

# Cass County Code Of Ordinances



Revised and Adopted on October 11, 2006  
Last amendment July 7, 2010  
Cass County Board Of Supervisors

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**Ordinance 1 – Adoption Procedure**

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Title. Ordinance Adoption Procedure Ordinance of Cass County, Iowa

BE IT ENACTED BY THE BOARD OF SUPERVISORS of Cass County, Iowa:

**SECTION 1. Purpose.** The procedures in this ordinance shall be used by the county of Cass for the adoption and amendment of all subsequent ordinances in this county

**SECTION 2. Two Considerations Before Final Passage.** A proposed ordinance must be considered and voted on for passage at two (2) regular meetings of the Board of Supervisors.

The title of the proposed ordinance shall be published at least fifteen (15) days prior to its first consideration. Copies of the full text of the ordinance will be made available at the time of publication at the office of the County Auditor, and it will be noted in the publication where copies may be obtained. A copy of the proposed ordinance shall also be posted in a prominent place in the courthouse for public inspection.

A final publication of the title of the ordinance shall be published at least fifteen (15) days before the meeting for final consideration of the ordinance.

Not more than ten (10) days following the final passage of the ordinance, there will be a full and complete publication of the adopted ordinance.

**SECTION 3. Amendment.** An amendment to an ordinance must specifically repeal the ordinance or the section or subsection to be amended, and must set forth in full the ordinance, section, or subsection as amended. If an ordinance is to be repealed or amended, the procedure will be the same as in enacting an ordinance.

**SECTION 4. Majority Requirement.** Passage of an ordinance or an amendment to an existing ordinance requires an affirmative vote or not less than a simple majority of the entire Board of Supervisors. Each Board member's vote on an ordinance must be recorded in the Board's official minutes.

**SECTION 5. Effective Date.** Upon final passage of an ordinance or an amendment to an existing ordinance and the signatures of a simple majority of the entire Board of Supervisors, the ordinance or amendment will become effective upon publication; unless a subsequent effective date is provided within the measure.

**SECTION 6. Severability Clause.** If some parts of this implementation ordinance or subsequent ordinance are found to be inconsistent or in conflict with state and/or federal legal principles, those parts shall not invalidate the remainder of the ordinance.

**SECTION 7. Definitions.** The use of all words in this and subsequent ordinances shall be determined by the definitions provided in Ordinance 4, Code of Iowa, 1880 unless otherwise provided in the ordinance.

**SECTION 8. Maintenance and Publication of Ordinances.** In accordance with the provisions of the ordinance, the County Auditor shall cause all ordinances, amendments, or summaries thereof to be published in at least one newspaper having general circulation in the county. Final copies of any ordinance or amended ordinances shall be recorded by the County Recorder and made available to the public upon request. All adopted and amended ordinances shall be printed or otherwise reproduced for adequate distribution.

**SECTION 9. County Ordinance Book.** All adopted ordinances and amended ordinances shall be maintained in a separate book known as “Cass County Ordinance Book”. The book shall be maintained in the office of the County Auditor.

Adopted the 6<sup>th</sup> day of April, 1981.

Repealed the 31<sup>st</sup> day of March, 1982. (See Minute Book 19, page 54)

**Ordinance 25 – Adoption of Cass County Code**

Section 1 – Purpose  
Section 2 – Readoption of Current Code  
Section 3 – County Code  
Section 4 – Effective Date

Title. An Ordinance Readopting the County Code of Cass County, Iowa.

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

**Section 1. PURPOSE** Code of Iowa Section 331.302, subsection nine, requires that once every five years a County shall compile its code of ordinances. This ordinance readopts ordinances already in effect.

**Section 2. READOPTION OF CURRENT CODE** The following ordinances, have been or are being adopted concurrently and enacted into law and were or shall be duly published as the law provides. They are stated herein by number and subject matter and by the Authority of the Cass County Board of Supervisors comprise the Cass County Code of Ordinances:

- No. 1 REPEALED 1982 (Original Adoption Procedure).
- No. 2 An Ordinance prescribing the "General Relief Program in Cass County, Iowa.
- No. 3 Zoning and Subdivision Ordinance, Cass County, Iowa. Zoning Ordinance to limit heights of objects around an airport.
- No. 4 An Ordinance Establishing the Area Service System B Road Classification.
- No. 5 An Ordinance Establishing the Policy and Level of Service in Respect to Clearance of Snow or Ice and Maintenance of this County's Secondary Roads During the Winter Months.
- No. 6 Flood Plain Management Ordinance.
- No. 7 An Ordinance Prescribing the Veterans Assistance Program.
- No. 8 REPEALED 1991 (Re-adoption of Ordinances 1986).
- No. 9 An Ordinance Relating to Disposal of Yard Waste.
- No. 10 REPEALED 1996 (Re-adoption of Ordinances 1991).
- No. 11 An Ordinance Relating To The Disposal of Solid Waste.
- No. 12 An Ordinance Establishing A Partial Property Tax Exemption (For The Construction of New Industrial Property and/or the Acquisition of New Machinery/Equipment and Owner Operated Cattle Facilities.)
- No. 13 REPEALED 2001 (Re-adoption of Ordinances 1996).

- No. 14 An Ordinance Relating to the Local Option Tax in Anita, Cumberland, Griswold, Lewis, Marne, Massena and Wiota.
- No. 15 An Ordinance Relating to the Local Option Tax in Atlantic and in the Unincorporated Area of Cass County.
- No. 16 An Ordinance Relating to the Control of Lead Hazards.
- No. 17 An Ordinance Relating to the Purchase of Tax Sale Certificates.
- No. 18 REPEALED 2006 (Re-adoption of Ordinances 2001).
- No. 19 An Ordinance Establishing the Co. Supervisor Districts and Election Precincts in Cass County as amended 07/28/05.
- No. 20 An Ordinance Establishing a local office fee for uniform commercial code (UCC) information request.
- No. 21 An Ordinance Establishing a school infra-structure local option sales and services tax.
- No. 22 An Ordinance Establishing reasonable keg registration and identification rules.
- No. 23 An Ordinance regulating sexually oriented businesses.
- No. 24 An Ordinance establishing animal control and care.
- No. 25 An Ordinance Adopting the County Code of Cass County.

**Section 3. County Code** Copies of the code as adopted herein shall be on file and available for public inspection in the office of the Cass County Auditor

**Section 4. Effective Date** This ordinance shall be effective after its final passage, approval, and publication as provided by law.

First reading: September 20, 2006. Second reading: September 29, 2006. Third reading: October 11, 2006.

ADOPTED and PASSED by the Board of Supervisors of Cass County, Iowa on October 11, 2006.

**Ordinance 4 – Class B Roads**

Section 1 - Purpose

Section 2 – Definitions

Section 3 – Powers of the Board

Section 4 – Authority to Establish

Section 5 – Notice of Hearing

Section 6 – Hearing-Area Service System B Road  
Established by Resolution

Section 7 – Maintenance Policy

Section 8 – Exemption from Liability

Section 9 – Repealer

Section 10 – Severability Clause

Section 11 – When Effective

Title. An Ordinance Establishing the Area Service System B Road Classification in Cass County, Iowa.

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

**SECTION 1. Purpose.** The purpose of this ordinance is to classify certain roads on the area service system in Cass County to provide for a reduced level of maintenance.

**SECTION 2. Definitions.** For use in this ordinance, certain terms or words used herein shall be interpreted or defined as follows:

1. Area Service System includes those public roads outside of municipalities not otherwise classified.

a. Area Service System A roads shall be maintained in conformance with applicable state statutes.

b. Area Service System B roads shall not require standards of maintenance equal to trunk, trunk collector, or area service system A roads. Area Service System B roads shall not mean what is construed in the normal sense as a driveway or a private lane to a farm building or dwelling.

2. Board shall mean the Board of Supervisors of Cass County.

3. Engineer shall mean the County Engineer of Cass County.

**SECTION 3. Powers of the Board.** All jurisdiction and control over *Area Service System B* roads as provided by this ordinance shall rest with the Board of Supervisors of Cass County.

**SECTION 4. Authority to Establish.** The Board of Supervisors of Cass County is empowered under authority of Ordinance 309, Section 57 of the 1983 Code of Iowa, to classify secondary roads on the area system to provide for a reduced level of maintenance on roads so designated. The Board shall, by resolution, declare its intention to establish an area service system B road in Cass County after consultation with the County Engineer.

**SECTION 5. Notice of Hearing.** The Board shall fix a time and place for a hearing and cause notice to be published as provided by law. The notice shall set forth the termini of the area service system B road as set out in the resolution of the Board, and shall state that all persons interested may appear and be heard at such hearing.

**SECTION 6. Hearing-Area Service System B Road Established by Resolution.** On the day fixed for hearing or any day to which the hearing has been adjourned, upon proof to its satisfaction made by affidavit of due publication and posting of the notice of hearing, the Board



shall consider any and all relevant evidence and if the Board finds that the proposed Area Service System B road is practicable, it may establish it by proper resolution.

**SECTION 7. Maintenance Policy.** Only the minimum effort, expense, and attention will be provided to keep area service system B roads open to traffic. Bridges may not be maintained to carry legal loads but will be posted as appropriate to advise of any load limitations. For the various maintenance activities, the minimum maintenance on Area Service Level B roads will be as follows:

1. Blading - Blading or dragging will not be performed on a regular basis.
2. Snow and Ice Removal - Snow and ice will not be removed nor will the road surface be sanded or salted.
3. Signing - Except for load limit, posting for bridges signing shall not be continued or provided. All Area Service Level B roads shall be identified with a sign at all points of access to warn the public of the lower level of maintenance.
4. Weeds, Brush and Trees - Mowing or spraying weeds, cutting brush, and tree removal will not be performed. Adequate sight distances will not be maintained.
5. Structures - Bridges and culverts may not be maintained to carry legal loads. Upon failure or loss, the replacement structure will be appropriate for the traffic thereon.
6. Road Surfacing - There will be no surfacing materials applied to area surface system B roads.
7. Shoulders - Shoulders will not be maintained.
8. Crown - A crown will not be maintained.
9. Repairs - There will be no road repair on a regular basis.
10. Uniform Width - Uniform width for the traveled portion of the road will not be maintained.
11. Inspections - Regular inspections will not be conducted.

**SECTION 8. Exemption from Liability.** As provided in Ordinance 309, Section 57, of the 1983 Code of Iowa, the county and officers, agents, and employees of the county are not liable for injury to any person or for damage to any vehicle or equipment, which occurs proximately as a result of the maintenance of a road which is classified as Area Service "B", if the road has been maintained as provided in Section 7 of this ordinance.

**SECTION 9. Repealer.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 10. Severability Clause.** If any section, provision, or part of this ordinance - shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 11. When Effective.** This ordinance shall be in effect after its final passage, approval and publication as provided by law.

Adopted the 8<sup>th</sup> day of August, 1984.

**Ordinance 5 – Winter Road Maintenance**

Section 1 – Purpose  
Section 2 – Level of Service  
Section 3 – Sequence of Service  
Section 4 – Limitation of Service

Section 5 – Emergency Conditions  
Section 6 - Repealer  
Section 7 – Severability Clause  
Section 8 – When Effective

Title: An Ordinance Establishing the Policy and Level of Service in Respect to Clearance of Snow or Ice and Maintenance of this County's Secondary Roads During the Winter Months.

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

**SECTION 1. Purpose.** The purpose of this ordinance is to establish this County's policy and level of service in respect to clearance of snow and ice and maintenance of its secondary road system during the winter months, as provided in HF 2487, Section 10(2), Acts of the 63rd G.A., Second Session, and pursuant to the provisions of Section 309.67, Code of Iowa. This policy and level of service are to be implemented within the amount of money budgeted for this service, and as contained in this County's secondary road budget as submitted to and approved by the Iowa Department of Transportation and adopted by the Board of Supervisors.

**SECTION 2. Level of Service.** Clearance of snow or ice and maintenance of the secondary road system during the winter months is primarily for the benefit of the local residents of this County. Each storm has individual characteristics and must be dealt with accordingly. The portion of the roadway improved for travel will have upon it snow and ice in a compacted condition. These conditions may be continuous, or they may be more concentrated on hills, in valleys, curves, and/or intersections. The County's existing snow removal equipment will be utilized for this purpose. All clearance of snow and ice, sanding, salting, and other maintenance respecting winter conditions shall be accomplished within the amount of money budgeted for this service. The entire width of that portion of the road improved for travel may not be cleared of snow, ice, compacted snow and ice, or frost. Snow cleared from that part of the roadway improved for travel shall be placed on or in the adjacent shoulder, ditch, or right-of-way. Snow can be expected to accumulate adjacent to the traveled portion to the extent that a motorist's sight distance to both the left and right may be greatly reduced or impaired. The snow removed from intersections will be piled in its corners in piles of unequal height. The line of sight, sight distance, or visibility of motorists approaching these intersections may be greatly reduced or impaired. The County shall not be responsible for snow pushed or otherwise placed on the roadway or shoulder by others. Motorists shall drive their vehicles during these conditions with additional caution and watchfulness, especially in respect to the surface of the roadway, and reduced or impaired visibility and are advised to reduce their speed at least 25 miles per hour below that legally permitted or advised under normal conditions. In respect to roadways that have only one lane open, further extreme watchfulness and caution should be exercised by the motorist, and their speed should not exceed 10 miles per hour. During these conditions no additional warning or regulatory signs will be placed that warn of impaired sight distances, visibility at intersections, road blockages, one-lane conditions, or that the road surface is slick or slippery, or what the advised speed should be.

**SECTION 3. Sequence of Service.** In the implementation of snow and ice removal and other maintenance of the county's secondary road system during the winter months, the County Engineer shall select the actual sequence of roads to be cleared as provided for in this Section of this Ordinance, and shall determine when drifting, wind velocity, and additional snow or snowstorms require that the snow removal equipment be removed from the roadway, or that additional clearance of paved routes be accomplished prior to the clearance of gravel and dirt roads. The County Engineer's professional judgment shall prevail unless it is clearly erroneous.

A. Paved routes.

1. The initial effort will be to get all residences open to one-lane traffic as soon as possible.
2. After one-lane travel is possible, subsequent snow removal will be carried on during normal working hours.
3. The truck mounted snow plows and spreaders will not normally be in operation between the hours of 4:30 PM and 8:00 AM. The trucks may be called off the road if snow and/or blowing snow reduce visibility to hazardous working conditions, in the professional judgment of the engineer or his delegated representative.
4. When required, due to drifting snow, motor graders may be used to keep the paved roads open and the opening of gravel roads may be delayed.
5. It is not the policy of the county to provide a "dry" pavement condition.
6. After roads have been plowed as provided in this section, intersections, hills, and curves may have placed on them, salt, sand or other abrasive. These intersections, hills and curves will not be re-sanded, re-salted, nor have other abrasives replaced on them between snowstorms. This sequence of service shall be performed only between the hours of 8:00 AM and 4:30 PM each day, exclusive of Saturdays, Sundays, and legal holidays observed by County employees.

B. Unpaved roads.

1. The initial effort will be to get all residences opened to one-lane traffic as soon as possible after a storm has passed.
2. After one-lane travel is possible, subsequent snow removal will be carried on during normal working hours.
3. Motor graders and/or truck plows will not normally be in operation between the hours of 4:30 PM and 8:00 AM. Gravel roads may not be plowed if the wind is causing continual drifting.
4. Snow may not be removed from roads designated at Level B.

C. Private drives.

The County will not clear snow from private drives. Normal snow removal operations may result in snow being deposited in private drives. Snow from private drives shall not be placed on the roadway or shoulders. There is no time limit after a snowstorm in which any of the above sequence of clearance, on paved or unpaved roads, shall take place.

**SECTION 4. Limitation of Service.** The policy and level of service provided for in this Ordinance shall not include the performance of the following services:

1. Sanding, salting, or placing of other abrasives upon the roadway that is slick, slippery and dangerous due to the formation of frost.
2. Sanding, salting, or placing other abrasives upon paved roadways due to freezing precipitation that occurs outside the county's usual working hours.
3. Placing of additional warning or regulatory signs warning of impaired sight distances, visibility at intersections, road blockages, one-lane conditions, or that the road surface is slick or slippery, or what the advised speed should be.
4. Sanding, salting, or placing abrasives upon any road, except for paved roads.
5. Re-sanding or re-salting for freezing and thawing between snow-storms.

**SECTION 5. Emergency Conditions.**

- A. The sequence of service may be suspended during "Emergency" conditions. An "Emergency" condition shall be considered as one where a loss of life is probable, where a serious injury has occurred, or where extensive loss of property is imminent. These conditions should be verified through a physician's or sheriff's office. The County will respond to all ""Emergency" conditions, either during or after a snowstorm.
- B. The provisions of the Ordinance shall be further suspended in the event the Governor, by proclamation, implements the State disaster plan, or the Chairman of the Board of Supervisors, by proclamation, implements the County disaster plan. If such occurs, the County personnel and equipment shall be immediately subject to the direction of the Governor or the Chairperson of the Board of Supervisors.

**SECTION 6. Repealer.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 7. Severability Clause.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 8. When Effective.** This ordinance shall be in effect after its final passage, approval, and publication as provided by law.

Passed and adopted this 7th day of November, 1984 by the Cass County Board of Supervisors.

**Ordinance 2 – General Assistance Program**

Section 1 – Categories  
Section 2 – Definitions  
Section 3 – Method of Assistance  
Section 4 – Eligibility of Needy Person  
Section 5 – Eligibility of Poor Person  
Section 6 – Level of Benefits  
Section 7 – Requirements for Receiving  
Assistance for a Needy Person

Section 8 – Application for  
Assistance  
Section 9 – Initial Determination  
Section 10 – Appeal  
Section 11 – Appeal Hearing  
Section 12 – Additional Provisions  
Section 13 – Other

Title. An Ordinance Prescribing the General Assistance Program in Cass County, Iowa

BE IT RESOLVED by the Board of Supervisors of Cass County, Iowa:

**SECTION 1. Categories.** There shall be three (3) categories of general assistance in Cass County, Iowa. They are:

1. Emergency assistance for needy persons;
2. Assistance for poor person; and
3. Assistance of an extended nature

**SECTION 2. Definitions.** The definition of terms as used in this Ordinance is:

1. Needy person is a person or the household of that person who is domiciled in Cass County, Iowa or who is a transient in the County for less than seven (&), days who, because of circumstances which are not attributable to that person needs immediate assistance.
2. Poor person is a person or the household of that person who is domiciled in Cass County, Iowa, and who because of physical or mental disability is unable to engage in gainful employment and otherwise cannot make a living.
3. Assistance means food, rent, shelter, clothing, transportation, emergency telephone service, fuel, utilities and medical attention. Food does not include cigarettes or alcoholic beverages, but may include care and upkeep items such as laundry soap, household cleaners, and other items of a non-food nature used for personal hygiene.
4. Net worth includes income or monies from any source, monies, due savings and other deposits, stocks, bonds, real estate, cash value of life insurance policies, jewelry, and value of all other real and personal property but excludes clothing, engagement & wedding rings, usual household furniture, and similar equipment, one automobile and a homestead.
5. Household means the individual applying and all members of the immediate family (spouse, significant other, children under eighteen (18) years of age, children over eighteen years of age who are dependent upon the applicant, and anyone else who is a dependent of the applicant for Federal tax purposes or anyone who resides with the applicant as a household.
6. Liquid assets means cash or any other item of net worth of the household that can be readily converted to cash within seven (7) days.
7. Awaiting approval and receipt means a poor person who has applied for assistance under any state or federal law; who pursued that application with due diligence; and who has

not had that application denied. This does not include an appeal of a denial of benefits. It does include a person who has had an application denied and who reapplies after eighteen (18) consecutive months have lapsed since the date of the denial.

**SECTION 3. Method of Assistance.** The Assistance shall be purchased directly from the supplier for the applicant or the household. It may be for one or more of the items of assistance that are allowable. No cash will be provided.

**SECTION 4. Eligibility of Needy Person.** Emergency Assistance is to be provided to a needy person who is in need of immediate assistance, not obtainable from any other source, and whose income is assistance from a state or federal program has been delayed or not actually received by that person, due to reason not attributable to that person, and whose household does not have liquid assets from which to pay for the items of assistance that are to be provided Emergency Assistance is, also, to be provided to persons who are in need of immediate assistance, which are not obtainable from any other source, whose net worth is less than One Hundred Percent (100%) of the current federal poverty level, and who, due to reasons not attributable to that person, does not have liquid assets of his or her household from which to pay for items of Assistance that are allowable.

**SECTION 5. Eligibility of Poor Persons.** Assistance is to be provided to poor persons who are in need of immediate Assistance, cannot obtain assistance from any other source, whose household net worth is less than One Hundred Percent (100%) of the current federal poverty level and who are eligible for, and are awaiting approval and receipt of assistance under programs provided by state or federal law, or whose actual needs, as defined within the limitations of this Ordinance, cannot be fully met by the assistance furnished under such programs.

**SECTION 6. Level of benefits.** The maximum level of benefits to be provided for each item of Assistance for each person or that person's household shall be:

1. Food (if food stamps have not been received): Valued at the level of guidelines for food stamps.
2. Rent and Shelter: The reasonable rental value not to exceed Two Hundred and Fifty Dollars (\$250.00) per month for the person and an additional Twenty Five Dollars (\$25.00) per month for each additional member of the household that actually resides with the person. Higher rent may be paid for One (1) month at the discretion of the General Assistance Director.
3. Clothing: The reasonable value of clothing actually needed if not immediately available from other sources.
4. Utilities (heat, lights, and water): The amount needed to provide these services and supplies.
5. Medical services, Dental services (emergency extraction only), and prescriptions: The reasonable value of these services actually needed on an emergency basis.
6. Transportation expenses (including gasoline and oil): As needed to obtain other benefits, seek employment, or medical care, provided that proof of application for benefits or employment is provided to the Director.

