

ZONING ORDINANCE

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For: Cass County Board of Supervisors

By: H. Gene McKeown and Associates, Inc.
Atlantic, Iowa

2003 Amendments based on Comprehensive Plan
Provided by RDG Crose Gardner Shukert

2005 Revisions made by Board of Adjustments

ZONING ORDINANCE
Cass County, Iowa

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CHAPTER I

PURPOSE AND JURISDICTION

- 1.1 Purpose. The purpose of this ordinance is to preserve the availability of agricultural land; to consider the protection of soil from wind and water erosion; to encourage efficient urban development patterns; to promote the public health, safety, comfort, order and general welfare; to secure safety from fire, flood, panic and other dangers, to conserve and protect the environment; to promote the orderly development and use of land, resources to facilitate the provision of transportation, water sewerage, schools, parks, and other public requirements; and to regulate the density of population, the location and use of buildings, structures and land for trade, industry, residence or other purposes, all in accordance with Chapter 335 of the Code of Iowa.
- 1.2 Title. This ordinance shall be known and may be cited and referred to as the "Cass County, Iowa Zoning Ordinance".
- 1.3 Jurisdiction. The provisions of this ordinance shall apply to all the unincorporated territory of Cass County, Iowa; except to the extent required to implement the Agricultural Land Preservation Ordinance contained in Chapter 335 of the Code of Iowa as amended, no regulation or requirement adopted under the provisions of this ordinance shall be construed to apply to land, farmhouses, farm barns, farm outbuildings or other buildings, structures, or erections which are primarily adapted, by reasons of nature and area, for use for agricultural purposes, while so used; provided, however, that such regulations or requirements which relate to any structure, building, dam, construction deposit or excavation in or on the flood plains of any river or stream shall apply equally to agricultural and non agricultural lands, buildings and uses.
- 1.4 Interpretation of Provisions. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion and protection of the public health, safety, morals and general welfare. Wherever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive, or that imposing the higher standards shall govern.

CHAPTER II

GENERAL PROVISIONS

- 2.1 Definitions. For the purpose of this ordinance, certain terms and words are hereby defined. Words used in the present tense shall include the future, the singular number shall include the plural and the plural the singular; and the word "shall" is mandatory and not directory.
1. Accessory Use or Structure. A use or structure subordinate to the principal use of a structure or land on the same lot or parcel of ground and serving a purpose customarily incidental to the use of the principal structure or use of land.
 2. Agriculture. The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for treating or storing the produce; provided however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities.
 3. Alley. A public thoroughfare which affords only a secondary means of access to abutting property.
 4. Alteration, Structural. Any changes in the supporting members of a building such as bearing walls, columns, beams or girders.
 5. Amateur Radio Tower. A structure(s) for the transmission or broadcasting of electromagnetic signals by FCC licensed Amateur Radio operators.
 6. Basement. A story of a building having part but not more than one-half (1/2) of its height below grade. A basement is counted as a story for the purpose of height regulation.
 7. Billboard. An advertising sign for a business, commodity or service located or offered elsewhere than upon the premises where such sign or billboard is located.
 8. Board. The Zoning Board of Adjustment of Cass County, Iowa.
 9. Building Height. The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridges for gable, hip and gambrel roofs.
 10. Building (Structure). Anything constructed, erected, or built, the use of which requires a location on the ground and designed for the support, enclosure, shelter or protection of persons, animals, chattels, or property of any kind, including but without limiting the generality of the foregoing, installations such as signs,

billboards, radio towers, and other facilities not designed for storage of property or occupancy by persons.

11. Bulk Station. Any area used for the storage and/or distribution of flammable liquids, liquefied petroleum products or liquid fertilizers where the aggregate capacity of all storage tanks is more than six thousand (6,000) gallons.
12. Campground. An area providing spaces for two 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.
13. Cellar. A story having more than one-half (1/2) its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.
14. Commission. The Zoning Commission of Cass County, Iowa.
15. Communication Tower. A structure(s) for the transmission or broadcasting of radio, television, radar, or microwaves, ordinarily exceeding the maximum height permitted in its zoning district. Typical uses include broadcasting towers and cellular communications towers.
16. County. The unincorporated portions of Cass County, Iowa.
17. District. A part or parts of the unincorporated area of Cass County in which regulations governing the use of building or premises or the height and location of buildings are uniform.
18. Dwelling. Any building or portion thereof which is designed for or used exclusively for residential purposes. For the purpose of this ordinance, dwelling does not include mobile homes or mobile homes converted to real estate except as hereinafter provided.
19. Dwelling, Single Family. A building design for or occupied by one (1) family.
20. Dwelling, Two-Family. A building designed for or occupied exclusively by two families living independently of each other.
21. Dwelling, Multiple Family. A building or portion thereof design for or occupied by three or more families.
22. Dwelling Unit. One (1) room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms, or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

23. Family. One (1) or more persons occupying a premises and living as a single housekeeping unit, whether or not related to each other by birth or marriage, as distinguished from a group occupying a boarding house, lodging house or hotel. A family as defined herein, shall include not more than four (4) unrelated persons.
24. Farm. An area used for the growing of the usual farm products such as vegetables, fruits and grains and their storage in the area, as well as for the raising thereon the usual farm poultry and farm animals. The term "farming" includes the operation of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce, provided, however, that the operation of any such accessory uses, shall be secondary to that of the normal farming activities.
25. Farm Dwelling, Principal. A dwelling located on a farm and occupied by the owner or operator of the farm on which it is located.
26. Farm Dwelling, Secondary. A dwelling located on a farm that is under the same ownership as the principal farm dwelling and other buildings and lands used in conjunction with the farming operation and occupied by a person or family employed thereon, or by a retired owner of the farm or his family. Secondary farm dwellings shall include mobile homes and mobile homes converted to real estate as herein defined.
27. Flood Plain. Those areas contiguous to a river, stream or other drainage course which have been inundated by flood water or where inundation by flood waters can be expected to occur at a frequency of at least once in one hundred (100) years.
28. Floodway. The channel of a river, stream, or watercourse and those portions of the flood plain adjoining the channel which are reasonably required to carry and discharge the flood water.
29. Floor Area. The square feet of floor space within the outside line of walls, including the total of all space on all floors of a building. Floor area shall not include porches, garages or space in a basement or cellar which is used for storage or incidental use.
30. Frontage. All the property on one (1) side of a street (road) between two (2) intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead ended then all of the property abutting on one (1) side between an intersecting street and the dead end of the street.
31. Garage, Private. An accessory building designed or used for the storage of not more than four (4) motor-driven vehicles owned and used by the occupants of the

building to which it is accessory. Not more than one (1) of the vehicles may be a commercial vehicle of not more than two (2) ton capacity.

32. Grade. The average level of the finished surface of the ground adjacent to the exterior walls of the building.
33. Home Occupation. An occupation or a profession which
- a. is customarily carried on in a dwelling unit, and
 - b. is carried on by a member of the family residing in the dwelling unit, and
 - c. is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and
 - d. has no exterior display, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building other than one (1) sign not exceeding four (4) square feet in area, and
 - e. does not occupy more than 35% of the area of one (1) floor of the dwelling unit, and
 - f. produces no offensive noise, vibration, smoke, dust, odors, heat or glare rendering such buildings or premises objectionable or detrimental to the residential character of the neighborhood.
34. Home Occupation, Farm. An occupation customarily engaged in on a farm, as a supplementary source of income, which
- a. is clearly incidental and secondary to the operation of the farm, and
 - b. is carried on by a member of the family residing in the farm dwelling, and
 - c. does not employ more than one (1) person outside the resident family on the premises,
 - d. is conducted within or adjacent to the farm dwelling or the customary farm out-buildings, and
 - e. has no exterior displays, or storage of materials visible from the public road, or other exterior indication or variation from the agricultural character of the farm other than not more than one (1) sign identifying the product or service available, which sign shall not exceed sixteen (16) square feet in area, and

- f. produces no offensive noise, vibration, smoke, dust, odors, heat, glare or electrical interference detectable within the limits of the nearest neighboring farm dwelling or residential zone.
- 34. Junk Yard. Any place not fully enclosed in a building, excluding a salvage dealer, which is used in whole or in part for the storage or deposit encompassing either:
 - (a) an area of 200 square feet or more,
 - (b) ~~two~~ six or more inoperable or unsafe vehicles, or used parts or materials thereof, which taken together equal the bulk of two or more vehicles.
- 35. Kennel. An establishment where dogs are boarded for compensation or where dogs are bred or raised for commercial purposes or sale.
- 36. Loading Space. A space within the main building or on the same lot providing for the standing, loading or unloading of trucks, having a minimum dimension of twelve (12) by thirty-five (35) feet and vertical clearance of at least fourteen (14) feet.
- 37. Lot. A parcel of land occupied or intended for occupancy by one or more main buildings together with accessory buildings, officially approved and having its principal frontage upon a dedicated street or an approved private street. The boundaries of the lot shall be determined by its lot lines. The adjoining street or road right-of-way, whether established by easement or under public or private ownership shall not be considered as part of the lot area for the purposes of this ordinance.
- 38. Lot, Corner. A lot upon which at least two adjacent sides abut upon a street.
- 39. Lot, Depth of. The mean horizontal distance between the front and rear lot lines.
- 40. Lot Line. Property line bounding a lot.
- 41. Lot of Record. A lot which is a part of the subdivision, the plat of which has been recorded in the office of Country Recorder of Cass County.
- 42. Mobile Home. A vehicle or vehicles used, or so originally constructed as to permit being used, as a conveyance upon the public streets or highways and duly licensed as such, and constructed in such a manner as will permit occupancy for human habitation, dwellings, or sleeping places for one or more persons, provided further that this definition shall refer to and include all portable contrivances used or intended to be used generally for living and sleeping quarters and which are capable of being moved by their own power, towed, or transported by another vehicle or vehicles. This definition shall also include and apply to such vehicles or structures that are located on a permanent or temporary

foundation but shall not include mobile homes converted to real estate as defined herein.

