

**BUTLER COUNTY, IOWA, ZONING ORDINANCE
(UNINCORORATED AREAS)**

ORDINANCE TITLE VI NUMBER 28

AN ORDINANCE REPEALING ORDINANCE TITLE VI NUMBER 7 OF THE BUTLER COUNTY CODE OF ORDINANCES AND ANY AMENDMENTS THERETO; AND ENACTING IN LIEU THEREOF A NEW ORDINANCE ENTITLED THE BUTLER COUNTY, IOWA ZONING ORDINANCE, ORDINANCE TITLE VI NUMBER 28.

THE BUTLER COUNTY PLANNING & ZONING COMMISSION:

Public Hearing on: October 6th, 2022

Recommended for Adoption on: October 6th, 2022

THE BUTLER COUNTY BOARD OF SUPERVISORS:

Public Hearing and First Consideration: October 18th, 2022

Second Hearing and Consideration: October 25th, 2022

Third Hearing and Consideration: November 1st, 2022

EFFECTIVE DATE:

November 1st, 2022

AMENDED TO INCLUDE HAZARDOUS LIQUID PIPELINE REGULATIONS & RESTRICTIONS

EFFECTIVE DATE:

July 28th, 2023

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Misty Day

PREPARED BY THE
IOWA NORTHLAND REGIONAL COUNCIL OF GOVERNMENTS

TABLE OF CONTENTS

<u>Section</u>		<u>Page</u>
	Purpose and Objectives	iii
I.	Title	1
II.	Special Exemptions	1
III.	Interpretation of Standards	1
IV.	Iowa Open Meetings Law	1
V.	Definitions	1
VI.	Establishment of Districts and District Boundaries	16
VII.	General Regulations and Provisions	18
VIII.	Natural Resource Protection and Preservation	50
IX.	Use Regulation for "A-1" Agricultural District	52
X.	Use Regulation for "A-2" Limited Agricultural District	55
XI.	Use Regulation for "R-1" Residential District	60
XII.	Use Regulation for "R-2" Suburban Residence District	62
XIII.	Use Regulation for "C" Commercial District	64
XIV.	Use Regulation for "C-M" Commercial-Manufacturing District	67
XV.	Use Regulation for "M" Manufacturing District	69
XVI.	Nonconforming Uses	74
XVII.	Provisions for Automobile Parking	76
XVIII.	Requirements for Location of Mobile Homes and Mobile Home Parks	78
XIX.	Outdoor Advertising Signs and Billboards	80
XX.	Exceptions and Variations of the Use, Height and Area Regulations	82
XXI.	Zoning Certificates	84
XXII.	Administration and Enforcement	85
XXIII.	Hazardous Liquid Pipelines	96
XXIV.	Violation and Penalty	106
XXV.	Enforcement and Fees	107
XXVI.	Repealer and Validity	108
XXVII.	Effective Date	109

NOTICE

The Ordinance text and the zoning maps are subject to occasional change through amendments to the Ordinance. Information to any specific property may be obtained from the Planning and Zoning Office.

LIST OF TABLES

<u>Table #</u>		<u>Page</u>
1:	Bulk requirements	24
2:	Communications Structure Setback Requirements	29
3:	WECS Setback Requirements: Wind Turbines and Meteorological Towers	34

LIST OF FIGURES

<u>Figure #</u>		<u>Page</u>
1:	Typical Driveway Cross Section	5
2:	Grade or Slope	7
3:	Examples of Lot Definitions	9
4:	Examples of Road Definitions	12
5:	Yard Definitions	15
6:	Sight Distance at Intersections	80

PURPOSE AND OBJECTIVES

This Ordinance is adopted in accordance with the Butler County Comprehensive Land Use Plan, 2012, as amended, and as permitted and specifically authorized in Chapters 352, Land Preservation and 335, County Planning and Zoning, Code of Iowa, as amended.

This Ordinance is intended and designed to meet the specific objectives of Chapter 335.5, Code of Iowa, as amended, 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 lessen congestion on the street or highway; to secure safety from fire, flood, panic, and other hazards; to protect health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public improvements.

This Ordinance is also intended and designed to meet the specific purpose of Chapter 352, Code of Iowa, as amended, to provide local citizens and local governments the means by which agricultural land may be protected from nonagricultural development pressures. That being said, due to the highly valuable agricultural soils in Butler County, it may not be possible for the County to preserve all of the valuable soils during the life of this Ordinance. In other words, because the County is not promoting a zero-growth stance, it may approve development on highly productive agricultural soils, as is consistent with this Ordinance and the County's Comprehensive Plan.

As is noted, this will be accomplished by using the Butler County Comprehensive Land Use Plan, 2012, as amended, as a guide along with this Zoning Ordinance so that land shall be conserved for the production of food, fiber, livestock and supporting other agricultural uses, thus assuring the preservation of agriculture as a major factor in the economy of this county and state.

It is the intent of this Ordinance, as authorized in Chapters 335 and 352, to provide for the orderly use and development of land and related natural resources in Butler County, Iowa, for agricultural, residential, commercial, industrial, and recreational purposes; and to preserve private property rights; protect significant natural and historic resources and fragile ecosystems of this county including forests, wetlands, rivers, streams, lakes and their shorelines, aquifers, prairies, and recreational areas; to provide the efficient use and conservation of energy resources, and to promote the protection of soil from wind and water erosion.

SECTION I.
TITLE

This Ordinance shall be known and may be cited and referred to as the "Butler County, Iowa, Zoning Ordinance". This is an ordinance repealing Ordinance Title VI No. 7 of the Butler County Code of Ordinances and any amendments thereto; and enacting in lieu thereof a new ordinance entitled the Butler County, Iowa Zoning Ordinance, Ordinance Title VI Number 28.

SECTION II.
SPECIAL EXEMPTIONS

A. Farm Exemption

In accordance with the provisions of Chapter 335.2, Code of Iowa, no regulation or restriction adopted under the provisions of this Ordinance shall be construed to apply to land, farmstead, farm houses, farm barns, farm outbuildings or other buildings, structures or erections which are primarily adapted by reason of nature and area, for use for agricultural purposes, while so used.

1. Burden of Proof: It shall be the responsibility of any person or group claiming that property is entitled to exemption on the basis of this section to demonstrate that the property is used for agricultural purposes.
2. Limitation. This exemption shall not apply to any structure, buildings, dam, obstruction, deposits or excavation in or on the floodplains of any river or stream.
3. Voluntary Compliance. It shall be the policy to seek voluntary compliance of the provisions of this Ordinance for agricultural uses, specifically, the minimum yard requirements of the applicable zoning district.

SECTION III.
INTERPRETATION OF STANDARDS

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be literally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes. Where this Ordinance imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the provisions of this Ordinance shall control.

SECTION IV.
IOWA OPEN MEETINGS LAW

The Butler County Zoning Commission, a public body, is subject to the terms, regulations and restrictions of the Iowa Open Meeting Law, Chapter 21 of the Code of Iowa as amended. Wherever in these Ordinances a conflict appears between the Ordinance and the open meeting law, the open meeting law shall control.

SECTION V.
DEFINITIONS

- A. For the purpose of this Ordinance, certain terms and words are hereby defined. Words used in the present tense

shall include the future; the singular number shall include the plural; and the plural, the singular. The word "shall" is mandatory; the word "may" is permissive; the word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual; the words "used" or "occupied" include the words intended, designed, or arranged to be used or occupied.

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.

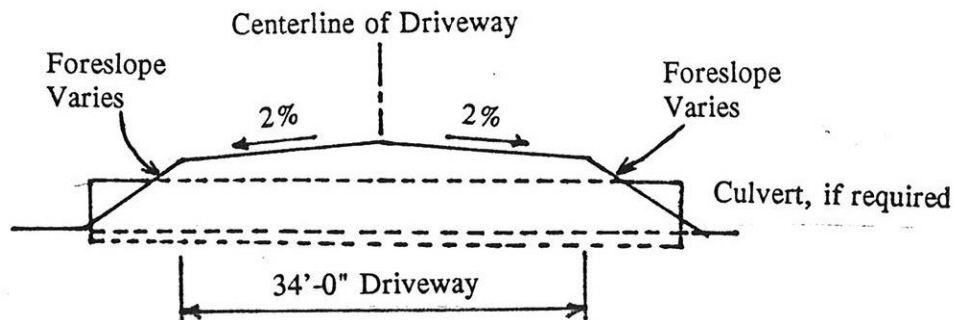
1. Abandoned Sign: "Abandoned sign" means an advertising device, which includes the structure, that has been allowed to become in a state of disrepair or which advertises a business or service no longer in existence. "Disrepair" shall include but shall not be limited to chipped or peeling paint, coating, or surface material making the good or service advertised illegible; broken or damaged structural members.
2. Accessory Use or Structure: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to the principal use or structure.
3. Administrative Officer: The individual designated by this Ordinance to administer the Zoning Ordinance and who is responsible for the enforcement of the regulations imposed by said Ordinance. This person or persons may also be referred to as the "Zoning Administrator".
4. Adult day care: Structured social, habilitation, and health activities provided in a congregate setting to alleviate deteriorating effects of isolation; to aid in transition from one living arrangement to another; to provide a supervised environment while the regular caregiver is working or otherwise unavailable; or to provide a setting for receipt of multiple health services in a coordinated setting.
5. Agriculture: The use of land for agricultural purposes including farming, dairying, pasturage, agriculture, apiculture, horticulture, floriculture, viticulture, fish farm, and animal and poultry husbandry, and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of such accessory or interrelated agricultural uses shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals.
6. Agricultural Area: An area meeting the qualifications of section 352.6 and designated under section 352.7 of the Code of Iowa.
7. Agritourism: A form of commercial enterprise that links agricultural production and/or processing with tourism in order to attract visitors onto a farm, ranch, or other agricultural business for the purposes of entertaining and/or educating the visitors and generating income for the farm, ranch, or business owner."
8. Alley or Lane: A public or private way not more than thirty (30) feet wide affording generally secondary means of access to abutting property and not intended for general traffic circulation.
9. Apartment Building: See Dwelling, Multiple.
10. Automotive Repair Shop: a company principally engaged in the business of repairing damaged motor vehicles or fixing mechanical/electrical parts on an automobile which becomes inoperative, and shall also include reconditioning shops, radio/stereo installation shops, undercoating shops, and shops where other equipment is added to a vehicle to meet its design purpose including repairs of a major type. Repairs of a major type are defined to be spray painting, body, fender, clutch, transmission, differential, axle, spring, and frame repairs; major overhauling of engines requiring the removal of engine cylinder head or crankcase pan; repairs to radiators requiring the removal thereof; or complete recapping or retreading of tires.

11. Automobile Salvage Yard: See Junk Yard.
12. Basement / Cellar: That portion of a building having more than one-half (1/2) of its height below grade. A basement / cellar is not included in computing the number of stories for the purpose of height measurement.
13. Bed and Breakfast: An owner-occupied dwelling unit that contains no more than four guest rooms where lodging, with or without meals, is provided for compensation.
14. Billboard: A type of sign having more than one hundred (100) square feet of display surface which is either erected on the ground or attached to or supported by a building or structure.
15. Block: An area of land within a subdivision that is entirely bounded by streets, railroad rights-of way, rivers, tracts of public land, or the boundary of the subdivision.
16. Board/Board of Supervisors: The Board of Supervisors of Butler County, Iowa.
17. Boarding House: A building other than a hotel, where for compensation, meals and lodging are provided for three (3) or more persons.
18. Building: Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property, but not including signs or billboards.
19. Building, Height of: Vertical distance measured from the highest point on a proposed or existing building to the proposed finished grade directly below that point; and, for the purpose of this definition, "finished grade" means the highest grade within five feet of the building and includes natural grade when no terrain alteration is proposed.
20. Building Line: Building lines shall be shown on all lots whether intended for residential, commercial, or industrial use. Such building lines shall not be less than required by the Zoning Ordinance of Butler County, Iowa.
21. Bulk Stations: Distributing stations commonly known as bulk or tank stations used for the storage and distribution of flammable liquids or liquefied petroleum products where the aggregate capacity of all storage tanks is more than twelve thousand (12,000) gallons.
22. Business or Commercial: When used in this title, refers to the engaging in the purchase, sale or exchange of goods or services, or the operation for profit of offices, recreational, or amusement enterprises.
23. Cabin: See "Vacation or Recreational Cabin".
24. Carpport: A roofed structure providing space for the parking of motor vehicles and enclosed on not more than two (2) sides. For the purposes of this Ordinance, a carport attached to a principal building shall be considered part of the principal building and subject to all yard requirements herein.
25. Clinics: A building or buildings used by physicians, dentists, veterinarians, osteopaths, chiropractors, psychologists, psychiatrists and allied professions for out-patient care requiring such professional service.
26. Commission/Planning and Zoning Commission: The Butler County Planning and Zoning Commission.
27. Common Sewer System: A central sewer collecting system available to each platted lot and discharging into a treatment plant, lagoon or other systems which are approved by the Butler County Sanitarian under direction of the Butler County Environmental Health Department. The design and

location of a sewer system must be approved by the County Environmental Health Department. The above definition is not to be construed to mean individual household, private sewage disposal systems.

28. Common Water System: A central water supply system available to each platted lot approved by the County Environmental Health Department.
29. Conveyance: An instrument filed with the County Recorder as evidence of the transfer of title to land, including any form of deed or contract.
30. Corn Suitability Rating (CSR): An index for ranking the productivity of soils and their suitability for row-crop production in Iowa.
31. County: Butler County, Iowa.
32. Court: An open unobstructed, and unoccupied space other than a yard which is bounded on two (2) or more sides by a building on the same lot.
33. Cul-de-sac: A street having one end open to motor traffic, the other end being permanently terminated by a vehicular turn-a-round.
34. Day Nursery, Preschool, or Day Care (Public): Any agency, institution, establishment or place which provides supplemental parental care and/or educational work, other than lodging overnight for six (6) or more children of pre-school age, for compensation.
35. Delicatessen: a store selling cold cuts, cheeses, and a variety of salads, sandwiches, soups, and food items requiring minimal preparation.
36. Developer: The legal or beneficial owner or owners of a lot or of any land included in a proposed development including the holder of an option or contract to purchase, or other persons having enforceable proprietary interests in such land.
37. 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.
38. Disrepair: Poor condition of a building or structure due to neglect.
39. District: A geographic section or sections of the county within which the use and occupancy of are controlled by this Ordinance.
40. Driveway: A public access to either a private or public street, road, alley, highway, or freeway. A typical driveway cross-section is shown in Figure 1. A private access shall meet, or exceed, the current Butler County driveway policy.

Figure 1: Typical Driveway Cross-Section*



Note: Verify foreslope requirements with the County Engineer.

* Or current standard available in the Butler County Engineer's Office.

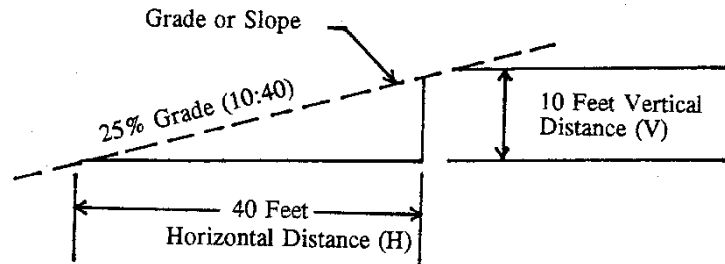
41. Dump: A premises used for the disposal of "clean type" of fill material, such as dirt, rocks, and similar materials, but not including organic matter of any type, such as garbage or dead animals or portions thereof.
42. Dwelling: Any building or portion thereof which is designed or used exclusively for residential purposes.
43. Dwelling, Condominium: A multiple dwelling as defined herein whereby the fee title to each dwelling unit is held independently of the others.
44. Dwelling, Multiple: A residence designed for or occupied by three (3) or more families, with separate housekeeping and cooking facilities for each.
45. Dwelling, Row: Any one of three (3) or more attached dwellings in a continuous row, each such dwelling designed and erected as a unit on a separate lot and separated from one another by an approved wall or walls.
46. Dwelling, Single-Family: A detached residence designed for or used exclusively and occupied by one family only.
47. Dwelling, Two-Family: A residence designed for or used exclusively and occupied by two (2) families only, with separate housekeeping and cooking facilities for each.
48. Dwelling, Unit: A room or group of rooms which are arranged, designed or used as living quarters for the occupancy of one family containing bathroom and/or kitchen facilities.
49. Earth Home: An earth home is a structure that is below the ground on two (2) or more sides and is constructed with passive solar energy generation in mind. An earth home is to be considered a single-family dwelling for the purposes of this Ordinance. This definition is not to be construed or confused with the definition of a basement or cellar.
50. Easement: A grant by the property owner of the use for a specific purpose of a strip of land by the general public, a corporation, or a certain person or persons, and within the limits of which the owner shall not erect any permanent structures but shall have the right to make any other use of the land subject to such easements which is not inconsistent with the rights of the grantee. Public utilities shall

have the right to trim or remove trees which interfere with the use of such easements.

51. Engineer: An engineer is a registered civil engineer authorized and licensed to practice engineering in the State of Iowa.
52. Family: One or more persons occupying a single dwelling unit, provided that all members are related by blood, marriage, or adoption.
53. Farm: An area comprising thirty-five (35) contiguous acres, exclusive of streets and roads, or more which is used primarily for agricultural purposes and the growing and production of all agricultural products thereon, and their storage on the area, or for the raising thereon of livestock. Division of said area by road does not render property non-contiguous.
54. Farmstead: The buildings and adjacent service areas of a farm, including sites where the buildings have been removed provided the land has not been cultivated.
55. Farm Operation: A condition or activity which occurs on a farm in connection with the production of farm products and includes but is not limited to the marketing of products at roadside stand or farm markets, the creation of noise, odor, dust, fumes, the operation of machinery and irrigation pumps, ground and aerial seeding and spraying, the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides, and the employment and use of labor.
56. Farm Products: Those plants and animals and their products which are useful to people and includes but is not limited to forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, livestock, fruits, vegetables, flowers, seeds, grasses, trees, fish, honey, and other similar products, or any other plant, animal, or plant or animal product which supplies people with food, feed, fiber, or fur.
57. Farmers Market: An area, managed by a single operator, which is used for the temporary, direct to consumer, sale of agricultural products, by multiple vendors who rent space/stalls and have raised and/or produced the goods that are being sold. Farmers Markets may include the sale of artisanal goods and other items which are accessory to the sale of agricultural products.
58. Feed Lot/Confinement Operation: An animal feeding area on which the principal use is the confinement of livestock, primarily for the purposes of concentrated feeding and growth prior to slaughter or the sale of products derived from such animals. The term does not include areas which are used for the raising of crops or other vegetation, and upon which livestock are allowed to graze or feed.
59. Fill: The placing, storing, or dumping of any material such as earth, clay, sand, rubble, or concrete upon the surface of the ground which results in increasing the surface elevation.
60. 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 of surface waters from any source.
61. Floodplain: Any land area susceptible to being inundated by water as a result of a flood. Development in floodplain is governed by the Butler County Floodplain Ordinance.
62. Frontage: All the property on one side of a street between two 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 side between an intersecting street and the dead-end of the street.
63. Fuel Filling Appliance: A mechanical or electrical machine that draws fuel (gasoline, diesel, liquid propane, natural gas, hydrogen, etc.) from a bulk storage tank for use in automobiles or transport to alternate locations.

64. Garage, Private: An enclosed structure intended for the parking of the private motor vehicles of the families residing upon the premises.
65. Garage, Service:
- a. Any building or premises used for the retail sale of products for the propulsion of motor vehicles and may include such products as gasoline, kerosene, fuel oil, lubricants, tires, batteries, antifreeze, motor vehicle accessories, and other items customarily associated with the sale of such products;
 - b. Any building or premises used for rendering of maintenance services to motor vehicles, and the washing, waxing, and polishing of motor vehicles, as incidental to other services rendered; and
 - c. Any building or premises used for the making of repairs to motor vehicles except those of a major type.
66. Garage, Storage: Any building or premises used for housing only of motor-driven vehicles pursuant to previous arrangements and not to transients, and at which automobile fuels and oils are not sold, and motor-driven vehicles are not equipped, repaired, hired, or sold.
67. Filling Station or Convenience Store: Any building which sells fuel and lubricants for motor vehicles; which provides charging stations for the sale of electric energy; which stocks a range of everyday items such as coffee, groceries, snack foods, confectionery, soft drinks, alcoholic beverages, tobacco products, lottery tickets, over-the-counter drugs, toiletries, newspapers, and magazines; or any combination thereof.
68. Grade or Slope: The average level of the finished surface of the ground adjacent to the exterior walls of the building (see Figure 2).

Figure 2: Grade or Slope



$$\text{SLOPE CALCULATION} = V / H$$

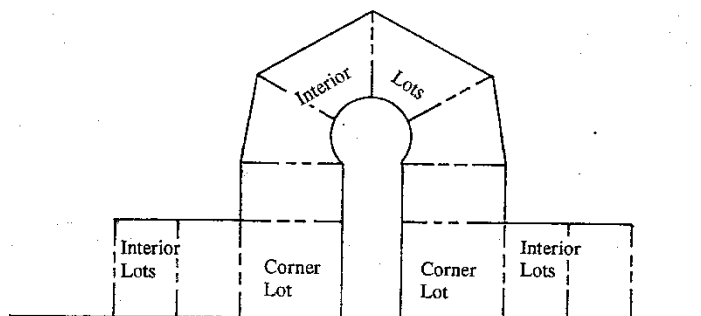
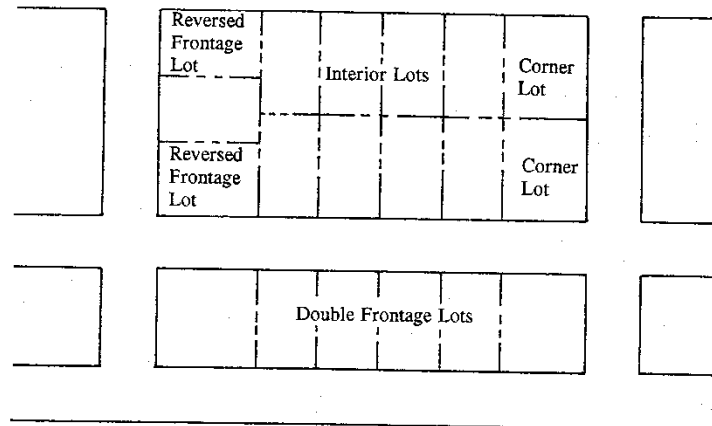
69. Grain Elevator: A structure or group of related structures whose primary purpose is, but not limited to, the receiving, selling, processing, storage, drying and transporting of bulk grain.
70. Group Home: A single-family dwelling that provides room and board, personal care, end of life care, habilitation services, and supervision in a family and community-based setting to older adults or individuals with a disability or terminal diagnosis. Group homes include family homes as defined by Iowa Code.
71. Hazardous Waste: A hazardous waste as defined in Chapter 455B.411, Code of Iowa, as amended or designated as such by the Federal Environmental Protection Agency.
72. Historic Structure: Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance

of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) By an approved state program as determined by the Secretary of the Interior or (ii) Directly by the Secretary of the Interior in states without approved programs.

73. Home Occupation: A gainful occupation or profession conducted entirely within an enclosed dwelling unit which is clearly incidental and secondary to residential occupancy and does not change the character thereof. Further provisions provided in [Section VII\(S\)](#).
74. Home Industry: Any gainful occupation or profession conducted entirely within an enclosed accessory building(s) and/or dwelling unit which is clearly incidental and secondary to the residential occupancy and does not change the character thereof. Further provisions provided in [Section VII\(T\)](#).
75. Hotel: A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests, in contradistinction to a boarding house.
76. Improvements: Addition of any facility or construction on land necessary to prepare land for building sites including road paving, drainageways, sewers, water mains, wells, and other works and appurtenances.
77. Institution: A building occupied by a non-profit corporation or a non-profit establishment for public use.
78. Junk or Salvage: Scrap copper, brass, rope, rags, batteries, paper trash, tires and rubber debris, waste, appliances, furniture, equipment, building demolitions materials, structural steel materials, or similar materials. This definition shall also include junked, dismantled, or wrecked motor vehicles, or parts of motor vehicles, and iron, steel, or other scrap ferrous or nonferrous materials.
79. Junk or Salvage Yard: Any area where junk, discarded or salvaged material or equipment is bought, sold, exchanged, baled or packed, disassembled, kept, stored, or handled, including house wrecking yards, auto wrecking activities, used lumber yards and places or yards for storage of salvaged building materials and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building and not including pawn shops and establishments for the sale, purchase, or storage of used furniture and household equipment, used cars in operable condition, or salvaged materials incidental and necessary to manufacturing operations. The presence on any lot, parcel or tract of land, of three (3) or more vehicles which for a period exceeding thirty (30) days have not been licensed or are not capable of operating under their own power, or for their intended use, or from which parts have been removed for reuse, salvage or sale, shall constitute prima facie evidence of a junk yard.
80. Kennel, Dog (Commercial): Any parcel of land on which four (4) or more dogs, six (6) months old or older are kept for the purposes of breeding, grooming, boarding or other activities associated with the care of dogs for commercial purposes.
81. Kennel, Dog (Private): Any parcel of land on which four (4) or more dogs are kept, however, this shall not include breeding, grooming, boarding or other activities associated with the care of dogs other than the owner's dogs.
82. Livestock: Cattle, horses, sheep, swine, poultry or any other animal or fowl which are being produced primarily for commercial purposes.
83. Long Term Care Facility. A residential facility, with multiple living units, which provides room and board, personal care, end of life care, habilitation services, or supervision to older adults or individuals with a disability or terminal diagnosis.

84. Lot: Means a tract of land represented and identified by number or letter designation on an official plat.
85. Lot, Area: Total horizontal area within lot lines.
86. Lot, Corner: A lot abutting upon two (2) or more streets at their intersection ([see Figure 3](#)).
87. Lot, Depth of: The mean horizontal distance between the front and rear lot lines.
88. Lot, Double Frontage: A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot ([see Figure 3](#)).
89. Lot, Interior: A lot other than a corner lot ([see Figure 3](#)).
90. Lot, Lines: The lines bounding a lot.
91. Lot Line, Front: The line separating the lot from the street on which it fronts.
92. Lot Line, Rear: The lot line opposite and most distant from the front lot line.
93. Lot Line, Side: Any lot line other than a front or rear lot line.
94. Lot of Record: A lot the contract or deed to which has been recorded in the office of the Recorder of Butler County, Iowa, prior to November 1, 1978.
95. Lot, Reversed Frontage: A corner lot, the side street line of which is substantially a continuation of the front line of the first platted lot to its rear ([see Figure 3](#)).
96. Lot, Width: The width of a lot measured at the building line and at right angles to its depth.

