

2007-02

**The Zoning Ordinance of  
Audubon County, Iowa**

**As proposed for consideration by  
Audubon County Board of Supervisors  
on January 29, 2007**

**Public Hearing at 10:00 a.m. on February 19, 2007  
Initial consideration February 19, 2007  
Final consideration March 12, 2007**

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## **ZONING ORDINANCE FOR THE UNINCORPORATED PORTION OF AUDUBON COUNTY**

AN ORDINANCE to regulate and restrict the location and use of buildings, structures, and land for trade, industry, residence, and other purposes; to regulate and restrict the height of buildings and structures, the number and size of buildings and other structures; to establish the size of yards, courts and other open spaces; to establish minimum lot areas; to regulate the density of population and the percentage of lot that may be occupied; to require off street parking; to regulate the location, size and number of signs; to divide the County into districts for such purposes; to provide for the administration and enforcement of its provisions; to create a Board of Adjustment; to prescribe penalties for the violation of its provisions, all in accordance with Iowa Code Chapter 335; and to be known, and cited as "The Zoning Ordinance of Audubon County, Iowa."

WHEREAS, the Board of Supervisors of Audubon County, Iowa, deem it necessary to prevent and to lessen congestion in the streets and highways; to secure safety from fire, flood, panic and other dangers; to protect the public health and 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 buildings, and encourage the most appropriate use of land throughout the County; all in accordance with a Comprehensive Plan.

NOW THEREFORE, BE IT ORDAINED BY BOARD OF SUPERVISORS OF AUDUBON COUNTY, IOWA THAT:

### **GENERAL PROVISIONS ARTICLE 1/SHORT TITLE AND JURISDICTION**

Section 1. SHORT TITLE. This Ordinance shall be known and may be cited and referred to as the "Zoning Ordinance of Audubon County, Iowa," to the same effect as if the full title was stated.

Section 2. JURISDICTION. In accordance with the provisions of Iowa Code Chapter 335, and amendatory acts thereto, this Ordinance is adopted by Audubon County, Iowa, governing the zoning of all lands within the unincorporated area.

### **ARTICLE 2/INTERPRETATION OF REGULATIONS**

Section 1. INTERPRETATION. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements. Where this Ordinance imposes a greater restriction than is imposed or required by other provisions of law, other rules, regulations, or ordinances, the provisions of this Ordinance shall govern.

Section 2. FARMS EXEMPT. In compliance with Iowa Code Chapter 335.2, no regulation or restriction adopted under the provision of this Ordinance shall be construed to apply to land, farm houses, farm barns, farm out-buildings, or other buildings, structures, or erections of

building or structure which are primarily adapted by reason of nature and area, for use for agricultural purposes while so used; provided, however, that such regulations or restrictions which relate to any structure, building, dam, obstruction, deposit, or excavation in or on the flood plains of any river to stream shall apply thereto.

### Section 3. GENERAL REGULATIONS.

3.1 No building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any building or land be used, nor shall any use of the land be changed, which does not comply with all of the district regulations for the district in which the building or land is located.

3.2 No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum required. No part of a yard or other open space, or off street parking or loading space provided about any building, structure, or use for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard, open space, or off street parking or loading space required under this Ordinance for another building, structure, or use.

3.3 Every building hereafter erected or subject to structural alteration shall be located on a lot as herein defined and in no case shall there be more than one (1) main building on one (1) lot unless otherwise provided in this Ordinance.

3.4 Front Yard Transition. Where a lot in a business or industrial district abuts a lot in a residential or agriculture district, there shall be provided on the business or industrial lot a front yard equal in depth to one-half the required front yard depth of the residential or agricultural district.

3.5 Side Yard Transition. Where a lot in a business or industrial district abuts a lot in a residential or agriculture district, there shall be provided on the business or industrial lot a side yard equal in width to that required in the residential or agriculture district.

3.6 Corner Lot Requirements. On every corner lot in a residential district, there shall be provided on the side street a side yard equal in depth to one-half the required front yard depth.

3.7 Terraces and Unenclosed Porches. A paved terrace or an unenclosed porch, even though roofed over, shall not be considered in the determination of yard sizes or lot coverage, provided, however, that such terrace or porch shall not be closer than four (4) feet at any point to any lot line.

3.8 Enclosed Porches. Any enclosed porch shall be considered a part of the building in the determination of the size of yard or lot coverage.

3.9 Projecting Architectural Features. The space in any required yard shall be open and unobstructed to the sky, except for the ordinary projections of window sills, belt courses, cornices, eaves, and other architectural features, provided, however, that such features shall not project more than two (2) feet into any required yard.

3.10 Fire Escapes. Open fire escapes may extend into any required yard not more than three and one-half (3 2) feet.

3.11 Accessory Buildings. Accessory buildings, including garages, unless within or attached to the dwelling, shall be located not less than sixty (60) feet from the front line in all residential districts. Said buildings shall be located not less than two (2) feet to the side or rear lot line and not nearer than six (6) feet to the main building.

### **ARTICLE 3/DEFINITIONS**

Section 1. 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 number includes the singular; the word "shall" is mandatory, the word "may" is permissive; the word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual; the words, "used" or "occupied" include the words intended, designed, or arranged to be used or occupied; and the word "he" includes the word she. The current issue of Webster's Dictionary shall be used where difference in interpretation exist or a definition is absent.

1.1. Abandoned Farmstead: A tract of land which is/was at one time the location of a farm dwelling and/or related outbuildings, but which has not been reclaimed for row crop or grazing agriculture.

1.2. Accessory Use or Structure: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to the principal use or structure, such as a garage being an accessory use to a residential structure.

1.3. Agriculture: The use of land for agricultural purposes including farming, milk production, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for packing, treating, or storing the produce; provided, however that the operation of such accessory use shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include the commercial feeding of garbage or offal to animals.

1.4. Alley: A public or private thoroughfare that affords only a secondary means of access to abutting property.

1.5. Apartment: A single room or set of rooms occupied as a dwelling (including independent sleeping, sanitary, and cooking facilities) which is part of multi-family structure.

1.6. Awning/Canopy: A roof like cover extending over or before a place as a shelter.

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

1.8. Billboard: A structure, regardless of the material used, that is erected, maintained or used for public display of posters, painted signs, or wall signs, whether the structure be placed on the wall or painted itself, pictures or other pictorial reading material which advertise a business or attraction which is not carried on, manufactured, grown or sold on the premises where said sign or billboard is located.

1.9. Block: Property abutting on at least one (1) street and lying within two (2) or more intersecting or parallel streets or unsubdivided acreage or railroad right-of-way.

1.10. Boarding, Rooming, or Lodging House, (also Bed and Breakfast): A building other than a hotel where for compensation, and by arrangement, lodging is provided.

1.11. Buildable Area: The portion of a lot remaining after required yards have been provided.

1.12. Building (and/or Structure) A structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property. The principal building on a lot is that structure in/on which the principal use of the lot occurs.

1.13. 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 the deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof.

1.14. Bulk Stations: Distributing stations commonly known as bulk or tank stations used for the storage and distribution of flammable liquids or liquefied petroleum products and other flammable, such as fertilizer.

1.15. Business: The words business, commercial, and manufacturing when used herein refer to the engaging in the purchase, sale or exchange of goods or services, or the operation for profit of offices or recreational amusement enterprises.

1.16. Carport: Space for the housing or storage of motor vehicles and enclosed on not more than two (2) sides by walls. A carport may be attached to another building or be an accessory structure.

1.17. Club or Lodge (Private): An association of persons for the promotion of a nonprofit objective, who are members paying annual dues, which owns, hires, or leases a building, or portion thereof, the use of such premises being restricted to members and their guests. It shall be permissible to serve food and meals to members and their guests on such premises provided adequate dining room space and kitchen facilities are available and are operated in compliance with state and municipal laws.

1.18. Commission: The Audubon County Planning and Zoning Commission.

1.19. Corn Suitability Rating: A numeric number that is set by the USDA Soil Conservation Service that is designed to identify the approximate worth of a particular

soil type for agricultural production. This rating is used in Iowa for property tax assessments.

1.20. Cottage: A small single unit structure used for vacation or seasonal occupancy.

1.21. Day Nursery or Nursery School: Any private agency, institution, establishment or place which provides, for compensation, supplemental parental care and/or educational work, other than overnight lodging, for five (5) or more children not related to the owner/operator.

1.22. Driveway: A traffic way providing access for vehicles to a building on property abutting a public street. A driveway shall not have an average width of more than twenty-four (24) feet in any AR@ District, or thirty-six (36) feet in any District other than AR.@

1.23. Dwelling: Any habitable building, or portion thereof, including manufactured and modular homes converted to real estate, designed or used exclusively for residential purposes with facilities for living, sleeping, cooking and eating, but not including a tent or recreational vehicle. All dwellings shall have a permanent foundation. A mobile home that has been converted to real estate and has a permanent foundation and is attached to normal utilities is considered a dwelling for purposes of this ordinance.

1.23.1. Dwelling, Multiple: A residence designed for the occupancy by three (3) or more families, with separate housekeeping and cooking facilities for each.

1.23.2. Dwelling, Single Family: A detached residence designed for or occupied by only one (1) family and contains independent cooking facilities for the family.

1.23.3. Dwelling, Two Family: A residence designed for or occupied by two (2) families, with separate entrances, housekeeping, and cooking facilities for each.

1.24. Essential Services: The erection of a building or structure, construction, alteration or maintenance by developers, public utilities, or governmental agencies of underground or overhead gas, telephone, television, electrical, wastewater, water transmission, treatment, or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, traffic signals, hydrants, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or governmental agencies or for public health or safety or general welfare.

1.25. Family: One (1) or more persons occupying a dwelling and living as a single housekeeping unit, as distinguished from a group occupying a boarding or lodging house, nursing or convalescent home, hotel or motel, as herein defined.

1.26. Feedlot/Animal Feeding Operation: A lot, yard, corral, building, or other area in which animals are confined and fed and maintained for forty-five (45) days or more in any twelve (12) month period, including all structures used for the storage of manure from animals in the operation.

1.26.1. Confined Animal Feeding Operation: A feedlot or animal feeding operation in which animals are confined to a specific area and are regulated by rules and regulations of the Iowa Department of Natural Resources.

1.27. Fence: An erection intended to prevent escape or intrusion or to mark a boundary. A fence is composed of posts, wire, boards, steel, aluminum, manufactured plastic, or similar materials. This definition does not pertain to the fencing requirements for junk and salvage yards as may be described elsewhere in this Ordinance.

1.28. Foundation, Permanent: A permanent foundation shall be of concrete, concrete block or treated wood and shall extend into the ground at least forty-eight (48) inches. The foundation shall extend the full perimeter of the structure.

1.29. Garage, Service: A building or portion thereof, designed, intended, or used for the equipping, servicing, selling, hiring, storing, care, or repair of motor vehicles, and which is operated for commercial purposes.

1.30. Garage, Private: An enclosed structure intended for and used for the parking of the private motor vehicles of the families resident upon the premises.

1.31. Gasoline Service Stations: Any building or premises used for the retail sale of liquid fuels, oils and other items customarily associated with the sale of such products, but not for the purpose of making other than minor repairs. When the dispensing, retail sale or offering for retail sale is incidental to the conduct of a commercial garage, the premises shall be classified as a commercial garage.

1.32. Grade: The average level of the finished surface of the ground adjacent to the exterior walls of the building.

1.33. Home Occupation: An occupation or a profession conducted in a dwelling unit or on a farm for supplemental income, and which:

1.33.1. Is customarily carried on in a dwelling unit or accessory buildings;

1.33.2. Is owned and operated by a member of the family residing in the dwelling unit;

1.33.3. Is clearly incidental and secondary to the use of the dwelling unit for residential or farm purposes;

1.33.4. Does not employ more than two (2) person(s) outside the immediate family;

1.33.5. Has no exterior display or exterior storage of materials visible from any public road;

1.33.6. Has no exterior indication of the home occupation other than the permitted home occupation sign that does not exceed ten (10) square feet in area;

1.33.7. Produces no offensive noise, vibration, smoke, excessive congestion, dust, odors, heat or glare rendering such building or premises objectionable or detrimental to the residential character of the neighborhood.

1.34. Hotel: A building in which lodging or boarding is provided and offered to the public for compensation and which is open to a transient guest.

1.35. Incidental: Subordinate in significance and bearing a reasonable relationship with the principal use.



1.36. Juice Bar: An establishment where non-alcoholic beverages are served while male and/or female dancers perform various acts while undressing, or while undressed. The undress can include situations where genitals are exposed to public view.

1.37. Junk Yard (or Landfill): Any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled or packed, disassembled, kept, stored or handled, including house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment.

1.37.1. Permitting and Fencing Required: Where permitted by district regulation salvage shall either be located within a rear yard or fully enclosed within a building. In addition, junkyards located within one thousand (1,000) feet of a state, federal, or county highway shall obtain a current "Recycler's License" from the Iowa Department of Transportation. Junk Yards located over one thousand (1,000) feet from a state, federal, or county highway shall be screened from view from a public street by the same screening regulations as provided by the Iowa Department of Transportation when granting a "Recycler's License."

1.37.2. Junk Vehicle (Junk Machinery): shall mean any vehicle or portion thereof not in running condition (not able to start or move off the property on its own power) and/or not licensed for the current year as provided by law and not legally placed in storage with the Treasurer of Audubon County, or any other vehicle or machinery which, because of its defective or obsolete condition, or rotted, rusted or loose parts, or in any other way constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Iowa Code Section 657.1 The presence of two (2) or more junk vehicles on the same lot shall cause the lot to be classified as a junk yard.

