Section 5 and final approval of the Henry County Engine (**Amendment/ January 24, 2005**)

**6-1-5-12 STREET NAMES**

Proposed streets which are obviously in alignment with other already existing and named streets shall bear the names of such existing streets.

No street name shall be used which will duplicate or be confused with the names of existing streets. Street names shall be subject to the approval of the Board of Supervisors.

**6-1-5-13 BLOCKS**

No block shall be longer than one thousand three hundred twenty (1,320) feet, or less than three hundred (300) feet except as the Board of Supervisors deems necessary to ensure efficient use of land or desired features of street layout.

**6-1-5-14 LOTS**

1. Relationship to Streets. All lots shall front on a public street or road for a minimum distance of seventy-five (75) feet except that lots which front on the turnarounds of permanent dead-end streets shall front on such turnarounds for a minimum distance of twenty-five (25) feet. In addition all lots that use drainage fields for sewage disposal shall have a minimum lot size of 15,000 sq. feet.
2. Arrangement. Each lot in a subdivision shall contain a building site completely free from the danger of flooding. Except where unfeasible, side lot lines shall be at right angles to straight street lines and radial to curved lines.
3. Dimensions. The minimum dimensions for lots shall be in accordance with the bulk regulations of the ordinance for the district within which the subdivision is located; provided, however, that the minimum depth for a lot shall be one hundred (100) feet and meet established County Health Department rules and regulations.
4. Corner Lots. Corner lots shall be of such width as to permit the maintenance of all yard requirements as required by the ordinance, and minimum size required for adequate septic tank drainage in accordance with approved and published Health Standards.
5. Reverse Frontage Lots. Double frontage and reverse lots shall be avoided, except where their use will produce definite advantages in meeting special situations in relation to topography, sound site planning and proper land use.

6. Lot Lines. In all lots so far as possible, the side lines shall be at right angles to straight street lines or radial to curved street lines, except where a variation of this rule will provide a better street and lot layout.

**6-1-5-15 CHARACTER OF DEVELOPMENT**

The Board shall have the right to agree with the subdivider regarding the type and character of development that will be permitted in the subdivision, and may require that certain minimum regulations regarding this matter be incorporated in deed restrictions. Such regulations shall be intended to protect the character and value of the surrounding development and shall also tend to secure the most appropriate development of the property being subdivided.

**6-1-5-16 EASEMENTS ALONG STREAMS**

Whenever any stream or major surface water course is located in an area that is being subdivided, the subdivider shall, at his own expense, make adequate provisions for straightening, widening or otherwise improving the channel so that it will properly carry the surface water. He shall also provide and dedicate to the County an easement along each side of the stream, which easement shall be for the purpose of widening, improving or protecting the streams. The width of such easement shall be adequate to provide for any necessary channel relocation and straightening, but in no case shall such easement be less than thirty (30) feet.

**6-1-5-17 UTILITY AND DRAINAGE EASEMENTS**

1. Except where alleys are permitted for the purpose, the county Board of Supervisors shall require easements at least twelve (12) feet in width centered along all rear lot lines for poles, wires, conduits, storm sewers, sanitary sewers, gas mains, water mains, heat mains, and other utility facilities. Where necessary or advisable in the opinion of the Board of County Supervisors similar easements shall be provided along side lot lines or across lots.
2. If the board of County Supervisors deems it necessary for proper drainage within or through a subdivision, it shall require that a storm water easement or drainage right-of-way be provided.

**6-1-5-18 PUBLIC OPEN SPACES**

Where a school, neighborhood park, recreation area, or public access to water frontage which is shown on an official map or in a plan for future land use is located in whole or in part in the applicant's proposed subdivision, the Board of County Supervisors may require the dedication or reservation of such open space within the proposed subdivision for school, park, recreation, or other public purposes.



## 6-1-6

**6-1-6-1 REQUIRED IMPROVEMENTS:** Upon County Board approval of a preliminary plat and prior to application for final plat approval, the developer shall:

1. Construct and install the required improvements, or;
2. Post a performance guarantee for the total cost of the improvements, or;
3. Construct and install a portion of the improvements and post a performance guarantee for the remainder of the improvements not completed. **(Amendment/ January 24, 2005)**

**6-1-6-2 SUBMISSION OF THE FINAL CONSTRUCTION PLANS:** The developer shall have a registered engineer prepare the final construction plans for the proposed required improvements containing the data and information specified in Article VI section 3, below. Four (4) blackline/blueline print copies of such plans shall be certified by a registered engineer, and shall be submitted to the County Engineer in the following manner.

1. In the event the developer chooses to construct and install the required improvements, as specified in Article VI section 1-1, said final constructions plans shall be submitted to the County Engineer at least sixty (60) calendar days prior to the date when the construction will commence.
2. In the event the developer chooses to post a performance guarantee for the total cost of the required improvements, as specified in Article VI section 1-2, said final construction plans shall be submitted to the County Engineer at least sixty (60) calendar days prior to the date when the final plat is submitted for approval. Said final construction plans, upon submittal to the County Engineer, shall be accompanied by a detailed engineering estimate of cost for all improvements, estimated and certified by the developer's registered engineer. These estimates will be utilized by the County Engineer for review and determination of the amount of the performance guarantee. The amount of the performance guarantee shall not be less than the estimated cost of the improvements and the amount of the estimate must be approved by the County Engineer.
3. In the event the developer chooses to construct and install a portion of the required improvements and post a performance guarantee for the remainder of the improvements not completed, as specified in Article VI section 1-3, said final construction plans shall be submitted to the County Engineer at least sixty (60) calendar days prior to the date when the construction will commence. At the time of the submittal of the plans, the developer shall notify the County Engineer of his intent to post a performance guarantee for remaining improvements and shall submit the cost estimates for the remaining portion, as specified in Article VI section 2-2.
4. In the event one (1) year has lapsed since the issuance of the performance guarantee and construction of the required improvements has not been completed, it shall be the

responsibility of the developer to resubmit the detailed engineering estimates of cost and a new performance guarantee as required in Article VI section 2-2. **(Amendment/ January 24, 2005)**

**6-1-6-3 CONTENTS OF FINAL CONSTRUCTION PLANS:** The final construction plans for required lot or public improvements shall contain the following data and information.

1. Plans, details, specifications and cost estimates for street and sidewalk construction, profiles indicating existing topography and elevation, curb and sidewalk elevations, intersection control elevations, and paving geometrics for each street with a typical cross section.

The profiles of grade lines shall be shown to a scale of not less than one (1) inch equals one hundred (100) feet horizontal, and one (1) inch equals ten (10) feet vertical. This information shall be shown on standard plan and profile sheets unless otherwise required by the County Engineer.

2. Plans, profiles, details, specifications and cost estimates of proposed storm drainage improvements.

3. Plans, profiles, details, specifications and cost estimates proposed water distribution systems, water supply facilities and water hydrants, if any. .

A. Submittal of well test results, as provided in Article VI section 10-4, when so required by the County Board at the time of preliminary plat approval. .

4. Plans, profiles, details, specifications and cost estimates of proposed sewage systems and sewage treatment facilities, if any.

A. Submittal of soil boring tests and/or percolation test results, as provided in Article VI section 11-3, when so required by the County Board at the time of preliminary plat approval.

5. Grading plans for all lots and other sites within the subdivision, including details and specifications for soil erosion and sedimentation control.

6. When unusual site conditions exists, the County Engineer may require such additional plans, specifications and drawings as may be necessary for an adequate review of the improvements to be installed.

7. All plans shall be based on U.S.G.S. datum for vertical control, where feasible; where U.S.G.S. datum is not feasible, a datum plan may be assumed provided a minimum of three (3) permanent bench marks are installed for vertical control.

8. All plans for underground utilities shall be prepared by or at the direction of the utility company involved. **(Amendment/ January 24, 2005)**

**6-1-6-4 REVIEW OF FINAL CONSTRUCTION:** The County Engineer shall transmit a copy of the final construction plans to the Planning and Zoning Administrator for review and comments. The County Engineer shall review the final construction plans in order to determine whether such plans are consistent with the approved preliminary plat and comply with the design standards

and specifications described in Article VI.

If such plans are consistent and do comply, the County Engineer shall submit a notice to the Planning and Zoning Administrator that they so conform and comply, and shall return one (1) signed copy of the approved final construction plans to the developer. In the event that such plans do not conform and comply, the County Engineer shall notify the developer of the specific manner in which plans do not conform or comply, and the developer may then correct such plans. If such plans are not corrected, the County Engineer shall transmit a notice to the Planning and Zoning Administrator as to the items of nonconformity or noncompliance. **(Amendment/ January 24, 2005)**

**6-1-6-5 CONSTRUCTION OF IMPROVEMENTS:** No improvements shall be constructed nor shall any work preliminary thereto be done until such time as the final construction plans shall have been approved by the County Engineer. **(Amendment/ January 24, 2005)**

**6-1-6-6 INSPECTION:** It is the responsibility of the developer to oversee the construction operations of the required improvements to assure that the work performed is in accordance with the final construction plans. Therefore the developer shall provide:

1. Full time construction inspection by a qualified inspector during all major phases of the construction. Daily progress reports must be maintained and submitted weekly to the County Engineer.
2. Quality control testing shall be performed by the developer and the results submitted to the County Engineer. **(Amendment/ January 24, 2005)**

**6-1-6-7 FINAL INSPECTION:** Upon completion of all improvements within the area covered by the final plat, the developer shall notify the County Engineer, who shall thereupon conduct a final inspection of all improvements installed. If such final inspection indicates that there are any defects or deficiencies in any such improvements as installed, or if there are any deviations in such improvements as installed from the final construction plans, the County Engineer shall notify, in writing, the developer of such defects, deficiencies or deviations and the developer shall, at his sole cost and expense, correct such defects, deficiencies or deviations within six (6) months of the date of notification. When such defects, deficiencies or deviations have been corrected, the developer shall again notify the County Engineer that the improvements are again ready for final inspection. **(Amendment/ January 24, 2005)**

**6-1-6-8 ACCEPTANCE OF IMPROVEMENTS:** Prior to acceptance of the required improvements by the County Engineer, the developer shall provide:

1. A certification by the developer's registered engineer that the work was completed in accordance with plans and specifications and meets all applicable County standards.
2. Three (3) blackline/blueline print copies will be required to be submitted to the County Engineer prior to approval of the completed construction of the required improvements.

**(Amendment/ January 24, 2005)**

**6-1-6-9 REPORT TO COUNTY BOARD:** If a final inspection indicates that all improvements as installed contain no defects, deficiencies or deviations the County Engineer shall certify to the County Board, within five (5) working days from the completion of inspection, that all improvements have been installed in conformity with the final construction plans. The receipt of such notification by the County Board shall constitute the date on which the two (2) year period specified in Article VI section 10 shall commence. **(Amendment/ January 24, 2005)**

**6-1-6-10 MAINTENANCE BOND:** The developer shall warrant the design, materials and workmanship of all required improvements, installations and construction for a period of two (2) years from and after completion. Such warranty shall be by a bond or other acceptable collateral, which shall assure the expedient repair or replacement of defective improvements under warranty and shall indemnify the County from all costs or losses resulting from or contributed to such defective improvements.

**6-1-6-11 STREET IMPROVEMENTS:** The subdivider shall grade and improve all new streets between the right-of-way lines within the subdivided area.

The paving on such new streets shall be built according to the standards and specifications of the County Engineer, but in no case shall it consist of less than three inches (3") of class A crushed rock cover. Minimum pavement widths shall be in accordance with the requirements of the County Engineer. (See approved published regulations and guidelines in the County Engineer's Office). **(Amendment/ January 24, 2005)**

**6-1-6-12 ROAD ASSOCIATION AGREEMENT:** In Subdivisions where private streets are to be approved, the improvements set forth previously in sections four (4) through thirteen (13) Article Five shall be considered the minimum improvements necessary to protect the public health, safety, and welfare.

In all Subdivisions, where private streets are to be approved, a Road Association agreement shall be established to:

- A. guarantee access to all lots,
- B. insure repair and maintenance of said facilities,
- C. such other requirements as stipulated by the County.

No private street hereafter created shall become part of any County road system as defined in Chapter 306, Code of Iowa, as amended; and no improvements shall be made by the County, nor shall the County incur any expense for maintenance or repair of private streets or other facilities unless and until such streets and facilities shall have been improved in accordance with the standards and requirements of these regulations for a public street or improvement applicable at the time of dedication and accepted by the County.

An agreement between the Road Association and the County Board shall be required and shall provide, if the right-of-way is to be dedicated at any time in the future that prior to such dedication, the Association shall bring the street up to the standards and requirements for public streets applicable at the time of such dedication.

An agreement between the Road Association and the County Board shall be required and shall provide that in the event the Association requests the County to accept the private street as public streets, and the clear title of the street right-of-way cannot be readily established, the County may exercise its right of eminent domain and condemn for title the street right-of-way. All expenses incurred by the County for such action, including preparation, hearings, documentation, and damage awards, shall be paid by the Road Association.

Where private streets exist as of the effective date of these regulations and a new plat is proposed to gain access from these private streets, such plat will not be considered until the new plat owner has secured in writing the approval of the owners of all lots having legal access to the existing private streets. This approval shall include the willingness of all lot owners to enter into an association of lot owners in the form of a legal and valid document binding said owners to the repair and maintenance of existing private streets. **(Amendment/ January 24, 2005)**

**6-1-6-13 GRADING:** The subdivider shall, whenever necessary, grade any portion of the property subdivided into lots so that each lot will be usable and suitable for the erection of residences or other structures thereon.

**6-1-6-14 GENERAL REQUIREMENTS FOR INSTALLATION OF UTILITIES:**

The Board may require that all utility lines except electric lines of nominal voltage in excess of 15,000 volts, be installed underground. The subdivider shall be responsible for making the necessary arrangements with the utility companies for installation of such facilities. If overhead utility lines or wires are permitted, they shall be placed in the easements provided in the rear of the lots. In their determination on whether or not to require underground utilities, the Board may consider that soil, topographical, or other conditions make such installations within the subdivision unreasonable or impractical.

Utilities shall be provided in rear lot easements whenever possible. When it is necessary to install utilities in street rights-of-way, the following requirements shall apply:

1. After grading is completed and approved and before any pavement base is applied, all of the in-street underground work – water mains, gas mains, etc., and all service connections – shall be completely installed and approved through the length of the street and across the flat section. Where the utility mains are outside the pavement area, the subdivider may be allowed to omit the installation of service connections provided that at such time as these service connections are needed, they may be jacked across the street without breaking or weakening the existing pavement.
2. Where rock is known to exist beneath the pavement area and at such depth as to interfere with the jacking of service connections, the complete installation of service connections before any base is applied shall be required. In cases where underground utilities must be provided within the right-of-way of streets, they should not be installed under the paved portions of such streets.

**6-1-6-15 WATER SUPPLY:** The developer shall make provisions for an approved, adequate supply of potable water to every lot in the subdivision as follows:

1. Where an adequate municipal water supply system is reasonably accessible, the developer shall, provide a complete public water supply system, including all hydrants, valves and other appurtenances and a service connection to each lot throughout the entire subdivision.  
Such system shall extend into and through the subdivision to the boundary lines and shall be connected to a public water system. Such water supply system shall be designed and constructed in accordance with the standards and specifications of the appropriate State and local authorities. All water mains shall be of such size as to support the use of fire hydrants, as described below.  
Fire hydrants shall be required for all subdivisions provided with a public water supply. Fire hydrants shall be placed in accordance with the Uniform Fire Code. To eliminate future street excavations, all underground utilities for fire hydrants, together with the fire hydrants themselves and all other supply improvements, shall be installed before any final surfacing of a street shown on the final plat.
2. Where an adequate public water supply system is not reasonably accessible, the developer may, provide a rural water system, including all valves and other appurtenances and a service connection to each lot throughout the entire subdivision.
3. Where an adequate public water supply system is not reasonably accessible, the developer may, provide a complete common water supply. Such water supply system shall be designed and constructed in accordance with the standards and requirements of the Iowa Department of Natural Resources.
4. Where an adequate public or common water supply system is not reasonably accessible

or not required, private water wells may be used for the purpose of providing a private water supply system.

A. The developer shall submit, with the preliminary plat, acceptable evidence of the availability of water on the site. The developer may be required to make one (1) or more test wells within the boundaries of the subdivision if the evidence is deemed unacceptable by the County Board. Each test hole shall be numbered and its location and results shown on the final construction plans. All tests shall be performed in accordance with the Henry County, Iowa, Non-Public Water Well Construction Ordinance 1988.

B. Private water wells, if approved, may be drilled at the expense of the developer, or at the expense of a subsequent lot owner at the time development of the lot takes place. **(Amendment/ January 24, 2005)**

**6-1-6-16 SANITARY SEWER:** The developer shall make provisions for an approved, sanitary means of sewage disposal for every lot in the subdivision as follows:

1. Where an adequate public sanitary sewer system is reasonably accessible, the developer shall provide a complete public sanitary sewer system, including all appurtenances and a service connection to each lot throughout the entire subdivision. Such system shall extend into and through the subdivision to the boundary lines and shall connect to a public sanitary sewer system. Such sanitary sewer system shall be designed and constructed in accordance with the standards and specifications of the appropriate State and local authorities.

2. Where an adequate public sanitary sewer system is not reasonably accessible, the developer may provide a complete common sanitary sewer system, including all appurtenances and a service connection to each lot throughout the entire subdivision. Such system shall be designed and constructed in accordance with the standards and requirements of the Iowa Department of Natural Resources.

3. Where an adequate public or common sanitary sewer system is not reasonably accessible or not required, onsite wastewater treatment and disposal systems may be used for the purpose of providing a private means of sewage disposal for each lot in the subdivision.

A. The developer shall submit, with the preliminary plat, acceptable evidence of the suitability of the soil for onsite wastewater treatment and disposal systems on the site. The developer may be required to make one (1) or more soil boring tests and/or preliminary percolation tests within the boundaries of the subdivision if the evidence is deemed unacceptable by the County Board. Each test hole shall be numbered and its location and results shown on the final construction plans. All tests shall be performed in accordance with the Henry County, Iowa, Onsite Wastewater Treatment and Disposal System Ordinance.

B. Lots where onsite wastewater treatment and disposal systems are proposed

shall provide adequate space for two (2) such systems. The area dedicated for the second system is provided as a backup when the first system fails.

C. Onsite wastewater treatment and disposal systems, if approved, may be installed at the expense of the developer, or at the expense of a subsequent lot owner at the time development of the lot takes place. **(Amendment/ January 24, 2005)**

**6-1-6-17 STORM SEWER:** Adequate storm sewer systems shall be planned and constructed as required throughout the subdivision to carry off storm water from all inlets and catch basins and be connected to an approved outfall. There shall be provided storm-water sewers or a surface drainage system to serve adequately the area being subdivided, considering but not limited to the use of existing drainage channels whenever possible. The design of the drainage system shall consider the storm drainage area of which the subdivision is a part and existing watercourses. All storm drainage facilities shall be constructed based upon criteria established by the County Engineer. The County shall only be responsible for maintenance of storm water sewer structures which lie within the County Road right-of-way. **(Amendment/ January 24, 2005)**

#### **6-1-7**

**6-1-7-1 VARIATIONS AND EXCEPTIONS:** Whenever the tract proposed to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in this ordinance would result in substantial hardships or injustices, the Board of Supervisors upon recommendation of the County Engineer may modify or vary such requirements to the end that the subdivider is allowed to develop his property in a reasonable manner; provided, however, that all such variations and exceptions granted hereunder shall be in harmony with the intended spirit of this ordinance and granted with the view toward protecting the public interest and welfare.

#### **6-1-7-2 ENFORCEMENT AND PENALTIES**

##### 1. Enforcement.

- a) No plat of any subdivision shall be entitled to be recorded in the County Recorder's office or have any validity until it shall have been approved in the manner prescribed herein.
- b) The Board of Supervisors shall not permit any public improvements over which it has any control to be made from the County Road Fund or any money expended for improvements or maintenance in any area that has been subdivided or upon any street that has been platted after the date of the adoption of this ordinance unless such subdivision or street has been



approved in accordance with the provisions contained herein. Streets not accepted by the Board of Supervisors for addition to the Secondary Road System shall be considered private roads.