Figure 3: Examples of Lot Definitions



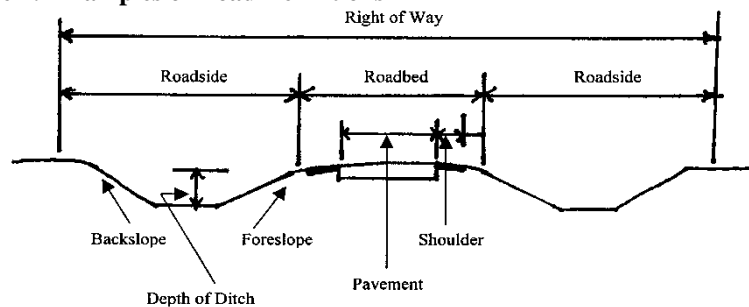
97. Lumber Yard: A premises on which primarily new lumber and related building materials are sold.
98. Machine shop: A facility performing cutting, grinding, turning, honing, milling, deburring, lapping, electrochemical machining, etching, or other similar operations.
99. Manufactured Home: A factory-built single-family structure, which is manufactured or constructed under the authority of 42 U.S.C. Sec. 5403, National Manufactured Home Construction and Safety Standards Act of 1974, and is to be used as a place for human habitation, but which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving it to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home is not a manufactured home unless it has been converted to real property and is taxed as a site-built dwelling. For the purpose of these regulations, a manufactured home built after June 15, 1976, shall bear the seal certifying that it is in compliance with the National Manufactured Home Construction and Safety Standards Act of 1974. For the purpose of these regulations, manufactured home shall be subject to the same standards as site-built dwellings.
100. Meat Processing Plant, small scale: Meat processing facility means a plant or premises where animals are slaughtered for human consumption, or where meat or meat products are processed, but does not include rendering plants. Small scale processing plants are operations with no more than 10 employees. All such facilities will be required to obtain the proper licenses and inspections from the Iowa Department of Inspection & Appeals and all wastewater derived from such facility shall be collected in a holding tank approved by the County Environmental Health Department and ultimately taken and disposed of at a wastewater treatment plant.
101. Metes and Bounds Description: The method used to describe a tract of land that uses distance and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to survey monuments or physical features of the land.
102. Mobile Home: Any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall include any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home shall not be construed to be a travel trailer or other form of recreational vehicle. A mobile home shall be construed to remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. Nothing in this Ordinance shall be construed as permitting a mobile home in other than an approved location, as specified in this Ordinance.
103. Mobile Home Park or Trailer Park: Any lot or portion of a lot upon which two (2) or more mobile homes or trailers occupied for dwelling or sleeping purposes are located regardless of whether or not a charge is made for such accommodations.
104. Motel, Auto Court, Motor Lodge: A building or group of attached or detached buildings containing individual sleeping or living units for transient visitors, with parking facilities conveniently located to each such unit, and may include accessory facilities such as swimming pool, restaurant, meeting rooms, etc.
105. New Construction (New Buildings, New Mobile Home Parks): Those structures or development for which the start of construction commenced on or after the effective date of this Ordinance.
106. Nonconforming Use: The lawful use of any building or land that was established prior to or at the time of passage of this Ordinance or amendments thereto which does not conform after the passage of his Ordinance or amendments thereto with the use regulations of the district in which it is situated.

107. Nonprofit Organization: A corporation or an association that conducts business for the benefit of the general public without shareholders and without a profit motive. Nonprofits are also called not-for-profit corporations. Nonprofit corporations shall be designated in accordance with State and Federal regulations.
108. Obstruction: Any dam, wall, wharf, embankment, levee, dike, weir, pile, abutment, projection, excavation, channel rectification, bridge, conduit, culvert, building, wire, fence, rock, gravel, junk, solid waste, refuse, fill, or other analogous structure or matter in, along, across, or projecting into any floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the natural flow of the water would carry the same downstream to the damage or detriment of either life or property.
109. Owner: The legal entity holding title to the property, or such representative or agent as is fully empowered to act on its behalf.
110. Parcel: A part of a tract of land.
111. Parking Lot: A parcel of land devoted to unenclosed parking spaces.
112. Parking Space: An area of not less than one hundred eighty (180) square feet plus necessary maneuvering space for the parking of a motor vehicle. Space for maneuvering, incidental to parking or unparking shall not encroach upon any public right-of-way. Parking spaces for other than residential use shall be a surface material approved by the County Engineer.
113. Pavement or Paving: The pavement structure, or the upper surface of a pavement structure, or the materials of which the pavement structure is constructed.
114. Permanent Real Estate Index Number: A unique number of combination of numbers assigned to a parcel of land pursuant to Section 441.29 of the Code of Iowa
115. Porch, Unenclosed: A roofed projection which has no more than fifty (50) percent of each outside wall area enclosed by a building or siding material other than meshed screens.
116. Principal Use: The main use of land or structures as distinguished from an accessory use.
117. Public Utilities: A public utility as defined in section 476.1, and shall also include waterworks, municipally owned waterworks, joint water utilities, rural water districts incorporated under chapter 357A or chapter 504, cooperative water associations, and electric transmission owners as defined in section 476.27 primarily providing service to public utilities as defined in section 476.1. For purposes of this Ordinance, “public utility” includes private water systems and sewer systems that are used in common by multiple parties if the parties using the common system consent.
118. Recreational/Vacation Rental Property: A short-term rental property, generally rented in daily or weekly increments, for recreational or vacation use as an alternative to a hotel, including but not limited to Air BnB’s and VRBOs. A property is considered a Recreational/Vacation Rental Property if it is rented out for more than fourteen (14) days (consecutive or nonconsecutive) in a calendar year.
119. Recreational vehicle: A vehicle which is: (a) built on a single chassis; (b) four hundred (400) square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
120. Ready-Mix Plant: A facility used for the production of asphalt or concrete, or asphalt or concrete products for use in building or construction. Includes the stockpiling of bulk materials used in the production process, or finished products manufactured on the premises, as well as the storage and

maintenance of required equipment. Does not include the retail sale of finished asphalt or concrete products.

121. Right-of-Way: The land area the right to possession of which is secured or reserved by the contracting authority for road purposes (see Figure 5).
122. Road: All property intended for use by vehicular traffic, dedicated or intended for public or private road, street, alley, highway, freeway or roadway purposes or to public easements therefore.
123. Roadbed: The area of the roadway between the tops of foreslopes (see Figure 4).
124. Road line: A dividing line between a lot, tract or parcel of land and a contiguous road.
125. Roadside: The area within the right-of-way and outside the shoulder lines of a roadbed (see Figure 4).

Figure 4: Examples of Road Definitions



126. Roadside Stand: A temporary structure, unenclosed, and designed and constructed so that the structure is easily portable and can be moved, which is used for the sale of agricultural products that were grown on site.
127. Sanitary Landfill: Land utilized for disposing of solid or hazardous wastes in accordance with the rules and regulations of the Department of Natural Resources.
128. Seasonal Agricultural Events. Seasonal activities related to on-site agricultural production, which bring the general public to working farms. These activities may include any combination of agricultural festivals, farm meals, farm related cooking classes, and other similar activities. Seasonal agricultural events may include food and beverage service and limited sales of products not produced on site. Seasonal Agricultural Events do not include weddings. With the exception of crop mazes and farm meals, activities meeting the special events definition must be permitted as special events.
129. Seasonal Farm Worker Housing: Temporary housing, located on a farm, which is intended for transient farm workers.
130. Shoulder: That portion of the roadbed contiguous with the traveled way for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface courses.
131. Shouse: A term combining shop and house, is a personal workshop and/or storage space connected to a house or living quarters. Often comprised of post frame construction, the workshop/storage space square footage may be greater than or equal too that of the living quarters.
132. Sign: "Sign" means any structure or part thereof or device attached thereto or painted, or represented thereon, which displays or includes any letter, work, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of an announcement, direction, or advertisement. "Sign" includes "billboard" but does not include the flag, pennant, or insignia of any nation, state, city, or other political unit. Nor does it include any political, educational, charitable, philanthropic, civic,

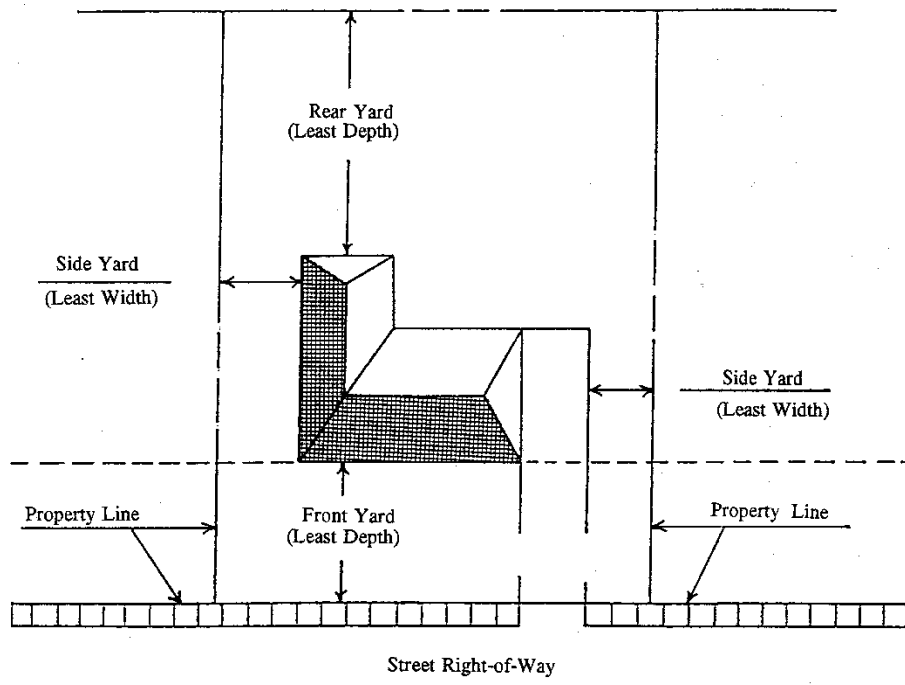
professional, religious, campaign, drive, movement, or event.

133. Sign, Exterior: A sign which directs attention to a business, profession, service, product or activity sold or offered upon the premises where such sign is located. An exterior sign is a sign attached flat against a building or structure, or projecting out from a building or structure or erected upon the roof of a building or structure.
134. Sign, Free Standing or Post: Any sign that is not attached to a building erected or affixed in a rigid manner to any pole or post, including signs, or sign devices indicating the business transacted, services rendered or goods sold or produced on the premises by an occupant thereof.
135. Sign, Illuminated: A sign designed to give forth artificial light or through transparent or translucent material from a source of light within such sign, including but not limited to neon and exposed lamp signs.
136. Sign, Off-Site: A sign other than an on-site sign.
137. Sign, On-Site: A sign relating in its subject matter to the premises on which it is located or to products, accommodations, services, or activities on the premises.
138. Special Event: A temporary or transient activity for which participants pay to attend, which extends beyond the normal uses allowed in the zoning district, in which more than two hundred (200) visitors come to the property, either in succession or in unison. Special events can be indoor or outdoor and include, but are not limited to, antique or craft shows, carnivals, concerts, music festivals, and overflow parking.
139. Stable, Private: A building or structure used or intended to be used for housing only of horses belonging to the owner of the property for non-commercial purposes.
140. Stable, Public and Riding Academy: A building or structure used or intended to be used for the housing only of horses on a fee basis. Riding instruction may be given in connection with a public stable or riding academy.
141. Stable, Riding Club: A building or structure used or intended to be used for the housing only of horses by a group of persons for noncommercial purposes.
142. Storage/Self-Storage, Commercial: A commercial land use consisting of the rental of space for the storage of personal property and the storage of recreational vehicles.
143. Story: That portion of a building 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 or roof next above it.
144. Story, Half: A space under a sloping roof which has the line of intersecting of roof decking and wall face not more than four (4) feet above the top floor level.
145. Street, Road, Drive, Alleys, or Entrance (Private): All property intended for use by vehicular traffic, but not dedicated to the public nor controlled and maintained by a political subdivision.
146. Street, Road, Alleys, Drive or Entrance (Public): All property intended for use by vehicular traffic which has been dedicated to the public or deeded to a political subdivision.
147. Street, Road, Alleys, Drive or Entrance (Secondary Road System): All property intended for use by vehicular traffic which has been dedicated to the public and meets requirements of the Code of Iowa and has been accepted into the county system by the Board of Supervisors.

148. Street Line: A dividing line between a lot, tract or parcel of land and a contiguous street.
149. Structural Alterations: Any replacement or changes in the type of construction or in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, beyond ordinary repairs and maintenance.
150. Structure: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, billboards, and poster panels.
151. Surveyor: A registered land surveyor authorized and licensed to practice surveying in the State of Iowa, pursuant to Chapters 355 and 542B of the Code of Iowa.
152. Tiny Home/House: Any Single-Family dwelling with 400 square feet or less of floor area. A tiny home/house must meet all other criteria of an inhabitable single family-dwelling as set forth by this or any other Ordinance as adopted by Butler County, Iowa. A tiny home/house shall not be construed to be a travel trailer or other form of recreational vehicle. A tiny home/house shall be constructed to remain a single-family dwelling, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. Nothing in this Ordinance shall be construed as permitting a tiny home/house in other than an approved location, as specified in this Ordinance.
153. Tract: An aliquot part of a section, a lot within an official plat, or a government lot.
154. Trailer or Mobile Home: See "Mobile Home."
155. Trailer or Mobile Home Park: See "Mobile Home Park or Trailer Park."
156. Transload Station: A facility used primarily for transferring goods or materials from one mode of transportation to another.
157. Travel Trailer: A vehicle customarily used for vacation or recreational purposes defined and licensed in accordance with Section 321.1 (39)(b), Code of Iowa.
158. Truck Garden: A garden where produce is raised and harvested for market.
159. Vacation or Recreational Cabin: A structure consisting of not more than four (4) sleeping rooms, kitchen and living area used as a temporary residence, not to exceed six (6) months at a time, for recreational purposes.
160. Viticulture: The science, production, and study of grapes which deals with the series of events that occur in the vineyard.
161. Vehicle & Motor Vehicles: Any property that is required to be licensed and registered or inspected and is governed by the rules of the Department of Motor Vehicles or Department of Transportation including but not limited to cars, motorcycles, ATV's, semi-trailers, travel trailers, trailers of any sort or anything intended for the transport of personal property.
162. Warehouse: A space adapted to the reception and storage of goods and merchandise.
163. Yard: An open space on the same lot with a building or structure unoccupied and unobstructed by any portion of a structure from thirty (30) inches above the general ground level of the graded lot upward. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the least distance between the lot line and the main building shall be used. In measuring a yard for the purpose of determining the width of a side yard, the least distance between the lot line and the nearest permitted building shall be used.

164. **Yard, Front:** A yard extending across the full width of the lot and measured between the front lot line and the building (see Figure 6). For the purposes of this Ordinance, "front" is determined by the street where the address is derived.
165. **Yard, Rear:** A yard extending across the full width of lot and measured between the rear lot line and the building or any projections other than steps, unenclosed balconies or unenclosed porches (see Figure 6). On both corner lots and interior lots, the opposite end of lot from the front yard.
166. **Yard, Side:** A yard extending from the front yard to the rear yard and measured between the side lot lines and the nearest building (see Figure 5).
167. **Zoning Administrator:** The agent so designated by the Board of Supervisors to administer, implement, and enforce this Ordinance.

Figure 5: Yard Definitions



SECTION VI.
ESTABLISHMENT OF DISTRICTS AND DISTRICT BOUNDARIES

A. Establishment of Districts

In order to classify, regulate or restrict the location of trades and industries, and the location of buildings designed for specific uses, to regulate and limit the height and bulk of buildings hereafter erected or altered, to regulate and limit the intensity of the use of lot areas and to regulate and determine the area of yards, courts, and other open spaces within and surrounding such building, the unincorporated area of Butler County, Iowa, is hereby divided into seven (7) classes of districts. The use, heights, and the area regulations are uniform in each class of district and said districts shall be known as:

- "A-1" Agricultural District
- "A-2" Limited Agricultural District
- "R-1" Low Density Residential District
- "R-2" Suburban Residence District
- "C" Commercial District
- "C-M" Commercial-Manufacturing District
- "M" Manufacturing District

B. District Boundaries and Official Zoning Maps

The boundaries of these districts are indicated upon the Official Zoning Maps of Butler County, Iowa, which maps are made a part of this Ordinance by reference. The said Official Zoning Maps of Butler County, Iowa, and all the notations, references and other matters shown thereon shall be as much a part of this Ordinance as if the notations, references, and other matters set forth by said maps were all fully described herein. The said Official Zoning Maps shall be on file in the office of the Zoning Administrator of Butler County, Iowa. The Official Zoning Maps may be on paper or electronic, as adopted and amend by the County Board of Supervisors, and may be managed within the County's geographic information system. The Official Zoning Maps shall show all amendments or changes and shall indicate the date of each amendment or change. It shall be the responsibility of the Zoning Administrator to see that the Zoning Maps are kept current at all times.

C. Interpretation of District Boundaries

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Official Zoning Maps accompanying and made a part of this Ordinance, the following rules apply:

1. The district boundaries are either street line or alley lines unless otherwise shown, and where the districts designated on the maps accompanying and made a part of this Ordinance are bounded approximately by street lines or alley lines, the street lines or alley lines shall be construed to be the boundary of the district, street and alley right-of-way not included in zoned areas.
2. Where boundaries are indicated so they approximately follow lot lines and are not more than twenty (20) feet distance there from, such lot lines shall be interpreted to be the boundary of the district.
3. Boundaries indicated as approximately following section lines, quarter section lines, or quarter-quarter section lines shall be construed as following such lines.
4. Boundaries indicated as approximately following corporate limits shall be construed as following corporate limits.
5. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
6. Boundaries indicated as approximately following the center lines of rivers, streams, creeks or other waterways shall be construed to follow such center lines.

7. Where no other indication of the district boundary is made and no dimensions are shown, the location of the boundary shall be determined by the use of the scale appearing on the maps.
8. Publication of the legal description of the property or properties zoned or rezoned shall constitute an official amendment to the Official Zoning Map; and, as such, said maps or portions of said maps need not be published.
9. As a last resort, the Board of Adjustment may, per [Section XXII\(H\)\(1\)](#), interpret district boundaries.

SECTION VII.
GENERAL REGULATIONS AND PROVISIONS

A. Disincorporation or Severance

Any addition to the unincorporated area of the county resulting from disconnections by municipalities or otherwise shall be automatically classified as in the "A-1" Agricultural District until otherwise classified by amendment.

B. Conformance Required

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.

C. Proposed Use Not Covered by Title

Any proposed use, including principal permitted, accessory uses, and special exceptions, not included in any District shall be referred to the Planning and Zoning Commission and Board of Supervisors for a decision as to the proper District and category in which said use should be permitted. The process requires an amendment to the Ordinance prior to addressing a specific site. Thus, in order to add an unlisted use to a District, the Ordinance shall be amended according to the process defined in [Section XXII\(L\)](#). After the Ordinance has been amended accordingly, a rezoning or special exception permit may be applied for and considered for a specific site.

D. Farmstead

Within an agricultural district, a farmstead by definition in existence on November 1, 1978, the date Appendix A of the Butler County Code of Ordinances was adopted, may be severed from the farm. A minimum of 1.5 acres, exclusive of streets and roads, per each dwelling unit of the farmstead is required with front yard, side yard, and rear yard requirements applicable to the zoning district in which it is located.

E. Required Yard Per Building

No yard or other open space or lot area requirement shall be considered as providing a yard or open space or lot area requirement for a building on any other lot, and no yards or other open space or lot area requirement about an existing building or any building hereafter constructed for the purpose of complying with the provisions of this Ordinance, shall be considered as providing a yard or open space or lot area requirement for any other building.

F. Road Vacation

Whenever any street, road or other public way is vacated by official action of the Board of Supervisors of Butler County, the zoning district adjoining each side of such street, road or public way shall be automatically extended to the center of such vacation and all area included in the vacation shall be subject to all appropriate regulations of the extended districts.

G. One Principal Building Per Lot

Except in "C-M" Commercial-Manufacturing District every building hereafter erected or structurally altered shall be located on a lot as defined herein and in no case shall there be more than one main building on one lot unless otherwise provided by this Ordinance.

H. Requests for Rezoning, Variances, Special Exceptions, and Other Petitions

All petitions or applications for rezoning, special exception, variance, and other actions, must be in writing or completed electronically stating the exact legal description of land involved, the purpose for which the land is

to be used, the disruption expected to be incurred on the area's natural setting, and the methods to be implemented to lessen the severity of disruption on the area. Said petitions or applications must be accompanied by a fee and must be received by the Zoning Administrator twenty (20) working days prior to a stated or special meeting of the the appropriate governing body.

I. Water Supply and Sewage Disposal

Every residence, business, trade, or industry hereafter established, which requires water supply and sewage disposal facilities, shall provide facilities which conform with the Well and Sewage Regulations of the County Environmental Health Department and all other applicable regulations.

J. Street Frontage Required

Except as permitted in this Ordinance no lot shall contain any building used in whole or in part for residence purposes unless such lot abuts for at least forty (40) feet on at least one street, or unless it has an exclusive unobstructed private easement of access or right-of-way of at least thirty-three (33) feet wide to a street, and there shall be not more than one (1) single-family dwelling for such frontage or easement. For more than two (2) dwellings the access easement must be in conformance with the Subdivision Ordinance of Butler County, Iowa.

K. Accessory Buildings

Minimum lot area, lot frontage, and yard requirements will be determined for each of the zoning district classifications. All accessory buildings shall be placed in the side or rear yard. An unattached accessory building shall maintain a clearance of five (5) feet (wall to wall) between the principal permitted building and the accessory building. No accessory building or structure shall be constructed on any lot prior to the completion of the foundation of the principal building to which it is accessory. If two (2) or more contiguous lots are held in common ownership, an owner may use a deed restriction to permanently tie the lots together in order to allow an accessory building or structure to be constructed on a lot by itself.

L. Corner Lots

The front yard regulation shall apply to each street side. Side and rear yard requirements are determined by direction of front of principal building. The 'front' of a building shall be considered that portion of the building fronting on the street from which the building's address is derived.

M. Required Yard Cannot Be Reduced

No lot shall be reduced in area so as to make any yard or any other open space less than the minimum required by this Ordinance. No part of a yard or other open space provided about any building or structure for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard or other open space required under this Ordinance for another building or structure. Off-street parking and loading areas may occupy all or part of any required yard or open space except as otherwise specified in this Ordinance.

N. Building Lines on Approved Plats

Whenever the plat of a land subdivision on record in the office of the County Recorder shows a setback building line along any frontage for the purpose of creating a front yard or side street yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in this Ordinance unless specific yard requirements in this Ordinance require a greater setback.

O. Pending Applications for Compliance permits

Nothing herein contained shall require any change in the overall layout, plans, construction, size or designated use of any building, or part thereof, for which approvals and required compliance permits have been granted before the enactment of this Ordinance for a period of one year. The construction shall conform with such plans

and shall have been started prior to the effective date of this Ordinance and completion thereof carried on in a normal manner and not discontinued for reasons other than those beyond the builder's control.

P. Lot Area Computation

In all districts, lot area and setback requirements shall be computed exclusive of street, road, alley, waterway, or highway right-of-way, including being exclusive of right-of-way established by easement or rounding. Lot area calculations may be rounded to the nearest one-thousandths of an acre.

At the time of enactment of this Ordinance, where two (2) or more vacant, contiguous lots are held in common ownership, they may be combined by deed restriction into a single zoning lot and shall thereafter be maintained in common ownership and shall be so joined and developed for implementing this section.

Q. Filling Stations, Convenience Stores, or Service Garages

No filling station, convenience store, or service garage shall have an entrance or exit for vehicles within two hundred (200) feet along the same side of a street of any school, public playground, church, hospital, public library, day nursery, daycare, preschool, or long-term care facility, except where such property is in another block or on another street which the lot in question does not abut.

No filling station or convenience store, service garage shall be permitted where any fuel filling appliance is located within twelve (12) feet of any street line or within twenty-five (25) feet from any "R" district except where such appliance is within a building.

R. Dwelling Standards

The following standards shall apply to all new dwellings for which compliance permits have been issued.

1. The dwelling shall be affixed to a permanent foundation system;
2. The minimum average dimension of the width and of the length of the main body of the dwelling unit shall not be less than twenty-four (24) feet, which shall not apply to tiny homes/houses (See definition for tiny home/house).
3. Manufactured, earth homes and shouses shall be permitted as a dwelling.
4. Tiny houses may be permitted as a Special Exception accessory dwelling following Board of Adjustment approval.
5. Mobile homes shall only be allowed in mobile home parks per [Section XVIII](#) unless otherwise permitted in this ordinance.
6. Under no circumstances will a recreational vehicle or travel trailer be allowed as a permanent dwelling

S. Home Occupation Standards

The following standards and criteria shall apply to home occupations:

1. Clearly incidental and secondary to the use of the dwelling unit as a residence;
2. Conducted entirely within an existing dwelling unit;
3. Conducted by a member(s) of the family residing within the dwelling unit and no more than two (2) non-resident employees;
4. There shall be no evidence of such occupation being conducted within the dwelling unit, which is

perceivable at or beyond the lot lines, by virtue of: outside storage, displays, noise, odors, smoke, vibration, heat, dust, electrical disturbances or excessive traffic generation;

5. Water, sewer, and waste disposal systems shall be subject to approval of the County Environmental Health Department;
6. Customer parking shall be provided and be as inconspicuous as possible on the premises;
7. Only two (2) identification signs may be displayed, one of which may be an off-premise sign, subject to the following requirements;
 - a. Contains only the name of the occupant and the nature of the occupation.
 - b. Shall not contain more than thirty-two (32) square feet and shall be no more than six (6) feet high or no more than six (6) feet in width.
 - c. Shall not be illuminated.
 - d. If located along a state or federal highway, an Iowa Department of Transportation permit must be obtained.
8. Shall obtain and possess a valid home occupation permit;
 - a. An initial permit may be issued by the zoning administrator following P&Z review. The Applicant may appeal a denial to the Board of Adjustment.
 - b. Thereafter, a home occupation permit must be renewed annually unless the permit-holder violates any of the conditions defined in this Section. The Zoning Administrator shall be authorized to renew said permits.
 - c. A home occupation permit may be revoked by the Zoning Administrator, after review and consideration by the P&Z Commission, consistent with Section [XXIII\(F\)](#). The Applicant may appeal a revocation to the Board of Adjustment, consistent with [Section XXII\(E\)](#). Revocation may occur for any of the following reasons: complaints against the use arise during the course of the year; the permit-holder violates this Ordinance; the permit-holder violates any Butler County ordinance or state or federal statute; or the permit-holder violates any of the conditions of the home occupation permit.