The total amount for all of the items of assistance needed, at any one time, shall be determined. The amount of liquid assets the person or the household has available shall be deducted. The remaining balance is the amount of assistance the needy person or vendor will receive. The needy or poor person shall be disqualified from receiving future benefits if (except for reasons not attributable to that person) they fail to repay the value of the benefits received as per agreement. If an individual provides false information on the General Assistance Application, they are subject to the Iowa Code (including but not limited to Ordinances 234, 239, 249, 249A, 712). Cass County may prosecute persons providing false information to the extent of the law. Persons prosecuted will not regain eligibility to receive assistance through this program. The Board of Supervisors may waive the repayment of all or some of the benefits.

**SECTION 7. Requirements for Receiving Assistance by a Needy Person.** A needy person not needed in the home to care for minor children, shall immediately register for employment with Workforce Development Center of Iowa. A refusal or failure to actively seek employment, refusal or failure to accept reasonable employment offered shall disqualify the needy person from receiving future benefits. The needy person may be required to provide reasonable proof that he or she is actively seeking employment.

**SECTION 8. Application for Assistance.** The Director of General Assistance during usual business hours will provide applications for assistance. Completed applications must be submitted to the Director during hours posted on the office door, or at a prearranged appointment. If, due to hardship, an applicant cannot come to the County Courthouse, the Director will mail or deliver the application. If the application or the house hold is, or appears to be eligible for assistance from the application. If the Applicant or the household is, or appears to be eligible for assistance from any other federal, state, or local source, the Director will immediately refer the applicant to that source. It will be the obligation of the applicant to immediately apply to that source and to diligently pursue the application as a condition of being eligible for further Assistance under this ordinance.

It is the obligation of each person applying to establish his or her eligibility for any category of general assistance and to prove his or her need for any item of assistance. If requested, the person applying will provide the Director with a verified statement of net worth (federal and state income tax returns) for the past five (5) years, medical reports, medical authorization, and anything else requested by the Director that pertains to the person's eligibility for assistance. The Director may also require, upon approval of the Board of Supervisors, that the applicant submits to a physical or mental examination to determine the applicant's capacity for labor. The Director will also accept anything that the applicant chooses to submit to establish their eligibility or need (including statements or letters, medical reports, bills for the current month's utilities, shut off notices, eviction notices, and other written documents as well as verbal statements of the applicant). The Director will then proceed to conduct a reasonable investigation concerning the applicant's eligibility and needs. A copy of the applicant's file, documentation and findings of the Director will be made available to the applicant or to the applicant's attorney (release of information must accompany requests by attorneys).

**SECTION 9. Initial Determination.**

- A. The Director will make an initial determination of the eligibility and needs of the applicant within five (5) working days of the receipt of the application. The Director will notify the applicant of the decision by telephone, if available, immediately or by mail within five (5) working days of the determination.
- B. If the Director cannot make the initial determination within five (5) working days, the Director will immediately inform the applicant, (by telephone, if available), of the reasons why such determination cannot be made.
- C. If an applicant has been previously found eligible, the Director need not receive a new application, but may proceed to a determination of whether or not current assistance is warranted. Notice and mailing of such determination will be provided above. If an emergency and immediate need is present, the Director may verbally authorize a supplier or vendor to furnish items of authorized amount required for the benefits of the applicant.

**SECTION 10. Appeal.**

- A. Every applicant, denied Assistance, will be informed in writing of the Director's decision, and of the applicant's right to appeal such decision to the Board of Supervisors. The applicant will be informed (1) of the method by which an appeal may be taken, and (2) that he or she may represent him/herself or may be represented by an attorney, at the applicant's expense.
- B. The Director shall receive any communication to the Director by or on behalf of an applicant requesting appeal of the Director's determination. The Director shall schedule a time on the Board of Supervisors' agenda (in accordance with Ordinance 21, Code of Iowa) at their regular Board Meeting. The communication requesting appeal must be submitted to the Director within 10 days of the Director's determination. The appeal must contain the applicant's current address and telephone number, and state the reasons for the appeal. The applicant will be informed immediately, by telephone, if available and by ordinary mail of the date and time of the hearing before the Board of Supervisors.

**SECTION 11. Appeal Hearing.**

- A. The Board of Supervisors will hear the applicant's appeal de novo, at the time scheduled in the agenda, unless the applicant requests continuance. The applicant will be permitted to present whatever evidence desired in support of the appeal including testifying, having other witnesses testify, offering documentary evidence, and reasonable cross examination of other witnesses, if present. The technical rules of evidence will not apply. The Board may set reasonable time limits for the presentation of evidence. The applicant's file will be admitted into evidence. The applicant's file will be admitted into evidence. The Board may question the applicant. The Director will present the Board



with the reasons for the determination. The hearing will be tape-recorded. The hearing before the Board will be at a closed meeting in accordance with Ordinance 21, Code of Iowa, since the confidential files of the applicant will be in evidence. When the Board deliberates on the appeal, no other parties will be present.

- B. The Board will make a decision on the appeal within seven (7) working days after the hearing. The Board's decision will be based only on the evidence submitted before the Board. The applicant will be informed immediately by telephone, if available, of the decision and within seven (7) working days thereafter, the Board will mail to the applicant, at his or her last known address, by ordinary mail, the written decision. The decision will state the reasons for the action. The Board's decision will also state that an appeal of the Board's determination may be made by the method described in section 11C of this ordinance.
- C. An appeal by the applicant to the district court will be allowed within the time limits and the manner and procedures established under the Iowa Administrative Procedures Act, Ordinance 17A, Code of Iowa.

**SECTION 12. Additional Provisions.** When General Assistance benefits have been provided, Ordinance 252 13, Code Iowa, is applicable for repayment of said benefits to Cass County and the applicant will acknowledge the same in writing.

**SECTION 13. Other.** All Cass County ordinances and resolutions, or parts thereof, in conflict with this ordinance are hereby repealed.

Adopted on the 10<sup>th</sup> day of September, 1997.

**Ordinance 7 – Veterans Emergency Assistance Program**

Section 1 – Definitions  
Section 2 – Application Requirements  
Section 3 – Forms of Assistance  
Section 4 – Eligibility  
Section 5 – Level of Benefits

Section 6 – Application for Assistance  
Section 7 – Initial Determination  
Section 8 – Appeal  
Section 9 – Appeal Hearing  
Section 10 – Miscellaneous

**An ordinance prescribing the Veterans Emergency Assistance program in and for Cass County, Iowa**

The Veterans Emergency Assistance program provides assistance to Cass County, Iowa, military veterans who are unable to meet their basic needs because of an emergency situation.

**Section 1 – Definitions**

The definition of terms as used in this ordinance is:

“Emergency” is a sudden, urgent, need for help or relief, created by some unexpected event and occasion requiring immediate action.

“Veteran” is an Iowa resident living in Cass County, Iowa, who has served honorably in the U.S. armed forces in either peacetime or wartime beyond “boot camp” and initial training, unless discharged during those times for a service-connected disability. The veteran must present proof of honorable discharge before assistance can be rendered.

“Veteran” also includes an Iowa resident who served in the Reserves or Iowa National Guard for at least 20 years or who was activated to federal service for 90 continuous days, not including “boot camp” or initial training, unless discharged with less service for a service-connected disability.

“Assistance” means food, rent, shelter, clothing, transportation, fuel, utilities, medical services, and burial. Assistance, excluding burial, can be provided for surviving spouse and dependent children if the honorably discharged veteran is deceased.

“Net worth” includes income or monies from any source, monies due, savings and other deposits, stocks, bonds, real estate, cash value of life insurance policies, jewelry, and value of all other real and personal property but excludes clothing, engagement & wedding rings, usual household furniture, and similar equipment, one automobile and a homestead.

“Household” means the individual veteran applying and all members of the immediate family (spouse and dependent children). If the veteran is deceased, “household” shall mean the veteran’s surviving spouse who has not remarried and minor dependents.

“Commission” shall mean the Cass County Veterans Affairs Commission and/or its Director.

## Section 2 – Application Requirements

In applying for benefits, the veteran must submit to the Cass County Veterans Office, along with the application, the following documents:

- DD Form 214 “Report of Separation from the Armed Forces” or similar documentation indicating what type of discharge from any branch of the military service.
- Certificate of Marriage, if applicable.
- Birth Certificates, if applicable.

## Section 3 – Forms of Assistance

Assistance shall be purchased directly from the supplier. No cash will be provided.

## Section 4 – Eligibility

Assistance is to be provided to an indigent veteran who is in need of immediate assistance due to reasons beyond the veteran’s control and not obtainable from any other source. Income for the household cannot exceed 150 percent of federal poverty level.

In extreme cases, assistance may be provided for veterans earning more than 150 percent of federal poverty level if income has been delayed for reasons outside the veteran’s control. In those cases, veteran shall agree to re-pay assistance at an agreed upon date. Failure to repay per agreement will result in termination of future assistance

## Section 5 – Level of Benefits

Assistance can be provided for a maximum of three (3) months in a year, starting from the first approval of assistance. If additional assistance is needed, the applicant must appear before the Veterans Commission. The maximum level of benefits shall be:

- **Food:** Maximum benefit is \$100 per request. Food does not include tobacco products, alcoholic beverages, or “junk” food. Products for personal hygiene and cleanliness may be purchased. Receipts must be submitted to the Director.
- **Rent and Shelter:** The reasonable rental value not to exceed \$400.00 per month. Higher rent may be paid for one (1) month at the discretion of the Director. The residence, whether owned or leased, and utilities must be in the name of the veteran seeking assistance. Security deposits and 1<sup>st</sup> month’s rent will not be paid.
- **Clothing:** The reasonable value of clothing actually needed if not immediately available from other sources.

- **Utilities:** The amount needed to prevent cancellation of these services. Telephone assistance is limited to basic landline phone service, up to a maximum of \$50.
- **Medical and dental services and prescriptions:** The reasonable value of these services actually needed on an emergency basis. Dental services limited to emergency extractions only.
- **Transportation:** Fuel assistance may be provided for indigent veterans to travel to VA medical centers. If the veteran qualifies for VA travel reimbursement, no county assistance will be provided.

The indigent veteran shall be disqualified from receiving future benefits if (except for reasons not attributable to that person) they fail to repay the value of the benefits received as per agreement. The Cass County Veterans Commission may waive the repayment of all or some of the benefits.

## Section 6 – Application for Assistance

The VA Director will provide applications for general assistance during normal business hours. Completed applications must be submitted to the Director during those hours or by prearranged appointment. If, due to hardship, an applicant cannot come to the County Courthouse, the Director will mail the application.

If the Applicant or the household is, or appears to be, eligible for assistance from any other federal, state, or local source, the Director will immediately refer the applicant to that source. It will be the obligation of the applicant to immediately apply to that source and to diligently pursue the application as a condition of being eligible for further assistance under this ordinance.

It is the obligation of each person applying to establish his or her eligibility for any category of general assistance and to prove his or her need for any item of assistance. If requested, the person applying will provide the Director with a verified statement of net worth (federal and state income tax returns) for the past five (5) years, medical reports, medical authorization, and anything else requested by the Director that pertains to the person's eligibility for assistance.

The Director will also accept anything that the applicant chooses to submit to establish their eligibility or need (including statements or letters, medical reports, bills for the current month's utilities, shut-off notices, eviction notices, and other written documents as well as verbal statements of the applicant).

The Director will then proceed to conduct a reasonable investigation concerning the applicant's eligibility and needs. A copy of the applicant's file, documentation and findings of the Director will be made available to the applicant or to the applicant's attorney (release of information must accompany requests by attorneys).

**Section 7 – Initial Determination**

The Director will make an initial determination of the eligibility and needs of the applicant within five (5) working days of the receipt of the application. The Director will notify the applicant of the decision within five (5) working days of the determination.

If the Director cannot make the initial determination within five (5) working days, the Director will immediately inform the applicant of the reasons why such determination cannot be made.

If an applicant has been previously found eligible, the Director need not receive a new application, but may proceed to a determination of whether or not current assistance is warranted. Notice of such determination will be as provided above. If an emergency and immediate need is present, the Director may authorize a supplier or vendor to furnish items of an authorized amount required for the benefit of the applicant.

**Section 8 – Appeal**

Every applicant denied assistance will be informed of the Director's decision and of the applicant's right to appeal such decision to the Veterans Commission. The applicant will be informed of the method by which an appeal may be taken, and that he or she may represent himself/herself, or may be represented by an attorney at the applicant's expense.

The Director shall receive any communication on behalf of an applicant requesting appeal of the Director's determination. The Director shall schedule a time on the VA Commission agenda (in accordance with state law) at their regular meeting.

The communication requesting appeal must be submitted to the Director within 10 days of the Director's determination. The appeal must contain the applicant's current address and telephone number, and state the reasons for the appeal. The applicant will be informed immediately, by telephone, if available and by ordinary mail of the date and time of the hearing before the VA Commission.

**Section 9 – Appeal Hearing**

The VA Commission will hear the applicant's appeal at the time scheduled in the agenda, unless the applicant requests continuance. The applicant will be permitted to present whatever evidence desired in support of the appeal including testifying, having other witnesses testify, offering documentary evidence, and reasonable cross examination of other witnesses, if present. The technical rules of evidence will not apply.

The Commission may set reasonable time limits for the presentation of evidence. The veteran's file will be admitted into evidence. The Commission may question the veteran. The Director will present the Commission with the reasons for the denial.

The hearing will be tape-recorded. The hearing before the Commission will be at a closed meeting in accordance with state law since the confidential files of the veteran will be in evidence. While the Commission deliberates the appeal, no other parties will be present.

The Commission will make a decision on the appeal within seven (7) working days after the hearing. The Commission's decision will be based only on the evidence submitted. The veteran will be informed immediately by telephone, if available, of the decision and within seven (7) working days thereafter, the Commission will mail to the applicant, at his or her last known address, by ordinary mail, the written decision.

The decision will state the reasons for the action. An appeal by the veteran to the Board of Supervisors will be allowed within the time limits and the manner and procedures established under Code of Iowa, Title 1, Subtitle 6, Chapter 17A.

### **Section 10 – Miscellaneous**

All Cass County ordinances and resolutions, or parts thereof, in conflict with this ordinance are hereby repealed.

Adopted on the 7<sup>th</sup> day of July, 2010

### **Ordinance 3.1 – Zoning Ordinance**

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**SECTION 1. 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 Ordinance 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 Ordinance 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.

**SECTION 2. 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 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) 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. Kenel. 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 generality 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 semi trailer 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 semi trailer:

- 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.

**SECTION 3. 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 Ordinance 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, and 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 ponds.....5 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 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. Two-family dwellings .....
  3. Multi-family dwellings and including public housing developments .....

} 2 spaces per unit

- 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 |
| 13. | Drive-in theaters .....   | Storage lanes outside 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, pump-ing 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.....	1 space for every 300 square feet sales service and office floor space
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.....	1 space for every 300 square feet of sales service and office floor space
6.	Lumber yards and building material sales and storage .....	
7.	Wholesaling and warehousing but not including the bulk storage of liquid fertilizer or petroleum products under pressure.....	
8.	Truck and freight terminals.....	1 space for each employees plus 1 space for each company vehicle
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 condition- ing and sheet metal shops.....	
13.	Railroads, sewer, water and other utilities including storage and maintenance yards, substations, pumping stations and administra- tive office .....	
14.	Ethanol plants .....	

15. Granting all Business District permitted uses in Light Industrial District.

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:

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 .....
    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 ..... employee plus 1  
space for each  
company vehicle
- 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 .....

### 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

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 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 required that adequate safeguards be taken to minimize the potential danger. In the event adequate safeguards and precautions cannot be me or complied with, the Board of Adjustment shall not grant approval for such use.



**SECTION 4. 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 least 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)

The Board of Adjustment may permit a WECS in any District as a Special Exception Use and Structure subject to Section 6.5-2 and the following additional requirements:

1. The WECS shall be located so that the distance from the base of the tower support of a WECS to any lot lines or any building or power line is a minimum of 100% of the total height of the WECS (the height above grade including the tower and the highest vertical extension of the blades); provided, however, that a WECS may be located less than such distance to a lot line if such lot line separates two participating properties with WECS located on them or with the consent of the property owner that does not have a WECS on its property; and further provided that the distance from the base of the tower support of a WECS to any occupied dwelling or building is a minimum of 1200 feet (except such minimum distance shall not apply in the event the owner of the WECS is also the owner of the occupied dwelling or building).
2. The WECS operation shall not interfere with radio, television, computer, or other electronic operations on adjacent property; and if such WECS operation causes such interference, the owner of the WECS shall take necessary action to eliminate such interference.
3. A fence at least 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; or the towers are made of smooth tubular steel with locked doors at the base.

Effective date: This amendment of ordinance (striking previous text and replacing with above text) shall be effective after its final passage, approval, and publication as provided by law.

First reading: March 31, 2009. Second reading and adoption: April 8, 2009.

ADOPTED and PASSED by the Board of Supervisors of Cass County, Iowa on April 8, 2009.

**SECTION 5. 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.

**SECTION 6. 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 Ordinance 335 Code of Iowa.

**SECTION 7. Administration and 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 Severability 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.

Updated 1982 and 2003. Revised ordinance adopted the 31<sup>st</sup> day of May, 2005.

Updated April 8, 2009- section 4.4 Wind Energy Conservation Systems.

**Ordinance 3.2 – Subdivision Ordinance**

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**SECTION 1. Purpose and Jurisdiction.**

- 1.1 **Purpose.** The purpose of this ordinance is to provide rules and regulations for the subdivision of land within the unincorporated areas of Cass County, Iowa; to prescribe minimum standards for the design and development thereof; to establish procedures for the approval of preliminary and final plats and requiring as a condition of approval, certain improvements; all for the purpose of promoting the safety, health and general welfare of the public and to facilitate the adequate provision of transportation, water, sewerage and other public requirements.
- 1.2 **Title.** This ordinance shall be known and may be referred to as the Cass County Subdivision Ordinance.
- 1.3 **Jurisdiction.** All plats, replats, or subdivision of land into three or more parts in the unincorporated areas of Cass County, for other than agricultural purposes, including the laying out of suburban lots or additions within two miles of any city, or if a new road is created, any division of a parcel of land, shall be submitted to the Board of Supervisors and the County Zoning Commission in accordance with the procedures established by this ordinance, and shall be subject to the requirements established herein, and in Ordinance 354 of the Code of Iowa.

All plats, replats, or subdivisions of land as defined above, that are within two miles of any city having extra-territorial subdivision control, shall also be submitted to the council and planning commission in such cities, and shall be subject to the procedures and requirements of such city and Ordinance 354 of the Code of Iowa as well as the requirements established herein.

**SECTION 2. Definitions.**

- 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. **Alley.** A permanent public service way or right-of-way, designed to provide a secondary means of access to abutting property.
  2. **Auditor.** The County Auditor of Cass County, Iowa.
  3. **Board.** The Board of Supervisors of Cass County, Iowa.
  4. **Building Line.** A line established on a plat as a restrictive covenant, beyond which no building may be placed. The building lines need not correspond to the front, side or rear yard requirement established in the zoning ordinance, and where they do not, the most restrictive requirement will control.

5. Commission. The Zoning Commission of Cass County, Iowa.
6. County. Cass County, Iowa.
7. Cul-de-Sac. A minor road having one end open to motor traffic, and other end being permanently terminated by a vehicular turnaround.
8. Easement. Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.
9. Final Plat. The map or drawing, on which the subdivision plan is presented in the form which, if approved by the Board and Zoning Commission, will be filed and recorded with the County Recorder.
10. Preliminary Plat. A study, or drawings indicating the proposed manner or layout of the subdivision which is submitted to the Board and Zoning Commission for consideration.
11. Separate Tract. A parcel of land or a group of contiguous parcels of land under one ownership on the effective date of this resolution.
12. Road (Street). A right-of-way other than an alley dedicated or otherwise legally established to and accepted for the public use, usually affording the principal means of access to abutting property. A road may be designated as a street, highway, thoroughfare, parkway, avenue, lane, drive, place or other appropriate designation.
13. Collector or Feeder Road. A street or road intended to carry vehicular traffic from residential or local streets to thoroughfares or traffic generators. This category includes trunk and trunk collectors as defined by the Iowa functional roads and streets classification system.
14. Residential Street or Local Road. A road used primarily for access to abutting property and includes area service roads as defined by the Iowa functional roads and streets classification system.
15. Right-of-Way. The area measured between property lines, dedicated to and accepted for public use and providing access to abutting properties.
16. Subdivider. Any person, firm, corporation, partnership, or association who shall lay out, for the purpose of sale or development, any subdivision or part thereof as defined herein, either for himself or others.
17. Subdivision. The division of a separate tract of land into three (3) or more lots or parcels for the purpose of transfer of ownership or building

development, or, if a new road is involved, any division of a parcel of land.