43. Mobile Home Converted to Real Estate. An unencumbered mobile home which has been attached to a permanent foundation on real estate owned by the mobile home owner, which has had the vehicular frame modified or destroyed, rendering it impossible to reconvert to a mobile home and which has been inspected by the County Assessor, the mobile home title, registration, and license plates collected from the owner and the property entered on the tax rolls of the County.
44. Mobile Home Park. Any site, lot, field, or tract of land upon which two (2) or more occupied mobile homes are located either free of charge or for revenue purposes including any building, structure, vehicle, or enclosure intended for use as part of the equipment of such mobile home park.
45. Non-Conforming Use. Any building or land lawfully occupied by a use at the time of passage of this ordinance or amendments thereto, which does not conform after the passage of this ordinance or amendments thereto with the use regulations of the district in which it is situated.
46. Parking Space. A surfaced area, enclosed in the main building or in any accessory building, or unenclosed, having an area of not less than one hundred and eighty (180) square feet exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for automobiles.
47. Place. An open unoccupied space or a public or private thoroughfare, other than a street or alley, permanently reserved as the principal means of access to abutting property.
48. Premises. The land together with any buildings or structures located thereon.
49. Principal Use. The main use of land or structures as distinguished from an accessory use.
50. Salvage Dealer: Any person who buys, sells, transfers, delivers, or stores junk, including every person who carries on such business at a shop, a salvage yard or as a peddler, and any person who by advertisement, sign or otherwise holds himself or herself out as a salvage dealer, or dealer in old or discarded metals, machinery, rags, paper stock, and the like.
51. Sewer System, Community. A public or private sewerage collection system with treatment and disposal facilities providing secondary treatment meeting applicable County and State effluent standards. A community sewer system as herein defined shall not include septic tanks.

52. Signs. Any device designed to inform or attract the attention of persons not on the premises on which the sign is located, provided, however, that the following shall not be included in the application of the regulations herein:
- a. Signs not exceeding two (2) square feet in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
 - b. Flags and insignia of any government except when displayed in connection with commercial promotion.
 - c. Legal notices, identification, informational or directional signs erected or required by governmental bodies.
 - d. Signs directing and guiding traffic and parking on public or private property but bearing no advertising matter.
 - e. Warning signs, no trespassing, no hunting and similar signs not to exceed four (4) square feet in area located on the premises.
 - f. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.
 - g. Temporary signs relating to construction not to exceed thirty-two (32) square feet in area.
53. Special Exception. A use or structure that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning division or district as special exceptions, if specific provisions for such special exceptions are made in this zoning ordinance.
54. Story. That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.
55. Story, Half. A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than three (3) feet above the floor of such story, except that any partial story used for residence purposes, other than for a janitor or caretaker or his family, or by a family occupying the floor immediately below it, shall be deemed a full story.
56. Street (Road). A public or private thoroughfare which affords the principal means of access to abutting property.

57. Street Line. The right-of-way line of a street.
58. Structural Alteration. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls beyond ordinary repairs and maintenance.
59. Structure (Building). Anything constructed, erected, or built, the use of which requires a location on the ground and designed for the support, enclosure, shelter or protection of persons, animals, chattels, or property of any kind, including, but without limiting the generally of the foregoing, installations such as signs, billboards, radio towers, and other facilities not designed for storage of property or occupancy by persons.
60. Travel Trailer or Camping Trailer. A vehicle with or without motive power used or so constructed as to permit its being used as a conveyance upon the public streets and highways and so designed to permit the vehicle to be used as a place of human habitation by one or more persons. Said vehicle may be up to 8 feet in width and any length provided its gross weight does not exceed 4,500 pounds, which shall be the manufacturer's shipping or the actual weight of the vehicle fully equipped, or any weight provided its overall length does not exceed 28 feet. Such vehicle shall be customarily used for vacation or recreation purposes and not used as a place of human habitation for more than 90 days in any 12 month period, or it shall be classed as a mobile home, regardless of the size and weight limitation provided herein. This definition shall also include house cars and camp cars having motive power and designed for temporary occupancy as defined herein.
61. Variance. A relaxation of the terms of the ordinance which will not be contrary to the public interest and where, owing to conditions peculiar to the property, and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.
62. Vehicle, Inoperable: Any motor vehicle, recreational vehicle, boat, trailer or semitrailer which lacks a current registration or component part which renders the vehicle unfit for legal use upon the public right-of-way.
63. Vehicle, Unsafe: Any motor vehicle, recreational vehicle, boat, trailer or semitrailer:

- a. with a missing, broken or shattered windshield or any exposed broken glass edges;
 - b. with a missing fender, door, hood, steering wheel, trunk top, or trunk handle;
 - c. which has become a habitat of rats, mice, snakes, or any other vermin or insects.
 - d. left unattended on jacks, blocks, or elevated in any other way which constitutes a threat to the public health, safety or welfare.
 - e. which because of its condition constitutes a threat to the public health, safety or welfare.
64. Water System, Community. A public or private water distribution system having a common source of supply and necessary treatment facilities.
65. Wind Energy Conservation System (WECS). Any device that converts wind energy to a form of usable energy, including wind charges, windmills, or wind turbines.
66. Yard. An open space between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure from two and one-half (2 1/2) feet above the ground upward except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the minimum horizontal distance between the lot lines and the main building shall be used.
67. Yard, Front. A yard extending across the front of a lot and being the minimum horizontal distance between the street line and the main building or any projection thereof, other than the projection of the usual uncovered steps, uncovered balconies, or uncovered porch. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension, except where the owner shall elect to front his building on the street parallel to the lot line having the greater dimension.
68. Yard, Rear. A yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projection thereof other than the projections of uncovered steps, unenclosed balconies or unenclosed porches. On all lots the rear yard shall be in the rear of the front yard.
69. Yard, Side. A yard between the main building and the side line of the lot and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of the main building or any projection thereto, except on the street side of a corner lot, the side yard shall extend from the required front yard to the rear lot line.

CHAPTER III

ZONING MAP AND DISTRICT REGULATIONS

- 3.1 Adoption of Official Zoning Map. The Official Zoning Map and the explanatory material thereon, is hereby adopted by reference and declared to be a part of this ordinance.
- 3.2 Identification of Official Zoning Map. The Official Zoning Map shall be identified by the signature of the Chairman of the Board of Supervisors and attested to by the County Auditor under the following statement:

“This is to certify that this is the official Zoning Map referred to in Chapter III of the Cass County, Iowa Zoning Ordinance as adopted the ____ day of _____, 20____.”

The Official Zoning Map shall be on file in the office of the County Auditor with actual custody in the County Engineer’s Office and shall be the final authority as to the current zoning status of land, buildings and other structures in the County.

- 3.3 Changes in Official Zoning Map. No changes in the Official Zoning Map shall be made except by amendment to this ordinance as provided for under Section 7.11 herein. Such changes shall be promptly made and the ordinance number, nature of change and date of change shall be noted on the map, with the signature of the Chairman of the Board of Supervisors approving such change. No amendment to this ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.

Any unauthorized change of any kind whatsoever in the Official Zoning Map by any person or persons shall constitute a violation of this ordinance and be punishable as provided in Section 7.3 of this ordinance.

- 3.4 Interpretation of District Boundaries. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:
1. Boundaries indicated as approximately following centerlines of streets, highways or alleys shall be construed to follow such centerlines.
 2. Boundaries indicated as approximately following platted lot lines, township lines or section lines shall be construed as following such lines.
 3. Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks.

4. Boundaries indicated as following shore lines of streams or other water bodies shall be construed to follow such shore lines and, in the event of change in the shore line, shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of streams, rivers or other bodies of water shall be construed to follow such centerlines, and in the event of change in the centerline, shall be construed as moving with actual centerlines.
5. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 4 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
6. Where the location of district boundaries are indicated by dimension, such dimension shall govern.
7. Where physical features existing on the ground are at variance with those shown on the Official Zoning Map or in other circumstances not covered by subsections 1 through 6 above, the Board of Adjustment shall interpret the district boundaries.
8. Where a district boundary line divides a lot of record, the board of Adjustment may permit, as a special exception, the extension of the regulations for either portion of the lot but not to exceed fifty (50) feet beyond the district boundary line into the remaining portion of the lot.

3.5 Application of District Regulations. Subject to Section 4.1, the regulations and restrictions of this ordinance shall apply as follows:

1. Regulations to be Uniformly Applied. The regulations set by this ordinance shall apply uniformly to each class or kind of structure or land, and particularly within each district, except as hereinafter provided.
2. All Uses and Structures to Conform. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.
3. Height, Density or Yards Shall Not Be Violated. No building or other structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, or to have narrower or smaller rear yards, front yards, side yards, or other open spaces, then herein required or in any other manner contrary to the provisions of this ordinance.
4. Separate Yards, Open Space and Off-street Parking Required. No part of a yard or other open space or off-street parking, or loading space required about or in connection with any building for the purpose or complying with this ordinance

shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

5. Minimum Yard and Lot Areas May Not Be Reduced. No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.
6. New Areas. All territory which may hereafter become a part of the unincorporated area of the County shall be classified in the General Agricultural District until otherwise classified, provided, however, that the Zoning Commission may recommend the appropriate district classification prior to such territory becoming a part of the County, and upon the holding of a public hearing and approval by the Board of Supervisors, the territory, upon becoming a part of the County, may be immediately so classified.