T. Home Industry Standards

The following standards and criteria shall apply to home industries:

1. Clearly incidental and secondary to the residential occupancy of a dwelling unit located upon the property;
2. Conducted entirely and confined within an accessory building(s) located upon the property;
3. Conducted by a member(s) of the family residing within the dwelling unit located on the property and no more than two (2) non-resident employees;
4. There shall be no evidence of such industry being conducted within the accessory building(s) which is perceivable at or beyond the lot lines, by virtue of: outside storage, displays, noise, odors, smoke, vibration, heat, dust, electrical disturbances or excessive traffic generation;
5. Water, sewer, and waste disposal systems shall be subject to approval of the County Environmental Health Department;

6. Customer parking shall be provided and be as inconspicuous as possible on the premises;
7. Only two (2) identification signs may be displayed, one of which may be an off-premise sign, subject to the following requirements.
 - a. Contains only the name of the occupant and the nature of the occupation.
 - b. Shall not contain more than thirty-two (32) square feet and shall be no more than six (6) feet high or no more than six (6) feet in width.
 - c. Shall not be illuminated.
 - d. If located along a state or federal highway, an Iowa Department of Transportation permit must be obtained.
8. Shall obtain and possess a valid home industry permit;
 - a. The initial permit may be issued by the zoning administrator following P&Z review after consideration. The Applicant may appeal a denial to the Board of Adjustment.
 - b. Thereafter, a home industry permit must be renewed annually unless the permit-holder violates any of the conditions defined in Section VII T(8)(c) below. The Zoning Administrator shall be authorized to renew said permits.
 - c. A home occupation permit may be revoked by the Zoning Administrator, after review and consideration by the P&Z Commission, consistent with [Section XXIII\(F\)](#). The Applicant may appeal a revocation to the Board of Adjustment, consistent with [Section XXII\(E\)](#). Revocation may occur for any of the following reasons: complaints against the use arise during the course of the year; the permit-holder violates this Ordinance; the permit-holder violates any Butler County ordinance or state or federal statute; or the permit-holder violates any of the conditions of the home industry permit.

U. Seasonal Farm Worker Housing

1. Permits for seasonal farm worker housing shall expire annually.
2. The agricultural employer shall maintain liability and fire insurance on the camp and its occupants. The agricultural employer and/or respective seed corn company shall provide worker's compensation insurance for all migratory farm workers. Proof of said insurance coverage shall be provided at the time of application.
3. The seasonal farm worker housing shall be occupied solely by agricultural farm laborers for no longer than two hundred and forty (240) days annually.
4. Reconstruction, or enlargement of any portion of the camp, or conversion of a structure to occupancy use, shall be approved by the Planning and Zoning Administrator prior to any changes taking place.
5. The agricultural employer shall make provisions for the identification of all hazardous chemicals in the native languages of all non-English speaking employees.
6. Shall be in compliance with all applicable state and federal regulations.

V. Temporary Continuance of Original Dwelling

Within those Districts that allow a single-family dwelling on a lot or parcel, a replacement dwelling may be constructed without first removing the original dwelling. The original dwelling must be demolished, removed

or converted in accordance with all county regulations to a non-residential structure within one (1) year of the issuance of the compliance permit. An extension of this timeframe may be granted administratively upon demonstration of a practical difficulty by the applicant. If an extension is granted, an amended development agreement stipulating the terms of the extension shall be executed and recorded in the office of the county recorder.

W. Bulk Requirements

All new buildings shall conform to the building regulations established herein for the district in which each building shall be located. Further, no existing building shall be enlarged, reconstructed, structurally altered, converted or relocated in such a manner as to conflict or further conflict with the bulk regulations of this Ordinance for the district in which such buildings shall be located.

Height Restrictions: Any structure hereinafter erected or structurally altered may not be of such a height as to be in conflict with any Butler County regulations.

Minimum bulk requirements are listed in the following Table 1.

Table 1. Bulk Requirements

"A-1" Agricultural & "A-2" Agricultural Districts	Maximum Building Height	Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard
Single Family or Farm Dwelling	--	35 Acres Unless the average CSR is 70 or less, then 1.5 Acres	150 Feet	50 Feet	25 Feet	50 Feet
Single Family Dwelling on a Farmstead	--	1.5 Acres	150 Feet	50 Feet	25 Feet	50 Feet
WECS Uses (A-2 District Only)	See requirements outlined in subsection X below.					
Other Permitted Structures	--	1.5 Acres	150 Feet	50 Feet	25 Feet	50 Feet
Accessory Buildings	--	--	--	50 Feet	25 Feet ¹	50 Feet ¹
"R-1" Low Density Residence District	Maximum Building Height	Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard
Single Family Dwelling	2.5 Stories or 35 Feet, whichever is lower.	1.5 Acres	100 Feet	30 Feet	10 Feet	30 Feet
Other Permitted Structures		--	--	35 Feet	10 Feet	35 Feet
Accessory Buildings	24 Feet	--	--	50 Feet	4 Feet ¹	4 Feet ¹
"R-2" Moderate Density Residence District	Maximum Building Height	Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard
Single Family Dwelling	3 Stories or 45 Feet, whichever is lower	8,000 Sq Ft	70 Feet	30 Feet	10% of lot width	30 Feet
Two Family Dwelling		9,000 Square Feet	80 Feet	40 Feet	10% of lot width	30 Feet
Multiple Family Dwelling		10,000 Square Feet	85 Feet	20 Feet	8 Feet	35 Feet
<u>Mobile Home Park*</u>		<u>1 Acre*</u>	<u>100 Feet*</u>	<u>25 Feet*</u>	<u>25 Feet*</u>	<u>40 Feet*</u>
Individual Unit Requirements		3,000 SqFt	25 Feet	10 Feet	10 Feet	10 Feet

Other Permitted Structures		1 Acre	100 Feet	25 Feet	20 Feet	40 Feet
Accessory Buildings	1 Story or 18 Feet, whichever is lower.	--	--	25 Feet	10 Feet ¹	30 Feet ¹

"C" Commercial District	Maximum Building Height	Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard
Permitted Structures	2 Stories or 35 Feet, whichever is lower	2 Acres	100 Feet	25 Feet	10 Feet	25 Feet
Accessory Buildings		--	--	25 Feet	10 Feet ¹	25 Feet ¹
"C-M" Commercial-Manufacturing District	Maximum Building Height	Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard
Permitted Structures	2 stories or 35 feet, whichever is lower	2 acres	100 Feet	25 Feet	10 Feet	25 Feet
Accessory Buildings	2 stories or 35 feet, whichever is lower	--	--	25 Feet	10 Feet ¹	25 Feet ¹
"M" Manufacturing District	Maximum Building Height	Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard
Principal and Conditional Uses	Must meet FAA requirements and regulations	2 Acres	100 Feet	30 Feet	30 Feet	30 Feet

NOTES:

Lot area requirements shall be computed exclusive of public street, road, alley, waterway, or highway right-of-way, or private easement.

¹ Accessory buildings, which are to be placed in the rear yard, may reduce the minimum side and rear yard requirements to four (4) feet provided front of accessory structure meets 60 feet setback from front property line

X. Towers, Including Wireless Communications Towers

1. Purpose:

The provisions of this section are intended to regulate the location of new communication towers and antennas. The Telecommunications Act of 1996 restructured and deregulated many aspects of the Country's communication industry. New telecommunication providers entering the market desire to build a network that can require additional freestanding communication towers as well as antennas mounted on existing buildings and other structures. It is the desire of Butler County to encourage an aesthetically pleasing local environment while encouraging the expansion of wireless technology, because it provides a valuable service to residents and businesspersons. It is not the County's goal to unreasonably discriminate among providers of functionally equivalent services; and to not have the effect of prohibiting, either directly or indirectly, the provisions of personal wireless services. It is the goal to encourage wireless providers to co-locate on existing towers or to mount antenna on buildings to minimize the visual impact of communication structures. If it is determined to be infeasible to co-locate new towers may be permitted, however monopole type towers shall be favored over guyed towers, and lattice towers shall be discouraged. Towers that require review by the Planning and Zoning Commission and or Board of Adjustment shall be allowed only after a determination on the need for and appropriateness of the requested use.

Goals

- a. To minimize the adverse visual effects of communication structures through careful siting and locating.
- b. To locate and engineer communications support structures to mitigate potential damage to adjacent properties from structural failure.
- c. To allow for the reasonable location and efficient use of communication structures through co-location of carriers.
- d. To preserve and improve the peace, safety, health, welfare, comfort, and convenience of the citizens of Butler County.

2. Definitions, as used in this provision:

- a. Multiple use facilities (Co-location effort): Wireless communication facilities that are shared with other existing or newly constructed uses, such as, but not limited to, (buildings, water towers, flagpoles, or other communications towers).
- b. Monopole tower: A self-supporting, cylindrical, metallic or wooden pole.
- c. Lattice tower: A tower supported by multiple legs that are connected by steel profiles that form a lattice.
- d. Guyed tower: A tower that has a pole or lattice mainframe that is supported by guyed wires anchored to the ground.
- e. Camouflage Design: A term describing a piece of art, or an architectural structure or element, that functions as a communications facility and aesthetically blends with the surrounding historical or aesthetically sensitive environment. Examples of camouflage design include, but are not limited to, flag poles, clock towers, monuments, and church steeples. Camouflage design also applies in the architectural integration of communication facilities onto existing buildings, light poles, highway signs, water towers, etc. For the purposes of this Ordinance, a monopole tower with its antenna incorporated into or flush with the pole, and with support facilities and equipment that are effectively screened from view with a solid fence and or landscaping may be considered a camouflage design.

- f. Structure height: The vertical distance measured from the base of the antenna support structure at natural grade to the highest point of the structure except that a lightning rod shall not be included in the measurements of structure height.
- g. Communications structure: Any tower or any other structure that supports devices used in the transmission or reception of microwave energy, analog data transfer techniques, radio frequency energy, and other digital data transfer techniques.
- h. Minor Significance: Requests meeting the criteria as described in [Section VII \(X\)\(3\)\(a\)](#) below and in compliance with all other provisions of the Zoning Ordinance.
- i. Major Significance: Requests meeting the criteria as described in [Section VII \(X\)\(3\)\(b\)](#) below. Also, any deviation from the Design Standards shall classify a formerly minor significant request to this stature.

3. Process required for approval of wireless communications structures:

- a. Minor Significance. Includes communication structures that meet any of the following criteria:
 - i. Structures that are less than thirty-five (35) feet in height.
 - ii. Structures that are co-located onto an existing communications facility or mounted on a building or existing structure provided that the proposed structures do not increase the height of the existing structure.
 - iii. Structures that are less than 75 feet in height constructed using camouflage design, to visually disguise them or architecturally integrate them from the public view and their surroundings.

Where Permitted.

- a. A-1; A-2; C; C-M; and M District
- b. R-1 & R-2 District: lattice and guyed towers shall not be permitted in these zoning districts.

Review Process. All proposed communication structures of minor significance shall be subject to staff review and approval by the Zoning Administrator or his/her designee.

- b. Major Significance. Includes all other communication structures that do not meet the requirements of “Minor Significance”.

Where Permitted.

- a. A-1; A-2; C; C-M; and M District.

Review Process.

- i. All proposed communication structures of major significance shall be subject to the review of the Planning and Zoning Commission on the need for and appropriateness of the requested use and compliance with the Design Standards listed below. The Commission shall recommend approval of the request as submitted, recommend approval of the request

with additional conditions, or recommend denial of the request. In the case of denial, the Commission shall give written reasons thereof.

- ii. The Planning & Zoning Commission's recommendation shall be sent to the Board of Supervisors for final determination.
- iii. Structural Analysis Report – At the county's discretion a structural analysis report may be requested.

4. Design Standards. The proposed structure must comply with the following provisions prior to the issuance of any permits.

- a. Necessity. The applicant shall demonstrate that the antenna must be located where it is proposed in order to satisfy the antenna's function in the company's grid system.
- b. Co-location effort. If the wireless communications company proposes to build a tower, as opposed to mounting the antenna on existing multiple use facilities within the required setback as described in Section VII (X)(4)(f), it shall demonstrate a reason of substantial nature describing the inability to co-locate. This demonstration shall utilize one or more of the following criteria to satisfactorily illustrate why co-location on existing multiple use facilities is infeasible:
 - i. Structural Infeasibility. The wireless communications company shall provide a structural analysis to show the structural loading, minimum height, available space on the existing structure, or available ground space at the proposed site is inadequate to serve its need for viable communications structure site.
 - ii. Engineering Infeasibility. The wireless communications company shall provide engineering studies to show that the existing multiple use facilities cannot be satisfactorily engineered to meet the coverage and/or capacity demands of its customers or function in its grid system.
 - iii. Economic Infeasibility. Co-location on existing multiple use facilities is an incentive to, and is in the economic best interest of, each wireless communication company as co-location reduces the cost to deploy each communication site. Where negotiation to co-locate on an existing multiple use facility fails, the wireless communications company shall provide evidence, to include written assurances in the form of affidavits, that it could not obtain permission from owners of multiple use facilities to install its antennas on those facilities.

A request for a wireless communications tower may be denied if it is concluded that the applicant has not made a good faith effort to co-locate on multiple use facilities.

- c. Structure Height. The applicant shall demonstrate, to the reasonable satisfaction of Butler County, that the structure is the minimum height required to function satisfactorily while simultaneously providing adequate structural height for possible co-locators.
- d. Setbacks from base of structure. The minimum setback of the base of the structure shall be at least the height of the structure from any property line and at least ½ the height of the structure from any building located on the same parcel of land

that the structure is located on (except for support facilities such as equipment rooms) unless a greater setback is required under the provisions of this Ordinance.

- e. Structure Safety. The applicant shall demonstrate through compliance with these regulations and submittal of engineering studies, that the proposed structure is safe and that the surrounding areas will not be negatively affected by structure failure or interference. Any such failure or interference shall be the responsibility of the applicant to remedy. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers, and all facilities shall have a fence installed around the antenna support structure and other equipment, unless the antenna is mounted on an existing structure or camouflage design is employed. The fence shall be a minimum of six (6) feet to the ground.
- f. Co-location. In order to reduce the number of communication structures in the community, new towers (except for camouflage designs) shall be required to accommodate other uses, including other wireless communication companies, as well as other emergency response users.
- g. Site Plan. A full site plan shall be required for all communication structure sites, showing the structure, antenna, antenna support structure(s), building(s), fencing, access, property lines, and lease boundaries.

Table 2: Communications Structure Setback

	Property Lines	Dwelling/Structures on same parcel	Dwelling units not on same parcel	Other communications structures >75'	Height
Minor Significance	50 ft or at least the height of the structure, whichever is greater	1/2 the height of the structure	1,000 ft	1/2 mile	< 35' non-camouflage <75' but >35' shall be camouflaged to be considered minor significance
Major Significance	At least the height of the structure	1/2 the height of the structure	1,000 ft	1 mile	>75'

- 5. Abandonment. All approvals for wireless communication towers shall be in effect only while the facilities are being operated on a continual basis. When the use is replaced or discontinued for a period of one (1) year, the approvals will lapse; and the operator or property owner shall be required to remove the facility and all associated equipment and restore the property to its original or otherwise acceptable condition, subject to the approval of the Zoning Administrator or his/her designee, or re-submit for approval as if it is a new request.

Y. Wind Energy Conversion System Regulations

1. Purpose

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

2. Definitions

1. WECS: Wind Energy Conversion System: An electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and metrological towers that operate by converting the kinetic energy of wind into electrical energy. The energy maybe used on-site or distributed into the electrical grid.
2. Aggregated Project: Aggregated projects are those which are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregated project.
3. Commercial WECS: A WECS of equal to or greater than one hundred (100) kilowatts in total name plate generating capacity.
4. Non-Commercial WECS: A WECS of less than one hundred (100) kilowatts in total name plate generating Capacity.
5. Fall Zone: The area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of a structural failure. This area is less than the total height of the structure.
6. Feeder Line: Any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the WECS.
7. Meteorological Tower: For the purposes of this Wind Energy Conversation System Ordinance, meteorological towers are those towers which are erected primarily to measure wind speed and directions plus other data relevant to site WECS. Meteorological towers do not include towers and equipment used by airports, the Iowa Department of Transportation, or other similar applications to monitor weather conditions.
8. Micro-WECS: A WECS of one (1) kilowatt nameplate generating capacity or less and utilizing supporting towers of forty (40) feet or less.
9. Nacelle: Contains the key components of the wind turbine, including the gearbox, yaw system, and electrical generator.
10. Property line: The boundary line of the area over which the entity applying for a WECS permit has legal control for the purposes of installation of a WECS. This control may be attained through fee title ownership, easement, or other appropriate contractual relationship between the project developer and landowner.

11. Rotor diameter: The diameter of the circle described by the moving rotor blades.
12. Substations: Any electrical facility designed to convert electricity produced by wind turbines to a voltage greater than thirty-five thousand (35,000) volts (35 kilovolts) for interconnection with high voltage transmission lines shall be located outside of the road right of way.
13. Total height: The highest point, above ground level, reached by a rotor tip or any other part of the WECS.
14. Tower: Towers include vertical structures that support the electrical generator, rotor blades, or meteorological equipment.
15. Tower height: The total height of the WECS exclusive of the rotor blades.
16. Transmission Line: Those electrical power lines that carry voltages of at least sixty-nine thousand (69,000) volts (69 kilovolts) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
17. Public conservation lands: Land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, State Scientific and Natural Areas, Federal Wildlife Refuges and Waterfowl Production Areas. For the purposes of this section public conservation lands will also include lands owned in fee title by non-profit conservation organizations. Public conservation lands do not include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.
18. Wind Turbine: A wind turbine is any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

3. Applicability

It shall be unlawful to construct, erect, install, alter, or locate any Commercial WECS within unincorporated Butler County, without rezoning the area of the proposed site to “A-2” Agricultural District and being authorized by the Butler County Board of Supervisors (“BOS”) in a public hearing as well as approval of a Special Exception as granted by the Butler County Board of Adjustment.

4. Procedures

I. Commercial WECS

- a. Initial project meeting with Zoning Administrator, County Engineer, and County Attorney to identify the proposed scope of work.
 - i. An unredacted Health and Safety Instruction Manual for make, model, and type of turbines proposed shall be provided to the Butler County Zoning Administrator to be kept on file and available for public review.
 1. Manuals shall include the Evacuation and Danger Zone measurements for the proposed turbines.
- b. Public Information Meeting sponsored by the developer/applicant.
 - i. A half page, full color notice Shall be published for two (2) consecutive weeks, not less than fourteen (14) days and not more than twenty (20) days prior to the

meeting in a newspaper of general circulation that has been published at least once a week for at least fifty (50) weeks per year within Butler County.

- ii. Mailers stating location, intent, and purpose of the Public Information Meeting shall be delivered to all residents located within a two (2) mile radius of the proposed project zone.
 - iii. Shall provide a general scope of the location, number and size of turbines, and impact of the proposed construction.
 - iv. Shall take place prior to any easement negotiations with landowners.
 - a. Any engagement of easement negotiations by or on behalf of the developer/applicant prior to a required Public Information Meeting shall result in immediate denial of permit application proceedings.
 - v. Shall be held at an accessible location in any and all districts within Butler County for which the proposed scope of work would impact.
- c. Rezoning or map amendment shall be applied for and reviewed under the procedures established in Section X; [XXII\(L\)](#); and [XXII\(M\)](#) of this Ordinance, except where noted below.
- d. No Commercial WECS or wind turbine shall be constructed, erected, converted, installed, reconstructed, enlarged, located, relocated, structurally altered, or otherwise developed including the placement of additional buildings and appurtenances without obtaining approval of a Special Exception by the Butler County Board of Adjustment and being in full compliance with the terms of this section and other applicable codes, regulations, and policies adopted by the County, State, or Federal Government.
- (1) Applications for a Special Exception shall be made on a permit application to Butler County for any WECS proposed in unincorporated Butler County. The application for all WECS shall include the following information:
- i. The name(s) and address of the project applicant.
 - ii. The name of the project owner.
 - iii. The legal description of the site where development is planned.
 - iv. A preliminary description of the project including: Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid. Preliminary site layout, including the location of property lines, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures. The site layout shall include distances and be drawn to scale.
 - v. Documentation of land ownership, land ownership agreements, easements, and legal control of the property.
 - vi. Applicants shall provide proof of consultation with State Fish and Wildlife Agencies and DNR Environmental Review Program. Any reports, agreements, and review documentation shall be submitted with the application.
- e. The building permit applications (after zoning approval and Special Exception) for the Commercial WECS shall also include:

- i. Final site plan.
 - ii. Final legal description.
 - iii. Engineer's certification.
 - iv. The latitude and longitude of individual wind turbines.
 - v. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other WECS within ten (10) rotor diameters of the Proposed WECS.
 - vi. Location of wetlands, scenic, and natural areas [including bluffs] within one thousand three hundred twenty (1,320) feet of the proposed WECS and shall comply with all other applicable Department of Natural Resources standards.
 - vii. An acoustical analysis.
 - viii. Federal Aviation Administration (FAA) Permit Application.
 - ix. Location of all known Communications Towers within two (2) miles of the proposed WECS.
 - x. Decommissioning Plan.
 - xi. Description of potential impacts on nearby WECS and wind resources on adjacent properties.
- f. In addition to the rezoning fee, the applicant must also file a bond in an amount determined by the Butler County Board of Supervisors and approved by the Butler County Engineer. Said bond shall be from a surety company authorized to do business in the State of Iowa and Butler County. The bond shall be conditioned that the applicant under this section will pay to the county any and all damages caused to the streets, highways, and bridges, by applicant. This shall include all ongoing maintenance, repair, and dust mitigation deemed necessary by the Butler County Engineer throughout the construction phase.
- g. Aggregated Project Procedures: Aggregated Projects may jointly submit a single application and be reviewed under joint proceedings, including notices, hearings, reviews, and as appropriate, approvals. Permits will be issued and recorded separately. Joint applications will be assessed fees as one project.

II. Non-Commercial and Micro WECS

- a. No Non-Commercial WECS or wind turbine shall be constructed, erected, converted, installed, reconstructed, enlarged, located, relocated, structurally altered, or otherwise developed including the placement of additional buildings and appurtenances without obtaining approval of a building permit by the Butler County Zoning Administrator and being in full compliance with the terms of this section and other applicable codes, regulations, and policies adopted by the County, State, or Federal Government.
- b. All building permit applications for Non-commercial and Micro WECS shall include detailed plans for the structure, a sketch, drawing, or plat, in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon or used, the size, shape and location of the building to be erected, the dimensions of the required yards, parking and open spaces, and a vicinity map of the lot to be built upon or used.

E. District Regulations

1. Commercial WECS may be permitted as a Special Exception in the “A-2” Agricultural District, as set forth in [Section X](#) of this Ordinance, so long as bulk requirements and setback requirements are addressed. Said setback requirements are shown in [Table 3](#) below.
2. Setbacks: Substations and Accessory Facilities:
 - a. Minimum setback standards for substations and feeder lines shall be consistent with the standards for essential services outlined in the Butler County Zoning Ordinance.
 - b. Substation setbacks:
 - (1) Fifty (50) feet; structure setback from road ROW; located wholly outside the right-of-way.
 - (2) Property lines; structure setback from property lines; twenty-five (25) side and fifty (50) rear property line.

Table 3. WECS Setback Requirements: Wind Turbines and Meteorological Towers

	Non-Commercial & Micro WECS	Commercial WECS	Meteorological Towers
Property Line of Participating Landowner	1.1 times the total height of the tower or the distance of the fall zone plus 10 feet	1640 feet	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total tower height
Property Line of Non-participating Landowner	1.1 times the total height of the tower or the distance of the fall zone plus 10 feet	1800 feet	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total tower height
Natural Resource Protection & Preservation	NA	Shall not be permitted on highly productive soils where 25% or more of the parcel of land has been rated at 70 CSR or above.	Shall not be permitted on highly productive soils where 25% or more of the parcel of land has been rated at 70 CSR or above.
Public conservation lands managed as grasslands	600 feet	Shall follow State Fish and Wildlife Agency and DNR Environmental Review recommendations but shall at a minimum maintain a 2640 ft (1/2 mile) setback.	Shall follow State Fish and Wildlife Agency and DNR Environmental Review recommendations but shall at a minimum maintain a 2640 ft (1/2 mile) setback.
Total Height	65' feet	262' feet total height as defined above Y(2)(13)	262' feet total height as defined above Y(2)(13)
Noise	NA	40 dBa	N/A

*Setbacks may be reduced with a waiver among adjoining property owners who agree to said setback reduction, but in no case shall it be reduced to 4x the total height of the tower.

F. Requirements and Standards

1. Safety Design Standards

- a. Engineering Certification: For all WECS, the manufacture's engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.
- b. Clearance: Rotor blades or airfoils must maintain at least thirty (30) feet of clearance between their lowest point and the ground.
- c. Warnings: For all Commercial WECS, a sign or signs shall be posted on the tower, transformer and substation warning of high voltage.

2. Height Standard

- a. Total height – Non-Commercial and micro WECS shall have a total height of less than sixty-five (65) feet.
- b. Total Height must also be in compliance with all municipal airport ordinances within Butler County or adjoining counties and shall in no case exceed two hundred sixty-two (262) feet in height, measured from final finished grade. This shall include, but not be limited to, the Allison Municipal Airport Ordinance as well as the Waverly Municipal Airport Ordinance.
- c. Commercial WECS shall be in compliance with Section X(D), above, as well as all setback requirements as outlined in [Table 3](#)

3. Meteorological towers may be guyed.

4. Color and Finish: All wind turbines and towers that are part of a commercial WECS shall be white, grey or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matte or non-reflective. Exceptions may be made for metrological towers, where concerns exist relative to aerial spray applicators.

5. Lighting: Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations. Red strobe lights are preferred for night-time illumination to reduce impacts on migrating birds. Red pulsating incandescent lights should be avoided. Exceptions may be made for metrological towers, where concerns exist relative to aerial spray applicators.

6. Other Signage: All signage on site shall comply with [Section VII \(Y\)\(F\)\(1\)\(c\) \(Requirements and Standards\)](#), [Section XIX \(Outdoor Advertising Signs and Billboards\) of this Ordinance](#). The manufacturer's or owner's company name and/or logo may be placed upon the nacelle of the WECS.

7. Feeder Lines: All communications and feeder lines, equal to or less than thirty-four and one-half (34.5) kilovolts in capacity, installed as part of a WECS shall be buried where reasonably feasible. Feeder lines installed as part of a WECS shall not be considered an essential service. This standard applies to all feeder lines subject to Butler County Ordinances.

8. Waste Disposal: Solid and Hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.

9. Impacts on Public Infrastructure: Reimbursement of all costs related to excessive wear and tear to any public infrastructure such as but not limited to county roads and bridges, and to any highway system, storm water management related improvements and/or public utilities that are caused by the construction, maintenance, or removal of any WECS shall be reimbursed to the affected local government. A determination shall be made by the County Engineer or applicable official to establish if excessive wear and tear or damage has occurred and to estimate the costs of repair for said work. Any damages to any haul routes, as determined by the County Engineer, shall be reimbursed to the local government affected and shall be billed to the corporation or company owning said WECS to be paid within forty-five (45) days of issuance and may be subject to late charges, interest or penalties as allowed by law.