### **SECTION 3. Platting Procedures and Plat Requirements.**

#### **3.1 Preliminary Platting Procedure.**

1. The subdivider of any tract of land to be subdivided shall cause a preliminary plat to be prepared containing the information specified herein and shall file six (6) copies and a reproducible sepia or tracing of the plat with the Administrative Officer.
2. The Administrative Officer shall immediately transmit three (3) copies of the preliminary plat to the Zoning Commission and one (1) copy each to the County Engineer and County Health Officer for study and recommendation.
3. The Zoning Commission shall hold a public hearing on the preliminary plat; consider the recommendations of the County Engineer and County Health Officer as well as the following factors:
  - a. The relation of the proposed subdivision to the public interest.
  - b. The effect of the proposed subdivision on the environment.
  - c. The compliance of the proposed subdivision with the provisions of this ordinance.
  - d. The suitability of the area for the proposed development, with special attention to site features such as topographic and subsurface conditions.
  - e. The availability of utilities and various public services such as police and fire protection, schools, parks and solid waste disposal.
  - f. The availability of access from existing highways and the nature of the altered traffic pattern that may result from the proposed subdivision.
  - g. The use of sound planning and engineering practices in developing the plat and its features.
4. The Commission shall, within forty-five (45) days of receipt of the plat, submit its recommendations to the Board of Supervisors whether of approval, modification or disapproval, stating its reasons therefore. The

subdivider, may, however, agree to an extension of time not to exceed sixty (60) days. A copy of the recommendation shall be forwarded to the subdivider.

5. The Board of Supervisors, upon receipt of the Commission's recommendation, or after the forty-five (45) days or any extension thereof shall have passed, shall by resolution grant approval of or reject the preliminary plat. If the preliminary plat is rejected, the Board of Supervisors shall advise the subdivider of any changes which are desired or should have consideration before approval will be given. Approval of the preliminary plat by the Supervisors shall constitute approval to proceed with preparation of the final plat but shall not be deemed approval of the subdivision.

### 3.2 Final Platting Procedure

1. A final plat shall be submitted within twelve (12) months of the approval of the preliminary plat, or such approval shall expire and the preliminary plat shall be resubmitted for approval prior to preparation of a final plat.
2. Procedures for final plats shall be the same as set out for preliminary plats in Section 3.1 above, except that a public hearing shall not be required.
3. Upon approval of the final plat, a certification of approval signed by the Chairman of the Board of Supervisors and attested by the County Auditor shall be affixed to the original tracing of the final plat and copies of the same filed with the County Auditor and County Recorder, along with such other certifications and instruments as may be required by law.

### 3.3 Plat Within Two (2) Miles of a City. The procedure for plats within two (2) miles of a city having extra-territorial subdivision control shall be to the same as set out for preliminary and final plats in Section 3.1 and 3.2, and as hereinafter provided.

1. The subdivider shall also file such plats with the municipality in accordance with its established procedures.
2. The Commission shall submit its recommendations to the municipality.
3. If action by the municipality is in accord with the recommendations of the Commission, the Board of Supervisors shall concur with such action, provided that the design standards and improvements required are not less than those established herein.

### 3.4 Professional Assistance. The Board of Supervisors or the Zoning Commission may request such professional assistance as deemed necessary to properly evaluate the plats submitted.

3.5 Preliminary Plat Requirements. The preliminary plat shall contain the following information:

1. A location map showing:
  - a. Subdivision name.
  - b. Outline of the area to be subdivided.
  - c. Existing roads and public or community utilities, if any, on adjoining property.
  - d. North point and scale.
2. A preliminary plat of the subdivision drawn to the scale of fifty (50) feet to one (1) inch, provided that if the resulting drawing would be over thirty-six (36) inches in shortest dimension, a scale of one hundred (100) feet to one (1) inch may be used. Said preliminary plat to show:
  - a. Legal description, acreage and name of proposed subdivision.
  - b. Name and address of the owner.
  - c. Name of person who prepared the plat, and date thereof.
  - d. Location of existing lot lines, roads, public utilities, water mains, sewers, drain pipes, culverts, water courses, bridges, railroads and buildings in the proposed subdivision.
  - e. Location and widths, other dimensions and names of the proposed roads, utility easements and other open spaces or reserved areas.
  - f. A statement concerning the location and approximate size or capacity of utilities proposed to be installed.
  - g. Layout of proposed blocks (if used) and lots including the dimensions of each, and the lot and block number in numerical order.
  - h. Contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than ten (10) percent and at vertical intervals of not more than five (5) feet if the general slope is ten (10) percent or greater.



- i. Tract boundary lines showing dimensions, bearings, angles and references to known lines or bench marks.
- j. Names of adjacent property owners.
- k. Proposed building lines.
- l. A cross section of the proposed roads showing the roadway location, the type and width of surfacing, the type drainage and other improvements to be installed.
- m. Grades of proposed roads.
- n. The size, type and location of proposed wells and/or water mains and sewage disposal system if a public or community system is used.
- o. The drainage of the land including location of proposed storm sewers, ditches, culverts, bridges and other structures.
- p. Any area subject to inundation or flood hazard by storm waters shall be clearly shown on the plat.
- q. North point and graphic scale.
- r. Layout of lots showing approximate dimensions and number.
- s. A statement or plan regarding methods and/or techniques to be used in controlling soil erosion during construction and development of the subdivision.
- t. A statement from applicable utility companies indicating their approval of the utility easements shown on the plat.

3.6 Final Plat Requirements. The final plat shall meet the following specifications.

- 1. It may include all or only part of the preliminary plat.
- 2. The plat shall be drawn to the scale of fifty (50) feet to one (1) inch provided that if the resulting would be over thirty-six (36) inches in shortest dimension, a scale of one hundred (100) feet to one (1) inch may be used.
- 3. The final plat shall contain the following:

- a. Accurate boundary lines, with dimensions and angles, which provide a survey of the tract, closing with an error of not more than one (1) foot in ten thousand (10,000) feet for the subdivision boundary and one (1) foot in five thousand (5,000) feet for lot lines.
- b. Accurate references to known or permanent monuments, giving the bearing and distance from some corner of a congressional division of the County of which the subdivision is a part.
- c. Accurate locations of all existing and recorded roads intersecting the boundaries of the tract.
- d. Accurate metes and bounds description of the boundary.
- e. Road or street names.
- f. Complete curve notes for all curves included in the plat.
- g. Road right-of-way lines with accurate dimensions in feet and hundredths of feet with angles to right-of-way lines and lot lines.
- h. Lot numbers and dimensions.
- i. Block numbers, if used.
- j. Accurate locations of easements for utilities and any limitations on such easements.
- k. Accurate dimensions for any property to be dedicated or reserved for public, semi-public or community use.
- l. Building lines and dimensions.
- m. Location, type, material and size of all monuments and markers.
- n. Name of the subdivision.
- o. Name and address of owner and subdivider.
- p. North point, scale and date.
- q. Certification by a registered land surveyor of the State of Iowa.
- r. Certification of dedication of roads and other public property.

- s. Resolution and certificate for approval by the Board and signatures of the Chairman and County Auditor.
  - t. If the subdivision is within two (2) miles of a city that has extra-territorial subdivision control, a Resolution and Certificate of approval by the Council of the affected city shall also accompany the final plat.
4. The final plat shall be accompanied by the following instruments:
- a. A certified statement from the owner and the owner's spouse, if any, that the subdivision as it appears on the plat is with their free consent and is in accordance with the desires of the proprietor and the proprietor's spouse.
  - b. (1) A certificate bearing the approval of the Board of Supervisors stating that all improvements and installations in the subdivision required by this ordinance have been made or installed in accordance with the County specifications, or  
  
(2) A surety bond with the County which will insure the County that the improvements will be completed by the subdivider within two (2) years after official acceptance of the plat. The form and type of bond shall be approved by the County Attorney and the amount of the bond shall not be less than the amount of the estimated cost of the improvements as determined by the County Engineer plus ten (10) percent, and the amount of the estimate must be approved by the Board of Supervisors. If the improvements are not completed within the specified time, the Board may use the bond or any necessary portion thereof to complete the same. If within two (2) miles of a city having jurisdiction, the bond shall be with the city.  
  
The final plat shall state that the subdivider, its grantees, assignees, and successors in interest agree that public services including but not limited to road maintenance, snow and ice removal, and any other services normally provided by the County, will not be extended to this subdivision until the road is completed and accepted by the County.
  - c. Copy of Restrictive Covenants to be attached to the lots of the subdivision.
  - d. Plans, profiles, cross sections and specifications for street improvements and utility systems to be installed.

5. The final plat shall also be accompanied by the following at the time it is presented for filing with the County Auditor and Recorder:
  - a. A complete abstract of title and an opinion from an attorney-at-law showing that the fee title is in the proprietor and that the land platted is free from encumbrance, or is free from encumbrance other than that secured by a bond as provided in Section 354.12 of the Code of Iowa.
  - b. If the land platted is encumbered in the manner set out in Section 354.12 of the Code of Iowa, there shall also be filed a certificate showing that an encumbrance bond in an amount double the amount of the encumbrance and approved by the Recorder and Clerk of District Court and which runs to the County for the benefit of the purchasers of the land subdivided has been filed with the Recorder.
  - c. A certified statement from the Treasurer of the County that it is free from taxes.
  - d. A certified statement from the Clerk of the District Court that the land platted is free from all judgments, attachments, mechanic's and other liens as appears by the record in his office.
  - e. A certified statement of the County Recorder that the title in fee is in such proprietor and it is free from encumbrance other than that secured by the bond provided for in Section 354.12 of the Code of Iowa, as shown by the records of his office.

#### **SECTION 4. Design Standards.**

##### **4.1 Roads.**

1. Design Considerations:
  - a. The road layout shall provide access to all lots and parcels of land within the subdivision.
  - b. Road jogs of less than 150 feet shall be avoided.
  - c. Cul-de-sacs shall not exceed 750 feet in length.
  - d. Proposed roads shall be adjusted to the contour of the land so as to produce useable lots and roads of reasonable gradient.

- e. New subdivisions shall make provisions for continuation and extension of thoroughfares and collector or feeder streets and roads which shall extend through the subdivision to the boundaries thereof.
  - f. Where access to adjoining properties is deemed necessary by the County, residential and other minor roads shall be extended to the subdivision boundaries.
  - g. Frontage roads shall be provided where required by the Iowa Department of Transportation, the Cass County Secondary Road Department, or where sound planning and engineering practices dictate.
  - h. No dead-end roads or alleys will be permitted except at subdivision boundaries in which case a temporary cul-de-sac or turn around shall be provided.
  - i. Alleys shall not be permitted in residential areas.
  - j. Intersection of road center lines shall be between 80 degrees and 100 degrees.
  - k. Intersection of more than two roads at a point shall not be permitted.
  - l. Where parkways or special types of roads are proposed, the commission may apply special standards for the design of such parkways or roads.
  - m. Proposed roads that are extensions of or in alignment with existing roads shall bear the name of the existing road.
2. Minimum rights-of-way shall be provided as follows:
- a. Collector or feeder roads 80 feet
  - b. Residential roads or local roads 60 feet
  - c. Frontage roads 40 feet
  - d. Cul-de-sacs 110 feet (diameter)
  - e. Alleys 20 feet
  - f. Pedestrian Ways 10 feet

## 3. Road Surfacing:

- a. Road surfacing shall be provided within the two (2) mile subdivision control area of cities in accordance with the Street standards established by the municipality but in no case shall the standard be less than established herein for subdivisions beyond the two (2) mile control area.
- b. Beyond the two (2) mile control area, surfacing shall be in accordance with one of the following:
  - 1) An urban-type cross section with curb and gutter and a surface width of not less than twenty-five (25) feet from back of curb to back of curb. A cross section of this type may be required by the Board of Supervisors where lots are less than 15,000 square feet in area; where lots have a frontage of 150 feet or less; where the county deems it necessary to control drainage; or where the density of population and anticipated traffic volumes would warrant such cross section.
  - 2) A rural cross section utilizing ditches in lieu of curb and gutter. In such case, a surfaced roadway of not less than twenty-four (24) feet in width shall be constructed on a thirty (30) foot wide subgrade top. Foreslopes, backslopes and width and depth of ditches shall be in accordance with current county standards for similar work.
- c. Frontage Roads – Same as above.
- d. Cul-de-sacs – 85 feet in diameter
- e. Alleys – 20 feet

4.2 Blocks.

1. Blocks shall be not less than five hundred (500) feet nor more than one thousand two hundred fifty (1250) feet in length.
2. Blocks shall be of sufficient width to permit two (2) tiers of lots of appropriate depth and in no case shall the width be less than two hundred twenty (220) feet, except where a single tier of double frontage lots parallels a limited access highway, a thoroughfare, railroad or other barrier, the width shall be not less than one hundred fifty (150) feet.

3. Crosswalks may be required in blocks over nine hundred (900) feet long or in areas where curved roads require excessive out-of-distance travel. If required, they shall be constructed by the developer.

#### 4.3 Lots.

1. All lots shall abut on a road.
2. Side lines of lots shall approximate right angles to straight road or street lines and radial angles to curved road lines except where a variation will provide better road and lot layout.
3. Lots with double frontage shall be avoided, except in specific locations where good planning indicates their use. In that event, a planting screen shall be provided along the rear of the lot.
4. Corner lots shall not be less than eighty (80) feet in width, and interior lots shall not be less than seventy (70) feet in width at the building line.
5. No lot shall have less area or width than required by the zoning ordinance for the district in which it is located.

#### 4.4 Easements and Utility Locations.

1. Easements shall be provided along each side of streams and other drainage courses where deemed necessary by the County Zoning Commission.
2. Easements not less than eight (8) feet in width shall be provided along each side of the rear lot lines of all lots and along such other lot lines as may be required by public and private utility companies.
3. Easements of greater width may be required for trunk lines, pressure lines, open drainage courses, or high voltage lines and shall be provided as determined by the affected utility or by the County Engineer.
4. All utility lines shall be placed underground except main or feeder electric distribution lines may be overhead where deemed necessary by the utility company.

#### 4.5 Erosion Control.

1. The subdivider shall be responsible for controlling soil erosion and surface water runoff within the subdivision during its construction and development and shall provide interim erosion and runoff control measures as work progresses on site grading, the installation of street surfacing, sewers or other improvements and stages of work.

2. The subdivider shall be responsible for providing permanent erosion control measures along streams, waterways and other water courses which will ultimately become a permanent part of the subdivision.
3. Methods for controlling erosion may, where appropriate, include mulches, temporary or permanent vegetative cover, the use of terraces, diversion ditches, impoundments, subsurface drainage pipes, or other structures which will intercept, divert, retard or otherwise control runoff and soil erosion.

The plan and methods and/or techniques for controlling soil erosion and siltation shall be approved by the Cass County Soil Conservation District.

### **SECTION 5. Improvements Requirements.**

#### **5.1 Roads.**

1. Grading. All roads being dedicated for public use shall be brought to the grade approved by the County Engineer.
2. Surfacing. All roads and alleys being dedicated for public use shall be surfaced to the width required by Section 4.1-3. Surfacing shall be six (6) inch portland cement concrete or a three (3) inch asphaltic concrete surface over a six (6) inch rolled stone base and shall be constructed in accordance with design and specifications, and at grades approved by the Board of Supervisors and the County Engineer.
3. Curb and Gutter. Curb and gutter on all roads being dedicated for public use shall be of portland cement concrete six (6) inches high and not less than twenty-four (24) inches in overall width, or of integral construction where the roadway surface is a portland cement concrete.

#### **5.2 Sanitary Sewers.** The subdivider shall provide the subdivision with sanitary sewage facilities in accordance with one of the following:

1. Public Collection System. Where reasonably available, the subdivider shall provide the subdivision with a complete sanitary sewer system which shall connect with the sanitary sewer systems of a municipality. In such case the sewer system shall be approved by the affected municipality and shall be designed and constructed in accordance with the municipal specifications.
2. Local or Community Treatment System. Where it is not practical to connect the subdivision sanitary sewer system to a municipal sewer, the



subdivider shall install a local or community treatment system in accordance with the requirements of the County and State Boards of Health.

3. Private Disposal Systems. If it is demonstrated that the above are not practical, the Board of Supervisors may, upon request, permit the subdivider to install on each lot, a septic tank and absorption field or other system approved by the County Board of Health, provided such lots meet the area requirements established for such systems under the County Zoning Ordinance.

5.3 Water. The subdivider shall provide the subdivision with an approved water supply and distribution system in accordance with one of the following:

1. Public Water System. Where reasonably available, the subdivider shall provide the subdivision with a complete water main supply system including hydrants, valves and other appurtenances which shall extend into and through the subdivision to the boundary lines, and which shall provide for a water connection to each lot, and shall be connected to a public or municipal water system or an approved rural water system.
2. Local or Community Water System. Where a public water system is not available, the subdivider shall install a local or community water supply and distribution systems, including all necessary main, valves, hydrants and other appurtenances, in accordance with the standards and requirements of the County and State Boards of Health.
3. Individual Water System. If it is demonstrated that the above are not practical, the Board of Supervisors may, upon request, permit the subdivider to install individual wells on each lot, or other water system approved by the County Board of Health, provided such lots meet the area requirements established for such systems under the County Zoning Ordinance.

5.4 Storm Drains. The subdivider shall provide the subdivision with adequate drains, ditches, culverts, complete bridges, storm sewers, intakes, and manholes to provide for the collection and removal of all surface waters, and these improvements shall extend to the boundaries of the subdivision so as to provide for extension by adjoining properties.

5.5 Markers. An iron rod not less than one-half (1/2) inch in diameter and twenty-four (24) inches in length shall be placed as follows:

1. At the intersection of all lines forming angles in the boundary of the subdivision.

2. At block and lot corner and changes in direction of block and lot boundaries.
- 5.6 Erosion Control. The subdivider shall provide plans approved by the Soil Conservation District regarding:
1. Temporary measures for controlling erosion and siltation during construction and development of the subdivision.
  2. Permanent measures for controlling erosion along water courses, ditches, and other areas susceptible to erosion which will remain or become a permanent part of feature within the subdivision.
- 5.7 Specifications. The type of construction, the materials, the methods and standards of subdivision improvements shall be equal to the current specifications of the County for like work. Plans and specifications shall be submitted to the Board for approval prior to construction and construction shall not be started until the plans and specifications have been approved.
- 5.8 Inspection. The Board shall cause the installation of all improvement to be inspected to insure a compliance with the requirements of this ordinance. The cost of said inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the County.
- 5.9 Improvements Within Two Miles of a City. Improvements in subdivision within two (2) miles of a city having extra-territorial subdivision control shall be in accordance with the requirements of the municipality, but shall not be less than those required by the County provided further that all road and drainage construction plans shall be approved by the Board of Supervisors and the County Engineer.
- 5.10 Maintenance Bond. Prior to the release of the performance bond or acceptance of improvements by the County, the subdivider shall provide a two (2) year maintenance bond in the form approved by the County Attorney and an amount approved by the Board of Supervisors.

#### **SECTION 6. General Provisions.**

- 6.1 Administrative Officer. The Board of Supervisors shall appoint and Administrative Officer for the purpose of administering and enforcing the provisions of this ordinance. Such administrator may be a person holding other public office in the County or in a city or other governmental subdivision with the county.

- 6.2 Fees. Each preliminary plat submitted for approval shall be accompanied by a fee of one hundred (100) dollars, which shall be credited to the General Fund of the County.
- 6.3 Enforcement. In addition to other remedies and penalties prescribed by law the provisions of this ordinance shall be enforced as follows:
1. No plat or subdivision within the unincorporated areas of the County shall be recorded or filed with the County Auditor or County Recorder, nor shall any plat or subdivision have any validity until it complies with the provisions of this ordinance and has been submitted to the County Board of Supervisors for approval as prescribed herein, and if applicable, the Council of the city having two (2) mile jurisdiction over the platted area.
  2. Not more than two building permits shall be issued for each separate tract existing at the effective date of this ordinance unless the tract shall have been platted in accordance with the provisions contained herein.
  3. No public improvements over which the Board of Supervisors has control shall be made with county funds, nor shall any county funds be expended for road maintenance, road improvements, or other services in any area that has been subdivided after the date of adoption of this ordinance unless such subdivision and roads have been approved in accordance with the provisions of this ordinance and the road accepted by the Board of Supervisors as a public road.
  4. Any person who shall hereafter dispose of or offer for sale or lease any lots in any subdivision unless the plate thereof has been approved in accordance with this ordinance and recorded shall forfeit and pay fifty dollars (\$50.00) for each lot or part of lot sold or disposed of, leased, or offered for sale.
- 6.4 Variances. Where the strict application of standards or requirements established by this ordinance would cause substantial hardship or impose unreasonable restrictions on the development of a tract of land because of natural or physical conditions or limitations, not created by the owner or developer, the Zoning Commission may recommend and the Board of Supervisors may grant such variances from these standards or requirements as may be necessary to permit the reasonable development of the land while preserving the intent of this ordinance.
- 6.5 Amendments. This ordinance may be amended from time to time by the Board of Supervisors. Such amendments as may be proposed shall first be submitted to the Zoning Commission for study and recommendation. The Commission shall report within thirty (30) days, after which the Board shall give notice of and hold a public hearing on the proposed amendment. The amendment shall become effective from and after its adoption and publication as required by law.

- 6.6 Repeal of Conflicting Ordinances. All ordinances or parts of ordinance in conflict with or inconsistent with the provisions of this ordinance, particularly the Zoning Ordinance and Subdivision Regulations of Cass County adopted the 1<sup>st</sup> day of March, 19 62, and amendments thereto, are hereby repealed to the extent necessary to give this ordinance full force and effect.
- 6.7 Validity. 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.
- 6.8 Effective Date. This ordinance shall be in effect from and after its adoption and publication as required by law.

Updated 1982 and 2003. Revised ordinance adopted the 31<sup>st</sup> day of May, 2005.