## 2. Penalties.

- a) It shall be unlawful for the owner, or the agent of an owner, to transfer or sell any land by reference to or by other use of a plat or description unless such plat has been approved as required herein. Whoever violates any of the rules and regulations prescribed herein, or fails to comply with any order issued pursuant thereto, shall forfeit and pay fifty dollars (\$50), or as the court may direct for each lot or part thereof sold, disposed of, leased or offered for sale.

**6-1-7-3 CHANGES AND AMENDMENTS:** Any regulation or provision of this ordinance may be changed and amended from time to time by the Board of Supervisors; provided, however, that such changes and amendments shall not become effective until after study and report by the County Engineer and until after public hearings have been held and public notices shall have been given as required by the Code of Iowa.

**6-1-7-4 REPEALER:** All Henry County resolutions or ordinances or parts of resolutions or ordinances in conflict with the provisions of this ordinance are hereby repealed.

**6-1-7-5 SAVING CLAUSE:** If any section, subsection, paragraph, sentence, clause or phrase of this ordinance should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portion of this ordinance which shall remain in full force and effect and to this end the provisions of this ordinance are declared to be severable.

**6-1-7-6 EFFECTIVE DATE:** This ordinance shall be in full force and effect from and after its passage, approval and publication.

Recorded Book 385 Page 500

**TITLE VI PROPERTY AND LAND USE  
CHAPTER 2 ZONING ORDINANCE**

<b>6-2-1-1 SHORT TITLE</b>	<b>6-2-8-3 AREA REGULATIONS</b>
<b>6-2-2-1 FARMS EXEMPT</b>	<b>6-2-8-4 HEIGHT REGULATIONS</b>
<b>6-2-3-1 DEFINITIONS</b>	<b>6-2-9-1 "C-2" COMMUNITY COMMERCIAL DISTRICTS</b>
<b>6-2-4-1 DISTRICTS AND BOUNDARIES</b>	<b>6-2-9-2 USE REGULATIONS</b>
<b>6-2-4-2 OFFICIAL ZONE PLAN</b>	<b>6-2-9-3 AREA REGULATIONS</b>
<b>6-2-4-3 DISTRICT BOUNDARIES</b>	<b>6-2-9-4 HEIGHT REGULATIONS</b>
<b>6-2-4-4 DISINCORPORATION</b>	<b>6-2-10-1 "I-1" INDUSTRIAL DISTRICTS</b>
<b>6-2-4-5 ROAD AND PUBLIC WAY VACATION</b>	<b>6-2-10-2 USE REGULATIONS</b>
<b>6-2-4-6 REQUIREMENTS MUST BE OBSERVED</b>	<b>6-2-10-3 AREA REGULATIONS</b>
<b>6-2-5-1 "A-1" AGRICULTURAL DISTRICTS</b>	<b>6-2-10-4 HEIGHT REGULATIONS</b>
<b>6-2-5-2 USE REGULATIONS</b>	<b>6-2-11-1 "RC" RECREATION / CONSERVATION OVERLAY DISTRICTS</b>
<b>6-2-5-3 AREA REGULATIONS</b>	<b>6-2-11-2 USE REGULATIONS</b>
<b>6-2-5-4 HEIGHT REGULATIONS</b>	<b>6-2-11-3 AREA REGULATIONS</b>
<b>6-2-6-1 "R-1" RESIDENTIAL DISTRICTS</b>	<b>6-2-11-4 HEIGHT REGULATIONS</b>
<b>6-2-6-2 USE REGULATIONS</b>	<b>6-2-12-1 ADDITIONAL USE REGULATIONS</b>
<b>6-2-6-3 AREA REGULATIONS</b>	<b>6-2-12-2 MULTIPLE MAIN BUILDINGS ON A SINGLE LOT</b>
<b>6-2-6-4 HEIGHT REGULATIONS</b>	<b>6-2-13-1 ADDITIONAL AREA AND HEIGHT REGULATIONS</b>
<b>6-2-7-1 "R-2" COMMUNITY RESIDENTIAL DISTRICT</b>	<b>6-2-13-2 AREA AND YARDS</b>
<b>6-2-7-2 USE REGULATIONS</b>	<b>6-2-13-3 HEIGHT</b>
<b>6-2-7-3 AREA REGULATIONS</b>	<b>6-2-14-1 PARKING REGULATIONS</b>
<b>6-2-7-4 HEIGHT REGULATIONS</b>	<b>6-2-14-2 MINIMUM REQUIREMENT OFF-STREET PARKING</b>
<b>6-2-8-1 "C-1" COMMERCIAL DISTRICTS</b>	
<b>6-2-8-2 USE REGULATIONS</b>	

**6-2-14-3 LOADING AND UNLOADING ZONES**

**6-2-15-1 NON-CONFORMING USES**

**6-2-15-2 NON-CONFORMING USE MAY BE CONTINUED**

**6-2-15-3 NON-CONFORMING USE MAY BE EXTENDED**

**6-2-15-4 NON-CONFORMING USE RECONSTRUCTED**

**6-2-15-5 NON-CONFORMING USES SUBSTITUTED**

**6-2-15-6 NON-CONFORMING LOT**

**6-2-15-7 NON-CONFORMING BUILDING OR STRUCTURE MAY BE EXTENDED**

**6-2-16-1 BOARD OF ADJUSTMENT**

**6-2-16-2 CHAIRMAN AND MEETINGS**

**6-2-16-3 APPEALS**

**6-2-16-4 POWERS**

**6-2-16-5 VOTE**

**6-2-16-6 HEARINGS**

**6-2-17-1 ZONING PERMITS**

**6-2-17-2 APPLICATION FOR ZONING PERMIT**

**6-2-17-3 FEES**

**6-2-18-1 INTERPRETATION, PURPOSE AND CONFLICT**

**6-2-19-1 AMENDMENTS**

**6-2-19-2 FEES**

**6-2-20-1 ENFORCEMENT**

**6-2-21-1 VIOLATION AND PENALTY**

**6-2-21-2 RESTRAINING ORDER**

**6-2-22-1 VALIDITY**

**6-2-23-1 WHEN EFFECTIVE**

**6-2-24 AMENDMENT**

AN ORDINANCE TO REGULATE AND RESTRICT IN THE UNINCORPORATED AREAS OF THE COUNTY, THE HEIGHT, NUMBER OF STRUCTURES, SIZE OF BUILDINGS AND OTHER STRUCTURES, THE PERCENTAGE OF LOT THAT MAY BE OCCUPIED, THE SIZE OF YARDS, COURTS AND OTHER OPEN SPACES, THE DENSITY OF POPULATION, THE LOCATION OF BUILDINGS, STRUCTURES AND LAND FOR TRADE, INDUSTRY, RESIDENCE AND OTHER PURPOSES; TO REGULATE, RESTRICT AND PROHIBIT THE USE OF TENTS, TRAILERS AND PORTABLE STRUCTURES FOR RESIDENTIAL PURPOSES; TO DEFINE CERTAIN WORDS AND PHRASES FOR THE PURPOSE OF THIS ORDINANCE; TO DIVIDE THE COUNTY, OR ANY AREA, OR AREAS WITHIN THE COUNTY, INTO DISTRICTS AND ESTABLISH, BY REFERENCE TO MAPS, THE BOUNDARIES OF SUCH DISTRICTS FOR SAID PURPOSES; TO FIX THE STATUS OF NON-CONFORMING USES; TO PROVIDE FOR OFF-STREET PARKING, LOADING AND UNLOADING; TO PROVIDE FOR THE INTERPRETATION OF THIS ORDINANCE; TO PROVIDE FOR ITS AMENDMENT; TO PROVIDE FOR A BOARD OF ADJUSTMENT AND DEFINE ITS POWERS AND DUTIES; TO AUTHORIZE UPON APPEAL, IN SPECIFIC CASES, UNDER APPROPRIATE SAFEGUARDS, VARIANCE FROM THE TERMS OF THIS ORDINANCE; TO REQUIRE ZONING PERMITS; TO PROVIDE FOR THE ENFORCEMENT OF THIS ORDINANCE AND PRESCRIBE THE PENALTIES FOR ITS VIOLATION; TO PROVIDE THAT IF ANY CLAUSE, SENTENCE,

SECTION, PARAGRAPH OR PART OF THIS ORDINANCE SHALL BE HELD INVALID BY A COURT OF COMPETENT JURISDICTION, SUCH DECISION SHALL NOT INVALIDATE THE REMAINDER; AND TO PROVIDE FOR THE REPEAL OF ALL ORDINANCES, ORDERS, OR RESOLUTIONS IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE.

WHEREAS, chapter 358A, Code of Iowa, as amended, provides for the zoning of land and property, and a procedure whereby the use of land and improvements or repair of property may be regulated and restricted in the unincorporated areas of any County within the State; prescribes the rights, duties and authority of certain County officials in relation thereto; prescribes a procedure of enforcing the rules, regulations, and orders of the various Boards in order to effectuate the provisions of said Chapter; and prescribes penalties for the violations of the provisions thereof; and

WHEREAS, the Board of Supervisors of Henry County, Iowa, in compliance with said Chapter, has appointed a County Zoning Commission to recommend the boundaries of the various original districts and appropriate regulations and restrictions to be enforced therein; and

WHEREAS, the Henry County Zoning Commission, thus appointed, after careful study and with due diligence, has prepared its preliminary report and held public hearings thereon, and has prepared and submitted its final report to the Board of Supervisors of Henry County, Iowa; and

WHEREAS, the said Board of Supervisors has held its public hearings on said final report, having published notice of time and place of such public hearings as required by said Chapter.

WHEREAS, the passage, adoption and enforcement of the provisions hereinafter contained are deemed necessary to lessen congestion in the street or highway, to secure safety from fire, panic and other danger; to protect health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to conserve the value of land and buildings; and to encourage the most appropriate use of land throughout the County; all in accordance with a comprehensive plan; THEREFORE:

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF HENRY COUNTY, IOWA AS FOLLOWS:

**6-2-1**

**6-2-1-1**        **SHORT TITLE.** This ordinance shall be known and may be cited and referred to as the Zoning Ordinance of Henry County, Iowa.

**6-2-2**

**6-2-2-1 FARMS EXEMPT.** No requirement, restriction or regulation contained in this ordinance shall be construed to apply to land, farm houses, farm barns, farm outbuildings, or other buildings, structures or erections which are adapted by reason of nature and area, for use for agricultural purposes, as a substantial means of livelihood, while so used. However, this ordinance does apply to any structure, building, dam, obstruction, deposit, or excavation in or on the flood plains of any river or stream.

**6-2-3**

**6-2-3-1 DEFINITIONS.** For the purpose of this ordinance, certain terms and words are hereby defined. Words used in the present tense shall include the future; words in the singular number include the plural and words in the plural number shall include the singular; the word “building” shall include the word “structure”, and the word “shall” is mandatory and not directory.

**ACCESSORY USE OR STRUCTURE.** A use or structure subordinate to the principal use of a building on the lot and serving a purpose customarily incidental to the use of the principal building.

**ADULT ENTERTAINMENT USE.** An establishment consisting of, including, or having the characteristics of any or all of the following:

1. **ADULT BOOKSTORE, NEWSSTAND, VIDEO STORE, OR COMBINATION.** An establishment having a substantial or significant portion of its stock-in-trade books, magazines, publications, tapes, films, videos, and/or software that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas.

2. **ADULT CABARET** – (1) An establishment devoted to adult entertainment, either with or without a liquor license, presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas; (2) a cabaret that features topless dancers, go-go dancers, strippers, male or female impersonators, or similar entertainers for observation by patrons.

3. **ADULT MINI MOTION PICTURE THEATRE** – An enclosed building with a capacity for less than fifty persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas; also known as “peep shows”.

4. **ADULT MOTION PICTURE THEATRE** - An enclosed building with a capacity for fifty or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or

anatomical genital areas.

5. *SEX SHOP* – (1) Any establishment offering for sale or rent items from any two of the following categories: sexually oriented books and videos, lingerie, leather goods marketed or presented in a context to suggest their use for “bondage” or other sexual activities; (2) any establishment offering for sale sexually oriented toys, devices, and/or novelties; (3) any establishment advertising or holding itself out in any forum as “XXX”, “adult”, “sex”, or otherwise as a sexually oriented business.

**AGRICULTURE OR AGRICULTURAL USE:** The use of any land, building, structure, or portion thereof, principally for the production of, and as an accessory use for, the treatment and storage of, plants, animals or horticultural products, all for intended profit. “Agriculture” shall include the cultivation of land for the production of agricultural crops, the production of eggs, the production of milk and the production of fruit or other horticultural crops, with the intention of selling such items or products for horticultural crops, with the intention of selling such items or products for a profit in the market place. “Agriculture” shall include breeding, raising, feeding, grazing, housing and pasturing of horses, beef and dairy cattle, poultry, sheep, swine, and honey bees, with the intention of selling such animals or products therefrom for a profit in the marketplace. The raising of animals and plants primarily for the purpose of the personal use and enjoyment of the owners or occupants of the subject property, and not for the purpose of selling such animals, plants or products therefrom for a profit in the marketplace, shall not constitute agricultural use. “Agriculture” shall not include any auction sales yards, recreational facilities, rural or urban areas used primarily for residential or recreational purposes, commercially operated stockyards or feedlots, and areas used for the production of timber, forest products, nursery products or distributor of farm products or supplies provides spraying harvesting or other farm products.

**ALLEY.** A public way for the use of vehicles which affords only a secondary means of access to abutting property.

**AMUSEMENT PLACE.** A completely enclosed building arranged, intended or designed for recreation or amusement use, which is not noxious or offensive due to the emission of odors, gas, smoke, or noise; which is not a menace to public health and safety and which will not substantially or permanently injure the appropriate use of neighboring property.

**APARTMENT.** A room or suite of rooms in a multi-family dwelling intended or designed for use as a residence by a single family.

**BASEMENT.** A story having part but not more than one-half of its height below grade. A basement is counted as a story for the purpose of height regulations.

**BILLBOARDS.** Any structure, other than a building, used for the display of advertising, other than:

- (a) Church or similar bulletin boards.
- (b) Signs pertaining only to the lease, hire or sale of a building or premises.
- (c) Signs advertising the sale of products grown only upon the premises.
- (d) An announcement or identification sign with the name and address of the owner or tenant residing on the premises.

**BOARDING, BED AND BREAKFAST, OR LODGING HOUSE.** A building other than a hotel where, for compensation and by arrangement, meals or lodging and meals are provided for three (3) or more persons.

**BUILDING.** Any structure having a roof supported by walls or by columns intended for enclosure, shelter or housing of persons, animals or chattels. When any portion thereof is separated by party walls without windows, doors or other opening, each portion so separated shall be deemed a separate building, except dwellings. A "building" may also be defined as a "structure".

**BUILDING, HEIGHT OF.** The vertical distance from the average natural grade at the building line, to the highest point of the coping of a flat roof, or to deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

**BULK PLANT.** That portion of property where flammable liquids, or gases, are received by pipeline, tank cars, or tank vehicles, and are stored in the bulk for the purpose of distributing such liquids, or gases, by tank vehicle, pipeline, tank car or container.

**CABIN:** See "Summer Cottage".

**CELLAR.** A story having more than one-half its height below grade. A cellar is not counted as a story for the purpose of height regulations.

**COMMISSION.** Whenever the word "Commission" is used in this ordinance it shall refer to the Henry County Planning & Zoning Commission, also known as the Zoning Commission.

**DISTRICT.** A section or sections of the unincorporated area or any portion thereof of Henry county, Iowa, for which the regulations governing the use of buildings and land, the height of buildings, the size of yards and the intensity of use are uniform.

**DWELLING.** A building or portion thereof designed or used for residential purposes.

**DWELLING, ONE-FAMILY.** A dwelling arranged, intended or designed for occupancy by one (1) family.

**DWELLING, TWO-FAMILY.** A dwelling arranged, intended or designed for occupancy by two (2) families.

DWELLING, MULTIPLE. A dwelling arranged, intended or designed for occupancy by more than two (2) families, living independently of each other.

FAMILY. A person living alone, or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities:

- (a) any number of people related by blood, marriage, adoption, guardianship, or other duly-authorized custodial relationship;
- (b) two (2) unrelated people;
- (c) two (2) unrelated people and any children related to either of them;
- (d) not more than eight (8) people who are:
  - 1) residents of a "Family Home" as defined in Section 335.25 of the Iowa Code and this ordinance; or
  - 2) "handicapped" as defined in the Fair Housing Act, 42 U.S.C. §3602(h) and this ordinance. This definition does not include those persons currently illegally using or addicted to a "controlled substance" as defined in the Controlled Substances Act, 21 U.S.C. §802(6);
- (e) three (3) or more people who are granted a Conditional Use Permit as a "functional family" pursuant to 6-2-12-2(j) of this ordinance.

*EXCEPTIONS* – "Family" does not include:

- (a) any society, club, fraternity, sorority, association, lodge combine, federation, coterie, or like organization;
- (b) any group of individuals whose association is temporary or seasonal in nature;
- (c) any group of individuals who are in a group living arrangement as a result of criminal offenses.

FRONTAGE. All the property on one side of a road between two intersecting roads (crossing or terminating) measured along the road line, or if the road is dead-ended, then all of the property abutting on one side between an intersecting road and the dead-end of the road.

GARAGE, PRIVATE. An accessory building or portion of a building in which one or more vehicles are housed, but in which no service or industry connected with motor vehicles is carried on, other than the leasing of space for the housing of vehicles as permitted herein.



**GARAGE, PUBLIC.** A building or portion thereof, designed, intended or used for the storage, sale, hiring, care or repair of motor vehicles, which is operated for commercial purposes.

**GASOLINE SERVICE STATION.** Any building or portion thereof, used for the dispensing, sale or offering for sale at retail, automotive fuels, oil and similar supplies, but not for the purpose of making repairs. When the dispensing, sale or offering for sale at retail is incidental to the conduct of a public garage, the premises shall be classified as a public garage.

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

**HOME OCCUPATION.** Any occupation or activity carried on by a member of the immediate family, residing on the premises, provided that not more than one (1) person not a member of the family there residing shall be regularly employed in addition to the proprietor, provided further that the activity is secondary to the primary use of a parcel for residential purposes whether it takes place in the home or in an accessory structure that is subordinate to the main structure, provided further that there shall be no display of goods and no advertising on the premises other than a sign not to exceed ten (10) square feet in area carrying only the name and occupation of any occupant of the premises and meeting the height and location requirements for billboards, provided further that the building or premises occupied shall not thus be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, the emission of odor, gas, dust, smoke, noise or in any other way.

**HOME OCCUPATION II.** Any "home occupation" meeting the definition described above, but with the allowance for display of goods provided that the home occupation does not occupy more than 25% of the property area and does not cause a substantial change to the farm or residential character of the area, provided further that the building or premises occupied shall not thus be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, the emission of odor, gas, dust, smoke, noise or in any other way.

**HOTEL.** A building in which lodging or boarding and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradistinction to a boarding house, or an apartment which are herein separately defined.

**INSTITUTION.** A building occupied by a non-profit corporation or a non-profit establishment for public use.

**JUNK.** All old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or;

appliances; iron, steel or other old or scrap ferrous materials; old or discarded glass, tin ware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.

**JUNK VEHICLE.** Any vehicle legally placed in storage with the County Treasurer or unlicensed and which has any of the following characteristics:

A. Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.

B. Broken, Loose or Missing Part. Any vehicle with a broken, loose or missing fender, door, bumper, hood, steering wheel or trunk lid.

C. Habitat for Nuisance Animals or Insects. Any vehicle which has become the habitat for rats, mice, or snakes, or any other vermin or insects.

D. Flammable Fuel. Any vehicle which contains gasoline or any other flammable fuel.

E. Inoperable. Any motor vehicle which lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or which cannot be moved under its own power or has not been used as an operating vehicle for a period of thirty (30) days or more.

F. Defective or Obsolete Condition. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety. Mere licensing of such vehicle shall not constitute a defense to the finding that the vehicle is a junk vehicle.

**JUNK YARD.** An area of any lot or parcel of land which is used for the storage, salvage, abandonment, or keeping of junk or junk vehicles.

**KENNEL.** An establishment where dogs are boarded for compensation or where dogs are bred or raised on a commercial scale.

**LOT.** A parcel of land occupied or intended for occupancy by one main building, together with its accessory building, including the open spaces required by the provisions of this ordinance.