3.6 Establishment of Districts and District Regulations. The following districts and regulations therefore are hereby established for the unincorporated areas of the County:

AE	Exclusive Agricultural District
AG	General Agricultural District
RR	Rural Residential District
RS	Suburban Residential District
B	Business District
IL	Light Industrial District
IH	Heavy Industrial District

The locations and boundaries of these districts are shown on the Official Zoning Map and the schedules of district regulations are presented on the following pages.

3.7 AE – Exclusive Agricultural District Schedule

1. Statement of Intent. It is the intent of this district to protect existing agricultural areas, particularly those with prime farm land, from encroachment by non-farm uses to preserve such areas exclusively for continued agricultural use.
2. Permitted Principal Uses, Structures and Required Parking
 1. Agriculture, farms, farming and the usual farm buildings including farm dwellings..... None
 2. Truck gardens, plant nurseries, horticulture and forestry None

3. Wildlife preserves, conservation areas,
hunting areas, lakes and ponds5 spaces for each acre
developed for active use
4. Railroads, public maintenance garages and equipment and materials
storage yards..... 1 space for each employee
5. Public and private utility distribution and
collection-systems including substations
and pumping stations 1 space for each employee

3. Permitted Accessory Uses and Structures

1. Uses and structures clearly incidental and necessary to the permitted principal uses and structures of this district not involving the conduct of business on the premises except home occupations and farm home occupations.
2. Secondary farm dwellings under same ownership as farming operation which are occupied or maintained for use and occupancy by persons employed on the farm. In addition, owner of a farm may set aside one (1) plot of land on the farm for the purpose of constructing a single-family dwelling to be occupied by a member of immediate family only.
3. Private swimming pools, garages, tennis courts, gardens, and greenhouses.
4. Temporary buildings used in conjunction with construction work provided that such buildings are removed promptly upon completion of the work.
5. Roadside stands for the sale of produce grown on the premises provided that a minimum site distance of six hundred (600) feet to motorists on adjacent roads be maintained and that not less than three (3) off-street parking spaces be provided.

4. Special Exception Uses and Structures. Subject to Section 6.5-2 and other requirements contained herein, Board of Adjustment may permit the following:

1. Agricultural service businesses involving processing, storage and sale of grain for seed or feed; alfalfa dehydrating; storage, distribution or sale of feed supplements, agricultural chemicals for fertilizers; livestock and grain hauling; trenching, tiling, terracing or well drilling; veterinary services; but not including sale or display of farm machinery, petroleum products, building materials or appliances; provided that the business produces no offensive noise, dust, odor, vibration, smoke, or electrical interference detectable from the nearest dwelling.

2. Mining and extraction of minerals or 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 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.
3. 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. Communications stations and towers provided they are not closer to a dwelling or place of public assembly than a distance equal to their height and that they will not interfere with the operation of any airport or detract from the character of the neighborhood.

5. Minimum Lot Area and Width

1. Secondary farm dwellings and farm dwelling and residential plots when severed from the farm to be used as non-farm dwellings:

Area 3 acres
Width 150 feet

2. Other uses: No minimum.

6. Minimum Yard Requirements

Front 50 feet
Rear 35 feet
Side 25 feet
Street side, corner lot 40 feet

7. Maximum Height

Four (4) stories or fifty (50) feet

8. Permitted Signs

1. Identification signs, church or public bulletin boards not to exceed sixteen (16) square feet in area.

2. Farm home occupation signs and agricultural service business signs identifying the service or business on the premises not to exceed sixteen (16) square feet in area.
3. Temporary signs advertising the sale or lease of the premises not to exceed thirty-two (32) square feet in area.
4. No use shall have more than one (1) sign of each type permitted for that use on each road frontage, however each sign may be a double-faced or back to back sign.

9. Special Requirements

1. Prior to the issuance of a permit for any use in this district, the applicant shall submit plans for water supply and sewage disposal systems and shall provide evidence to the Administrative Officer that such facilities, where needed, are adequate for the proposed use. Water supply and sewage disposal facilities shall be approved by the County Health Department, and where applicable, the State Department of Environmental Quality.
2. In granting special exceptions for uses which pose a potential threat to the health, safety and well-being of persons or property in the area, the Board of Adjustment shall take into account the location and proximity of existing and proposed residential areas, schools, places of public assembly and any other pertinent factors and shall require that adequate safeguards be taken to minimize the potential danger. In the event adequate safeguards and precautions cannot be met or complied with, the Board of Adjustment shall not grant approval for such use.

3.8 AG – General Agricultural District Schedule

1. Statement of Intent. The General Agricultural District is intended to provide areas appropriate for agriculture and related uses which are compatible with agriculture and generally require a rural location.
2. Permitted Principal Uses, Structures and Required Parking
 1. Agriculture, farms, farming and the usual farm buildings including farm dwellings..... None
 2. Truck gardens, plant nurseries, horticulture and forestry..... None
 3. Single family dwellings 2 spaces per unit

4. Elementary and secondary schools..... 1 space for each
classroom and office
5. Churches 1 space for every 5 seats
6. Cemeteries 20 spaces on drives
or in parking areas
7. Veterinary establishment and dog kennels 1 space for every 300
square feet of service
or office floor area
8. Riding stables 1 space for every 3 horses
boarded or kept for hire

3. Permitted Accessory Uses and Structures

1. Uses and structures clearly incidental and necessary to the permitted principal uses and structures of this district not involving the conduct of business on the premises except home occupations and farm home occupations.
2. Secondary farm dwellings under the same ownership as the farming operation which are occupied or maintained for use and occupancy by persons employed on the farm.
3. Private swimming pools, garages, tennis courts, gardens and greenhouses.
4. Temporary buildings used in conjunction with construction work provided that such buildings are removed promptly upon completion of the work.
5. Roadside stands for the sale of produce grown on the premises provided that a minimum site distance of six hundred (600) feet to motorists on adjacent roads be maintained and that not less than three (3) off-street parking spaces be provided.

4. Special Exception Uses and Structures. Subject to Section 6.5-2 and other requirements contained herein, the Board of Adjustment may permit the following:

1. Agricultural service businesses involving the processing, storage and sale of grain for seed or feed, alfalfa dehydrating; the storage, distribution or sale of feed supplements, agricultural chemicals or fertilizers; livestock and grain hauling; trenching; tiling, terracing or well drilling; but not including the sale or display of farm machinery, petroleum products,

building materials or appliances, provided that the business produces no offensive noise, dust, odor, vibration, smoke or electrical interference detectable from the nearest building.

2. Mining and extraction of minerals or 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.
3. 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.
5. Communications stations and towers provided they are not closer to a dwelling or place of public assembly than a distance equal to their height and that they will not interfere with the operation of any airport to detract from the character of the neighborhood.
6. Privately operated campgrounds, youth or summer camps, gun clubs, ski slopes, boat docks, race courses, recreation 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.
7. Sanitary landfill, provided that it be operated in accordance with the requirements of the State Department of Environmental Quality; that a nuisance due to odor or blowing trash shall not be created; that roads serving the site are adequate to accommodate anticipated traffic; that the site be restored to a condition compatible with the adjacent area, and that no landfill be located closer than one thousand (1000) feet to any existing dwelling or school.
8. Airports and landing fields approved by the Federal Aviation Administration.

5. Minimum Lot Area and Width

1. Single family dwellings and secondary farm dwellings.

Area 3 acres
Width 150 feet

2. Other uses: No minimum.

6. Minimum Yard Requirements

Front 50 feet
Rear 35 feet
Side 25 feet
Street side, corner lot 40 feet

7. Maximum Height

Four (4) stories or fifty (50) feet

8. Permitted Signs

1. Identification signs, church or public bulletin board not to exceed sixteen (16) square feet in area.
2. Home occupation signs not to exceed four (4) square feet in area.
3. Farm home occupation signs and agricultural service business signs identifying the service or business on the premises not to exceed sixteen (16) square feet in area.
4. Temporary signs advertising the sale or lease of the premises not to exceed thirty-two (32) square feet in area.
5. No use shall have more than one (1) sign of each type permitted for that use on each road frontage, however each sign may be double-faced or back to back sign.
6. Only signs allowed are those that conform with the Iowa Department of Transportation Guide to Iowa Outdoor Advertising Sign Regulations; once confirmation of conformity is obtained, a building permit should be obtained from Cass County.

9. Special Requirements

1. Prior to the issuance of a permit for any use in this district, the applicant shall submit plans for water supply and sewage disposal systems and shall provide evidence to the Administrative Officer that such facilities, where needed, are adequate for the proposed use. Water supply and sewage disposal facilities shall be approved by the County Health Department, and where applicable, the State Department of Environmental Quality.
2. In granting special exceptions for uses which pose a potential threat to the health, safety and well-being of persons or property in the area, the Board of Adjustment shall take into account the location and proximity of existing and proposed residential areas, schools, places of public assembly and any other pertinent factors and shall require that adequate safeguards be taken to minimize the potential danger. In the event adequate safeguards and precautions cannot be met or complied with, the Board of Adjustment shall not grant approval for such use.

3.9 RR – Rural Residential District Schedule

1. Statement of Intent. This district is intended to accommodate residential development in appropriate areas of the county where municipal utilities and services may not be available, but where a need for limited residential development exists.
2. Permitted Principal Uses, Structures and Required Parking
 1. Single family dwellings 2 spaces per unit
 2. Mobile homes converted to real estate 2 spaces per unit
 3. Truck gardens, plant nurseries,
horticulture and forestry None
 4. Elementary and secondary schools 1 space for each class
room and office
 5. Churches 1 space for every 5 seats
 6. Cemeteries 20 spaces on drives or in
parking areas
 7. Public parks, playgrounds, athletic
fields and similar recreation facilities 5 spaces for each acres
developed for active use

8. Community meeting or recreation building..... 1 space for every 100 square feet of floor area
9. Golf course and clubhouse but not including miniature courses or driving ranges operated for profit 3 spaces per green or 1 space for every 100 square feet of clubhouse floor area, whichever is greater

3. Permitted Accessory Uses and Structures

1. Uses and structures clearly incidental and necessary to the permitted principal uses and structures of this district, not involving the conduct of business on the premises except home occupations.
2. Private swimming pools, garages, tennis courts, gardens and greenhouses.
3. Temporary buildings used in conjunction with construction work provided that such buildings are removed promptly upon completion of the work.