**Ordinance 3.3 – Zoning Ordinance to Limit Height of Objects Around an Airport**

Section 1 – Short Title  
Section 2 – Definitions  
Section 3 – Airport Zones  
Section 4 – Airport Zone Height Limitations  
Section 5 – Use Restrictions  
Section 6 – Nonconforming Uses  
Section 7 – Permits

Section 8 – Enforcement  
Section 9 – Board of Adjustment  
Section 10 – Appeals  
Section 11 – Judicial Review  
Section 12 – Penalties  
Section 13 – Conflicting Regulations  
Section 14 – Severability  
Section 15 – Effective Date

**Title. Zoning Ordinance to Limit Heights of Objects Around an Airport**

A REVISED ORDINANCE REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY, IN THE VICINITY OF THE ATLANTIC MUNICIPAL AIRPORT BY CREATING THE APPROPRIATE ZONES AND ESTABLISHING THE BOUNDARIES THEREOF; PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES; DEFINING CERTAIN TERMS USED HEREIN; REFERRING TO ATLANTIC MUNICIPAL AIRPORT ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDINANCE; PROVIDING FOR ENFORCEMENT; ESTABLISHING A BOARD OF ADJUSTMENT; AND IMPOSING PENALTIES.

This ordinance is adopted pursuant to the authority conferred by Chapter 329.3 of the Code of Iowa. It is hereby found that an obstruction has the potential for endangering the lives and property of users of the Atlantic Municipal Airport, and property of occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of the Atlantic Municipal Airport; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Atlantic Municipal Airport and the public investment therein. Accordingly, it is declared:

- (1) that the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Atlantic Municipal Airport;
- (2) that it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and
- (3) that the prevention of these obstructions should be accomplished to the extent legally possible, by the exercise of the police power without compensation.

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

IT IS HEREBY ORDAINED BY the City Council of Atlantic, Iowa, and the Cass County Board of Supervisors as follows:

**SECTION I: SHORT TITLE**

This Ordinance shall be known and may be cited as the Revised Airport Tall Structure Zoning Ordinance.

**SECTION II: DEFINITIONS**

As used in this Ordinance, unless the context otherwise requires:

1. AIRPORT - Atlantic Municipal Airport.
2. AIRPORT ELEVATION - The highest point of an airport's usable landing area measured in feet from sea level.
3. APPROACH SURFACE - A surface longitudinally centered on the extended runway centerline and extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section IV of this Ordinance. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.
4. APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES - These zones are set forth in Section III of this Ordinance.
5. BOARD OF ADJUSTMENT - A Board consisting of (5) five members appointed by the City Council/Board of Supervisors as provided in Chapter 329.12 of the Code.
6. CONICAL SURFACE - A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
7. HAZARD TO AIR NAVIGATION - An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
8. HEIGHT - For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
9. HORIZONTAL SURFACE - A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

10. **NONCONFORMING USE** - Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provision of the Ordinance or an amendment thereto.
11. **NON-PRECISION INSTRUMENT RUNWAY** - A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.
12. **OBSTRUCTION** - Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section IV of the Ordinance.
13. **PERSON** - An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.
14. **PRIMARY SURFACE** - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section III of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
15. **RUNWAY** - A defined area on an airport prepared for landing and takeoff of aircraft along its length.
16. **STRUCTURE** - An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.
17. **TRANSITIONAL SURFACES** - These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.
18. **TREE** - Any object of natural growth.
19. **UTILITY RUNWAY** - A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

20. VISUAL RUNWAY - A runway intended solely for the operation of aircraft using visual approach procedures.
21. LARGER THAN UTILITY RUNWAY - A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

### **SECTION III: AIRPORT ZONES**

In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Atlantic Municipal Airport. Such zones are shown on the Atlantic Municipal Airport Zoning map, which is attached to this Ordinance and made a part hereof. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. Utility Runway Visual Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
2. Utility Runway Non-Precision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
3. Runway Larger Than Utility Visual Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
4. Runway Larger Than Utility With a Visibility Minimum Greater Than  $\frac{3}{4}$  Mile Non-Precision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
5. Horizontal Zone - The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all others from the center of each end of the primary surface of each runway and connecting



- the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
6. Conical Zone - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

#### **SECTION IV: AIRPORT ZONE HEIGHT LIMITATIONS**

Except as otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Ordinance to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. Utility Runway Visual Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. Utility Runway Non-Precision Instrument Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
3. Runway Larger Than Utility Visual Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
4. Runway Larger Than Utility With a Visibility Minimum Greater Than  $\frac{3}{4}$  Mile Non-Precision Instrument Approach Zone - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
5. Transitional Zones - Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 1,165.0 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and

extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.

6. Horizontal Zone - Established at 150 feet above the airport elevation or at a height of 1,315.0 feet above mean sea level.
7. Conical Zone - Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
8. No structure shall be erected in the City of Atlantic or Cass County that raises the published Minimum Descent Altitude of Decision Height for an instrument approach to any runway, nor shall any structure be erected that causes the Minimum Obstruction Clearance Altitude or Minimum En-route Altitude to be increased on any Federal Airway in the City of Atlantic or Cass County.

#### **SECTION V: USE RESTRICTIONS**

Notwithstanding any other provision of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

#### **SECTION VI: NONCONFORMING USES**

1. Regulations Not Retroactive - The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of non-conforming use. Nothing contained herein shall require any change in the construction, alteration of which was begun prior to the effective date of this Ordinance and which is completed within one (1) year thereafter.
2. Marking and Lighting - Notwithstanding the preceding provision of this Section, the owner of any existing non-conforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Airport Zoning Administrator to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Atlantic Municipal Airport.

**SECTION VII: PERMITS**

1. Future Uses - No permit shall be required for the construction or alteration of any structure or growth of any tree if the height of said structure or tree falls into to following categories:
  - a. No permit shall be required for any structure or growth of any tree up to a height of 50 feet above the surface of the land.
  - b. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any structure or growth of any trees less than seventy five feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
  - c. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any structure less than seventy five feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.
  - d. In the area lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any structure or growth of any tree less than seventy five feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.
  - e. In addition, in any of the individual areas described in paragraphs b, c and d above, no permit shall be required for any tree or structure which- regardless of its proposed vertical height above the ground- does not extend to as great a height above sea-level as any of the natural terrain located directly between the location of the proposed tree or structure and any portion of the existing or proposed Airport runways.

The foregoing exceptions shall not be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Ordinance except as set forth in paragraph a.

A permit shall be required when the construction or alteration of any structure or growth of any tree exceeds the height limitations of the foregoing exceptions as set forth in paragraphs a, b, c or d above. An application for a permit shall indicate the purpose for which the permit is desired, with sufficient information to allow it to be determined whether the resulting use, structure, or tree would

conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Ordinance shall be granted unless a variance has been approved in accordance with Section VII, 3.

2. Existing Uses - No Permit shall be granted that would allow the establishment or creation of an obstruction or permit a non-conforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
3. Variances - Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in the Ordinance, may apply to the Board of Adjustment for a variance from such regulations. However, no such variance shall be granted unless the Board finds, based upon written advice from the Federal Aviation Administration that-
  - a) In an application to permit any structure, tree or use of land to exceed the height or use limitations of this Ordinance, that such structure, tree or use of land, would not obstruct landing and takeoff of aircraft at the Airport.
  - b) In an application to permit a use of land otherwise prohibited herein, that such use would not be incompatible with airport operations.

An applicant for a variance hereunder shall, as part of the application submitted to the Board, file the required written advice of the Federal Aviation Administration. No application for a variance hereunder shall be set for hearing by the Board until such advice has been filed. Such advice shall not be binding upon the Board of Adjustment, but shall be one of the factors considered by the Board when reaching its decision.

4. Obstruction Marking and Lighting - Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the Atlantic Municipal Airport at its own expense, to install, operate, and maintain the necessary markings and lights.

**SECTION VIII: ENFORCEMENT**

It shall be the duty of the Airport Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Airport Zoning Administrator upon a form published for that purpose. Applications require by this Ordinance to be submitted to the Airport Zoning Administrator shall be promptly considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the Airport Zoning Administrator.

**SECTION IX: BOARD OF ADJUSTMENT**

1. There is hereby created a Board of Adjustment to have and exercise the following powers: (1) to hear and decide appeals from any order, requirement, decision, or determination made by the Airport Zoning Administrator in the enforcement of this Ordinance; (2) to hear and decide special exceptions to the terms of this Ordinance upon which such Board of Adjustment under such regulations may be required to pass; and (3) to hear and decide specific variances.
2. The Board of Adjustment shall consist of five members appointed by the City Council/Board of Supervisors and each shall serve for a term of five years until a successor is duly appointed and qualified. Of the members first appointed, one shall be appointed for a term of five years, one for a term of four years, one for term of three years, one for a term of two years and one for a term of one year. Members shall be removable by the appointing authority for cause, upon written charges after a public hearing.
3. The Board of Adjustment shall adopt rules for its governance and in harmony with the provisions of this Ordinance. Meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board of Adjustment may determine. The Chairperson or, in the absence of the Chairperson, the Acting Chairperson may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member up on each question; or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Airport Zoning Administrator and on due cause shown.
4. The Board of Adjustment shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this Ordinance.
5. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the Airport Zoning Administrator or decide in favor of the applicant on any matter

upon which it is required to pass under this Ordinance, or to effect variation to this Ordinance.

#### **SECTION X: APPEALS**

1. Any person aggrieved, or any taxpayer affected, by any decision of the Airport Zoning Administrator made in the administration of the Ordinance, may appeal to the Board of Adjustment.
2. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the Airport Zoning Administrator a notice of appeal specifying the grounds thereof. The Airport Zoning Administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.
3. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Airport Zoning Administrator certifies to appeal the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of the Airport Zoning Administrator cause imminent peril to life or property. In such case, proceedings shall not be stayed except by the order of the Board of Adjustment on notice to the Airport Zoning Administrator and on due cause shown.
4. The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.
5. The Board of Adjustment may, in conformity with the provision of this Ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination as may be appropriate under the circumstances.

#### **SECTION XI: JUDICIAL REVIEW**

Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to the Court of Record as provided in Section 414.5 of the Iowa Code.

#### **SECTION XII: PENALTIES**

Each violation of this Ordinance or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and shall be punishable by the fine of not more than 100 dollars or imprisonment for not more than 30 days or both; and each day a violation continues to exist shall constitute a separate offense.

**SECTION XIII: CONFLICTING REGULATIONS**

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

**SECTION XIV: SEVERABILITY**

If any of the provisions of this Ordinance or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are declared to be severable.

**SECTION XV: EFFECTIVE DATE**

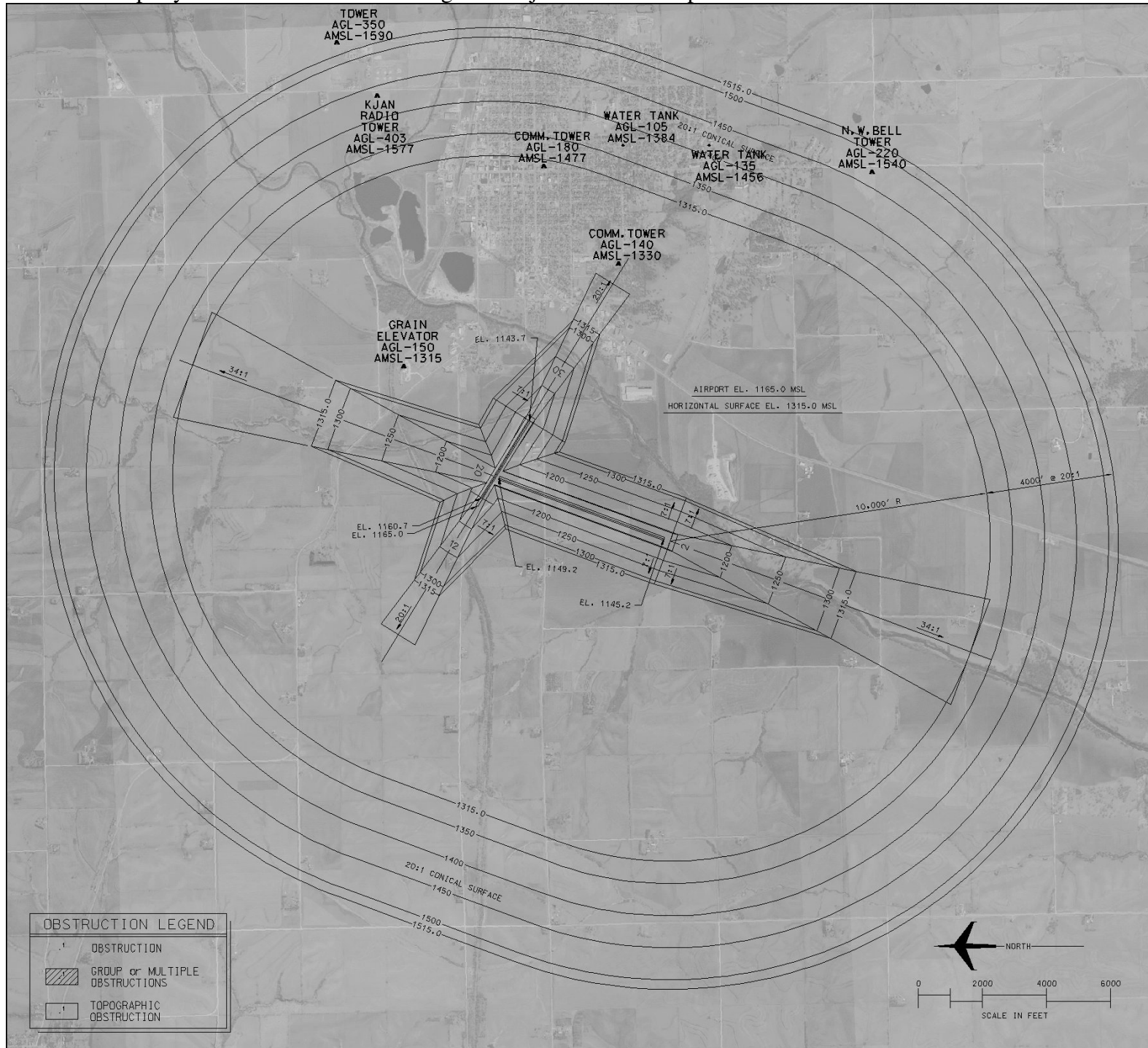
WHEREAS, the immediate operation of the provision of this Ordinance is necessary for the preservation of the public health, public safety, and general welfare, an EMERGENCY is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage by the City Council of Atlantic, Iowa, and the Cass County Board of Supervisors and publication and posting as required by law.

Adopted by the Cass County Board of Supervisors the 19th day of June, 1985.

Amendments adopted by the Cass County Board of Supervisors the 20th day of December, 2006.

Amendments adopted by the Cass County Board of Supervisors the 11th day of April, 2007.

See page 114 for Airport Map





**Ordinance 6 – Flood Plain Management**

Section 1 – Statutory Authority, Findings of Fact and Purpose  
Section 2 – General Provisions  
Section 3 – Standards for Flood Plain Development  
Section 4 – Administration  
Section 5 – Definitions

Title. Flood Plain Management

**SECTION 1. Statutory Authority, Findings of Fact and Purpose.**

A. The Legislature of the State of Iowa has in Ordinance 331, Code of Iowa, as amended, delegated the power to counties to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the county or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents.

B. Findings of Fact

1. The flood hazard areas of Cass County are subject to periodic inundation which can result all of which adversely affect the public health, safety and general welfare of the community.
2. These flood losses, hazards, and related adverse effects are caused by: (I) the occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the flood plain causing increases in flood heights and velocities.

C. Statement of Purpose

It is the purpose of this ordinance to protect and preserve the rights, privileges and property of Cass County and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Section IB2 with provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.
2. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
3. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.

4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

## **SECTION 2. General Provisions.**

- A. **Lands to Which Ordinance Apply**  
The provisions of this ordinance shall apply to all areas having special flood hazards within the jurisdiction of Cass County. For the purpose of this ordinance, the special flood hazard areas are those areas designated as Zone A on the Flood Insurance Rate Map for Cass County, as amended, which is hereby adopted and made a part of this ordinance.
- B. **Rules for Interpretation of Flood Hazard Boundaries**  
The boundaries of the special flood hazard areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the Cass County Engineer and the Cass County Zoning Administrator shall make the necessary interpretation.
- C. **Compliance**  
No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations which apply to uses within the jurisdiction of this ordinance.
- D. **Abrogation and Greater Restrictions**  
It is not intended by this ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
- E. **Interpretation**  
In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.
- F. **Warning and Disclaimer of Liability**  
The standards required by this ordinance are considered reasonable for regulatory purposes. This ordinance does not imply that areas outside the designated special flood hazard areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Cass County or any officer or employee thereof for any flood damages that

result from reliance on this ordinance or any administrative decision lawfully made there under.

G. Severability

If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

**SECTION 3. Standards for Flood Plain Development.**

All uses shall meet the following applicable performance standards. Where needed, the Department of Natural Resources shall be contacted to compute 100-year flood elevation and floodway data.

A. All development within the special flood hazard areas shall:

1. Be consistent with the need to minimize flood damage.
2. Use construction methods and practices that will minimize flood damage.
3. Use construction materials and utility equipment that are resistant to flood damage.
4. Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.

B. Structures:

1. New or substantially improved residential structures shall have the lowest floor (to include basement) elevated a minimum of one (1) foot above the 100-year flood level.
2. New or substantially improved non-residential structures shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure below the 100-year flood level is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to the National Geodetic Vertical Datum) to which any structures are floodproofed shall be maintained by the Administrator.
3. All new and substantially improved structures:
  - a. Fully enclosed areas below the “lowest floor” (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exits of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

- i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided,
    - ii. The bottom of all openings shall be no higher than one foot above grade,
    - iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
  - b. New and substantially improved structures must be designed or modified and adequately anchored to percent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  - c. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to percent water from entering or accumulating within the components during conditions of flooding.
- C. Factory-built homes:
  - 1. Factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement.
  - 2. Factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-,year flood level.
- D. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damage and shall provide adequate drainage to reduce exposure to flood hazards. Development associated with subdivisions shall meet the applicable standards of this section.
- E. Utility and Sanitary Systems
  - 1. All new and replacement sanitary sewage systems shall be designed to minimize and eliminate infiltration of floodwaters into the system as well as the discharge of effluent into floodwaters.
  - 2. On-site waste disposal systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
  - 3. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
  - 4. Utilities such as gas and electrical systems shall be located and constructed to minimize or eliminate flood damage to the systems and the risk associated with such flood damaged or impaired systems.

- F. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion.
- G. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or:
  - 1. Not be subject to major flood damage and be anchored to prevent movement due to flood waters, or
  - 2. Be readily removable after flood warning.

#### **Section 4. Administration.**

##### **A. Appointment. Duties and Responsibilities of Flood Plain Administrator**

- 1. The Cass County Engineer and the Cass County Zoning Administrator are hereby appointed to implement and administer the provisions of this ordinance and will herein be referred to as the Administrator.
- 2. Duties of the Administrator shall include, but not necessarily be limited to the following:
  - a. Review all flood plain development permit applications to assure that the provisions of this ordinance will be satisfied.
  - b. Review flood plain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.
  - c. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the special flood hazard area.
  - d. Record and maintain a record of the elevation (in relation to National Geodetic Vertical datum) to which all new or substantially improved structures have been floodproofed.
  - e. Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a water-course and submit evidence of such notifications to the Federal Emergency Management Agency.
  - f. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this ordinance.

##### **B. Flood Plain Development Permit**

- 1. Permit Required -. A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading,

paving, excavation or drilling operations), including the placement of factory-built homes.

2. Application for Permit - Application shall be made on forms furnished by the Administrator and shall include the following:
  - a. Description of the work to be covered by the permit for which application is to be made.
  - b. Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
  - c. Indication of the use or occupancy for which the proposed work is intended.
  - d. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings.
  - e. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
  - f. For developments involving more than 5 acres, the elevation of the 100-year flood.
  - g. Such other information as the Administrator deems necessary for the purpose of this ordinance.
3. Procedure for Acting on Permit - The Administrator shall make a determination as to whether the flood plain development, as proposed, meets the applicable provisions of Section III and shall approve or disapprove the application. In reviewing proposed development, the Administrator shall obtain, review and reasonably utilize any available flood plain information or data from Federal, State or other sources.

#### C. Subdivision Review

The Administrator shall review all subdivision proposals within the special flood hazard areas to assure that such proposals are consistent with the purpose and spirit of this ordinance and shall advise the Board of Supervisors of potential conflicts. Flood plain development in connection with a subdivision (including installation of public utilities) shall require a Flood Plain Development Permit as provided in Section IV B1. For proposals greater than 50 lots, the subdivider shall be responsible for providing flood elevation data.

### **Section 5. Definitions.**

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

- A. Basement – Any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”

- B. Development – Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.
- C. Factory Built Home – Any structure, designed for residential use, which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this Ordinance, factory-built homes include mobile homes, manufactured homes and modular homes and also include park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.
- D. Factory Built Home Park or Subdivision – A parcel (or contiguous parcels) of land divided into two or more factory-built home lots for sale or rent.
- E. Flood – A temporary rise in stream's flow or stage that results in water overflowing its banks and inundating areas adjacent to the channel or an unusual and rapid accumulation of runoff or surface waters from any source.
- F. Floodproofing – Any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.
- G. Floodway – The channel of a river or stream and those portions of the flood plain adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not result in substantially higher flood levels and flow velocities.
- H. Lowest Floor – The floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:
  - a. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section III 83.a and
  - b. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
  - c. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least 1.0 ft. above the 100-year flood level, and
  - d. The enclosed area is not a “basement” as defined in this section.In cases where the lowest enclosed area satisfies criteria a, b, c and d above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

- I. Special Flood Hazard Area – The land within a community subject to a one percent or greater chance of clouding in any given year. This land is identified as Zone A on the Flood Insurance Rate Map.
- J. Structure – Anything constructed or erected on the ground or attached to the ground including but not limited to buildings, factories, sheds, cabins, factory-built homes, storage tanks and other similar uses.
- K. Substantial Improvement – Any improvement to a structure which satisfies either of the following criteria:
  - a. Any repair, reconstruction or improvement of a structure, the cost of which, equals or exceeds 50 percent of the market value of the structure either (1) before the improvement or repair is started, or (ii) if the structure has been damaged and is being restored b before the damage occurred. For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specification which are solely necessary to assure sage conditions for the existing use.
  - b. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after September 30, 1987 shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.
- L. 100-Year Flood – A flood, the magnitude of which has a one percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every 100 years.