1.38. Kennel: Any premises on which four (4) or more licensed dogs capable of breeding that are six (6) months old or older are kept.

1.39. Lot: A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area to provide such yards and other open space as herein required. Such lot shall have frontage on a public street and may consist of: (a) a single lot of record; (b) a portion of a lot of record; (c) a combination of complete lots of record; of complete lots of record and portions of lots of record; or of portions of lots of record; and (d) a parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

1.39.1. Lot Area: The area of a horizontal plane bounded by the front, side and rear lot lines.

1.39.2. Lot, Corner: A lot fronting on two (2)-intersecting streets.

1.39.3. Lot Depth: The mean horizontal distance between the front and rear lot lines.

1.39.4. Lot, Interior: A lot other than a corner lot.

1.39.5. Lot Lines: The lines bounding a lot.

1.39.6. Lot Line, Front: In the case of an interior lot, abutting on only one (1) street, the front line is the street line of such lot. In the case of any other lot, the

front lot line shall be considered as the line adjacent to the street upon which the lot has its least dimension.

1.39.7. Lot Line, Front Bordering a Lake: If a lot has one or more of its sides bordering a lake the lake shore side of the lot may become the front lot line.

1.39.8. Lot Line, Rear: That boundary line which is opposite and most distant from the front line.

1.39.9. Lot Line, Side: Any boundary lines not a front lot line or a rear lot line.

1.39.10. Lot of Record: A lot which is a part of a subdivision recorded in the office of the county recorder of Audubon County, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

1.39.11. Lot, Through: An interior lot having frontage on two parallel, or approximately parallel streets and also known as a double fronted lot.

1.39.12. Lot Width: The width of a lot as measured at the required front yard setback line.

1.40. Manufactured Home: A factory-built structure built under authority of 42 U.S.C '5403, is required by federal law to display a seal from the United States Department of Housing and Urban Development, and was constructed on or after June 15, 1976. A manufactured home must have a permanent foundation and be attached to normal utilities to be considered a dwelling for purposes of this ordinance.

1.41. Mobile Home: Any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. A "mobile home" is not built to a mandatory building code, contains no state or federal seals, and was built before June 15, 1976. A mobile home that has been converted to real estate and has a permanent foundation and is attached to normal utilities may be considered a dwelling for purposes of this ordinance.

1.41.1. Mobile/Manufactured/Modular Home Converted to Real Estate: A Mobile/Manufactured/ Modular Home which has been attached to a permanent foundation on real estate, attached to utilities, and the property entered on the tax rolls of the county.

1.41.2. Mobile Home Park or Trailer Park: Any lot, site, field, or tract of land under common ownership upon which one (1) or more mobile homes, or manufactured or modular homes that have not been converted to real estate are harbored, either free of charge or for revenue purposes, and shall include any building, or structure used or intended for use as part of the equipment of the mobile home park.

1.42. 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. A modular home that has been converted to real estate and has a permanent foundation and is attached to normal utilities may be considered a dwelling for purposes of this ordinance.

1.43. Motel, Motor Court, Motor Lodge or Tourist Court: Any building or group of buildings containing guest rooms primarily for temporary occupancy, and laid out to provide space for parking vehicles used by the traveling public. Such building or group of buildings may include quarters for the use of the operating personnel.

1.44. Non-farm Dwelling: A residential dwelling in the unincorporated areas of the County occupied by parties not involved in agricultural production.

1.45. Nursing Home (Including Convalescent and Group Homes): A building or structure having accommodations and where care is provided for invalid, infirmed, aged, convalescent, or physically disabled or injured persons, but not including penal or disciplinary cases.

1.46. Parking Lot: A parcel of land devoted to unenclosed parking spaces.

1.47. Parking Space: A surfaced area of not less than two hundred (200) square feet plus necessary maneuvering space for the parking of a motor vehicle. Space for maneuvering shall not encroach upon any public right-of-way.

1.48. Porch, Unenclosed: A roofed projection, which is partially enclosed by a building or siding material other than, meshed screens.

1.49. Principal Use: The main use of land or structures as distinguished from an accessory use.

1.50. Professional Office: Any building or part thereof used by one (1) or more persons engaged in the practice of law, accounting, architecture, medicine, engineering or other occupation customarily considered as a profession.

1.51. Roadside Stand: A temporary structure, unenclosed, and so designed and constructed so the structure is easily portable or can be readily moved, and which is adjacent to a road and used for a sale of farm products produced or grown on the premises.

1.52. Sanitary Sewer System: A public or private sewerage collection system with treatment and disposal facilities operated in accordance with Department of Natural Resources standards.

1.53. Sign Area: The surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of such forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area.

1.54. Sign, Exterior: A sign, which directs attention to a business, profession, service, product or activity, sold or offered upon the premises where such sign is located. An exterior sign may be attached flat against a building or structure, painted on the building

or structure, projecting out from a building or structure, or erected upon the roof of a building or structure.

1.55. Sign, Free Standing or Post: Any sign erected or affixed in a rigid manner to any pole or post, and which carries any advertisement strictly incidental and subordinate to a lawful use of the premises on which it is located, including signs, or sign devices indicating the business transacted, services rendered or goods sold or produced on the premises by an occupant thereof.

1.56. Split-Level: A story having not more than one-half (1/2) of its height below grade. A split-level story is counted as a story for purposes of height regulations.

1.57. Stable: A non-farm related accessory structure including, but not limited to a corral or paddock for the keeping of hooved animals owned or controlled by the occupants of the premises and which are kept for pets, board, propagation, sale, or lease.

1.58. Story: That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

1.59. Story, Half: A space under a sloping roof which has the line of intersection of roof decking and wall face not more than four (4) feet above the top floor level.

1.60. Street Line: The right-of-way line of a street, road or highway.

1.61. Street, Public: A public thoroughfare more than twenty feet in width.

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

1.63. Structure: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, billboards, decks, poster panels, and carports.

1.64. Trailer Camp or Tourist Ground: Any area providing spaces for two (2) or more travel trailers, camping trailers, or tent sites for temporary occupancy with necessary incidental services, sanitation, and recreation facilities to serve the traveling public.

1.65. Variance: A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship. A variance may be authorized only for height of structures and area and size of lots, yards, open spaces, and instances where numbers are involved. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance nor shall a variance be granted

because of the presence of nonconformity in the zoning district or uses in adjoining zoning districts.

1.66. Yard: An open space on the same lot with a building or structure. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the least distance between the lot line and the main building shall be used. In measuring a yard for the purpose of determining the width of a side yard, the least distance between the lot line and the nearest permitted building shall be used.

1.66.1. Yard, Front: A yard extending across the full width of the lot and measured between the front lot line and the building or any projection thereof, other than the projection of the usual steps and eaves.

1.66.1.1. In the case of corner lots, the front yard shall be considered as the yard adjacent to the street upon which the lot has its least dimension, unless the structure can be placed on the lot and meet all required yard requirements, in which case either street side may be the front yard.

1.66.1.2. If a lot has one or more of its sides bordering a lake, the lake shore side of the lot may become the front yard.

1.66.2. Yard, Rear: A yard extending across the full width of the lot and measured between the rear lot line and the structure or any projections other than uncovered steps, balconies or eaves. On both corner lots and interior lots the opposite end of the lot from the front yard shall be considered the rear yard.

1.66.3. Yard, Side: A yard extending from the front yard to the rear yard and measured between the side lot lines and the nearest building.

1.67. Zoning Administrator: The individual appointed by the Board of Supervisors of Audubon County, Iowa to administer and enforce the provisions of this Ordinance.

1.68. Building Permit: A permit issued by the Zoning Administrator, authorizing the use of land in the manner and for the purpose specified in the application.

## **ARTICLE 4/DISTRICTS ESTABLISHED**

Section 1. For the purpose and intent of this Ordinance Audubon County, Iowa is hereby divided into zoning district classifications as follows:

- A-1 - Agricultural District
- A-2 - Restricted Agricultural District
- R-1 B Single- or Two-Family Residential District
- R-3 B Multi-Family Residential District
- R-4 B Planned Unit Development District
- C-1 - Commercial District
- I-1 - Industrial District
- F-1 B Flood Plain District

Section 2. ROAD OR PUBLIC WAY VACATION. Whenever any road, street, or other public way is vacated by the official action of the Board of Supervisors, the Zoning District(s) adjoining each side of such road or public way shall automatically extend to the center of such

vacation and all areas included in such vacation shall then and there forth be subject to all appropriate regulations of the extended districts.

Section 3. DISINCORPORATION. All territory which may hereafter become part of the unincorporated area of Audubon County by the disincorporation of any city or town, or any part thereof, shall automatically be classified as lying and being within the (A-1) Agricultural District until such classification shall have been changed by amendment to this Ordinance.

## **ARTICLE 5/ZONING MAP**

Section 1. BOUNDARIES AND OFFICIAL MAP. The boundaries of these districts are indicated and established as shown upon maps designated as the Official Zoning Map of Audubon County, Iowa, which, 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. The Official Zoning Maps shall be identified by the Chairperson of the Board of Supervisors and attested by the County Auditor under the following words:

"This is to certify that this is the Official Zoning Map referred to in Article 5 of the Audubon County Zoning Ordinance, dated this \_\_\_\_\_ Day of \_\_\_\_\_, 2006.

Amendments, supplements, or changes of the boundaries of districts as shown on the Official Zoning Map shall be made by an ordinance amending this Ordinance. The amending ordinance shall refer to the Official Zoning Map and shall set out the identification of the area affected by legal description and identify the zoning district as the same exists and the new district designation applicable to said property. The County Auditor shall after adoption and publication, record said ordinance. Such amendatory ordinance shall, however, not repeal or reenact said map, but In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Board of Supervisors may, by resolution, adopt a new Official Zoning Map that shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such corrections shall have the effect of amending the original Official Zoning Ordinance or any subsequent amendment thereof.

Section 2. INTERPRETATION OF DISTRICT BOUNDARIES. The scale of the Official Zoning Map and the inability to indicate precise measurements may make interpretation difficult. Therefore, where uncertainty exists as to boundaries of districts the following rules shall apply:

2.1. Boundaries indicated as approximately following the centerlines of streets, highways, alleys or other public rights-of-way shall be construed to follow such centerlines;

2.2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

2.3. Boundaries indicated as approximately following section lines, quarter section lines, or quarter-quarter section lines shall be construed as following such lines;

2.4. Boundaries indicated as approximately following city limits shall be construed as following such city limits;

2.5. Boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes or other bodies of water shall be construed as following such centerlines;

2.6. Boundaries indicated as following railroad lines shall be construed to be the main track;

2.7. Boundaries not capable of being determined by the previous paragraphs shall be as measured to the best ability from the Official Zoning Map.

## **DISTRICT REGULATIONS**

### **ARTICLE 6/AGRICULTURAL DISTRICT (A-1)**

Section 1. INTENT. The Agricultural District (A-1) is applied to those areas of the County where it is desirable to reserve for agricultural use areas suitable for the raising of crops and livestock because of high quality soils, existing or potential drainage, or the overall agricultural character of the area. It is envisioned that intensive agriculture will be contained within the A-1 District; therefore, this district discourages the location of non-agricultural uses that would not be compatible with agriculture and its noise, pollution, and smells.

Section 2. PRINCIPAL USES PERMITTED. Only the following uses and structures shall be permitted in the Agricultural District (A-1).

2.1. Agriculture including the raising of crops and/or animals;

2.2. Bed and Breakfast establishments;

2.3. Cemeteries, including mausoleums and crematories, provided that any mausoleum and crematory shall be distanced at least two hundred (200) feet from adjacent property and street and highway lines, and provided further that any new cemetery shall contain an area of twenty (20) acres or more;

2.4. Churches, chapels, temples, and similar places of worship;

2.5. Confined Animal Feeding Operations as permitted by Department of Natural Resources rules and regulations for manure management plans and site distances to adjacent uses;

2.6. Drainage and flood control projects;

2.7. Grain storage bins or facilities;

2.6. Drainage and flood control projects;

2.7. Grain storage bins or facilities;

2.8. Non farm single family dwellings provided that the site meets all of the following criteria:

2.8.1. Is not located within a flood prone area as defined within the Flood District Regulations of this ordinance;

2.8.2. Has direct driveway access to a Class AA@ county road or state highway;

2.9. Nurseries, greenhouses, and truck gardens;

2.10. Publicly owned and operated buildings and facilities;

2.11. Railroads.

2.12 Reservoir, wells, tower, filter beds, refuse dumps, sewage treatment facilities, and water supply plants. Refuse dumps, filter beds, and sewage treatment facilities shall be thirteen hundred and twenty (1,320) feet from a residential district or as required by the Iowa Department of Public Health. Also, the provisions for drainage, sanitation, and insect control must be approved by the County Board of Public Health.

Section 3. PERMITTED ACCESSORY USES AND STRUCTURES. The following accessory uses and structures shall be permitted:

3.1. Accessory uses and structures normally incidental and subordinate to the permitted uses and structures and to uses and structures permitted as exceptions;

3.2. Essential services;

3.3. Home occupations;

3.4. Roadside stands for the sale of agricultural produce grown on the premises;

3.5. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

Section 4. SPECIAL EXCEPTION USES AND STRUCTURES. The following uses may be permitted in the Agricultural District (A-1) by the Board of Adjustment as provided for in Articles 20 and 25 of this Ordinance.

