

# **POCAHONTAS COUNTY CODE OF ORDINANCES 2020**

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## **TITLE I ORGANIZATION AND STRUCTURE**

### **CHAPTER 1 GENERAL PROVISIONS**

1-1-1	Definitions	1-1-5	Amendment
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1-1-1 DEFINITIONS. The following words and phrases whenever used in the Ordinances of the County, shall be construed as defined in this section unless, from the context, a different meaning is intended or unless different meaning is specifically defined and more particularly directed to the use of such words or phrases:

1. "Building" means any man-made structure permanently affixed to the ground.
2. "Computation of time" means the time within which an act is to be done. It shall be computed by excluding the first day and including the last day; and if the last day is Sunday or a legal holiday, that day shall be excluded;
3. "County" means Pocahontas County, Iowa;
4. "Fiscal Year" means July 1 to June 30.
5. "Law" denotes applicable federal law, the Constitution and statutes of the State of Iowa, the Ordinances of the County; and when appropriate, any and all rules and regulations which may be promulgated thereunder;
6. "May" confers a power;
7. "Month" means a calendar month;
8. "Must" states a requirement;
9. "Oath" shall be construed to include an affirmative or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" shall be equivalent to the words "swear" and "sworn";
10. "Or" may be read "and" and "and" may be read "or" if the sense requires it;
11. "Ordinance" means a law of the County; however, an administrative action, order or directive, may be in the form of a resolution;

12. "Owner" applied to a building or land includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land;
13. "Person" means natural person, natural person, any other legal entity, or the manager, lessee, agent, servant, officer, or employee of any of them;
14. "Personal property" includes money, goods, chattels, things in action and evidences of debt;
15. "Preceding" and "following" mean next before and next after, respectively;
16. "Property" includes real and personal property;
17. "Real property" includes any interest in land;
18. "Shall" imposes a duty;
19. "State" means the State of Iowa;
20. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this County which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state;
21. "Tenant" and "occupant" applied to a building or land, includes any person who occupies whole or a part of such building or land, whether alone or with others;
22. "Title of Office". Use of the title of any officer, employee, board or commission means that officer, employee, department, board or commission of the County;
23. "Writing" and "Written" includes printed, typewritten, electronically transmitted such as facsimile or electronic mail;
24. "Year" means a calendar year;
25. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such other as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning
26. When an act is required by an Ordinance the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed as to include all such acts performed by an authorized agent.

1-1-2 GRAMMATICAL INTERPRETATION. The following grammatical rules shall apply in the Ordinances of the County;

1. Gender. Any gender includes the other gender;
2. Singular and Plural. The singular number includes the plural and the plural includes the singular;
3. Tenses. Words used in the present tense include the past and the future tenses and vice versa;
4. Use of Words and Phrases. Words and phrases not specifically defined shall be construed according to the content and approved usage of the language.

1-1-3 PROHIBITED ACTS INCLUDE CAUSING, PERMITTING. Whenever in this Code any act or omission is made unlawful, it includes causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission. A principal is responsible for the unauthorized acts or omissions committed by an agent or employee which have been authorized by the principal.

1-1-4 CONSTRUCTION. The provisions of this Code are to be construed with a view to affect its objects and to promote justice.

1-1-5 AMENDMENT. All Ordinances of the County passed thereafter shall be in the form of an addition or amendment to the Pocahontas County Code of 2019 constituting this County Code, and shall include proper references to chapter and section to maintain the orderly codification of the Ordinances.

(Code of Iowa, Sec. 331.302[4])

1-1-6 SEVERABILITY. If any section, provision or part of the County Code is adjudged invalid or unconstitutional, such adjudication will not affect the validity of the County Code as a whole or any section provision, or part thereof not adjudged invalid or unconstitutional.