**LOT AREA.** Total horizontal area within lot lines.

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

**LOT, DEPTH OF.** The mean horizontal distance between the front and rear lot lines.

**LOT, LINE.** Property line bounding a lot.

**LOT, THROUGH.** A lot having frontage on two non-intersecting roads, as distinguished from a corner lot.

LOT OF RECORD. A lot or parcel of land the deed of which has been recorded in the office of the Recorder for Henry County, Iowa, prior to the adoption of this ordinance.

MANUFACTURED HOME. A factory built single family structure, which is manufactured or constructed under the authority of 42 U.S.C. §5403, National Manufactured Home Construction and Safety Standards Act of 1974, and is to be used exclusively as a place for human habitation, but which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home is not a manufactured home unless it has been converted to real property and is taxed as a site dwelling. For the purpose of these regulations, a manufactured home shall be built after June 15, 1976, and bear a seal certifying that it is in compliance with the National Manufactured Home Construction and Safety Standards Act of 1974.

MANUFACTURED HOUSING PARK. See "Mobile Home Park".

MOTEL OR TOURIST HOME. A permanent building, or group of buildings designed or arranged primarily for temporary occupancy, so laid out as to provide space for parking vehicles used by the traveling public. Such building, or group of buildings may include quarters for the use of operating personnel.

MOBILE HOME. A mobile home shall mean any occupied vehicle used or so constructed as to permit its being used as a conveyance upon the public streets or highways, and duly licensed as such, and shall include self-propelled or non-self-propelled vehicles, so designed, constructed, re-constructed or added to by means of an enclosed additional room in such manner as will permit the occupancy thereof as a dwelling or sleeping place for one or more persons, having no permanent foundation and supported by wheels, jacks, or similar supports.

MOBILE HOME PARK. A mobile home park shall mean any site, lot, field, or tract of land upon which two or more occupied mobile homes, manufactured homes, modular homes, or combination thereof are harbored, either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of such mobile home park.

MODULAR HOME. A factory-built structure built on a permanent chassis which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa state building code for modular factory-built structures, and must display the seal issued by the state building code commissioner.

NON-CONFORMING USE. Lawful use of a building or land at the time of the passage of this ordinance, or amendment thereto, which does not conform to the provisions of this ordinance, or the district in which it is located.

NURSING HOME. A home for aged, chronically ill or incurable persons in which three (3) or more persons not of the immediate family are received, kept and provided with food or shelter and care, for compensation.

PARKING LOT. A parcel of land devoted to unenclosed parking spaces.

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

PLANNING & ZONING COMMISSION. See "Commission".

ROAD. All property, other than an alley, dedicated or intended for public or private road, street, highway, freeway, or roadway purposes, or to the public easement thereof.

ROAD LINE. The line that forms the boundary of a road right-of-way easement.

ROADSIDE STAND. A temporary structure, unenclosed, and so designed and constructed that the structure is easily portable or can be readily moved, and which is adjacent to a road and used for sale of farm products produced or grown on the premises.

SALVAGE YARD. See "Junk Yard".

SECONDARY SUITE: is a self-contained accessory dwelling unit consisting of at least one bathroom, one kitchen, and one other room, developed on the same property as a single family home and having the following requirements:

- Not more than one secondary suite shall be permitted on any parcel containing a primary residence.
- The square footage of the secondary suite may be no more than 60 percent of the total living area of the primary dwelling unit
- The appearance of the secondary suite will be in harmony with other accessory structures on the parcel and in the immediate area. It shall be subservient to the primary structure and it shall not have the appearance of a second primary structure.
- Mobile or manufactured housing shall not be considered a secondary suite. **(Amendment June 26, 2012)**

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

STORY, HALF. A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than three (3) feet above the floor

of such story, except that any partial story used for residence purposes, other than for a janitor or caretaker or his/her family, or by a family occupying the floor immediately below it, shall be deemed a full story.

STRUCTURE. Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having permanent location on the ground. A "structure" may also be defined as a "building" and vice versa.

STRUCTURAL ALTERATION. Any change in the supporting members of a structure such as walls, partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls.

SUMMER COTTAGE. A dwelling, intended for seasonal or temporary occupancy only, and not as a family residence during any entire year.

WASTE/RECYCLABLE CONVIENENCE COLLECTION LOCATIONS.A secured facility at which collection, sorting, and packaging of household materials are accomplished prior to transportation of these wastes to the final disposal site. **(Amendment January 5, 2012)**

VARIANCE. A modification or variation of the provisions of this Ordinance as applied to a specific piece of property, as distinct from rezoning.

VEHICLE. Every device in, upon, or by which a person or property is or may be transported or drawn upon a highway or street, excepting devices moved by human power or used exclusively upon stationary rails or tracks, and includes without limitation a motor vehicle, automobile, truck, motorcycle, tractor, buggy, wagon, farm machinery, or any combination thereof.

YARD. An open space on the same lot with a building unoccupied and unobstructed by any portion of the structure from the ground upward, except as otherwise provided in this ordinance.

YARD, FRONT. A yard extending across the full width of the lot, lying between the front line of the lot and the nearest line of the main building wall, other than unenclosed porches, steps or balconies.

YARD, REAR. A yard extending across the full width of the lot, lying between the rear line of the lot and the nearest line of the main building wall, other than unenclosed porches, steps or balconies.

YARD, SIDE. A yard between the side lot line and the nearest line of the main building wall, extending from the front yard to the rear yard.

ZONING ADMINISTRATIVE OFFICER. The individual appointed by the Board of Supervisors to administer and enforce the provisions of this Ordinance.

ZONING PERMIT. A permit issued by the Zoning Administrative Officer of Henry County, Iowa, for the erection, reconstruction, replacement, or alteration of a building or structure or the use of land.

#### **6-2-4**

**6-2-4-1 DISTRICTS AND BOUNDARIES.** For the purpose of this Ordinance, the unincorporated area of Henry County, Iowa, or portions thereof, is hereby divided into seven (7) classes of districts. The use, height and area regulations are uniform in each class of district, and said districts shall be known as:

**“A-1” Agricultural District**

**“R-1” Residential District**

**“R-2” Community Residential District**

**“C-1” Commercial District**

**“C-2” Community Commercial District**

**“I-1” Industrial District**

**“RC” Recreation/Conservation District**

**6-2-4-2 OFFICIAL ZONE PLAN.** The boundaries of these districts are indicated and established as shown upon maps designated as the Official Zone Plan of Henry County, Iowa, which will with all their notations, designations, references and other matters shown thereon, shall be as much a part of this Ordinance, as if fully described and set forth herein, and which maps are properly attested and on file in the office of the Recorder of Henry County, Iowa.

**6-2-4-3 DISTRICT BOUNDARIES.** The boundaries of the various districts established by this Ordinance are road lines, alley lines, property lines, lot lines, section lines, quarter lines, quarter quarter lines, center of rivers, or other lines shown on the official zone maps. Where boundaries are approximately indicated as property or lot lines, the true location of such lines shall be taken as the boundary lines. Where the distance to any boundary line, from a road line, property line or lot line, is indicated by the Official Zone Plan, such measurements shall control.

**6-2-4-4 DISINCORPORATION.** All territory which may hereafter become part of the unincorporated area of Henry County, Iowa, that is regulated by this Ordinance, by the disincorporation of any village, town or city, or any part thereof, shall be classed as lying and being in the “A-1” Agricultural District until such classification shall have been changed by amendment to this Ordinance, as provided by law.

**6-2-4-5 ROAD AND PUBLIC WAY VACATION.** Whenever any road or other public way is vacated by the official action of the Board of Supervisors of Henry County, Iowa, the Zoning

District adjoining each side of such road or public way shall extend to the center of such vacation, and all area included in such vacation shall then and thenceforth be subject to all appropriate regulations of the extended district.

**6-2-4-6 REQUIREMENTS MUST BE OBSERVED.** Except as hereinafter provided:

- (1) No person shall use any land, building or structure for any use other than those permitted in the district in which such land, building or structure is located.
- (2) No building or structure shall be erected, converted, enlarged, replaced, reconstructed or structurally altered to exceed the height limit herein established for the district in which the building is located.
- (3) No building shall be erected, converted, enlarged, replaced, reconstructed or structurally altered except in conformity with the area regulations of the district in which the building is located.
- (4) No building intended for permanent occupancy for residential purposes shall be moved onto, constructed, replaced, or structurally altered on land known from previous flood records, to have been flooded, or reasonably expected to be flooded by a 50 year frequency flood as determined by the County Engineer. No summer cottage shall be moved onto, constructed, replaced, or structurally altered on land known to have been flooded unless the lowest floor of such structure is elevated to not less than (1) foot above the highest previous flood elevation.
- (5) No structure primarily used for residential purposes shall be converted to any other use or used as an addition to any other structure. **(Amendment January 5, 2012)**
- (6) No yard or other open space provided about any building for the purpose of complying with the provisions of this Ordinance shall be considered as providing a yard or open space for any other building, nor shall the lot area per family be reduced in any manner except in conformity with the area regulations herein established for the district in which such building is located.
- (7) Every building hereafter erected, replaced, or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building on one lot unless otherwise provided in the Ordinance.
- (8) No building in the rear of any main building on the same interior lot shall be used for residence purposes.
- (9) Subsequent to the passing of this ordinance, a written permit shall be obtained from the Zoning Administrative Officer when required as provided in 6-2-17 hereof.
- (10) Whenever in this ordinance the terms density requirements or area requirements shall be used and wherever front, side or rear area requirements shall be exclusive of road or highway right-of-way easements.

**6-2-5**

**6-2-5-1 "A-1" AGRICULTURAL DISTRICTS.** The regulations set forth in this Article, or set forth elsewhere in this ordinance, when referred to in this Article, are the district regulations for the "A-1" Agricultural Districts.

**6-2-5-2 USE REGULATIONS.** A structure or premises shall be used only for the following purposes:

- (1) Farms.
- (2) Single family dwellings.
- (3) Churches.
- (4) Public schools and private educational institutions having a curriculum comparable to that given in public schools and having no rooms regularly used for housing or sleeping except such quarters as are necessary for custodians.
- (5) Community buildings, hospitals, public parks and playgrounds.
- (6) Home occupations.
- (7) Public and private forests and wildlife reservations or similar conservation projects.
- (8) Golf courses or practice driving ranges operated for commercial purposes, except miniature golf courses. Golf accessory structures involving sale of goods are not permitted unless allowed by 6-2-12 of these regulations.
- (9) Billboards, bulletin boards, temporary signs and name plates, provided they conform to 6-2-13-3.
- (10) Roadside stands.
- (11) Grain bins and buildings for the seasonal or temporary storage of grain.
- (12) Accessory buildings and accessory uses customarily incident to any of the above uses, but not involving the conduct of a business.

**6-2-5-3 AREA REGULATIONS.**

- (1) FRONT YARD. Each main building shall have a front yard depth of not less than fifty (50) feet. On corner lots, there shall be a front yard depth of not less than fifty (50) feet, and a side yard on the intersecting street of lot less than fifty (50) feet.
- (2) SIDE YARD. There shall be a side yard of not less than fifteen (15) feet on each side of the main building.
- (3) REAR YARD. There shall be a rear yard of not less than forty (40) feet to the rear of the main building.
- (4) INTENSITY OF USE. Every lot or tract of land upon which a single family dwelling is erected shall have an area of not less than one (1) acre, and a minimum average width of not less than one hundred fifty (150) feet.

**6-2-5-4 HEIGHT REGULATIONS.** No structure shall be erected adjacent to a residential district without providing a setback from the residential district boundary equal to the



height above thirty (30) feet plus the yard requirement for the yard adjacent to the residential district.

## **6-2-6**

**6-2-6-1 “R-1” RESIDENTIAL DISTRICTS.** The regulations set forth in this Article, or set forth elsewhere in this Ordinance, when referred to in this Article, are the district regulations for the “R-1” Residential Districts.

**6-2-6-2 USE REGULATIONS.** A structure or premises shall be used only for the following purposes:

- (1) Farms.
- (2) Single-family dwellings.
- (3) Churches.
- (4) Public schools and private educational institutions having a curriculum comparable to that given in public schools and having no rooms regularly used for housing or sleeping except such quarters as are necessary for custodians.
- (5) Community buildings, hospitals, public parks and playgrounds.
- (6) Public and private forests and wildlife reservations or similar conservation projects.
- (7) Home occupations.
- (8) Golf courses or practice driving ranges operated for commercial purposes, except miniature golf courses. Golf accessory structures involving sale of goods are not permitted unless allowed by 6-2-12 of these regulations.
- (9) Church, school and institutional bulletin boards and temporary signs pertaining to new construction, lease or sale of the building or premises, but such signs shall be removed as soon as the construction is completed or the building or premises sold or leased.
- (10) Accessory buildings and accessory uses customarily incident to any of the above uses, but not involving the conduct of a business.
- (11) Two-family dwellings.

## **6-2-6-3 AREA REGULATIONS.**

(1) **FRONT YARD.** Each main building shall have a front yard depth of not less than thirty-five (35) feet. On corner lots, there shall be a front yard of not less than thirty-five (35) feet, and a side yard on the intersecting street of not less than twenty-five (25) feet.

(2) **SIDE YARD.** There shall be a side yard of not less than ten (10) feet on each side of the main building.

(3) **REAR YARD.** There shall be a rear yard of not less than thirty-five (35) feet to the rear of the main building.

(4) INTENSITY OF USE. Every lot or tract of land upon which a dwelling is erected shall have an area of not less than fifteen thousand (15,000) square feet for a single-family dwelling and an area of not less than twenty thousand (20,000) square feet for a two-family dwelling, and a minimum average width of not less than one hundred (100) feet.

**6-2-6-4 HEIGHT REGULATIONS.** No building shall exceed 2 ½ stories or thirty (30) feet in height, except as hereinafter provided.

## **6-2-7**

**6-2-7-1 “R-2” COMMUNITY RESIDENTIAL DISTRICT.** The regulations set forth in this Article, or set forth elsewhere in this Ordinance, when referred to in this Article, are the district regulations for the “R-2” Community Residential Districts.

**6-2-7-2 USE REGULATIONS.** A structure or premises shall be used only for the following purposes:

- (1) Farms.
- (2) Any use permitted in the “R-1” Residential Districts.
- (3) Multi-family dwelling.

## **6-2-7-3 AREA REGULATIONS.**

(1) FRONT YARD. Each main building shall have a front yard of not less than ten (10) feet. On corner lots, there shall be a front yard of not less than ten (10) feet and a side yard on the intersecting street of not less than ten (10) feet.

(2) SIDE YARD. There shall be a side yard of not less than five (5) feet on each side of the main building.

(3) REAR YARD. There shall be a rear yard of not less than twenty (20) feet to the rear of the main building.

(4) INTENSITY OF USE. Every lot or tract of land, upon which a dwelling is erected, shall have a minimum average width of not less than sixty (60) feet and an area of not less than seven thousand two hundred (7,200) square feet for a single-family dwelling, an area of not less than fifteen thousand (15,000) square feet for a two-family dwelling, and an area of not less than twenty thousand (20,000) square feet for a multi-family dwelling.

**6-2-7-4 HEIGHT REGULATIONS.** No building shall exceed 2 ½ stories or thirty (30) feet in height, except as hereinafter provided.

## **6-2-8**

**6-2-8-1 “C-1” COMMERCIAL DISTRICTS.** The regulations set forth in this Article, or set forth elsewhere in this Ordinance, when referred to in this Article are the district regulations for the “C-1” Commercial Districts.

**6-2-8-2 USE REGULATIONS.** A structure or premises shall be used only for the following purposes:

- (1) Farms.
- (2) Any use permitted in the “R-1” Residential District.
- (3) Advertising signs and billboards.
- (4) Amusement places, and drive-in theatres.
- (5) Bakeries.
- (6) Banks.
- (7) Barber shops, beauty parlors, massage and similar personal service shops.
- (8) Bicycle sales and repair shops.
- (9) Boarding and Lodging houses.
- (10) Catering and delicatessen shops.
- (11) Camping grounds.
- (12) Dressmaking, millinery and tailoring shops.
- (13) Drive-in eating establishments.
- (14) Dry cleaning establishments.
- (15) Electric, radio and T.V. sales and repair shops
- (16) Garages, public.
- (17) Gasoline service stations.
- (18) Implement repair and/or sales.
- (19) Laundromats.
- (20) Locksmiths and gunsmiths.
- (21) Lumberyards.
- (22) Medical and dental clinics.
- (23) Milk distributing stations.
- (24) Motels and hotels.
- (25) Multi-family dwellings.
- (26) Nursing homes.
- (27) Offices.
- (28) Parking lots.
- (29) Photographic studios.
- (30) Restaurants.
- (31) Retail stores.
- (32) Shoe repair shops.
- (33) Storage yards of equipment and materials related to the lawful permitted use that does not constitute a hazard to public health or safety.

- (34) Any commercial or light industrial use which is carried on entirely within buildings, which is not noxious or offensive due to the emission of odors, gas, smoke, or noise; which is not a menace to public health and safety and which will not substantially or permanently injure the appropriate use of neighboring property.
  - (35) Accessory buildings and uses incidental to any of the above uses.
  - (36) Any Adult Entertainment Use provided that no zoning permit shall be issued unless the location of such use shall have been approved by the Board of Supervisors of Henry County, Iowa, after reports and recommendations by the Henry County Planning & Zoning Commission and the Zoning Administrative Officer have been received.
  - (37) Waste recyclable convenience collection locations and storage of waste receptacles subject to the following conditions:
    - A. The site shall meet all Iowa Department of Natural Resources regulations;
    - B. Any location within 300' of an "R" residential zone or occupied residence shall completely obscure from public view any waste receptacle unless a waiver is obtained and recorded from all owners of occupied residences or "R" zoned property;
    - C. All waste and debris stored on site shall be completely confined to said property.
- (Amendment January 5, 2012)**

**6-2-8-3 AREA REGULATIONS.** Area and yard requirements for residential units are the same as those for the "R-1" Residential Districts. For all other uses the yard requirements are as follows:

- (1) FRONT YARD. Each main building shall have a front yard depth of not less than thirty-five (35) feet. Corner lots shall have in addition, a side yard on the intersecting road of not less than thirty-five (35) feet.
- (2) SIDE YARD. A side yard is not required except for corner lots as described above and except on the side of a lot abutting a residential or agricultural district, in which case there shall be a side yard of not less than twenty-five (25) feet.
- (3) REAR YARD. A rear yard is not required, except on the rear of a lot abutting a residential or agricultural district, in which case there shall be a rear yard of not less than twenty-five (25) feet.
- (4) INTENSITY OF USE. No requirement, except for residences which shall have a minimum average width of one hundred (100) feet and an area of not less than fifteen thousand (15,000) square feet for a single-family dwelling and an additional five thousand (5000) square feet for every additional family.

**6-2-8-4 HEIGHT REGULATIONS.** No requirement, except that no structure shall be erected adjacent to an agricultural or residential district without providing a set-back from

the agricultural or residential district boundary equal to the height above thirty-five (35) feet plus the yard requirement of the yard adjacent to the agricultural or residential district.

## **6-2-9**

**6-2-9-1 “C-2” COMMUNITY COMMERCIAL DISTRICTS.** The regulations set forth in this Article, or set forth elsewhere in this Ordinance, when referred to in this Article are the district regulations for the “C-2” Commercial Districts.

**6-2-9-2 USE REGULATIONS.** A structure or premises shall be used only for the following purposes:

- (1) Farms.
- (2) Any use permitted in the “R-2” Residential District.
- (3) Bakeries and meat shops.
- (4) Business and professional offices.
- (5) Barber shops, beauty parlors, and similar personal service shops.
- (6) Bicycle sales and repair shops, or other non-motorized vehicle sales and repair.
- (7) Boarding and lodging houses.
- (8) Catering and delicatessen shops.
- (9) Clubs for fitness, martial arts, and similar uses; including dance studios.
- (10) Dressmaking, millinery, and tailoring shops.
- (11) Dry cleaning establishments.
- (12) Hotels.
- (13) Laundromats.
- (14) Locksmiths or gunsmiths.
- (15) Medical, chiropractic, and dental clinics.
- (16) Movie houses and theatres, except adult entertainment uses.
- (17) Museums or art galleries.
- (18) Nursing homes.
- (19) Offices.
- (20) Photographic studios.
- (21) Repair shops.
- (22) Restaurants, taverns, and cafes, but not including drive-thru.
- (23) Retail stores.
- (24) Any light commercial use which is carried on entirely within buildings, which is not noxious or offensive due to the emission of odors, gas, smoke, or noise; which is not a menace to public health and safety and which will not substantially or permanently injure the appropriate use of neighboring property. Such use shall maintain a similar character and intensity of use with those uses mentioned above in

this section. Commercial uses which involve drive-thru service shall not be permitted in this district.