4.1. Agricultural service businesses involving the processing, storage, and sale of grain for seed, or for livestock and poultry feed; the sale of feed supplements; the sale of dry or slurry mix fertilizers; and the storage, distribution or sale of anhydrous ammonia; the sale of agricultural lime and agricultural chemicals; the storage and sale of fuels; the buying and storage of wool or hides; trenching or well drilling; contract farming; farm equipment repair shops; and the sale or display of farm machinery;



- 4.2. Airport or landing field;
- 4.3. Commercial auction yards and buying stations;
- 4.4. Extraction and processing of minerals or raw materials, including limestone, cement, clay, gypsum, and other similar natural materials;
- 4.5. Private utility structures and services, such as wind farms;
- 4.6. Private parks, playgrounds, fairgrounds, recreation areas, camping grounds, golf courses, country clubs, golf driving ranges, archery ranges, gun clubs, and swimming pools;
- 4.7. Sanitary landfill, transfer station, junkyard, or other type of waste disposal area;
- 4.8. Transmitters, towers, and receiver equipment provided that they are located from public rights-of-way a distance equal to their height;
- 4.9. Wind farms.
- 4.10 Commercial kennels for the raising, breeding and boarding of dogs or other small animals provided that all buildings be at least two hundred (200) feet from all property lines.
- 4.11. Mining and extraction of minerals and raw materials, including the necessary processing equipment, provided such operation shall be located at least fifty (50) feet from the right-of-way line of any public road and at least three hundred (300) feet from the nearest dwelling or residential district; that off-street parking space be provided for employees and other vehicles stored or used on the site. An application for the special exception shall be accompanied by a plan showing how the affected land would be restored by the applicant to a condition compatible with the surrounding area upon conclusion of the operation.

Section 5. BULK REGULATIONS. The following minimum requirements shall be observed subject to modifications contained in Article 19 of this Ordinance:

- 5.1. Lot Area: The minimum lot area for dwellings shall be not less than forty thousand (40,000) square feet. Other permitted uses shall have a minimum lot area of two (2) acres;
- 5.2. Lot Width: The minimum lot width for dwellings shall be one hundred fifty (150) feet. Other permitted uses shall have a minimum lot area of two hundred (200) feet;
- 5.3. Front Yard: The minimum front yard shall be fifty (50) feet unless otherwise specified. When fronting on the right-of-way of a Federal, State, or County highway, the front yard shall be measured from the right-of-way line of said highway;

5.4. Side Yard: The minimum side yard for dwelling shall be fifteen (15) feet. Other permitted uses shall have a minimum side yard of twenty-five (25) feet unless otherwise specified;

5.5. Rear Yard: The minimum rear yard shall be fifty (50) feet unless otherwise specified;

5.6. Maximum Height : No building shall exceed a height of two and one-half (2 1/2) stories or thirty-five (35) feet, unless otherwise provided.

5.7. Lots of Record (Undersize) B Side yard for dwellings on lots of record at the time of passage of this Ordinance and which do not meet the minimum width requirement of the District in which they are located may be reduced as follows:

- a. Interior lots. The width of each of the side yards may be reduced to fifteen percent (15%) of the width of the lot on lots having a width of less than fifty (50) feet or more. On lots having a width of less than fifty (50) feet each side yard shall be no less than five (5) feet.
- b. Corner lots. The width of the side yard adjacent to the side street may be reduced to not less than ten (10) feet. The width of the side yard opposite the side street may be reduced to fifteen percent (15%) of the width of the lot on lots having a width of fifty (50) feet or more. On lots having a width of less than fifty (50) feet, this side yard shall be no less than five (5) feet.

Section 6. OFF-STREET PARKING. Off-street parking shall be provided in accordance with the provisions of Article 16 of this Ordinance.

Section 7. OFF-STREET LOADING. Off-street loading shall be provided in accordance with the provisions of Article 17 of this Ordinance.

Section 8. SIGNS. Signs are permitted subject to the provisions of Article 18 of this Ordinance.

## **ARTICLE 7/RESTRICTED AGRICULTURAL DISTRICT (A-2)**

Section 1. INTENT. The Restricted Agricultural District (A-2) is applied to those areas of the County where agriculture and non-farm land uses meet adjacent to current cities, within environmentally sensitive, scenic, and within flood prone areas. Because these areas are often scenic it is envisioned that they will become desirable locations for non-farm dwellings. Therefore, a scattering of non-farm dwellings will be permitted provided they mitigate their impact to the scenic nature of the area. Finally, any construction within a recognized FEMA flood hazard area must be in accordance with flood area construction standards.

Section 2. PRINCIPAL USES PERMITTED. Only the following uses and structures shall be permitted in the Restricted Agricultural District (A-2).

### **2.1. Agriculture (A-1)**

Section 3. PERMITTED ACCESSORY USES AND STRUCTURES. The following accessory uses and structures shall be permitted:

3.1. Accessory uses and structures normally incidental and subordinate to the permitted uses and structures and to uses and structures permitted as exceptions;

3.2. Essential services;

3.3 Home occupations;

3.4. Roadside stands for the sale of agricultural produce grown on the premises;

3.5. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

Section 4. SPECIAL EXCEPTION USES AND STRUCTURES. The following uses may be permitted in the Restricted Agricultural District (A-2) by the Board of Supervisors and the adjoining municipal authority.

4.1. Residential

4.2. Commercial/Business

4.3. Industrial

4.4. Commercial Recreation

Section 5. BULK REGULATIONS. The following minimum requirements shall be observed subject to modifications contained in Article 19 of this Ordinance:

5.1. Lot sizes and setbacks shall be determined by the Audubon County Zoning Commission consistent with the use of the land. When it is desirable to enhance development, sizes and setbacks may conform to the municipality minimum standards upon consultation with the adjoining municipality. The Commission shall make efforts to set lot sizes and setbacks to be compatible with the adjoining municipality=s requirements for similar uses.

Section 6. ADDENDUM. Any district requirements or definitions differing from Sections 14.07, 14.08, 14.09, 14.10, 14.11 and 14.12 for each individual community are made a part of this Ordinance as an Addendum.

Section 7. DEFAULT LAND USE. The default land use designation in the Restricted Agriculture District is Agricultural. The Zoning District designation as Restricted Agriculture (A-2) does not change when a request to change land use to residential, commercial or industrial is approved by the Board of Supervisors. The Board may approve the change in land use after consultation with the adjoining city government, and notification of adjacent property owners. Only the allowed use for the property under consideration will change.

## **ARTICLE 8/ONE- AND TWO-FAMILY RESIDENTIAL DISTRICT (R-1)**

Section 1. INTENT. The intent of the One- and Two-Family Residential District (R-1) is to provide for low to medium density residential development located within platted subdivisions and with a limited number of institutional and recreational facilities permitted. This district is expected to be located within the unincorporated villages of Hamlin and Ross and where one would expect non-farm dwellings to concentrate.

Section 2. PRINCIPAL USES PERMITTED. Only the following principal uses and structures shall be permitted in the (R-1) Residential District.

- 2.1. Agriculture and horticulture, provided it its conducted exclusively for the use of occupants of the dwelling located on the premises, provided there are no agriculture uses present which are offensive in odor or which destroy the character of the landscape;
- 2.2. Cemeteries adjacent to or an extension of existing cemeteries;
- 2.3. Churches, chapels, temples, and similar places of worship;
- 2.4. One (1) family dwellings;
- 2.5. Two (2) family dwellings; A single-family dwelling may be converted into a two-family dwelling provided that any exterior stairway to serve the second floor be placed in the rear of the structure to be converted.
- 2.6. Private garage used only for interior storage.
- 2.7. Private recreation facilities;
- 2.9. Schools and colleges having curriculums approved by the State of Iowa.
- 2.10. Nurseries, greenhouses, and truck gardens;

Section 3. PERMITTED ACCESSORY USES AND STRUCTURES. The following accessory uses and structures shall be permitted:

- 3.1. Accessory uses and structures normally incidental and subordinate to the permitted uses and structures and to uses and structures permitted as exceptions;
- 3.2. Essential services;
- 3.3. Home occupations;
- 3.4. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

Section 4. SPECIAL EXCEPTION USES AND STRUCTURES. The following uses and structures may be permitted in the (R-1) Residential District subject to provisions of Articles 20 and 25 of this Ordinance and with the approval of the Board of Adjustment:

4.1. Boarding, lodging, and Bed and Breakfast establishments;

4.2. Day nursery or nursery school;

4.3. Private parks, playgrounds, fairgrounds, recreation areas, camping grounds, golf courses, country clubs, golf driving ranges, archery ranges, gun clubs, and swimming pools. Commercial golf courses may be permitted by the Board of Supervisors after public hearing and recommendation by the Zoning Commission.

4.4. Mobile homes parks subject to the following conditions:

4.4.1. The mobile home park shall be located on a parcel of ground at least five acres in size and each boundary line of the park shall be at least 200 feet from any residential structure located outside the park unless separated there from by a natural or artificial barrier.

4.4.2. The park shall be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water.

4.4.3. Each mobile home space shall be large enough to provide a distance of fifteen (15) feet between any trailer or structure on the space and the lot line, a front yard of 15 feet and a rear yard of 10 feet.

4.4.4. All mobile home spaces shall abut upon a driveway of not less than twenty-five (25) feet in width which shall have unobstructed access to a public street.

4.4.5. Overall density shall not be greater than the lot area per family specified within the district.

4.4.6. All driveways and walkways in the park shall be hard surfaced and lighted at night.

4.4.7. Each park shall provide service buildings to house such toilet, bathing and other sanitary facilities and such laundry facilities as may be prescribed.

4.4.8. An electrical outlet supplying at least 110 volts shall be provided for each trailer space.

4.4.9. Adequate sanitary facilities and supply of potable water shall be provided to each mobile home space.

4.4.10. No additions shall be built onto any mobile home other than a porch or entryway which shall leave a clearance of not less than fifteen (15) clear feet between said appurtenance or porch and the next mobile home.

4.4.11. The mobile home park shall follow the regulations of the district in which it is located.

Section 5. BULK REGULATIONS. The following minimum requirements shall be observed subject to modifications contained in Article 19 of this Ordinance:

5.1. Lot Area: When the use is connected to public water and sewer the minimum lot area shall be eight thousand five hundred (8,500) square feet or 18,000 square feet if the home

is supplied by a private well and individual sewerage system. Each structure containing more than one family shall be located on a lot or lots having an area of 10,000 square feet for each family. Larger lots may be required where results of percolation tests indicate the need for a larger disposal field. Such tests shall be submitted to the County Board of Health prior to construction.

5.2. Lot Width: The minimum lot width shall be sixty-five (65) feet;

5.3. Front Yard: The minimum front yard shall be twenty-five (25) feet;

5.4. Side Yard: The minimum side yard shall not be less than six (6) feet, but the sum of the two side yards shall not be less than fifteen (15) feet;

5.5. Rear Yard: The minimum rear yard shall be twenty-five (25) feet;

5.6. Maximum Height: No building shall exceed a height of two and one-half (2 1/2) stories or thirty-five (35) feet, unless otherwise provided.

5.7. Percentage of Lot Coverage: All buildings including accessory buildings shall not cover more than thirty percent (30%) of the area of the lot.

Section 6. OFF-STREET PARKING. Off-street parking shall be provided in accordance with the provisions of Article 16 of this Ordinance.

Section 7. OFF-STREET LOADING. Off-street loading shall be provided in accordance with the provisions of Article 17 of this Ordinance.

Section 8. SIGNS. Signs are permitted subject to the provisions of Article 18 of this Ordinance.

## **ARTICLE 9/MULTIPLE-FAMILY RESIDENTIAL DISTRICT (R-3)**

Section 1. INTENT. The intent of the (R-3) Residential District is to provide for high density residential development located within platted subdivisions and with a limited number of institutional and recreational facilities permitted. This district is expected to be located adjacent to cities, within scenic areas, within the unincorporated villages of Hamlin and Ross where one would expect non-farm dwellings to concentrate.

Section 2. PRINCIPAL USES PERMITTED. Only the following principal uses and structures shall be permitted in the (R-3) Residential District.

2.1. Any use permitted in the One- or Two-Family Residential District (R-1).

2.2. Multiple-family dwellings.

2.3. Tourist homes, rooming and boarding houses.

2.4. Clubs and lodges, excepting such clubs or lodges the chief activity of which is a service customarily carried on as a business or primarily for gain.

Section 3. PERMITTED ACCESSORY USES AND STRUCTURES. The following accessory uses and structures shall be permitted:

- 3.1. Accessory uses and structures normally incidental and subordinate to the permitted uses and structures and to uses and structures permitted as exceptions;
- 3.2. Essential services;
- 3.3. Home occupations;
- 3.4. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

Section 4. SPECIAL EXCEPTION USES AND STRUCTURES. The following uses and structures may be permitted in the (R-3) Residential District subject to provisions of Articles 20 and 25 of this Ordinance and with the approval of the Board of Adjustment:

- 4.1. Boarding, lodging, and Bed and Breakfast establishments;
- 4.2. Day nursery or nursery school;
- 4.3. Private parks, playgrounds, fairgrounds, recreation areas, camping grounds, golf courses, country clubs, golf driving ranges, archery ranges, gun clubs, and swimming pools. Commercial golf courses may be permitted by the Board of Supervisors after public hearing and recommendation by the Zoning Commission.
- 4.4. Mobile homes parks subject to the following conditions:
  - 4.4.1. The mobile home park shall be located on a parcel of ground at least five acres in size and each boundary line of the park shall be at least 200 feet from any residential structure located outside the park unless separated there from by a natural or artificial barrier.
  - 4.4.2. The park shall be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water.
  - 4.4.3. Each mobile home space shall be large enough to provide a distance of fifteen (15) feet between any trailer or structure on the space and the lot line, a front yard of 15 feet and a rear yard of 10 feet.
  - 4.4.4. All mobile home spaces shall abut upon a driveway of not less than twenty-five (25) feet in width which shall have unobstructed access to a public street.
  - 4.4.5. Overall density shall not be greater than the lot area per family specified within the district.
  - 4.4.6. All driveways and walkways in the park shall be hard surfaced and lighted at night.
  - 4.4.7. Each park shall provide service buildings to house such toilet, bathing and other sanitary facilities and such laundry facilities as may be prescribed.
  - 4.4.8. An electrical outlet supplying at least 110 volts shall be provided for each trailer space.