1-1-7 Catchlines, Titles, Headings and Notes. The catchlines of the several sections of this County Code printed in boldface type as well as the titles, headings, chapter heads, section and subsection heads or titles, editor's notes, cross-references and State law references, unless set out in the body of the section itself, contained in this County Code, do not constitute any part of the law, and are intended merely to indicate, explain, supplement or clarify the contents of a section.

1-1-8 RIGHT OF ENTRY. Whenever necessary to make an inspection to enforce any Ordinance, or whenever there is reasonable cause to believe that there exists an Ordinance violation in any building or upon any premises within the jurisdiction of the County, any authorized official of the County may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same and to perform any duty imposed upon such official by Ordinance; provided that, except in emergency situations, such official shall first give the owner and/or occupant, if they can be located after reasonable effort, twenty-

four (24) hour written notice of the authorized official's intention to inspect. In the event the owner and/or occupant refuses entry, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

## **TITLE I ORGANIZATION AND STRUCTURE**

### **CHAPTER 2 PENALTY**

#### **1-2-1 General Penalty**

#### **1-2-2 Civil Penalty – County Infraction**

**1-2-1 GENERAL PENALTY.** The doing of any act prohibited or declared to be unlawful, an offense, or a misdemeanor by the County Code or any Ordinance or Code herein adopted by reference, or the omission or failure to perform any act or duty required by this County Code or any Ordinance or Code or any Ordinance or Code herein adopted by reference is, unless another penalty is specified, punishable in accordance with Iowa Code Section 903.1(1)(a).

(Code of Iowa, Sec. 331.302(2))

#### **1-2-2 CIVIL PENALTY - COUNTY INFRACTION.**

(Code of Iowa, Sec. 331.307)

##### **1. DEFINITIONS.**

- A. County Infraction. Except those provisions specifically provided under state law as a felony, an aggravated misdemeanor, or a serious misdemeanor or a simple misdemeanor under Chapters 687 through 747 of the Iowa Code, the doing of any act prohibited or declared to be unlawful, an offense or a misdemeanor by the Code of Ordinances of Pocahontas County or any Ordinance or Code herein adopted by reference, or omission or failure to perform any act or duty required by the Code of Ordinances of Pocahontas County, or any Ordinance or Code herein adopted by reference, is a "county infraction" and is punishable by civil penalty as provided herein.
- B. Officer. The term "officer" shall mean any employee or official authorized to enforce the Code of Ordinances of Pocahontas County.
- C. Repeat offense. The term "repeat offense" shall mean a recurring violation of the same section of the Code of Ordinances.

##### **2. VIOLATIONS, PENALTIES, AND ALTERNATIVE RELIEF.**

- A. A county infraction is punishable by a civil penalty not to exceed seven hundred fifty dollars (\$750.00). If the infraction is a repeat offense, the infraction is punishable by a civil penalty not to exceed one thousand dollars (\$1,000.00) for each repeat offense. A county infraction is not punishable by imprisonment.
- B. Each day that a violation occurs or is permitted to exist by the violator constitutes a separate offense.

- C. Seeking a civil penalty as authorized in this chapter does not preclude the County from seeking alternative relief from the court in the same action.

### 3. CIVIL CITATIONS.

- A. Any officer authorized by the County to enforce the Code of Ordinances may issue a civil citation to a person who commits a county infraction.
- B. The citation may be served by personal service or by certified mail addressed to the defendant at the defendant's last know mailing address, return receipt requested or by publication in the manner as provided in rule of civil procedure 1.310 and subject to the conditions of rule of civil procedure 1.311.
- C. A copy of the citation shall be retained by the issuing officer, and one copy shall be sent to the clerk of district court.
- D. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:
  - 1) The name and address of the defendant.
  - 2) The name or description of the infraction attested to by the officer issuing the citation.
  - 3) The location and time of the infraction.
  - 4) The amount of civil penalty to be assessed or the alternative relief sought, or both.
  - 5) The manner, location, and time in which the penalty may be paid.
  - 6) The time and place of court appearance.
  - 7) The penalty for failure to appear in court.