(25) Accessory buildings incidental to any of the above uses.

**6-2-9-3 AREA REGULATIONS.** Area and yard requirements for residential units are the same as those for the “R-2” Residential Districts. For all other uses the yard requirements are as follows:

(1) FRONT YARD. Each main building may abut the front road right-of-way line or public easement provided the Zoning Administrative Official is given a professional survey from which to determine location of the main building. Corner lots shall have a “sight triangle” with the short legs of said triangle measuring ten (10) feet each and with the corner opposite the hypotenuse being located at the point where both roads intersect on the lot; no structures shall be allowed within this triangle so formed.

(2) SIDE YARD. A side yard is not required except for corner lots as described above and except on the side of a lot abutting an “A-1” or “R-1” district, in which case there shall be a side yard of not less than twenty-five (25) feet.

(3) REAR YARD. A rear yard is not required, except on the rear of a lot abutting a an “A-1” or “R-1” district, in which case there shall be a rear yard of not less than twenty-five (25) feet.

(4) INTENSITY OF USE. No requirement, except for residences which shall have a minimum average width of sixty (60) feet and an area of not less than seventy two hundred (7,200) square feet.

**6-2-9-4 HEIGHT REGULATIONS.** No requirement, except that no structure shall be erected adjacent to an “A-1” or “R-1” district without providing a set-back from said district boundary equal to the height above thirty (30) feet plus the yard requirement of the yard adjacent to said district.

## **6-2-10**

**6-2-10-1 “I-1” INDUSTRIAL DISTRICTS.** The regulations set forth in this Article, or set forth elsewhere in this Ordinance, when referred to in this Article, are the district regulations for the “I-1” Industrial Districts.

**6-2-10-2 USE REGULATIONS.** A structure or premises shall be used only for the following purposes:

(1) Farms

(2) Any use permitted in the “C-1” Commercial Districts, except residential uses.

(3) Any other industrial use, process or treatment whatsoever, provided that no zoning permit shall be issued for any of the following uses until and unless the location of such use

shall have been approved by the Board of Supervisors of Henry County, Iowa, after reports and recommendations by the Henry County Planning & Zoning Commission, the County Engineer, and the Zoning Administrative Officer have been received.

- (a) Acid manufacture
- (b) Bulk plants.
- (c) Cement, lime, gypsum or other similar manufacture.
- (d) Distillation of bones.
- (e) Explosive manufacture and storage.
- (f) Fat rendering.
- (g) Fertilizer manufacture.
- (h) Gas manufacture.
- (i) Garbage, offal or dead animal disposal.
- (j) Glue manufacture.
- (k) Salvage or Junk yards.
- (l) Packing plants and slaughter houses.
- (m) Petroleum refining.
- (n) Public sewage disposal and treatment plants.
- (o) Starch manufacture.
- (p) Stockyards.

**6-2-10-3 AREA REGULATIONS.** The area and yard requirements are the same as those for the "C-1" Commercial Districts.

**6-2-10-4 HEIGHT REGULATIONS.** No requirement, except that no structure shall be erected adjacent to an agricultural, residential, or commercial district without providing a set-back from such boundary equal to the height above thirty (30) feet plus the yard requirement of the yard adjacent to the agricultural, residential or commercial district.

#### **6-2-11**

**6-2-11-1 "RC" RECREATION / CONSERVATION OVERLAY DISTRICTS.** The regulations set forth in this Article, or set forth elsewhere in this Ordinance, when referred to in this Article, are the district regulations for the "RC" Recreation / Conservation Overlay District. The "RC" Overlay District extends sixty (60) feet from the edge of the normal high-water bank of the Skunk River on both sides.

**6-2-11-2 USE REGULATIONS.** The premises shall be used only for the following purposes:

- (1) Agriculture, but not including clear cutting of naturally occurring tree cover.
- (2) Cultural/Historic restoration.
- (3) Livestock grazing, but not including feedlots and poultry farms.

- (4) Recreational uses such as canoeing access, boat launching ramps, swimming areas, primitive camping, hiking, horseback riding trails and similar uses.
- (5) Soil and water conservation practices.
- (6) Summer cottages and cabins.
- (7) Sustained yield forestry.
- (8) Wildlife preserves.

**6-2-11-3 AREA REGULATIONS.** Premises shall comply with the following:

- (1) RIVER SETBACK. Summer cottages or cabins shall be a minimum of fifteen (15) feet from the edge of the normal high-water bank.
- (2) NATURAL VEGETATION. Premises shall not have more than 40% of the natural ground cover mowed within thirty-five (35) feet of the river bank, nor shall there be deforestation of more than 20% within thirty-five (35) feet of the river bank.
- (3) INTENSITY OF USE. A land parcel with a specified "RC" Overlay District is permitted to have one (1) summer cottage in addition to the main use permitted on the actual zone of the property.

**6-2-11-4 HEIGHT REGULATIONS.** No building shall exceed 2 ½ stories or thirty (30) feet in height, except as hereinafter provided.

**6-2-12**

**6-2-12-1 ADDITIONAL USE REGULATIONS.** The regulations set forth in this Article, qualify or supplement the use regulations set forth elsewhere in this Ordinance.

(1) The Board of Adjustment may, by conditional use permit, authorize the location, construction or structural alteration of any of the following buildings, structures or uses in any district from which they are prohibited or limited by this Ordinance.

- (a) Airports
- (b) Automobile race tracks and/or drag strips, all-terrain and motorized vehicle tracks, and snowmobile tracks.
- (c) Commercial billboards
  - (i) No billboard be erected less than 300 feet from any road intersection.
  - (ii) No billboard erected less than 100 feet on either side of an ingress or egress of land lying along a highway.
  - (iii) That billboards be spaced at least 400 feet apart.
  - (iv) That any permit granted shall be subject to revocation by the Board of Adjustment at any time, and for any reason on 90 days' notice.
  - (v) If after giving 90 days' notice of revocation, as set out in (iv) above, the owner has failed to remove the said billboard, the Board of Adjustment may, after giving 10 days' written notice of its intention to do so, remove and destroy said billboard.



- (vi) Failure to secure a permit or to comply with the provisions herein, shall subject the person, firm or corporation, to the penalties set out in 6-2-21 herein.
- (f) **Commercial Wind Energy Conversion System C-WECS (C-WECS).** The requirements of this Ordinance shall apply to all C-WECS proposed after the effective date of this Ordinance. C-WECS for which a required permit has been properly issued prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance; provided, that any such pre-existing C-WECS, which does not provide energy for a continuous period of twelve (12) months, shall meet the requirements of this Ordinance prior to recommencing production of energy. Also, no modification or alteration to an existing C-WECS shall be allowed without full compliance with this Ordinance.

**01. General Requirements for C-WECS**

- A. **Color and Finish.** Wind Turbines shall be painted a non-reflective color. Blades may be black in order to facilitate de-icing. Finishes shall be matte or non-reflective. At C-WECS sites, the design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the C-WECS to the natural setting and existing environment.
- B. Exceptions may be made for meteorological towers, where concerns exist relative to aerial spray applicators.
- C. **Tower configuration.** All wind turbines, which are part of a C-WECS, shall be installed with a tubular, monopole type tower. Meteorological towers may be guyed.
- D. **Lighting.** C-WECS sites shall not be artificially lighted, except to the extent required by the FAA or other applicable authority. Lighting, 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.
- E. **Signage.** The manufacturer's or owner's company name and/or logo may be placed upon the compartment containing the electrical generator, of the WECS. Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the C-WECS sites.
- F. **Feeder Lines.** All communications and feeder lines, equal to or less than 34.5 kV in capacity, installed as part of a C-WECS shall be buried.
- G. **Waste Disposal.** Solid and hazardous wastes, 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 in a time period as established by the Henry County Health Department and disposed of in accordance with all applicable local, state and

federal regulations.

**H. Minimum Ground Clearance.** The blade tip of any Wind Turbine shall, at its lowest point, have ground clearance of no less than seventy-five (75) feet.

**I. Signal Interference.** The applicant shall minimize and mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any C-WECS.

**J. Federal Aviation Administration.** All C-WECS shall comply with FAA standards and permits.

**K. Electrical Codes and Standards.** All C-WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.

**L. Setbacks**

1) The following setbacks and separation requirements shall apply to all wind turbines and meteorological towers; provided that the Board of Adjustment upon recommendation by the Commission may reduce the standard setbacks and separation requirements if the intent of this Ordinance would be better served thereby. All other structures shall comply with the applicable setbacks as defined by the base zone district.

(a) **Structures.** Each wind turbine and meteorological tower shall be set back from the nearest residence, school, hospital, church or public library, a distance no less than the greater of (a) two (2) times its total height or (b) one thousand (1,000) feet.

(b) **Property Lines.** At no time shall any part of the wind turbine and meteorological tower overhang an adjoining property without securing appropriate easements from adjoining property owners.

(c) **Public Right-of-Way.** Setbacks from public right-of-way, railroads, power lines and structures shall be a minimum of 1.1 times the height of the tower and rotor.

(d) **Communication and Electrical Lines.** Each wind turbine and meteorological tower shall be set back from the nearest above-ground public electric power line or telephone line a distance no less than 1.1 times its total height, determined from the existing power line or telephone line.

**M. Noise.** Audible noise due to C-WECS sites operations shall not exceed sixty (60) dBA for any period of time, when measured at any dwelling, school, hospital, church or public library existing on the date of approval of any conditional use permit from the property line.

1) In the event audible noise due to C-WECS operations contains a steady pure tone, such as a whine, screech, or hum, the standards for audible noise set forth in subparagraph a of this subsection shall be reduced by five (5) dBA.

2) In the event the ambient noise level (exclusive of the development in question) exceeds the applicable standard given above, the applicable standard shall be adjusted so as to equal the ambient noise level. The ambient noise level shall be

expressed in terms of the highest whole number sound pressure level in dBA, which is exceeded for more than five (5) minutes per hour. Ambient noise levels shall be measured at the exterior of potentially affected existing residences, schools, hospitals, churches and public libraries. Ambient noise level measurement techniques shall employ all practical means of reducing the effect of wind generated noise at the microphone. Ambient noise level measurements may be performed when wind velocities at the proposed project site are sufficient to allow wind turbine operation, provided that the wind velocity does not exceed thirty (30) mph at the ambient noise measurement location.

3) In the event the noise levels resulting from the C-WECS exceed the criteria listed above, a waiver to said levels may be granted by the Board of Adjustment upon recommendation by the Commission provided that the following has been accomplished:

(a) Written consent from the affected property owners has been obtained stating that they are aware of the C-WECS and the noise limitations imposed by this Ordinance, and that consent is granted to allow noise levels to exceed the maximum limits otherwise allowed; and

(b) If the applicant wishes the waiver to apply to succeeding owners of the property, a permanent noise impact easement shall be recorded in the Office of the Henry County Recorder which describes the burdened properties and which advises all subsequent owners of the burdened property that noise levels in excess of those permitted by this Ordinance may exist on or at the burdened property.

**N. Safety.**

1) All wiring between wind turbines and the C-WECS substation shall be underground. If the developer can demonstrate the need for an overhead line and the acceptance of landowners for this line, such option may be approved conditionally by the Board of Adjustment

2) Wind turbines and meteorological towers shall not be climbable up to 15 feet above ground level.

3) All access doors to wind turbines and meteorological towers and electrical equipment shall be locked when not being serviced.

4) Appropriate warning signage shall be placed on Wind Turbine towers, electrical equipment, and C-WECS entrances.

5) For all C-WECS, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the C-WECS is within accepted professional standards, given local soil and climate conditions.

6) For all guyed towers, visible and reflective objects, such as plastic sleeves, reflectors or tape, shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of eight (8) feet above the ground. Visible fencing shall be installed around anchor points of guy wires. The property owner

must sign a notarized acknowledgement and consent form allowing construction of the turbine and guyed wires without fencing as required in this Ordinance to be presented to the Commission and Board of Adjustment.

**02. Discontinuation and De-commissioning.**

A C-WECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the Director outlining the steps and schedule for returning the C-WECS to service. All C-WECS and accessory facilities shall be removed to four (4) feet below ground level within one hundred eighty (180) days of the discontinuation of use. Each C-WECS shall have a De-commissioning plan outlining the anticipated means and cost of removing C-WECS at the end of their serviceable life or upon becoming a discontinued use. The cost estimates shall be made by a professional engineer licensed in the State of Iowa. The plan shall also identify the financial resources be available to pay for the decommissioning and removal of the C-WECS and accessory facilities. The County reserves the right to verify that adequate decommissioning terms are contained in the landowner easement.

**03. Avoidance and Mitigation of Damages to Public Infrastructure.**

A. **Roads.** Applicants shall identify all roads to be used for the purpose of transporting C-WECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the C-WECS and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction.

B. **Existing Road Conditions.** Applicant shall conduct a pre-construction survey, in coordination with the impacted local road authority(ies) to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public facility. The applicant is responsible for on-going road maintenance and dust control measures identified by the Henry County Engineer during all phases of construction.

C. **Drainage System.** The Applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the C-WECS.

D. **Required Financial Security.** The applicant shall be responsible for restoring or paying damages as agreed to by the applicable road authority(ies) sufficient to restore the road(s) and bridges to preconstruction conditions. Financial security in a manner approved by the Henry County Attorney's Office shall be submitted covering 130% the costs of all required improvements. This requirement may be waived by the Board of Adjustment by recommendation from the Henry County Engineer.

**04. Submittal Requirements.**

In addition to the submittal requirements defined for Conditional Use Permit applications, all applications for C-WECS must submit the following information (as applicable).

- A. The names of project applicant
- B. The name of the project owner
- C. The legal description and address of the project.
- D. A 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.
- E. 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.
- F. Engineer's certification(s) as required in these supplemental standards.
- G. Documentation of land ownership or legal control of the property
- H. The latitude and longitude of individual wind turbines.
- I. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other C-WECS within 10 rotor diameters of the proposed C-WECS.
- J. Existing Resources Inventory.
- K. An Acoustical analysis
- L. FAA Permit Application
- M. Location of all known communications towers/facilities within two (2) miles of the proposed C-WECS.
- N. Decommissioning Plan
- O. Description of potential impacts on all nearby C-WECS and Non- C-WECS and wind resources on adjacent properties.
- P. Identification of significant migratory patterns and nesting areas for birds within two (2) miles.

\* Effective February 17, 2011

- (g) Extraction of gravel, sand, stone, clay or other raw materials, including excavation associated with quarry or mining operations.
- (h) Junk yards and/or salvage yards.
- (i) Manufactured housing parks and mobile home parks.
- (j) Private gun clubs, skeet shooting ranges, and hunting preserves.
- (k) Schools and semi-public buildings.
- (l) Stills and accessory buildings for the production of alcohol if licensed and approved by the appropriate state or federal regulatory agencies.

Before the issuance of any of the above conditional use permits, the Planning & Zoning Commission shall hold a public hearing advertised as provided in 6-2-19-1 hereof, and shall report to the Board of Adjustment regarding the effect of such building, structure or use

upon the character of the neighborhood, traffic conditions and other matters relating to the public safety, public health and general welfare. No action shall be taken by the Board of Adjustment hereunder until and unless the report of the Planning & Zoning Commission has been filed, but such report shall be made within sixty (60) days after the matter has been referred by the Board of Adjustment to the Planning & Zoning Commission. If the Board of Supervisors desires, they may provide for their review of any of the above listed conditional uses before the date such use is made effective by decision of the Board of Adjustment. The Board of Supervisors may remand a decision to grant such a conditional use to the Board of Adjustment for further study. If remanded, the effective date of the conditional use is delayed for thirty days from the date of the remand.

The fee for application for a special permit to be issued under this subsection shall be established by resolution of the Henry County Board of Supervisors. Such fee shall be paid to the Zoning Administrative Officer and under no condition shall said fee or any part thereof be refunded for failure of said proposed special permit to be approved.

(2) The following uses may be permitted by a change in use permit from the Zoning Administrative Official subject to prior review and ruling by the Board of Adjustment as a conditional use:

- (a) Anhydrous ammonia.
- (b) Buildings erected or used by any department of the federal, state, county, or municipal governments.
- (c) Cemeteries
- (d) Commercial amusement and recreational developments for temporary or seasonal periods.
- (e) Commercial campgrounds and recreational vehicle park development standards:
  - The following standards and requirements shall govern the design and development of a commercial campground or recreational vehicle park.
  - .01 A tract of land considered for a commercial campground or recreational vehicle park shall comprise an area of not less than five (5) acres of gross development area.
  - .02 The maximum density allowed for the gross development area shall be fifteen (15) recreational vehicles sites per gross acre.
  - .03 Sites in a park shall be occupied only by camping units and tents suitable for temporary habitation and used for travel, vacation and recreation purposes.
  - .04 No camping unit or tent shall be used as a permanent place of abode, dwelling or business, or for indefinite periods of time. Camping units or tents shall not be on the site, whether occupied or not, for no more than two hundred forty (240) days during any twelve (12) month period.
  - .05 No permanent external appurtenances such as carports, deck, cabanas, or patios may be attached to any recreational vehicle.
  - .06 Any action towards removal of wheels of a recreational vehicle, except for

temporary purposes of repair, or placement of the unit on a foundation is prohibited.

.07 Each recreational vehicle site shall have a minimum area of fourteen hundred (1,400) square feet; provided that site devoted solely for tent camping shall have a minimum area of seven hundred fifty (750) square feet. Each site at a campground with more than twenty-five (25) sites total shall contain a stabilized vehicular parking pad of gravel, marl, paving or other suitable material.

.08 A minimum of eight (8) percent of the gross development area for the recreational vehicle park shall be set aside and developed as common open space areas for open or enclosed recreation facilities.

.09 Recreational vehicle sites and off-street parking spaces shall not be located within any required yard or setback. Where needed to enhance aesthetics or to insure public safety, the recreational vehicle park shall be enclosed by a fence, wall, landscape screening, earth mounds, or by other buffer designs required by the Board which will complement the landscape and assure compatibility with the adjacent environment.

.10 Display signs for recreational vehicle parks shall be permitted subject to the Approval of the Board of Adjustment

.11 In connection with use of any recreational vehicle park, no parking, loading or maneuvering incidental to parking or loading shall be permitted on any public street, sidewalk, required buffer, right-of-way, or on any public grounds, or on any private grounds not part of the park, unless the owner has given written permission for such use. Each park shall provide off-street parking, loading and maneuvering space located and scaled so that the prohibitions above may be observed, and park owners shall be held responsible for violations of these requirements.

.12 At least one and one-half (1 1/2) parking spaces shall be provided in the park per recreational vehicle site. At least one (1) parking space shall be provided at each such site.

.13 All recreational vehicle parks shall be provided with safe and convenient vehicular access from an improved public street. It shall be the responsibility of the developer to provide the necessary access in all cases where there is no existing improved street or road connecting the park site with an improved existing public street or road.

.14 Streets in recreational vehicle parks shall be private, but shall be constructed with a stabilizing roadway of gravel, marl, paving, or other suitable material, and campgrounds with more than twenty-five (25) total sites or retail commercial accessory uses shall meet the following minimum stabilized roadway width requirements:

A. One way, no parking 11 feet

B. One way, with parking on one side 18 feet

- C. Two way, no parking 24 feet
- D. Two way with parking on one side 26 feet
- E. Two way with parking on both sides 31 feet

.15 Entrances and exits to recreational vehicle parks shall be designed for safe and convenient movement of traffic into and out of the park and to minimize marginal friction with free movement of traffic on adjacent streets. All traffic into or out of the park shall be through such entrances and exits. No entrances or exits shall require a turn at an acute angle for vehicles moving in the direction intended and radii of curbs and pavements at intersections shall be such to facilitate easy turning movements for vehicles with trailers attached. No entrance or exit from a park shall discharge traffic into any Class "R" District or platted residential subdivision nor require movement of traffic from the park through a Class "R" District or platted residential subdivision. The location and design of all intersections of such entrances or exits with public streets shall be approved by the County Engineer. If turning lanes or other forms of traffic controls are deemed necessary by the Board, the developer shall provide the necessary improvements, subject to approval of their location and design by the County Engineer.