4.4.9. Adequate sanitary facilities and supply of potable water shall be provided to each mobile home space.

4.4.10. No additions shall be built onto any mobile home other than a porch or entryway which shall leave a clearance of not less than fifteen (15) clear feet between said appurtenance or porch and the next mobile home.

4.4.11. The mobile home park shall follow the regulations of the district in which it is located.

Section 5. BULK REGULATIONS. The following minimum requirements shall be observed subject to modifications contained in Article 19 of this Ordinance:

5.1. Lot Area: Each lot shall have an area and width of not less than the area and width for the One and Two-family residential districts, provided, however, that each multiple family dwelling shall be located on a lot having not less than one thousand fifteen hundred (1,500) square feet for each additional family over two housed therein;

5.2. Lot Width: The minimum lot width shall be sixty-five (65) feet;

5.3. Front Yard: The minimum front yard shall be twenty-five (25) feet;

5.4. Side Yard: The minimum side yard shall not be less than six (6) feet, but each side yard shall be equal to one-fourth (1/4) of the height of the building;

5.5. Rear Yard: The minimum rear yard shall be twenty-five (25) feet;

5.6. Maximum Height: No building shall exceed a height of four and one-half (4 1/2) stories or fifty-five (55) feet, unless otherwise provided.

5.7. Percentage of Lot Coverage: All buildings including accessory buildings shall not cover more than fifty percent (50%) of the area of the lot.

Section 6. OFF-STREET PARKING. Off-street parking shall be provided in accordance with the provisions of Article 16 of this Ordinance.

Section 7. OFF-STREET LOADING. Off-street loading shall be provided in accordance with the provisions of Article 17 of this Ordinance.

Section 8. SIGNS. Signs are permitted subject to the provisions of Article 18 of this Ordinance.

#### **ARTICLE 10/PLANNED UNIT DEVELOPMENT DISTRICT (R-4)**

Section 1. INTENT. The intent of the (R-4) Planned Unit Development District is to provide regulation flexibility to site a mixed-use complex within an existing (parent) Zoning District. The Planned Unit Development District is "carved out" of the Parent District through a change in zoning process and development parameter negotiations between the County Zoning Administrative Process and the Developer. A Planned Unit Development is located upon a



specific tract of land, is planned and designed as a unit for one or more land use types under the regulations and procedures contained within this Ordinance, and contains design concepts that are approved by the County Board of Supervisors and are made subject to administrative enforcement. When a property owner or developer intends to develop a tract of land that is to involve more than one establishment or a mix of several land use types he/she/they may approach the Board of Supervisors to have a parcel rezoned to Planned Unit Development District. The application shall first be provided to the Planning and Zoning Commission for review and comment. The Planning and Zoning commission shall recommend the project and any special design qualifications they feel the County should establish as enforceable regulations to the approval process. This recommendation is reviewed by the Board of Supervisors and a decision is rendered.

**Section 2. PRINCIPAL USES PERMITTED.** Only the following principal uses and structures shall be permitted in the Planned Unit Development District.

2.1. Uses and structures permitted under the provisions of the regulations of the Parent District(s) of which this district is made a part of, i.e. a Planned Unit Development District "carved out" of a Residential District may contain land uses permitted within the Parent Residential District and other uses (such as commercial or light industrial) as permitted through Board of Supervisor design standard approval.

**Section 3. PERMITTED ACCESSORY USES AND STRUCTURES.** The following accessory uses and structures shall be permitted:

3.1. Accessory uses and structures normally incidental and subordinate to the permitted uses and structures and to uses and structures permitted as exceptions;

3.2. Essential services;

3.3. Home occupations;

3.4. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

**Section 4. SPECIAL EXCEPTION USES AND STRUCTURES.** The following uses and structures may be permitted in the Planned Unit Development District subject to provisions of Articles 20 and 25 of this Ordinance and with the approval of the Board of Adjustment:

4.1. None.

**Section 5. BULK REGULATIONS.** The following minimum requirements shall be observed subject to modifications contained in Article 19 of this Ordinance:

5.1. Lot Area : The minimum lot area shall be five (5) acres for a residential PUD, two (2) acres for a commercial PUD, and ten (10) acres for an industrial PUD;

5.2. Lot Width : The minimum lot width shall be one hundred (100) feet;

5.3. Front Yard : The minimum front yard shall be fifty (50) feet (on lake front lots the front yard shall be the side facing the lake and the minimum may be reduced to twenty-five (25) feet);

5.4. Side Yard : The minimum side yard shall be ten (10) feet;

5.5. Rear Yard : The minimum rear yard shall be fifty (50) feet (for lake front lots the rear yard shall be the side facing the street);

5.6. Maximum Height : No building shall exceed a height of two and one-half (2 1/2) stories or thirty-five (35) feet, unless otherwise provided.

Section 6. OFF-STREET PARKING. Off-street parking shall be provided in accordance with the provisions of Article 16 of this Ordinance.

Section 7. OFF-STREET LOADING. Off-street loading shall be provided in accordance with the provisions of Article 17 of this Ordinance.

Section 8. SIGNS. Signs are permitted subject to the provisions of Article 18 of this Ordinance.

#### **ARTICLE 11/COMMERCIAL DISTRICT (C-1)**

Section 1. INTENT. The intent of the (C-1) Commercial District is to provide for a limited number of establishments in size and scope which cater to agricultural needs of the rural agricultural area. Also included are uses located at major highway intersections that cater to a passing traffic as well as establishments located in the unincorporated villages of Ross and Hamlin.

Section 2. PRINCIPAL USES PERMITTED. Only the following principal uses and structures shall be permitted in the (C-1) Commercial District:

- 2.1. Automobile sales and service, subject to the following provisions:
  - a. No repair work is performed outdoors;
  - b. Pumps, lubricating or other devices are located at least twenty (20) feet from any street line;
  - c. All fuel, oil or similar substances are stored at least thirty-five (35) feet from any street line;
  - d. All automobile parts, dismantled vehicles and similar articles are stored within a building
- 2.2. Commercial or private campground;
- 2.3. Commercial recreation or amusement;
- 2.4. Construction/contracting offices with incidental fabrication;
- 2.5. Craft stores;
- 2.6. Day nursery or nursery school;
- 2.7. Eating and drinking establishments, but not including Ajuice bars;@

- 2.8. Farm service sales and service, including implements;
- 2.9. Garden supplies stores;
- 2.10. Hay, grain, feed, seed, retail;
- 2.11. Livestock buying station;
- 2.12. Lumber and building materials;
- 2.13. Mobile home sales and service;
- 2.14. Motels, and motor lodges;
- 2.15. Open-air sales of autos, implements, trucks;
- 2.16. Private and public museums;
- 2.17. Private clubs;
- 2.18. Private parking lots;
- 2.19. Professional office;
- 2.20. Publicly owned and operated buildings and facilities;
- 2.21. Railroads;
- 2.22. Retail pet shop and veterinarian;
- 2.23. Similar uses to those listed in this section, as allowed by the Audubon County Zoning Administrator;
- 2.24. Trucking firms;
- 2.25. Vehicle service station and body shop, including incidental fabrication;
- 2.26. Warehousing or storage.
- 2.27. Baking, confectionary, dressmaking, dyeing, laundry, printing, tailoring, upholstering and similar establishments or business of a similar nature and no more objectionable characters subject to the following provisions:
  - 2.27.1. All goods or products manufactured or processed shall be sold at retail on the premises.
  - 2.27.2. All such manufacturing or processing shall be done on the premises, and not more than five (5) persons shall be so employed at any one time.

Section 3. PERMITTED ACCESSORY USES AND STRUCTURES. The following accessory uses and structures shall be permitted:

- 3.1. Accessory uses and structures normally incidental and subordinate to the permitted uses and structures and to uses and structures permitted as exceptions;
- 3.2. Essential services;
- 3.3. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work;

Section 4. SPECIAL EXCEPTION USES AND STRUCTURES. The Board of Adjustment according to Articles 20 and 25 of this Ordinance may permit the following uses and structures in the (C-1) Commercial District.

- 4.1. Transmitters, towers, and receiver equipment provided that they are located from public rights-of-way a distance equal to their height.

Section 5. BULK REGULATIONS. The following minimum requirements shall be observed subject to modifications contained in Article 19 of this Ordinance:

5.1. Lot Area: When the lot is not used for residential purposes, there is no required lot area;

5.2. Lot Width: When the lot is not used for residential purposes, there is no required lot area;

5.3. Front Yard: The minimum front yard shall be sixty (60) feet on State and Federal Highways and twenty (20) feet on all other public roads;

5.4. Side Yard: The minimum side yard shall five (5) feet;

5.5. Rear Yard: The minimum rear yard shall be twenty (20) feet;

5.6. Maximum Height: No building shall exceed a height of two and one-half (2 1/2) stories or thirty-five (35) feet unless otherwise provided.

5.7. Percentage of Lot Coverage: All buildings including accessory buildings shall not cover more than fifty percent (50%) of the area of the lot.

Section 6. OFF-STREET LOADING. Off-street loading shall be provided in accordance with the provisions of Article 17 of this Ordinance.

Section 7. SIGNS. Signs are permitted subject to the provisions of Article 18 of this Ordinance.

## **ARTICLE 12/LIGHT INDUSTRIAL DISTRICT (I-1)**

Section 1. INTENT. The intent of the (I-1) Light Industrial District is to provide space for industrial uses and structures that are able to meet certain performance standards to protect nearby non-industrial uses from undesirable environmental conditions.

Section 2. PRINCIPAL USES PERMITTED. Only the following principal uses and structures shall be permitted in the (I-1) Industrial District, except those uses which by reason of the emission of odor, excessive congestion, dust, fumes, smoke, noise and other obnoxious characteristics would be injurious to the public health, safety and general welfare of the community;

- 2.1. Assembly or fabrication of metal, rubber, cloth, plastic, stone, leather, wood, or similar raw materials;
- 2.2. Auto service, assembly, and repair;
- 2.3. Beverage bottling or processing;
- 2.4. Blacksmith;
- 2.5. Contractor's offices and storage of equipment
- 2.6. Feed mixing;

- 2.7. Fertilizer manufacture, mixing, and storage, but not including the bulk storage of liquid fertilizer or petroleum products under pressure;
- 2.8. Food processing, but not including packing or rendering plants;
- 2.9. Grain storage elevators;
- 2.10. Hatchery;
- 2.11. Lumberyards and building material sales and storage;
- 2.12. Manufacture, compounding, assembly and/or treatment of articles or merchandise derived from previously prepared materials;
- 2.13. Moving company;
- 2.14. Private parking lots;
- 2.15. Produce warehouse;
- 2.16. Publicly owned and operated buildings and facilities;
- 2.17. Railroads;
- 2.18. Similar uses to those listed in this section, as allowed by the Audubon County Zoning Administrator;
- 2.19. Transfer company;
- 2.20. Warehouse or storage;
- 2.21. Construction equipment, farm implement, or truck display, sales, service or repair;
- 2.22. Motorcycle, boat and recreational vehicle display, sales, service or repair;
- 2.23. Truck and freight terminals;
- 2.24. Welding, machine and repair shops;
- 2.25. Plumbing, heating, air conditioning and sheet metal shops;
- 2.26. Ethanol plants;
- 2.27. Any nonresidential building or use which would not be hazardous, obnoxious, offensive, or unsightly by reason of odor, sound, vibrations, radioactivity, electrical interference, glares, liquid or solid waste, smoke, or other air pollutants; and further the use must be in conformance with the Iowa Department of Natural Resources, Environmental Protection Agency, and any other applicable laws and regulations;
- 2.28. Any Principal Permitted Use allowed in the C-1 Commercial District, but not residential uses, hotels or motels.

Section 3. PERMITTED ACCESSORY USES AND STRUCTURES. The following accessory uses and structures shall be permitted:

- 3.1. Accessory uses and structures normally incidental and subordinate to the permitted uses and structures and to uses and structures permitted as exceptions;
- 3.2. Essential services;
- 3.3. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
- 3.4. Living quarters for watchmen or custodians of industrial properties.