4. Special Exception Uses and Structures. Subject to Section 6.5-2 and other requirements contained herein, the Board of Adjustment may permit the following:

1. Railroads, sewer, water and other utilities but not including equipment storage or maintenance yards and buildings or administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than twenty-five (25) feet, and that one (1) parking space per substation be provided.

5. Minimum Lot Area and Width

1. Dwellings
Area 1 acre
Width 120 feet
2. Other uses: No minimum.

6. Minimum Yard Requirements

Front.....	35 feet
Rear	35 feet
Side	15 feet
Street side, corner lot	25 feet

7. Maximum Height

Two and one-half (2 1/2) stories or forty-five (45) feet.

8. Permitted Signs

1. Identification signs, name plates and home occupation signs identifying service or business on the premises not to exceed four (4) square feet in area.
2. Identification signs for subdivisions, housing developments, schools, parks, cemeteries, mobile home parks and similar uses, provided that only one (1) sign not to exceed fifty (50) square feet in area be permitted for each use and that such sign be not closer than fifteen (15) feet to any property line or eight (8) feet above street grade.
3. Church or public bulletin boards not to exceed sixteen (16) square feet in area.
4. Temporary signs advertising the sale or lease of the premises not to exceed sixteen (16) square feet in area.
5. No use shall have more than one (1) sign of each type permitted for that use on each road frontage, however each sign may be double-faced or back to back sign.

9. Special Requirements

None.

3.10 SR – Suburban Residential District Schedule

1. Statement of Intent. The Suburban Residential District is intended to accommodate residential development in appropriate areas where municipal development in appropriate areas where municipal utilities and services are readily available, or where development is on a sufficiently large scale to justify the installation of common or community sewer and water systems.

2. Permitted Principal Uses, Structures and Parking Requirements

- | | | |
|-----|--|---|
| 1. | Single family dwellings..... | } 2 spaces per unit |
| 2. | Two-family dwellings | |
| 3. | Multi-family dwellings and including public housing developments | |
| 4. | Mobile homes converted to real estate | 2 spaces per unit |
| 5. | Elementary and secondary schools..... | 1 space for each classroom and office |
| 6. | Churches | 1 space for every 5 seats |
| 7. | Cemeteries | 20 spaces on drives or in parking areas |
| 8. | Public and private parks, playgrounds, athletic fields and similar recreation facilities..... | 5 spaces for each acre developed for active use |
| 9. | Community meeting or recreation building | 1 space for every 100 square feet of floor area |
| 10. | Golf course and clubhouse but not including miniature courses or driving ranges operated for profit..... | 3 spaces per green or 1 space for every 100 square feet of clubhouse floor area, whichever is greater |

3. Permitted Accessory Uses and Structures

1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, not involving the conduct of business on the premises, except home occupations.
2. Private swimming pools, garages, tennis courts, gardens and greenhouses.

3. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
4. Special Exception Uses and Structures. Subject to Section 6.5-2 and the other requirements contained herein, the Board of Adjustment may permit the following:
 1. Railroads, sewer, water and other utilities but not including equipment storage or maintenance yards and buildings or administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than twenty-five (25) feet, and that one (1) parking space per substation be provided.
 2. Mobile home parks on tracts of five (5) acres or more, subject to the following:
 - a. Mobile home parks shall have a maximum density of eight (8) mobile homes per acre.
 - b. All mobile home spaces shall abut on a hard-surfaced roadway of not less than twenty-four (24) feet in width which shall be adequately lighted and drained and which shall have unobstructed access to a public street or highway.
 - c. No mobile home or structure shall be closer than twenty-five (25) feet to any property line of the mobile home park nor closer than twenty (20) feet to another mobile home or any building in the park except where mobile homes are parked end to end, the end clearance shall be a least fifteen (15) feet.
 - d. Any addition built onto a mobile home shall not be less than fifteen (15) feet from the nearest mobile home.
 - e. All buildings and mobile homes within the park shall be served with community or municipal water supply and sewage disposal systems approved by the County and State Health Departments.
 - f. Two (2) off-street parking spaces shall be provided for each mobile home site and one (1) space for every fifty (50) square feet of floor area in administration and service buildings.
 - g. All mobile homes shall be skirted and anchored.

- h. Provision shall be made for the collection and disposal of garbage, rubbish and other solid wastes.
- i. In evaluating the proposed development, the Board of Adjustment shall include, in addition to other considerations, the following:
 - 1) The effect to the proposed mobile home park on adjacent property values.
 - 2) Compliance of the proposed mobile home park with the provisions of applicable County and State regulations.
 - 3) The suitability of the site for the proposed use with special attention to topography, subsurface conditions and the availability of necessary utility services.
 - 4) The relation of the population density resulting from the proposed mobile home park to the public interest.
 - 5) The use of sound planning and engineering practices.
 - 6) The availability of access from existing highways and the nature of the altered traffic patterns resulting from the mobile home park.
 - 7) The availability of schools, police protection, fire protection and other public services.
- j. In the event of approval, the Board of Adjustment shall specify appropriate conditions and safeguards to protect the character of existing and future development of adjoining properties as well as the mobile home park. Such conditions and safeguards may include landscape plantings and other features, sidewalks, street trees, playgrounds and recreation areas.
- k. The procedure for considering special exceptions for mobile home parks shall be the same as set forth in Section 6.5-2 of this ordinance except the following additional provisions shall apply:
 - 1) The application shall be accompanied by a fee of one hundred fifty (\$150.00) dollars and shall contain six (6) copies of a plot plan of the proposed development, showing all buildings, mobile home spaces, automobile parking spaces, vehicular and pedestrian traffic circulation, points of ingress and egress from public

streets, proposed sign locations and sizes, yards, proposed landscape treatment and other pertinent features.

- 2) The plot plan shall also show existing and proposed contours at intervals not to exceed two (2) feet, proposed utilities including storm sewers, electrical service, sanitary sewers and water including the proposed method of sewage disposal and source of water supply.
- 3) Upon receipt of the application by the Administrative Officer, one (1) copy of the application shall be forwarded immediately to the County Engineer and one (1) copy to the County Health Department for review. The Administrative Officer shall request that their comments be submitted to the Board of Adjustment within fifteen (15) days thereof.
- 4) The Board of Adjustment shall hold a public hearing as required by this ordinance and duly consider the proposal.

5. Minimum Lot Area and Width

1. Single family dwellings and mobile homes converted to real estate

Area	10,000 square feet
Width	80 feet

2. Two family dwellings

Area	10,000 square feet
Width	80 feet

3. Multi-family dwellings

Area	2,500 square feet per unit
Width	100 feet

4. Other uses: No minimum.

6. Minimum Yard Requirements

Front	30 feet
Rear	30 feet
Side: One story building	8 feet
Two stories or more	12 feet
Street side, corner lot	20 feet

7. Maximum Height

Three and one-half (3 ½) stories or forty (40) feet.

8. Permitted Signs

1. Identification signs, name plates and home occupation signs identifying the service or business on the premises not to exceed four (4) square feet in area.
2. Identification signs for subdivisions, housing developments, schools, parks, cemeteries, mobile home parks and similar uses, provided that only one (1) sign not to exceed fifty (5) square feet in area be permitted for each use and that such sign be not closer than fifteen (15) feet to any property line or eight (8) feet above street grade.
3. Church or public bulletin boards not to exceed sixteen (16) square feet in area.
4. Temporary signs advertising the sale or lease of the premises not to exceed sixteen (16) square feet in area.
5. No use shall have more than one (1) sign of each type permitted for that use on each road frontage, however, each sign may be double-faced or back to back sign.

9. Special Requirements

1. No dwellings shall be permitted in this district unless connected to municipal sewer and water or common or community sewer and water systems.

3.11 B – Business District Schedule

1. Statement of Intent. This district is intended to accommodate commercial uses which are appropriate outside the central business districts of cities and which primarily serve the traveling public or which require large sites and highway locations.

2. Permitted Principal Uses, Structures and Parking Requirements

- | | | |
|-----|--|---|
| 1. | Automotive, truck, farm implement or mobile home display sales, service or repair | } 1 space for every 300 square feet of sales, service and office floor space |
| 2. | Motorcycle, boat and recreation vehicle display sales, service or repair | |
| 3. | Animal hospitals, kennels and veterinarian's office | |
| 4. | Drive-in banks | 3 spaces plus storage for 3 vehicles outside each teller lane |
| 5. | Motels | 1 space per unit |
| 6. | Bait shops | } 1 space per 100 square feet of floor area |
| 7. | Plant nurseries and garden centers | |
| 8. | Antique shops and second hand stores | |
| 9. | Restaurants, nightclubs and taverns | 1 space per 100 square feet of floor space |
| 10. | Convenience or general store selling merchandise such as packaged foods and beverages, picnic supplies and gasoline and having a floor area of not more than 1,250 square feet | 1 space per 100 square feet of floor space |
| 11. | Drive-in restaurants and refreshment stands | 5 spaces per 100 square feet of floor space |
| 12. | Recreational & amusement activities; such as, bowling alleys, miniature golf courses, driving ranges, skating rinks, dance halls | Bowling - 5 spaces per lane, miniature golf - 3 spaces per green; other - 1 space per square feet of floor area |

COPY
Dale Sunderman
02-20-13

Ordinance No. 3
Zoning Ordinance
Amendment of Section 3.11, B-Business District Schedule

Effective as noted below, Section 3.11 under section 2. Permitted Principal Uses, Structures and Parking Requirements shall be amended as follows:

Use 12. shall be amended by adding “, indoor shooting range”
and
a use 17 shall be added: “17. Firearms sales, gunsmithing, and repair”

Effective date: This amendment of ordinance shall be effective after its final passage, approval, and publication as provided by law.