Also, all haul routes shall be reviewed and approved by the County Engineer on use of any county roads prior to construction, maintenance or removal of any WECS. In order to review proposed haul routes and/or work locations, WECS owner(s) and/or their contractors shall contact the County Engineer a minimum of one (1) month prior to starting any work in the county.

10. Discontinuation and Decommissioning: A WECS shall be considered a discontinued use after a six (6) consecutive month period without operation OR following a one-year period in which the WEC has generated less than two thousand (2,000) kilowatt-hours (kWh), unless a plan is developed and approved by the Butler County Board of Supervisors outlining the steps and schedule for returning the WECS to service; or upon revocation of the WECS permit. Once declared to be a discontinued use by the Butler County Board of Supervisors, the component(s) shall be subject to removal pursuant to this section.

- a. All WECS and accessory facilities shall be removed to a depth of six (6) feet below finished grade, including but not limited to concrete footings and foundations, steel cables, guy wires, conduit, and/or any other components of the WECS that have been determined to cause potential damage to equipment used to work the ground following decommissioning, within one hundred eighty (180) days of the discontinuation of use.
- b. Each project shall have a Decommissioning plan, developed by the applicant and approved by the Butler County Board of Supervisors. Such plan shall contain the following:
 - i. A description of the project components and a sequence and description of the activities required to remove the same in compliance with this section, including restoration of the land to its original state, prior to construction, to be completed within one hundred-eighty (180) days of decommissioning.
 - ii. A report prepared by a qualified third-party (to be approved by the Butler County Board of Supervisors in advance) setting forth the procedures and estimated net costs associated with the removal of the components (other than feeder lines) to a depth of six (6) feet from the original grade and the accompanying restoration of the surface.
 - iii. Cash, an irrevocable letter of credit, or performance bond running in favor of Butler County in an amount no less than the total estimated net removal/restoration costs as determined by said report. Said security shall be in place at the time the project is completed and shall remain in effect until decommissioning is completed. No such security shall be cancellable without notice to the Zoning Administrator and approval by the Butler County Board of Supervisors. Each year, the permit holder shall provide proof that such security is in effect at the same time as the annual report is due to the County Assessor for purposes of the real estate tax assessment.

- iv. The report prepared under section b). above shall be updated and provided to the County at least every three (3) years, and upon any proposed transfer of the WECS permit. Should any update indicate a change in the decommissioning costs, the security required under section 3). above shall be adjusted accordingly.
 - v. No transfer/assignment of any WECS permit shall be affective without corresponding transfer/assignment of the obligations and financial security required under the decommissioning plan, as approved by the Butler County Board of Supervisors.
- c. Upon completion of decommissioning activities, the County Engineer and permit holder will verify that all planned activities have been completed per the decommissioning plan, or notes made with regard to items not completed. Records of the completed activities will be retained by the County Engineer's office for five (5) years. Items left in place contrary to the decommissioning plan will be recorded in the form of and easement with the County Recorder's office. Any concrete turbine base with a greater than two (2) cubic feet in the soil, regardless of depth shall be recorded in the abstract for the land so as to ensure that any future property owners or perspective buyers are aware of the presence of such structures.
11. Ancillary Agreement/Procedures: In addition to the Review and Approval Process, issuance of a Commercial WECS permit is strictly conditioned in the applicant executing the following agreements. The Zoning Administrator shall verify that all such agreements/plans are on file with the County Recorder's office prior to transmission of approved permits to the applicant.
- a. Butler County Road Use and Repair agreement signed by the applicant and approved by the Butler County Board of Supervisors.
 - b. Butler County Public Drainage System Protection Agreement signed by the applicant and approved by the Butler County Board of Supervisors.
 - c. Abandonment/ Decommissioning Plan signed by the applicant and approved by the Butler County Board of Supervisors.
 - d. An Emergency Response Plan provided by the applicant and approved by the Butler County Board of Supervisors. Said plan shall contain response procedures to be followed in the event of fire, liquid leakage, blade fracture, collapse, personal injury, or other emergency at a project site. The plan shall include 24-hour emergency contact information for the project or organization. The permit holder shall be responsible for and required to ensure that the Zoning Administrator and Emergency Management Coordinator are provided any updates as me issued from time to time.
 - e. Notices and manuals specified and provided shall be retained by the Zoning Administrator for awareness and use of County agencies and local emergency management responders.
 - f. Permit holder shall ensure that the Zoning Administrator is provided a copy of updates to the items provided that may be issued from time to time by the manufacturers.

12. Transferability of the Commercial WECS Permit

- a. Only the holder of the Commercial WECS Permit (Permit Holder) shall own the project, and such holder shall be the entity responsible for compliance with all requirements of this Ordinance. The permit holder shall be responsible to maintain all components of the Commercial WECS in good repair, and in compliance with this Ordinance and the Ancillary Agreements listed in pat 11). of this section, above.
- b. No Commercial WECS Permit shall be transferred or assigned, voluntarily or involuntarily, without the prior written approval of the Butler County Board of Supervisors, of which consent may be withheld unless and until the Board is satisfied that a proposed transferee has the financial and operational responsibility to assume all obligations required of the permit holder under this Ordinance and Ancillary Agreements. Requests for approval of Commercial WECS Permit transfer shall be directed to the Zoning Administrator.
- c. Recipients of any such permit transfer shall affirm their responsibilities as Permit Holder in a signed letter to the Butler County Board of Supervisors and sign new agreements that are materially the same or provide a notarized letter stipulating their acknowledgement of their acceptance of the responsibilities in the original Agreements, which shall be specifically referenced, as a component of transfer.

13. Miscellaneous

- a. Condemnation Waiver: Issue of a Commercial WECS Permit shall be conditioned upon the Permit Holder's enforceable promise, supported by consideration of the issuance of Commercial WECS Permit, that the Permit Holder shall never use, or seek to use, eminent domain to acquire any real property interests to construct or operate the project.
- b. County Recovery of Legal Fees: In any action brought by the County against any Permit Holder of a WECS Permit to enforce the provisions of this Ordinance, the County shall be entitled to recover its reasonable attorney fees and court costs as may be awarded by the decision-making tribunal.
- c. Severability Clause: If any of the provisions of this Ordinance are for any reason found to be illegal or void, then the lawful provisions of this Ordinance, which are separate from said unlawful provisions, shall be and remain in full force and affect, the same as if the Ordinance contained no illegal or void provisions.
- d. Repealer: This Ordinance takes precedence over and precludes any previous copy or draft specified for Commercial WECS in the Butler County Zoning Ordinance. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

G. Other Applicable Standards

1. Noise: Noise shall not exceed forty (40) decibels (dBA) as measured from adjacent property lines.

2. Electrical codes and standards: All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.
3. Federal Aviation Administration: All WECS shall comply with FAA standards and permits.
4. Uniform Building Code: All WECS shall comply with the State Building Code adopted by the State of Iowa.
5. Interference: The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals cause by any WECS. The applicant shall notify all communication tower operators within two miles of the proposed WECS location upon application to the county for permits. No WECS shall be constructed so as to interfere with County or Iowa Department of Transportation microwave transmissions.
6. A Commercial WECS Permit may be revoked any time the WECS does not comply with the rules and regulations set forth in this ordinance or WECS Permit. The revocation of the WECS Permit requires the WECS to be physically removed within one-hundred eighty (180) days.
7. Commercial WECS Permit Process. All Commercial WECS Permit applications shall be approved by the Butler County Zoning Administrator following the standards and procedures as set forth in the Butler County Zoning Ordinance
8. Release of Liability. Butler County shall be fully released of any liability associated with any WECS built in unincorporated Butler County.

Z. Solar Energy Standards

Purpose

1. The purpose of this Section is to provide a regulatory means for the construction and operation of solar energy installations that are small (50 kW or less) or large (50 kW or greater) in Butler County, subject to reasonable restrictions, which will preserve the public health, safety, and welfare. Butler County adopts these provisions to promote the efficient use of the County's solar energy resources.

2. Regulatory Framework

Large solar energy facilities (50 kW or greater) may only be constructed in areas that are zoned "A-2" Agricultural Limited District, upon approval of a Special exception by the Board of Adjustment.

Small solar energy facilities (50 kW or less) may be constructed in any zoning district as either a principal or accessory use. Small solar energy installations that are constructed as an accessory use to a principal permitted use, and meet the setback, height, and power output requirements of this section shall not require special exception approval and shall only require a building permit. All small solar power energy facilities that are constructed as a principal permitted use, or small solar power energy facilities that do not meet height, or power requirements of this section, shall require Special Exception Approval.

Solar Energy Installations: are permitted accessory use in all zoning classifications subject to certain requirements set forth in this ordinance. Solar energy systems that do not meet the standards listed below will require approval of a Special exception permit.

3. Definitions

- A. Solar Energy System: A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.
- B. Building-Integrated Solar Energy Systems: A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.
- C. Concentrating Solar Power (also called concentrated solar power, concentrated solar thermal, and CSP) are systems that: generate power by using mirrors or lenses to concentrate a large area of sunlight, or solar thermal energy, onto a small area. Electricity is generated when the concentrated light is converted to heat, which drives a heat engine (usually a steam turbine) connected to an electrical power generator or powers a thermochemical reaction.
- D. Grid-intertie Solar Energy System: A solar energy system that is connected to an electric circuit served by an electric utility company.
- E. Ground-Mount: A solar energy system mounted on a rack or pole that rests or is attached to the ground. Ground-mount systems can be either accessory or principal uses.
- F. Off-grid Solar Energy System: A solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.
- G. Passive Solar Energy System: A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.
- H. Photovoltaic System: An active solar energy system that converts solar energy directly into electricity.
- I. Renewable Energy Easement, Solar Energy Easement: An easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land.
- J. Renewable Energy System: A solar energy or wind energy system. Renewable energy systems do not include passive systems that serve a dual function, such as a greenhouse or window.
- K. Roof-Mount: a solar energy system mounted on a rack that is fastened to or ballasted on a building roof. Roof-mount systems are accessory to the structure they are mounted to.
- L. Roof Pitch: The final exterior slope of a building roof calculated by the rise over the run, typically but not exclusively expressed in twelfths such as 3/12, 9/12, 12/12.
- M. Solar Access: Unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.
- N. Solar Collector Surface: Any part of a solar collector that absorbs solar energy for use in the collector's energy transformation process. Collector surface does not include frames, supports and mounting hardware.

- O. Solar Daylighting: A device specifically designed to capture and redirect the visible portion of the solar spectrum, while controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.
- P. Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.
- Q. Solar Energy System: A device, array of devices, or structural design feature, the purpose of which is to provide for generation of electricity, the collection, storage and distribution of solar energy for space heating or cooling, daylight for interior lighting, or water heating.
- R. Solar Heat Exchanger: A component of a solar energy device that is used to transfer heat from one substance to another, either liquid or gas.
- S. Solar Hot Air System: (also referred to as Solar Air Heat or Solar Furnace) An active solar energy system that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air. The most efficient performance typically uses a vertically mounted collector on a south-facing wall.
- T. Solar Hot Water System: (also referred to as Solar Thermal) A system that includes a solar collector and heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.
- U. Solar Mounting Devices: Racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.
- V. Solar Storage Unit: A component of a solar energy device that is used to store solar generated electricity or heat for later use.

4. Procedure

I. Large Solar Energy Facilities (50 kW or greater)

- a. Initial project meeting with Zoning Administrator, County Engineer, and County Attorney to identify the proposed scope of work.
 - i. An unredacted Health and Safety Instruction Manual for make, model, and type of array proposed shall be provided to the Butler County Zoning Administrator to be kept on file and available for public review.
- b. Public Information Meeting sponsored by the developer/applicant.
 - i. A half page, full color notice shall be published for two (2) consecutive weeks, not less than fourteen (14) days and not more than twenty (20) days prior to the meeting in a newspaper of general circulation that has been published at least once a week for at least fifty (50) weeks per year within Butler County.
 - ii. Mailers stating location, intent, and purpose of the Public Information Meeting shall be delivered to all residents located within a two (2) mile radius of the proposed project zone.
 - iii. Shall provide a general scope of the location, number and size of arrays, and impact of the proposed construction.
 - iv. Shall take place prior to any easement negotiations with landowners.

- a. Any engagement of easement negotiations by or on behalf of the developer/applicant prior to a required Public Information Meeting shall result in immediate denial of permit application proceedings.
 - v. Shall be held at an accessible location in any and all districts within Butler County for which the proposed scope of work would impact.
- c. Rezoning or map amendment shall be applied for and reviewed under the procedures established in Section X; [XXII\(L\)](#); and [XXII\(M\)](#) of this Ordinance, except where noted below.
- d. No Large Solar Energy Facilities shall be constructed, erected, converted, installed, reconstructed, enlarged, located, relocated, structurally altered, or otherwise developed including the placement of additional buildings and appurtenances without obtaining approval of a Special Exception by the Butler County Board of Adjustment and being in full compliance with the terms of this section and other applicable codes, regulations, and policies adopted by the County, State, or Federal Government.
 - (1) Applications for a Special Exception shall be made on a permit application to Butler County for any Large Solar Energy Facilities proposed in unincorporated Butler County. The application for all Large Solar Energy Facilities shall include the following information:
 - i. The name(s) and address of the project applicant.
 - ii. The name of the project owner.
 - iii. The legal description of the site where development is planned.
 - iv. A preliminary description of the project including: Number, size, type, generating capacity, and means of interconnecting with the electrical grid. Preliminary site layout, including the location of property lines, solar panels, solar mounting devices, electrical wires, interconnection points with the electrical grid, and all related accessory structures. The site layout shall include distances and be drawn to scale.
 - v. Documentation of land ownership, land ownership agreements, easements, and legal control of the property.
 - vi. Applicants shall provide proof of consultation with State Fish and Wildlife Agencies and DNR Environmental Review Program. Any reports, agreements, and review documentation shall be submitted with the application.
- e. The Zoning Certificate Application (after zoning approval and Special Exception) for the Large Solar Energy Facilities shall also include:
 - i. Final site plan.
 - ii. Final legal description.
 - iii. Engineer's certification.
 - iv. A USGS topographical map, or map with similar data, of the property and surrounding area.

- v. Decommissioning Plan.
- f. In addition to the rezoning fee, the applicant must also file a bond in an amount determined by the Butler County Board of Supervisors and approved by the Butler County Engineer. Said bond shall be from a surety company authorized to do business in the State of Iowa and Butler County. The bond shall be conditioned that the applicant under this section will pay to the county any and all damages caused to the streets, highways, and bridges, by applicant. This shall include all ongoing maintenance, repair, and dust mitigation deemed necessary by the Butler County Engineer throughout the construction phase.
- g. Aggregated Project Procedures: Aggregated Projects may jointly submit a single application and be reviewed under joint proceedings, including notices, hearings, reviews, and as appropriate, approvals. Permits will be issued and recorded separately. Joint applications will be assessed fees as one project.

5. Regulatory Requirements

- A. Height. Active solar energy systems must meet the following height requirements:
 - 1. Building or roof-mounted solar energy systems shall not exceed the maximum allowed height in any zoning district, and shall not exceed ten (10) feet above roof height.
 - 2. Ground or pole mounted solar energy systems shall not exceed fifteen (15) feet in height when oriented at maximum tilt.
- B. Set Back. Active solar energy systems must meet the accessory structure setback for the zoning district and primary land use associated with the lot on which the system is located, except that it may be located in a required front yard when meeting a minimum 10-foot setback from all property lines.
 - 1. Roof-mounted solar energy systems. In addition to the building setback, the collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which they system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.
 - 2. Ground-mounted solar energy systems. Ground-mounted solar energy systems may not extend into the required setback when oriented at minimum design tilt.
- C. Coverage. Roof or building mounted solar energy systems, excluding building-integrated systems, shall allow for adequate roof access to ensure maximum sunlight upon which the panels are mounted.
- D. Historic Buildings. Solar energy systems on buildings within designated historic districts or on locally designated historic buildings (exclusive of State or Federal historic designation) will require a special exception permit.
- E. Approved Solar Components. Electric solar energy system components must have a UL listing and solar hot water systems must have an SRCC rating.

- F. Plan Approval Required. All solar energy systems shall require administrative plan approval by the zoning official. Plans shall be presented when a zoning compliance permit is requested.
- G. Compliance with Building Code. All active solar energy systems shall be consistent with the State of Iowa Building Code and solar thermal systems shall comply with HVAC related requirements of the Electric Code.
- H. Compliance with State Electric Code. All photovoltaic systems shall comply with the Iowa State Electric Code.
- I. Compliance with State Plumbing Code. Solar thermal systems shall comply with applicable Iowa State Plumbing Code requirements.
- J. Utility Notification. All grid-connected solar energy systems shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.
- K. Solar Access. Butler County allows for solar resources.
- L. Solar Easements Allowed. Butler County allows solar easements to be filed, consistent with Iowa State Code 564A7. Any property owner can purchase an easement across neighboring properties to protect access to sunlight. The easement can apply to buildings, trees, or other structures that would diminish solar access.
- M. Solar Farm/Gardens or Utility scale solar installations.
 - 1. Concentrating solar power (CSP) systems or plants that use mirrors to concentrate the energy from the sun to drive traditional steam turbines or engines to create electricity shall be prohibited.
 - 2. A site plan shall be submitted and reviewed prior to the approval of a solar farm/garden or utility scale solar installations larger than 50 kW, and shall require approval of a Special exception permit.
- N. The application for a solar garden or utility scale solar installation larger than 50 kW shall include the following information on the site plan or in narrative form, supplied by the solar farm/garden or utility scale solar installation owner, operator or contractor installing the structure(s):
 - 1. Number, location and spacing of solar panels/arrays.
 - 2. Planned location of underground or overheated electric lines.
 - 3. Project development timeline which indicates how the applicant will inform adjacent property owners and interested stakeholders in the community.
 - 4. Interconnection agreement.
 - 5. Decommissioning plan.

6. Site and Structure Requirements

- A. Screening. A landscape buffer may be required to be installed and maintained during the life of the operation. Determination of screening requirements will be made by the Board

of Adjustment as part of the review and approval process and will be based on adjacent or nearby surrounding land uses and topography.

- B. Utility Connections. Reasonable efforts shall be made to place all utility connections from the solar installation underground, depending on appropriate soil conditions, shape and topography of the site, distance to the connection, or other conditions or requirements.
 - C. Grading plan. A grading plan shall be submitted for solar farm/garden or projects over 50 kW and shall include all proposed changes to the landscape of the site (e.g., clearing, grading, topographic changes, drainage, tree removal, etc.).
 - D. Glare minimization. All solar panels must be constructed to minimize glare or reflection onto adjacent properties and adjacent roadways and must not interfere with traffic, including air traffic, or create a safety hazard.
 - E. Aviation Protection. For solar farms located within 1,000 feet of an airport or within approach zones of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.
 - F. Compliance with local, state and federal regulations. Solar Farm/Garden and Utility scale solar installations and smaller solar installations shall comply with applicable local, state and federal regulations.
 - G. Appurtenant structures. All appurtenant structures shall be subject to bulk and height regulations of structures in the underlying zoning district.
 - H. Special Flood Hazard Area (SFHA) Regulations. Utility scale solar installations are considered to be maximum damage potential structures and facilities for purposes of SFHA regulations.
 - I. Signage. Warning signs, or manufacturer's, operator's or installer's identification signage, may be displayed.
 - J. Fencing/security. A non-scalable security fence must be installed along all exterior sides of the solar energy installations larger than 50 kW and be equipped with a minimum of one gate and locking mechanism on the primary access side. Security fences, gates and warning signs must be maintained in good condition until the utility scale solar installation is dismantled and removed from the site.
7. Discontinuation and Decommissioning: A Large Solar Energy Facility shall be considered a discontinued use after a six (6) consecutive month period without operation OR following a one (1) year period in which the Solar Energy Facility has generated less than two thousand (2,000) kilowatt-hours (kWh), unless a plan is developed and approved by the Butler County Board of Supervisors outlining the steps and schedule for returning the facility to service; or upon revocation of the Large Solar Energy Facility permit. Once declared to be a discontinued use by the Butler County Board of Supervisors, the component(s) shall be subject to removal pursuant to this section.
- A. All Large Solar Energy Facilities shall be removed to a depth of six (6) feet below finished grade, including but not limited to concrete footing and foundations, steel cables, conduit, and or any other components of the WECS that have been determined to cause potential damage to equipment used to work the ground following decommissioning, within one-hundred-eighty (180) days of the discontinuation of use.

- B. Each project shall have a decommissioning plan, developed by the applicant and approved by the Butler County Board of Supervisors. Such plan shall contain the following:
 - i. A description of the project components and a sequence and description of the activities required to remove the same in compliance with this section, including restoration of the land to its original state, prior to construction, to be completed within one hundred-eighty (180) days of decommissioning.
 - ii. A report prepared by a qualified third-party (to be approved by the Butler County Board of Supervisors in advance) setting forth the procedures and estimated net costs associated with the removal of the components (other than feeder lines) to a depth of six (6) feet from the original grade and the accompanying restoration of the surface.
 - iii. Cash, an irrevocable letter of credit, or performance bond running in favor of Butler County in an amount no less than the total estimated net removal/restoration costs as determined by said report. Said security shall be in place at the time the project is completed and shall remain in effect until decommissioning is completed. No such security shall be cancellable without notice to the Zoning Administrator and approval by the Butler County Board of Supervisors. Each year, the permit holder shall provide proof that such security is in effect at the same time as the annual report is due to the County Assessor for purposes of the real estate tax assessment.
 - iv. The report prepared under section b). above shall be updated and provided to the County at least every three (3) years, and upon any proposed transfer of the Large Solar Energy Facility permit. Should any update indicate a change in the decommissioning costs, the security required under section 3). above shall be adjusted accordingly.
 - v. No transfer/assignment of any Solar Energy Facility permit shall be affective without corresponding transfer/assignment of the obligations and financial security required under the decommissioning plan, as approved by the Butler County Board of Supervisors.
 - C. Upon completion of decommissioning activities, the County Engineer and permit holder will verify that all planned activities have been completed per the decommissioning plan, or notes made with regard to items not completed. Records of the completed activities will be retained by the County Engineer's office for five (5) years. Items left in place contrary to the decommissioning plan will be recorded in the form of an easement with the County Recorder's office. Any concrete turbine base with a greater than two (2) cubic feet in the soil, regardless of depth shall be recorded in the abstract for the land so as to ensure that any future property owners or prospective buyers are aware of the presence of such structures.
8. Ancillary Agreement/Procedures: In addition to the Review and Approval Process, issuance of a Large Solar Energy Facility permit is strictly conditioned in the applicant executing the following agreements. The Zoning Administrator shall verify that all such agreements/plans are on file with the County Recorder's office prior to transmission of approved permits to the applicant.

- A. Butler County Road Use and Repair agreement signed by the applicant and approved by the Butler County Board of Supervisors.
- B. Butler County Public Drainage System Protection Agreement signed by the applicant and approved by the Butler County Board of Supervisors.
- C. Abandonment/ Decommissioning Plan signed by the applicant and approved by the Butler County Board of Supervisors.
- D. An Emergency Response Plan provided by the applicant and approved by the Butler County Board of Supervisors. Said plan shall contain response procedures to be followed in the event of fire, liquid leakage, collapse, personal injury, or other emergency at a project site. The plan shall include 24-hour emergency contact information for the project or organization. The permit holder shall be responsible for and required to ensure that the Zoning Administrator and Emergency Management Coordinator are provided any updates as me issued from time to time.
- E. Notices and manuals specified and provided shall be retained by the Zoning Administrator for awareness and use of County agencies and local emergency management responders.
- F. Permit holder shall ensure that the Zoning Administrator is provided a copy of updates to the items provided that may be issued from time to time by the manufacturers.

9. Transferability of the Large Solar Energy Facility Permit

- A. Only the holder of the Large Solar Energy Facility Permit (Permit Holder) shall own the project, and such holder shall be the entity responsible for compliance with all requirements of this Ordinance. The permit holder shall be responsible to maintain all components of the Large Solar Energy Facility in good repair, and in compliance with this Ordinance and the Ancillary Agreements listed in part 8). of this section, above.
- B. No Large Solar Energy Facility Permit shall be transferred or assigned, voluntarily or involuntarily, without the prior written approval of the Butler County Board of Supervisors, of which consent may be withheld unless and until the Board is satisfied that a proposed transferee has the financial and operational responsibility to assume all obligations required of the permit holder under this Ordinance and Ancillary Agreements. Requests for approval of a Large Solar Energy Facility Permit transfer shall be directed to the Zoning Administrator.
- C. Recipients of any such permit transfer shall affirm their responsibilities as Permit Holder in a signed letter to the Butler County Board of Supervisors and sign new agreements that are materially the same or provide a notarized letter stipulating their acknowledgement of their acceptance of the responsibilities in the original Agreements, which shall be specifically referenced, as a component of transfer.

10. Miscellaneous

- A. Condemnation Waiver: Issue of a Large Solar Energy Facility Permit shall be conditioned upon the Permit Holder's enforceable promise, supported by consideration of the issuance of Large Solar Energy Facility Permit, that the Permit Holder shall never use, or seek to use, eminent domain to acquire any real property interests to construct or operate the project.
- B. County Recovery of Legal Fees: In any action brought by the County against any Permit Holder of a Large Solar Energy Facility Permit to enforce the provisions of this Ordinance, the County shall be entitled to recover its reasonable attorney fees and court costs as may be awarded by the decision-making tribunal.
- C. Severability Clause: If any of the provisions of this Ordinance are for any reason found to be illegal or void, then the lawful provisions of this Ordinance, which are separate from said unlawful provisions, shall be and remain in full force and affect, the same as if the Ordinance contained no illegal or void provisions.
- D. Repealer: This Ordinance takes precedence over and precludes any previous copy or draft specified for Large Solar Energy Facilities in the Butler County Zoning Ordinance. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

AA. Hazardous Liquid Pipelines – No person or property owner shall use land in any area or district in this county for purposes of transporting hazardous liquid through a hazardous liquid pipeline except under the conditions and restrictions provided hereinafter in Section XXIII – Hazardous Liquid Pipelines. For purposes of this Butler County Zoning Ordinance, “hazardous liquid” and “hazardous liquid pipeline” shall have the meanings defined in Section XXIII.

SECTION VIII.
NATURAL RESOURCE PROTECTION AND PRESERVATION

A. Intent

In accordance with the Butler County Comprehensive Plan it is the intent of this section to recognize, and to preserve the natural processes of land, as land undergoes change for human's use. This Ordinance identifies the functions of the land which provide important public benefits and have designed provisions to protect those functions. The public benefits arrived by the protection of natural functions of lands include:

1. The preservation of important productive lands and renewable resources;
2. Protection of public safety by reducing the risks of natural hazards, specifically flooding;
3. Protection of public resources such as water supplies and the water quality of our lakes, rivers, and aquifers; and
4. Protection of public and private economic resources from expenditures and property values loss due to environmental degradation.