Section 4. SPECIAL EXCEPTION USES AND STRUCTURES. The following uses and structures may be permitted in the (I-1) District subject to provisions of Articles 20 and 25 of this Ordinance and with the approval of the Board of Adjustment:

- 4.1. Dairy products manufacture;
- 4.2. Day nursery or nursery schools provided by an employer for the benefit of employees working on the premises;
- 4.3. Explosive manufacturer;
- 4.4. Gas or ethanol manufacture;
- 4.5. Manufacture or smelting of metal, rubber, plastic, stone, leather, or wood products from basic raw materials;
- 4.6. Meat packing plants;
- 4.7. Salvage or junkyard, or landfill;
- 4.8. Sanitary landfill operated by a governmental entity;
- 4.9. Stockyard;
- 4.10. Transmitters, towers, and receiver equipment provided that they are located from public rights-of-way, dwellings or places of public assembly a distance equal to their height and that they will not interfere with the operation of any airport or landing strip.
- 4.11. The bulk storage of liquid fertilizer and petroleum products under pressure; provided that such use is located not closer than 1,000 feet to any existing dwelling other than that of the owner or operator or any park, school, church or place of public assembly; that it is located so that prevailing winds will not cause gases, or odors to create a nuisance or hazard for developed properties in the vicinity; that one (1) parking space for each employee and one (1) space for each company vehicle be provided and at least one (1) loading space be provided.
- 4.12. The bulk storage of oils, petroleum products, flammable liquids and chemicals when stored underground in tanks located no closer to any property line than the greatest depth to the bottom of such tanks or above ground in tanks located at least 150 feet from any property line.
- 4.13. Concrete or asphalt mixing or batching plants for temporary use during the construction, repair or maintenance of public roads, highways or other public facilities provided that the area be restored to a suitable condition free of debris.
- 4.15. Mining and extraction of minerals and raw materials, including the necessary processing equipment, provided such operation shall be located at least fifty (50) feet from the right-of-way line of any public road and at least three hundred (300) feet from the nearest dwelling or residential district; that off-street parking space be provided for employees and other vehicles stored or used on the site. An application for the special

exception shall be accompanied by a plan showing how the affected land would be restored by the applicant to a condition compatible with the surrounding area upon conclusion of the operation.

4.16. Privately operated campgrounds, youth or summer camps, gun clubs, ski slopes, boat docks, race courses, recreational vehicle riding areas and similar outdoor recreation activities, provided that the applicant submit a plan for the proposed development showing proposed uses of land, traffic patterns and circulation, parking, drainage, erosion control and proposed measures to ensure that the development and/or use will be compatible with surrounding uses.

Section 5. BULK REGULATIONS. The following minimum requirements shall be observed subject to modifications contained in Article 19 of this Ordinance:

5.1. Lot Area: When the lot is not used for residential purposes, there is no required lot area;

5.2. Front Yard: The minimum front yard shall be thirty (30) feet;

5.3. Side Yard: The minimum side yard shall fifteen (15) feet, except when adjacent to an agricultural or residential district, a side yard of not less than thirty (30) feet shall be provided;

5.4. Rear Yard: The minimum rear yard shall be thirty (30) feet;

5.5. Maximum Height: No building shall exceed a height of six (6) stories or seventy-five (75) feet unless otherwise provided.

5.6. Required Lot Coverage: When the lot is not used for residential purposes, the entire lot may be covered except as hereinafter otherwise specified.

Section 6. OFF-STREET PARKING. Off-street parking shall be provided in accordance with the provisions of Article 16 of this Ordinance.

Section 7. OFF-STREET LOADING. Off-street loading shall be provided in accordance with the provisions of Article 17 of this Ordinance.

Section 8. SIGNS. Signs are permitted subject to the provisions of Article 18 of this Ordinance.

## **ARTICLE 13/HEAVY INDUSTRIAL DISTRICT (I-2)**

Section 1. INTENT. The intent of the (I-2) Heavy Industrial District is to provide space for industrial uses and structures that are able to meet certain performance standards to protect nearby non-industrial uses from undesirable environmental conditions.

Section 2. PRINCIPAL USES PERMITTED. Only the following principal uses and structures shall be permitted in the (I-2) Heavy Industrial District, except those uses which by reason of the emission of odor, excessive congestion, dust, fumes, smoke, noise and other obnoxious characteristics would be injurious to the public health, safety and general welfare of the community;

2.1. Any use, except any residential use, and except those uses listed below that require approval of the Board of Adjustment.

Section 3. PERMITTED ACCESSORY USES AND STRUCTURES. The following accessory uses and structures shall be permitted.

3.1. Accessory uses customarily incidental to any permitted principal use;

3.2. Living quarters for watchmen or custodians of industrial properties.

Section 4. SPECIAL EXCEPTION USES AND STRUCTURES. The following uses may be permitted in the Heavy Industrial District (I-2) by the Board of Adjustment as provided for in Articles 20 and 25 of this Ordinance.

4.1. Acid manufacture;

4.2. Cement, lime, gypsum, or plaster of Paris manufacture;

4.3. Distillation of bones;

4.4. Explosive manufacture or storage;

4.5. Fat or oil rendering;

4.6. Fertilizer manufacture and storage;

4.7. Gas manufacture;

4.8. Garbage, offal, or dead animals reduction or dumping;

4.9. Glue manufacture;

4.10. Refining of petroleum or petroleum products;

4.11. Smelting of tin, copper, zinc, or iron ores;

4.12. Stockyards or slaughter of animals;

4.13. Junkyards; provided they are surrounded by a solid fence at least eight (8) feet high located within the set back lines, and the junk must not be piled higher than the fence. A solid fence means a fence consisting of impermeable material so as not to be seen.

4.14. Transmitters, towers, and receiver equipment provided that they are located from public rights-of-way a distance equal to their height.

4.15. Mining and extraction of minerals and raw materials, including the necessary processing equipment, provided such operation shall be located at least fifty (50) feet from the right-of-way line of any public road and at least three hundred (300) feet from the nearest dwelling or residential district; that off-street parking space be provided for employees and other vehicles stored or used on the site. An application for the special exception shall be accompanied by a plan showing how the affected land would be restored by the applicant to a condition compatible with the surrounding area upon conclusion of the operation.

Section 5. BULK REGULATIONS. The following minimum requirements shall be observed subject to modifications contained in Article 19 of this Ordinance:

5.1. Lot Area: Individual building sites shall be of such size that all space requirements of this ordinance are satisfied and be of such size that the development will have architectural unity;



5.2. Lot Width: None;

5.3. Front Yard: The minimum front yard shall be forty (40) feet. Required front yards shall be landscaped and maintained to provide an attractive setting for the building;

5.4. Side Yard: The minimum side yard shall five (5) feet. Where the side yard abuts a lot in a residential district, said side yard width shall be thirty (30) feet. Required side yards shall be planned and maintained to provide a slightly and well-kept condition;

5.5. Rear Yard: The minimum rear yard shall be twenty (20) feet. Where the rear yard abuts a lot in a residential district, said rear lot depth shall be thirty (30) feet. Required rear yards shall be planned and maintained to provide a slightly and well-kept condition;

5.6. Maximum Height: No building shall exceed a height of two and a half (2 1/2) stories or forty-five (45) feet unless otherwise provided.

5.7. Required Lot Coverage: The entire lot may be covered except as hereinafter otherwise specified.

Section 6. OFF-STREET PARKING. Off-street parking shall be provided in accordance with the provisions of Article 16 of this Ordinance.

Section 7. OFF-STREET LOADING. Off-street loading shall be provided in accordance with the provisions of Article 17 of this Ordinance.

Section 8. SIGNS. Signs are permitted subject to the provisions of Article 18 of this Ordinance.

## **ARTICLE 14/RESERVED**

## **ARTICLE 15/FLOODPLAIN DISTRICT**

### **Section 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, AND PURPOSES**

1.1. STATUTORY AUTHORIZATION. The Legislature of the State of Iowa has in Iowa Code Chapter 364, as amended, delegated the power to cities to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the City or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents. Therefore, the Board of Supervisors of Audubon County, Iowa ordains as follows:

#### **1.2. FINDINGS OF FACT**

1.2.1 FLOOD LOSSES RESULTING FROM PERIODIC INUNDATION. The flood-prone areas Audubon County, Iowa are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.

1.2.2. GENERAL CAUSES OF THE FLOOD LOSSES. These flood losses are caused by (1) the cumulative effect of development in any flood-prone area

causing increases in flood heights and velocities; and (2) the occupancy of flood-prone areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

1.3. STATEMENT OF PURPOSE. It is the purpose of this ordinance to promote the public health, safety, and general welfare; to minimize those losses described in Section 1.2.1 of this article; to establish or maintain the County's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(a) by applying the provisions of this ordinance to:

1.3.1. restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;

1.3.2. require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and

1.3.3. protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

## Section 2. GENERAL PROVISIONS

2.1. LANDS TO WHICH ORDINANCE APPLIES. This ordinance shall apply to all lands within the jurisdiction of Audubon County that have been identified by the county as having the presence of flood-prone areas. In all areas covered by this ordinance, no development shall be permitted except through the issuance of a floodplain development permit, granted by the Audubon County Supervisors or its duly designated representative under such safeguards and restrictions as the or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the County, and as specifically noted in Section 4.

2.2. FLOODPLAIN ADMINISTRATOR. The Audubon County Zoning Administrator is hereby designated as the Floodplain Administrator under this ordinance.

2.3. COMPLIANCE. No development located within the flood-prone areas of this County shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

2.4. ABROGATION AND GREATER RESTRICTIONS. It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

2.5. INTERPRETATION. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by the Iowa Code.

2.6. WARNING AND DISCLAIMER OF LIABILITY. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on the County=s knowledge of past flooding. Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside the floodplain or land uses permitted within such areas will be free from flooding or flood damage. This ordinance shall not create a liability on the part of Audubon County, any officer or employee thereof, for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

### Section 3. ADMINISTRATION

3.1. FLOODPLAIN DEVELOPMENT PERMIT (REQUIRED). A floodplain development permit shall be required for all proposed construction or other development, including the placement of factory-built homes, so that it may be determined whether such construction or other development is proposed within flood-prone areas. No person, firm, corporation, or unit of government shall initiate any development or substantial-improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.

3.2. DESIGNATION OF FLOODPLAIN ADMINISTRATOR. The Audubon County Zoning Administrator is hereby appointed to administer and implement the provisions of this ordinance.

3.3. DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR. Duties of the Floodplain Administrator shall include, but not be limited to:

- 3.3.1. review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this ordinance have been satisfied;
- 3.3.2. review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;
- 3.3.3. review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
- 3.3.4. issue floodplain development permits for all approved applications;
- 3.3.5. notify adjacent communities and Iowa Department of Natural Resources (DNR) prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA); and
- 3.3.6. assure that maintenance is provided within the altered or relocated portion of any watercourse so that the flood-carrying capacity is not diminished.

3.4. APPLICATION FOR FLOODPLAIN DEVELOPMENT PERMIT. To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

- 3.4.1. describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed building or work;
- 3.4.2. identify and describe the work to be covered by the floodplain development permit;
- 3.4.3. indicate the use or occupancy for which the proposed work is intended;
- 3.4.4. indicate the assessed value of the structure and the fair market value of the improvement;
- 3.4.5. give such other information as reasonably may be required by the Floodplain Administrator;
- 3.4.6. be accompanied by plans and specifications for proposed construction; and
- 3.4.7. be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

#### Section 4. PROVISIONS FOR FLOOD HAZARD REDUCTION

##### GENERAL STANDARDS

4.1. No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of factory-built homes, within any flood-prone area unless the conditions of this section are satisfied.

4.2. All new construction, subdivision proposals, substantial-improvements, prefabricated buildings, placement of factory-built homes, and other developments within flood-prone areas shall require:

- 4.2.1. design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- 4.2.2. construction with materials resistant to flood damage;
- 4.2.3. utilization of methods and practices that minimize flood damages;
- 4.2.4. all electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- 4.2.5. new or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination; and Wastewater treatment facilities and water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood level.
- 4.2.6. subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within flood-prone areas are required to assure that:
  - 4.2.6.1. all such proposals are consistent with the need to minimize flood damage;
  - 4.2.6.2. all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and

4.2.6.3. adequate drainage is provided so as to reduce exposure to flood hazards.

4.3. Storage, material, and equipment

4.3.1. The storage or processing of materials within flood-prone areas that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited *unless elevated a minimum of one (1) foot above the 100-year level.*

4.3.2. Storage of other material or equipment may be allowed *if such material or equipment is elevated a minimum of one (1) foot above the 100-year flood level* and not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.

4.4. AGRICULTURAL STRUCTURES. Structures used solely for agricultural purposes in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; there is no permanent retail, wholesale, or manufacturing use included in the structure; a variance has been granted from the floodplain management requirements of this ordinance; and a floodplain development permit has been issued.

4.5. ACCESSORY STRUCTURES. Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than 400 square feet, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; a variance has been granted from the standard floodplain management requirements of this ordinance; and a floodplain development permit has been issued.

4.6. FACTORY-BUILT HOMES. All factory-built homes to be placed within flood-prone areas shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, factory-built homes must be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

4.7. RECREATIONAL VEHICLES

4.7.1. Require that recreational vehicles placed on sites within flood-prone areas:

4.7.1.1. be on the site for fewer than 180 consecutive days, or

4.7.1.2. be fully licensed and ready for highway use\*; or

4.7.1.3. meet the permitting and anchoring requirements for factory-built homes of this ordinance.

\*A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

## Section 5. FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES

5.1. ESTABLISHMENT OF APPEAL BOARD. The Board of Adjustment as established by Audubon County shall hear and decide appeals and requests for variances from the floodplain management requirements of this ordinance.

5.2. RESPONSIBILITY OF APPEAL BOARD. Where an application for a floodplain development permit or request for a variance from the floodplain management regulations is denied by the Floodplain Administrator, the applicant may apply for such floodplain development permit or variance directly to the Appeal Board, as defined in paragraph 5.1 of this section.

The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

5.3. FURTHER APPEALS. Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to a court of record as provided in Iowa Code Section 335.18.