First reading and approval: February 13, 2013.

Second reading and approval: February 20, 2013.

PASSED and ADOPTED by the Board of Supervisors of Cass County, Iowa on February 20, 2013.

Mark Wedemeyer
Board of Supervisors Chairperson, Mark Wedemeyer

Attest: Dale E. Sunderman
Dale E. Sunderman, Cass County Auditor

13. Drive-in theaters Storage lanes outside ticket ticket booth to accommodate 10% of theater capacity
14. Lumber yards and building material sales and distribution 5 spaces plus 1 for each employee on the site plus 1 for each company vehicle
15. Railroads, sewer, water and other utilities including substations, pumping stations and administrative office 1 space per employee on site
16. Hospitals, nursing homes and hospices 1 space per employee on site plus 1 for each room

3. Permitted Accessory Uses and Structures

1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.
2. Storage warehouses in conjunction with the permitted principal uses or structures of this district.
3. Temporary buildings used in conjunction with construction work provided that such buildings are removed promptly upon completion of the construction work.
4. Dwelling units in commercial structures for watchmen, caretakers or operators of the business in the structure, provided that an open yard of at least 2,400 square feet is reserved and maintained for each dwelling unit and that two (2) off-street parking spaces per unit be provided.

4. Special Exception Uses and Structures. Subject to Section 6.5-2 and the requirements contained herein, Board of Adjustment may permit the following:

1. Communications stations and towers provided that they are not closer to a dwelling or place of public assembly than a distance equal to their height, that they will not interfere with the operation of any airport or landing strip, and that one (1) off-street parking space per employee and one (1) off-street space for each company vehicle be provided.
2. Commercially operated campgrounds or tourist camps on sites of not less than three (3) acres provided that no campsite shall be located within fifty (50) feet of a Residential District and that water supply and sewage

disposal facilities shall be approved by the County Board of Health and the State Department of Natural Resources.

5. Minimum Lot Area and Width

No minimum.

6. Minimum Yard Requirements

Front	30 feet
Rear	30 feet
Side	15 feet
Street side, corner lot	30 feet

7. Maximum Height

Three (3) stories or fifty (50) feet.

8. Permitted Signs

1. Temporary signs advertising the sale or lease of the premises not to exceed twenty-four (24) square feet.
2. Trade, business or industry identification signs for the businesses located on the site and advertising signs pertaining to goods or services available on the premises provided that:
 - a) Signs mounted or painted on the wall or roof of a building shall not cover more than twenty (20) percent of the building face on which they are located or two hundred (200) square feet, whichever is smaller.
 - b) One (1) free standing sign per business not to exceed one hundred (100) square feet in area or twenty-five (25) feet in height may be located in the required front yard, but not closer than fifteen (15) feet from the front lot line.
 - c) The total combined area of all signs shall not exceed two hundred (200) square feet per business or more than two (2) square feet of sign area for every lineal foot of lot frontage, whichever is smaller.

9. Special Requirements

1. Lighting shall be located and focused so as to avoid casting direct light upon any adjacent residential property.

2. Prior to the issuance of a permit for any use in this district, the applicant shall submit plans for water supply and sewage disposal systems and shall provide evidence to the Administrative Officer that such facilities, where needed, are adequate for the proposed use. Water supply and sewage disposal facilities shall be approved by the County Health Department and, where applicable, the Iowa Department of Environmental Quality.

3.12 IL – Light Industrial District Schedule

1. Statement of Intent. This district is intended principally for manufacturing, processing, fabrication, storage, wholesaling, distribution and related uses which are primarily contained within a building and which will not adversely affect the environment.

2. Permitted Principal Uses, Structures and Parking Requirements

1. Manufacturing and processing uses that are contained within a building and have no exterior storage, create no offensive noise, dust, odor, vibration or electrical interference 1 space for every 2 employees on the maximum shift plus 1 space for each company vehicle
 2. Animal hospitals or kennels
 3. Contract construction office, maintenance shop or storage yard
 4. Construction equipment, farm implement, or truck display, sales, service or repair
 5. Motorcycle, boat and recreational vehicle display, sales, service or repair
 6. Lumber yards and building material sales and storage
- 1 space for every 300 square feet sales service and office floor space
- 1 space for every 300 square feet of sales service and office floor space

7. Wholesaling and warehousing but not including the bulk storage of liquid fertilizer or petroleum products under pressure
8. Truck and freight terminals.....
9. Grain storage bins, elevators and feed mills
10. Welding, machine and repair shops.....
11. Automobile repair, paint and body shops.....
12. Plumbing, heating, air conditioning and sheet metal shops
13. Railroads, sewer, water and other utilities including storage and maintenance yards, substations, pumping stations and administrative office.....
14. Ethanol plants.....
15. Granting all Business District permitted uses in Light Industrial District.

1 space for each employees plus
1 space for each company
vehicle

3. Permitted Accessory Uses and Structures

1. Uses and structures clearly incidental and necessary to the permitted principal uses or structure of this district.
2. Temporary buildings used in conjunction with construction work provided that such buildings are removed promptly upon completion of the construction work.
3. Dwelling units for watchmen or caretakers employed on the premises provided that an open yard of a least 2,400 square feet is reserved and maintained for use by the occupants.

4. Special Exception Uses and Structures. Subject to Section 6.5-2 and the requirements contained herein, Board of Adjustment may permit the following:

COPY

**Ordinance No. 3
Zoning Ordinance
Amendment of Section 3.12 IL - Light Industrial District Schedule**

Effective as noted below, Section 3.12 under section 2. Permitted Principal Uses, Structures and Parking Requirement shall be amended by adding as follows:

16. Alternative energy production facilities.

Effective date: This amendment of ordinance (inserting new text) shall be effective after its final passage, approval, and publication as provided by law.

First reading and approval: January 9, 2013.

Second reading and approval (with amended language as above): January 16, 2013.

PASSED and ADOPTED by the Board of Supervisors of Cass County, Iowa on January 16, 2013.

Mark Wedemeyer
Board of Supervisors Chairperson, Mark Wedemeyer

Attest: Dale E. Sunderman
Dale E. Sunderman, Cass County Auditor

1. The bulk storage of liquid fertilizer and petroleum products under pressure; provided that such use is located not closer than 1000 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.
2. 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.
3. 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. Communications stations and towers provided they are not closer to a dwelling or place of public assembly than a distance equal to their height and that they will not interfere with the operation of any airport or landing strip.
5. 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.
6. 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.

5. Minimum Lot Area and Width

No minimum.

6. Minimum Yard Requirements

Front	30 feet
Rear	30 feet
Side	15 feet
Street side, corner lot	30 feet

Where adjacent to an agricultural or residential district, a side yard of not less than thirty (30) feet shall be provided.

7. Maximum Height

Six (6) stories or seventy (70) feet.

8. Permitted Signs

1. Temporary signs advertising the sale or lease of the premises not to exceed thirty-two (32) square feet in area.
2. Trade, business or industry identification signs for the businesses located on the site and advertising signs pertaining to goods or services available on the premises provided that:
 - (a) Signs mounted or painted on the wall or roof of a building shall not cover more than twenty (20) percent of the building face on which they are located or two hundred (200) square feet, whichever is smaller.
 - (b) Free standing signs shall not exceed one hundred (100) square feet in area or thirty-five (35) feet in height.
 - (c) The total combined area of all signs shall not exceed three hundred (300) square feet per business or more than two (2) square feet of sign area for every lineal foot of lot footage, whichever is smaller.
3. Billboards and advertising signs pertaining to goods, services or firms located off the premises provided that:
 - (a) No billboard or advertising sign shall exceed five hundred (500) square feet in area or thirty-five (35) feet in height.
 - (b) They are not located within three hundred (300) feet of a dwelling, school, park, church, cemetery, street intersection, railroad crossing or residential district.

(c) They are not within three hundred (300) feet of another billboard or advertising sign facing the same direction.

4. No sign or billboard shall be located in, overhang or project into a required yard.

9. Special Requirements

1. Prior to the issuance of a permit for any use in this district, the applicant shall submit plans for water supply and sewage disposal systems and shall provide evidence to the Administrative Officer that such facilities, where needed, are adequate for the proposed use. Water supply and sewage disposal facilities shall be approved by the County Health Department where applicable, the State Department of Environmental Quality.

2. No raw material, finished product or waste product which may cause dust or odor which would adversely affect adjoining properties shall be stored outside a building nor shall any other debris or waste product be permitted to accumulate on the site. Open storage yards, shipping and receiving yards shall be located at least thirty (30) feet from any street right-of-way and at least twenty (20) feet from any lot line, with the exception that any livestock feed, grain, coal and similar materials shall be stored at least three hundred (300) feet from any R District. Storage yards containing combustibles shall be so located as to permit easy access for the fighting of a fire in such an area.

3.13 IH – Heavy Industrial District Schedule

1. Statement of Intent. This district is intended to provide areas for general and heavy manufacturing and closely related uses while protecting surrounding areas from harmful effects.