For purposes of this Ordinance, land shall be identified by function(s) and may be further classified as either sensitive or significant. Identification and classification of lands shall be based upon the explanatory materials, notations, and maps found in the official Soil Survey of Butler County, Iowa, published by the United States Department of Agriculture Soil Conservation Service, March 1977, as may be amended.

B. Significant Lands

Significant lands are agricultural lands of highly productive soils, renewable resource lands, which promote the long-term productivity of an area by contributing to water, soil, or vegetation cover conservation, and fragile lands.

1. Identification:

- a. Agricultural Lands of Highly Productive Soils: Shall be defined as a parcel of land where more than fifty (50) percent of its area consists of agricultural lands of productive soils (having a corn suitability rating that has been rated at seventy (70) or above. Determination regarding corn suitability ratings and other soil characteristics shall be referenced from the current official Soil Survey of Butler County, Iowa, published by the United States Department of Agriculture Soil Conservation Service.

Soil boundaries shall be determined from the soil maps found in the official Soil Survey of Butler County, Iowa, or from a soil map upon an aerial photograph compiled and attested by a certified soil scientist or technician.

It shall be noted that it is the policy of Butler County, Iowa, rich in fertile productive soils to maintain this nonrenewable resource for future generations to employ in the production of food and fiber; therefore, such lands shall be preserved as "A-1" Agricultural District, unless there are extenuating circumstances.

- b. Other Significant Lands: These lands shall include wetlands, recreational lakes, forest covers, forest reservations, rivers and streams, river and stream banks, open and native prairies and wildlife habitats, as designated upon the established priority list approved by the County Board of Supervisors, as amended.

2. Permitted and Special Exceptions:

- a. Agricultural Lands of Highly Productive Soils: Subject to [Section II](#), Special Exemption and [Section IX](#), Use Regulation for "A-1" Agricultural District
- b. Other Significant Lands: Lands as designated upon the established priority list approved by the Butler County Board of Supervisors, as amended, shall be preserved in their natural, undisturbed state and are not to be used for economic gain, including but not limited to using land for development, the storage of equipment, machinery or crops.

3. Performance Standards:

Shall be applicable to the appropriate section(s) of the Ordinance.

4. Incentives for Preservation:

In accordance with Chapter 427.1, Code of Iowa, as amended, the Butler County Board of Supervisors may grant a tax exemption to other significant lands as designated upon the established priority list, as a mandate.

SECTION IX.
USE REGULATION FOR "A-1" AGRICULTURAL DISTRICT

Intent: The "A-1" Agricultural District is intended and designed to serve the agricultural community and protect agricultural land from encroachment of urban land uses. Furthermore, in accordance with Chapters 335 and 352, Code of Iowa, as amended, it is the intent to preserve the availability of agricultural land and to encourage efficient urban development patterns. This district is not intended to be used for non-farm residential subdivisions, unless in existence at the time of adoption of this Ordinance.

In the "A-1" Agricultural District, the following provisions, regulations, and restrictions shall apply:

A. Principal Permitted Uses

1. Agricultural and incidental agricultural related uses.
2. Feedlots and confinement facilities for livestock.
3. Specialized animal farms including but not limited to fowl, rabbits, mink, chinchilla, and bees.
4. Specialized horticultural operations including orchards, viticulture, truck gardens, Christmas tree farms, floriculture, wholesale nurseries, raising of tree fruits, nuts and berries, sod, and vegetable raising.
5. Stables (private) provided they are located at least fifty (50) feet from all boundary lines of the property on which located.
6. Forest, forest preserves and environmentally significant lands.
7. Hiking and horseback riding trails.
8. Public utility structures and equipment necessary for the operation thereof.
9. Parks, recreation areas, wildlife preserves, and game refuges owned by governmental agencies.
10. Structures or methods for the conservation of soil.
11. Single family dwellings situated or constructed upon a tract containing a minimum of 35 acres or on a 1.5 acre tract provided the average CSR for said tract is 70 or less. The principal permitted single family dwelling may include earth homes, shouses and manufactured homes.
12. Single family dwellings in existence on November 1, 1978.
13. Single-family dwellings provided they are constructed or reconstructed upon building sites, farmsteads, or lots of record that existed on November 1, 1978, and that contain a minimum of 1.5 acres. More than one (1) contiguous lots of record may be combined by deed restriction for purposes of meeting minimum yard area and setback requirements.
14. Any use erected or maintained by a public agency.
15. Churches or other places of worship, including parish houses and Sunday School buildings.
16. Schools, both public and private educational institutions, preschools, and day nursery or daycare.
17. Kennels, private, located at least fifty (50) feet from all boundary lines of the property on which located.

18. Private airport grass (non-pavement) landing strips and associated facilities, in conjunction with agriculture. This provision shall be authorized only after the recommendation of the County Planning and Zoning Commission and approval of the County Board of Supervisors.
19. Seed and feed dealerships provided, however, there is no evidence of showroom or other commercial activities.
20. Minor Significance Communications Towers per [Section VII \(X\)\(3\)\(a\)](#) above

B. Accessory Uses

1. Accessory buildings and uses customarily incidental to any of the above uses.
2. Roadside stands, offering for sale any agricultural products or other products produced on the premises.
3. Private nurseries & greenhouses.
4. Organizational signs including those for city, schools, and church directional or recognition signs.
5. Church bulletin boards
6. [Home occupations and Home industries per Section VII \(S\)&\(T\) above](#)
7. Excavation and Tiling Contractors.
8. Recreational, vacation and/or seasonal cabins
9. [Non-Commercial WECS](#)
10. [Micro WECS](#)
11. [Small Solar Energy Facilities](#)

C. Special Exceptions

In accordance with [Section XXII\(F\)](#) of this Ordinance, none of the following uses shall be established or reconstructed, structurally altered, enlarged or moved unless the Board of Adjustment approves the issuance of a Special Exception permit.

1. Animal shelters, including wildlife shelters.
2. A single-family dwelling, in addition to the principal farm dwelling, provided that the owner/occupant is actively engaged in the farming operation and is a member of the farm owner's immediate family. Immediate family member will be defined as father, mother, son, daughter, or grandparent. The secondary dwelling may include tiny homes, but shall not include tents, yurts, travel trailers or recreational vehicles.
3. Accessory Dwelling Unit for provision of medical care
 - a. A tiny home/house, mobile home, or living quarters in an accessory structure may be considered for Special Exception as an accessory dwelling unit if the following provisions apply:
 - (1) Occupant(s) provide some level of medical care to the occupant(s) of the Principal Dwelling OR Occupant(s) are provided some level of care by the occupant(s) of the Principal Dwelling.

- (2) The accessory dwelling unit shall include a kitchen (sink, food prep area, refrigerator) bathroom (sink, toilette, bathtub, or shower), living space, and connection to county approved sewage disposal system. The Special Exception shall be reviewed and renewed on an annual basis and is subject to the continued provision of medical care.
- (3) The Special Exception shall be reviewed and renewed on an annual basis and is subject to the continued provision of medical care.
- 4. Major Significance Communications Towers per [Section W](#) above
- 5. Agritourism uses & Seasonal Agriculture Events, including agricultural exhibitions, wineries and farmers markets.
- 6. Bed & Breakfast
- 7. Boarding House
- 8. Service Garage
- 9. Storage Garage
- 10. Kennel, Dog (Commercial)
- 11. Recreational/Vacation Rental Properties
- 12. Special Events
- 13. Meat Processing Plant, small scale
- 14. Commercial greenhouses & nurseries
- 15. Landscapers
- 16. Large and small stature animal (equine, bovine, porcine, ovine, caprine, canine, feline, avian) incinerators/crematoriums, for profit, w/200 ft setback from property lines. This special exception shall not be inclusive of rendering, tanning, or processes for the conversion of any animal tissue waste into stable, useable, or consumable materials. A special exception may also be subject further conditions, as determined by the Board of Adjustment.
- 17. [Seasonal Farm Worker Housing](#)

D. Height Regulations

Shall be those specified in [Section VII\(W\)](#).

E. Water and Sewer Systems

Subject to approval of the County Environmental Health Department.

F. Minimum Lot Area, Lot Frontage, and Yard Requirements for "A-1" Agricultural Districts

Shall be those specified in [Section VII\(W\)](#).

G. Parking and Sign Regulations

Shall be those specified in Sections [XVII](#) and [XIX](#), respectively.

SECTION X.
USE REGULATION FOR "A-2" LIMITED AGRICULTURAL DISTRICT

Intent: The "A-2" Agricultural District is intended to reinforce the intent of the "A-1" Agricultural District and in addition to provide for those activities which may be interrelated with agriculture.

In the "A-2" Agricultural District, the following provisions, regulations, and restrictions shall apply:

A. Principal Permitted Uses

1. Any use permitted in the "A-1" Agricultural District.
2. Stables, public and riding academies, clubs, and other structures for housing horses. Any such structure shall be located at least fifty (50) feet from all boundary lines of the property on which located.
3. Commercial Grain elevators with usual accessory structures.
4. Cemeteries, including mausoleums and crematories, provided that any mausoleum and crematory shall be distant at least two hundred (200) feet from adjacent property and street and highway lines.
6. Institutions of a religious, charitable, philanthropic or similar nature.
7. Veterinary clinics & hospitals but not nearer than six hundred and sixty (660) feet from any zoned residential district, incorporated boundary line or dwelling other than the lessee or owner of the site.
8. Meat Processing Plant, small scale.
8. Commercial greenhouses & nurseries
9. Landscapers
10. Animal shelters, including wildlife shelters
11. Private, recreational areas, including parks, playgrounds, golf courses and country clubs, boy scout, girl scout, service and church camps, hunting and fishing clubs, private gun clubs and skeet shooting ranges and similar uses. This provision shall not be construed to mean automobile racetracks, drag strips, go-cart tracks, and/or activity areas for motorcycles, mini bikes, and snowmobiles, miniature golf courses, drive-in theaters, and similar commercial uses.
12. Single-family dwellings.
13. Recreational/Vacation Rental Properties
14. Seasonal Cabins
15. Private and commercial campgrounds
16. Minor significance communications towers per [Section VII \(X\)](#) above
17. Dump

B. Accessory Uses

1. Accessory buildings and uses customarily incidental to any of the above uses.
2. Other accessory uses as allowed in "A-1" District.

C. Special Exceptions:

In accordance with Section [XXII\(F\)](#) of this Ordinance, none of the following uses shall be established or reconstructed, structurally altered, enlarged or moved unless the Board of Adjustment approves the issuance of a special exception permit.

1. Commercial extraction uses, to include the removal of sand, clay, shale, gravel, topsoil, or similar extractive operations, not including borrow pits being operated for state, county, or private projects where material is not being sold or removed from the property where it originates. The following stipulations apply to this use:

a. Plans Required:

- (1) Plan of general area (within a one (1) mile radius of site) shall be prepared at a scale of one thousand (1,000) feet to the inch or less, to show:
 - (a) Location of proposed site.
 - (b) Land use pattern including all building locations and historical sites.
 - (c) The width, weight loads, types of surfaces and traffic for major roads
 - (d) Surface drainage patterns.
 - (e) Groundwater movements and aquifer information, including aquifer recharge data.
 - (f) Climate, precipitation, and wind data, with directions and percentage of time.
- (2) Site plan requirements:
 - (a) Soil and geology, with soil borings on a five hundred (500) foot grid, for information on depth of materials.
 - (b) Vegetation cover on the site and dominant species.
 - (c) Interior road pattern, its relation to operation yard and points of ingress and egress to State and County Roads.
 - (d) Proposed tree and berm screen locations.
 - (e) Soil embankments for noise dusts, and visual barriers, and heights of spoil mounds.
- (3) Operation plan requirements
 - (a) Type of material to be removed.
 - (b) Annual removal rate, including estimated amount and description of aggregate and overburden to be removed.
 - (c) Method of extraction, including types of equipment, use of conveyors, use of blasting materials.
 - (d) Supplementary processes, drying, grading, mixing or manufacturing.
 - (e) Estimated life of the operation and maximum extent of area disturbed, final depths, and side wall slopes.

- (f) Compliance with the recommendations of the soil borings test.
 - (g) Approved sediment erosion plan.
 - (h) Types and weights of all vehicles leaving from and arriving to a site and their routes to State roads.
 - (i) Source of water, if final plan shows use of water.
 - (j) Method of disposition of excess water during operation.
 - (k) Location and typical schedule of blasting.
 - (l) On site machinery, type and noise levels.
 - (m) Safety measures and monitoring of complaints.
 - (n) Phasing plan for operations, such that no more than a ten (10) acre cell is open at any time.
 - (o) Surface runoff is to be restricted to pre-development levels, excluding any dewatering activities.
 - (p) Provide for adequate signage for public safety.
 - (q) All excavation structures, storage of excavated materials and topsoil, and the excavated edge shall be setback at least one hundred (100) feet from any Iowa Department of Natural Resources-regulated streams.
- (4) End use plan. An end use plan for the rehabilitation of the site after the extraction operation is completed shall be submitted and must be approved by the Board of Adjustment. Such plan shall show and provide for either a final end use or an open space use. If it is to be an open space use, documentation as to who shall own and maintain the site or restrictive easements must be presented as well as a final contour map and site plan submittal. If there is an end use other than open space, then engineering data on the length of time needed for the restoration work to settle sufficiently to provide a stable base for the proposed end use shall be submitted. In all cases, the proper legal documents must be presented that outline:
- (a) Post extraction use maintenance procedures;
 - (b) Legal responsibility for any environmental pollution that could occur after the facility and/or extraction use is closed; and
 - (c) Financial ability to clean-up any possible pollution that occurs after the facility and/or extraction use is closed.
 - (d) Plans for reclaiming areas as new phased cells are opened.

b. Performance Standards:

- (1) Operations. Extractive operations shall meet all development and performance standards of this Ordinance, as well as all applicable local, state, and federal regulation.
- (2) Setbacks. No excavation, quarry wall, or storage area shall be located within one hundred twenty-five (125) feet from any street right-of-way. The setbacks listed in this subsection are required from the periphery of the subject property line to any excavation, quarry wall, or storage area on the subject property. Setback distance is dependent upon the use of the adjacent property.

<u>Use of Abutting Property</u>	<u>Required Setback from Lot Line</u>
Vacant	200 Feet
Open Space	200 Feet
Recreational	200 Feet
Agricultural	150 Feet

Residential	400 Feet
Institutional	200 Feet
Commercial	150 Feet
Industrial	50 Feet

- (3) Grading. All excavation uses shall be graded in a such a way as to provide an area which is harmonious with the surrounding terrain and not dangerous to human or animal life.
- (a) Excavations shall be graded and backfilled to the grades indicated in the site plan. Grading and backfilling shall be accomplished continually and as soon as practicable after excavation. Grading and backfilling may be accomplished by use of construction rubble, such as concrete or other materials, providing such materials are composed of non-noxious, non-combustible solids.
 - (b) Grading and backfilling shall be accomplished in such a manner that the slope of the fill or its cover shall not exceed the normal angle of slippage of such materials, or thirty-three (33) degrees in angle, whichever is less. During grading and backfilling, the setback requirements in this section above may be reduced by one-half, so that the top of the graded slope shall be not be closer than twenty-five (25) feet to any lot line, seventy-five (75) feet to any street line, nor within one hundred (100) feet of any nature reserve or residential district boundary line.
 - (c) When excavations which provide for a body of water are part of the final use of the tract, the banks of the excavation shall be sloped to a minimum ratio of four (4) feet horizontal to one (1) foot vertical, beginning at least fifty (50) feet from the edge of the water and maintained in to the water to a depth of five (5) feet.
 - (d) Drainage shall be provided, either natural or artificial, so that disturbed areas shall not collect nor permit stagnant water to remain.
- (4) Access. Truck or rail access to any excavation site shall be so arranged as to minimize danger to traffic and nuisance to surrounding properties.
- (5) Planting. When planting is the final use to which the tract is returned, all that is not covered by water shall be covered with a sufficient amount of arable soil to support vegetation. A planting plan shall be prepared for the entire finished tract using various types of plant material that prevent soil erosion and provide vegetative cover. When buildings are proposed as part of the final use for an excavation tract, planting in areas adjacent to proposed buildings shall be completed with a vegetative cover in keeping with the requirements of the ultimate building purposes.

- 2. Temporary or Permanent Redi-Mix Plant
- 3. Agritourism uses & Seasonal Agriculture Events, including agricultural exhibitions, wineries and farmers markets.
- 4. Bed & Breakfast
- 5. Boarding House

6. Service Garage
7. Storage Garage
8. Large animal incinerators/crematoriums for profit w/200 ft setback from property lines
9. Recreational & vacation rental properties
10. Special Events
11. Kennel, Dog (Commercial)
12. [Seasonal Farm Workers Housing](#)
13. Accessory Dwelling Unit for Provision of Medical Care
 - a. A tiny home/house, mobile home, or living quarters in an accessory structure may be considered for Special Exception as an accessory dwelling unit if the following provisions apply:
 - (1) Occupant(s) provide some level of medical care to the occupant(s) of the Principal Dwelling OR Occupant(s) are provided some level of care by the occupant(s) of the Principal Dwelling.
 - (2) The accessory dwelling unit shall include a kitchen (sink, food prep area, refrigerator) bathroom (sink, toilette, bathtub or shower), living space, and connection to county approved sewage disposal system.
 - (3) The Special Exception shall be reviewed and renewed on an annual basis and is subject to the continued provision of medical care.
14. Major significance communications towers per [Section W](#) above
15. [Commercial Solar Installations](#)
16. [Commercial WECS](#)

- D. [Height Regulations](#)
Shall be those specified in [Section VII\(W\)](#).
- E. [Water and Sewer Systems](#)
Subject to approval of the County Environmental Health Department.
- F. [Minimum Lot Area, Lot Frontage, and Yard Requirements for "A-2" Limited Agricultural District](#)
Shall be those specified in [Section VII\(W\)](#).
- G. [Parking and Sign Regulations](#)
Shall be those specified in Sections [XVII](#) and [XIX](#), respectively.

SECTION XI.
USE REGULATION FOR "R-1" LOW DENSITY RESIDENTIAL DISTRICT

Intent: The "R-1" Residential District is intended and designed to provide for single-family and two-family dwellings in conjunction with agriculture at a low density, where on-site facilities must be utilized. It is further the intent of this district to be applied to land in predominantly agricultural areas for rural residential use, in accordance with the policies of the Butler County Comprehensive Plan.

In the "R-1" Single Family Residence District, the following provisions, criteria regulations, and restrictions shall apply:

A. Principal Permitted Uses

1. Single-family and two-family dwellings.
2. Public utility structures and equipment necessary for the operation thereof.
3. Churches and pastors' residences.
4. Parks, playgrounds, pools, and golf courses.
5. Minor significance communication towers per [Section VII \(X\)](#) above
6. Adult day care

B. Accessory Uses

1. Accessory buildings and uses customarily incidental to any of the above uses.
2. Roadside stands, offering for sale any agricultural products or other products produced on the premises.
3. [Home occupations](#) and [home industries](#).

C. Special Exceptions

In accordance with Section [XXII\(F\)](#) of this Ordinance, none of the following uses shall be established or reconstructed, structurally altered, enlarged or moved unless the Board of Adjustment approves the issuance of a special exception permit.

1. Recreational/Vacation Rental Properties
2. Schools, both public and private educational institutions, preschools, and day nursery or daycare
3. Hospitals
4. Clinics
5. Pharmacies
6. Funeral homes & mortuaries

7. Long term care facility
 8. Group homes
 9. Mobile home parks per [Section XVIII](#)
 10. [Non-Commercial WECS](#)
 11. [Micro WECS](#)
- D. Height Regulations
Shall be those specified in [Section VII\(W\)](#).
- E. Water and Sewer Systems
Subject to approval of County Environmental Health Department.
- F. Minimum Lot Area, Lot Frontage, and Yard Requirements for "R-1" Low Density Residence District
Shall be those specified in [Section VII\(W\)](#).
- G. Parking and Sign Regulations
Shall be those specified in Sections [XVII](#) and [XIX](#), respectively.

SECTION XII.
USE REGULATION FOR "R-2" SUBURBAN RESIDENCE DISTRICT

Intent: The "R-2" Suburban Residence District is intended and designed to provide for the development of both low and moderate density single-family dwelling subdivisions in the unincorporated areas of the county by encouraging the maximum use of existing subdivisions, and as an orderly expansion of existing residential development, where common water and common sewer may be available or may be extended at the time of development.

In the "R-2" Suburban Residence District, the following provisions, regulations, and restrictions shall apply:

A. Principal Permitted Uses

1. Any use permitted in the "R-1" Residential District
2. Multiple family dwellings.
3. Row Dwellings and Condominiums.
4. Schools, both public and private educational institutions, preschools and day nursery or daycares.
5. Churches or other places of worship, including parish dwelling and accessory buildings.
6. Institutions of a religious, educational, or philanthropic nature, including libraries.
7. Public or private community parks and playgrounds, but not to include commercial recreation.
8. Public utility structures and equipment necessary for the operation thereof.
9. Clinics
10. Group home
11. Long term care facilities.
12. Minor significance communications towers per Section VII (X) above

B. Accessory Uses

1. Accessory buildings and uses customarily incidental to any of the above uses.
2. Church bulletin boards.
3. Church directional and community recognition signs
4. Home Occupations
5. Home industries.

C. Special Exceptions

In accordance with [Section XXII\(F\)](#) of this Ordinance, none of the following uses shall be established or reconstructed, structurally altered, enlarged or moved unless the Board of Adjustment approves the issuance of a special exception permit.

1. Hospitals
2. Pharmacies
3. Funeral homes and mortuaries.
4. Mobile home parks per [Section XVIII](#)
5. [Non-Commercial WECS](#)
6. [Micro WECS](#)
7. Recreational/Vacation Rental Properties

D. Height Regulations

Shall Be those specified in [Section VII\(W\)](#).

E. Water and Sewer Systems

May require both a common water and common sewage treatment system, subject to approval by the County Environmental Health Department.

F. Minimum Lot Area, Lot Frontage and Yard Requirements for "R-2" Suburban Residence District

Shall be those specified in Section [VII\(W\)](#).

G. Parking and Sign Regulations

Shall be those specified in Sections [XVII](#) and [XIX](#), respectively.

SECTION XIII.
USE REGULATION FOR "C" COMMERCIAL DISTRICT

Intent: The "C" Commercial District is intended and designed to provide for commercial and normal business uses with interior storage required to serve the general needs of the residents of the rural areas of the county.

In the "C" Commercial District, the following provisions, regulations, and restrictions shall apply:

A. Principal Permitted Uses

Any retail, service, or recreation establishment such as the following:

1. Antique shop
2. Apparel shop
3. Appliance store, sales and service
4. Art supply shop and galleries
5. Automobile accessory and new parts store
6. Bait shops
7. Bakery
8. Banks and other financial institutions
9. Barber shop
10. Beauty parlor
11. Bicycle sales and repair shop
12. Book store
13. Business and computer machine retail store
14. Camera shop
15. Candy retail shop
16. Car wash
17. Carpenter shop
18. Clothing repair, seamstress
19. Commercial indoor recreation facilities including bowling alleys, billiard and pool halls, theater (indoor), skating rinks, ballrooms and dance studios, game arcades, tennis courts, swimming pools, handball courts, archery, and gymnasiums
20. Commercial parking lots
21. Contractors' equipment, interior storage
22. [Filling Stations & Convenience Stores](#)
23. Delicatessen
24. Drapery shop
25. Department store
26. Drive-in eating establishment
27. Drug store
28. Electrical supply store
29. Fish markets
30. Florist and retail nursery shop
31. Food storage
32. Fruit and vegetable market
33. Furniture store
34. Furniture upholstery shop
35. Gift shops
36. Grocery stores
37. Hardware store
38. Hobby or craft store
39. Household appliance sales and repair
40. Jewelry and watch repair shops
41. Landscaping supply shop

42. Lawnmower repair shop
43. Laundromat
44. Locksmith
45. Manufacture or treatment of products clearly incidental to the conduct of a retail business conducted on the premises
46. Mini storage & self-storage rental units.
47. Music store and studios
48. Monument Sales Yard
49. Paint, carpet, and wallpaper store
50. Pet shops
51. Pharmacies
52. Photographic studio, printing and developing establishments
53. Plumbing, heating, or electrical contractor shops
54. Post office substation
55. Radio and television sales, service, and stations
56. Restaurant, cafe, and soda fountain
57. [Service Garage](#)
58. Storage Garage
59. Shoe repair shops
60. Single-family dwellings are permitted when physically a part of a retail, office, recreation or service establishment.
61. Sporting goods store
62. Tack shop
63. Tailor shop
64. Taverns, bars, lounges, and night clubs, provided that principal building is located at least one hundred (100) feet from any "R" Residential District
65. Toy store
66. Minor significance communications towers per [Section VII \(X\)](#) above
67. Travel bureau or agency
68. Variety store
69. Any similar commercial use deemed appropriate after review and approval of the Planning and Zoning Commission, per Section [XXII\(L\)](#) of this Ordinance.

B. Additional Principal Permitted Uses Associated with Business or Professional Offices:

1. Accountants
2. Architects
3. Artists
4. Church offices
5. Engineers
6. Collection agency
7. Credit bureau
8. Doctor, dental, chiropractic, psychological, psychiatric, or medical offices
9. Entertainment bureau
10. Insurance
11. Lawyers
12. Public stenographers
13. Real estate agencies
14. Any similar business or professional office use deemed appropriate after review and approval of the Planning and Zoning Commission, per Section [XXII\(L\)](#) of this Ordinance.

C. Accessory Uses

1. Accessory buildings and uses customarily incidental to any of the above uses.
2. Interior storage of merchandise incidental to the principal use.
3. [Home occupations](#) and [home industries](#)

D. Special Exceptions

In accordance with [Section XXII\(F\)](#) of this Ordinance, none of the following uses shall be established or reconstructed, structurally altered, enlarged or moved unless the Board of Adjustment approves the issuance of a special exception permit.

1. Major significance communications towers per [Section VII \(X\)](#) above

E. Height Regulations

Shall be those specified in [Section VII\(W\)](#).

F. Water and Sewer Systems

Subject to approval of the County Environmental Health Department.

G. Minimum Lot Area, Lot Frontage and Yard Requirements for "C" Commercial District

Shall be those specified in [Section VII\(W\)](#).

H. Parking and Sign Regulations

Shall be those specified in Sections [XVII](#) and [XIX](#), respectively.

SECTION XIV.
USE REGULATION FOR "C-M" COMMERCIAL-MANUFACTURING DISTRICT

Intent: The “C-M” Commercial-Manufacturing District is a mixed-use district intended and designed to provide for commercial and normal business uses with limited light, non-intrusive, industrial uses allowed only as special exceptions. It is possible for one or more uses to be developed on site or parcel.