.16 Management headquarters, recreational facilities, toilets, dumping stations, showers, laundry facilities, and other uses and structures customarily incidental to operation of a commercial campground and recreational vehicle park are permitted as accessory uses to the park. In addition, stores, restaurants, beauty parlors, barber shops, recreational vehicle storage areas and other convenience establishments may be permitted as accessory uses in commercial campgrounds and recreational vehicle parks where such uses are specifically approved by the Board, subject to the following restrictions:

- A. Such establishments and the parking areas primarily related to the operations shall not occupy more than ten (10) percent of the gross area of the park.
- B. All buildings and individual camp sites shall be constructed in compliance with state and local codes and regulations including all onsite waste disposal.
- C. The structures housing such facilities shall not be directly accessible from any public street, but shall be accessible only from a street within the park.

.17 In recreational vehicle parks where recreational vehicle sites are leased or otherwise assigned on a long-term basis, the limits of each site shall be clearly marked on the ground by permanent steel or iron rods driven into the ground with the top of the of said rods being flush with the finish lot grade. Location of site limits on the ground shall be approximately the same as shown on the approved plans. The degree of accuracy obtainable by working with a scale on the plan and then a tape on the ground is acceptable. Precise engineering of site limits is not required either on the plans or on the ground. This is not to be construed as permitting sites of lesser size than the required minimum, or permitting lesser yard or separation



dimensions then set forth elsewhere in this Section.

.18 Recreational vehicle sites intended solely for tent camping units shall be located in separate areas designated for tent camping only.

.19 The layout of a park shall be such that the “destruction” of the natural vegetation and topography of the area is minimized.

.20 In addition to the foregoing, other conditions, requirements or limitations concerning the design, development and operation of a recreational vehicle park may be imposed as may be deemed necessary for the protection of adjacent properties and the public interest.

- (f) Commercial dairy processing.
- (g) Commercial or heavy vehicle parking or storage in excess of that allowed by 6-2-13-2 (5f).
- (h) Dog kennels, or other commercial domestic animal kennel uses.
- (i) Electrical and natural gas transmission, regulating and storage facilities.
- (j) Functional Families; or those groups of persons not meeting the definition of “family” yet living in a single-family dwelling.
- (k) Grain drying.
- (l) Grain elevators.
- (m) Grain mixing, blending, and feed manufacturing plants.
- (n) Grain storage.
- (o) Home Occupation II.
- (p) Public Garages, provided that the garage comply with all requirements for “Home Occupation II” and that no more than five vehicles on the premises.
- (q) Radio and television towers over one hundred (100) feet in height.
- (r) Retail feed and seed.
- (s) Stables for commercial breeding or commercial uses.
- (t) Summer camps and recreational facilities operated by public or semi-public organizations.
- (u) Telecommunications or microwave communications towers and/or wireless transmission towers as well as support buildings and structures.

Requests for the above uses shall be reviewed by the Board of Adjustment for their impact on the surrounding area, infrastructure, nuisance factors, the intent of the zoning ordinance, and the comprehensive plan. Following review, the Board of Adjustment shall vote to approve or deny requests for the above uses. The Board of Adjustment may grant variances as outlined in 6-2-16, in addition, the Board may request review by the Planning & Zoning Commission before making a final decision. The Board shall make a decision concerning the use within sixty (60) days of the initial date of the first hearing of the request.

The fee for application for a special permit to be issued under this subsection shall be established by resolution of the Henry County Board of Supervisors. Such fee shall be paid

to the Zoning Administrative Officer and under no condition shall said fee or any part thereof be refunded for failure of said proposed special permit to be approved.

(3) The owner of a farm containing ten (10) acres or more may set aside a plot of ground on his farm upon which a single-family dwelling may be erected for occupancy by a member of his immediate family only. While such plot of ground need not conform to the minimum lot size for the district in which it is located, the front, rear and side yards must comply with the minimum requirements for the district in which such dwelling is to be located.

(4) A summer cottage may be located in the "A-1" Agricultural Districts along any lake or stream in or bordering Henry County, Iowa, provided that it complies with the area and height requirements for the "R-2" Residential Districts.

(5) In any district, announcement signs or bulletin boards are permitted, provided such signs or boards do not exceed sixteen (16) square feet in an area and are erected upon the premises of a charitable, religious, philanthropic or public institution for its own use and are not erected within twenty-five (25) feet of a road line, provided also that the sign does not create a traffic or safety hazard.

**6-2-12-2 MULTIPLE MAIN BUILDINGS ON A SINGLE LOT.** The Board of Supervisors may by special permit authorize the construction and use of multiple main and accessory buildings on a single parcel provided:

(1) The use of the buildings is permitted within the district for which the request is located or permitted by conditional use permit issued pursuant to 6-2-12 of this ordinance;

(2) The buildings to be constructed and the intended uses of the buildings shall not be in any way inconsistent with the Henry County Comprehensive Plan and shall follow design and layout requirements similar to that found in the Henry County Subdivision Ordinance;

(3) The buildings to be constructed and the intended use of the buildings shall be carried out in compliance with applicable laws, rules, regulations and ordinances of the State of Iowa and Henry County;

(4) An application for the special permit along with a detailed site plan shall be submitted to the Zoning Administrator. The Zoning Administrator shall determine the format of the application and site plan and the number of copies of both required to be submitted. The site plan shall include the following information:

(a) Location and dimensions of the parcel and existing and proposed buildings;

(b) The areas to be developed for parking;

- (c) The location and type of surface to be constructed for sidewalks, driveways, roads and streets, alleys, access roads, points of ingress and egress, and easements for right-of-way;
- (d) The location and type of landscaping;
- (e) The location and types of utilities, if any, which exist or are to be installed, such as water lines, water wells, sewer or septic systems, electric power, telephone, natural gas, cable television lines and other telecommunication services, including locations of easements to provide access, construction, installation and repair of the utilities;
- (f) The location and type of any outdoor lighting which exists or will be installed;
- (g) The location, type, and dimensions of existing and proposed signs;
- (h) The location and type of facilities for collection and disposal of garbage, trash and other solid waste as well as collection and recovery of recyclable materials;
- (i) The existing or planned future uses of all adjoining parcels.

(5) The Zoning Administrator shall forward copies of the special permit application and site plan for review and comment by the County Staff, similar to the review process found in the Henry County Subdivision Ordinance.

(6) The special permit application and site plan along with the comments by the officials named in subsection (5) and the Zoning Administrator's recommendations shall be submitted to the Planning & Zoning Commission. The Planning & Zoning Commission shall hold a public hearing after public notice has been given as provided in 6-2-19-1 of this ordinance and after the public hearing has been held shall submit a report to the Board of Supervisors regarding the effect of the proposed buildings and uses upon the character of the neighborhood, traffic conditions and other matters relating to public safety, public health and general welfare. No action shall be taken by the Board of Supervisors to approve the special permit until the report of the Planning & Zoning Commission has been submitted to the Board of Supervisors unless no action is taken by the Planning & Zoning Commission after sixty (60) days from the time the Zoning Administrator submits the application and review comments to the Commission.

(7) The Board of Supervisors may impose, in addition to existing county regulations, reasonable conditions on approval of the application to satisfy public concerns directly caused by the requested construction and use of the parcel.

(8) The applicant shall submit a nonrefundable application fee, as determined by resolution of the Board of Supervisors, with the initial application for the special permit authorized by this section.

## 6-2-13

**6-2-13-1 ADDITIONAL AREA AND HEIGHT REGULATIONS.** The regulations set forth in this Article, qualify or supplement, as the case may be, the area and height regulations set forth elsewhere in this Ordinance.

### 6-2-13-2 AREA AND YARDS.

- (1) The yard requirements for public, semi-public or public service buildings, hospitals, institutions, or schools in the "A-1" Agricultural, and the "R-1" and "R-2" Residential Districts are as follows:
  - (a) FRONT YARD. The minimum depth of the front yard shall be fifty (50) percent in excess of the front yard depth required for such districts.
  - (b) SIDE YARDS. The required minimum width of side yards shall be twenty-five (25) feet.
  - (c) REAR YARDS. The required minimum depth of rear yards shall be fifty (50) feet.
- (2) Dwellings and accessory buildings on through lots in the "R-2" and "R-1" Residential Districts shall have a rear yard depth equivalent to the front yard depth required for such districts.
- (3) Intensity of use requirements in "R-2" Residential Districts, if public water supply and public sanitary sewer are used, are reduced to six thousand (6,000) square feet for a single-family dwelling if either public water supply or public sanitary sewer are used. If both public water supply and public sanitary sewer are used, the intensity of use requirements are reduced to six thousand (6,000) square feet for a single-family dwelling. **(Amendment April 25, 2014)**
- (4) Prior to issuing a zoning permit for any commercial or industrial use, the Zoning Administrative Officer shall have on file a plan which has been approved by the Henry County Board of Health, or an engineer of the appropriate field licensed in the State of Iowa, showing the location, type and layout of the water supply and sewage disposal systems to serve such use
- (5) All structures not exempted by 6-2-2-1 shall be prohibited from parcels with access only onto class "B" and class "C" (dirt) roads. **(Amendment 5-18-2006)**
- (6) All commercial, industrial and conditional uses located adjacent to any four-lane divided highway shall have access to a secondary county road or a two-lane primary road Exempted conditional uses are 6-2-12-2. sub sections b, h, p, t. **(Amendment 6-22-2006)**
- (7) Accessory buildings and uses customarily incidental to that of the main building may be erected or established upon any lot or tract of land, provided they comply with the following:
  - (a) Accessory buildings which are not a part of the main building may be built in a rear yard within five (5) feet of the rear lot line and within three (3) feet of

the side lot line, but shall not occupy more than thirty-five (35) percent of the rear yard.

- (b) If any portion of a detached accessory building is within a side yard or front yard of a main building on the same lot, such detached accessory building shall not be nearer to the side lot line or the front lot line than would be required for the building wall of a main building on the same lot.
- (c) Article repealed (**Amendment 12-20-2002**)
- (d) No detached accessory building may be placed in any rear yard or any side yard so that any part of such building is nearer the street line than is permitted for a wall of a main building on the same lot.
- (e) No accessory building shall be used for dwelling purposes.
- (f) Not more than one vehicle housed in a private garage may be a commercial vehicle or of more than three (3) tons capacity, and not more than three (3) spaces in a private garage may be leased to persons other than the residents on the premises.
- (g) An open unenclosed porch or paved terrace may project into a front yard for a distance not exceeding ten (10) feet.

**6-2-13-3 HEIGHT.** Fences, hedges, billboards and walls not exceeding six (6) feet in height are permitted within the limits of a side and rear yard and not exceeding four (4) feet in height within the limits of a front yard, provided that no fence, hedge, billboard, or wall shall be permitted within one hundred and fifty (150) feet of the center of a road intersection which cannot be viewed over from a point four (4) feet above the traveled roadway.

#### **6-2-14**

**6-2-14-1 PARKING REGULATIONS.** Off-street parking shall be provided for use in conjunction with occupancies of buildings, constructed, replaced, converted, or remodeled as hereinafter defined for Districts "A-1", "R-1", "C-1", and "I-1" respectively; Districts "R-2" and "C-2" are exempted from these requirements. Off-street parking space for single-family, two-family or multiple family dwellings shall be provided within the dwelling or on the premises of the dwelling. Off-street parking space for other buildings shall be provided within the building, on the premises, or on a permanently reserved space on another lot, any portion of which is within two hundred (200) feet of said building.

#### **6-2-14-2 MINIMUM REQUIREMENT OFF-STREET PARKING.**

- (1) Two off-street parking spaces shall be provided for each family occupying a single family, two-family or multiple family dwelling.

- (2) Hotels, motels and lodging houses hereafter erected shall provide one off-street parking space for each individual sleeping or living unit.
- (3) Churches, schools, auditoriums, theatres, stadiums, or other similar places of public assembly hereafter erected shall provide one (1) off-street parking space for each four (4) seats of the audience seating capacity provided in the main auditorium or stadium.
- (4) Commercial buildings, lodges, clubs and fraternal organizations hereafter erected shall provide one (1) parking space for each 200 square feet of the floor area of the main building.
- (5) Office buildings, including professional and private office buildings, hereafter erected shall provide one (1) off-street parking space for each four hundred (400) square feet of floor area in the building.
- (6) Public and Semi-public buildings and similar institutions hereafter erected shall provide one (1) off-street parking space for each four hundred (400) square feet of floor area in the building.
- (7) Industrial buildings or warehousing operations hereafter erected shall provide one (1) off-street parking space for each four hundred (400) square feet of floor area of the main building or for each two (2) employees, whichever is less.
- (8) Off-street parking space shall be provided for any increase in floor area of any existing building in the same ratio as the above requirements for the particular use for which the building addition is intended.

**6-2-14-3 LOADING AND UNLOADING ZONES.** Any building erected or converted for any commercial or industrial use shall provide not less than one (1) truck unloading space either within the building or upon the lot and adjacent to the building for each ten thousand (10,000) square feet of floor area or fraction thereof.

## **6-2-15**

**6-2-15-1 NON-CONFORMING USES.** The following provisions shall apply to the non-conforming use of buildings and land in the unincorporated area, or areas of Henry County. The following provisions also apply to structures and buildings that are non-conforming due to the bulk requirements of the zoning district in which said buildings or structures are located.

**6-2-15-2 NON-CONFORMING USE MAY BE CONTINUED.** The lawful use of a building existing on the effective date of the Ordinance, although such use does not conform to the provisions hereof, may be continued, but if such non-conforming use is discontinued, any future use of such premises shall be in conformity with the provision of this ordinance.

**6-2-15-3 NON-CONFORMING USE MAY BE EXTENDED.** The lawful use of a building existing on the effective date of this ordinance may be extended throughout the building,

provided such building was so arranged or designed for such non-conforming use on the date this ordinance became effective.

**6-2-15-4 NON-CONFORMING USE RECONSTRUCTED.** No structure which has been damaged by fire, explosion, an Act of God, or the public enemy to the extent of more than sixty-five (65) percent of its value, shall be restored except in conformity with the regulations of this Ordinance.

**6-2-15-5 NON-CONFORMING USES SUBSTITUTED.** The substitution of one non-conforming use for another will be permitted when such substituted use is of the same or more restrictive type of use and will not increase congestion in the street, or endanger the health, safety, morals or general welfare of the district in which it is located. (There shall be no increase in the building or lot area to accommodate such substituted use.)

**6-2-15-6 NON-CONFORMING LOT.** If a lot of record has less area or width than is required to meet the requirements of the District within which it lies, this lot may be used for any of the uses permissible within said District, however all yard requirements must be adhered to.

**6-2-15-7 NON-CONFORMING BUILDING OR STRUCTURE MAY BE EXTENDED.** Any building or structure considered non-conforming due to the bulk setback requirements of the district in which it is located may be extended or added on to, provided said extension or addition itself is in conformity with the bulk requirements for a new structure in the district for which the building or structure is located.

## **6-2-16**

**6-2-16-1 BOARD OF ADJUSTMENT.** A Board of Adjustment is hereby established and shall consist of five (5) members appointed by the Henry County Board of Supervisors. The five (5) members first appointed shall serve terms of one (1), two (2), three (3), four (4), and five (5) years, respectively. Thereafter terms shall be five years and vacancies shall be filled by the Board of Supervisors for the unexpired term of any member whose term becomes vacant. The County Board of Supervisors shall have the power to remove any member of the Board of Adjustment for cause, upon written charges and after public hearing.

**6-2-16-2 CHAIRMAN AND MEETINGS.** The Henry County Board of Supervisors shall name one of the members of the Board of Adjustment as chairman for the first year, and thereafter such chairman shall be elected by the Board of Adjustment. Such chairman shall serve for a term of one (1) year only. All meetings of the Board of Adjustment shall be held at the call of the chairman and at such other times as the Board of Adjustment may determine. Such chairman, or in his absence, the acting chairman may administer oaths, and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public.

The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member on every question, or if absent and failing to vote, indicate such fact, and shall keep complete records of its examinations and other official actions. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision, or determination of the Board of Adjustment shall be immediately filed in the office of the Zoning Administrative Officer, and shall adopt its own rules of procedure not in conflict with this ordinance, or with the Iowa Statute. The Board of Adjustment shall not be compensated, except for necessary expenses.

**6-2-16-3 APPEALS.** The Board of Adjustment shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Zoning Administrative Officer in the enforcement of this Ordinance. Such appeal shall be taken within a period of not more than thirty (30) days, and in the manner prescribed by the rules of the Board of Adjustment, by filing with the Administrative Officer and with the Board of Adjustment a notice of appeal specifying the grounds thereof, and by paying a filing fee to the Administrative Officer. The fee will be established by resolution of the Henry County Board of Supervisors. When notice of the appeal is filed, the Zoning Administrative Officer shall transmit all of his records or certified copies thereof regarding the appeal to the Board of Adjustment including a copy of his letter to an applicant who has been refused a zoning permit. The Board of Adjustment shall take action upon this appeal within thirty (30) days.

**6-2-16-4 POWERS.** The Board of Adjustment shall have the following powers, and it shall be its duty:

- (1) To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision, or determination made by the Zoning Administrative Officer in the enforcement of this Ordinance.
- (2) Upon petition by a property owner to permit exceptions to the terms of this Ordinance as follows:
  - (a) To permit the extension of a district where the boundary line of a district divides a lot held in single ownership at the time of the adoption of this Ordinance.
  - (b) To permit, where the boundary line of a district divides a tract of land of not more than ten (10) acres under a single ownership, adjustment of such a line to conform with the topography of the ground where such tract is being subdivided, provided such a variation does not extend for a distance of more than five hundred (500) feet, and does not come closer than three hundred (300) feet to any boundary of a tract.
  - (c) To interpret the provisions of this Ordinance in such a way as to carry out the intent and purpose of the plan as shown upon the zoning maps fixing the several districts accompanying and made a part of this Ordinance, where the



street layout actually on the ground varies from the street layout as shown on the zoning maps aforesaid.

- (d) To permit the reconstruction of a non-conforming building which has been damaged by explosion, fire, Act of God, or the public enemy to the extent of more than sixty-five percent (65%) of its fair market value, where the Board finds some compelling public necessity requiring the continuance of the non-conforming use, and the primary purposes of continuing the non-conforming use is not to continue a monopoly.
  - (e) To authorize, in any zoning district exceptions to any setback area, length, width, yard, size or projection limitations or to the minimum required number of off-street parking or loading spaces; provided such an exception may be granted only where:
    - 1. (a) Such exception does not exceed 50 percent of the particular limitation or number in question; or (b) such exception is from a yard requirement to permit an addition to an existing legal nonconforming building, and such addition extends no further into the required yard than the existing building;
    - 2. The exception relates entirely to a use classified by applicable district regulations as either a principal permitted use, a permitted accessory use, a permitted sign, or to off-street parking or loading areas accessory to such a permitted use;
    - 3. The exception is reasonably necessary due to practical difficulties related to the land in question that prohibit the use of the subject property in a manner reasonably similar to that of other property in the same district, including, but not limited to, exceptional narrowness, shallowness or shape of the subject property, exceptional topographical conditions, location of public utilities or public improvements on or adjacent to the subject property, or other extraordinary or exceptional situation;
    - 4. Such practical difficulties cannot be overcome by any feasible alternative means other than an exception; and
    - 5. The exception is in harmony with the essential character of the neighborhood of the land in question.
- (3) To authorize upon petition whenever a property owner can show that a strict application of the terms of this Ordinance relating to the use, construction, or alteration of buildings, or structure, or the use of land will impose upon him practical difficulties or particular hardships, such variations of the strict application of the terms of this Ordinance as are in harmony with its general purpose and intent, but only when the Board of Adjustment is satisfied that a granting of such variation will not merely serve as a convenience to the applicant, but will alleviate some

demonstrable, and unusual hardship, or difficulty so great as to warrant a variation from the comprehensive plan as established by this Ordinance, and at the same time the surrounding property will be properly protected.

(4) To review and permit conditional uses as described in 6-2-12 of these regulations.

**6-2-16-5 VOTE.** In exercising the above powers, the concurring vote of three (3) members of the Board of Adjustment shall be necessary to reverse any order, requirements, decision or determination of the Zoning Administrative Officer, or to decide in favor of the applicant any matter upon which it is required to pass under this Ordinance. Every variation granted or denied by the Board of Adjustment shall be accompanied by a written finding of fact based on testimony and evidence, and specifying the reason for granting or denying the variations.