2. Permitted Principal Uses, Structures and Parking Requirements

1. Manufacturing, processing, fabricating, repairing, storing, cleaning, servicing and treating of materials, goods or products in such a manner so as not to create a nuisance or become offensive by reason of the emission of noise, odor, vibration, smoke, dust or other matter, toxic or noxious materials, glare or heat, except that certain uses shall be permitted

- only as special exceptions..... 1 space for every 2 employees
on the maximum shift, plus 1
space for each company vehicle
2. Contract construction office,
maintenance shop or storage yard
 3. Construction equipment, farm
implement or truck sales, service
and repair
 4. Lumber yards, building materials
sales and storage.....
- 1 parking space for every 300
square feet of sales service
or office floor area
5. Clay and concrete products
manufacture, ready mix concrete..... 1 space for each employee plus 1
space for each company vehicle
 6. Wholesaling and warehousing
but not including the bulk storage
of liquid fertilizer, petroleum products
under pressure, explosives or highly
volatile chemicals or materials
 7. Truck and freight terminals.....
 8. Grain storage bins, elevators and
feed mills
 9. Welding, machine and repair shops
 10. Automobile paint and body shops
 11. Plumbing, heating, air conditioning
and sheet metal shops.....
 12. Railroads and public utilities include-
ing storage and maintenance yards.....
 13. Ethanol plants.....
- 1 space for each
employee plus 1
space for each
company vehicle

3. Permitted Accessory Uses and Structures

1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.

2. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
3. Dwelling units for watchmen or caretakers employed on the premises provided that an open yard of at least 2,400 square feet is reserved and maintained for use by the occupants.
4. Special Exception Uses and Structures. Subject to Section 6.5-2 and the requirements contained herein, the Board of Adjustment may permit the following:
 1. The following uses provided that they are not closer than 1000 feet to any dwelling unit other than that of the owner or operator, or any park, school, church or place of public assembly; that 1 off-street space for every 2 employees and 1 off-street space for each company vehicle be maintained; that such uses shall be located so as not to create a safety hazard or jeopardize the health and well-being of residents in the vicinity.
 - (a) Chemical and acid manufacturing, processing or wholesale storage.
 - (b) Explosives manufacture or storage.
 - (c) Fertilizer manufacture.
 - (d) Garbage, offal, or dead animal reduction.
 - (e) Refining of petroleum and natural gas and their products.
 - (f) Stockyards or slaughter of animals and handling or processing of by-products.
 - (g) Solid waste transfer station.
 2. Sanitary landfill or waste disposal area, provided that refuse be covered with dirt daily if it contains raw garbage; that a nuisance due to smoke, odor or blowing of trash and debris shall not be created; that the site shall be restored to a condition compatible with the adjacent area upon conclusion of the land operation. A dust free access road shall be provided and no landfill shall be located closer than 1,000 feet to any dwelling, park, school or place of public assembly.

3. Auto wrecking and junkyards on sites of 5 acres or more provided that the front yard be maintained as an open space free of weeds and debris; that the site be enclosed with a 6 foot high fence or a suitable landscape planting that will screen the operation from the view of adjacent public streets and places of public assembly, parks, recreation areas and residential properties; and that a minimum of 1 off-street parking space for each employees and 1 off-street space for each vehicle used by the facility be provided.
4. The bulk storage of liquid fertilizer and petroleum products under pressure; provided that such use is located not closer than 1000 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 1 parking space for each employees and 1 space for each company vehicle be provided for each 10,000 square feet of floor area.
5. The bulk storage or wholesaling of oils, petroleum, 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.
6. Communications stations and towers provided that they are not closer to a dwelling or place of public assembly than a distance equal to their height, that they will not interfere with the operation of any airport or landing strip, and that 1 off-street parking space per employee and 1 off-street space for each vehicle used by the facility be provided.
7. Mining and extraction of minerals or raw materials including necessary processing equipment provided that any such operation shall be located at least 50 feet from the right-of-way line of any public road; that such operation shall not be closer than 50 feet to any dwelling, park or school; that access shall not cause a real or potential traffic hazard; that one off-street parking space for each employee plus 1 off-street space for each company vehicle be provided. In addition, any person seeking a special exception for the mining or extraction of minerals or other raw materials shall submit a plan whereby the land so used would be restored by the applicant to a condition compatible with the surrounding area upon conclusion of the operation.

5. Minimum Lot Area and Width

No minimum.

6. Minimum Yard Requirements

Front30 feet
Rear.....30 feet
Side15 feet
Street side, corner lot.....30 feet

Where adjacent to an agricultural or residential district, a side yard of not less than 30 feet shall be provided.

7. Maximum Height

Six (6) stories or seventy (70) feet.

8. Permitted Signs

1. Temporary signs advertising the sale or lease of the premises not to exceed 32 square feet in area.
2. Trade, business or industry identification signs for the businesses located on the site and advertising signs pertaining to goods or services available on the premises provided that:
 - (a) Signs mounted or painted on the wall or roof of a building shall not cover more than 20 percent of the building face on which they are located or 200 square feet, whichever is smaller.
 - (b) Free standing signs shall not exceed 100 square feet in area or 35 feet in height.
 - (c) The total combined area of all signs shall not exceed 300 square feet per business or more than two (2) square feet of sign area for every lineal foot of lot frontage, whichever is smaller.
3. Billboards and advertising signs pertaining to goods, services or firms located off the premises provided that:
 - (a) No billboard or advertising sign shall exceed 500 square feet in area or 35 feet in height.

- (b) They are not located within 300 feet of a dwelling, school, park, church, cemetery, street intersection, railroad crossing or residential district.
 - (c) They are not within 300 feet of another billboard or advertising sign facing the same direction.
4. No sign or billboard shall be located in, overhang or project into a required yard.

9. Special Requirements

1. Prior to the issuance of a permit for any use in this district, the applicant shall submit plans for water supply and sewage disposal systems and shall provide evidence to the Administrative Officer that such facilities, where needed, are adequate for the proposed use. Water supply and sewage disposal facilities shall be approved by the County Health Department and where applicable, the State Department of Environmental Quality.
2. No raw material, finished product or waste product which may cause dust or odor which would adversely affect adjoining properties shall be stored outside a building nor shall any other debris or waste product be permitted to accumulate on the site. Open storage yards, shipping and receiving yards shall be located at least thirty (30) feet from any street right-of-way and at least twenty (20) feet from any lot line, with the exception that any livestock feed, grain, coal and similar materials shall be stored at least three hundred (300) feet from any R District. Storage yards containing combustibles shall be so located as to permit easy access for the fighting of a fire in such an area.
3. In granting special exceptions for uses which pose a potential threat to the health, safety and well-being of persons or property in the area, the Board of Adjustment shall take into account the location and proximity of existing and proposed residential areas, schools, places of public assembly and any other pertinent factors and shall require that adequate safeguards be taken to minimize the potential danger. In the event adequate safeguards and precautions cannot be met or complied with, the Board of Adjustment shall not grant approval for such use.

CHAPTER IV

SUPPLEMENTARY REGULATIONS

- 4.1 Supplementary District Regulations. Subject to Section 3.5, the following provisions, regulations, or exception shall apply equally to all districts except hereinafter provided:
1. Visibility at Intersection. On a corner lot in any district, no fence, wall, hedge or other planting or structure that will obstruct vision between a height of two and one half (2 1/2) feet and ten (10) feet above the centerline grades of the intersecting streets 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 distance from the intersection of the right-of-way lines, and measured along the right-of-way lines, or within the triangular area formed by connecting the centerlines of the intersecting streets at points which are one hundred (100) feet from their point of intersection, whichever is greater.
 2. Accessory Buildings. No accessory building shall be erected in any required front or side yard and no separate accessory buildings shall be erected within five (5) feet of any lot line. Accessory buildings shall not occupy more than thirty (30) percent of the rear yard. Accessory buildings located closer than ten (10) feet to a main building shall be considered as part of the main building.
 3. More than One Principal Structure on a Lot. In any district, more than one (1) principal structure housing a permitted principal use may be erected on a single lot provided that the area, yard and other requirements of this ordinance shall be met for each structure as though it were on an individual lot.
 4. Height Regulation Exceptions. The height limitations contained in the Schedules of District Regulations do not apply to grain storage bins, grain elevators, feed mills, or to spires, belfries, cupolas, chimneys, antennas, water tanks, utility poles or towers, ventilators, elevator housing or other structures placed above the roof level and not intended for human occupancy.
 5. Use of Public Right-of-Way. No portion of the public road, street or alley right-of-way shall be used, or occupied by an abutting use of land or structures for storage or display purposes, or to provide any parking or loading space required by this ordinance, or for any other purpose that would obstruct the use or maintenance of the public right-of-way.
 6. Proposed Use Not Covered in Ordinance. Any proposed use not covered in this ordinance as a permitted use or special exception shall be referred to the Zoning Commission for a recommendation as to the proper district in which such use should be permitted and the ordinance amended as provided in Section 7.10 before a permit is issued for such proposed use.

7. Buildings to Have Access. Every building hereafter erected shall be on a lot or parcel having frontage on a public street or road, or on a private road established and approved as part of an approved and recorded subdivision plat, such approval shall be by the Board of Supervisors and by the City Council of the adjacent municipality where such municipality has extra-territorial subdivision control authority.

Building permits shall not be issued for structures abutting a half street and located on that side from which the required dedication has not been secured.

8. Hedges and Fences. Fences or hedges in any residential district shall not exceed four (4) feet in height in any required front yard and fences shall not exceed six (6) feet in height in any required side or rear yard, subject to further restrictions of Subsection 1 above.
9. Off-Street Parking. No parking space required by this ordinance shall be provided in any required front yard in a residential district and no required parking space or drive-way shall be provided in the first five (5) feet inside the property line of any required yard in a business or industrial district.
10. Existing Farm Dwellings. Nothing in this ordinance shall require any person or persons occupying a principal or secondary farm dwelling at the date of passage of this ordinance to sever it from the remainder of the farm. If the dwelling is voluntarily severed from the farm to be used and maintained as a residence by the occupant or for sale or lease to others, it shall conform to the lot area and yard requirements of the district in which it is located, provided, however, that the Board of Adjustment may, upon receipt of application, grant a variance in the event such lot does not conform to the requirements of this ordinance.