5.4. FLOODPLAIN MANAGEMENT VARIANCE CRITERIA. In passing upon such applications for variances, the Board of Adjustment shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this ordinance, and the following criteria:

5.4.1. the danger to life and property due to flood damage;

5.4.2. the danger that materials may be swept onto other lands to the injury of others;

5.4.3. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

5.4.4. the importance of the services provided by the proposed facility to the County;

5.4.5. the necessity to the facility of a waterfront location, where applicable;

5.4.6. the availability of alternative locations, not subject to flood damage, for the proposed use;

5.4.7. the compatibility of the proposed use with existing and anticipated development;

5.4.8. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

5.4.9. the safety of access to the property in times of flood for ordinary and emergency vehicles;

5.4.10. the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,

5.4.11. the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.

## 5.5. CONDITIONS FOR APPROVING FLOODPLAIN MANAGEMENT VARIANCES

5.5.1. Generally, variances may be issued for new construction and substantial-improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below highest adjacent grade, providing items 2 through 5 below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

5.5.2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination provided the proposed activity will not preclude the structure=s continued historic designation.

5.5.3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

5.5.4. Variances shall only be issued upon (a) a showing of good and sufficient cause, (b) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

5.5.5. The County shall notify the applicant in writing over the signature of a County official that (1) the issuance of a variance to construct a structure below highest adjacent grade will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below highest adjacent grade increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

5.6. CONDITIONS FOR APPROVING VARIANCES FOR AGRICULTURAL STRUCTURES. Any variance granted for an agricultural structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in 5.4 and 5.5 of this section.

In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for agricultural structures that are constructed at-grade and wet-floodproofed.

5.6.1. All agricultural structures considered for a variance from the floodplain management regulations of this ordinance shall demonstrate that the varied structure is located in wide, expansive floodplain areas and no other alternate location outside of the floodplain exists for the agricultural structure. Residential structures, such as farmhouses, cannot be considered agricultural structures.

5.6.2. Use of the varied structures must be limited to agricultural purposes in flood-prone areas only.

5.6.3. For any new or substantially damaged agricultural structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below highest adjacent grade, must be built with flood-resistant materials in accordance with paragraph 4.2.2 of this section.

5.6.4. The agricultural structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with paragraph 4.2.2 of this section. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.

5.6.5. Any mechanical, electrical, or other utility equipment must be located above highest adjacent grade or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with paragraph 4.2.4 of this section.

5.6.6. The agricultural structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with the NFIP regulations.

5.6.7. Major equipment, machinery, or other contents must be protected from any flood damage.

5.6.8. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the agricultural structures.

5.6.9. The County shall notify the applicant in writing over the signature of a County official that (1) the issuance of a variance to construct a structure below highest adjacent grade will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such



construction below highest adjacent grade increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

5.6.10. Wet-floodproofing construction techniques must be reviewed and approved by the County and a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

5.7. CONDITIONS FOR APPROVING VARIANCES FOR ACCESSORY STRUCTURES. Any variance granted for an accessory structure shall be decided individually based on a case-by-case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in 5.4 and 5.5 of this section.

In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for accessory structures that are constructed at-grade and wet-floodproofed.

5.7.1. Use of the accessory structures must be solely for parking and limited storage purposes in flood-prone areas only.

5.7.2. For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below highest adjacent grade, must be built with flood-resistant materials in accordance with paragraph 4.2.2 of this article.

5.7.3. The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with paragraph 4.2.1 of this article. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.

5.7.4. Any mechanical, electrical, or other utility equipment must be located above highest adjacent grade or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with paragraph 4.2.4 of this article.

5.7.5. The accessory structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with the NFIP regulations.

5.7.6. Equipment, machinery, or other contents must be protected from any flood damage.

5.7.7. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the accessory structures.

5.7.8. A County shall notify the applicant in writing over the signature of a County official that (1) the issuance of a variance to construct a structure below highest adjacent grade will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below highest adjacent grade increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

5.7.9. Wet-floodproofing construction techniques must be reviewed and approved by the County and registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

Section 6. PENALTIES FOR VIOLATION. Pursuant to Iowa Code Section 331.302 and Iowa Code Chapter 335, upon conviction of a violation of the provisions of this ordinance, including but not limited to failure to comply with any requirements of the ordinance or conditions and safeguards established in connection with granting of variances under this ordinance, the violator shall be fined an amount of at least fifty dollars but not to exceed five hundred dollars. The court may order imprisonment not to exceed thirty days in lieu of a fine, or in addition to a fine. The violator shall be ordered to pay court costs and expenses incurred by Audubon County. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Audubon County or other appropriate authority or individual from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 7. AMENDMENTS. The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in Audubon County. At least 20 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Region VII office of the Federal Emergency Management Agency (FEMA). The regulations of this ordinance are in compliance with the National Flood Insurance Program (NFIP) regulations.

Section 8. DEFINITIONS. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning they have in common usage and to give this ordinance its most reasonable application.

8.1. "100-year Flood" see "*base flood*."

8.2. "Accessory Structure" means the same as "appurtenant structure."

8.3. "Actuarial Rates" see "risk premium rates."

- 8.4. "Administrator" means the Federal Insurance Administrator.
- 8.5. "Agency" means the Federal Emergency Management Agency (FEMA).
- 8.6. "Agricultural Commodities" means agricultural products and livestock.
- 8.7. "Agricultural Structure" means any structure used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities.
- 8.8. "Appeal" means a request for review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.
- 8.9. "Appurtenant Structure" means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.
- 8.10. "Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year.
- 8.11. "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.
- 8.12. "Building" see "structure."
- 8.13. "Chief Executive Officer" or "Chief Elected Official" means the official of the County who is charged with the authority to implement and administer laws, ordinances, and regulations for that County.
- 8.14. "County" means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.
- 8.15. "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
- 8.16. "Eligible Community" or "Participating Community" means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).
- 8.17. "Existing Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a County.
- 8.18. "Expansion to an Existing Manufactured Home Park or Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-

built homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

- 8.19. "Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland and/or (2) the unusual and rapid accumulation or runoff of surface waters from any source.
- 8.20. "Floodplain" or "Flood-prone Area" means any land area susceptible to being inundated by water from any source (see "flooding").
- 8.21. "Floodplain Management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.
- 8.22. "Floodplain Management Regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.
- 8.23. "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.
- 8.24. "Functionally Dependent Use" means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.
- 8.25. "Historic Structure" means any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.
- 8.26. "Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this ordinance.

- 8.27. "Manufactured Home" means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."
- 8.28. "Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- 8.29. "Market Value" or "Fair Market Value" means an estimate of what is fair, economic, just and equitable value under normal local market conditions.
- 8.30. "New Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the County.
- 8.31. "(NFIP)" means the National Flood Insurance Program (NFIP).
- 8.32. "Participating Community" also known as an "eligible community," means a community in which the Administrator has authorized the sale of flood insurance.
- 8.33. "Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.
- 8.34. "Principally Above Ground" means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.
- 8.35. "Recreational Vehicle" means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently towable by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- 8.36. "Remedy A Violation" means to bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.
- 8.37. "Risk Premium Rates" means those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. ARisk premium rates@ include provisions for operating costs and allowances.
- 8.38. "Start of Construction" includes substantial-improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit

date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial-improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

8.39. "State Coordinating Agency" means that agency of the state government, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

8.40. "Structure" means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. "Structure" for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

8.41. "Substantial-Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

8.42. "Substantial-Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial-damage," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

8.43. "Variance" means a grant of relief by the County from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the County.

8.44. "Violation" means the failure of a structure or other development to be fully compliant with the County's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

## **ARTICLE 16/OFF-STREET PARKING**

Section 1. INTENT. After the effective date of this Ordinance there shall be provided at the time any new building or structure is erected, off-street parking spaces in accordance with the requirements set forth herein:

### **Section 2. GENERAL PROVISIONS:**

2.1. All buildings and structures erected and all uses of lands in all districts established after the effective date of this Ordinance shall provide accessory parking as required under this section;

2.2. All off-street parking spaces required by this Ordinance shall be located on the same lot of the use it serves or on some land adjacent to, or within five hundred (500) feet of the principal use lot. Each parking space shall be at least ten (10) feet by twenty-two (22) feet;

2.3. All yard area except the required front yard for residential districts may be used for off-street parking. The portion of a driveway crossing through the front yard may be used to satisfy the off-street parking requirements of this Ordinance;

Section 3. OFF-STREET PARKING REQUIREMENTS. At the time of construction, alteration, moving in, enlargement of a structure or building, or change in the use of the land, off-street parking spaces shall be provided, constructed, and maintained for all uses as follows:

3.1. Residential - One (1) spaces per dwelling unit;

3.2. Hotel/Motel - One (1) space per lodging unit;

3.3. Nursing homes, retirement centers, rest homes, or similar uses - One (1) space for every eight hundred (800) square feet of floor area in said building;

3.4. Places of public assembly such as auditoriums, theaters, stadiums, funeral homes, churches, community hall, public buildings, etc. - The greater of one (1) space for every five (5) seats or one (1) space per five hundred (500) square feet of gross floor area;

3.5. Retail sales and service uses such as stores, restaurants, taverns, banks, professional offices, etc. - One space for every five seats or one space per two hundred (200) square feet of gross floor area;

3.6. Manufacturing, wholesaling, warehousing, and similar uses - One (1) space per four hundred (400) square feet of floor space or one (1) space per employee in the largest working shift, whichever provides the greater total number of parking spaces, plus one space for each company vehicle;

3.7. Salvage yards - One (1) space per one thousand (1,000) square feet of display or floor area.

## **ARTICLE 17/OFF-STREET LOADING**

Section 1. REQUIREMENTS. At the time of construction, alteration, or enlargement of a structure or building off-street loading areas shall be provided and maintained for all uses as follows:

1.1. A one thousand (1,000) square foot off-street loading area shall be provided for each use, building, or structure of a size between five thousand (5,000) and twenty thousand (20,000) square feet;

1.2. For larger uses, buildings, and structures a one thousand (1,000) square foot off-street loading area shall be provided for each additional twenty thousand (20,000) square feet or fraction thereof.

1.3. Where the off-street loading space borders a Residential District it shall be set back five (5) feet and shall be effectively screen planted.

## **ARTICLE 18/SIGNS & BILLBOARDS**

Section 1. REQUIREMENTS. Billboards and signs that are located in conjunction with principal permitted uses are allowed subject to the following regulations:

### **1.1. Agricultural District:**

1.1.1. On or within six hundred and sixty (660) feet of the right of way of a Federal-aid highway or where it would encroach thereon;

1.1.2. Along a highway within five hundred (500) feet of the center point of an intersection of such highway at grade with another highway.

1.1.3. Along a highway at any point where it would reduce the existing view of traffic in either direction or of traffic control or direction signs to less than five hundred (500) feet.

1.1.4. Within three hundred (300) feet of a house, church or school, except by written approval of the owner thereof.

1.1.5. Less than fifteen hundred (1,500) feet apart except back-to-back or end-to-end and no more than two (2) billboards facing in one direction.

1.1.6. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State or by any County, municipality or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.

1.1.7. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants or on poles maintained by public utilities.

### **1.2. Residential Districts**



1.2.1. Signs for service clubs or churches are permitted, but shall not exceed three (3) square feet in area displaying the emblem of the club or church and information on the time and location of meetings or services. No set back or other yard requirements need be provided;

1.2.2. Service Organization signs are permitted, but shall not exceed three (3) square feet in area;

1.2.3. Signs for home occupations are permitted, but shall not exceed three (3) square feet in area.

1.3. Commercial and Industrial Districts:

1.3.1. Signs are permitted provided that they are either attached flush to the building, painted on the building, hang from an attached canopy, attached to the roof, are murals, or are attached to the building;

1.3.1.1. Roof signs shall not exceed ten (10) feet in height and shall provide a six (6) foot clearance from the building roof and three (3) foot setback from the building edge;

1.3.1.2. Wall signs shall not exceed six hundred (600) square feet, or twenty (20) percent of the total wall area, which ever is greater; shall not obstruct the public view;

1.3.2. One (1) free standing or post sign referring to a use or uses conducted on the premises may be erected in any yard abutting a public street; however, such sign shall not obstruct the public view.

1.3.3. Outdoor advertising signs and billboards are permitted, provided that the yard and height requirements for a principal structure are met. Said signs shall not exceed five hundred (500) square feet in area or thirty-five (35) feet in height.

1.3.4. Ground signs shall not exceed three hundred (300) square feet in area and shall not interfere with vehicle operator=s vision for two hundred (200) feet.

Section 2. SIGNS FOR SPECIAL EXCEPTION USES. In all cases where a use is permitted as a special exception, signs will be allowed only through Board of Adjustment approval.

Section 3. INFORMATIONAL SIGNS. Informational and directional signs will be permitted in all districts.

Section 4. REAL ESTATE SIGNS. Real estate signs advertising for sale, rental, or lease only, the premises, lot or tracts on which they are located will be allowed in all districts. The area of such sign shall not exceed fifty (50) square feet in area in all Nonresidential Districts and five (5) square feet in area in any Residential District.

Section 5. INTERMITTENT FLASHING TYPE SIGNS. No intermittent flashing type signs are permitted. No moving, flashing, rotating, illuminated signs or colored lights that may be confused with traffic lights are permitted.

Section 6. SIGNS FOR PLANNED UNIT DEVELOPMENTS. Signs located within Planned Unit Development (R-3) Districts shall be approved as part of the County/Developer Design Standards Agreement.