Adopted the 30<sup>th</sup> day of September, 1987.



**Ordinance 9 – Disposal of Yard Waste**  
Repealed 1991

Section 1 – Purpose  
Section 2 – Readoption of Current Code  
Section 3 – Code of Ordinances  
Section 4 – When Effective

Title. An Ordinance Relating to Disposal of Yard Waste

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

**SECTION 1. Purpose.** The purpose of this article is to place a duty upon each resident of Cass County to properly dispose of all yard waste.

**SECTION 2. Definitions.**

1. Yard Waste means organic debris (e.g. grass clippings, leaves, tree limbs, bark, branches, flowers, etc.) which is produced as part of yard and garden development and maintenance. Yard waste does not include tree stumps.
2. Compost means organic material resulting from biological decomposition of waste, which can be used as a soil conditioner or soil amendment.

**SECTION 3. Separation of Yard Waste Required.** All yard waste shall be separated by the owner or occupant from all other garbage and refuse accumulated on the premises and shall be composted on the premises or placed in a designated area for yard waste disposal or disposed of under the regulations of the Iowa Department of Natural Resources.

**SECTION 4. Repealer.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 5. Severability Clause.** If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

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

Repealed the 30<sup>th</sup> day of April, 1991.

**Ordinance 11 – Disposal of Solid Waste**

Section 1 – Definitions  
Section 2 – Waste Disposal  
Section 3 – Use of Haulers  
Section 4 – Simple Misdemeanor  
Section 5 – Multiple Violations  
Section 6 – Repealer  
Section 7 – Severability Clause  
Section 8 – When Effective

Whereas, Iowa law (Code of Iowa 455B.301 et. seq.) imposes upon each city and county within the state the obligation to establish and to implement a comprehensive solid waste reduction program; and

Whereas, the County of Cass has previously joined the Cass County Environmental Control Agency for the purpose of more efficiently enabling the County to comply with Iowa law regarding waste disposal, waste reduction and waste management; and

Whereas, the County of Cass currently lacks any mechanism for determining the total volume of waste generated within the County, and therefore, for determining whether waste reduction goals are met; and

Whereas, the County of Cass has considered other options, none which can be reasonably implemented without undue expense and regulation; and

Whereas, the most efficient and economical means for complying with Iowa law is to require all residents and businesses located within the unincorporated portions of the County to dispose of all solid waste generated within the unincorporated portion of Cass County at the Cass County Landfill or as otherwise provided for by the Cass County Environmental Control Agency:

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

**SECTION 1. Definitions.** The definitions as set forth in Section 455B.301 of the 1993 Code of Iowa, as amended, are hereby adopted by reference.

**SECTION 2. Waste Disposal.** All residents and businesses residing or located within the unincorporated portions of Cass County, Iowa, shall dispose of all solid waste (as defined by the Code of Iowa 455B.301 (20), as amended) at the Cass County Landfill or as otherwise provided for by the Cass County Environmental Control Agency.

**SECTION 3. Use of Haulers.** Residents and businesses may hire a hauler to dispose of their solid waste provided the hauler disposes of said waste at the Cass County Landfill or as otherwise provided for by the Cass County Environmental Control Agency.

**SECTION 4. Simple Misdemeanor.** Failure of any resident, business or hauler to dispose of solid waste as provided for in this ordinance shall be guilty of a simple

misdemeanor and upon conviction, be subject to imprisonment not exceeding thirty days or a fine not exceeding \$100.00.

**SECTION 5. Multiple Violations.** Each day that a resident, business or hauler disposes of solid waste other than as provided for above shall constitute a separate violation of this ordinance.

**SECTION 6. Repealer.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 7. Severability Clause.** If any section, provision or part of this ordinance is adjudged invalid or unconstitutional, such adjudication will not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 8. When Effective.** This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Adopted the 31<sup>st</sup> day of August, 1993.

**Ordinance 16 – Control of Lead Hazards**

Title. An Ordinance Controlling Lead Hazards in Dwellings, Including Establishing Minimum Standards for Inspections and Providing Penalties for Violation of the Provisions Hereof.

Iowa Administrative Code 641-Chapter 68, “Control of Lead-Based Paint Hazards,” is adopted by reference.

Cass County Ordinance No. 16, recorded in office of the Cass County Recorder in Book 431, Page 670 was amended to read as above. Amendment was passed by the Cass County Board of Health on the 6<sup>th</sup> day of January, 2005.

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

Adopted the 18th day of January, 2005.

**Ordinance 22 – Keg Ordinance**

Section 1 – Purpose  
Section 2 – Registration/Return Procedures  
Section 3 – Keg Possession Requirement/Restrictions  
Section 4 – Keg Sticker Prohibitions  
Section 5 – Violation/Penalty  
Section 6 – Repealer  
Section 7 – Severability Clause  
Section 8 – Effective Date

Title. An Ordinance Providing For the Registration and Documentation of Retail Sales of Keg Alcoholic Beverages

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

**SECTION I. Purpose.** The identification of purchasers and providers of keg alcoholic beverage for consumption by underage persons is a major law enforcement concern in this county. When keg alcohol is found where underage persons are present, it is necessary to readily identify those responsible. The investigation of crimes involving the furnishing of alcohol to minors and related crimes involving keg alcoholic beverages is inhibited by the inability to identify who purchased the keg alcohol. Registration and identification information must be available on all keg alcohol beverage in this county. Individual identification number, purchaser and retail seller identity information will better enable law enforcement to identify providers of keg alcoholic beverages to underage persons. Therefore, it is in the public interest to establish reasonable keg registration and identification rules as set forth in this ordinance.

**SECTION 2. Registration / Return Procedure.** All retail sales/purchases of alcoholic beverage by keg container of 2 gallon volume or more in this county for off site consumption at a location which does not hold a liquor license shall comply with the following registration, documentation and labeling requirements and restrictions:

- A. Purchasers shall provide a current government issued photo identification with the purchaser's name, address, and individual identification number to the seller who shall then record and document that information in a log. The log shall also contain the individual keg identification number assigned to the keg by the seller. The log shall also include the date of sale, specify the return date of the keg by the purchaser to the seller, and indicate that the photo identification that was produced was matched to the purchaser. The log shall also identify the person who sold the keg. This information shall be kept by the seller for a minimum period of six months from the date of sale;
- B. Sellers shall assign record and attach to each retail keg sold for off site consumption an individual keg identification sticker at or before the time

- of sale to the purchaser. The sticker shall include the individual keg identification number assigned to the keg by the seller and the sticker shall also include a prominent warning that it is illegal to alter, damage or remove the sticker from the keg;
- C. Sellers of keg alcohol shall obtain the individual keg identification stickers from the county auditor's office which shall record to whom the stickers are distributed. The county auditor shall restrict the distribution of the stickers to licensed alcoholic beverage retailers. The county auditor shall keep the record of distribution for one year;
  - D. Purchasers shall return kegs to the retail seller where it was purchased with the individual keg identification sticker attached, intact and legible on or before the return date specified on the keg registration form;
  - E. Sellers shall record the date on which the keg is returned, who returned the keg and indicate whether the keg identification sticker is present or absent by notation on the log;
  - F. Sellers shall remove the individual keg identification stickers from the kegs when they are returned. The old stickers shall be destroyed;
  - G. Sellers shall produce keg registration logs to law enforcement upon request.
  - H. This ordinance does not apply to keg sales to liquor license permittees.

**SECTION 3. Keg Possession Requirements / Restrictions.** No person shall possess a keg container of alcoholic beverage of 2 gallons or more which was purchased in the county after the effective date of this ordinance without an intact and legible individual keg identification sticker attached (except for retail sellers of keg alcohol and liquor license permittees).

**SECTION 4. Keg Sticker Prohibitions.** No person shall alter, damage, destroy or remove the individual keg sticker which is required by this ordinance after it has been attached to the keg (except retail sellers of keg alcohol).

**SECTION 5. Violation and Penalty.** A seller or purchaser or other person who violates this ordinance commits a Simple Misdemeanor and shall be subject to a fine not to exceed \$500 or a term of imprisonment not to exceed 30 days.

**SECTION 6. Repealer.** All Previous ordinances or parts of previous ordinances in conflict with the provisions of this ordinance are hereby repealed upon final passage and approval of this ordinance.

**SECTION 7. Severability Clause.** If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole, or any section thereof, or part thereof, not adjudged invalid or unconstitutional.

**Section 8. Effective Date.** This ordinance shall be in full force and effect upon its final passage, approval and publication as required by law.

First reading: September 20, 2006. Second reading: September 29, 2006. Third reading: October 11, 2006.

ADOPTED and PASSED by the Board of Supervisors of Cass County, Iowa on October 11, 2006.

**Ordinance 23 – Sexually Oriented Businesses**

Section 1 – Purpose	Section 15 – Transfer of License
Section 2 – Finding	Section 16 – Hours of Operation
Section 3 – Jurisdiction	Section 17 – Loitering and Exterior Lighting and Monitoring Requirement
Section 4 – Definitions	Section 18 – Violations and Penalties
Section 5 – Classifications	Section 19 – Applicability to Existing Businesses
Section 6 – License Required	Section 20 – Regulations Concerning Live Public Nudity on Premises
Section 7 – Issuance of License	Section 21 – Employee License Violation Imputed to Business Licensee
Section 8 – Fees	Section 22 – Repealer
Section 9 – Periodic Inspections	Section 23 – Severability
Section 10 – Expiration of License	Section 24 – Effective Date
Section 11 – Cause of Suspension	
Section 12 – Cause of Revocation	
Section 13 – Nature of Revocation	
Section 14 – Right to Hearing Prior to Denial	

Title. An Ordinance Amending the Code of Ordinances of Cass County, Iowa, by adding a New Ordinance entitled “Sexually Oriented Businesses.”

BE IT ENACTED by the Board of Supervisors of Cass County, Iowa.

That the Code of Ordinances of Cass County, Iowa, be and the same is hereby amended by adding thereto a new ordinance of Title V—Public Order, Safety and Health, to be entitled “Sexually Oriented Businesses” and to read as follows:

**SECTION 1. Purpose.** It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the County, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the County. The provisions of this ordinance have neither the purpose nor the effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

**SECTION 2. Findings.** Based on evidence of adverse secondary effects of adult uses presented to the Board of Supervisors and on findings, interpretations, and narrowing constructions incorporated in both state and federal court cases, the Board of Supervisors finds that the regulatory provisions of this ordinance are within its constitutional power to enact, are designed to serve the County’s substantial interest in preventing many of the negative secondary effects associated with sexually oriented adult uses, is narrowly tailored to that end, and provides reasonable alternative avenues of communication for sexually explicit messages within the County.

A. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy



activities that are presently uncontrolled by the unlicensed operators of the establishments.

- B. Employees of sexually oriented businesses, as defined in this ordinance, often engage in certain types of illicit sexual behavior.
- C. Sexual acts, including masturbation and oral and anal sex, occur at unregulated sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.
- D. Communities have suffered adverse aesthetic impacts caused by sexually oriented businesses, including sexually graphic and unsanitary litter in and around adult bookstores and other sexually oriented adult uses.
- E. Persons often frequent certain adult theatres, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex in or near the premises of such sexually oriented businesses, or for the purpose of purchasing or selling illicit drugs.
- F. Numerous communicable diseases may be spread by activities occurring in sexually oriented businesses, including but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis salmonella, campylobacter and Shigella infections, chlamydial, myoplasmal and ureaplasma infections, trichomoniasis and chancroid.
- G. Men and women of all races are most likely to be infected by sexual contact.
- H. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view “adult” oriented films.
- I. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent duty on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the County.
- J. Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theatres.
- K. Requiring licensees of sexually oriented business to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.
- L. The fact that an applicant for a license has been convicted of a sexually related crime

leads to the rational assumption that the applicant may engage in that conduct in contravention of this ordinance.

- M. The general health, safety, and welfare of the citizens of the County will be promoted by the enactment of this ordinance.

**SECTION 3. Jurisdiction.** The provisions of this ordinance shall apply to all of the unincorporated territory of Cass County, Iowa.

**SECTION 4. Definitions.** For purposes of this ordinance, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

- A. Adult Arcade means any place to which the public is permitted or invited wherein coin operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing “specified sexual activities” or “specified anatomical areas”.
- B. Adult Bookstore, Adult Novelty Store, Adult Video Store means commercial establishment which has significant or substantial portion of its stock-in trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space to the sale or rental, for any form of consideration, of any one or more of the following:
1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes, compact discs, slides, or other visual representations which are characterized by their emphasis upon the exhibition or description of “specified sexual activities” or “specified anatomical areas”;
  2. Instruments, devices, or paraphernalia designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

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

- C. Adult Cabaret means a nightclub, bar, juice bar, restaurant, bottle club, or

similar commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear semi-nude.

D. Adult Motel means a motel, hotel, or similar commercial establishment which:

1. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, other photographic reproductions, or live performances which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; and which advertises the availability of such material by means of a sign visible from the public right-of-way, or by means of any on or off premises advertising, including but no limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or
2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
3. Allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than ten (10) hours.

E. Adult Motion Picture Theater means a commercial establishment where films; motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the exhibition or description of “specified sexual activities” or “specified anatomical areas” are regularly shown for any form of consideration.

F. Board of Supervisors means the Board of Supervisors of Cass County, Iowa.

G. Controlling Interest means the power, directly or indirectly, to direct the operation, management or policies of a business or entity, or to vote twenty percent (20%) or more of any class of voting securities of a business. The ownership, control, or power to vote twenty percent (20%) or more of any class of voting securities of a business shall be presumed, subject to rebuttal, to be the power to direct the management, operation or policies of the business.

H. County means Cass County, Iowa.

I. County Attorney means the County Attorney of Cass County, Iowa.

J. County Auditor means the County Auditor of Cass County, Iowa.

K. Distinguished or Characterized By an Emphasis On means the dominant or

principal theme of the object described by such phrase. For instance, when the phrase refers to films “which are distinguished or characterized by an emphasis upon the exhibition or description of “Specified Sexual Activities” or “Specified Anatomical Areas”, the films so described are those whose dominant or principal character and theme are the exhibition or description “specified sexual activities” or “specified anatomical areas”.

- L. Employ, Employee, and Employment means any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.
- M. Establish or Establishment means the term or terms shall mean and include any of the following:
  - 1. The opening or commencement of any sexually oriented business as a new business;
  - 2. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or
  - 3. The addition of any sexually oriented business to any other existing sexually oriented business.
- N. Licensee means a person, in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In the case of an employee, it shall mean the person in whose name the sexually oriented business employee license has been issued.
- O. Nudity or a State of Nudity means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.
- P. Operate or Cause to Operate means the term or terms shall mean to cause to function or to put or keep in a state of doing business.
- Q. Operator means any persons on the premises of a sexually oriented business who is authorized to exercise overall operational control of the business or who causes to function or who puts or keeps in operation the business. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

- R. Person means any individual, proprietorship, partnership, corporation, association or other legal entity.
- S. Regularly Features or Regularly Shows means a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the sexually oriented business.
- T. Semi-Nude or State of Semi-Nudity means a state of dress in which opaque clothing covers no more than the genitals, anus, anal cleft or cleavage, pubic area, vulva, and nipple and areola of the female breast, as well as portions of the body covered by supporting straps or devices. This definition shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided that the areola and nipple are not exposed in whole or in part.
- U. Semi-Nude Model Studio means any place where a person, who regularly appears in a state of semi-nudity is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. It is a defense to prosecution for any violation of this ordinance that a person appearing semi-nude or in a state of semi-nudity did so in a modeling class operated:
1. By a college, junior college, or university supported entirely or partly by taxation,
  2. By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
  3. In a structure:
    - a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and
    - b. Where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class.
- V. Sexually Oriented Entertainment Activity means the sale, rental, or exhibition, for any form of consideration of books, films, videocassettes, magazines, periodicals, or live performances which are characterized by an emphasis on the exposure or display of specific sexual activity.
- W. Specified Anatomical Areas means human genitals, anus, cleft of the buttocks,

or the nipple or areola of the female breast.

X. Specified Criminal Activity means any of the following offenses:

1. Iowa Code § 728.2 (dissemination and exhibition of obscene materials to minors); Iowa Code § 728.3 (admitting minors to premises where obscene material is exhibited); Iowa Code § 728.4 (rental or sale of hard-core pornography); Iowa Code § 728.5 (public indecent exposure in certain establishments); Iowa Code § 728.12 (sexual exploitation of a minor); Iowa Code § 709.24 (sexual abuse); Iowa Code § 709.8 (lascivious acts with a child); Iowa Code § 709.9 (indecent exposure); Iowa Code § 709.12 (indecent contact with a child); Iowa Code § 709.14 (lascivious conduct with a minor); Iowa Code § 709C. 1 (criminal transmission of human immunodeficiency virus); Iowa Code § 711.4 (extortion); Iowa Code § 725.14 (prostitution, pimping, pandering, leasing premises for prostitution); criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses or offenses in other jurisdictions that, if the acts would have constituted any of the foregoing offenses, if the acts had been committed in Iowa; for which:
  - a. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
  - b. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense; or
  - c. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period.
2. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

Y. Specified Sexual Activity means the term means any of the following:

1. Sex acts, normal or perverted, including intercourse, oral copulation, masturbation or sodomy; or
2. Excretory functions as a part of or in connection with any of the activities

described in section 1 immediately preceding this statement.

Z. Transfer of Ownership or Control means this term or terms shall mean any of the following:

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

AA. Video Room means the room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette, or other video reproduction.

**SECTION 5. Classifications. Sexually oriented businesses shall be classified as follows:**

- A. Adult bookstores, adult novelty stores, adult video stores;
- B. Adult cabarets;
- C. Adult motels;
- D. Adult motion picture theatres;
- E. Semi-nude model studios.

**SECTION 6. License Required: Temporary License Upon Application.**

- A. it is unlawful for any person to operate a sexually oriented business in the County without a valid sexually oriented business license.
- B. it is unlawful for any person to be an employee, as defined in this Ordinance, of a sexually oriented business in the County without a valid sexually oriented business employee license.
- C. An applicant for a sexually oriented business license or a sexually oriented business employee license shall file in person at the office of the County Auditor a completed application made on a form provided by the County Auditor. The application shall be signed by the applicant and notarized. An application shall be considered complete when it contains the information

required in paragraphs 1 through 6 as follows:

1. The applicant's full name and any other names used in the preceding five (5) years.
2. Current business address or another mailing address of the applicant.
3. Written proof of age, in the form of a copy of a birth certificate and a picture identification document issued by a governmental agency.
4. If the application is for a sexually oriented business license, the business name, location, legal description, mailing address and phone number of the sexually oriented business.
5. If the application is for a sexually oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process.
6. A statement of whether the applicant has been convicted or has pled guilty or nolo contendere (no contest) to a specified criminal activity as defined in this Ordinance, and if so, the specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.

The information provided pursuant to paragraphs 1 through 6 of this subsection shall be supplemented in writing by certified mail, return receipt requested, to the County Auditor within ten (10) working days of a change of circumstances that would render the information originally submitted as false or incomplete.

- D. An application for a sexually oriented business license shall be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Applicants who are required to comply with Section 20 of this ordinance shall submit a diagram meeting the requirements of that section.
- E. If a person who wishes to operate a sexually oriented business is an individual, he or she shall sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each officer, director, general partner, each other person who will manage, supervise, or control the premises, and each other person who will participate in decisions relating to management and control of the business shall sign the application for a license as applicant. Each applicant must be qualified under Section 7 of this ordinance and each applicant shall be considered a licensee, if a license is granted.



- F. The information provided by an applicant in connection with an application for a license under this Ordinance shall be maintained by the County Auditor on a confidential basis, except that such information may be disclosed only to law enforcement agencies in connection with a law enforcement or public safety function, or as may be required by governing law or court order.

**SECTION 7. Issuance of License. Temporary License Upon Application.**

A. Upon the filing of a completed application under Section 6(C) for a sexually oriented business license, the County Auditor shall immediately issue a Temporary License to the applicant. The Temporary License shall expire upon the final decision of the Board of Supervisors to deny or grant the license. Within twenty (20) days of the initial filing date of the completed application, the County Auditor shall issue a license to the applicant or issue to the applicant a letter of intent to deny the application. The County Auditor shall approve the issuance of a license unless:

1. An applicant is less than eighteen (18) years of age.
2. An applicant has failed to provide information as required by Section 6 of this ordinance for issuance of a license or has falsely answered a question or request for information on the application form.
3. The license application fee has not been paid.
4. An applicant has committed a violation of Section 9(A), Section 12(B), Section 20(A), (B), and (C) of this ordinance within the previous year.
5. The sexually oriented business premises are not in compliance with the interior configuration requirements of this Ordinance.
6. An applicant has been convicted of a specified criminal activity, as defined by this Ordinance.

B. Upon the filing of a completed application for a sexually oriented business employee license, the County Auditor shall issue a Temporary License to the applicant. The Temporary License shall expire upon the final decision of the Board of Supervisors to deny or grant the license. Within twenty (20) days of the initial filing date of the completed application, the County Auditor shall issue a license to the applicant or issue to the applicant a letter of intent to deny the application. The County Auditor shall approve the issuance of a license unless:

1. An applicant is less than eighteen (18) years of age.

2. An applicant has failed to provide information as required by Section 6 of this ordinance for issuance of a license or has falsely answered a question or request for information on the application form.
3. The license application fee has not been paid.
4. An applicant has committed a violation of 9(A), Section 12(B), Section 20(A), (B), and (C) of this ordinance within the previous year.
5. An applicant has been convicted of a specified criminal activity, as defined by this ordinance.