- 4.2 Flood Plain Regulations. Flood plain regulations are intended to limit development on the flood plain in order to minimize the danger to life and property which results from development being undertaken without full realization of such dangers. It is further the intent and purpose of this regulation to protect the flood plain from encroachments or developments which would obstruct, contain or divert the passage of flood waters. The flood plain regulations contained herein shall apply equally to any and all districts which may be wholly or partially located in a flood plain.

1. Determination of Flood Plain Boundaries. Where flood elevations are not shown or cannot be determined from the Official Zoning Map, the County Engineer shall assist the Administrative Officer in making such determinations.

The County Engineer shall establish, by analysis and interpolation of the nearest established upstream and/or downstream flood-crest elevations, such intermediate elevations as are required for the purposes of this ordinance.

2. Existing Uses on Flood Plain. Existing uses and structures located in the flood plain prior to the adoption of this ordinance which are not in compliance with the flood plain regulations shall be deemed nonconformities.
 3. Floor Elevation. The floor elevation of any proposed permanent structure shall be not lower than one (1) foot above the elevation of a 100 year flood.
 4. Special Requirements. Any building, structure, or deposit proposed to be placed on the flood plain shall first receive approval of the Iowa Natural Resources Council and shall be located in such a manner so as not to obstruct the passage of flood waters.
- 4.3 Telecommunications Towers. In any district where radio, television, microwave, cellular, or other communication towers are allowed as a permitted or Special Permit Use, such towers are subject to the following additional requirements.
1. Tower Siting.
 - a. It is the policy of the County to encourage co-location of new communications towers with existing towers or as part of suitable existing structures. All applications for approval of a communications tower location shall include evidence that all potential alternatives for location on existing towers have been explored and exhausted. Applicants may not be denied space on an existing tower within the County and its jurisdiction unless mechanical, structural, regulatory factors, or legitimate business expansion plans prohibit co-location.
 - b. The applicant for a communications tower location is required to demonstrate as part of its application that the tower must be located on the proposed site in order to satisfy its function in the company's system. The applicant must also demonstrate that the proposed height is the minimum height necessary for the successful functioning of the tower.
 2. Tower Setbacks, Design, and Height
 - a. Free-standing towers shall be located so that the distance from the base of the tower to any adjoining property line or the supporting structure of a separate neighboring tower is a minimum of 100 % of the tower height. The Planning Commission may recommend and the County Supervisors approve a reduction to the set back with a Special Use Permit if they determine that such reduction does not constitute a hazard to safety or property on adjacent properties or rights-of-way.
 - b. The tower installation shall be designed to be aesthetically and architecturally compatible with the built environment of the County. The County encourages efforts to hide towers or restrict their visibility from public right-of-way or neighboring properties. Associated support

buildings shall be designed with materials that are consistent with those in the surrounding area. Metal exteriors shall generally not be permitted for accessory support buildings.

- c. All tower installations shall maintain landscaped peripheral yards with a minimum depth of 35 feet from surrounding property lines.
- d. As part of the Special Use Permit approval process, the County may permit the tower to exceed the height restrictions otherwise allowable in the district.
- e. Towers shall have a color generally matching the surroundings or background that minimizes their visibility, unless a different color is required by the FCC or FAA.
- f. Lights, Signals and Signs: No signals, lights or signs shall be permitted on towers unless required by the FCC or the FAA. Should lighting be required, at the time of construction of the tower in cases where there are residential users located within a distance which is 300% of the height of the tower from the tower, then dual mode lighting shall be requested from the FAA. Lighting on towers shall not exceed the minimum requirements of the FAA or other regulatory agencies.
- g. Adequate security measures are required at the base of the tower to prevent vandalism or hazards resulting from casual access to the facility.

3. County Site Selection Criteria in Evaluating Applications for Communications Towers

- a. Consistent with the policy of this Ordinance, the telecommunications company proposing to construct an antenna support structure, or mount an antenna on an existing structure, shall demonstrate, using technological evidence, that the antenna must go where it is proposed in order to satisfy its function in the company's grid system. Further, the company must demonstrate by technological evidence that the height requested is the minimum height necessary.
- b. Applications for necessary permits will only be processed when the applicant demonstrates that it is either an FCC licensed telecommunications provider or has in place necessary agreements with an FCC licensed telecommunications provider for use or lease of the support structure.
- c. Personal wireless service facilities should be located and designed to minimize any impacts on residential property values. Sites should be placed in locations where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening.

- d. Location and design of sites in all Districts should consider the impact of the site on the surrounding neighborhood and the visual impact within the zone district. In residential districts and residential land use areas, the minimum lot size for towers shall be three acres.

4. Priorities for Siting. The following establishes the order of priorities for locating new communications facilities:

- a. Public property, (excluding prairie, conservation or wildlife areas, or historic structures).
- b. Appropriate existing structures, such as buildings, towers, water towers, and smokestacks in other zoned districts.
- c. AG, AE, IL or IH districts that do not adjoin or adversely impact residential neighborhoods.
- d. Private non-residential property in B district.
- e. Private, non-residential properties in B district.
- f. Place antennas and towers on multi-family residential structures exceeding thirty feet (30') in height in districts zoned SR and RR.
- g. Residential districts only if locations for which a need has been demonstrated are not available on existing structures or in non-residential districts; and only on or in existing churches, parks, schools, utility facilities or other appropriate public facilities.
- h. An applicant for a new antenna support structure to be located in a residential zoning district shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a government structure, a private institutional structure, or other appropriate existing structures within a non-residential zoning district, and that due to valid considerations including physical constraints, or technological feasibility, no appropriate location is available. The telecommunications company is required to demonstrate that it contacted the owners of structures in excess of thirty feet (100') within a one-quarter mile radius of the site proposed, asked for permission to install the antenna on those structures, and was denied for reasons other than economic ones. The information submitted by the applicant shall include a map of the area to be served by the tower, its relationship to other antenna sites in the applicant's network, and an evaluation of existing buildings taller than thirty feet (30'), towers and water tanks within one-quarter mile of the proposed tower.

4.4. Wind Energy Conservation Systems (WECS)

1. The distance from all lot lines or any building or power line to any tower support base of a WECS shall be equal to the sum of the tower height and the diameter of the rotor. A reduction of this requirement may be granted as part of a Special Use Permit approval if the County Supervisors, after recommendation by the Planning Commission, finds that the reduction is consistent with public health, safety, and welfare.
2. The distance between the tower support bases of any two WECS shall be the minimum of five rotor lengths, determined by the size of the largest rotor. A reduction of this requirement may be granted as part of a Special Use Permit approval if the County, after recommendation by the Planning Commission, finds that the reduction does not impede the operation of either WECS.
3. Any tower or rotor shall maintain a distance of at least 100 horizontal feet from any structure, power line, or antenna located on another property.
4. The WECS operation shall not interfere with radio, television, computer, or other electronic operations on adjacent properties.
5. A fence eight feet high with a locking gate shall be placed around any WECS tower base; or the tower climbing apparatus shall begin no lower than twelve feet above ground.
6. The height of the WECS may exceed the height restrictions of the base district by up to 50%. The bottom tip of any rotor must be at least 10 feet above any area accessible to pedestrians.

CHAPTER V

NONCONFORMITIES

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

Subject to Section 4.1, it is the intent of this ordinance to permit these nonconformities to continue until they are removed, but not to encourage their continuation. Such uses are declared by this ordinance to be incompatible with permitted uses in the district involved. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

A nonconforming use of a structure, a nonconforming use of land or water, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner, except that where demolition or removal of an existing building, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

- 5.2 Nonconforming Lots of Record. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date or adoption or amendment of this ordinance provided, however, that the sewage disposal system and water supply shall first be approved by the County Health Department. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements, not involving area or width or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of area, width and yard requirements shall be obtained only through action of the Board of Adjustment.

5.3 Nonconforming Uses of Land. Where, at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the regulations imposed by this ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;
2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance;
3. If any such nonconforming use of land ceases for any reason for a period of more than three (3) months, any subsequent use of land shall conform to the regulations specified by this ordinance for the district in which such land is located.

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

1. No such structure may be enlarged or altered in a way which would increase its nonconformity.
2. Should such structure be destroyed by any means to an extent of more than sixty percent (60%) of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.

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

1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.

3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises in combination may be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific cases, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this ordinance.
4. Any structure or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed.
5. When a nonconforming use of a structure, or structure and premises in combination is discontinued or abandoned for twelve (12) consecutive months, the structure thereafter, shall not be used except in conformity with the regulations of the district in which it is located.
6. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

- 5.6 Repairs and Maintenance. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent (10%) of the current replacement cost of the building provided that the cubic content of the building as it existed at the time of passage or amendment of this ordinance shall not be increased.

Nothing in this ordinance shall be deemed to prevent the strengthening of or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

- 5.7 Uses Under Exception Provisions Not Nonconforming. Any use permitted as a special exception in this ordinance which is lawfully existing at the date of adoption of this ordinance shall not be deemed a nonconforming use, but shall, without further action, be deemed a conforming use.

CHAPTER VI

BOARD OF ADJUSTMENT

6.1 Board Of Adjustment Created. A Board of Adjustment is hereby established. The Board shall consist of five (5) members appointed by the Board of Supervisors. 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. Members of the Board of Adjustment may be removed from office by the Board of Supervisors for cause upon written charges and after public hearing. Vacancies shall be filled by the Board of Supervisors for the unexpired term of the member.

6.2 Proceeding of the Board of Adjustment. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this ordinance. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public.