## ARTICLE 19/ADDITIONAL AREA AND HEIGHT REGULATIONS

Section 1. INTENT. The regulations set forth in this Article qualify, supplement or modify the area and height regulations set forth elsewhere in this Ordinance.

Section 2. LOT WIDTH. Any lot of record at the time of passage of this Ordinance having less width than herein required may be used as provided in this Ordinance with its side yards reduced to ten percent of the lot width, to the eve drop.

### Section 3. YARDS.

3.1. In any district in which residences are permitted and where neither public water supply nor public sanitary sewer is available, the lot area and width requirements shall be either the minimum required for the particular district or that required by the Audubon County Board of Health for septic tank and private well use;

3.2. Buildings on through lots shall provide the required front yard on both streets;

3.3. The required side yard on the street side of a corner lot shall be not less than fifty percent (50%) of the front yard required on the lots to the rear of the corner lot, and no accessory building shall project beyond the required front yard on either street;

3.4. On a corner lot in any district no fence, wall, hedge, tree, or other planting or structure that will obstruct vision between a height of two (2) feet and ten (10) feet above the ground shall be erected, placed, or maintained within the triangular area formed by connecting the right-of-way lines at points which are twenty-five (25) feet distant from the intersection of the right-of-way lines, and measured along the right-of-way lines;

3.5. The Zoning Administrator may vary the front yard setback in instances where a portion of the block has been previously developed and the setbacks used do not conform to those set for the District. In these instances the Zoning Administrator will measure two hundred (200) feet in each direction of the proposed use and require for the proposed use a setback that is the average of those existing within the four hundred (400) foot distance.

3.6. The Zoning Administrator may vary the side yard setback in instances where an existing lot of record is less than one hundred (100) feet. The following table shall be used in determining lot side yards on existing lot of record:

Lot Width	Side Yard Requirement
100 feet or Greater	10 feet
75 to 99 feet	7 feet
50 to 74 feet	5 feet
35 to 49 feet	5 feet between eaves of both buildings
Less than 34 feet	Variance Request to Board of Adjustment

Section 4. USE OF PUBLIC RIGHT-OF-WAY. No portion of the public road, street or alley right-of-way shall be used for display purposes or to provide any parking or loading space required by this Ordinance.

Section 5. TEMPORARY BUILDING. Temporary building(s) with construction work may be permitted in any district during the period that the construction work is in progress, but such temporary building(s) shall be removed within thirty (30) days after completion or abandonment of the construction work.

Section 6. ACCESSORY BUILDINGS. Accessory buildings and uses customarily incidental to that of the main building may be erected or established is permitted, provided they comply with the following:

- 6.1. No accessory building shall be located within ten (10) feet of any side or rear lot line;
- 6.2. No accessory building is permitted within the limits of the front yard;
- 6.3. No accessory building shall be used for dwelling purposes;
- 6.4. Any open unenclosed uncovered steps, ground level patios, eaves not more than two (2) feet in width, or concrete slab driveways may project into a required yard;
- 6.5. Accessory buildings attached to, or connected to the principal building by a breezeway shall be considered to be a part of the principal building and must meet the yard requirements of the principal building.

Section 7. BUILDING HEIGHT. Certain items are exempt from the maximum building height. They are:

- 7.1. Television and radio towers, church spires, belfries, monuments, farm buildings, tanks, water and fire towers, stage towers or scenery lofts, cooling towers, grain elevators, ornamental towers and spires, chimneys, elevator bulkheads, drilling rigs, conveyors, flagpoles and other pertinent mechanical apparatus which may be erected to any height not in conflict with any other applicable regulations.

Section 8. BUILDINGS TO HAVE ACCESS. Every principal use building hereafter erected shall be on a lot or parcel having frontage upon a public street or road, or have an exclusive unobstructed private easement or access of right-of-way at least twenty (20) feet wide to a street; and there shall be only one (1) principal use for each easement, unless permitted through a Planned Unit Development design standard agreement or a special consideration provided by the Audubon County Subdivision Ordinance.

## ARTICLE 20/SPECIAL EXCEPTION USES

Section 1. PROCEDURES AND REQUIREMENTS. Allowable special exception uses may be permitted, enlarged, or altered upon application for a special exception use permit in accordance with the rules and procedures of the Board of Adjustment. The Board of Adjustment will grant or deny a special exception use permit in accordance with the standards set forth herein and with the intent and purpose of this Ordinance. In granting a special exception use permit, the Board of Adjustment may prescribe and impose appropriate conditions, safeguards, and a specified time limit for the performance of the special exception use permit.

Section 2. APPLICATION FOR SPECIAL EXCEPTION USE PERMIT. A property owner or his authorized agent may initiate an application for a special exception use permit by filing an application with the Zoning Administrator upon forms prescribed for the purposes. A site plan and other such plans shall accompany the application and data showing the dimensions, arrangements, descriptive data, and other materials constituting a record essential to an understanding of the proposed use and proposed modification in relation to the standards set forth herein. The application shall also be accompanied by a fee as determined by resolution of the Board of Supervisors.

Section 3. PROCEDURE. The Board of Adjustment shall not grant a special exception permit unless and until the following procedures have been fulfilled:

3.1. The Board of Adjustment shall schedule a public hearing in relation to the special exception request. Notice shall be given to the public hearing as required by State Statute by publication in a newspaper of general circulation in the County. If feasible, notice of the public hearing will be mailed to property owners within two hundred (200) feet of the exception request;

3.2. The Board of Adjustment shall determine that it is empowered under this Ordinance to grant the special exception as described in the application, and that granting of the special exception will not adversely affect the public interest;

3.3. In granting any special exception, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this Ordinance and punishable under Article 23 of this Ordinance;

3.4. The concurring vote of three (3) members of the Board of Adjustment grants a special exception use permit. No order of the Board of Adjustment granting a special exception use permit shall be valid for a period longer than six (6) months from the date of such order, unless the Board of Adjustment specifically grants a longer period of time or a commenced;

3.5. The Board of Supervisors may, after a decision of the Board of Adjustment is made, vote to delay the implementation of such decision for a period of thirty (30) days. The Board of Supervisors may not overturn a decision of the Board of Adjustment. During

the thirty (30) day period, the Board of Adjustment may or may not reconsider its decision.

Section 4. STANDARDS. The Board of Adjustment shall grant no special exception use permit unless such Board shall find:

4.1. That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare of the community;

4.2. That the special exception use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood;

4.3. That the establishment of the special exception use will not impede the normal and orderly development in improvement of the surrounding property for uses permitted in the district;

4.4. That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided;

4.5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;

4.6. The use shall not include any activity involving the use or storage of flammable, or explosive material unless protected by adequate fire fighting and fire suppression equipment and by such safety devices as are normally used in handling of any such material;

4.7. The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled;

4.8. The use shall not include vibration which is discernible without instruments on any adjoining lot or property;

4.9. The use shall not involve any malodorous gas or matter which is discernible on any adjoining property;

4.10. The use shall not involve any pollution of the air by fly-ash, dust, vapors, or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, irritation, or excessive pollution;

4.11. The use shall not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road or highway;

4.12. The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are initiated to limit traffic hazards and congestion;

4.13. The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments;

4.14. That the use will not be in major conflict with the Comprehensive Land Use Plan.

Section 5. HEIGHT. The Board may grant special height exceptions following the procedures described in Section 3 of this article:

5.1. Public, semi-public or public service buildings, hospitals, institutions or schools, when permitted in a district, may be erected to a height not exceeding sixty (60) feet and churches and temples may be erected to a height not exceeding seventy-five (75) feet, provided, that the building is set back from side and rear yard lines heretofore established, an additional foot for each two (2) feet of building height above the height limit otherwise imposed in the district in which the building is located.

5.2. Single-family and two-family dwellings may be increased in height by not more than ten (10) feet when the side and rear yards are increased over the yard requirements of the district in which they are located by not less than ten (10) feet, but they shall not exceed three (3) stories in height.

5.3. Chimneys, cooling towers, elevators, bulkheads, fire towers, monuments, stacks, stage towers, scenery lofts, tanks, water towers, ornamental towers and spires, church steeples, radio and television towers, or necessary mechanical apparatus, ventilators and skylights may be erected to any safe height not in conflict with existing or hereafter adopted regulations of Audubon County, Iowa.

5.4. Buildings that are to be used for storage purposes only may exceed the maximum number of stories permitted in the district in which they are located, but such buildings shall not exceed the number of feet of building height permitted in such districts.

5.6. In any district no structure shall be erected which exceeds the maximum heights permissible under the rules of the Federal Aviation Administration and further provided that no structure shall be erected within seven hundred fifty (750) feet of the projected centerline of a runway for a distance of five hundred (500) feet from the boundary of the airport.

SECTION 6. REAR YARD AREA. When a lot is not served by an Iowa Department of Natural Resources-approved sanitary sewerage system, the rear yard area shall not be less than six thousand (6,000) square feet. This exception shall in no way alter or change the minimum front, side and rear yard requirements.

## ARTICLE 21/NONCONFORMING USES

Section 1. INTENT. Within the various districts established by this ordinance or amendments that may later be adopted there exists structures and uses of land and structures which were lawful prior to the adoption of this ordinance but which would be prohibited, regulated, or restricted under the provisions of this ordinance. It is the intent of this ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this ordinance to be incompatible with permitted uses in the districts involved.

Section 2. NONCONFORMING LOTS OF RECORD IN ANY RESIDENTIAL DISTRICT. A single family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in that district. The yard dimensions and other bulk regulations for the district in which such lot is located shall apply. Variance of area, width, and yard requirements shall not be obtained through any action other than that of the Board of Adjustment described in this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Ordinance.

Section 3. NONCONFORMING USES OR STRUCTURES IN ANY RESIDENTIAL DISTRICT. Existing structures or premises devoted to a use not permitted by this Ordinance in the district which such structure or premise is located shall not be enlarged, extended, reconstructed, substituted, or structurally altered, except when required by law, unless:

- 3.1. The use is changed to a use permitted in the district in which such structure or premises is located;
- 3.2. A nonconforming use of a structure may be changed to another nonconforming use of the same or more restrictive classification, provided no structural alterations are made;
- 3.3. If a nonconforming use of any structure or premises is discontinued for a period of one (1) year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.

Section 4. NONCONFORMING USES OR STRUCTURES IN ANY DISTRICT OTHER THAN A RESIDENTIAL DISTRICT. The regulations described in Section 3 of this Article shall apply to nonconforming uses in a commercial, industrial, or agricultural district, subject to the following exception:

- 4.1. Nonconforming structures may be structurally altered or enlarged in conformity with the lot area, lot width, yard, and height requirements of the district in which such use is located. Such construction shall be limited to buildings on a lot of record (or a combination of lots of record in the same ownership) prior to the effective date of this Ordinance. The structural alteration or enlargement of structures shall not change the nature of the nonconforming use that existed prior to the effective date of this Ordinance;
- 4.2. If a nonconforming use of any structure or premises is discontinued for a period of one (1) year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.

Section 5. PERMITTED STRUCTURES AND USE OF LAND AND STRUCTURES MADE NONCONFORMING BY THE REQUIREMENTS OF THE BULK REGULATIONS. A permitted structure or use that fails to meet the established bulk regulations of the district in which it is located may be structurally altered or extended provided that the alteration or extension is in compliance with the bulk regulations of the district in which it is located. Any variance must be obtained through action of the Board of Adjustment.

Section 6. REPLACING DAMAGED BUILDINGS. No nonconforming building or structure damaged by fire, flood, explosion, war, riot, or act of God to the extent of sixty percent (60%) of its value may be restored, reconstructed, or used except in conformity with the regulations of the district in which it is located. If damage is less than sixty percent (60%) of its value, the structure may be restored as before provided that reconstruction is started within one (1) year of such happening.

Section 7. USES UNDER SPECIAL EXCEPTION PROVISIONS. Any use for which a special exception is permitted as provided in this Ordinance shall not be deemed a conforming use. Any additions shall be with Board of Adjustment approval.

## ARTICLE 22/ADMINISTRATION

Section 1. ADMINISTRATOR. The Board of Supervisors of Audubon County, Iowa shall appoint a Zoning Administrator, and it shall be the duty of said officer to enforce this Ordinance. Such officer may be a person holding other appointive office in the County or in another governmental agency.

Section 2. BUILDING PERMITS. No land shall be occupied or used, and no building hereafter erected or structurally altered shall be occupied or used in whole or in part for any purpose whatsoever, until a permit is issued by the Zoning Administrator, stating that the building and use comply with the provisions of this Ordinance. No change of use shall be made in any building or part thereof, now or hereafter erected or structurally altered, without a permit being issued therefore by the Zoning Administrator. No permit shall be issued to make a change unless the changes are in conformity with provisions of this Ordinance.

Nothing in this part shall prevent the continuance of a nonconforming use as herein before authorized, unless discontinuance is necessary for the safety of life or property.

Section 3. APPLICATION FOR BUILDING PERMIT. Building permits shall be obtained from the Zoning Administrator before starting or proceeding with the erection, construction, moving in, or the structural alteration of a building or structure. Permits shall be kept on file in the office of the Zoning Administrator, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected. Building permits shall be issued to applicants within ten (10) days after application is made. Permits will be valid for one hundred-eighty (180) days. If construction is not completed within that time period a new permit must be obtained. Failure to timely complete construction may be grounds for denial of an additional permit.



Section 4. PLATS. Each application for a building permit shall be accompanied by either a dimensioned drawing or plat drawn to scale showing the actual dimensions of the lot to be built upon, the size, shape and location of the building to be erected, the dimensions of the required yards, parking and open spaces, and such other information as may be necessary to provide for the enforcement of this Ordinance.