**6-2-16-6 HEARINGS.** The Board of Adjustment shall fix reasonable time for the hearing of an appeal, and give due notice thereof to the parties, and decide the same within a reasonable time. At the hearing, any party may appear in person, or by agent, or by attorney. The Board of Adjustment may reverse or confirm, wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. Any person, or persons jointly, or separately aggrieved by a decision of the Board of Adjustment under the provisions of this Ordinance, or any taxpayer, or any officer, department, or bureau of Henry County, Iowa, may seek such relief through the Courts as is provided by the Statute.

## **6-2-17**

**6-2-17-1 ZONING PERMITS.** Zoning permits shall be issued by the Zoning Administrative Officer and shall be required for the following:

- (1) Any structure, other than that used for farming purposes, hereafter erected, replaced, reconstructed or enlarged.
- (2) Any change in use other than to a farming use.
- (3) Any change in occupancy for all uses other than residential dwelling and farming.
- (4) Any non-conforming use in existence at the time of passage of this Ordinance. The owner of such non-conforming use shall make application for the permit within twelve (12) months after the effective date of this Ordinance accompanied by affidavits of proof that such non-conforming use was established prior to the enactment of this Ordinance.
- (5) No contractor shall commence work on a building or structure which requires a zoning certificate until ascertaining that the appropriate zoning certificate has been issued for the building or structure.

**6-2-17-2 APPLICATION FOR ZONING PERMIT.** Each application for a zoning permit shall be on approved forms and shall be accompanied by a site plan, drawn to scale, showing the actual dimensions of the lot or tract to be built upon or use, the size, shape and location of the structure to be erected, and such other information as may be necessary to provide for the enforcement of this Ordinance and other County Ordinances. All zoning permits shall expire one year from the date issued, an extension of up to one year may be granted by the administrator if reasonable circumstances have prevented completion. All permits issued prior to this amendment shall expire one year from publication of this amendment.

**6-2-17-3 FEES.** The fee for a Zoning Permit covering any or all of the requirements outlined in Section 1 above shall be established by resolution of the Henry County Board of Supervisors. Such fee shall be paid to the Zoning Administrative Officer.

## **6-2-18**

**6-2-18-1 INTERPRETATION, PURPOSE AND CONFLICT.** Whenever the regulations of this Ordinance require a greater width or size of yards, courts or other open spaces, or require a greater percentage of the lot to be left unoccupied or impose other higher standards than are required in any other Statute or local ordinance or regulation, the provisions of this Ordinance shall govern. Whenever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts or other open spaces, or require greater percentage of the lot to be left unoccupied, or impose other higher standards than are required by this ordinance, the provisions of such statute or local ordinance or regulation shall govern.

## **6-2-19**

**6-2-19-1 AMENDMENTS.** The Board of Supervisors of Henry County, Iowa, may, from time to time, on their own motion, or on petitions, after report by the Henry County Planning & Zoning Commission, and after public hearing, amend, supplement or change by ordinance the regulations and districts herein or subsequently established. Notice of time and place of the hearing shall be published as provided in Section 331.305 of the Code of Iowa 1995. In case the Planning & Zoning Commission does not recommend approval of a change, or in case of a protest against such change signed by the owners of twenty percent (20%) or more either of the area included in such a proposed change or the area immediately adjacent thereto and within five hundred (500) feet of the boundaries thereof, such amendment shall not become effective except by the favorable vote of at least sixty percent (60%) of all the members of the Henry County Board of Supervisors. Before any action shall be taken as provided in this Article, the party or parties petitioning, proposing or seeking a change in the district regulations or district boundaries shall submit a written application and pay the appropriate fee. The fee for a zoning amendment request shall be established by resolution of the Henry County Board of

Supervisors. Such fee shall be paid to the Zoning Administrative Officer, and under no condition shall said fee or any part thereof be refunded for failure of said proposed amendment to be enacted into law.

**6-2-19-2 FEES.** The Henry County Planning & Zoning Commission shall annually review and make recommendations concerning fees required by this ordinance as set by the Henry County Supervisors.

**6-2-20**

**6-2-20-1 ENFORCEMENT.** The Zoning Administrative Officer of Henry County, Iowa, shall be designated by the Henry County Board of Supervisors, and it shall be the duty of such Zoning Administrative Officer to enforce this Ordinance. Appeals from the decision of the Zoning Administrative Officer may be made to the Board of Adjustment as provided in 6-2-16 hereof.

**6-2-21**

**6-2-21-1 VIOLATION AND PENALTY.** Any person who violates any provision of this ordinance commits a simple misdemeanor and shall be subject to the imposition of a criminal penalty or other appropriate relief to abate or halt the violation as provided for in Title I Chapter 7 of the Henry County Code of Ordinances. **(Amendment/ August 28, 2018)**

**6-2-21-2 RESTRAINING ORDER.** In case any building, or structure is erected, constructed, reconstructed, replaced, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this Ordinance, the proper authorities of the County, in addition to other remedies, may institute any proper action or proceed in the name of Henry County, Iowa, to prevent such unlawful erection, construction, reconstruction, replacement, alteration, or repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent any illegal act, conduct, business or use in or about said premises.

**6-2-22**

**6-2-22-1 VALIDITY.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance are hereby repealed.

**6-2-23**

**6-2-23-1 WHEN EFFECTIVE.** This Ordinance shall be effective from and after the date of its adoption as provided by law.

**6-2-24 AMENDMENT**

The official zone plan which is referred to in 6-2-4-2 including the maps and plats which are on file and a part of said zoning ordinance are amended as follows:

1. The following described tracts of land are classed as C-1 commercial districts:
  - a. Commencing at the northwest corner of the South  $\frac{1}{2}$  of the South west  $\frac{1}{4}$  of Section 34, township 73, Range 6, Henry County, Iowa, thence South 650 feet, thence East 1000 ft., thence North 650 ft., thence West 1000 feet to the place of beginning.
  - b. Commencing at the Southwest corner of the NW  $\frac{1}{4}$  of SW  $\frac{1}{4}$  of Section 21, Township 70, Range 6, thence East 242 ft., thence North 393 ft., thence West 242 ft., thence South 393 ft. to place of beginning.
2. The following described tracts of land are classed as I-1 industrial districts:
  - a. Commencing at the Southwest corner of the Northwest Quarter of Section 7, Township 71, Range 5, Henry County, Iowa, thence North 15 rods, thence East 25 rods, thence South 15 rods, thence West 25 rods to the point of beginning.
  - b. Beginning on the South line of the NW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 22, Township 73 North, Range 6 West of the 5<sup>th</sup> P.M., a distance of 33 feet East from the intersection of said South line and the center of the pavement on U.S. Highway No. 218, thence East 10 rods along said South line of the NW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of said Section 22, thence North 16 rods, thence West 10 rods, thence South 16 rods to the place of beginning.
  - c. Beginning at a point 38.0 feet West quarter corner of Section 8, Township 71 North, Range 6 West of the 5<sup>th</sup> P.M., this point being on the North Right-of-Way of U.S. Highway No. 34 and indicated by a State Highway marker, Station 428 20 (Project F-151).

Adopted May 9, 1961

Recorded Book 262 Page 1

**TITLE VI PROPERTY AND LAND USE**  
**CHAPTER 3 AIRPORT ZONING ORDINANCE**

<b>6-3-1 SHORT TITLE</b>	<b>6-3-10 BOARD OF ADJUSTMENT</b>
<b>6-3-2 DEFINITIONS</b>	<b>6-3-11 APPEALS</b>
<b>6-3-3 AIRPORT ZONES</b>	<b>6-3-12 JUDICIAL REVIEW</b>
<b>6-3-4 AIRPORT ZONE HEIGHT LIMITATIONS</b>	<b>6-3-13 PENALTIES</b>
<b>6-3-5 USE RESTRICTIONS</b>	<b>6-3-14 CONFLICTING REGULATIONS</b>
<b>6-3-6 NONCONFORMING USES</b>	<b>6-3-15 SEVERABILITY</b>
<b>6-3-7 PERMITS</b>	<b>6-3-16 EFFECTIVE DATE</b>
<b>6-3-8 ENFORCEMENT</b>	<b>6-3-17 AMENDMENT AND REPEAL</b>
<b>6-3-9 AIRPORT ZONING COMMISSION</b>	<b>6-3-18 EXEMPTIONS</b>

AN ORDINANCE REGULATING AIRPORT HAZARD AREAS SURROUNDING THE MT. PLEASANT MUNICIPAL AIRPORT, TO BE REFERRED TO AS “THE AIRPORT ZONING ORDINANCE” AND ADDED AS APPENDIX E TO THE MT PLESASANT MUNICIPAL CODE, AND TO BE ADDED TO THE HENRY COUNTY CODE OF ORDINANCES CHAPTER 329

This ordinance is adopted pursuant to the authority conferred by Iowa Code (1995). It is hereby found that an obstruction has the potential for endangering the lives and property of users of the Mt. Pleasant Municipal Airport, and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of the Mt. Pleasant Municipal Airport; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Mt. Pleasant Municipal Airport and the public investment therein.

Accordingly, it is declared:

- (1) That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Mt. Pleasant Municipal Airport.
- (2) That it is necessary in the interest of the public health, public safety, and general public welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and
- (3) That the prevention of these obstructions should be accomplished, to the extent legally possible, by exercise of police power without compensation.

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which political subdivisions may

raise and expend public funds and acquire land or interests in land.

IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF MT. PLEASANT, IOWA, AND THE BOARD OF SUPERVISORS OF HENRY COUNTY, IOWA:

Section 1. AMENDMENT. The Mt. Pleasant Municipal Code is amended to include Appendix E entitled "Airport Zoning Ordinance" and the Henry County Code of Ordinances is amended to include an ordinance entitled "Airport Zoning Ordinance," the same to read as follows:

### **6-3-1 SHORT TITLE.**

This ordinance shall be known and may be cited as the "Airport Zoning Ordinance."

### **6-3-2 DEFINITIONS.**

As used in this ordinance, unless the context otherwise requires:

- (1) Airport: Mount Pleasant Municipal Airport.
- (2) Airport elevation: The highest point of an airport's usable landing area measured in feet from sea level.
- (3) Approach surface: 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 Section 4 of this ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
- (4) Approach, transitional, horizontal, and conical zones: These zones are set forth in section 3 of this ordinance.
- (5) Board of adjustment: A board consisting of five (5) members as provided in Section 10 herein.
- (6) Conical surface: A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of four thousand (4,000) feet.
- (7) Hazard to air navigation: An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
- (8) Height: For the purpose of determining the height limits in all zones set forth in this ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
- (9) Heliport primary surface: An area of the primary surface coinciding in size and shape with the designated takeoff and landing area of a heliport. This surface is a

- horizontal plane at the elevation of the established heliport elevation.
- (10) Horizontal surface: A horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
  - (11) Larger than utility runway: A runway that is constructed for and intended to be used by propeller driven aircraft of greater than twelve thousand five hundred (12,500) pounds maximum gross weight and jet powered aircraft.
  - (12) Nonconforming use: Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this ordinance or an amendment thereto.
  - (13) Nonprecision instrument runway: A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.
  - (14) Obstruction: Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in section 4 of this ordinance.
  - (15) Person: An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.
  - (16) Precision instrument runway: A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.
  - (17) Primary surface: A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (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 section 3 of this ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
  - (18) Runway: A defined area on an airport prepared for landing and take-off of an aircraft along its length.
  - (19) Structure: An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.



- (20) Transitional surfaces: These surfaces extend outward at ninety (90) degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend five thousand (5,000) feet measured horizontally from the edge of the approach surface and at ninety (90) degree angles to the extended runway centerline.
- (21) Tree: Any object of natural growth.
- (22) Utility runway: A runway that is constructed for and intended to be used by propeller driven aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight and less.
- (23) Visual runway: A runway intended solely for the operation of aircraft using visual approach procedures.

### **6-3-3 AIRPORT ZONES.**

In order to carry out the provisions of this ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Mount Pleasant Municipal Airport. Such zones are shown on the Mount Pleasant Municipal Airport Zoning map, which is attached to this ordinance and made a part hereof. An area located in more than one (1) of the following zones is considered to be only in the one with the more restrictive height limitation. The various ones are hereby established and defined as follows:

- (1) Utility runway nonprecision instrument approach zone: The inner edge of this approach zone coincides with the width of the primary surface and is five hundred (500) feet wide. The approach zone expands outward uniformly to a width of two thousand (2,000) feet at a horizontal distance five thousand (5,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- (2) Transitional zones: The transitional zones are the areas beneath the transitional surfaces.
- (3) Horizontal zone: The horizontal zone is established by swinging arcs of five thousand (5,000) feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- (4) Conical zone: The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of four thousand (4,000) feet.

#### 6-3-4 AIRPORT ZONE HEIGHT LIMITATIONS.

Except as otherwise provided in this ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this ordinance to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

- (1) Utility runway nonprecision instrument approach zone: Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of five thousand (5,000) feet along the extended runway centerline.
- (2) Transitional zones: Slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of one hundred fifty (150) feet above the airport elevation which is seven hundred thirty-four (734) feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of five thousand (5,000) feet measured at ninety (90) degree angles to the extended runway centerline.
- (3) Horizontal zone: Established at one hundred fifty (150) feet above the airport elevation or at a height of eight hundred eighty-four (884) feet above mean sea level.
- (4) Conical zone: Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at one hundred fifty (150) feet above the airport elevation and extending to a height of three hundred fifty (350) feet above the airport elevation.
- (5) Excepted height limitations: Nothing in this ordinance shall be construed as prohibiting the construction or maintenance of any structure or growth of any tree to a height up to fifty (50) feet above the surface of the land.

### 6-3-5 USE RESTRICTIONS.

Notwithstanding any other provisions of this ordinance, no use may be made of land or water within any zone established by this ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

### 6-3-6 NONCONFORMING USES.

- (a) **Regulations not retroactive:** The regulations prescribed by this ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date. of this ordinance, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this ordinance, and is diligently prosecuted.
- (b) **Marking and lighting:** Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the airport zoning administrative officer to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the City of Mount Pleasant, Iowa.

### 6-3-7 PERMITS.

- (a) **Future uses:** Except as specifically provided in 1, 2, and 3 hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established and no tree shall be planted in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this ordinance shall be granted unless a variance has been approved in accordance with section 7(d).

- (1) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
  - (2) In areas lying within the limits of the approach zones, but at a horizontal distance of not less than four thousand two hundred (4,200) feet from each end of the runway, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.
  - (3) In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.
    - i. Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this ordinance except as set forth in section 4.
- (b) **Existing uses:** No permit shall be granted that would allow the establishment or creation of an obstruction or permit a conforming use, structure, or tree to become a greater hazard air navigation than it was on the effective date of this ordinance or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
- (c) **Nonconforming uses abandoned or destroyed.** Whenever the airport zoning administrative officer determines that a nonconforming tree or structure has been abandoned or more than eighty (80) percent torn down, physically deteriorated, or destroyed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

- (d) **Variations:** Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this ordinance, may apply to the board of adjustment for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this ordinance. Additionally, 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 furnished to the airport manager and the airport zoning administrative officer for advice as to the aeronautical effects of the variance. If the airport manager and the airport zoning administrative officer do not respond to the application within fifteen (15) days after receipt, the board of adjustment may act on its own to grant or deny said application.
- (e) **Obstruction marking and lighting:** Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the board of adjustment, this condition may be modified to require the owner to permit the City of Mount Pleasant, Iowa, at its own expense, to install, operate, and maintain the necessary markings and lights.

#### **6-3-8 ENFORCEMENT.**

- (a) The City of Mount Pleasant shall provide for the administration and enforcement of the regulations prescribed by this ordinance. All costs pertaining to the administration and enforcement of this ordinance shall be borne by the City of Mount Pleasant.
- (b) The airport zoning administrative officer shall be appointed by majority vote of the city council for the City of Mount Pleasant, and it shall be the duty of such airport zoning administrative officer to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the airport zoning administrative officer upon a form published for that purpose, and shall be promptly considered and granted or denied. Application for action by the board of adjustment shall be forthwith transmitted by the airport zoning administrative officer.

- (c) The City of Mount Pleasant shall, through the city attorney or other attorney retained by the City of Mount Pleasant, provide for legal counsel as may be necessary for the administration and enforcement of this ordinance, including but not limited to the prosecution of criminal violations charged under Section 13.

**6-3-9 AIRPORT ZONING COMMISSION.**

An airport zoning commission shall be provided as follows: The airport zoning commission shall consist of five (5) members, two (2) of whom shall be appointed by the board of supervisors of Henry County, Iowa, and two (2) of whom shall be selected by the city council of the City of Mount Pleasant, Iowa, and one (1) additional member to act as chairman, who shall be selected by a majority vote of the members selected by the board of supervisors and the city council. The terms of such members shall be as provided in Section 329.9 of the Iowa Code. As required by Section 329.9 of the Iowa Code, such airport zoning commission shall follow the procedures provided in Sections 414.4 and 414.6 of the Iowa Code.

**6-3-10 BOARD OF ADJUSTMENT.**

- (a) There is hereby created a board of adjustment to have and exercise the following powers: (1) to hear and decide appeals from any order, requirement, decision, or determination made by the airport zoning administrative officer in the enforcement of this ordinance; (2) to hear and decide special exceptions to the terms of this ordinance upon which such board of adjustment under such regulations may be required to pass; and (3) to hear and decide specific variances.
- (b) The board of adjustment shall consist of five (5) members, two (2) of whom shall be appointed by the board of supervisors of Henry County, Iowa, and two (2) of whom shall be appointed by the city council of Mount Pleasant, Iowa, and one (1) additional member to act as chairman who shall be selected by a majority vote of the members selected by the board of supervisors and city council. The terms of such members shall be as provided in Section 329.12 of the Iowa Code. Such board shall have the powers and duties, and shall follow the procedures, provided by Sections 329.11 and 329.12 of the Iowa Code.
- (c) The board of adjustment shall adopt rules for its governance and in harmony with the provisions of this ordinance. Meetings of the board of adjustment shall be held at the call of the chairperson and at such other times as the board of adjustment may determine. The chairperson, or in the absence of the chairperson, the acting chairperson may administer oaths and compel the attendance of witnesses. All hearings of the board of adjustment shall be public. The board of adjustment shall keep minutes of its proceedings

showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of city clerk of the City of Mount Pleasant, Iowa, and on due cause shown.

- (d) The board of adjustment shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this ordinance.
- (e) The concurring vote of a majority of the members of the board of adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the airport zoning administrative officer or decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect variance to this ordinance.

#### **6-3-11 APPEALS.**

- (a) Any person aggrieved, or any taxpayer affected, by any decision of the airport zoning administrative officer made in the administration of the ordinance, may appear to the board of adjustment.
- (b) All appeals hereunder must be taken within a reasonable time as provided by the rules of the board of adjustment, or by any other applicable law, filing with the airport zoning administrative officer a notice of appeal specifying the grounds thereof. The city administrator shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the action appealed from was taken.
- (c) An appeal shall stay all proceedings in furtherance of the action appealed from unless the airport zoning administrative officer certifies to the board of adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of airport zoning administrative officer cause imminent peril to life or property. In such case, proceedings shall not be stayed except by the order of the board of adjustment on notice to the airport zoning administrative officer and on due cause shown.
- (d) The board of adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

- (e) The board of adjustment may, in conformity with the provisions of this ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances.

**6-3-12 JUDICIAL REVIEW.**

Any person aggrieved, or any taxpayer affected, by any decision of the board of adjustment, may appeal to the court of competent jurisdiction, within the State of Iowa.

**6-3-13 PENALTIES.**

Each violation of this ordinance or of any regulation, order, or ruling promulgated hereunder shall constitute a simple misdemeanor and shall be punishable by a fine of not more than one hundred dollars (\$100.00) or imprisonment for not more than thirty (30) days; and each day a violation continues to exist shall constitute a separate offense.

**6-3-14 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 the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

**6-3-15 SEVERABILITY.**

If any of the provisions of this ordinance or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.

**6-3-16 EFFECTIVE DATE.**

This ordinance shall be in effect after its final passage, approval and publication as provided by law, by the City of Mount Pleasant, Iowa, and the board of supervisors of Henry County, Iowa.