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

6.3 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 bureau of the governing body of the County affected by any decision of the Administrative Officer. Such appeal shall be taken within thirty (30) days of such grievance by filing with the Administrative Officer a notice of appeal specifying the grounds thereof. The Administrative Officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notice thereof as well as due notice the parties in interest, including the owners of property which is within five hundred (500) feet of the property on which the appeal has been filed, and decide the same within a reasonable time. At the hearing any party may appear in person or by agent or attorney.

A fee of fifty dollars (\$50.00) shall be paid to the Administrative Officer at the time the notice of appeal is filed, which the Administrative Officer shall forthwith pay over to the credit of the general revenue fund of the County.

6.4 Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the Administrative Officer 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, and notice to the Administrative Officer from whom the appeal is taken and one due cause shown.

6.5 Power and Duties of the Board of Adjustment. The Board of Adjustment shall have the following powers and duties:

1. Administrative Review. To hear and decide appeals where it is alleged there is error in any order, requirement decision, or determination made by the Administrative Officer in the enforcement of this ordinance.
2. Special Exceptions: Conditions Governing Applications: Procedures. To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this ordinance; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguard as are appropriate under this ordinance, and to deny special exceptions when not in harmony with the purpose and intent of this ordinance.

In granting any special exceptions, 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 Section 7.3 of this ordinance. The Board of Adjustment shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception.

A special exception shall not be granted by the Board of Adjustment unless and until:

- a. A written application for a special exception is submitted indicating the section of this ordinance under which the special exception is sought and stating the grounds on which it is requested.
- b. Notice shall be given pursuant to Section 331.305 of the Code of Iowa.
- c. The public hearing shall be held. Any party may appear in person, or by agent or attorney.
- d. In reviewing an application for a special exception, the Board of Adjustment shall consider the most appropriate use of the land; the conservation and stabilization of property values; adequate open spaces

for light and air; concentration of population; congestion of public streets; the promotion of the public safety, morals, health, convenience and comfort; and the general welfare of the persons residing or working in the general area.

e. The Board of Adjustment shall make a finding that it is empowered under the section of this ordinance described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest. In making its finding, the Board of Adjustment shall, where applicable, duly consider the following:

- (1) Ingress and egress to property with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
- (2) Off-street parking, loading and service areas where required;
- (3) Economic, noise, dust, heat, glare, or odor effects of the special exception on surrounding properties;
- (4) Utilities, with reference to locations, availability, adequacy and compatibility;
- (5) Screens and buffers with reference to type, dimensions, character and adequacy;
- (6) General compatibility with surrounding properties;
- (7) Required yards and other open spaces.

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

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

- (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;

- (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;
 - (3) That the special conditions and circumstances do not result from the actions of the applicant;
 - (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 other districts shall be considered grounds for the issuance of variance.
- b. Notice of public hearing shall be given as in Section 6.5.2(b) above.
 - c. The public hearing shall be held. Any party may appear in person, or by agent or by attorney.
 - d. The Board of Adjustment shall make findings that the requirements of Section 6.5.3(a) have been met by the applicant for a variance.
 - e. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance that will make possible the reasonable use of the land, building or structure.
 - f. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 7.3 of this ordinance. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permitted in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

- 6.6 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, requirement, decision, or determination as ought to be made, and to that end shall have powers of the Administrative Officer from whom the appeal is taken. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision, or

determination of the Administrative Officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in application of this ordinance.

- 6.7 Appeals from the Board of Adjustment. Any person or persons, or any board, taxpayer, department, board or bureau of the County aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the State and particularly by Chapter 335 Code of Iowa.

CHAPTER VII

ADMINISTRATION & ENFORCEMENT

- 7.1 Administration and Enforcement. An Administrative Officer designated by the Board of Supervisors shall administer and enforce this ordinance. He/she may be provided with the assistance of such other persons as the Board of Supervisors may direct.
- If the Administrative Officer finds that any of the provisions of this ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of its provisions.
- 7.2 Appeals from Decision of Administrative Officer. Appeals from any decision of the Administrative Officer may be taken to the Board of Adjustment as provided in Section 6.3 of this ordinance.
- 7.3 Violation and Penalties. Any person, firm or corporation who shall violate or fail to comply with the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars (\$100.00) or imprisoned for not more than thirty (30) days. Each day such violation continues shall constitute a separate offense.
- 7.4 Separate Offenses May Be Charged. The Owners or tenant of any building, structure, land or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains a violation may each be charged with a separate offense and upon conviction suffer the penalties herein provided.
- 7.5 Injunction, Mandamus. Nothing herein contained shall prevent the County from taking other lawful action as is necessary to prevent or remedy any violation.
- 7.6 Building Permit. Subsequent to the adoption of this ordinance a building permit shall be obtained from the Administrative Officer before any building or structure shall be erected, reconstructed, or structurally altered to increase the exterior dimensions, height, floor area, number of dwelling units or to accommodate a change in use of the building and/or premises or part thereof. The building permit shall state that the proposed construction complies with all provisions of this ordinance, and no subsequent modifications shall be made to plans or to actual construction that would be in violation of this ordinance.
- 7.7 Occupancy Compliance Certificate. Subsequent to the effective date of this ordinance, no change in the use or occupancy of land nor any change in use or occupancy of an

existing building, other than for single-family dwelling purposes shall be made, nor shall any new building be occupied for any purpose other than a single-family dwelling until an Occupancy Compliance Certificate has been issued by the Administrative Officer. Every Occupancy Compliance Certificate shall state that the new occupancy complies with all provisions of this ordinance and no subsequent modifications shall be made to the occupancy, use, or method of operation that would be in violation of this ordinance.

7.8 Application for Permits and Certificates. Applications for building permits and occupancy compliance certificates shall be made prior to beginning construction or assuming occupancy on fully completed application forms obtained from the Administrative Officer accompanied by such plans and information necessary to determine that the proposed construction or occupancy complies with all applicable provisions of this ordinance. The Administrative Officer shall within seven (7) days thereof, approve or deny said applications. If denied, the Administrative Officer shall submit his reasons thereof in writing to the applicant.

7.9 Fees. The Administrative Officer is directed to issue a building permit and/or occupancy compliance certificate as required by this ordinance for proposed construction, reconstruction, alteration, location or use which complied with all provisions contained herein and to charge a fee in accordance with the following fee schedule:

1. Building Permit
 - a. Residential uses and structures \$10.00
 - b. Other uses and structures – One dollar (\$1.00) per thousand of construction cost with a minimum fee of fifty dollars (\$50.00) and a maximum fee of two hundred fifty dollars (\$250.00)
2. Occupancy Compliance Certificate
 - a. All uses and structures \$10.00
3. Moving Permit
 - a. All uses and structures \$10.00
4. There shall be no fees charged to the United States Government, the State of Iowa, or any political subdivision thereof.

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

7.10 Changes and Amendments. The regulations imposed and the districts created by this ordinance may be amended from time to time by the Board of Supervisors after a report has been made on the proposed amendment by the Commission. Notice of the time and place of such hearing shall be made pursuant to Section 331.305 of the Code of Iowa. In case the Commission recommends disapproval of the change or, in the case of a protest filed with the Board of Supervisors against a change in district boundaries signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent thereto and within five hundred (500) feet of the boundaries thereof, such amendment shall not be passed except by the favorable vote of sixty (60) percent of all the members of the Board of Supervisors.

7.11 Change of Zoning District Boundaries, Application and Procedure. 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.

1. Such application shall be filed with the Administrative Officer accompanied by a fee of one hundred dollars (\$100.00) and shall contain the following information:
 - a. The legal description and local address of the property.
 - b. The present zoning classification and the zoning classification requested for the property.
 - c. The existing use and proposed use of the property.
 - d. The names and addresses of the owners of all property within five hundred (500) feet of the property for which the change is requested.
 - e. A plat showing the locations, dimensions and use of the applicant's property and all property within five hundred (500) feet thereof, including streets, alleys, railroads, and other physical features.

All fees shall be deposited to the general revenue fund of the County. Failure to approve the requested change shall not be deemed cause to refund the fee to the applicant.

2. Upon receipt of the application by the Administrative Officer, a copy shall be forwarded immediately to the Commission for study and recommendation. The Commission shall give notice of a public hearing of the proposed change to be held before the Commission. At least fifteen (15) day's notice of the time and place of such hearing shall be published in a newspaper having general circulation in the County. Upon holding the hearing, but prior to making a recommendation the Commission shall determine the following:
 - a. Whether or not the current district classification of the property to be rezoned is valid.

- b. Whether there is a need for additional land zoned for the purpose requested.
 - c. Whether the proposed change is consistent with the current land use plan or policy.
 - d. Whether the proposed change would result in a population density or development which would effect a demand for services or utilities in excess of the capacity available or planned for the area.
 - e. Whether the proposed change would result in the generation of traffic in excess of the capacity of existing or planned streets in the vicinity.
3. The Commission shall submit its recommendations to the Supervisors within forty-five (45) days from the receipt of the application stating the reasons therefore, except that when no report issues within that time, the application will be deemed approved by the Commission. The Supervisors may then consider the matter as provided in Section 7.10 of this ordinance.
- 7.12 Separability Clause. Should any section or provision of this ordinance be declared by the courts to be invalid or unconstitutional, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be invalid or unconstitutional.
- 7.13 Repeal of Conflicting Ordinances. All ordinance or parts of the ordinances in conflict with this zoning ordinance or inconsistent with the provisions of this ordinance, and particularly the Cass County Zoning Ordinance adopted the 1st day of March, 1962, and amendments thereto, are hereby repealed to the extent necessary to give this ordinance full force and effect.
- 7.14 Effective Date. THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT AFTER ITS PASSAGE AND PUBLICATION AS PROVIDED BY LAW.

PASSED THIS _____ DAY OF _____, 2005.

Signed _____
Chairman, Board of Supervisors

Attest _____
County Auditor