## **TITLE II PUBLIC SERVICES**

### **CHAPTER 1 LOCAL OPTION SALES AND SERVICES TAX**

#### **2-1-1 Local Option Sales and Services Tax**

#### **2-1-2 Authorized Uses**

**2-1-1 LOCAL OPTION SALES AND SERVICES TAX.** There is imposed a local option sales and services tax applicable to transactions within the incorporated areas of Fonda, Gilmore City, Havelock, Laurens, Palmer, Plover, Pocahontas, Rolfe, Varina, and in the unincorporated area of Pocahontas County.

The rate of the tax shall be one percent (1%) upon the gross receipts taxed under Chapter 422, Division IV, of the Iowa Code in the unincorporated area of Pocahontas County and the following cities: Fonda, Gilmore City, Havelock, Laurens, Palmer, Plover, Pocahontas, Rolfe, and Varina.

The tax was authorized by an election on March 27, 2001 in the incorporated areas of Fonda, Gilmore City, Havelock, Laurens, Palmer, Plover, Pocahontas, Rolfe, and Varina and in the unincorporated area of Pocahontas County and imposed on transactions occurring on or after July 1, 2001.

The tax shall be collected by all persons required to collect state gross receipts taxes.

However, the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 324 of the Iowa Code, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A of the Iowa Code during the period the hotel and motel tax is imposed, on the gross receipts from the sale of natural gas or electric energy in a city or county where the gross receipts are subject to a franchise fee or user fee during the period the franchise or user fee is imposed, on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E of the Iowa Code, and on the sale or rental of tangible personal property described in section 422.45, subsections 26 and 27 of the Iowa Code.

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

**2-1-2 AUTHORIZED USES.** Pocahontas County, and the incorporated cities within, have specified authorized uses for the local option sales and services taxes. The authorized uses of local option sales and services taxes are hereby incorporated by reference and made a part hereof with no sunset dates.



**Pocahontas County, Unincorporated Areas**

Authorized 07-01-2001

50% Property Tax Relief

50% For any Lawful Purpose

**City of Gilmore City**

Authorized 07-01-2001

100% For any Lawful Purpose.

**City of Laurens**

Authorized 07-01-2001

20% For Property Tax Relief

80% For any Lawful Purpose

**City of Plover**

Authorized 07-01-2001

100% For any Lawful Purpose

**City of Rolfe**

Authorized 07-01-2001

10% Property Tax Relief

90% For any Lawful Purpose

**City of Fonda**

Authorized 07-01-2001

20% Property Tax Relief

80% For any Lawful Purpose

**City of Havelock**

Authorized 07-01-2001

100% For any Lawful Purpose

**City of Palmer**

Authorized 07-01-2001

100% For any Lawful Purpose

**City of Pocahontas**

Authorized 07-01-2001

20% Property Tax Relief

80% For any Lawful Purpose

**City of Varina**

Authorized 07-01-2001

100% For any Lawful Purpose

**TITLE III BUSINESS AND OCCUPATIONS**

**CHAPTER 1 RESERVED**

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

### **CHAPTER 1 ROAD CLASSIFICATION**

#### **AREA SERVICE SYSTEM B**

- 4-1-1 Purpose
- 4-1-2 Definitions
- 4-1-3 Powers of the Board
- 4-1-4 Authority to Establish
- 4-1-5 Notice of Hearing
- 4-1-6 Hearing - Area Service System B  
Road Established by Resolution
- 4-1-7 Maintenance Policy
- 4-1-8 Exemption from Liability

#### **AREA SERVICE SYSTEM C**

- 4-1-9 Purpose
- 4-1-10 Definitions
- 4-1-11 How Established
- 4-1-12 Access
- 4-1-13 Signs
- 4-1-14 Trespass
- 4-1-15 Reclassification
- 4-1-16 Powers of the Board
- 4-1-17 Exemption from Liability

#### **AREA SERVICE SYSTEM B**

4-1-1 **PURPOSE.** The purpose of this ordinance is to classify certain roads on the Area Service System in Pocahontas County to provide for a reduced level of maintenance.