In the "C-M" Commercial-Manufacturing District, the following provisions, regulations, and restrictions still apply.

A. Principal Permitted Uses

1. Any use permitted in the “C” Commercial District set out in Section XIII hereof.
2. Hotels and motels, including bed & breakfast, boarding houses.
3. Institutes of a religious, educational or philanthropic nature, including libraries or museums.
4. Hospitals, day nurseries or care facilities, long term care facilities, and medical clinics.
5. Lodges, convention or conference centers, meeting halls and similar uses.
6. Public utility structures and equipment necessary for operation thereof.
7. Public and private community parks, playgrounds and golf courses.
8. Dairy retail stores including ice cream and frozen yogurt shops.
9. Commercial outdoor recreational facilities including automobile race track, drag strip, go cart track and/or activity areas for motorcycles, mini bikes, and snowmobiles, miniature golf courses and driving ranges, water slides, commercial camp grounds and similar outdoor recreation facilities.
10. Shopping or outlet malls.
11. Welding Shops
12. Car Dealerships
13. Any similar commercial-manufacturing use deemed appropriate after review and approval of the Planning and Zoning Commission, per Section [XXII\(L\)](#) of this ordinance.
14. Minor significance communications towers per [Section VII \(X\)](#) above

B. Accessory Uses

1. Accessory buildings and uses customarily incidental to any of the above uses.
2. Interior storage of merchandise incidental to the principal use.

C. Special Exceptions

In accordance with [Section XXII\(F\)](#) of this Ordinance none of the following uses shall be established or reconstructed, structurally altered, enlarged or moved unless the Board of Adjustment approves the issuance of a special exception permit.

1. Clothes dry cleaning and/or dyeing establishment.
2. Sales auction (automotive, livestock or furniture and/or appliances).
3. Public airport.
4. Automotive repair
5. Any similar commercial/manufacturing use deemed appropriate after review and approval of the County, per [Section XXII\(L\)](#) of this ordinance.
6. Major significance communication towers per [Section VII \(X\)](#) above

D. Height Regulations

1. Shall be those specified in [Section VII\(W\)](#), excluding towers and wireless communication towers.

E. Water and Sewer Systems

Subject to approval of County Environmental Health Department.

F. Minimum Lot Area, Lot Frontage, and Yard Requirements for "C-M" Commercial-Manufacturing District

Shall be those specified in [Section VII\(W\)](#).

G. Parking and Sign Regulations

Shall be those specified in Sections [XVII](#) and [XIX](#), respectively.

SECTION XV.
USE REGULATION FOR "M" MANUFACTURING DISTRICT

Intent: The "M" Manufacturing District is intended and designed to provide for uses, with exterior storage or industrial character, which due to their size and nature would not be compatible with general rural development patterns of Butler County. The district is further intended to permit the normal operation of all industries, subject to prescribed regulation needed to control congestion and to protect non-industrial uses.

In the "M" Manufacturing District, the following provisions, regulations, and restrictions shall apply:

A. Principal Permitted Uses

1. Agricultural retail/service outlets, including seed manufacturing and storage.
2. Automobile, motorcycle, trailer and farm implement establishments for display, hire and sales (including sales lots), including as incidental to these major uses all repair work in connection with their own and customers' vehicles. In addition, this paragraph shall not be construed to include automobile, tractor, or machinery wrecking and rebuilding and used parts yards.
3. Automobile, truck, recreation vehicle, and farm equipment manufacture and assembly.
4. Automotive repair; [service garage; filling station & convenient store](#)
5. Creamery, bottling, ice manufacturing and cold storage plant.
6. Dairy retail store.
7. Distribution, storage, or manufacture of food products.
8. Lumber yards, building material sales yard, retail, sheet metal shop, sign construct and painting shop, or incidental storage warehouse or business, but not including any manufacturing or fabricating for wholesaling operations.
9. Exterminator sales.
10. Commercial outdoor recreation facilities including automobile race tracks, drag strips, go-cart tracks, and/or activity areas for motorcycles, mini-bikes and snowmobiles, miniature golf courses and driving ranges, drive-in theaters, water slides, and similar outdoor recreation facilities.
11. Crematories and incinerators provided that any crematory and incinerator shall be distant at least two hundred (200) feet from adjacent property and street and highway lines.
12. Hatcheries.
13. Commercial laundries.
14. Machine shop.
15. Monument production.
16. Wholesale warehouses.

17. Any similar manufacturing or industrial use deemed appropriate after review and approval of the Planning and Zoning Commission, per [Section XXII\(L\)](#) of this Ordinance.
18. Minor significance communications towers per [Section VII \(X\)](#) above.

B. Accessory Uses

1. Accessory buildings and uses customarily incidental to any of the above uses.

C. Special Exceptions

In accordance with Section [XXII\(F\)](#) of this Ordinance, none of the following uses shall be established or reconstructed, structurally altered, enlarged or moved unless the Board of Adjustment approves the issuance of a special exception permit.

1. Clothes dry cleaning and/or dyeing establishments using flammable cleaning fluids with a flash point higher than one hundred degrees (100°) Fahrenheit
2. Milk distributing station other than a retail business conducted on the premises.
3. Sales auction (automotive, livestock, or furniture and/or appliances).
4. Tire shop, including vulcanizing and re-treading.
5. Public airport.
6. Asphalt plants.
7. Coal, coke, wood, and other raw material storage yards.
8. Commercial extraction uses, to include the removal of sand, clay, shale, gravel, topsoil, or similar extractive operations, not including borrow pits being operated for state, county, or private projects where material is not being sold or removed from the property where it originates. This use must follow the provisions defined in [Section X\(C\)\(1\)](#) of this Ordinance.
9. Concrete mixing and concrete plants, products and manufacturing.
10. Rental of equipment commonly used by contractors.
11. Blacksmith or cooperage works.
12. Enameling, lacquering, or japanning.
13. Bulk Stations. Bulk storage and pumping of agricultural chemicals and fertilizers.
14. Foundry casting lightweight metals to include smelting of tin, copper, zinc, or iron ores.
15. Hide tanning.
16. Junk, salvage, auto salvage, or scrap metal yards. Junk, metal or rags, storage or baling, where the premises upon which such activities are conducted are wholly enclosed within a building, wall or solid fence, not less than six (6) feet in height, completely obscuring the activity from any residential district

or public road. No part of the front yard is to be used for the conduct of business in any manner, except for parking of customer or employee vehicles.

17. Laboratories, experimental, or testing.
18. Meat Processing Plant, large scale, and Locker for retail sales only.
19. Manufacture, storage, refining, extraction, and pumping of chemicals, fertilizers, or petroleum products.
20. Manufacture of cosmetics and pharmaceutical products.
21. Manufacture or assembly of electrical appliances, devices and motors.
22. Manufacture of insulation.
23. Manufacture of pottery or other similar ceramic products, using only previously pulverized clay.
24. Printing and/or publishing houses.
25. Rendering facilities, or its products, refining and wholesale storage.
26. Signs, manufacture and repair of electric, metallic, billboard sized signs.
27. Slaughterhouses, meat packing and processing plants, tanneries.
28. Sawmills and planing mills, including manufacture of wood products.
29. Cement, lime, gypsum, or plaster of Paris manufacture.
30. Explosive manufacture or storage, including fireworks manufacturing and sales.
31. Ammunition & Firearm Manufacturing in compliance with all applicable state and federal regulations.
32. Railroad Yards.
33. Grain Processing Plants.
34. Animal Mineral Processing.
35. Manufacture of Building Supply Materials.
36. Transload facilities.
37. Automobile, rail, tractor, or machinery wrecking and rebuilding & used parts yards.
38. Livestock truck washes.
39. Any similar manufacturing or industrial use deemed appropriate after review and approval of the County Planning and Zoning Commission, per [Section XXII \(L\)](#) of this Ordinance.
40. Major Significance Communications Towers per [Section VII \(X\)](#) above.

D. Height Regulations

Shall be those specified in [Section VII\(W\)](#).

E. Water and Sewer Systems

Subject to the approval of the County Environmental Health Department.

F. Minimum Lot Area, Lot Frontage and Yard Requirements for "M" Manufacturing District

Shall be those specified in [Section VII\(W\)](#).

G. Parking and Sign Regulations

Shall be those specified in Sections [XVII](#) and [XIX](#), respectively.

H. Industrial Buffers

The use of buffers is considered a necessary requirement to allow for the transition from manufacturing zoning districts and land uses to non-manufacturing zoning districts and land uses. The following provisions apply to buffers for manufacturing uses and structures.

1. When required. A buffer shall be provided when manufacturing land uses are located within one-thousand-three-hundred-twenty (1,320) ft of a dwelling unit.
2. Buffer width. The buffer shall be a minimum of fifty (50) feet wide. The buffer width may be reduced up to ten (10) percent through an administrative exception approved by the zoning administrator. An administrative exception may be granted when, because of an exceptional situation, topographical condition, surroundings, size, shape or other condition of the property, the strict application of the buffer width provision would result in peculiar and exceptional practical difficulties or particular hardship upon the owner of such property. In addition, lot frontage on a public street shall be separated from the edge of right-of-way by a landscaped yard at least twenty (20) feet in width, except where driveway accesses occur.
3. Buffer composition and landscaping. All buffer areas shall be landscaped or fenced so as to provide a complete visual screen, and shall not include any structures other than allowed fencing, parking areas, storage areas, playgrounds, or other similar facilities.
 - a. Fencing. Fencing may be used to meet the buffer requirement but shall not exceed 50 percent of the total buffer distance required.
 - b. Landscaping. Landscaping shall use native plant and tree species. A combination of plant and tree species shall be used to create a vegetative overstory and understory. Tree species shall have a minimum mature height of twenty-five (25) feet, and shall have a height of at least six (6) feet within three (3) years of installation.
 - c. Screening. Visual screening shall be measured under leaf-on conditions and shall be measured from the elevation of the shared property line.
 - d. Stormwater management. Buffer areas may include drainage swales, stormwater retention or infiltration areas, or other stormwater management areas only if landscaping and visual screening requirements can also be met.

- e. Berms. Berms may only be used if native plant and tree landscaping requirements can also be met. Berms must be vegetated to minimize erosion and to slow stormwater runoff.
4. Maintenance. All buffer areas shall be kept free of litter, debris, noxious weeds, and species of plants identified by the state DNR as exotic or invasive. Landscaping vegetation in buffer areas shall meet the screening requirements on a continual basis for as long as the manufacturing use and structure continues.

SECTION XVI.

NONCONFORMING USES

A. General Intent

Within the districts established by the November 1, 1978, Ordinance, or amendments that may have been or be adopted, there exists lots, structures, buildings, and uses of land that were lawful on November 1, 1978, but which would be prohibited, regulated or restricted under the terms of that Ordinance or future amendments.

1. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed or abandoned, but not to encourage their survival. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
2. 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 construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which substantial improvements have been made.
3. Any use in existence at the time of adoption of this Ordinance which was not an authorized "nonconforming use" under the previous zoning Ordinance shall not be authorized to continue as a nonconforming use pursuant to this Ordinance, or amendments thereto.

B. Nonconforming Use of Land

The lawful use of land upon which no building or structure is erected or constructed which becomes nonconforming under the terms of this Ordinance as adopted or amended may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming use shall be enlarged, increased or extended to occupy a greater area of the parcel, or land, in question than was occupied at the effective date of adoption or amendment of this Ordinance.
2. If any such nonconforming use of land ceases for a period of more than one (1) year, any subsequent use of such land shall conform to the district regulations for the district in which such land is located, unless an extension is granted by the Commission.
3. No such nonconforming use shall be moved in whole, or in part, to any other portion of the lot or parcel which was not occupied by such use at the effective date of adoption or amendment of the Ordinance.

C. Nonconforming Use of Structures

If a lawful use of a structure, or of a structure and land 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 use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted entirely or in part to a use not permitted by this Ordinance in the district in which it is located, shall be enlarged, extended, reconstructed, or structurally altered, unless the use is changed to a use permitted in the district in which such structure is located.

2. Any nonconforming use of a structure 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. No such use shall be extended to occupy any land outside such building.
3. If no structural alterations are made, a nonconforming use of a structure may be changed to another nonconforming use of a similar nature within the same or a more restricted classification.
4. When a nonconforming use of a structure, building or premises (including mobile homes) is discontinued or abandoned for one (1) year, the structure shall not thereafter be used except in conformance with the regulations of the district in which it is located, unless an extension is granted by the Commission.

D. Nonconforming Structures

Where a nonconforming structure exists at the effective date of adoption or amendment of this Ordinance, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

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

E. Nonconforming Lots of Record

In any district in which a single-family dwelling is permitted, notwithstanding limitations imposed by other provisions of this Ordinance a single-family dwelling and customary accessory buildings may be erected on a lot of record, herein defined, provided the yard area and setback requirements are met. 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.

F. Repairs and Maintenance

All nonconforming structures may be repaired for normal maintenance. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition any building declared to be unsafe by any official charged with protecting the public safety, upon order of such official. Said maintenance or restoring shall not be valued at sixty (60) percent or more of the structure's value prior to construction.

G. Certification of Nonconforming Uses

All nonconforming uses and structures shall be recorded and identified in the official nonconforming use file maintained by the Zoning Administrator. The file shall include, but not limited to, the property location and identification and the current use of the structure or land. Nonconforming uses not included may be subsequently added to the file when accompanied by an affidavit of proof that such nonconforming use was legally established prior to the effective date of this Ordinance.

H. Moratorium on Applied Regulations

All principal permitted and accessory uses which would be deemed nonconforming under the provisions of this Ordinance, but would have been permitted under the previous zoning district, as indicated upon the Official Butler County Zoning Maps, as amended, shall be permitted to be developed for a period of one (1) year from the adoption date of this Ordinance. This provision shall not be construed to allow a lessening of standards, rules, regulations or restrictions contained herein.

SECTION XVII.
PROVISIONS FOR AUTOMOBILE PARKING

- A. In the "C" Commercial, "C-M" Commercial-Manufacturing and "M" Manufacturing Districts in connection with every industrial, commercial, business, trade, institutional, recreational, or similar uses, off-street space for parking and storage of vehicles shall be provided. No parking area required hereunder shall be less than one thousand (1,000) square feet in area except in the case of dwellings and retail stores and shops under one thousand (1,000) square feet. A parking space shall contain not less than one hundred eighty (180) square feet plus necessary maneuvering for the parking of a motor vehicle. Space for maneuvering, incidental to parking or unloading, shall not encroach upon any public right-of-way. Parking spaces for other than residential use shall be of a surface material approved by the County Engineer.
- B. Where a parking lot does not abut on a public or private street, road, alley, or easement of access, there shall be provided an access drive not less than ten (10) feet in width in case of a dwelling, and not less than twenty (20) feet in width in all other cases leading to the loading or unloading spaces and parking or storage areas required hereunder in such manner as to secure the most appropriate development of the property in question; provided however, such easement of access or access drive shall not be located in any agricultural or residential district, except where serving a permitted use in an agricultural or residential district.
- C. Every parcel of land hereafter used as a public or private parking area, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements:
1. No part of any parking space shall be closer than five (5) feet to any established highway, road, street, or alley right-of-way line. In case the parking lot adjoins an "R" District, it shall be set back at least five (5) feet from the "R" District boundary and shall be effectively screen planted.
 2. All required off-street parking areas, including any commercial parking lot, for more than five (5) vehicles shall be so graded and drained as to dispose of all surface water accumulation within the area and shall be so arranged and/or marked as to provide for orderly and safe loading and unloading and parking and storage of self-propelled vehicles.
 3. Any lighting used to illuminate any off-street parking area including any commercial parking lot shall be so arranged as to reflect the light away from adjoining premises in any "R" District.
- D. In any "R" Residence District abutting a "C" Commercial, "C-M" Commercial-Manufacturing District, or "M" Manufacturing District off-street parking lots shall be permitted in accordance with the following requirements:
1. Said off-street parking lot shall not extend further than two hundred (200) feet into an "R" Residence District or to the nearest street, whichever is closer.
 2. Off-street parking lots located in an "R" Residence District shall provide front and side yards in accordance with the district in which it is located. Provided further that front or side yards shall be used for fences, walks or landscaping only, with no vehicular parking in said yard area. Provided further that where a contiguous development of lots is used for parking purposes, no side yard shall be required for abutting parking lots having a common side lot line.
 3. Off-street parking lot in any "R" Residence District shall provide a permanent fence of shrubbery screen on all side yards of the abutting "R" Residence District. Such screen to be located in the provided side yard.

4. Off-street parking lots on any "R" Residence District shall be developed with an all weather, dust free surface. Such surfacing shall be approved by the County Engineer. Provided further that such parking lots shall be maintained in an orderly manner free from refuse or debris.
5. All lighting for said off-street parking lots shall be such that no light is directed or reflected on adjacent residential properties

SECTION XVIII.
REQUIREMENTS FOR LOCATION OF MOBILE HOMES
AND MOBILE HOME PARKS

- A. Mobile homes to be used for dwelling purposes shall be placed only in mobile home parks except as may be herewith set forth. A mobile home park may be established in only designated districts provided a permit is secured as set forth herein.
- B. Permit: It shall be unlawful for any person to maintain or operate a mobile home park within the unincorporated areas of Butler County unless such person shall have first obtained a special exception therefore as set forth in the Ordinance.
- C. Application for Permit: Any person desiring to operate a mobile home park shall first file application for approval of site location with the County Zoning Commission. Applications shall be in writing, signed by the applicant, and shall contain the name and address of the applicant, the location and legal description of the site, and a site plan, and shall have attached thereto the written consent of seventy-five (75) percent of the property owners within two hundred (200) feet of any part of the premises to be occupied for such use, exclusive of any public street or highway right-of-way.
- D. After consideration of the application, the County Board of Adjustment shall then grant or deny the application.
- E. After approval of the site has been obtained and before issuance of a permit for construction, the applicant must file with the Zoning Administrator proof of compliance with all requirements of the Department of Health of the State of Iowa.

Required as proof of such compliances shall include the following:

- 1. An approved set of plans showing lot and street layout.
- 2. Sewage and disposal systems.
- 3. Water supply and distribution system.
- 4. Electrical distribution and lighting.
- 5. Method of tie down.
- 6. Storm Shelter
- 7. Title/Registration – we want to allow only mobile homes manufactured by a newer date to prevent old, run-down trailers from being brought in

When such approved plans have been submitted, the Zoning Administrator shall then issue a permit for the construction of such facilities on the approved site.

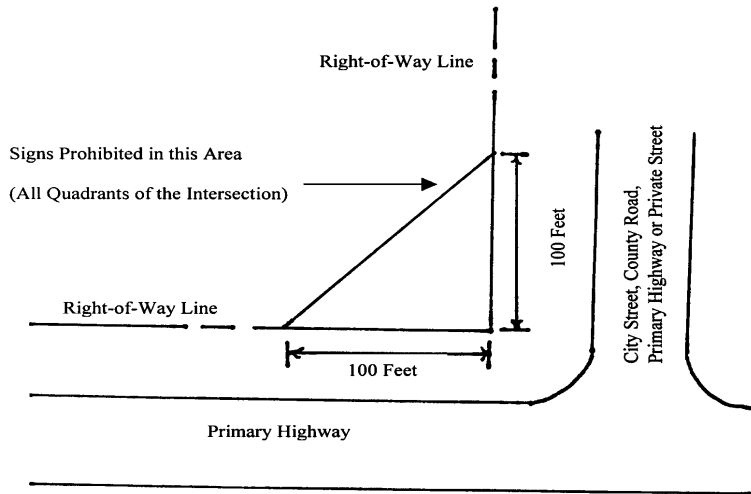
F. Mobile Homes Located Other than in Mobile Home Parks

1. A mobile home may be placed on a farm as the principal dwelling unit. Also, one (1) mobile home may be placed on a farm in addition to an existing permanent dwelling, provided the occupant of said mobile home is a member of the immediate family of the property owner and actively engaged in the conduct of agricultural operation of said farm. The preceding provision is not to be construed to permit two (2) mobile homes on one farm.
2. A mobile home may be used as temporary living quarters during construction of a principal dwelling upon obtaining a permit from the Zoning Administrator.
3. A mobile home may be used as a temporary office upon obtaining a permit from the Zoning Administrator. Said permit shall be authorized for a period not exceeding one hundred eighty (180) days.
4. Nothing in this Ordinance shall be construed as permitting a mobile home to be used for commercial, storage, or other uses except for human habitation.

SECTION XIX.
OUTDOOR ADVERTISING SIGNS AND BILLBOARDS

- A. Outdoor advertising, signs, and billboards shall comply with all State and Federal regulations.
- B. No outdoor advertising, sign, or billboard shall be permitted within a triangular part of a lot, with intersecting rights-of-way with a primary highway, as shown in figure below.

Figure 6: Sight Distance at Intersections



- C. On parcels abutting "R" Residential Districts:
 - 1. No outdoor advertising, sign, or billboard shall face the front or side lot line of said residential lot.
 - 2. No outdoor advertising, sign, or billboard shall be located within one hundred (100) feet of said residential lot.
- D. No outdoor advertising, sign, or billboard which faces any public parkway, public square or entrance to any public park, public or parochial school, church or cemetery or similar institution shall be permitted within three hundred (300) feet thereof.
- E. Commercial, Commercial-Manufacturing and Manufacturing Districts
 - 1. In the "C" Commercial, "C-M" Commercial-Manufacturing, and "M" Manufacturing Districts, where permitted, billboards shall be set back from any proposed or existing right-of-way line of any county road, street or highway as shown on the official adopted street plan, at least as far as the required front yard depth for a principal building in such districts. This is not to include business identification, directional, and other incidental signs otherwise permitted under the provisions of this Ordinance.
 - 2. Outdoor advertising, signs and billboards in accordance with the following considerations:
 - a. That no sign shall be permitted where the majority of buildings in a block or section are exclusively residences on both sides of the street.

3. Any exterior sign shall pertain only to a use conducted within the building and be integral or attached thereto.
4. One "post sign;" provided, however, that said "post sign" shall not have a surface area greater than thirty-two (32) square feet on any one side thereof and not more than two (2) sides of said "post sign" shall be used for advertising purposes. The term "post sign" as herein defined shall not be deemed to include any sign advertising the trade name, merchandise or service of any person, firm or corporation who pays a consideration for the privilege of placing, maintaining, or using any portion of said sign to the owner or occupant of the premises upon which said sign is erected or placed. Said "post sign" shall not extend over street right-of-way lines nor otherwise obstruct or impair the safety of pedestrians or motorists.
5. Any exterior or roof sign, provided such sign shall not project more than fifteen (15) feet above the roof line.

F. Home Occupation and Home Industry Sign Standards

1. Shall be those specified in Sections VII(S)(7) and VIII(T)(7), respectively

G. Removal of Non-conforming or Abandoned Signs

1. A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business, which the sign advertises, is no longer conducted, either on the premises or at another location, OR the sign and/or its structural members are in a state of disrepair as determined by the Zoning Administrator. If the owner or lessee fails to remove the sign, the Zoning Administrator shall give the owner 30-days written notice to remove it. Noncompliance with this provision shall constitute a civil infraction and is subject to the provisions in Section XXV of this ordinance.

SECTION XX.
EXCEPTIONS AND VARIATIONS OF THE USE, HEIGHT,
AND AREA REGULATIONS

The district regulations as set forth in this section shall qualify or supplement, as the case may be, the district regulations appearing elsewhere in this Ordinance.

- A. Public, semi-public or public service buildings, hospitals, institutions, or schools, when permitted in a district, may be erected to height not exceeding sixty (60) feet and churches and temples may be erected to a height not exceeding seventy-five (75) feet if the building is set back from side and rear yard lines heretofore established an additional foot for each two (2) feet of building height above the height limit otherwise imposed in the district in which the building is located.
- B. Single-family and two-family dwellings may be increased in height by not more than ten (10) feet when the side and rear yards are increased over the yard requirements of the district in which they are located by not less than ten (10) feet, but they shall not exceed three (3) stories in height.
- C. Chimneys, cooling towers, grain silos, elevators, bulkheads, fire towers, monuments, wind generators, stacks, stage towers, or scenery lofts, tanks, water towers, ornamental towers and spires, church steeples, radio towers or necessary mechanical apparatus, may be erected to any safe height not in conflict with existing or hereafter adopted regulations of Butler County, Iowa.
- D. Accessory buildings may be built in a required rear yard, but shall not occupy more than thirty (30) percent of the rear yard.
- E. No basement shall be occupied for dwelling purposes unless at least one (1) story of the house above the basement has been completed. This variation is not to be construed to prohibit earth-sheltered subterranean dwellings.
- F. Every part of a required yard shall be open to the sky, unobstructed except for accessory buildings in the rear yard and except for the ordinary projections of sills, belt course, cornices, and ornamental features projecting not to exceed twelve (12) inches.
- G. For the purpose of side yard requirements, a two-family group house or multiple dwelling shall be considered as one building occupying one lot.
- H. Buildings that are to be used for storage purposes only may exceed the maximum number of stories permitted in the district in which they are located but such buildings shall not exceed the number of feet of building height permitted in such districts.
- I. Temporary buildings that are used in conjunction with construction work only may be permitted in any district during the period the work is under way, but such temporary buildings shall be removed upon the completion of the construction work as determined by the Administrative Officer.
- J. More than one (1) industrial, commercial, multiple dwelling or institutional building may be erected upon a single lot or tract in a district permitting these uses, but the yards and open spaces required around the boundaries of the lot or tract shall not be encroached upon by any such buildings nor shall there be any change in the intensity of use regulations.

- K. A vacation or recreational cabin may be located in the floodplain along any river or stream in Butler County, provided that the yards and building height comply with the regulations for the "A-1" or "A-2" Agricultural Districts as well as attainment of all applicable DNR Floodplain Permits.
- L. Where more than thirty (30) percent of the frontage in a block has been built up with buildings having a front yard, then the building line of the buildings to be erected shall conform to the natural building line of the block as determined by the existing buildings. However, no building need set back more than fifty (50) feet.
- M. The Board of Adjustment shall review, may modify, and may, by special exception, issue a permit for the following uses, subject to the provisions of [Section XXII\(F\)](#) of this Ordinance. Said use may be located in any zoning district but otherwise restricted by other provisions of this Ordinance:
1. Municipal, county, state or federal government buildings.
 2. Commercial, amusement or recreational development for temporary periods.
 3. Temporary, portable asphalt or concrete paving plants for short-term projects.

SECTION XXI.
ZONING CERTIFICATES

A. Zoning Certificate Required

Zoning Certificates shall be required in accordance with the following, except that no permit shall be required for agricultural uses in accordance with Section II of this Ordinance.