C. The license, if granted, shall state on its face:

1. The name of the person or persons to whom it is granted;
2. The number of the license issued to the licensee(s);
3. The expiration date; and
4. The address of the sexually oriented business, if the license is for a sexually oriented business.

The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business, so that it may be easily read at any time.

A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing and shall produce such license for inspection upon request by a law enforcement officer or other County official performing functions connected with the enforcement of this ordinance.

#### **SECTION 8. Fees.**

A. Filing Fee Required. A filing fee, in accordance with the established fee schedule, shall be charged for each application for initial license and annual renewals to assist in deferring the costs of the administrative review. The applicant shall be held responsible for submitting the required fees upon submission of the completed application. No action shall be taken on any application until the required fee is paid in full.

B. Fee Schedule. The fee schedule shall be established by the Board of

Supervisors.

- C. Fee Refund. Whether the request is granted or denied, the applicant shall not be entitled to a refund of the fee paid.

#### **SECTION 9. Periodic Inspections.**

- A. Sexually oriented businesses and sexually oriented business employees shall permit agents of the County to inspect, from time to time, on an occasional basis, the portions of the sexually oriented business premises where the patrons are permitted for the purpose of ensuring compliance with the specific regulations of this ordinance during those times when the sexually oriented business is occupied by patrons or is open for business. A licensee's knowing or intentional refusal to permit such an inspection shall constitute a violation of this section for purposes of license denial, suspension, and/or revocation. This section shall be narrowly construed by the County to authorize reasonable inspection of the licensed premises pursuant to this ordinance, but not to authorize a harassing or excessive pattern of inspection.
- B. The provisions of this section do not apply to areas of an Adult Motel, which are currently being rented by a customer for use as a permanent or temporary habitation.

#### **SECTION 10. Expiration of License.**

- A. Each license shall remain valid for a period of one (1) calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in Section 6, Section 7 and Section 8 of this ordinance.
- B. Application for renewal should be made at least ninety (90) days before the expiration date. When made less than ninety (90) days before the expiration date, the expiration of the license will not be affected.

#### **SECTION 11. Cause for Suspension.**

- A. The County shall issue a letter of intent to suspend a sexually oriented business license for a period not to exceed thirty (30) days if the sexually oriented business licensee has violated this ordinance or has knowingly allowed an employee to violate this ordinance.
- B. The County shall issue a letter of intent to suspend a sexually oriented business employee license for a period not to exceed thirty (30) days if the employee has violated this ordinance.

#### **SECTION 12. Cause for Revocation.**

- A. The County shall issue a letter of intent to revoke a sexually oriented business license or a sexually oriented business employee license if the respective licensee commits two (2) or more violations within a twelve (12) month period.
- B. The County shall issue a letter of intent to revoke a sexually oriented business license or a sexually oriented business employee license if:
  - 1. The licensee knowingly gave false information in the application for a sexually oriented business license or sexually oriented business employee license;
  - 2. The licensee knowingly engaged in possession, use, or sale of controlled substances on the premises;
  - 3. The licensee knowingly engaged in prostitution on the premises;
  - 4. The licensee knowingly operated the sexually oriented business during a period of time when the license was suspended;
  - 5. The licensee knowingly engaged in any specified sexual activity to occur in or on the licensed premises.
- C. A business licensee shall be liable for the acts of an employee only pursuant to the standard established in Section 21 of this ordinance.

**SECTION 13. Nature of Revocation.** When, after the notice and hearing procedure described in Section 14 of this ordinance, the County Auditor revokes a license, the revocation shall continue for two (2) years and the licensee shall not be issued a sexually oriented business license or sexually oriented employee license for two (2) years from the date revocation becomes effective, provided that, if the conditions of Section 14(B) of this ordinance are met, a Provisional License will be granted pursuant to that section. If, subsequent to revocation, the County Auditor finds that the basis for the revocation pursuant to Section 12(B)(1) of this ordinance has been corrected or abated, the applicant shall be granted a license, if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under subsections 12(B)(2), (3), (4), or (5) of this ordinance, an applicant may not be granted another license until at least two (2) years have elapsed.

**SECTION 14. Right to Hearing Prior to Denial, Suspension, Revocation: Prompt Judicial Review; Right to Provisional License Pending Judicial Review.**

- A. If facts exist that warrant the denial, suspension, or revocation of a license under this ordinance, the County Auditor shall notify the applicant or licensee (respondent) in writing of the intent to deny, suspend, or revoke the

license, including the grounds thereof, by personal delivery or by certified mail. The notification shall be directed to the most current business address or other mailing address on file with the County Auditor for the respondent. Within ten (10) working days of the receipt of such notice, the respondent may submit a written request to the County Auditor for a hearing before the Board of Supervisors to refute the grounds alleged by the County Auditor for denial, suspension, or revocation of the license.

Within five (5) days of the receipt of respondent's written response, the County Auditor shall notify the respondent in writing of the hearing date on respondent's denial, suspension, or revocation proceeding. Within twenty (20) working days of the receipt of respondent's written response, the Board of Supervisors shall conduct a hearing at which respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the County's witnesses. The County Auditor shall also be represented by counsel and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two (2) days, unless extended to meet the requirements of due process and proper administration of justice. The Board of Supervisors shall issue a written decision within five (5) days after the hearing. If the decision is to deny, suspend, or revoke the license, it shall state the reasons for such action, and the denial, suspension, or revocation shall become final for purposes of appeal immediately, but shall not take effect or be enforced until thirty (30) days thereafter. If the decision is to grant the license, the County Auditor shall immediately issue a license to the respondent.

If the respondent does not request a hearing within ten (10) business days of receiving the County Auditor's notice of intent to deny, suspend, or revoke the license, the license shall be deemed denied, suspended, or revoked, as applicable.

- B. An applicant or licensee (aggrieved party) whose application for a license has been denied or whose license has been suspended or revoked shall have the right to challenge or appeal such action or seek a declaration of rights concerning such action and/or concerning this Ordinance, upon factual grounds or constitutional grounds or both, to a court of law within thirty (30) days after issuance of the Board of Supervisor's written decision. Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin or seek a declaration of rights concerning this Ordinance or the County Auditor's denial, suspension, or revocation, the County Auditor shall immediately issue the aggrieved party a Provisional License. The County shall supply the court with any documents, reports, or transcripts relevant to the lawsuit within fifteen (15) days after receiving notice of the lawsuit. The Provisional License shall allow the aggrieved party to continue operation of the sexually oriented business or to continue employment as a

sexually oriented business employee and will expire only upon the court's entry of a judgment on the merits of the aggrieved party's action to appeal, challenge, restrain, or otherwise enjoin or seek a declaration of rights concerning this Ordinance or the County's denial, suspension, or revocation of a license under this Ordinance.

If, in the alternative, the aggrieved party does not wish to bear the burden of initiating a court action, he or she may, within thirty (30) days after the Board of Supervisor's written decision is issued, elect to require the County to file a declaratory action in a court of competent jurisdiction, seeking a declaration that the denial, suspension, or revocation is valid and that the ordinance is constitutionally sound. Such an election must be made in writing and be delivered to the County Attorney's Office within thirty (30) days of issuance of the Board of Supervisor's written decision. Upon the delivery of the election notice to the County Attorney's Office, the County shall immediately issue the aggrieved party a Provisional License. The Provisional License shall allow the aggrieved party to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire only upon the court's entry of a judgment on the merits of the validity of this Ordinance and the County's denial, suspension, or revocation decision.

This section shall be liberally construed to permit the uninterrupted operation of the sexually oriented business or the uninterrupted employment of the sexually oriented business employee during the course of any court action challenging this Ordinance or an adverse licensing decision under this Ordinance until the court of law rules upon all the aggrieved party's factual and or constitutional claims.

**SECTION 15. Transfer of License.** A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application.

**SECTION 16. Hours of Operation.** No sexually oriented business, except for an Adult Motel, shall be or remain open for business between 2:00 a.m. and 6:00 a.m. on a weekday, or between 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday. However, a sexually oriented business which holds a liquor license or retail beer permit entitling the holder to sell alcoholic liquor or beer on Sunday may remain open between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday.

**SECTION 17. Loitering and Exterior Lighting and Monitoring Requirements.**

A. It shall be the duty of the operator of a sexually oriented business to:

1. Post conspicuous signs stating that no loitering is permitted on such property;
2. Designate one or more employees to monitor the activities of persons on such property by visually inspecting such property at least once every two (2) hours or inspecting such property by use of video camera and monitors; and
3. Provide lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering.

If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within a manager's station or at a cash register where an employer is regularly present.

- B. It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

#### **SECTION 18. Violations and Penalties.**

Pursuant to Iowa Code Section 331.307, any individual, firm, business, or corporation who violates any of the provisions of this ordinance and continues to operate after the revocation of their License, shall be guilty of a county ordinance infraction and shall be subject to a penalty in the amount of seven hundred fifty (\$750.00) dollars for each separate violation or day of operation after revocation.

The aforementioned penalties are not exclusive nor restrictive, and Cass County, Iowa shall have the power and authority to seek and obtain civil relief through the judicial system, including but not limited to injunctive relief to enforce and facilitate the provisions of this ordinance.

**SECTION 19. Applicability to Existing Businesses.** The provision of this Ordinance shall apply to the activities of all sexually oriented businesses and sexually oriented business employees described herein, whether such business or activities were established or commenced before, on, or after the effective date of this Ordinance. All existing sexually oriented businesses and sexually oriented business employees are hereby granted a De Facto Temporary License to continue operation or employment for a period of one hundred eighty (180) days following the effective date of this Ordinance. Within said one hundred eighty (180) days, all sexually oriented businesses and sexually oriented business employees must make application for a license pursuant to this Ordinance. Within said one hundred eighty (180) days, sexually oriented businesses must make any necessary changes to the interior configurations of the regulated business premise to conform to this Ordinance.

**SECTION 20. Regulations Concerning Live Public Nudity on Premises.**

- A. It shall be a violation of this Ordinance for a licensee required to obtain a sales tax permit to knowingly or intentionally violate Iowa Code § 728.5. It shall be a violation for any person to knowingly or intentionally, in a sexually oriented business, appear in a state of nudity.
- B. It shall be a violation of this ordinance for an employee to knowingly and intentionally appear semi-nude in a sexually oriented business unless the employee, while semi-nude, shall be at least six (6) feet from any patron or customer and on a stage at least two (2) feet from the floor.
- C. It shall be a violation of this ordinance for an employee, while semi-nude in a sexually oriented business, to knowingly or intentionally receive any pay or gratuity directly from any patron or customer or for any patron or customer to knowingly or intentionally pay or give any gratuity directly to any employee, while said employee is semi-nude in a sexually oriented business.
- D. It shall be a violation of this ordinance for an employee while semi-nude in a sexually oriented business to knowingly or intentionally touch a customer or the clothing of a customer or for a customer to knowingly and intentionally touch an employee or the clothing of an employee while said employee is semi-nude in a sexually oriented business.

A sign, in a form to be prescribed by the Board of Supervisors and summarizing the provisions of Paragraphs A through D of this Section, shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to patrons upon entry into the inside of the building.

**SECTION 21. Employee License Violation Imputed to Business Licensee.**

Notwithstanding anything to the contrary, for the purposes of this Ordinance, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually oriented business licensee for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the business premises, knew or reasonably should have known that such act was occurring and failed to prevent such act. It shall be a defense to liability under this Ordinance that the person to whom the vocative act is imputed was powerless to prevent the act.

**SECTION 22. Repealer.** All previous ordinances or parts of previous ordinances in conflict with the provisions of this ordinance are hereby repealed upon final passage and approval of this ordinance.



**SECTION 23. Severability.** If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole, or any section thereof, or part thereof, not adjudged invalid or unconstitutional.

**SECTION 24. Effective Date.** This ordinance shall be in full Force and effect upon its final passage, approval and publication as required by law.

First reading: September 20, 2006. Second reading: September 29, 2006. Third reading: October 11, 2006.

ADOPTED and PASSED by the Board of Supervisors of Cass County, Iowa on October 11, 2006.

**Ordinance 24 – Animal Control**

Section 1 – Purpose	Section 10 – Enforcement
Section 2 – Definitions	Section 11 – Release of Ownership
Section 3 – Miscellaneous Prohibited Acts	Section 12 – Penalties
Section 4 – Owner’s Duty	Section 13 – Ongoing Offenses
Section 5 – Barking Dogs or Other Animals	Section 14 – Alternative Relief
Section 6 – Vicious Dogs & Penalties	Section 15 – Repealer
Section 7 – Dangerous and Exotic Animals	Section 16 – Severability Clause
Section 8 – Refusal of Admittance	Section 17 – Conflict of Laws
Section 9 – Hoarding or Collecting Prohibited	Section 18 – When Effective

Title. Animal Control Ordinance of Cass County, Iowa.

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

**SECTION 1. Purpose.** To ensure that every owner of any animal or any person having any animal in his or her possession or custody exercises a reasonable degree of care and takes all necessary steps and precautions to protect other people, property, and animals from injuries or damage which might result from their animals’ behavior, regardless of whether such behavior is motivated by mischievousness, playfulness, or ferocity.

To further ensure that every owner of any animal or any person having any animal in his or her possession or custody cares for said animal in a humane fashion and provides it with adequate food, water, shelter, nutrition and care.

To advance the goals of public health, safety and welfare.

**SECTION 2. Definitions.** For the purposes of this article, the following terms, phrases, words, and derivations shall have the meaning given herein, unless it shall be apparent from the context that a different meaning is intended:

1. **Abandon** means to completely and intentionally forsake and desert an animal previously under the ownership, custody or possession of a person without making reasonable arrangements for its proper care, sustenance, and shelter where said animal may become a public charge, nuisance or may suffer injury, hunger or exposure as a result of inadequate food, water, shelter or care.
2. **Animal** means a nonhuman vertebrate. However, “animal” does not mean any of the following:
  - a. Livestock, as defined by Iowa Code Section 717.1
  - b. Any game, fur-bearing animal, fish, reptile, or amphibian, as defined in Iowa Code Section 481A.1, unless a person owns, confines, or controls the game, furbearing animal, fish, reptile, or amphibian.
  - c. Any nongame species declared to be a nuisance pursuant to Iowa Code Section 481A.42.
3. **Animal Control Officer** means that person designated by the Board to assist in the enforcement of this ordinance or their designee.
4. **At-large** any animal shall be deemed to be “at-large” if it allowed to run off the premises of its owner or keeper or is not under the immediate control of the owner or a responsible person.

5. Attack means an act committed by an animal with the ability to execute such an act that either by threat of physical contact or actual physical contact causes fear, pain or injury to a human being or an animal so long as the latter has not first committed such an act on the offending animal.
6. Bite means any abrasion, puncture, tear or piercing of the skin actually or suspected of being caused by an animal.
7. Board means the Board of Supervisors of Cass County, Iowa.
8. Cat means any breed or mixed breed of domestic feline.
9. County means Cass County, Iowa.
10. Disturbance means the act of trespassing; chasing; maiming or killing domestic livestock or fowl; damaging or destroying personal property; biting or attempting to bite a person.
11. Dog means any breed or mixed breed of domestic canine.
12. Dog Breeder means any owner who reproduces or propagates canine offspring sexually or under controlled conditions for business purposes in a veterinary hospital or registered kennel subject to in section by the State of Iowa, AKC inspection and approval or USDA licensure.
13. Euthanasia means the humane destruction an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia produced by an agent that produces painless loss of consciousness, and subsequent death during such loss of consciousness.
14. Hoarding or Collecting means to include but is not limited to:
  - a. Accumulating a large number of companion animals so overwhelming that the person or owner is unable to provide even minimal standards of nutrition, sanitation, shelter and veterinarian care for said animals, or
  - b. Allowing deteriorated living conditions for the animals including but not limited to disease, starvation, death, and severe overcrowding resulting in unsanitary conditions for either the owner, the animal or the public at-large, or
  - c. Owning more than the maximum number of dogs or cats allowed by this ordinance.
15. Livestock means an animal belonging to the bovine (cattle or oxen), caprine (goats), equine (horses), ovine (sheep) or porcine (pigs) species; ostriches, rheas, emus, farm deer as defined by Iowa Code Section 170.1, mules, donkeys, burros, llamas or alpaca-like animals or domestic poultry, ducks, geese or fowl.
16. Owner means any person, partnership, business, club, corporation, farm, company, association or other legal entity owning, keeping or harboring any animal or having any animal in his or her care, custody, control, supervision or direction.
17. Police Service Dog or K-9 means a dog used by a peace officer or correctional officer in the performance of the officer's duties, whether or not the dog is on duty.
18. Vaccination means inoculation with a recognized anti-rabies vaccine, approved by the Iowa Department of Health.

19. Wild Animals means any live monkey, primate, beaver, groundhogs, minks, otters, raccoon, badger, opossum, skunk, wolf, wolf-hybrid, squirrel, fox, fox-hybrid, coyote, coyote-hybrid, bob cat, cougar, mountain lion, leopard, panther, tiger, lion, lynx, ocelot or any other warm blooded, non-domesticated, wild or indigenous animal, any wild bird, poisonous snake or spider, which can normally be found in the wild, or any crocodilian including but not limited to, alligators, crocodiles, caimans and gavials. Wild animals shall also include any mixed breed or hybrid breed of animal mentioned above. Exceptions shall include ferrets, non-poisonous snakes with a length not greater than 8 feet, rabbits, rodents or any animal, amphibian or reptile legal to be owned or possessed under either State of Iowa or federal law including and any birds which have been bred and raised in captivity and which have never known the wild.

### **SECTION 3. Miscellaneous Prohibited Acts.**

1. Poisoning Animals: It shall be unlawful under this ordinance for any owner to knowingly poison or cause to be poisoned any animal. Any drug used for euthanasia shall be used by or under the direction of a licensed veterinarian.

### **SECTION 4. Owner's Duty.**

1. Humane Treatment: An owner shall provide sufficient food, water, shelter and humane treatment for any animal including dogs and cats in its care. It shall be unlawful under this section for an owner or any other person to beat, starve or otherwise abuse, neglect or torture any animal.
2. Dogs as property. Iowa Code Section 351.25 is adopted by reference.
3. Right to Kill Untagged and Tagged Dogs. Iowa Code Sections 351.26 and 351.27 are adopted by reference.
4. Liability for Damages. Iowa Code Section 351.28 is adopted by reference.
5. Rabies Vaccination & Enforcement: Iowa Code Sections 351.33, 351.35 and 351.36 are adopted by reference.
6. Dogs running at-large-Impoundment-Disposition. Iowa Code Section 351.37 is adopted by reference.
7. Owner's Duty. Iowa Code Section 351.38 is adopted by reference.
8. Confinement for Bites or Suspicion of Rabies: Iowa Code Section 351.39 is adopted by reference.
9. Quarantine. Iowa Code Section 351.40 is adopted by reference.

10. Sanitary Conditions: An owner shall keep all structures pens or yards wherein animals including dogs or cats are confined, clean and devoid of vermin and free of odors arising from urine or feces.
11. Public Sanitation: No owner of a dog or other animal shall permit their animal to discharge feces upon any public or private property, other than the property of the owner of the animal. The owner shall not however be considered in violation of this subsection provided he or she takes steps to immediately remove and clean up the feces discharged by the animal from the property.
12. Abandonment or Dumping: A person who has ownership or custody of a cat or dog shall not intentionally abandon or dump the animal in the county, except the person may deliver the cat or dog to another person who will accept ownership and custody or the person may deliver the cat or dog to an animal shelter or pound as defined in Iowa Code Section 162.2. Iowa Code Section 717B.8 is adopted by reference.
13. Number of Dogs and Cats Allowed: Except for dog breeders, it shall be unlawful for any owner to keep, harbor or shelter more than six (6) dogs and ten (10) cats. Owners having an excess of the animals allowed herein prior to the enactment of this ordinance shall be subject to the grandfather clause. For purposes of this section, a litter of dogs or cats shall not count toward the total number of dogs and cats allowed so long as they are not kept for a period longer than two (2) consecutive calendar months following birth. However, no owner may have a dog or cat with more than one litter at the same time as another dog or cat except for dog breeders.

#### **SECTION 5. Barking Dogs or Other Animals – Public Nuisance.**

1. It shall be unlawful to keep or harbor any dog or other animal that, by frequent, regular, habitual, or continued barking, whining, yelping, howling, or other loud noises shall cause serious annoyance to the surrounding neighborhood. Such annoyance shall be considered a public nuisance.
2. The Animal Control Officer, Cass County Sheriff or their designee shall have the authority to use all reasonable means as to abate such nuisance, including but not limited to requiring that the owner or custodian make bona fide efforts to quell the dog or impound of the animal, costs of which shall be paid by the animal's owner.