### **6-3-17 AMENDMENT AND REPEAL.**

No amendment to this ordinance shall be effective unless passed and approved by both the city council for the City of Mount Pleasant, Iowa, and the board of supervisors for Henry County, Iowa. This ordinance shall no longer be deemed valid if after its effective date the ordinance is repealed by action taken by either the city council for the City of Mount Pleasant, Iowa or the board of supervisors for Henry County, Iowa.

### **6-3-18 EXEMPTIONS.**

This ordinance is enacted pursuant to the special zoning powers granted to municipalities to regulate airport hazard areas under Iowa Code Chapter 329 which does not contain a requirement for a farm exemption. Accordingly, the farm exemptions set forth in Iowa Code Section 335.2 and 6-2-2-1 of the Henry County Zoning Ordinance, do not apply to this ordinance.

**Recorded Book 2002 Page 4715**

**TITLE VI PROPERTY AND LAND USE  
CHAPTER 4 ALTERNATIVE ASSESSMENT OF WIND ENERGY CONVERSION PROPERTY**

**AN ORDINANCE TO ESTABLISH ALTERNATIVE ASSESSMENT OF WIND ENERGY CONVERSION  
PROPERTY**

<b>6-4-1 PURPOSE</b>	<b>VALUATION</b>
<b>6-4-2 DEFINITIONS</b>	<b>6-4-7 REPORTING REQUIREMENTS</b>
<b>6-4-3 AUTHORITY TO ESTABLISH</b>	<b>6-4-8 REPEAL OF SPECIAL VALUATION</b>
<b>6-4-4 ESTABLISHMENT</b>	<b>6-4-9 REPEALER</b>
<b>6-4-5 AMOUNT OF VALUATION</b>	<b>6-4-10 SEVERABILITY CLAUSE</b>
<b>6-4-6 DECLARATION OF SPECIAL</b>	<b>6-4-11 WHEN EFFECTIVE</b>

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

**6-4-1 Purpose.** The purpose of this ordinance is to provide for the special valuation of wind energy conversion property pursuant to Iowa Code Chapter 427B.26.

**6-4-2 Definitions.** For use in this ordinance, certain terms and words used herein shall be interpreted or defined as follows:

- (a) "NET ACQUISITION COST" means the acquired cost of the property including all foundations and installation cost less any excess cost adjustment.
- (b) "WIND ENERGY CONVERSION PROPERTY" means the entire wind plant including, but not limited to, a wind charger, windmill, wind turbine, tower and electrical equipment, pad mount transformers, power lines, and substation.

**6-4-3 Authority to Establish.** The 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.

**6-4-4 Establishment.** Pursuant to Iowa Code Chapter 427B.26, a special valuation of wind energy conversion property is allowed in lieu of the valuation assessment provisions in Iowa Code Chapter 441.21(8)(b) and (c), and Iowa Code Chapters 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.

**6-4-5 Amount of Valuation.** Wind energy conversion property first assessed on or after the

effective date of the ordinance shall be valued by the county assessor for property tax purposes as follows:

- (a) For the first assessment year, at zero percent (0%) of the net acquisition cost.
- (b) 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.
- (c) For the seventh and succeeding assessment years, at thirty percent (30%) of the net acquisition cost.

**6-4-6 Declaration of Special Valuation.** The taxpayer shall file with the 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 lieu of the valuation assessment provisions in Iowa Code Chapter 441.21(9)(b) and (c), and Iowa Code Chapters 428.24 to 428.29.

**6-4-7 Reporting Requirements.** The following reports shall be filed annually with the County Assessor by the taxpayer; in the first year, with the declaration of intent as prescribed in Section 6; and by Feb. 1 of each year thereafter:

- (a) Copy of Asset ledger sheet to IRS;
- (b) Engineering breakdown of component parts;
- (c) Tower numbering system;
- (d) Name of contact person, phone number, FAX number, and mailing address;
- (e) 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.

**6-4-8 Repeal of Special Valuation.** If in the opinion of the Board of Supervisors continuation of the special valuation provided under Section 4 ceases to be of benefit to the county, the Board of Supervisors may repeal the ordinance. Property specially valued under section 4 prior to 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.

**6-4-9 Repealer.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**6-4-10 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.

**6-4-11 WHEN EFFECTIVE.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

First reading passed and approved September 10, 2009

Second reading passed and approved September 15, 2009

Third reading passed and approved this 24<sup>th</sup> day of September, 2009.

HENRY COUNTY BOARD OF SUPERVISORS

Attest:

/s/ Hettie Maschmann

Aye:

/s/ H. Kent White, Chairman

Aye:

/s/ Marc B. Lindeen, Supervisor

Aye:

/s/ Gary K. See, Supervisor

I certify that the foregoing was published on the 14<sup>th</sup> day of October, 2009.

/s/ Hettie Maschmann, Henry County Auditor

Recorded: Book 2018 Page 2283

**TITLE VII SOCIAL AND HUMAN SERVICES  
CHAPTER 1 GENERAL RELIEF**

**AN ORDINANCE TO AMEND AN ORDINANCE PRESCRIBING THE GENERAL RELIEF PROGRAM OF  
HENRY COUNTY, IOWA ADOPTED JULY 6, 2004**

<b>7-1-1 TITLE</b>	<b>REQUIREMENTS</b>
<b>7-1-2 AMENDMENT</b>	<b>7-1-6-7 BENEFITS</b>
<b>7-1-3 REPEAL</b>	<b>7-1-6-8 FORM</b>
<b>7-1-4 SEVERABILITY CLAUSE</b>	<b>7-1-6-9 WITHHELD OR FALSE INFORMATION</b>
<b>7-1-5 WHEN EFFECTIVE</b>	<b>7-1-6-10 DIRECTORS EXCEPTION</b>
<b>7-1-6 GENERAL RELIEF AND ASSISTANCE PROGRAM OF HENRY COUNTY, IOWA</b>	<b>7-1-6-11 SERVICES TO NON-CITIZENS</b>
<b>7-1-6-1 DEFINITIONS</b>	<b>7-1-6-12 VETERAN'S ASSISTANCE</b>
<b>7-1-6-2 APPLICATION FOR RELIEF</b>	<b>7-1-6-13 APPEALS</b>
<b>7-1-6-3 ELIGIBILITY</b>	<b>7-1-6-14 AGREEMENT TO REIMBURSE</b>
<b>7-1-6-4 FINANCIAL ELIGIBILITY</b>	<b>7-1-6-15 RESIDENCE</b>
<b>7-1-6-5 INELIGIBILITY</b>	<b>7-1-6-16 ACTIONS OF THE BOARD OF SUPERVISORS</b>
<b>7-1-6-6 GENERAL ASSISTANCE</b>	<b>7-1-6-17 CONFIDENTIALITY</b>

**BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF HENRY COUNTY, IOWA AS FOLLOWS:**

**7-1-1. TITLE:** This Ordinance shall be known and may be cited and referred to as "AMENDMENT TO AN ORDINANCE PRESCRIBING THE GENERAL RELIEF PROGRAM OF HENRY COUNTY, IOWA."

**7-1-2. AMENDMENT:** The ORDINANCE PRESCRIBING THE GENERAL RELIEF PROGRAM OF HENRY COUNTY, IOWA adopted July 6, 2004 is amended to include provisions as stated below in the AMENDMENT TO AN ORDINANCE PRESCRIBING THE GENERAL RELIEF PROGRAM OF HENRY COUNTY, IOWA.

**7-1-3. REPEAL:** All previous provisions of the ORDINANCE PRESCRIBING THE GENERAL RELIEF PROGRAM OF HENRY COUNTY, IOWA, are repealed.

**7-1-4. SEVERABILITY CLAUSE:** If any section, provision, or part of this ordinance shall be adjudicated 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.

**7-1-5. WHEN EFFECTIVE:** This amendment to the ORDINANCE PRESCRIBING THE GENERAL RELIEF PROGRAM OF HENRY COUNTY, IOWA shall be effective from and after the date of its adoption and publication as required by law.

**7-1-6. GENERAL RELIEF AND ASSISTANCE PROGRAM OF HENRY COUNTY, IOWA:** The general relief and assistance program for Henry County shall be governed by the following provisions.

#### **7-1-6-1 DEFINITIONS**

**County General Assistance:** Chapter 252.25 Code of Iowa defines as: The board of supervisors of each county shall provide for the assistance of poor persons lawfully in the county who are ineligible for, or are in immediate need and are awaiting approval and receipt of, assistance under programs provided by state or federal law, or whose actual needs cannot be fully met by the assistance furnished under those programs. The county board of supervisors shall establish general rules as the board's members deem necessary to properly discharge their responsibility under this section.

**Assistance:** Means rent, utilities, dental treatment to relieve pain, prescription medication and medical supplies.

**Household:** Means the individual applying and all persons, related or unrelated, who live in a residence with a shared common toilet, kitchen, dining or bedroom facilities or a shared rental payment or lease.

**Awaiting Approval and Receipt:** Means that a poor person has applied for assistance under any state or federal law, has pursued that application with due diligence, and has not had such application denied. This does not include an appeal of a denial of benefits. It does include a person who has an application denied and who reapplies after eighteen (18) consecutive months have expired from the date of denial.

**Director:** Means the Director of the General Assistance Program for Henry County or their designee.

**Emancipated Minor:** as defined in Iowa Code sections 225C.45(2) and 252.16(4), an emancipated minor is a person under eighteen years of age, who has assumed a new relationship inconsistent with being part of the family of a person's parents, who is married or who is living separate and apart from the person's parent with the consent of the parents regardless of the duration of the separate residence, who is self-supporting, and who is managing the person's own financial affairs regardless of the source or extent of the person's income.

**Basic Needs:** Means food, clothing, and shelter.

**7-1-6-2 APPLICATION FOR RELIEF**

1. Administration - The Henry County General Assistance Program shall be administered by the General Assistance Director, who is appointed by and responsible to the Board of Supervisors of Henry County. Duties of the Director and/or designee shall include the following:
  - a. Accept applications from applicants
  - b. Provide standard application forms
  - c. Investigate the factual statements on applications as necessary under section 3 of this Ordinance
  - d. Determine eligibility for each applicant according to guidelines set out in this Ordinance
  - e. Arrange for vendor authorization and payment for each eligible applicant
  - f. Maintain adequate records of all disbursements tracked by applicant and by category of assistance provided, together with all information necessary to explain each authorization of General Assistance
2. Applications for relief shall be submitted by needy and poor persons to the General Assistance Director at the General Assistance Office, 106 N Jackson Street, Mt Pleasant, Iowa during usual business hours upon forms provided by the Director. The applications are good for one year from completion date and will be updated upon each request for assistance. The application shall be signed by the applicant under penalty of perjury. Applicants will also be required to sign release and exchange of information forms so the Director can investigate eligibility.

If, because of undue hardship, an applicant cannot come to the General Relief Office, the Director shall mail such person an application form. Henry County shall not mail applications to persons not residing in Henry County. Application forms will only be mailed if the applicant or the family unit is or appears to be eligible for relief.
3. If the applicant may 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 to be eligible for further relief under this Ordinance.

4. It is the obligation of each person applying to establish his or her eligibility for any category of general relief and need for any item of relief. The person applying shall provide the Director with all required verifications and anything else requested by the Director that bears upon the person's eligibility and need for relief (see face sheet of application).
5. Director shall also receive anything that the person applying desires to submit to establish their eligibility or need to include statements or letters, medical reports, and other written documents as well as the verbal statements of the applicant. The Director shall then proceed to conduct a reasonable investigation concerning the applicant's eligibility and needs. The applicant's file and investigation and finding of the Director shall be made available to the applicant, upon request, or to the applicant's attorney by written request.

### **7-1-6-3 ELIGIBILITY**

Those persons eligible for assistance in Henry County shall include the following:

1. Poor persons are applicants who have no property, exempt or otherwise, and are unable, because of physical or mental disabilities, to earn a living by labor (Chapter 252.1 Code of Iowa):
  - a. lawfully reside in Henry County. A resident is an individual who lives within the boundaries of Henry County, Iowa and intends to remain living within Henry County. (Any person who arrives in Henry County to live in a staff supported residential or acute care setting or academic residential setting will generally not be considered a resident of the county);
  - b. are 18 years old or older or an emancipated minor at the time application for assistance is made;
  - c. have no property within the meaning of Iowa Code 252.1 as defined by statute and/or Iowa case law as determined by the Director;
  - d. are unable to earn a living by labor due to a disability, which is the physical or mental condition of a person which constitutes an inability to follow continuously a substantially gainful occupation; and
  - e. provide proof of such disability to the Director by providing documentation of said disability from a licensed medical professional.



2. Needy persons are applicants who have some means to meet their basic needs but because of circumstances not attributable to that person needs immediate assistance and cannot obtain assistance from any other source. Not attributable circumstance examples are a layoff from employment or medical conditions. Attributable circumstance examples are voluntary job quit, failure to follow through with requests by state or federal programs that cause a loss of benefit or pursuing education:

a. lawfully reside in Henry County. A resident is an individual who lives within the boundaries of Henry County, Iowa and intends to remain living within Henry County. (Any person who arrives in Henry County to live in a staff supported residential or acute care setting or academic residential setting will generally not be considered a resident of the county);

b. are 18 years old or are an emancipated minor at the time application for assistance is made;

c. have monthly net income of less than 150% of the level for determination of eligibility for Family Investment Program (FIP);

d. have non-exempt resources of less than \$500.00 as established by the Henry County Board of Supervisors;

e. have made application for, complied with all requirements of and be awaiting approval and receipt of all other assistance programs for which the applicant may be eligible (food assistance, FIP, SSI, Social Security, Medicaid, Medicare, unemployment, child support, ADC, TANF, Section 8 Housing, LIHEAP, food pantries, Vocational Rehabilitation, Workman's Compensation etc.). A referral sheet shall be provided to the applicant if they appear eligible for the previously noted programs. It is the obligation of the applicant to immediately make application to that source, and pursue such applications with diligence as a condition to be eligible for assistance under this ordinance. Failure to apply for and pursue said application shall result in a denial of assistance; and

f. failure to follow through with state and/or federal programs which results in a denial, reduction or termination of benefits shall result in a denial of general assistance. Denial shall be for the same period of time the state and/or federal program is denied, reduced or terminated; and

g. persons who are cancelled from public assistance due to meeting the sixty (60) month maximum per Iowa Administrative Code Chapter 441, Section 41.30 (1) & (2), are ineligible for general assistance; and

h. seek full-time employment and register with Workforce Development and those employment agencies which are determined by the Director to be appropriate, comply with the requirements of those agencies, and accept work and training as offered; or

i. an able-bodied person (not mentally or physically disabled) is eligible to receive General Assistance only once per year; or

j. - an able-bodied person may be given a medical exception and can apply for assistance a second time, which is limited to two (2) consecutive months in a twelve (12) month period, (example: an applicant received rent assistance in February and March of any given year they are not eligible to apply for rent assistance until February of the next year) if a physician's statement is provided stating an inability to work, if it is temporary or permanent, and the approximate time frame the applicant may return to work; or

k. an applicant who has recently applied for FIP but has not yet received a payment may be provided a one- time assistance.

#### **7-1-6-4 FINANCIAL ELIGIBILITY**

1. Determining income eligibility:

a. the total net income of the household for thirty (30) days prior to the date of application will be considered; and

b. all net income received by the applicant's household shall be considered, including but not limited to cash, net wages (income after federal and state payroll taxes are deducted), net salaries, self-employment, unemployment, social security payments, child support, pension payments, retirement benefits, disability benefits, investment income, interest income, rental income, income from trust funds, gifts, loans, student loans (prorated on a monthly basis), Workman's Compensation and any assistance received from public or private entities, including food assistance or any type of moneys available to support the applicant or household; and

c. proof of income shall be required for determining eligibility for general assistance,

failure to provide proof of income shall result in denial of benefits; and

d. necessary medical expenses including doctor, hospital, prescriptions, medical supplies, x-ray, dental, eyeglasses, laboratory, prescribed therapy and medical insurance premiums that have been actually paid in the four (4) weeks prior to the date of application for assistance may be deducted from income.

2. Determining countable resources:

a. resources shall include any assets tangible or intangible and property which can be converted to meet the applicant or households basic needs. Liquid assets (any item that can be converted to cash within seven (7) days) including but not limited to checking or savings accounts, cash on hand, stocks, bonds or other investments, the total value of such assets shall be considered an available resource; and

b. all real property shall be considered a resource at net value (value of property less remaining payments/mortgage), except exempted property identified in this ordinance; and

c. excluded as countable resources are household goods, personal effects, a homestead, equity in a family home or farm, one motor vehicle per household, life insurance with no cash surrender value, one irrevocable burial trust for each individual, one burial lot for each individual and tools or equipment used for self-employment used by members of the household to actively pursue a trade; and

d. when the value of one or more exempted resources exceeds \$500.00, the excess must be counted as available resources; and

e. all excess resources, other than excluded above, shall be considered as available to meet basic needs and must be used for such; and

f. if excess resources are available to meet the request at the general assistance standard, no eligibility exists; and

g. if excess resources are available to partially meet the need, they must be utilized prior to eligibility for assistance; and

h. if an applicant has sold, traded, or transferred any personal or real property within six (6) months prior to their application for assistance at less than fair market value, the applicant will be ineligible for General Assistance for twelve (12) months from the date

of transaction.

#### **7-1-6-5 INELIGIBILITY**

General Assistance shall be denied or discontinued under the following circumstances:

- a. If Applicant qualifies for programs that provide income from other sources to meet the Applicant's needs and Applicant refuses or declines to apply for or otherwise utilize those programs.
- b. Households who are currently receiving ongoing cash assistance from local (private charitable organizations), state or federal programs are not eligible for county General Assistance.
- c. Applicant's income and/ or resources exceed the financial guidelines for assistance.
- d. The applicant refuses to use available resources to pay for their basic needs.
- e. Applicant fails to appeal, as allowed, a denial of benefits under other programs.
- f. Persons who are discharged from the FIP Program due to meeting the sixty (60) month maximum are ineligible for General Assistance. The Federal Government Welfare Reform Act of 1996 created an expectation that a person receiving welfare would work with their DHS worker to become self-sufficient within five years. Henry County policies will not conflict with the Federal Government.
- g. Applicant fails to correctly, truthfully, and accurately complete all requested forms, or Applicant is otherwise non-compliant with such forms.
- h. Applicant chooses to discontinue or withdraw application.
- i. There is a transfer of property or assets within six (6) months of the date of the application, such transfer done with the intent to establish eligibility herein.
- j. Applicant declines, refuses, or otherwise fails to diligently seek employment.
- k. Applicant is uncooperative with requests for information by staff.
- l. Applicant fails to participate in any work assistance program.
- m. Applicant or any adult member of the household has received county general

assistance in any other county shall not receive general assistance benefits from Henry County until twelve (12) months have elapsed from the month assistance was granted in the other county.

n. Applicant fails to provide a medical professional's letter stating that Applicant is non-employable due to health if required, or proof verifying Applicant is the custodian of a dependent child under the age of 6 or a dependent adult.

o. Applicant knowingly provides false information on an application or to a General Assistance case worker to establish eligibility.

p. Applicant fails to repay assistance when required to do so. Applicants shall become ineligible for further assistance commencing ten (10) days after a payment date is missed, and shall remain ineligible for further assistance herein three (3) years from the date re-payment is made in full.

q. Applicant lives in a residential setting as a part of participation in an organized program or voluntarily leaves a subsidized living arrangement that would have provided basic needs.

r. Applicant is a student unavailable for full-time employment.

s. Applicant requests assistance for basic needs, but chooses to use resources for non-basic need items such as cell phones, cable television, internet access, etc.

t. Applicant is a veteran of the armed services or spouse of a veteran and is eligible for Veteran's benefits.

u. Any applicant missing 2 scheduled appointments without providing any prior notification or cancellation will be ineligible for twelve (12) months.

#### **7-1-6-6 GENERAL ASSISTANCE REQUIREMENTS**

1. Application for Assistance:

a. all applicants for general assistance must complete a Henry County General Assistance application in its entirety; and

b. the applicant must also have an interview with the Director or their designee prior to

approval for assistance; and

c. eligibility will be determined within ten (10) business days of receipt of complete application and interview, so long as all required documentation has been provided; and

d. applicants will receive a written notice of eligibility determination, either in person or by regular mail.