1. No land shall be occupied or used, and no building hereafter erected or structurally altered shall be occupied or used in whole or in part for any purpose whatsoever, until a Zoning Certificate is issued by the Zoning Administrator, stating that the building and use comply with the provisions of this Ordinance.
2. No change of use shall be made in any building or part thereof, now or hereafter erected or structurally altered, unless such changes are in conformity with the provisions of this Ordinance and a permit is issued therefore by the Zoning Administrator.
3. Nothing in this section shall prevent the continuance of a nonconforming use as hereinbefore authorized, unless a discontinuance is necessary for the safety of life or property.
4. In accordance with this section, Zoning Certificates shall be obtained from the Zoning Administrator before starting or proceeding with the erection, construction, moving in, or the structural alteration of a building or structure. Zoning Certificates shall be issued to complying applicants after application is made. The appropriate records and copies of permits shall be maintained as a matter of public record.
5. A Butler County Zoning Certificate shall become null and void one (1) year after the date on which it is issued unless within such one (1) year period construction, building, moving, remodeling or reconstruction of a structure is commenced or a use is commenced.

B. Zoning Certificate Application Procedure

Applicants for a Zoning Certificate shall be required to provide the following:

1. A sketch, drawing, or plat, in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon or used, the size, shape and location of the building to be erected, the dimensions of the required yards, parking and open spaces, and a vicinity map of the lot to be built upon or used.

Such information as may be necessary to provide for the enforcement of this Ordinance.

SECTION XXII.
ADMINISTRATION AND ENFORCEMENT

A. Organization

The administration of this Ordinance is vested in the following five (5) offices of the government of Butler County: County Board of Supervisors, Planning and Zoning Commission, Board of Adjustment, Zoning Administrator, and Planning and Zoning Department Staff.

B. Basis of Regulations

Regulations are made in accordance with the Comprehensive Plan and designed 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 lessen congestion in the street; to secure safety from fire, flood, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to promote the conservation of energy resources; to promote reasonable access to solar energy; and to facilitate the adequate provision of transportation, water sewerage, schools, parks, and other public requirements.

C. Board of Supervisors

1. Jurisdiction. The Board of Supervisors of Butler County, Iowa, shall discharge the following duties under this Ordinance:
 - a. Appoint a Zoning Administrator whose responsibilities it will be to enforce the provisions of this Ordinance.
 - b. Appoint members of the Board of Adjustment as provided for in this Ordinance.
 - c. Appoint members to the Planning and Zoning Commission as provided for in this Ordinance.
 - d. Receive and decide upon all recommendations concerning amendments, supplements, and changes presented by the Planning and Zoning Commission.
 - e. Receive from the Planning and Zoning Commission all recommendations on the effectiveness of this Ordinance.
 - f. Conduct public hearings, as necessary.
 - g. Decide all matters upon which it is required to pass under this Ordinance, or by Statute or Regulation.

D. Board of Adjustment

1. Creation. The Board of Adjustment, as established under applicable provisions of the Iowa State Statutes, is the Board of Adjustment referred to in this Ordinance.
2. Appointment-Terms-Removal. The Board shall consist of five (5) members, who are eligible electors, and are to be appointed by the Board of Supervisors for a term of three (3) years. Members of the Board of Adjustment shall be persons residing within the county, but outside the corporate limits of any city. 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 affected.

3. Powers and Duties. The Board of Adjustment is hereby vested with the following powers and duties:
 - a. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Ordinance.
 - b. To hear and pass on all applications for special exceptions, in the manner prescribed in this Ordinance.
 - c. To hear and pass on all applications for variances from the terms provided in the Ordinance in the manner prescribed and subject to the standards herein.
 - d. To carry out those duties required by Statute or Regulation.

4. Meetings and Rules. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this article. Meetings shall be held at the call of the chairperson and at such other times as the board may determine. The chairperson, or in his/her absence, the acting chairperson, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public. Meetings requiring action will require that the Board hold at least one (1) public hearing, notice of which shall be given by official newspaper(s) not less than four (4) nor more than twenty (20) days before the date of the hearing. As a courtesy, property owners within five hundred (500) feet of the property in question shall be notified by mail about the proposed action. Failure of a surrounding property owner to receive a courtesy notice shall not stay the review and consideration process.

The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each agenda item requiring action, 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 public record and be filed in the office of the Zoning Administrator.

The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any special exception matter upon which it is required to pass under this title, or to effect any variation in application of this title.

5. Finality of Decisions of the Board of Adjustment. All decisions and findings of the Board of Adjustment on appeals applications for a variance, or application for a special exception, after a hearing, shall, in all instances, be final administrative decisions and shall be subject to judicial review as by law may be provided.

E. Appeals

1. Appeals of Staff Interpretations and Decisions

Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the County affected by a decision of the Zoning Administrator or official in enforcement of this Ordinance. Such appeal shall be taken to the Board within a reasonable time, as prescribed by the Board's Rules of Procedure. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from is taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board, after notice of appeal shall have been filed, that by reason of the facts stated in the certificate a stay would, in the Administrator's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order that may be granted by the Board or by a court of record on application of notice to the Zoning Administrator and due cause shown.

The Board shall hold one (1) public hearing and shall give a reasonable time for the hearing on the appeal. Notice of time and place of such hearing shall be published not less than four (4) days nor more than twenty (20) days in advance of the public hearing in an official newspaper(s) of general circulation in the County. As a courtesy, property owners within five hundred (500) feet of the property for which the appeal is being requested shall be notified as a courtesy as well. Failure of a surrounding property owner to receive a courtesy notice shall not stay the review and consideration process. Before an application is filed with the Board of Adjustment, the applicant shall pay a non-refundable fee to Butler County to cover the publishing and administration costs of said request, per the adopted fee schedule established in this Ordinance.

In exercising the above-mentioned powers, the Board may, in conformity with the provisions of the law, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination as it believes proper and to that end will have the powers of the Zoning Administrator. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter which it is required to pass under this Ordinance, provided that the action of the Board shall not become effective until after the written decision or resolution of the Board, setting forth the full reason for its decision and the vote of each participating member has been recorded in the minutes. Said written decision or resolution shall be filed in the office of the Zoning Administrator and shall be open to public inspection.

2. Appeals of Board of Adjustment Decisions

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.

F. Special Exceptions

1. Special Exceptions Process.

a. Purpose. The development and administration of this Ordinance is based upon the division of the County into Zoning Districts, within which Districts the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses which, because of their unique characteristics, cannot be properly classified in any particular District or Districts, without consideration in each case, of the impact of those uses upon neighboring land and of the public need for the particular use at the particular locations. Such use exceptions fall into two

categories:

1. Uses publicly operated or traditionally affected with a public interest, and
 2. Uses entirely private in character, but of such an unusual nature that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.
- b. Initiation of Special Exceptions. Any person having a freehold interest in land, a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest of an exclusive possessory interest, either of which is specifically enforceable, may file an application to use such land for one (1) or more of the special exceptions provided for in this Ordinance in the zoning district in which the land is located.
- c. Application for Special Exception. Application for Special Exceptions. A request for a conditional use permit or modification may be initiated by a property owner, or the property owner's authorized agent, by filing an application with the County Zoning Administrator upon forms prescribed for the purpose. The application shall be accompanied by a drawing or site plan and other such plans and data showing the dimensions, arrangements, descriptions data and other materials constituting a record essential to an understanding of the proposed use and proposed modifications.
- d. Special Exceptions and Conditional Use Limitations. The County may create a class of uses that have conditions or other use limitations attached to approval. Such conditions or limitations shall be established in order to protect the health, safety, and welfare of the public and to preserve property values. The Board of Adjustment may, after a Public Hearing authorize special exceptions and conditional uses, as designated in the district use regulations or as otherwise provided in the Zoning Ordinance.
- e. Conditions Prescribed by Permit. In granting a permit, the Board of Adjustment shall prescribe and impose appropriate conditions, safeguards, and an operating/maintenance plan for the proposed use with consideration given to the district use regulations, other applicable requirements of this Zoning Ordinance, and the standards for granting special or conditional use permits described in this section.
- f. Standards. No special exception shall be granted by the Board of Adjustment unless such Board shall make written findings of fact:
1. That the establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
 2. That the special exception will not be injurious to the use and enjoyment of other property already permitted, nor substantially diminish and impair property values within the neighborhood;
 3. That the establishment of special exceptions will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
 4. That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided;
 5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;

6. That the special exception shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Board of Adjustment; and
 7. That the special exception shall conform to the Butler County Comprehensive Plan.
- g. Conditions and Guarantees. Prior to the granting of any special use, the Board of Adjustment shall stipulate such conditions, consistent with [Subsection XXII \(N\)](#) below, and restrictions upon the establishment, location, construction, maintenance, and operation of the special exception as is deemed necessary for the protection of the public interest and to secure compliance with the Standards and requirements specified in Subsection (f) above. In all cases in which special exceptions are granted, the Board of Adjustment shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being complied with.
- h. Denial and Revocation of Special Exception.
1. Denial of Special Exception. No application for a special exception that has been denied wholly or in part by the Board of Adjustment shall be resubmitted for a period of one (1) year from the date of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Board of Adjustment.
 2. Revocation of a Special Exception. In any case where special exception has not been established within one (1) year after the date of granting thereof, then, without further action by the Board of Adjustment the use on review or authorization shall be null and void.

G. Variances

1. Purpose and Findings of Fact. The Board of Adjustment, after a public hearing as outlined below, may determine and vary the regulations of this Ordinance in harmony with their general purpose and intent, only in the specific instances hereinafter set forth, where the Board of Adjustment makes written findings of fact in accordance with the standards hereinafter prescribed and further, finds that there are no practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this Ordinance.
2. Application for Variance. A written application for a variance shall be filed in writing with the Zoning Administrator. Said application shall contain such information as the Board of Adjustment may, by rules, require. The application shall be accompanied by such plans and/or data prescribed by the Board of Adjustment and shall include a statement indicating the section of this Ordinance under which the variance is sought and stating the grounds on which it is requested.
3. Hearing on Application. Upon receipt in proper form of the application and statement referred to, the Board of Adjustment shall hold at least one (1) public hearing on the proposed variance. Notice of time and place of such hearing shall be published not less than four (4) days nor more than twenty (20) days in advance of the public hearing in a newspaper of general circulation in Butler County. As a courtesy, property owners within five hundred (500) feet of the property for which the appeal is being requested shall be notified as a courtesy as well. Failure of a surrounding property owner to receive a courtesy notice shall not stay the review and consideration process. Before the application is filed with the Board of Adjustment, the appellant shall pay to the County the fees as specified in the Schedule of Fees on file at the office of the Zoning Administrator.
4. Standards for Variance. The Board of Adjustment shall not vary the regulations of this Ordinance, as authorized in this Section unless there is evidence presented to it in each specific case that:
 - a. Special conditions and circumstances exist which are unique to the land, structure, or building

involved and which are not applicable to other lands, structures, or buildings in the same district.

- b. 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. In other words, an unnecessary hardship would result from a literal enforcement of the Ordinance.
- c. Special conditions and circumstances do not result from the actions of the applicant.
- d. 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.

5. Further Requirements.

- a. The Board of Adjustment shall make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- b. 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 surrounding landowners, or otherwise detrimental or contrary to the public welfare.
- c. The Board of Adjustment shall make a finding that granting a variance will be in conformance with the Butler County Comprehensive Plan.
- d. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with [Section XXII \(N\)](#) of 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 title and punishable under this Ordinance.
- e. Under no circumstances shall the Board of Adjustment grant a variance to allow for use not permissible under the terms of this Ordinance in the District involved, or any use expressly or by implication prohibited by the terms of this Ordinance in the District.
- f. If a variance is sought to permit building within four (4) feet or less of a property line, the request must be accompanied by a certified survey.

H. Other Powers of the Board of Adjustment.

The Board of Adjustment is hereby vested with the following additional authority and jurisdiction:

- 1. Interpretation of District Map. Where the application of the rules for interpretation of district boundaries contained in this Ordinance leaves a reasonable doubt to the boundary between two (2) Zoning Districts the Board of Adjustment after notice to the owners of the property and after public hearing, shall interpret the Map in such a way as to carry out the intent and purposes of this Ordinance.
- 2. Temporary Uses and Permits. Unless the Zoning Administrator is authorized to do so, the Board of Adjustment may issue a permit for the temporary use of a building or premises in any district for a purpose or use that does not conform to the regulations prescribed by this Ordinance, provided said issuance safeguards the public health, safety, convenience, and general welfare of the County.

I. Planning and Zoning Commission

- 1. Creation. The Planning and Zoning Commission of Butler County, as established under the applicable provisions of the Iowa State Statutes, is the Planning and Zoning Commission referred to in this

Ordinance.

2. **Membership.** The Planning and Zoning Commission shall consist of five (5) members, who are eligible electors, and are to be appointed by the Board of Supervisors for a term of three (3) years. Members of the Planning and Zoning Commission shall be persons residing within the county, but outside the corporate limits of any city. Vacancies shall be filled by the Board of Supervisors for only the unexpired term of the member affected. All members of the Commission shall serve without compensation except for actual expenses, which shall be subject to the approval of the Board of Supervisors.

Immediately following their appointment, the members of the Planning and Zoning Commission shall meet, organize, elect such officers as it may deem necessary, and adopt and later change or alter, rules and regulations of organization and procedure consistent with County Ordinances and state laws. The Commission shall keep written records of its proceedings which shall be open at all times to public inspection.

3. **Powers and Duties.** The Planning and Zoning Commission shall hold the following powers and discharge the following duties under this Ordinance:
 - a. Make such surveys, studies, maps, plans, or charts of the whole of the County, which in the opinion of the Commission bears relation to the Comprehensive Plan and shall bring to the attention of the Board of Supervisors, and may publish its studies and recommendations.
 - b. Review all plans, plats, or re-plats or subdivision or re-subdivision of land embraced in the County, laid out in lots or plats with the streets, alleys, or other portions intended for public dedication to the County.
 - c. Make careful and comprehensive studies of present conditions and future growth of the County with due regard to its relation to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the County and its environment which will promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development.
 - d. Hold at least one (1) public hearing before the adoption of any such Comprehensive Plan, notice of which shall be given by local newspaper not less than four (4) nor more than twenty (20) days before the date of the hearing. The adoption of the plan shall be by resolution of the Commission carried by the affirmative vote of a simple majority of the members.
 - e. Consider any proposed amendments or modifications of the adopted Comprehensive Plan. If the Planning and Zoning Commission disapproves the proposed change it may be adopted by the Board of Supervisors only by the affirmative vote of at least two-thirds (2/3) of the Board of Supervisors members.
 - f. Recommend to the Board of Supervisors changes in the zoning regulations or districts.
 - g. File recommendations, within thirty (30) days, in connection with any proposed changes in the zoning regulations or districts made by the Board of Supervisors.
 - h. Expend all sums of money appropriated, and expend all gifts, donations or payments received by the county for county plan purposes.
 - i. Contract debts within the limits of income for the present year.
 - j. Hold at least one (1) public hearing prior to any action item, pertaining to this Ordinance, that is to be reviewed by the Board of Supervisors, notice of which shall be given by an official

newspaper(s) not less than four (4) nor more than twenty (20) days before the date of the hearing. A formal recommendation from the Planning and Zoning Commission to the Board of Supervisors shall then be made. As a courtesy, landowners within five hundred (500) feet of the property in question shall be notified by mail about the proposed action and public hearing. Failure of a surrounding property owner to receive a courtesy notice shall not stay the review and consideration process. Before an application is filed with the Planning and Zoning Commission, the applicant shall pay to the County the fees as specified in the Schedule of Fees on file at the office of the Zoning Administrator.

- k. Review and provide recommendations on all special exception permit applications, per [Section XXII\(F\)](#), prior to Board of Adjustment consideration.

J. Zoning Administrator

1. The position of Zoning Administrator shall be appointed by the Board of Supervisors. The Zoning Administrator or designee shall administer and enforce the provisions of this Ordinance and shall have the following powers and duties in connection therewith:
 - a. Issue all approved and/or compliant permits and certificates required by this Ordinance.
 - b. Upon finding that any of the provisions of this Ordinance are being violated, shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Administrator or designee shall order discontinuance of the illegal use of land, buildings or structures; the removal of illegal buildings or structures, or of additions, alteration or structural changes thereto; the discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance and the Board of Supervisors to insure compliance with or to prevent violation of its provisions.
 - c. Keep a record of all permits, appeals, variances and such other transactions and correspondence pertaining to the administration of this Ordinance.
 - d. Act as the Secretary to the Planning and Zoning Commission and Board of Adjustment.
2. All departments, officials, and public employees of Butler County who are vested with the duty or authority to issue permits shall insure conformance to the provisions of this Ordinance and shall issue no permit for any use, building or purpose if the same would be in conflict with the provisions of this Ordinance.
3. The Board of Supervisors may, by resolution, delegate the powers and duties of the office of the Zoning Administrator to any other officer or employee of the County, or of any city, town, or governmental subdivision within the County, or may combine the powers and duties of this office with any other office or position.

K. Secretary of the Planning and Zoning Commission and the Board of Adjustment

1. Jurisdiction. The Secretary of the Planning and Zoning Commission and the Secretary of the Board of Adjustment shall be the Zoning Administrator.
 - a. The Secretary of the Planning and Zoning Commission shall attend all meetings of the Commission, take full and accurate minutes of the proceedings, prepare all necessary reports and documents for and on behalf of the Commission, and perform such duties and functions as may be necessary for the orderly recording of the business of the Commission.
 - b. The Secretary of the Board of Adjustment shall attend all meetings of the Board, take full and necessary reports and documents for and on behalf of the Board, and perform such other

duties and functions as may be necessary for the orderly recording of the business of the Board.

L. Amendments to this Ordinance

1. Procedure. The regulations, restrictions, zoning designation and boundaries may from time to time, be amended, supplemented, changed, modified, or repealed, but no such amendments shall be made without public hearings first before the Planning and Zoning Commission and then the County Board of Supervisors. The notice of the time and place of the hearing shall be published not less than four (4) days nor more than twenty (20) days in advance of the public hearing in a newspaper of general local circulation, but in no case shall the public hearing be held earlier than the next regularly scheduled Board of Supervisors meeting following the published notice. As a courtesy, property owners within five hundred (500) feet of the property in question shall be notified by mail about the proposed action, if said action pertains to a specific site. Failure of a surrounding property owner to receive a courtesy notice shall not stay the review and consideration process. Property owners will not be individually notified regarding text amendments or when a new or replacement Ordinance or Official Zoning Map is to be adopted. Before a rezoning or zoning map amendment will be considered, an application is filed with the Planning and Zoning Commission, the applicant shall pay to the County the fees as specified in the Schedule of Fees on file at the office of the Zoning Administrator. Following the hearings, the County Board of Supervisors shall conduct the necessary readings regarding the Ordinance amendment, as outlined in the Code of Iowa.

In case the Planning and Zoning Commission does not approve the change, or, in the case of a protest filed with the Board of Supervisors against such change signed by the owner of twenty (20) percent or more, either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending the depth of one (1) lot or not to exceed five-hundred (500) feet therefrom, or of those directly opposite thereto, extending the depth of one (1) lot or not to exceed five hundred (500) feet from the street frontage of such opposite lots, such amendment shall not be passed except by the favorable vote of two-thirds (2/3) of all members of the Board of Supervisors.

As part of an ordinance changing land from one zoning district to another zoning district or an ordinance approving a site development plan, the Board of Supervisors may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property owner before the public hearing required under this section or any adjournment of that hearing. The conditions must be reasonable and imposed to satisfy public needs or mitigate real or perceived negative impacts that are or may be directly caused by the requested change in zoning district. Said conditions must be consistent with [Section XXII \(N\)](#) of this Ordinance.

M. Applications for Rezoning (Zoning Map Amendments) or Zoning Ordinance Text Amendments

Applications shall contain the following items:

- a. The name of the applicant/owner.
- b. The legal description and local address, if available, of the property to be rezoned.
- c. The present zoning classification and the zoning classification requested for the property.
- d. The existing use and proposed use of the property.
- e. The names and addresses of the property owners within five hundred (500) feet of the property in question.
- f. A statement of the reasons why the applicant feels the present zoning classification should be changed.

- g. A plat, or copy thereof, 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.
- h. Assurances that all applicable fees are paid.
- i. Publication of the legal description of the property or properties zoned or rezoned shall constitute an official amendment to the Official Zoning Maps; and, as such, said maps or portions of said maps need not be published.
- j. The signature of the property owner.

N. Potential Conditions

Upon consideration of the factors listed in Sections [XXII \(F\)](#), [\(G\)](#) and [\(L\)](#) above, the Board of Supervisors and Board of Adjustment may attach such conditions to the granting of special exceptions, variances, and zoning ordinance text or map amendments, as it deems necessary to further the purpose of this Ordinance. Violations of any imposed conditions shall be considered violations of this Ordinance. Such conditions may include, but not necessarily be limited to:

1. Modification of waste disposal and water supply facilities.
2. Limitation on periods of use and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Landscaping.
5. Architectural design.
6. Type of construction.
7. Construction commencement and completion dates.
8. Lighting.
9. Size and number of signs.
10. Higher performance standards.
11. Road dedication.
12. Certified survey maps.
13. Ground cover.
14. Diversions.
15. Silting basins.
16. Terraces.
17. Streambank protection.
18. Planting screens.

19. Operational control.
20. Improved traffic circulation.
21. Highway access restrictions.
22. Increased yards.
23. Additional parking.

Furthermore, any development permitted within a floodplain may include such conditions, but not necessarily be limited to:

1. Requirements for construction of channel modification, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purposes of this Ordinance.
2. Floodproofing Measures. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Board of Supervisors or Board of Adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area. Such floodproofing measures may include, but are not necessarily limited to the following:
 - a. Anchorage to resist flotation and lateral movement.
 - b. Installation of watertight doors, bulkheads, and shutters, or similar methods of construction.
 - c. Reinforcement of walls to resist water pressures.
 - d. Use of paints, membranes, or mortars to reduce seepage of water through walls.
 - e. Addition of mass or weight structures to resist flotation.
 - f. Installation of pumps to lower water levels in structures.
 - g. Construction of water supply and waste treatment systems so as to prevent the entrance of flood waters.
 - h. Pumping facilities or comparable practices for subsurface drainage systems for building to relieve external foundation wall and basement flood pressures.
 - i. Construction to resist rupture or collapse caused by water pressure or floating debris.
 - j. Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent backup of sewage and stormwaters into the buildings or structures.
 - k. Location of all electrical equipment and circuits in a manner which will assure they are not subject to flooding.

SECTION XXIII.
HAZARDOUS LIQUID PIPELINES

A. Purposes

This section prescribes and imposes the appropriate conditions and setbacks when using land in this County for purposes of a Hazardous Liquid Pipeline.

The purposes of the regulations provided in this Section are:

1. To lawfully regulate and restrict the use of land in the County for the transport of Hazardous Liquid through a Hazardous Liquid pipeline in a manner that is in accordance with the County's current comprehensive plan and that is designed to (1) secure safety from fire, flood, panic, and other dangers; (2) protect health and general welfare; and (3) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirement.
2. To implement subsection A(1) with regard to the community planning and land use goals of the County, including cities, as contemplated in the County's Comprehensive Plan and as provided in Iowa Code chapter 335. In particular, the purpose of this Section is to further the following specific goals of the County to: (1) "Ensure the maintenance and improvement of the environmental quality of the soil, air, water, and land for all residents, present and future, living in the county;" (2) "Protect the present and future soil quality from wind and water erosion;" (3) "Minimize to the greatest possible extent the number of injuries and/or loss of life associated with all identified hazards;" (4) "Reduce or eliminate property damage due to the occurrence of disasters;" (5) "Return the community to either pre-disaster or improved conditions in a timely manner in the wake of a disaster;" (6) "Develop strategies that can be used to reduce the community's overall risk to the negative effects of natural, technological, and man-made disasters;" (7) "Ensure the protection and conservation of land and other natural, human, and economic resources in Butler County including energy, that are the basis of the rural community, economy, and lifestyle;" (8) "Continue to provide and support strong public services;" (9) "Support diversity in the type and density of housing in Butler County, while protecting prime agricultural lands, environmentally sensitive areas, public health, safety, and quality of life;" (10) "Maintain the protection of agricultural operations and the preservation of the productivity, availability, and use of agricultural lands; thus assuring the maintenance of agriculture as a major sector in the county's economy;" (11) "Encourage coordination and cooperation between Butler County and the incorporated cities within the county, especially within the two-mile radius around each city where powers and responsibilities are shared through 28E agreements;" and (12) "Only agricultural uses or those uses incidental to agriculture shall be allowed on prime agricultural land."
3. To implement subsection A(1) with regard to the County's legal obligation to engage in emergency response and hazard mitigation planning, including furthering the comprehensive plan's goals and objectives for hazards, emergencies, and disasters and including the need to protect the health and welfare of both residents and emergency response personnel.
4. To Implement subsection A(1) in a manner that is not inconsistent with or preempted by federal or state law, Including the United States Constitution, the federal Pipeline Safety Act at 49 U.S. C. § 60101 et seq., the Iowa Constitution, and Iowa Code chapters 29C, 479B, 331, and 335.
5. To implement subsection A(1) in a manner that treats all Hazardous Liquid Pipelines in a similar manner, to the extent they are similarly situated, and to utilize to the greatest extent feasible the land use and zoning regulations and processes already utilized in the County.
6. To implement subsection A(1) in a manner (1) that facilitates the approval of a permit by the Iowa Utilities Board , in whole or in part upon terms, conditions, and restrictions, as to location and route that are "just and proper, " and (2) that creates a process that allows a Hazardous Liquid Pipeline operator to work with local county officials to obtain all local permits or approvals prior to the construction of the pipeline.

B. Definitions

For purposes of this Section, unless the context otherwise requires:

“Affected Person” means the same as defined in Iowa Administrative Code 199-13.1(3) and, unless otherwise defined in that rule, means any person with a legal right or interest in the property, including but not limited to a landowner, a contract purchaser of record, a Person possessing the property under a lease, a record lienholder, and a record encumbrancer of the property.

“Applicant” means a Pipeline Company or a Property Owner who applies for a Conditional Use Permit for a Hazardous Liquid Pipeline pursuant to this Section.

“Application” means the documents and information an Applicant submits to the County for purposes of obtaining a Conditional Use Permit as well as the related process and procedures for considering the application pursuant to this Section.

“Blast Zone” means the geographic area in County that would be subject to a shock wave from rupture of a Hazardous Liquid Pipeline, including of a Carbon Dioxide Pipeline, that could harm or kill persons or animals due solely to physical trauma, for example from flying debris or the physical impact of a pressure wave resulting from a rupture.

“Board of Adjustment” means the Butler County Board of Adjustment established pursuant to Iowa Code chapter 335 and Section XXII of this Butler County Zoning Ordinance.

“Carbon Dioxide Pipeline” means a Hazardous Liquid Pipeline intended to transport liquified carbon dioxide and includes a Pipeline of 4 inches or more in diameter to transport liquid or supercritical fluid comprised of 50 percent or more of carbon dioxide (CO₂).