**SECTION 6. Vicious Dogs & Penalties.** It shall be unlawful for any owner to keep, harbor, purchase, or sell a vicious dog. An owner may be cited by the Animal Control Officer, Cass County Sheriff or their designee for having a vicious dog based on an allegation of any of the criteria specified below. For the purposes of this section, the term vicious dog shall include but not be limited to any of the following:

- a. Engages in dog fighting or trained for fighting with other animals;

- b. Approaches any person, animal or livestock in an apparent attack posture or in a vicious or terrorizing manner whether or not the attack is consummated when unprovoked;
  - c. Attacks, intimidates, bites, or causes injury to any person, animal or livestock without provocation;
  - d. Causes a disturbance;
  - e. Chases or endangers any person, animal or livestock in a harassing or terrorizing manner without provocation;
  - f. Has a history, propensity, tendency, or disposition to attack, intimidate, bite, or cause injury to any person, animal or livestock or otherwise endangers the safety of any person, animal or livestock when unprovoked;
  - g. Kills any person, animal or livestock.
2. Any person cited for owning a vicious dog shall pen or kennel said animal in a sufficient structure or facility so as to keep it away from all other persons, animals and livestock pending the outcome of any hearing on the matter. The Animal Control Officer, Cass County Sheriff or their designee may inspect such structure or facility to ensure compliance with this section. The Animal Control Officer, Cass County Sheriff or their designee shall immediately seize a dog alleged to be vicious which shall be held at the owner's expense in an animal control shelter or pound for failure to comply with this section.
3. If following a hearing, an owner is allowed to continue to own a vicious dog the Court shall implement an appropriate safety plan including any restrictions for the vicious dog so long as said plan takes into full consideration the health, safety and welfare of all persons, animals and livestock in the county.
4. In addition to any other penalties provided in this ordinance, the Court may also order an owner or person found guilty of owning or harboring a vicious dog to permanently remove same from the county in a time determined by the Court. The Court may also order the dog euthanized in a humane manner at the owner's expense. If the vicious dog is ordered by the Court to be removed from this county, the Court shall order an identification chip implanted into the animal at the owner's expense. If said vicious dog is ever found back in the county it shall immediately be seized by the Animal Control Officer, Cass County Sheriff or their designee and euthanized in a humane manner at the owner's expense.
5. Exempt Dogs. Dogs used by a peace officer or correctional officer in law enforcement work or as a police service dog or K-9 shall not be classified as

vicious if a bite or bites occur while the dog is used by a peace officer or correctional officer in the performance of the officer's duties.

6. Nothing in this Section shall negate any requirements for confinement pursuant to Iowa Code Sections 351.38 or 351.39 for an animal that has bitten a person or a dog or animal that is suspected of having rabies.

**SECTION 7. Dangerous and Exotic Animals.** It shall be unlawful for any owner to own, keep, harbor, purchase or sell a dangerous animal. An animal may be deemed dangerous following an investigation and final determination by the Animal Control Officer, Cass County Sheriff or their designee.

For the purposes of this section, the term dangerous animal shall also include but not be limited to any animal that is a "wild animal" as defined by this ordinance.

1. Exemptions. The prohibition contained within this ordinance shall not apply to the keeping of dangerous animals in the county under any of the following circumstances:

- a. Dangerous animals kept at state licensed veterinary hospitals, humane societies, licensed rehabilitator or animal control pounds for treatment or impoundment purposes.

- b. Dangerous animals kept by federal, state, county and municipal authorities and their designees or veterinarians pursuant to the enforcement of this or any animal control ordinance.

- c. Dangerous animals kept by governmental agencies, educational institutions, medical institutions or research laboratories for instructional or research purposes.

- d. Dangerous animals kept in publicly owned zoos or a bona fide traveling circus, carnival, exhibit or show.

- e. Dangerous animals kept for fur pelting businesses, subject to compliance with this zoning ordinance or State of Iowa or federal laws.

- f. Dangerous animals kept by individuals meeting State of Iowa or USDA permit requirements.

- g. Dangerous animals commercially exhibited for ten days or less.

- h. Animals being commercially transported through the county.

- i. Any exemption granted by the Board for a legitimate purpose.

2. Exotic animals. Bison, mixed breeds of bison, any breed of free-ranging elk, white-tail deer or mule deer, excluding farm deer as defined by Iowa Code Section 170.1 wild sheep or wild goats or any other animal not normally raised as livestock as defined herein are exotic animals.

Exotic animals may be owned or possessed for farming, ranching or any other legitimate purpose, but only after all of the following:

- a. Proof to the Board that the exotic animal or animals are legal to possess pursuant to any State of Iowa or federal law, and;
- b. Proof to the Board of any valid State of Iowa or federally required permits to own or possess said animals. It shall be the owner's responsibility to determine if any permits are required, and;
- c. The approval of the Board and a showing that said animals are not a threat to the health, welfare and safety of the public or a threat to any animal or livestock.

**SECTION 8. Refusal of Admittance.** In the event the Animal Control Officer, Cass County Sheriff or their designee, in proceeding to enter into a property to carry out the provisions of this ordinance, shall be refused entry, a complaint may be made under oath to any Magistrate of the county. Said Magistrate shall thereupon issue a warrant directed to the Cass County Sheriff commanding the Sheriff, accompanied by the Animal Control Officer, if any, to enter onto such property and to make such inspection as may be required to carry out the provisions of this ordinance, which order shall be executed by said Sheriff with the cooperation with the Animal Control Officer, if any, as designated by the county.

**SECTION 9. Hoarding or Collecting Prohibited & Penalties.**

1. No person shall hoard or collect animals including dogs and cats.
2. In addition to any other punishment provided by law or by this ordinance, the Court may order a person who has been convicted of animal hoarding or collecting to psychological counseling or treatment at the owner's expense.
3. The Court may also prohibit any person found guilty of hoarding or collecting from any future ownership of animals including dogs and cats.
4. If the Court finds probable cause that animal hoarding or collecting is occurring, the Court shall issue a warrant for the seizure of the animals.

**SECTION 10. Enforcement.**

1. It shall be the duty of the Animal Control Officer, Cass County Sheriff or their designee to enforce the provisions of this ordinance.



2. Those persons authorized to enforce this ordinance may issue a citation for a violation of this ordinance with or without prior notice to any person who is alleged to have committed violation of this ordinance.

**SECTION 11. Release of Ownership.** Should an owner no longer desire to keep an animal that has been seized, the owner may be released of ownership upon payment of all fines and charges. The animal may be released to an animal control shelter or pound as defined by Iowa Code Section 162.2 or adopted through an appropriate adoption organization or human society as approved by the Court. Charges shall include all boarding fees which have been incurred and the cost of any veterinary care which was administered. The charges listed are in addition to all court costs that may occur.

**SECTION 12. Penalties.** Pursuant to Iowa Code Section 331.302(2), any person who violates this ordinance commits a Simple Misdemeanor and shall be subject to a fine not to exceed \$500 or a term of imprisonment not to exceed 30 days. In addition to any penalties herein any person who is found guilty of violating this ordinance shall also be responsible for the reimbursement of any restitution or costs incurred including court costs. The Court may also prohibit any person who is found guilty of violating this ordinance from future ownership of any animal and any other conditions the Court may deem necessary including those outlined in this ordinance as well as ordering the euthanasia of any animal, removal and or adoption of any animal or the neutering or spaying of any animal, at the owner's expense.

**SECTION 13. Ongoing Offenses.** Any person who fails or refuses to abate any violation of this ordinance shall be deemed to have committed a separate violation of this ordinance for each twenty-four hour period thereafter during which said violation continues and shall be subject to like penalties provided under this ordinance.

**SECTION 14. Alternative Relief.** Seeking a criminal penalty as authorized in this ordinance does not preclude the county from seeking alternative relief from the Court in the same action. Such alternative relief may include, but is not limited to, an order for abatement or injunctive relief.

**SECTION 15. Repealer.** All other ordinances that are in conflict with this ordinance are hereby repealed to the extent of such conflict.

**SECTION 16. Severability Clause.** If any part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the remaining parts of this ordinance.

**SECTION 17. Conflict of laws.** Any part of this ordinance that adopts the Iowa Code by reference shall be subject to the criminal penalties in Iowa Code Section 331.302(2).

**SECTION 18. When Effective.** This ordinance shall be in full force and effect upon its final passage, approval and publication as required by law.

ADOPTED and PASSED by the Board of Supervisors of Cass County, Iowa on October 11, 2006.

**Ordinance 30 – Hazardous Materials Recovery Ordinance**

Section 1 – Purpose  
Section 2 – Definitions  
Section 3 – Cleanup Required  
Section 4 – Liability for Cleanup Costs  
Section 5 – Notifications  
Section 6 – Police Authority  
Section 7 – Civil Liability

Section 8 – Penalties  
Section 9 – Ongoing Offenses  
Section 10 – Alternative Relief  
Section 11 – Repealer  
Section 12 – Severability Clause  
Section 13 – Conflict of Laws  
Section 14 – When Effective

Title: Hazardous Material Recovery Ordinance

BE IT ENACTED BY THE BOARD OF SUPERVISORS of Cass County, Iowa:

**SECTION 1. Purpose.** In order to reduce the danger to public health, safety and welfare from the spills of hazardous substances, these regulations are promulgated to establish responsibility for the removal and cleanup of spills within the Cass County limits.

**SECTION 2. Definitions.**

For the purpose of this chapter, these words have the following meanings:

- (1) "County" means Cass County, Iowa.
- (2) "Cleanup" means action necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove, or dispose of a hazardous substance or hazardous waste.
- (3) "Hazardous condition" means any situation involving the actual, imminent or probable spillage, leakage, or release of a hazardous substance or hazardous waste onto the land, into the water, or into the atmosphere which creates an immediate or potential danger to the public health or safety.
- (4) "Hazardous substance" means any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, or that is an irritant or that generates pressure through decomposition, heat, or other means. "Hazardous substance" may include any hazardous waste identified or listed by the administrator of the United States Environmental Protection Agency under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, or any toxic pollutant listed under Section 307 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous substance designated under Section 311 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous material designated by the secretary of transportation under the Hazardous Materials Transportation Act.
- (5) "Hazardous waste" means a waste or combination of wastes that, because of its quantity, concentration, biological degradation, leaching from precipitation, or physical, chemical, or infectious characteristics, has either of the following effects:
  - (a) Causes or significantly contributes to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or

(b) Poses a substantial danger to human health or the environment. "Hazardous waste" may include, but is not limited to, wastes that are toxic, corrosive, or flammable or irritants, strong sensitizers or explosives.

(6) "Person" means individual, corporation, firm, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(7) "Responsible person" means a person who at any time produces, handles, stores, uses, transports, refines, or disposes of a hazardous substance or hazardous waste, the release of which creates a hazardous condition, including bailees, carriers, and any other person in control of a hazardous substance or hazardous waste when a hazardous condition occurs, whether the person owns the hazardous substance or waste or is operating under a lease, contract, or other agreement with the legal owner of the hazardous substance or waste.

### **SECTION 3. Cleanup required.**

(a) Whenever a hazardous condition is created so that a hazardous substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the responsible person shall cause the condition to be remedied by a cleanup as defined by Section 4.60.020, as rapidly as feasible to an acceptable safe condition, and restore the affected area to its state prior to the hazardous condition as far as practicable. The cost of cleanup shall be borne by the responsible person.

(b) If the responsible person does not cause the cleanup to begin in a reasonable time in relation to the hazard and circumstances of the incident, the County may, by authorization of the Board of Supervisors, give reasonable notice based on the character of the hazardous condition, setting a deadline for commencing and accomplishing the cleanup, or the County may proceed to procure cleanup services. If the cost of the cleanup is beyond the capacity of the County to finance, the Board of Supervisors or its designee may seek any state or federal funds available for such cleanup.

### **SECTION 4. Liability for cleanup costs.**

The responsible person shall be strictly liable to the County for all of the following:

- (1) The reasonable costs incurred by the County in containing and/or controlling a hazardous condition;
- (2) The reasonable cleanup costs incurred by the County as a result of the failure of the person to clean up a hazardous substance or waste involved in a hazardous condition caused by that person;
- (3) The reasonable costs incurred by the County to evacuate people from the area threatened by a hazardous condition caused by the person;
- (4) The reasonable damages to the County for the injury to, destruction of, or loss of County property, including parks and roads, resulting from a hazardous condition caused by that person, including the costs of assessing the injury, destruction, or loss.

(5) The costs referenced above shall be as determined by the on scene fire chief for: manpower, apparatus, ambulance/rescue squad, command vehicle or utility truck, supplies and outside services, mileage, and decontamination, repairs, replacement, maintenance of equipment, apparatus or supplies, plus a reasonable administrative fee. It is unlawful for any responsible person to fail to pay a billing for such services within thirty (30) days of receipt therefore.

#### **SECTION 5. Notifications.**

(a) A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance or waste shall notify the Cass County Communications Center of the occurrence of a hazardous condition as soon as possible, but no later than one hour after the onset of the hazardous condition or discovery of the hazardous condition. The on-scene fire chief shall notify the proper state office in the manner established by the state.

(b) Any County employee who discovers a hazardous condition shall notify the on-scene fire department, which shall notify the proper state office in the manner established by the state.

**SECTION 6 Police authority.** If the circumstances reasonably so require, Cass County, the on-scene fire chief or police chief, or their representative(s), may: (1) Evacuate persons, even from their homes, to areas away from the site of a hazardous condition; and (2) Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to cleanup personnel. No person shall disobey an order of the fire chief or any other deputy or peace officer/law enforcement officer issued under this section.

**SECTION 7. Civil Liability.** Neither Cass County nor any responding fire department shall be liable to any person or persons or any other entity for claims of damages, injuries, or losses resulting from any hazardous condition unless Cass County or the responding fire department is the responsible person as defined herein.

**SECTION 8. Penalties.** Pursuant to Iowa Code Section 331.302(2), any person who violates this ordinance commits a Simple Misdemeanor and shall be subject to a fine not to exceed \$500.00 or a term of imprisonment not to exceed 30 days. In addition to any penalties herein any person who is found guilty of violating this ordinance shall also be responsible for the reimbursement of any restitution or costs incurred including court costs.

**SECTION 9. Ongoing Offenses.** Any person who violates this ordinance shall be deemed to have committed a separate violation of this ordinance for each twenty-four hour period thereafter during which said violation continues and shall be subject to like penalties provided under this ordinance. At the discretion of the County attorney, any violation of the provisions of this ordinance may be pursued as a county infraction.

**SECTION 10. Alternative Relief.** Seeking a criminal penalty as authorized in this ordinance does not preclude the County from seeking alternative relief from the Court in

the same action. Such alternative relief may include, but is not limited to, an order for abatement or injunctive relief.

**SECTION 11. Repealer.** All other ordinances that are in conflict with this ordinance are hereby repealed to the extent of such conflict.

**SECTION 12. Severability Clause.** If any part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the remaining parts of this ordinance.

**SECTION 13. Conflict of laws.** Any part of this ordinance that adopts the Iowa Code by reference shall be subject to the criminal penalties in Iowa Code Section 331.302(2).

**SECTION 14. When Effective.** This ordinance shall be in full force and effect upon its final passage, approval and publication as required by law.

Public hearings:

First reading: October 31, 2007. Second and final reading: November 7, 2007.

PASSED AND ADOPTED by the Board of Supervisors of Cass County, Iowa on  
November 7, 2007

**Ordinance 12 – Property Tax Exemption**

Section 1 – Purpose  
Section 2 – Exemption  
Section 3 – Exemption May be Repealed  
Section 4 – Definitions and Procedures  
Section 5 – Repealer  
Section 6 – When Effective

Title. “An Ordinance Establishing a Partial Property Tax Exemption” (For the Construction of New Industrial Property and/or the Acquisition of New Machinery/Equipment and Owner Operated Cattle Facilities.)

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

**SECTION 1. Purpose.** The purpose of this Ordinance is to authorize, in accordance with the provisions of Ordinance 427 B of the 1993 Code of Iowa, partial exemption from property taxation of the actual value added to industrial real estate by the new construction of industrial real estate and the acquisition of or improvement to machinery and equipment assessed as real estate pursuant to Section 427B, Subsection 1 in the 1993 Code of Iowa and of the actual value added to owner operated cattle facilities pursuant to Section 427 B, Subsection 7 in the 1993 Code of Iowa.

**SECTION 2. Exemption.** The County of Cass hereby provides for a partial tax exemption from property taxation of:

1. Actual value added to industrial real property by new construction and the acquisition or improvement to machinery and equipment assessed as real property;
2. Actual value added to owner-operated cattle facilities, including small or medium sized feedlots but not including slaughter facilities, either by new construction or by the retrofitting of existing facilities; and
3. For a period of 5 years, in accordance with the following schedule:
  - a. For the first year, 75%
  - b. For the second year, 60%
  - c. For the third year, 45%
  - d. For the fourth year, 30%
  - e. For the fifth year, 15%

**SECTION 3. Exemption May be Repealed.** When in the opinion of the Board of Supervisors continuation of the exemption ceases to be of benefit to the County, the County may repeal this ordinance, but all existing exemptions shall continue until their expiration.

**SECTION 4. Definitions and Procedures.** All the definitions, procedures and requirements set forth in Ordinance 427B of the 1993 Code of Iowa, are hereby included in this ordinance by this reference as if fully set forth herein.

**SECTION 5. Repealer.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 6. When Effective.** This ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Adopted the 17<sup>th</sup> day of August, 1994.

**Ordinance 14 – Local Option Sales and Services Tax**

Section 1 – Local Option Sales and Service Tax

Section 2 – Effective Date

Title. An Ordinance Establishing a local sales and services tax applicable to transactions within the incorporated areas of Anita, Cumberland, Griswold, Lewis, Marne, Massena and Wiota and Cass County, Iowa

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

**SECTION 1. Local Option Sales and Services Tax.** There is imposed a local option sales and services tax applicable to transactions within the incorporated areas of Anita, Cumberland, Griswold, Lewis, Marne, Massena and Wiota of Cass County, Iowa.

The rate of the tax shall be on the percent (1%) upon the gross receipts taxed under Ordinance 422, Division IV, of the Iowa Code in the cities of Anita, Cumberland, Griswold, Lewis, Marne, Massena and Wiota.

The local sales and services tax is imposed on transactions occurring on or after January 1, 1997 within the cities of Anita, Cumberland, Griswold, Lewis, Marne, Massena and Wiota. The tax shall be collected by all persons required to collect state gross receipts taxes. However, the tax shall not be imposed on the gross receipts exempted by state statute.

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

**SECTION 2. Effective Date.** This ordinance shall be effective after its final passage, approval, and publication as provided by law.

Adopted the 24<sup>th</sup> day of December, 1996.



**Ordinance 15 – Local Option Tax**

Section 1 – Local Option Sales and Services Tax

Section 2 – Effective Date

Title. An Ordinance Establishing a Local Option Sales and Services Tax Applicable to Transactions Within the Incorporated City of Atlantic and the Unincorporated Area of Cass County, Iowa

BE IT ENACTED be the Board of Supervisors of Cass County, Iowa:

**SECTION 1. Local Option Sales and Services Tax.** There is imposed a local option sales and services tax applicable to transactions within the incorporated City of Atlantic and the unincorporated area of Cass County, Iowa.

The rate of the tax shall be one percent (1%) upon the gross receipts taxed under Ordinance 422, Division IV, of the Iowa Code in the city of Atlantic and the unincorporated area of Cass County.

The local sales and services tax is imposed on transactions occurring on or after October 1, 1997 within the city of Atlantic and the unincorporated area of Cass County. The tax shall be collected by all persons required to collect state gross receipts taxes. However, the tax shall not be imposed on the gross receipts exempted by state statute.

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

**SECTION 2. Effective Date.** This ordinance shall be effective after its final passage, approval, and publication as provided by law.

Adopted the 25<sup>th</sup> day of June, 1997.

**Ordinance 17 – Purchase of Tax Sale Certificates**

Section 1 – Purpose  
Section 2 – Definitions  
Section 3 – Purchasing Delinquent Taxes  
Section 4 – Procedure  
Section 5 – Verified Statement  
Section 6 – Assignment of Tax Sale  
Certificates

Section 7 – Purchase of Tax Sale Certificates  
Section 8 – Intent to Rehabilitate the Property  
Section 9 – Repealer  
Section 10 – Severability  
Section 11 – Effective Date

Title. An Ordinance Relating to the Purchase of Tax Sale Certificates on Parcels with Delinquent Taxes.

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

**SECTION 1. Purpose.** The purpose of this ordinance is to allow the county and the cities within the county the opportunity to utilize Iowa Code section 446.19A, Code 1999, as amended by the 78<sup>th</sup> General Assembly. Iowa Code section 446.19A authorizes counties and cities to bid for and purchase tax sale certificated on abandoned property to promote low or moderate income housing.

**SECTION 2. Definitions.** For the purposes of this ordinance, the following terms shall be defined as follows:

- a. “abandoned” means the same as in Iowa Code Section 657A.1(1).
- b. “public nuisance” means the same as in Iowa Code Section 657A.1(7).
- c. “low or moderate income families” means the same as in Iowa Code Section 403.17.

**SECTION 3. Purchasing Delinquent Taxes.** Pursuant to Iowa Code section 466.19A, as amended by the 78<sup>th</sup> General Assembly, the county and each city in the county are hereby authorized to bid on and purchase delinquent taxes and to assign tax sale certificates of abandoned property acquired under Iowa Code section 446.19A.

**SECTION 4. Procedure.** On the day of the regular tax sale or any continuance or adjournment of the tax sale, the county treasurer on behalf of the county or a city, may bid for the purchase tax sale certificates on abandoned property or public nuisance property assessed as residential property or as commercial multifamily housing property a sum equal to the total amount due. The county or city shall not pay money for the purchase, but each of the tax levying and tax certifying bodies having any interest in the taxes shall be charged with the total amount due the tax levying or tax certifying body as its just share of the purchase price.

**SECTION 5. Verified Statement.** Prior to the purchase, the county or city shall file with the county treasurer a certified statement that a parcel to be purchased is abandoned and deteriorating in condition or is, or is likely to become, a public nuisance, and that the parcel is suitable for use for low or moderate income housing following rehabilitation.