Section 5. CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION, PLANS AND PERMIT. Building permits issued on the basis of plans and applications, approved by the Zoning Administrator, authorize only use, arrangement and construction. Use, arrangement and construction at variance with that authorized shall be deemed a violation of this Ordinance and punishable as provided by Article 23.

Section 6. FEES. Before receiving a building permit, the owner or his agent shall pay to the County the permit fee as provided by resolution of the Board of Supervisors.

Section 7. SPECIAL EXCEPTIONS. A building permit for a special exception may be issued by the Zoning Administrator upon the order of the Board of Adjustment.

#### ARTICLE 23/VIOLATION AND PENALTY

Section 1. Pursuant to Iowa Code Section 331.302 and Iowa Code Chapter 335, upon conviction of a violation of the provisions of this ordinance, including but not limited to failure to comply with any requirements of the ordinance or conditions and safeguards established in connection with granting of variances under this ordinance, the person, firm, partnership, corporation, or other violator shall be fined an amount of at least fifty dollars but not to exceed five hundred dollars. The court may order imprisonment not to exceed thirty days in lieu of a fine, or in addition to a fine. The violator shall be ordered to pay court costs and expenses incurred by Audubon County. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Audubon County or other appropriate authority or individual from taking such other lawful action as is necessary to prevent or remedy any violation.

Additionally, any person, firm, partnership, or corporation who is convicted of disobeying, omitting, neglecting, or refusing to comply with or who is resisting the enforcement of any provision of this Ordinance shall likewise be fined an amount of at least fifty dollars but not to exceed five hundred dollars. The court may order imprisonment not to exceed thirty days in lieu of a fine, or in addition to a fine. The violator shall be ordered to pay court costs and expenses incurred by Audubon County. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Audubon County or other appropriate authority or individual from taking such other lawful action as is necessary to prevent or remedy any violation. Each day that a violation is permitted to exist constitutes a separate offense.

Section 2. RESTRAINING ORDER. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure of land is used in violation of this Ordinance, the County Board of Supervisors, in addition to other remedies may have any proper action or proceedings commenced in the name of Audubon

County, to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, conduct, business or use in or about said premises.

## **ARTICLE 24/ PLANNING AND ZONING COMMISSION**

Section 1. **CONFIRMATION.** The existing Planning and Zoning Commission is hereby confirmed. The Commission shall consist of seven (7) members to be appointed by the Board of Supervisors. The seven members of the first Commission appointed shall serve terms of one (1), two (2), three (3), four (4), five (5), six (6), and seven (7) years respectively. Thereafter, terms shall be for five (5) years and vacancies shall be filled for the unexpired time of any member whose term becomes vacant. The Board of Supervisors may remove members of the Planning and Zoning Commission from office for cause upon written charges and after a public hearing. The Board of Supervisors shall fill vacancies, for the unexpired term of the member.

Section 2. **OFFICERS.** The Commission shall elect at its first meeting of any year, one of its members to act as chairperson and another as vice-chair, who shall perform all the duties of the chairperson during their absence or disability.

Section 3. **MEETINGS/QUORUM.** Meetings of the Commission shall be open to the public. Four (4) members of the Commission shall constitute a quorum. Without a quorum, no business will be transacted and no official action on any matter will take place. An affirmative vote of four (4) members of the Commission will be required for the exercise of powers or functions conferred or imposed on the commission.

Section 4. **VACANCIES.** Vacancies caused by resignation or otherwise shall be filled by a successor appointed by the Board of Supervisors in the same manner as the original appointee for the remainder of the original term.

Section 5. **POWERS AND DUTIES.** The Commission shall have and exercise the following powers and duties:

5.1. **Adopt Rules and Regulations.** The Commission shall adopt such rules and regulations governing its organization and procedure as it may deem necessary.

5.2. **Comprehensive Plan.** The Commission shall have full power and authority to make such surveys, studies, maps, plans, or plats of whole or any portion of the County outside the corporate limits of the cities, which in the opinion of the Commission bears relation to a comprehensive plan, and shall submit such plan to the Supervisors with its studies and recommendations, and it may publish the same.

5.2.1. **Preparation.** For the purpose of making a comprehensive plan for the physical development of the County, the Commission shall make careful and comprehensive studies of present conditions and future growth of the County and with due regard to its relation to the neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing coordinated, adjusted, efficient, and harmonious development of the County, which will, in accordance with the present and future needs, best promote health, safety, morals, order, convenience,

prosperity, and general welfare, as well as efficiency and economy in the process of development.

5.2.2. Public Hearing. The Commission shall hold at least one public hearing before adopting a Comprehensive Plan, any part of it, or substantial amendment thereof, thereon. Notice of said public hearing(s) shall be given by one publication in a newspaper(s) of general circulation in the County not less than seven (7) or more than twenty (20) days before the date of the hearing.

5.2.3. Amendments. The Commission may recommend to the County Supervisors, from time to time, as conditions require, amendments, supplements, changes or modifications in the comprehensive plan prepared by it. When the Comprehensive Plan has been adopted, no substantial amendment or modification thereof shall be made without such proposed change first being referred to the Commission for its recommendations. If the Commission disapproves the proposed change, the County Supervisors may adopt it only by the affirmative vote of at least : of the members of said Board of Supervisors.

5.3. REVIEW AND COMMENT ON PLATS. All plans, plats or re-plats of subdivision or re-subdivision of land in the unincorporated land of the County, laid out in lots or plats with the streets, alleys, or other portions of the same intended to be dedicated to the public in the County, shall first be submitted to the Commission and its recommendations obtained before approval by the County Supervisors.

5.4. ZONING. The Commission shall have and exercise all powers and duties and privileges in preparing and amending the County Zoning Code as provided by Iowa Code Chapter 335.

## **ARTICLE 25/BOARD OF ADJUSTMENT**

Section 1. CONFIRMATION. The existing Board of Adjustment is hereby confirmed. The Board shall consist of five (5) members to be appointed by the Board of Supervisors.\*a majority of whom shall reside within the county but outside the corporate limits of any city\*ics 335.11\* The five members of the first Board appointed shall serve terms of one (1), two (2), three (3), four (4), and five (5) years respectively. Thereafter, terms shall be for five (5) years and vacancies shall be filled for the unexpired time of any member whose term becomes vacant. The Board of Supervisors may remove members of the Board of Adjustment from office for cause upon written charges and after a public hearing. The Board of Supervisors shall fill vacancies, for the unexpired term of the member.

Section 2. PROCEEDINGS OF THE BOARD OF ADJUSTMENT. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this Ordinance. The Board shall elect its own Chair, who will serve for one (1) year. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence the acting Chairperson, may administer oaths and compel attendance of witnesses. All meetings shall be open to the 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 examination and other official actions, all of which shall be a public record and be immediately filed in the office of the Zoning Administrator. The presence of three (3) members shall constitute a quorum.

Section 3. HEARINGS, APPEALS, NOTICE. Appeals to the Board of Adjustment concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer or Administrator and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. Such appeal shall be taken within thirty (30) days of that grievance by filing with the Administrator from whom the appeal is taken, and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed was taken. The Board of Adjustment shall fix a reasonable time for the hearing of appeals, give public notices thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person, by agent or attorney. A fee to be determined by resolution of the Board of Supervisors shall be paid to the Zoning Administrator at the time the notice is filed.

Section 4. STAY ON PROCEEDINGS. An appeal stays all proceedings in furtherance of the action appealed, unless the Zoning Administrator from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Zoning Administrator from whom the appeal is taken and upon due cause shown.

Section 5. POWERS AND DUTIES. The Board of Adjustment shall have the following powers and duties:

5.1. Administrative Review: To hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Ordinance.

5.2. Special Exceptions: To hear and decide only such exceptions as the Board of Adjustment specifically authorized to pass on by the terms of this Ordinance and as provided for in Article 20.

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

5.3.1. A written application for a variance is submitted demonstrating:

5.3.1.1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;

5.3.1.2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;

5.3.1.3. That the special conditions and circumstances do not result from the actions of the applicant;

5.3.1.4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of land, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

5.3.2. A public hearing shall be held, with the notice of such hearing being provided according to state statute. If feasible, notice of the public hearing shall be mailed to property owners within two hundred feet of the proposed variance.

5.3.3. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

5.3.4. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance,

5.3.5. The application for a variance shall be accompanied by a fee to be determined by resolution of the Board of Supervisors.

5.3.6. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance.

5.3.7. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Article 23 of this Ordinance.

Section 6. DECISIONS OF THE BOARD OF ADJUSTMENT. In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination as ought to be made and to that end shall have powers of the Zoning Administrator from whom the appeal is taken. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in application of this Ordinance.

Section 7. APPEALS FROM THE BOARD OF ADJUSTMENT. Any person(s), board, taxpayer, department, or bureau of the community aggrieved by any decision of the Board of Adjustment may seek review of such decision of the Board of Adjustment by a court of record in the manner provided by Iowa Code Chapter 335. The Board of Supervisors may vote to delay a decision of the Board of Adjustment for thirty (30) day period, but such vote may not overrule a decision of the Board of Adjustment. During the thirty (30) day delay the Board of Adjustment may, or may not review its previous decision.

## ARTICLE 26/CHANGES AND AMENDMENTS

Section 1. This Ordinance and the districts created by said Ordinance may be amended from time to time. However, no amendment shall become effective unless it shall have been proposed by, or shall have been first submitted to the Planning and Zoning Commission for review and recommendation. The Planning Commission shall have thirty (30) days in which to submit its report to the Board of Supervisors. If the Commission fails to submit a report within the thirty (30) day period, it shall be deemed to have approved the proposed amendment. The Board of Supervisors shall hold a public hearing before adoption of any proposed amendment to this Ordinance. A notice of such public hearing shall be published according to state statute. Such notice shall include the time and place for the public hearing. In the case of a written protest against a change or repeal which is filed with the County Auditor and signed by the owners of twenty percent (20%) or more of the area of the lots included in the proposed change or repeal, or by the owners of twenty percent (20%) or more of the property which is indicated within two hundred (200) feet of the exterior boundaries of the property for which the change or repeal is proposed, the change or repeal shall not become effective unless it receives the favorable vote of at least sixty percent (60%) of all the members of the Board of Supervisors.

Section 2. APPLICATION FOR CHANGE IN ZONING DISTRICT BOUNDARIES. Any person may submit to the Board of Supervisors an application requesting a change in the zoning district boundaries as shown on the official zoning map.

2.1. Such application shall be filed with the Zoning Administrator accompanied by a fee as determined by resolution of the Board of Supervisors and shall contain the following information. Failure to approve the requested change shall not be deemed cause to refund the fee to the applicant.

- 2.1.1. The legal description and local address of the property;
- 2.1.2. The present zoning classification and the zoning classification requested for the property;
- 2.1.3. The existing use and proposed use of the property;
- 2.1.4. The names and addresses of the owners of all property within two hundred (200) feet of the property for which the change is requested; is no longer valid;
- 2.1.5. A statement of the reasons why the applicant feels the present zoning classification is no longer valid;
- 2.1.6. A plat showing existing and proposed locations, dimensions and use of the applicant's property and all property within two hundred feet thereof, including streets, alleys, railroads, and other physical features;

2.2. Upon receipt of the application by the Zoning Administrator a copy shall be forwarded immediately to the Commission for study and recommendation. The Commission shall, prior to making a recommendation, determine the following;

- 2.2.1. Whether or not the current district classification of the property to be rezoned is valid;
- 2.2.2. Whether there is a need for additional land zoned for the purpose requested;
- 2.2.3. Whether the proposed change is consistent with the current land use plan, considering such factors as:

- 2.2.3.1. Whether the rezoning would result in a population density or development which would in turn cause a demand for services and utilities in excess of the capacity planned for the area;
- 2.2.3.2. Whether the rezoning would result in traffic in excess of the capacity of existing or planned streets in the vicinity.
- 2.2.4. Whether there is intent on the part of the applicant to develop the property to be rezoned diligently and within a reasonable time.

2.3. The Commission shall hold a public hearing (the notice of which shall be according to state statute) and report its determinations and recommendations to the Board of Supervisors within thirty (30) days from receipt of the application, except that when no report is issued within that time, the application will be deemed approved by the Commission. If feasible, notice of the public hearing will be mailed to all property owners within two hundred (200) feet of the proposal.

#### ARTICLE 27/SEVERABILITY CLAUSE

Section 1. If any section, provision, or part of this Ordinance 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.

#### ARTICLE 28/REPEAL OF CONFLICTING ORDINANCES

This Ordinance repeals an Ordinance adopted on April 15, 1969 and all amendments thereto. All ordinances in conflict with this Ordinance are hereby repealed.

#### ARTICLE 29/ADOPTION

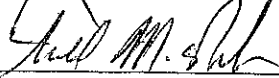
This ordinance shall be in effect from and after its final passage, approval and publication as required by law.

First implementation shall be on the Friday 23rd of March, 2007.

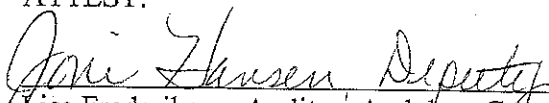
First Reading – February 19, 2007

Second Reading – March 12, 2007

Third Reading – waived; summary published.

  
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Todd M. Nelsen, Chairman, Audubon County, Iowa,  
Board of Supervisors

ATTEST:

  
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Lisa Frederiksen, Auditor, Audubon County, Iowa