2. Employment:

a. applicants for or recipients of general assistance who are under 66 years of age and not disabled will be required to seek full-time employment and register with the Workforce Development Center; and

b. applicants who are 66 years of age or older or who are physically or mentally disabled will not be required to register for employment; and

c. any applicant for general assistance who must seek employment shall be required to provide reasonable proof he or she is actively seeking employment and has registered with the Workforce Development Center; and

d. a refusal or failure to actively seek employment, or refusal or failure to accept a reasonable employment offer shall disqualify the applicant from receiving benefits under this ordinance; and

e. an applicant who voluntarily quits or is fired from his or her job may be disqualified for a period not to exceed three (3) months, but may be eligible for general assistance after the period of disqualification; and

f. an applicant who has been laid off from work temporarily shall provide a written statement from the employer stating they will be called back to work; and

g. an applicant who's employment has been terminated due to a business closing shall be eligible to apply for general assistance; and

h. an exception to this ordinance is if a person has a written excuse from a medical doctor, physician assistant or accredited registered nurse practitioner stating the individual is unable to work full-time; and

i. an exception to this ordinance is if the applicant is needed to care for a dependent under the age of 6 or a dependent adult family member who requires home care and supervision; and

j. all members of the household 18 years of age or older are required to comply with this section; and

k. applicants or members of the household on strike from their employer will be ineligible for general assistance.

### **7-1-6-7 BENEFITS**

#### **1. Scope of Assistance:**

a. the forms of assistance hereinafter described shall be available only for current bills or expenses; and

b. assistance is not available for bills or expenses accrued prior to application for general assistance. Rent and utility assistance will be paid for the current month only. Verification shall be required to show that past due amounts have been paid before a funding guarantee will be issued.

c. When two or more unrelated individuals are residing at the same address and share expenses equally, each person must apply for general assistance. The amount of rent or utilities to be approved shall be determined by dividing the actual amount, up to the maximum of \$500.00 per month on rent and \$200.00 on utilities, by the number of individuals residing in the dwelling.

d. In situations of shared living arrangements where it is determined that separate households are sharing the same dwelling, the amount of rent or utilities to be approved shall be determined by dividing the actual amount, up to the maximum of \$400.00 per month on rent and \$200.00 on utilities, by the number of households residing in the dwelling. Each household must apply for general assistance for their portion.

e. General assistance will not be authorized if said authorization will not remedy the problem, which means an applicant must be able to show evidence they can maintain their basic needs through their own resources after receipt of the requested assistance.

f. General assistance will not be authorized to supplement any other government

or charitable funding that is expected to meet the need of the individual for the bill in question. This means rent assistance will not be given to a person on low income housing, receiving rental subsidy or other financial assistance for rent and FIP cash amounts have been determined by the State to meet all of the needs of an individual making persons on FIP ineligible for general assistance.

## 2. Rent:

a. payment for actual rent for housing that is currently being occupied in Henry County by the applicant, up to a maximum of \$500.00 per month; and

b. no payment will be made for deposits or first month rent. If the applicant is residing in a residential motel verification of payment of first month rent will be required; and

c. a copy of the lease agreement with the applicants or member of the household name on the lease shall be required; or

d. a written statement from the landlord stating they are the property owner or owner designee, the applicant rents from them, the amount of current rent, verification first month rent has been paid may be required if the applicant has lived at the property less than sixty (60) days and signature of the landlord with their mailing address. A federal tax identification number is required for Henry County to issue a vendor payment; and

e. rental payments will only be made to the owners of the rented property or their designee. Payments will not be made to relatives of the applicant, sub-renters or member of the applicants household. House payments will not be paid as it creates an estate; and

f. rent payments are limited to two (2) consecutive months in a twelve (12) month period, (example: an applicant received rent assistance in February and March of any given year they are not eligible to apply for rent assistance until February of the next year).

## 3. Utilities:

a. payment of an actual current utility bill (less sales tax, penalty and miscellaneous charges) for a residence located in Henry County for lights, heat, water, sewer assessment and solid waste removal chargeable to the residence of the applying



household not to exceed \$200.00; and

b. no payment will be made for deposits, connections or re-connections; and

c. a copy of the current utility bill in the name of the applicant or member of the household shall be required; and

d. utility payments are limited to two (2) consecutive months in a twelve (12) month period, (example: an applicant received utility assistance in February and March of any given year they are not eligible to apply for utility assistance until February of the next year).

4. Food:

a. available when necessary at local food pantries.

5. Medical and Drugs:

a. all requests for medical assistance will be referred to the Department of Human Services to apply for Iowa Cares or to the Community Health Center; and

d. emergency dental treatment to relieve pain shall not exceed \$200.00 to any applicant or household member within twelve (12) months; and

e. no other dental procedures other than for the relief of dental pain will be authorized; or

f. prescription drugs and other necessary medical supplies when request is made prior to the time the expense is incurred; and

g. general assistance for prescription drugs and other necessary medical supplies shall not exceed \$200.00 to any applicant or household member within twelve (12) months.

6. Direct Cremation costs only may be paid to a funeral home when:

a. payment will only be made for an indigent person who had established legal settlement in Henry County, gained by continuously residing in any county in this state for a period of one year with the exceptions described, Chapter 252.16 Iowa Code, additionally any person who arrives in Henry County to live in a staff supported

residential or acute care setting or academic residential setting does not gain legal settlement in the county; and

b. the deceased person would have been eligible to receive assistance under the provisions of this ordinance in the month of death; or

c. application for burial assistance shall be made prior to formalizing any arrangements with the funeral home. If an arrangement with the funeral home is reached and signed before general assistance is secured and the costs of those services exceeds the allowable amounts, the application for benefits will be denied; and

d. payment for out of state funerals will not be provided; and

e. application for direct cremation assistance may be made within 30 days of the death by a funeral home director in the absence of any other responsible party; and

f. all of the deceased assets must be applied toward direct cremation expenses, if there is no surviving spouse, including cash on hand and funds in checking and savings accounts, or savings certificates; and

g. eligibility for direct cremation benefits will exist when the deceased person's estate does not have at least \$1,000.00 which can be applied toward the funeral expense; or

h. death benefits may be available from employment, railroad retirement, pension plans, VA benefits, life insurance policy, prepaid burial agreements or social security. The family of the deceased must apply for these benefits and apply them to the direct cremation; and

i. no more than one thousand dollars (\$1,000.00) will be paid by Henry County per direct cremation and the county shall not provide for partial costs if arrangements exceed the established limit; and

j. costs towards which the \$1,000 may be applied shall include;  
Professional services of the funeral director

1. Transportation costs incurred by the funeral home in transporting the body from the place of death to the funeral home
2. Transportation costs incurred by the funeral home in transporting the body to and from the crematory
3. Crematory Fee
4. Basic cremation container
5. Medical examiner cremation permit

Costs paid by Henry County pursuant to this subsection shall not include funeral or memorial services, or the costs attendant thereto.

k. \$250.00 will be available for the direct cremation of those deceased persons deemed non-resident transients.

7. (Repealed/ February 23, 2017)

#### **7-1-6-8 FORM**

Assistance shall be purchased directly from the supplier for the applicant or the applicant's household. Payment will be through a warrant issued out of the Henry County Auditor's office and according to the Henry County Auditors monthly disbursement schedule. No cash payments will be made directly to an applicant.

#### **7-1-6-9 WITHELD OR FALSE INFORMATION**

If it becomes apparent that an applicant or recipient has knowingly withheld or provided false information in order to gain eligibility for or continue to be eligible for General Assistance, that applicant or recipient will be ineligible for General Assistance for twenty four months.

#### **7-1-6-10 DIRECTORS EXCEPTION**

The Director of General Assistance shall have the authority to authorize assistance to an applicant who does not meet eligibility criteria in instances of extraordinary circumstances. Any such authorization provided through the Director's exception will be approved with the Henry

County Board of Supervisors and noted on the Notice of Decision provided to the applicant.

### **7-1-6-11 SERVICES TO NON-CITIZENS**

1. Persons who are illegally in the United States are not eligible for general assistance.
2. Legally admitted aliens who are not admitted for permanent residence are not eligible for general assistance.
3. Legal immigrants are not eligible for general assistance except for the following:
  - a. refugees admitted under Section 207 of the INA; or
  - b. asylees admitted under Section 208 of the INA; or
  - c. aliens whose deportation has been withheld under Section 243(h) of the INA; or
  - d. lawful permanent residents who have earned 40 quarters of coverage for social security purposes. Quarters worked after December 31, 1996, in which the alien received any federal means-tested public assistance shall not be considered to be a qualifying quarter.
  - e. lawful permanent residents must provide verification of their status for general assistance.

### **7-1-6-12 VETERAN'S ASSISTANCE**

Applicants who have served in the Armed Forces and have a discharge other than dishonorable shall be required to apply for Henry County Veterans Affairs General Assistance. If they are denied Veterans Affairs General Assistance they may then apply for Henry County General Assistance. An applicant will not be provided assistance from Henry County Veterans Affairs General Assistance and Henry County General Assistance.

### **7-1-6-13 APPEALS**

1. Right to a Hearing:

- a. applicants are entitled to a hearing if assistance is denied; or
- b. failure to determine applicant's eligibility, and if found eligible, grant assistance within ten (10) days of the of the application; or
- c. amount of assistance granted.

2. Informing of Decision and Right to Appeal:

- a. applicants shall be informed in writing of the decision and basis for the decision relating to their application on the date the application is initially reviewed; and
- b. notice to appeal the decision will be in the form of written communication on the Notice of Decision provided regarding the approval or denial of their general assistance application; and
- c. the applicant may be represented by themselves or a representative of their choice;
- d. if the applicant represents themselves by attorney, attorney fees shall be the responsibility of the applicant;

3. Appeal Request:

- a. applicants must provide written notice within ten (10) days of the date on the Notice of Decision to the Director of General Assistance requesting an appeal of the determination; and
- b. the applicants written request for an appeal must provide the applicants current address and telephone number and state the reason(s) for the appeal; and
- c. the written request for an appeal may be delivered in person to the General Assistance office or by regular mail, if delivered by regular mail the cancellation date on the envelope must be within ten (10) days of the date on the general assistance Notice of Decision; and
- d. an appeal request cannot be denied except where the applicant has abandoned or withdrawn the request in writing on or prior to the day of the appeal hearing; and
- e. an applicant's failure to show for the appeal hearing shall be considered an abandoned appeal and the Notice of Decision will remain in effect; and

f. an applicant withdraws or abandons an appeal they have no further standing to have the original decision reconsidered.

#### 4. Appeals Hearing:

a. upon receipt of a properly submitted appeal request the Director shall forward the appeal to the Board of Supervisors; and

b. the Board of Supervisors shall place the matter on the agenda, in accordance with Chapter 21, Code of Iowa, for the next regularly scheduled board meeting, provided that such appeal shall not be heard sooner than five (5) days after the appeal request has been submitted; and

c. the applicant shall be informed immediately, by telephone and ordinary mail, of the date and time of the hearing before the Board of Supervisors; and

d. the applicant and his or her representative, upon written authorization, shall be granted access by the Director or designee access to their general assistance file if a request is made; and

e. the Board of Supervisors shall hear the appeal de novo at the time scheduled in the agenda unless continuance is requested by the applicant; and

f. the board may set reasonable time limits for the present action of the parties at any appeal; and

g. the applicant shall be permitted to submit whatever evidence desired in support of the appeal including testifying, having other witnesses testify, offering documentary evidence and reasonable cross examination of other witnesses, if present (the technical rules of evidence shall not apply); and

h. the applicants general assistance file shall be admitted into evidence; and

i. the Board may question the applicant and the Director shall present the Board with reasons for the determination; and

j. the appeal will be tape recorded and will not be an open meeting under Chapter 21, Code of Iowa, since confidential files will be in evidence; and

- k. when the Board deliberates the appeal, no parties shall be present; and
- l. the Board shall make a decision on the appeal within five (5) working days; and
- m. the decision shall be only on the basis of the evidence submitted before the Board; and
- n. the applicant shall be informed in writing by regular mail to the last known address of the applicant within five (5) working days after the Board's decision; and
- o. the Board's decision shall state the reasons for the action, together with any statute or ordinance applied; and
- p. the decision shall state that an appeal may be taken from the Board's determination and the method by which such appeal may be taken; and
- q. any appeal to the district court shall be allowed by the applicant from the Board's decision within the time and by the manner and procedures established under the Iowa Administrative Procedures Act, Chapter 17A , Code of Iowa.

#### **7-1-6-14 AGREEMENT TO REIMBURSE**

##### **1. Recovery efforts for general assistance recipients:**

- a. Henry County reserves the right to enact the provisions of Section 252.13, Code of Iowa, if it appears that the possibility of recovery of assistance exists.

2. Recovery efforts for general assistance paid by Henry County may be made to the county of legal settlement. The county where the settlement is shall be liable to the county granting assistance for all reasonable charges and expenses incurred in the assistance and care of a poor person, in accordance with Sections 252.22 through 252.24 Code of Iowa. Legal settlement is gained by continuously residing in any county in this state for a period of one year, with the exceptions described in the Code of Iowa Section 252.16.

3. Interim Assistance Reimbursement: Persons applying for Social Security Supplementary Security Income benefits can apply for interim assistance for their basic needs. The applicant will be required to sign an initial Interim Assistance Reimbursement Authorization form, 470-1950 which will be filed with the United States Social Security Administration allowing payment directly to Henry County for general assistance paid on the applicant's behalf if they are awarded benefits. Assistance with rent and utilities not to exceed the current General

Assistance benefit will be allowed on a monthly basis, if necessary. This will be done only until the person has been awarded benefits or denied benefits. Only persons with obvious disabilities will be considered for this program. The applicant may be asked to provide proof of the status of their application for disability benefits to show due diligence in pursuing a Social Security determination, update their eligibility status on a monthly basis and comply with the eligibility criteria. The applicant is also required to provide a proof of disability statement from their doctor. Failure to comply with the requirements of this section will result in being removed from this program.

#### **7-1-6-15 RESIDENCE**

1. A resident is an individual who lives within the boundaries of Henry County, Iowa, and has the intent to remain living within Henry County.
2. Assistance will not be granted to applicants who maintain a permanent address outside of Henry County.
3. Assistance will not be granted to applicants receiving public assistance on an ongoing basis from another state or local government outside of Henry County.
4. Applicants who have not established legal settlement in Henry County and are granted assistance may be referred to the applicant's county of legal settlement for reimbursement to Henry County.

#### **7-1-6-16 ACTIONS OF THE BOARD OF SUPERVISORS**

In the event the Board of Supervisors, in reviewing the actions of the Director of General Assistance, questions any allowance of general assistance benefits by the Director, it shall take no action concerning such allowances 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 taken an appeal. This hearing shall proceed in the same manner as an appeal from the Director's determination.

#### **7-1-6-17 CONFIDENTIALITY**

1. Per Iowa Code Section 252.25, all applications, investigation reports, and case records of persons applying for county general assistance are privileged communications and confidential, subject to use and inspection only by persons authorized by law and in connection with their official duties relating to financial audits and administration or as authorized by order of a



district court. Examination of an individual's applications, reports, and records may also be authorized by a signed release from the individual.

Published: March 1, 2018

First Reading: March 6, 2018

Second Reading: March 8, 2018

Third Reading: March 13, 2018

Ordinance approved this 13<sup>th</sup> day of March, 2018.

HENRY COUNTY BOARD OF SUPERVISORS

Attest:

Aye: \_\_\_\_\_  
Greg Moeller, Chairman

\_\_\_\_\_  
Shelly Barber  
Henry County Auditor

Aye: \_\_\_\_\_  
Marc Lindeen,

Aye: \_\_\_\_\_  
Gary See, Member

I certify that the foregoing was published on the 27<sup>th</sup> day of March, 2018.

\_\_\_\_\_  
Shelly Barber, Henry County Auditor

Subscribed and sworn to before me this 27<sup>th</sup> day of March, 2018 by Shelly barber, Henry County Auditor.

\_\_\_\_\_  
Notary Public, In and for the State of Iowa

Recorded: Book 2018 Page 0765

**TITLE VII SOCIAL AND HUMAN SERVICES**  
**CHAPTER 2 VETERAN AFFAIRS GENERAL ASSISTANCE REPEALED (RESERVED)**

See supervisor's resolution 2-2019

**TITLE VIII CULTURE, EDUCATION AND RECREATION (RESERVED)**

**TITLE IX FRANCHISES (RESERVED)**

**TITLE X ADMINISTRATION  
CHAPTER 1 RECODIFICATION**

**TITLE: AN ORDINANCE READOPTING THE EXISTING COUNTY CODE AND ADOPTING HENRY COUNTY ORDINANCE TITLE X CHAPTER 1 AND ALL AMENDMENTS THERETO, HENRY COUNTY, IOWA.**

**BE IT ENACTED by the Board of Supervisors of HENRY County, Iowa:**

10-1-1. Purpose. Code of Iowa section 331.302(9), requires that once every five years a County shall compile its Code of Ordinances. This ordinance readopts ordinances already in affect, adopts ordinances that become effective after the last readopting and repeals any ordinance deemed no longer necessary to the operation of HENRY County, Iowa or the health, safety, and welfare of its' citizens.

10-1-2. Readopting of Current Code. The following ordinances have been previously adopted and enacted into law and were duly published as the law provides. They are stated herein by number and subject matter and by the authority of the HENRY County Board of Supervisors, comprise HENRY County Code of Ordinances

**TITLE I ORGANIZATION AND STRUCTURE**

CHAPTER 1 ORDINANCE ADOPTION PROCEDURE

CHAPTER 2 GENERAL PROVISIONS REPEALED (RESERVED)

CHAPTER 3 LOCAL OPTION TAX

(CITY OF WAYLAND AND UNINCORPORATED AREAS OF HENRY COUNTY)

CHAPTER 4 LOCAL OPTION SALES AND SERVICE TAX

(CITIES OF MOUNT PLEASANT, NEW LONDON, COPPOCK, HILLSBORO, MOUNT UNION, OLDS, ROME, SALEM, WESTWOOD AND WINFIELD)

CHAPTER 5 VOTING PRECINCTS

CHAPTER 6 CEMETERY ORDINANCE

**TITLE II PUBLIC SERVICES**

CHAPTER 1 UCC FEES REPEALED (RESERVED)

**TITLE III BUSINESS AND OCCUPATIONS (RESERVED)**

**TITLE IV STREETS, ROADS, PUBLIC WAYS AND TRANSPORTATION**

CHAPTER 1 E911 RURAL ADDRESS SYSTEM  
CHAPTER 2 CLEARANCE OF SNOW OR ICE ON SECONDARY ROAD  
CHAPTER 3 CONSTRUCTION AND RECONSTRUCTION OF ROADWAYS AND BRIDGES

**TITLE V PUBLIC ORDER, SAFETY AND HEALTH**

CHAPTER 1 NONPUBLIC WATER WELLS  
CHAPTER 2 ONSITE WASTEWATER TREATMENT AND DISPOSAL SYSTEMS  
CHAPTER 3 HAZARDOUS WASTE REPEALED (RESERVED)  
CHAPTER 4 SOCIAL HOST  
CHAPTER 5 TRASH COLLECTION  
CHAPTER 6 COLLECT DELINQUENT ACCOUNTS HENRY COUNTY, IOWA  
CHAPTER 7 COLLECT DELINQUENT ACCOUNTS HENRY COUNTY, IOWA

**TITLE VI PROPERTY AND LAND USE**

CHAPTER 1 SUBDIVISION ORDINANCE  
CHAPTER 2 ZONING ORDINANCE  
CHAPTER 3 AIRPORT ZONING ORDINANCE  
CHAPTER 4 ALTERNATIVE ASSESSMENT OF WIND ENERGY CONVERSION PROPERTY

**TITLE VII SOCIAL AND HUMAN SERVICES**

CHAPTER 1 GENERAL RELIEF  
CHAPTER 2 VETERAN AFFAIRS GENERAL ASSISTANCE REPEALED (RESERVED)

**TITLE VIII CULTURE, EDUCATION AND RECREATION (RESERVED)**

**TITLE IX FRANCHISES (RESERVED)**

10-1-3. Code of Ordinances. Copies of the code as adopted herein shall be on file and available for public inspection in the Office of the County Auditor at the HENRY County Courthouse.

10-1-4. When effective. This ordinance shall be effective after its final passage, approval, and publication as provided by law.

Adopted and passed this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by the HENRY

County Board of Supervisors.

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Greg Moeller, Chairman

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Marc Lindeen

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Gary See

**Book 2019 Page 0406**