**SECTION 6. Assignment of Tax Sale Certificates.** After the date that a parcel is sold pursuant to Iowa Code section 446.18, section 446.38, or section 446.39, if the parcel assessed as residential property or as commercial multifamily housing property is identified as abandoned or a public nuisance pursuant to a verified statement filed pursuant to section 5, a county or city may require the assignment of tax sale certificate that had been issued for such parcel by paying to the holder of such certificate the total amount due on the date the assignment of the certificate is made to the county or city and reassigned by the county or city, the county or city, whichever is applicable, is liable for the tax sale interest that was due the certificate holder pursuant to Iowa Code section 447.1, as of the date of reassignment.

**SECTION 7. Purchase of Tax Sale Certificates.** The county or city may assign or reassign the tax sale certificate obtained pursuant to this ordinance. Preference shall be given to the purchasers who are low or moderate income families or organizations that assist low or moderate income families to obtain housing. Persons who purchase certificates from the county or city pursuant to this ordinance are liable for the total amount due the certificate holder pursuant to Iowa Code section 447.1.

**SECTION 8. Intent to Rehabilitate the Property.** All persons who purchase certificates from the county or city under this ordinance shall demonstrate the intent to rehabilitate the property for habitation if the property is not redeemed. In the alternative, the county or city may, if title to the property has vested in the county or city under Iowa Code section 448.1, dispose of the property in accordance with Iowa Code section 331.361 or section 364.7, as applicable.

**SECTION 9. Repealer.** Any ordinance or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 10. Severability.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 11. Effective date.** This ordinance shall be effective after its final passage, approval, and publication as provided by law. It applies to parcels first offered for sale at the tax sale held in June 1999, and in subsequent years.

Adopted the 30<sup>th</sup> day of June, 1999.

**Ordinance 20 – Uniform Commercial Code Information Fee**

Title. An Ordinance Establishing a Local Office Fee for a Uniform Commercial Code (UCC) Information Request in Cass County, Iowa.

Whereas, pursuant to Iowa Code 554.9525 (3) an ordinance must be adopted to set the fee for responding to a request for information from the filing office, and

Whereas, the fee for responding to a request communicated in writing must not be less than twice the amount of the fee for responding to a request communicated by another medium authorized by the Secretary of State's office or the Board of Supervisors for the filing office,

Now therefore, be it resolved by the Cass County Board of Supervisors that the fee for a Uniform Commercial Code information request shall be \$5.00 for each debtor name being requested if the request form is supplied, and \$6.00 for each debtor name requested if the filing office supplies the form. The fee for a copy of a filed UCC is \$1.00 per page.

Effective Date: This ordinance shall be effective on September 10, 2002, after its final passage, approval and publication as provided by law.

Adopted the 4<sup>th</sup> day of September, 2002

**ORDINANCE NO. 26 PUBLIC NUISANCE TAX SALE**

AUTHORIZING THE COUNTY TREASURER TO SEPARATELY OFFER AND SELL AT THE ANNUAL TAX SALE DELINQUENT TAXES ON PARCELS THAT ARE ABANDONED PROPERTY AND ARE ASSESSED AS RESIDENTIAL PROPERTY OR AS COMMERCIAL MULTIFAMILY HOUSING PROPERTY AND THAT ARE, OR ARE LIKELY TO BECOME, A PUBLIC NUISANCE.

WHEREAS, Iowa Code §446.19B, provides that the board of supervisors of a county may adopt an ordinance authorizing the county treasurer to separately offer and sell at the annual tax sale delinquent taxes on parcels that are abandoned property and are assessed as residential property or as commercial multifamily housing property and that are, or are likely to become, a public nuisance; and

WHEREAS, the Board of Supervisors has determined that it is in the best interest of Cass County that such an ordinance be adopted.

NOW, THEREFORE, BE IT ENACTED BY THE BOARD OF SUPERVISORS AS FOLLOWS:

1. On or before May 15, the county or city may file with the county treasurer a verified statement containing a listing of parcels and a declaration that each parcel is abandoned property, each parcel is assessed as residential property or as commercial multifamily housing property, each parcel is, or is likely to become, a public nuisance, and that each parcel is suitable for use as housing following rehabilitation.

2. The verified statement shall be published at the same time and in the same manner as the notice of the annual tax sale and the requirements in Iowa Code §446.9(2) for publication of notice of the annual tax sale also apply to publication of the verified statement.

3. On the day of the regular tax sale, or any continuance or adjournment of the tax sale, the treasurer shall separately offer and sell those parcels listed in a verified statement timely received and properly published and which remain liable to sale for delinquent taxes. This sale shall be known as the “public nuisance tax sale.” Notwithstanding any provision to the contrary, the percentage interest that may be purchased in a parcel offered for sale under this ordinance shall not be less than one hundred percent.

4. To be eligible to bid on parcels under this ordinance, a prospective bidder shall enter into a rehabilitation agreement with the county, or with the city if the property is located within a city, to demonstrate the intent to rehabilitate the property for use as housing if the property is not redeemed.

5. If after issuance of a tax sale deed to the holder of a certificate of purchase at the public nuisance tax sale, the tax sale deed holder determines that a

building, structure, or other improvement located on the parcel cannot be rehabilitated for habitation, the tax sale deed holder may request approval from the board of supervisors, or the city council if the property is located within a city, to remove, dismantle, or demolish the building, structure, or other improvement.

6. When a parcel is offered at public nuisance tax sale and no bid is received, or if the bid received is less than the total amount due, the county treasurer shall bid for the parcel a sum equal to the total amount due. Money shall not be paid by the county or city for the purchase, but each of the tax levying and tax-certifying bodies having any interest in the taxes shall be charged with the total amount due the tax-levying or tax-certifying body as its just share of the purchase price.

7. The tax sale certificate holder may assign the tax sale certificate obtained pursuant to this ordinance.

8. For purposes of this ordinance, “abandoned property” means that a building has remained vacant and has been in violation of the housing code of the city in which the property is located or the housing code applicable in the county in which the property is located if outside the limits of a city for a period of six consecutive months and “public nuisance” means a building that is a menace to the public health, welfare, or safety, or that is structurally unsafe, unsanitary, or not provided with adequate safe egress, or that constitutes a fire hazard, or is otherwise dangerous to human life, or that in relation to the existing use constitutes a hazard to the public health, welfare, or safety by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment.

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

First reading: January 31, 2007. Second and final reading: February 7, 2007.

ADOPTED and PASSED by the Board of Supervisors of Cass County, Iowa on February 7, 2007.

**Ordinance 27 – Div. of Taxes . . . Valley Business Park Urban Renewal Area**

Section 1 – Purpose

Section 2 – Definitions

Section 3 – Provisions for Division of Taxes

Section 4 – Repealer

Section 5 – Saving Clause

Section 6 – Effective Date

**TITLE:** An Ordinance Providing for the Division of Taxes Levied on Taxable Property in the Valley Business Park Urban Renewal Area, Pursuant to Section 403.19 of the Code of Iowa

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

Section 1. Purpose. The purpose of this ordinance is to provide for the division of taxes levied on a portion of the taxable property in the Valley Business Park Urban Renewal Area, each year by and for the benefit of the state, city, county, school districts or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by Cass County to finance projects in such area.

Section 2. Definitions. For use within this ordinance the following terms shall have the following meanings:

“County” shall mean Cass County, Iowa.

“Urban Renewal Area” shall mean the Valley Business Park Urban Renewal Area, such area having been identified in the Urban Renewal Plan approved by the Board of Supervisors by resolution adopted on February 7, 2007:

Certain real property located at the intersection of Interstate Highway 80 and U.S. Highway 71, legally described as follows:

The NE $\frac{1}{4}$  of Section 2, T77N, R36W, Cass County, Iowa subject to conveyance for Interstate 80 **and Parcel A of the NW 1/4 of Section 1-77-36, Cass County Iowa. (Book 4, Page 527, Cass County Recorder). (amendment adopted August 8, 2007)**

Section 3. Provisions for Division of Taxes Levied on a portion of Taxable Property in the Urban Renewal Area. After the effective date of this ordinance, the taxes levied on the taxable property in the Urban Renewal Area each year by and for the benefit of the State of Iowa, the County and any city, school district or other taxing district in which the Urban Renewal Area is located, shall be divided as follows:

(a) that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which there is certified to the County Auditor an amount of loans, advances,

indebtedness, or bonds payable from the special fund referred to in paragraph (b) below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

(b) that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the County to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the County to finance or refinance, in whole or in part, projects in the Urban Renewal Area, and to provide assistance for low and moderate-income family housing as provided in Section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the Code of Iowa, and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection (a) of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

(c) the portion of taxes mentioned in subsection (b) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the County for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the County to finance or refinance in whole or in part projects in the Urban Renewal Area.

(d) as used in this section, the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

Section 4. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.



Section 5. Saving Clause. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 6. Effective Date. This ordinance shall be effective after its final passage, approval and publication as provided by law.

First reading: February 13, 2007. Second and final reading: February 21, 2007.

ADOPTED and PASSED by the Board of Supervisors of Cass County, Iowa on February 21, 2007.

Amendment:

First reading: July 31, 2007. Second and final reading: August 8, 2007.

ADOPTED and PASSED by the Board of Supervisors of Cass County, Iowa on August 8, 2007.

**Ordinance 28 – Div. of Taxes . . . Amaizing Energy Urban Renewal Area**

Section 1 – Purpose

Section 2 – Definitions

Section 3 – Provisions for Division of Taxes

Section 4 – Repealer

Section 5 – Saving Clause

Section 6 – Effective Date

**TITLE:** An Ordinance Providing for the Division of Taxes Levied on Taxable Property in the Amaizing Energy Urban Renewal Area, Pursuant to Section 403.19 of the Code of Iowa

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

Section 1. Purpose. The purpose of this ordinance is to provide for the division of taxes levied on a portion of the taxable property in the Amaizing Energy Urban Renewal Area, each year by and for the benefit of the state, city, county, school districts or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by Cass County to finance projects in such area.

Section 2. Definitions. For use within this ordinance the following terms shall have the following meanings:

“County” shall mean Cass County, Iowa.

“Urban Renewal Area” shall mean the Amaizing Energy Urban Renewal Area, such area having been identified in the Urban Renewal Plan approved by the Board of Supervisors by resolution adopted on May 2, 2007:

The Amaizing Energy Urban Renewal Area includes all of the following areas:

Parcel A, E ½ of Section 31, T77N, R36W, Cass County, Iowa, containing 65.08 Acres.

Parcel B, E ½ of Section 31, T77N, R36W, Cass County, Iowa, containing 51.11 Acres.

Glacier Road from Highway 83 easterly to Buck Creek Road and the road right of way thereof, Cass County, Iowa.

Buck Creek Road from Glacier Road northerly to Echo Road and the road right of way thereof, Cass County, Iowa.

Echo Road from Buck Creek Road easterly to Olive Street and the road right of way thereof, Cass County, Iowa.

Northwest Water and Sanitary Sewer Extension described as follows:

Permanent Easement with Wendell C. Pellett Residuary Trust and Haleen E. Pellett described as the E 30 feet of Lot 3 of the NW fractional quarter of the NW ¼ of Section 6 T76N, R36W, Cass County, Iowa containing 0.16 acres.

Iowa Interstate Railroad – the E 30 feet of the Iowa Interstate Railroad right of way contained within the NW Fractional Quarter of the NW ¼ of Section 6, T76N, R36W, Cass County, Iowa containing 0.14 acres.

Permanent Easement with Hubbard Feeds, Inc, described as commencing at the NW corner of the NW Fraction Quarter of the NW ¼ of Section 6, T76N, R36W; thence S0°39'50" E, along the E line of the NW FRL ¼ - NW ¼ of said section 6, 468.9 feet to a point on the south right of way line of the Iowa Interstate Railroad, said point also being the point of beginning; thence S0°39'50"E, along said east line, 16.92 feet; thence S17°34'17"W, 407.81 feet to a point on the Easterly right of way line of Highway 83; thence N42°23'04"W, along said right of way line, 34.66 feet; thence N17°34'17"E, 386.00 feet; thence N0°39'50"W, 10.56 feet to a point of the Southerly right of way line of the Iowa Interstate Railroad; thence N87°02'24"E, along said railroad right of way line, 30.06 feet to the point of beginning, containing 0.28 acres.

Section 3. Provisions for Division of Taxes Levied on a portion of Taxable Property in the Urban Renewal Area. After the effective date of this ordinance, the taxes levied on the taxable property in the Urban Renewal Area each year by and for the benefit of the State of Iowa, the County and any city, school district or other taxing district in which the Urban Renewal Area is located, shall be divided as follows:

(a) that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which there is certified to the County Auditor an amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in paragraph (b) below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

(b) that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the County to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the County to finance or refinance, in

whole or in part, projects in the Urban Renewal Area, and to provide assistance for low and moderate-income family housing as provided in Section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the Code of Iowa, and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection (a) of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

(c) the portion of taxes mentioned in subsection (b) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the County for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the County to finance or refinance in whole or in part projects in the Urban Renewal Area.

(d) as used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

Section 4. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 5. Saving Clause. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 6. Effective Date. This ordinance shall be effective after its final passage, approval and publication as provided by law.

First reading: May 16, 2007. Second and final reading: May 23, 2007.

ADOPTED and PASSED by the Board of Supervisors of Cass County, Iowa on May 23, 2007.

**Ordinance 29 – Assessment of Wind Energy Conversion Property**

Section 1 – Purpose

Section 2 – Definitions

Section 3 – Authority to Establish

Section 4 – Establishment

Section 5 – Amount of Valuation

Section 6 – Declaration of Special Valuation

Section 7 – Reporting Requirements

Section 8 – Repeal of Special Valuation

Section 9 – Repealer

Section 10 – Severability Clause

Section 11 – Effective Date

**Title: Assessment of Wind Energy Conversion Property**

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

**SECTION 1** Purpose: The purpose of this ordinance is to provide for the special valuation of wind energy conversion property pursuant to Iowa Code Chapter 427B.26

**SECTION 2** Definitions: For use in this ordinance, certain terms and words used herein shall be interpreted or defined as follows:

(a) “NET ACQUISITION COST” (NAC) means the acquired costs of the property including all foundations and installation costs less any excess cost adjustment (ECA).

(b) “WIND ENERGY CONVERSION PROPERTY” means the entire wind plant including, but not limited to, a wind charger, windmill, wind turbine, tower and electrical equipment, pad mount transformers, power lines, and substation.

**SECTION 3** Authority to Establish: The Board of Supervisors is authorized, pursuant to Iowa Code Chapter 427B.26 to provide by ordinance for special valuation of wind energy conversion property as provided in Section 4.

**SECTION 4** Establishment: Pursuant to Iowa Code Chapter 427B.26, a special valuation of wind energy conversion property is allowed in lieu of the valuation assessment provisions in Iowa Code Chapter 441.21 (8) (b) and (c), and Iowa Code Chapters 428.24 to 428.29. The Special valuation shall only apply to wind energy conversion property first assessed on or after the effective date of this ordinance.

**SECTION 5** Amount of Valuation: Wind Energy conversion property, first assessed on or after the effective date of the ordinance, shall be valued by the county assessor for property tax purposes as follows:

Assessment Year 1 = 0% of net acquisition cost

Assessment Year 2 = 5% of net acquisition cost

Assessment Year 3 = 10% of net acquisition cost

Assessment Year 4 = 15% of net acquisition cost

Assessment Year 5 = 20% of net acquisition cost

Assessment Year 6 = 25% of net acquisition cost

Assessment Year 7 = 30% of net acquisition cost

Assessment Years after the 7<sup>th</sup> year = 30% of net acquisition cost

**SECTION 6 Declaration of Special Valuation:** The taxpayer shall file with the county assessor by February 1 of the assessment year in which the wind energy conversion property is first assessed for property tax purposes, a declaration of intent to have the property assessed at the value determined under Section 5 in lieu of the valuation assessment provisions in Iowa Code Chapter 441.21 (8) (b) and (c), and Iowa Code Chapters 428.24 to 428.29.

**SECTION 7 Reporting Requirements:** The following reports shall be filed annually with the county assessor by the taxpayer; in the first year, with the declaration of intent as prescribed in Section 6 and by February 1 of each year thereafter:

- a. Copy of Asset ledger sheet to IRS;
- b. Engineering breakdown of component parts;
- c. Tower numbering system;
- d. Name of the contact person, phone number, FAX number, and mailing address;
- e. Report of all leased equipment, the name(s) of the company(s) it is leased from, and the agreement between the lessor and lessee regarding who is responsible for the property tax on the leased equipment.

**SECTION 8 Repeal of Special Valuation:** If in the opinion of the Board of Supervisors continuation of the special valuation provided under Section 4 ceases to be of benefit to the county, the Board of Supervisors may repeal the ordinance. Property specially valued under Section 4 prior to the repeal of the ordinance shall continue to be valued under Section 4 until the end of the nineteenth (19<sup>th</sup>) assessment year following the assessment year in which the property was first assessed.

**SECTION 9 Repealer:** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 10 Severability Clause:** If any section, provision, or other part of this ordinance shall be adjudged invalid or unconstitutional, said adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or other part thereof not adjudged invalid or unconstitutional.

**SECTION 11 Effective date:** This ordinance shall be effective after its final passage, approval, and publication as provided by law.

Public hearings:

First reading: October 31, 2007. Second and final reading: November 7, 2007.

PASSED AND ADOPTED by the Board of Supervisors of Cass County, Iowa on November 7, 2007.

**Ordinance 19 – Election Precincts**

Section 1 – Purpose  
 Section 2 – Election Precincts  
 Section 3 – Supervisors Districts  
 Section 4 – Effective Date

Title. An Ordinance to Re-precinct Cass County, Iowa.

**SECTION 1. Purpose.** The purpose of this amendment is to re-precinct Cass County, Iowa by amending ordinance # 19. Iowa Code 49.8(6) allows a county to re-precinct to “effect a substantial savings in election costs”.

**SECTION 2. Election Precincts.** In accordance with sections 49.3, 49.4, 49.6 and 49.8 of the Code of Iowa.

Precinct 1 shall be comprised of Atlantic Ward 1	(population 1,485)
Precinct 2 shall be comprised of Atlantic Ward 2 and *Grove 2 Twp	(population 1,529)
Precinct 3 shall be comprised of Atlantic Ward 3	(population 1,430)
Precinct 4 shall be comprised of Atlantic Ward 4	(population 1,459)
Precinct 5 shall be comprised of Atlantic Ward 5	(population 1,450)
Precinct 6 shall be comprised of the city of Lewis and the townships of Bear Grove and Cass	(population 961)
Precinct 7 shall be comprised of the city of Griswold and the townships of Edna, Noble and Pleasant	(population 1,808)
Precinct 8 shall be comprised of Benton Township	(population 171)
Precinct 9 shall be comprised of the city of Marne and the townships of Brighton, **Grove 1, Pymosa and Washington	(population 1,260)
Precinct 10 shall be comprised of the cities of Anita and Wiota and the townships of Franklin, Grant and Lincoln and	(population 1,855)
Precinct 11 shall be comprised of the city of Massena and the township of Massena	(population 608)
Precinct 12 shall be comprised of the city of Cumberland and the township of Union	(population 495)
Precinct 13 shall be comprised of the township of Victoria	(population 173)
Cass County total population:	14,684

\*(Grove 2 is all of Grove Twp in Sections 6 and 7 not within the boundaries of the City of Atlantic {or all of Grove Twp North and West of the city limits of the City of Atlantic [Nishnabotna River]}. Agreement is on file for a combined unincorporated and incorporated precinct.)

\*\* (Grove Twp except that part of Grove Twp within the City of Atlantic and except that part in unincorporated Sections 6 and 7 {or all of Grove Twp South and East of the Nishnabota River not within the incorporated City of Atlantic})

(\*Precincts 1, 2, 3, 4, 5, 6, 7, 9 & 12 in House Dist. 57 & Senate Dist. 29)

(\*Precincts 8, 10, 11 & 13 in House Dist. 58 & Senate Dist. 29)

**SECTION 3. Supervisors Districts.**

Supervisor District #1 shall be comprised of Precincts 1, 8 and 9	(population 2,916)
Supervisor District #2 shall be comprised of Precincts 2 and 3	(population 2,959)
Supervisor District #3 shall be comprised of Precincts 4 and 5	(population 2,909)
Supervisor District #4 shall be comprised of Precincts 6, 7 and 13	(population 2,942)
Supervisor District #5 shall be comprised of Precincts 10, 11 and 12	(population 2,958)
County Total	14,684

**SECTION 4. Effective Date.** This ordinance shall be effective immediately following its passage, approval and publication as provided by law.

Adopted the 28<sup>th</sup> day of July, 2005.



**Ordinance 21 – School Infra-Structure Local Option Sales and Services Tax**

Section 1 – School Infra-structure Local Option Sales and Services Tax

Section 2 – Effective Date

Section 3 – Severability Clause

Title. An Ordinance Establishing a School Infra-structure Local Option Sale and Services Tax.

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

**SECTION 1. School Infra-structure Local Option Sales and Services Tax.** There is imposed a school infra-structure local option sales and services tax applicable to transactions within Cass County, Iowa.

The rate of the tax shall be one percent (1%) upon the gross receipts taxed under Iowa Code ordinance 422E – School Local Option Tax, in the following: Anita, Atlantic, C & M, Elk Horn-Kimballton, Exira, Griswold and Walnut Community School Districts of Cass County, Iowa.

The school infra-structure local sales and services tax is imposed on transactions occurring on or after January 1, 2005 within Cass County. The tax will be in effect for a period of ten years until December 31, 2014. All persons required to collect state gross receipts taxes shall collect the tax pursuant to Iowa Code section 422E.3 for school infra-structure local option sales and services tax.

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

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

**SECTION 3. Severability Clause.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provisions or part thereof not adjudged invalid or unconstitutional.

Adopted the 15<sup>th</sup> day of September, 2004