“Conditional Use Permit” means a special exception, conditional use, use exception, or use limitation authorized and approved by the Board of Adjustment in the manner and according to the standards provided in Section XXII of this Zoning Ordinance.

“Confidential Information” means information or records allowed to be treated confidentially and withheld from public examination or disclosure pursuant to Iowa Code chapter 22 or other applicable law.

“Conservation Area” means a County park, natural resource area, wildlife area, or similar areas established or designated for such purposes by the County prior to the effective date of this Section.

“County” or “the County” means Butler County, Iowa.

“Emergency” means the same as defined in Iowa Administrative Code 199 rule 9.1(2) and, unless otherwise defined in that rule, means a condition involving clear and immediate danger to life, health, or essential services, or a risk of potentially significant loss of property.

“Facility” is any structure incidental or related to the Hazardous Liquid Pipeline and any space, resource, or equipment necessary for the transport, conveyance, or pumping of a Hazardous Liquid through a Hazardous Liquid Pipeline located in the County, including all related substations and emergency shut off valves.

“Fatality Zone” means the geographic area in the County in which residents of the County would face a significant risk of loss of life due to a rupture of a Hazardous Liquid Pipeline, taking into consideration, in the case of a Carbon Dioxide Pipeline, the dispersion of CO₂ from a rupture, taking into consideration CO₂ concentration and duration of exposure.

“Hazard Zone” means, in the case of a Carbon Dioxide Pipeline, the geographic area in the County in which residents of the County would likely become intoxicated or otherwise suffer significant adverse

health impacts due to a rupture of a Carbon Dioxide Pipeline, taking into consideration the dispersion of CO2 from a rupture, taking into consideration CO2 concentration and the duration of the exposure.

“Hazardous Liquid” means the same as defined in Iowa Code § 479B.2 and, unless otherwise defined there, means crude oil, refined petroleum products, liquified petroleum gases, anhydrous ammonia, liquid fertilizers, liquified carbon dioxide, alcohols, and coal slurries.

“Hazardous Liquid Pipeline” means a Pipeline intended to transport Hazardous Liquids, and also includes Class 3, Class 6, Class 8, or Class 9 hazardous materials, as defined by 49 C.F.R. § 173.120. et seq., with any portion proposed to be located within the County.

“In-service date” is the date any Hazardous Liquid is first transported through any portion of a Pipeline located in the County.

“Independent Agreement” means alternative provisions regarding land restoration or Line Location contained in agreements independently executed by a Pipeline Company and a Landowner or a Property Owner as described in Iowa Code § 479B.20(10).

“IUB” means the Iowa Utilities Board created within the Iowa Department of Commerce pursuant to Iowa Code chapter 474.

“Landowner” means the same as defined in Iowa Code §§ 479B.4(4) and 479B.30(7), and, unless otherwise defined there, means a Person listed on the tax assessment rolls as responsible for the payment of real estate taxes imposed on the property and includes a farm tenant.

“Line Location” means the location or proposed location or route of a Pipeline on a Landowner’s property.

“Occupied Structure” means a Building or Structure that has been inhabited or used for residential, commercial, industrial, or agricultural purposes at any time during the twelve (12) months preceding an application for a Conditional Use Permit pursuant to this Section.

“PHMSA” means Pipeline and Hazardous Materials Safety Administration of the United States Department of Transportation.

“Person” means the same as defined in Iowa Administrative Code 199-13.1(3) and, unless otherwise defined in that rule, means an individual, a corporation, a limited liability company, a government or governmental subdivision or agency, a business trust, an estate, a trust, a partnership or association, or any other legal entity as defined in Iowa Code § 4.1(20).

“Pipeline” means the same as defined in Iowa Code § 479B.2 and, unless otherwise defined there, means an interstate pipe or pipeline and necessary appurtenances used for the transportation or transmission of hazardous liquids.

“Pipeline Company” means the same as defined in Iowa Code § 479B.2 and, unless otherwise defined in that rule, means any Person engaged in or organized for the purpose of owning, operating, or controlling Pipelines for the transportation or transmission of any Hazardous Liquid or underground storage facilities for the underground storage of any Hazardous Liquid.

“Pipeline Construction” means the same as defined in Iowa Administrative Code 199-9.1(2) and, unless otherwise defined in that rule, means activity associated with installation, relocation, replacement, removal, or operation or maintenance of a pipeline that disturbs agricultural land, but shall not include work performed during an emergency, tree clearing, or topsoil surveying completed on land under easement with written approval from the landowner.

“Property Owner” means the owner or owners, together with his, her, its or their heirs, successors and/or assigns, of the land or property over, under, on, or through which, a Pipeline, or any part of it, including any related facilities, may be located and which is subject to the regulations and restrictions of this Zoning

Ordinance. Property Owner includes a Landowner and also includes a Person with whom a Pipeline Company negotiates or offers to execute an Independent Agreement with respect to a Pipeline.

“Reclamation” means the restoration and repair of damaged real property, personal property, land or other areas, through which a Pipeline is constructed or from where it is removed as close as reasonably practicable to the condition, contour, and vegetation that existed prior to the construction or prior to the removal of the Pipeline, as applicable.

“Reclamation Cost” means the cost of Reclamation and includes the cost to restore or repair roads, bridges, or county property as well as the cost to restore or repair all real and personal property of Property Owners and Affected Persons.

“Sensitive Area” means any area designated for inclusion in Butler County’s Flood Plain Management Ordinance, Title V, No. 7.

“Zoning Ordinance” or “the Zoning Ordinance” means the collection of land use and zoning regulations known as the Butler County, Iowa, Zoning Ordinance, as provided and made effective in the Butler County, Iowa, Zoning Ordinance.

C. Conditional Use Class Created and Use Limitations Imposed on Hazardous Liquid Pipelines

1. All land in the County must be used in accordance with this Zoning Ordinance. Pursuant to Iowa Code chapter 335, the County may establish a use or class of uses that have conditions or use limitations, and the Board of Adjustment may authorize a use exception or permit various uses upon conditions or other use limitations as may be initiated, considered, and approved pursuant to Section XXII of this Zoning Ordinance. Such conditions or use limitations are established in order to protect the health, safety, and welfare of the public and to preserve property values.

2. The County hereby establishes a class of use for Hazardous Liquid Pipelines, and no land or property interest in this County, regardless of the zone or area, shall be used for purposes of a Hazardous Liquid Pipeline except in conformity with this Section.

D. Conditional Use Permits Required

1. A Pipeline Company that has filed a verified petition with the IUB asking for a permit to construct, maintain, and operate a new Pipeline along, over, or across land in this County shall submit an Application to the County Zoning Administrator for a Conditional Use Permit. The Pipeline Company shall submit the application for a Conditional Use Permit within seven (7) days of filing the petition with the IUB, unless the petition was filed with the IUB prior to the effective date of this Section in which case the Pipeline Company shall submit an application for a Conditional Use Permit under this Section within seven (7) days of the effective date of this Section. The Zoning Administrator may extend the time for filing the Application for good cause shown. However, any extension of more than 30 days must be approved by the Board of Adjustment.

2. A Property Owner that intends to negotiate, convey, or sell an easement to a Pipeline Company by means of an Independent Agreement shall submit an application to the County Zoning Administrator for a Conditional Use Permit before executing the Independent Agreement with the Pipeline Company. If a Property Owner executes an Independent Agreement with a Pipeline Company on or after the effective date of this Section without obtaining a Conditional Use Permit, the County may exercise all lawful remedies, including the remedies provided elsewhere in this Zoning Ordinance.

3. Upon receiving an Application for a Conditional Use Permit from a Pipeline Company or from a Property Owner, the County Zoning Administrator and the Board of Adjustment shall consider the Application according to the process and standards set forth in this Section.

E. Separation Requirements

The use of land for purposes of transporting Hazardous Liquids through Pipelines poses a threat to the public health and welfare, to the productivity of agricultural lands, and to the property values of residential, commercial, and industrial Property Owners in the County. The separation requirements of this section are designed to further the goals and objectives of the County's comprehensive zoning plan, including to protect public health and welfare, to preserve existing infrastructure and future development, and to maintain property values.

A Hazardous liquid Pipeline shall not be constructed, used, sited, or located, in violation of the separation requirements listed below. In addition, the terms of an Independent Agreement regarding a Line Location shall conform to the separation requirements listed below. All distances shall be measured from centerline of the proposed Hazardous Liquid Pipeline to the portion of the existing use nearest the centerline of the proposed Hazardous Liquid Pipeline.

The minimum separation distances for a Hazardous Liquid Pipeline are:

1. From the city limits of an incorporated city, not less than two miles.
2. From a church, school, nursing home, long-term care facility, or hospital, not less than one half of a mile.
3. From a public park, Conservation Area, Sensitive Area, or public recreation area, not less than one half of a mile.
4. From any Occupied Structure, not less than one half of a mile.
5. From any animal feeding operation or facility, not less than 1,000 feet.
6. From an electric power generating facility with a nameplate capacity of 5MW or more, an electric transmission substation, a public drinking water treatment plant, or a public wastewater treatment plant, not less than 1,000 feet.
7. From any public water system or any nonpublic water supply well subject to the rules of the Iowa Department of Natural Resources pursuant to 567 IAC chapter 43 or 567 IAC chapter 49, not less than 200 feet. private water supply wells, not less than 200 feet.

F. Permit Application Requirements for Pipeline Companies

A Pipeline Company applying for a Conditional Use Permit for a Hazardous Liquid Pipeline pursuant to this Section shall submit the following documents and information to the County Zoning Administrator.

1. The information required for a Conditional Use Permit as described in this Section of the Zoning Ordinance, including all required forms prescribed by the County Zoning Administrator.
2. A complete copy of the application for a permit filed with the IUB pursuant to Iowa Code chapter 479B. This requirement is an ongoing requirement, and as the application for the IUB permit is amended or changed, the Pipeline Company shall provide updated information and documents to the County.
3. A map identifying each proposed crossing of a County road or other County property and map identifying each crossing of Conservation Areas or Sensitive Areas.
4. A map and a list containing the names and addresses of all Affected Persons in the County. The map and list shall include all Property Owners who have executed an Independent Agreement or who have been or will be contacted about the execution of an Independent Agreement.
5. A set of plans and specifications showing the dimensions and locations of the Pipeline, including plans and specifications for all related facilities and above-ground structures, such as pumps, lift-stations, or substations.

6. A copy of the standard or template Independent Agreement the Pipeline Company proposes to execute with property Owners in the County. The standard or template for the Independent Agreement shall include terms and conditions that comply with the Abandonment, Discontinuance, and Removal requirements of this Section.

7. The emergency response and hazard mitigation information, as required pursuant to Subsection L of this Section.

8. All applicable fees required pursuant to this Section.

9. A statement identifying any Confidential Information in the Application and a request, if any, to withhold such information from public examination or disclosure as provided in, and to the extent permitted by, Iowa Code chapter 22. A failure to identify Confidential Information in the Application may result in the County treating such information as public record.

G. Permit Application Requirements for Property Owners

A Property Owner applying for a Conditional Use Permit for a Hazardous Liquid Pipeline pursuant to this Section shall submit the following documents and information to the County Zoning Administrator:

1. The information required for a Conditional Use Permit as described in Section XXII of this Zoning Ordinance, including all required forms prescribed by the County Zoning Administrator.

2. A copy of the Independent Agreement the Property Owner proposes to execute with the Pipeline Company, including a map and a legal description of the proposed Line Location and a statement of verification of compliance with the separation requirements of this Section.

3. All applicable fees required pursuant to this Section.

H. Fees

The following fees and charges apply to a Conditional Use Permit for a Hazardous Liquid Pipeline pursuant to this Section:

1. A Pipeline Company seeking a Conditional Use Permit shall pay the following fees and assessments:

a. An application fee in the amount of \$100 for each Affected Person identified in the Application.

b. An annual fee in the amount of \$116.92 per mile of Pipeline constructed, operated, and maintained in the County, or an amount equal to the most current user fee assessed to the operators of Hazardous Liquid Pipelines by PHMSA, whichever is greater. This fee shall be due each year on the anniversary of the Pipeline's In-Service Date, and the County shall apply this fee towards its emergency planning and hazard mitigation costs, including expenses for law enforcement and emergency response personnel.

c. All other applicable user or permit fees required for crossing County roads or using the public right-of-way in the County.

I. Public Hearing Requirements and Permit Approval

1. Upon receipt of an application for a Conditional Use Permit by a Pipeline Company, the County Zoning Administrator shall verify that the Pipeline Company permit application requirements of this Section are met and shall make a report to the Board of Adjustment recommending approval, denial, or modification of the Application. Upon the verification and report of the County Zoning Administrator, the Board of Adjustment shall set the date of one or more public hearings in the County on the question of

granting a Conditional Use Permit to the Pipeline Company. Once the public hearing dates have been set, the Board of Adjustment shall publish a notice in a local newspaper pursuant to Iowa Code § 331.305, and the Pipeline Company shall send notice of each scheduled public hearing to each Affected Person identified in the Application by United States Mail.

2. A public hearing shall not be required in the case of Property Owner applying for a Conditional Use Permit. Upon receipt of an application for a Conditional Use Permit from a Property Owner, the County Zoning Administrator shall make a report to the Board of Adjustment recommending approval, denial, or modification of the Application. Upon the verification and report of the County Zoning Administrator, the Board of Adjustment shall consider the application at a regular meeting of the Board of Adjustment.

3. Once the application, public hearing, and other requirements of this Section are met, the Board of Adjustment shall consider each application for a Conditional Use Permit according to the standards set forth in Section XXII of this Zoning Ordinance regarding the powers of the Board of Adjustment and the standards and findings required for use exceptions. The Board of Adjustment shall issue a permit if the Board of Adjustment finds all applicable standards are met. The burden of establishing that all applicable standards are met shall be on the Applicant for the Conditional Use Permit.

4. A Conditional Use Permit granted to a Pipeline Company pursuant to this Section is not transferrable to any Person. A Pipeline Company, or its successors in interest, shall apply for a new Conditional Use Permit whenever the Hazardous Pipeline is transferred or its use is materially or substantially changed or altered.

J. Appeals and Variances

A Pipeline Company or Property Owner may appeal an adverse determination on a Conditional Use Permit, or may seek special exception or variance from the Board of Adjustment, as provided in Section XXII of this Zoning Ordinance.

K. Applicability and Compliance

1. The permit requirement in Subsection D and the separation requirements of Subsection E of this Section shall not apply to (1) a Hazardous Liquid Pipeline that is already permitted, constructed, and placed in-service on or before the effective date of this Section; however, a Pipeline Company shall comply with the abandonment, Reclamation, and decommissioning requirements for a Pipeline that is decommissioned on or after the effective date of this Section; (2) a Pipeline owned and operated by a Public Utility that is furnishing service to or supplying customers in the County; or (3) a Property Owner that has already executed an Independent Agreement with a Pipeline Company prior to the effective date of this Section.

2. If a Property Owner has executed an Independent Agreement prior to the effective date of this Section and the Independent Agreement does not meet the separation requirements of this Section, then notwithstanding the Independent Agreement, the Pipeline Company shall comply with the separation requirements of this Section.

3. If a Property Owner has executed an Independent Agreement prior to the effective date of this Section and the Independent Agreement provides for separation requirements that are greater than the separation requirements in this Section, then the Pipeline Company shall comply with the terms of the Independent Agreement with the Property Owner.

L. Emergency Response and Hazard Mitigation Plans for Hazardous Liquid Pipelines

This section is intended to implement local zoning regulations in a manner designed to facilitate the comprehensive plan's goals and objectives for assessing ongoing mitigation, evaluating mitigation alternatives, and ensuring there is a strategy for implementation. This goal is consistent with the County's

legal obligation under Iowa Code chapter 29C to engage in emergency response and hazard mitigation planning and with the need to protect the health and welfare of both residents and emergency response personnel. For these reasons, the County requires Hazardous Liquid Pipelines to provide information to assist the County in its emergency response and hazard mitigation planning as required by Iowa code chapter 29C. The requirement to provide emergency response and hazard mitigation information pursuant to this section is not intended to constitute a safety standard and is not intended to conflict with any PHMSA safety standards applicable to a Pipeline Company which regulate the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities.

1. If an Applicant for a permit pursuant to this Section is a Pipeline Company and if the proposed pipeline is a Carbon Dioxide Pipeline, then the Applicant shall provide the following information to the County for purposes of assisting the County with its emergency response and hazard mitigation planning efforts:

- a. A map and legal description of the proposed route for a Carbon Dioxide Pipeline showing all human occupied structures and animal husbandry facilities, by type, within two miles of the centerline of the proposed route including addresses.
- b. A description of the health risks resulting from exposure of humans and animals to carbon dioxide released from a pipeline, considering the concentrations of carbon dioxide in the air near to a rupture, the duration in the time of exposure, and the presence of other harmful substances released from a rupture. The description shall identify the exposure level and duration of time that may cause a fatality of persons or animals, and the exposure level and duration that may cause intoxication or other significant adverse health effects.
- c. An estimate of the worst-case discharge of carbon dioxide released in metric tons and standard cubic feet from a rupture of a pipeline considering the interior volume of the pipeline, the location of emergency valves that limit release of carbon dioxide, the location of crack arrestors, operating pressure, operating temperatures, and other relevant factors.
- d. A rupture dispersion modeling report containing the results of computational fluid dynamic computer model estimates of the maximum geographic ranges of the Fatality Zone and Hazard Zone for the Carbon Dioxide Pipeline in the event of its rupture in a range of weather conditions and representative topography in the County, as well as in low elevation areas of the County where released carbon dioxide may settle.
- e. A computer model report showing the Blast Zone for the Carbon Dioxide Pipeline.
- f. A list of structures and facilities within the Hazard Zone, Fatality Zone, and Blast Zone for the proposed route of a Carbon Dioxide Pipeline that in the preceding year have contained humans or livestock, and an estimate of the number of persons and livestock in each structure and facility.
- g. A list of High Consequence Areas. A High Consequence Area is any area within the Hazard Zone, the Fatality Zone, or the Blast Zone where a single rupture would have the potential to adversely affect 10 or more persons or a facility with livestock.
- h. A description of the potential adverse impacts of a rupture of a Carbon Dioxide Pipeline on the humans, livestock, and other real and personal property within the Hazard Zone, the Fatality Zone, and the Blast Zone for the route of the Carbon Dioxide Pipeline.
- i. Identification of alternative routes through the County designed to minimize risks to humans and animals from a rupture of the Carbon Dioxide Pipeline within the County, and an analysis of the risks of these alternative routes relative to the proposed route.

j. All information needed by County first responders, emergency response personnel, and law enforcement personnel in order to engage in local emergency management and hazard mitigation planning, equipment, and training needs. Such information includes but is not limited to:

1. A Material Safety Data Sheet/Safety Data Sheet for the materials transported in the Carbon Dioxide Pipeline;
2. Agency specific response plans for law enforcement, emergency medical responders, and other response agencies;
3. Carbon dioxide detectors and evacuation plans for each Affected Person and human occupied structure;
4. Response equipment needs for emergency response personnel, such as carbon dioxide and other chemical detectors, closed circuit self-contained breathing apparatus, personal protective equipment; communications equipment; road barriers and traffic warning signs; and non-internal combustion engine evacuation vehicles;
5. A Carbon Dioxide Pipeline rupture emergency response training program to ensure safe and effective response by County and municipal law enforcement, emergency medical services, and other responders during the operational life of the Carbon Dioxide Pipeline.

k. Identification of residential and business emergency response needs, including but not limited to:

1. A Mass Notification and Emergency Response Messaging System;
2. Evacuation plans;
3. Evaluation equipment needs especially for mobility impaired individuals;
4. carbon dioxide detectors, and self-contained breathing apparatus.

2. If an Applicant for a permit pursuant to this Section is a Pipeline Company and if the proposed pipeline is a type other than a Carbon Dioxide Pipeline, then the Applicant shall provide (1) a draft emergency response plan or facility response plan for the proposed pipeline; and (2) a detailed description of how the Pipeline Company will work with the County's law enforcement, emergency management personnel, and first responders in the event of a spill, leak, rupture, or other emergency or disaster related to pipeline.

3. The Board of Adjustment may include a condition in a Conditional Use Permit granted pursuant to this Section that requires an applicant to reimburse the County for all costs and expenses incurred for purposes of emergency response or hazard mitigation planning, equipment acquisition or repair, training, and communications if such costs and expenses are reasonably related to the Pipeline.

M. Abandonment, Discontinuance, and Removal of Hazardous Liquid Pipelines

In addition to the requirements set by Iowa Code § 479B.32, a Hazardous Liquids Pipeline in the County that is abandoned shall comply with the requirements of this section. A Hazardous Liquid Pipeline shall be deemed abandoned for purposes of this section whenever the use of the Hazardous Liquid Pipeline has been discontinued such that there is no longer regulatory oversight of the Pipeline by PHMSA.

For purposes of the land restoration standards of Iowa Code § 479B.20, the term "construction" includes the removal of a previously constructed pipeline, and the County will treat the removal of a pipeline in the

same manner as the Pipeline's original construction for purposes of the County's obligations under Iowa Code chapter 479B.

1. A Pipeline Company granted a Conditional Use Permit pursuant to this Section shall by certified mail notify the County and all Affected Person in the County of the Pipeline Company's intent to discontinue the use of the Pipeline. The notification shall state the proposed date of the discontinuance of use.

2. Upon abandonment or discontinuance of use, the Pipeline Owner shall offer to each Property Owner the option to have the Pipeline and all related facilities physically dismantled and removed, including both the below and above ground facilities. The removal of the Pipeline and the related Reclamation and Reclamation Costs shall be the Pipeline Company's responsibility and shall be completed within one-hundred eighty (180) days from the date of abandonment or discontinuation of use unless a Property Owner agrees to extend the date of removal. Such an extension must be by written agreement between the Pipeline Company and the Property Owner, and the agreement shall be filed at the Butler County Recorder's office and a copy delivered to the County by the Pipeline Owner.

3. A Property Owner shall not be required to have the Pipeline removed, but if the Property Owner agrees to the removal and Reclamation, the Property Owner shall allow the Pipeline Company reasonable access to the property.

4. Upon removal of the Pipeline and the Reclamation, the Pipeline Owner shall restore the land according to the requirements of Iowa Code § 479B.20 and the rules adopted thereunder at 199-9.1(479,479B). including all amendments thereto.

SECTION XXIV.
VIOLATION AND PENALTY

- A. It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use any building, structure or land in violation of any regulation in or any provisions of this Ordinance, or any amendment or supplement thereto adopted by the Board of Supervisors of Butler County. Any person, firm or corporation violating any regulation or any provision of this Ordinance, or any amendment or supplement thereof, shall be deemed a separated County infraction.

Enforcement of this provision shall be pursuant to Section 331.307 of the Code of Iowa, Acts of the 71st General Assembly, and the “Administrative Rules for Citing County Infraction”, or any amendments thereof. Seeking a civil penalty does not preclude seeking alternative relief from the court in the same action, including criminal prosecution.

- B. In addition, any person, firm or corporation violating any regulation or any provision of the Ordinance, or of any amendment or supplement thereto, may also be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of at least Seven Hundred Fifty Dollars (\$750.00) per day but not more than One Thousand Dollars (\$1,000.00) per day or by imprisonment of not more than thirty (30) days. Each day said violation continues shall be considered a separate offense.
- C. In case any land, building or structure is or is proposed to be located, erected, constructed, reconstructed, enlarged, or used in violation of this Ordinance or any amendment or supplement thereto, the Board of Supervisors, the County Attorney, or the County Zoning Administrator or designee may institute injunction, mandamus, abatement, or any other appropriate action, abate or remove such lawful location, erection, construction, reconstruction, enlargement.
- D. Notwithstanding penalties imposed by the Court, the penalties set for a County infraction are a civil offense punishable by the maximum penalty, as set in the Code of Iowa.
- E. Failure to obtain the proper permits, including zoning and flood plain permits, special exceptions, variances, prior to erection, construction, reconstruction, enlargement change, or use of any building, structure, or land; and/or prior to commencement of development, as defined in Section V, Definitions, will result in a penalty. The penalty shall be equal to the amount of the required permit application fee(s), as established by resolution of the Board of Supervisors in addition to the normal permit fees.
- F. Violation of the Home Occupation and Home Industry Standards, defined in Section VII (S)(8) and VII(T)(8), may subject to revocation. The property owner will be notified by letter of any violation of the Home Business Standards. The property owner shall have thirty (30) days to abate the violation or further enforcement action will occur through the issuance of a Notice of Violation and enforcement proceedings. Once a Notice of Violation has been issued, and if compliance is achieved, the home business will be subject to an annual or semi-annual inspection with conditions as needed as follow-up to the inspection. If a Notice of Violation is issued to an approved home business, all home business activity must cease until the property has achieved compliance. If the home business continues to operate while under violation, it shall be deemed a County infraction, punishable as such under the Butler County Code of Ordinances and the Code of Iowa.
- G. Any development that occurs without the proper permits will be issued a Stop Work Order and fines will be incurred.

SECTION XXV.
ENFORCEMENT AND FEES

A. Enforcement

The Board of Supervisors shall appoint a Zoning Administrator, and it shall be the duty of said officer to enforce this Ordinance. Such Zoning Administrator may be a person holding other public office in the County, or in a city or other governmental subdivision within the County. The Board of Supervisors is authorized to pay to such officer out of the general fund such compensation as it shall deem fit.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or land is used in violation of this Ordinance, the Board of Supervisors, in addition to other remedies, shall institute any proper action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct business, or use in or about such premises.

B. Fees

Fees pertaining to permits and actions required by this Ordinance shall be in accord with the Schedule of Fees, as adopted by resolution by the County Board of Supervisors. A copy of the Schedule of Fees shall be on file in the Zoning Administrator's office. The following fees will be charged by the County.

1. Rezoning (Zoning Map Amendment) application fee.
2. Variance application fee.
3. Special exception application fee.
4. Zoning compliance permit application fee.
5. Home occupation and home industry permit fees.
6. Appeal of Staff Interpretation.

SECTION XXVI.
REPEALER AND VALIDITY

A. Repealer

All ordinances, including Number 28, of Title VI of the Butler County Code of Ordinances, and all amendments thereto, and resolutions, or any part thereof, in conflict with all or any part of this Ordinance are hereby repealed.

B. Validity

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, that 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.

SECTION XXVII.
EFFECTIVE DATE

This Ordinance, Ordinance Title VI Number 28, as adopted, shall be in full force and effect upon publication.

The Butler County Planning and Zoning Commission, after a public hearing, recommended this Ordinance for approval on April 20, 2023.

The Butler County Board of Supervisors took the following action:

Public Hearing and First Consideration:
Second Hearing and Consideration:
Third Hearing and Consideration: July 18, 2023

Passed and adopted this 18th day of July, 2023.

Chairperson
Butler County Board of Supervisors

ATTEST:

Butler County Auditor