4-1-2 **DEFINITIONS.** For use in this ordinance, certain terms and words used herein shall be interpreted or defined as follows:

1. "Area Service System" includes those public roads outside of municipalities not otherwise classified.
  - A. "Area Service System A" roads shall be maintained in conformance with applicable State statutes.
  - B. "Area Service System B" roads shall not require standards of maintenance equal to farm to market or area service system A roads. Area Service System B roads shall not mean what is construed in the normal sense as a driveway or a private lane to a farm building or dwelling. Area Service System "B" roads may also be referred to as "class B" roads. Within the Area Service System B classifications there shall be two types of roads as follows:
    - 1) "Level B1" roads will be maintained as granular surface roads.
    - 2) "Level B2" roads will be maintained as unsurfaced roads.
2. "Board" shall mean the Board of Supervisors of Pocahontas County.

3. "Engineer" shall mean the County Engineer of Pocahontas County.

4. "County" shall mean Pocahontas County.

4-1-3 **POWERS OF THE BOARD.** All jurisdiction and control over Area Service System B roads as provided by this ordinance shall rest with the Board of Supervisors of Pocahontas County.

4-1-4 **AUTHORITY TO ESTABLISH.** The Board of Supervisors of Pocahontas County is empowered under authority of Chapter 309.57 of the Code of Iowa, to classify secondary roads on the Area Service System to provide for a reduced level of maintenance on roads so designated. The Board shall, by resolution, declare its intention to establish an Area Service System B road in Pocahontas County after consultation with the County Engineer.

4-1-5 **NOTICE OF HEARING.** The Board shall fix a time and place for a hearing and cause notice to be published as provided by law. The notice shall set forth the termini of the Area Service System B road as set out in the resolution by the Board, and shall state that all persons interested may appear and be heard at such hearing.

4-1-6 **HEARING - AREA SERVICE SYSTEM B ROAD ESTABLISHED BY RESOLUTION.** On the day fixed for the hearing or any day to which the hearing has been adjourned, upon proof to its satisfaction made by affidavit to due publication and posting of the notice of hearing, the Board shall consider any and all relevant evidence and if the Board finds the proposed Area Service System B road is practicable, it may establish it by proper resolution.

4-1-7 **MAINTENANCE POLICY.** Only the minimum effort, expense and attention will be provided to keep Area Service System B roads open to traffic. Bridges may not be maintained to carry legal loads but will be posted as appropriate to advise of any load limitations. For the various maintenance activities, the minimum maintenance on Area Service System Level B roads will be as follows:

1. **Blading.** Blading or dragging will not be performed on a regular basis. Blading will be done at the convenience and within the regular working hours of the County.
2. **Snow and Ice Removal.** Snow and ice will not be removed on a regular basis nor will the road surface be sanded or salted. The County may remove snow or ice for moisture control or in the course of maintaining Area of Service System A roads.
3. **Signing.** Except for load limit posting for bridges, signing shall not be continued or provided. All Area Service System B roads will be identified with a sign at all points of access to warn the public of the lower level of maintenance.
4. **Weeds, Brush, and Trees.** Mowing or spraying weeds, cutting brush, and tree removal will be performed at the convenience of the County on Level B1 roads,

but will not be performed on Level B2 roads. Adequate sight distances will not be maintained.

5. Structures. Bridges and culverts may not be maintained to carry legal loads. Upon failure or loss, the replacement structures will be appropriate for the traffic thereon or permanently removed.
6. Road Surfacing. Maintenance of granular surfacing shall be as follows:
  - A. Level B1 roads. Application of gravel or rock will be made at the convenience of the County.
  - B. Level B2 roads. There will be no surfacing materials applied.
7. Shoulders. Shoulders will be maintained at the convenience of the County on Level B1 roads and will not be maintained on Level B2 roads.
8. Crown. A crown will be maintained at the convenience of the County on Level B1 roads and will not be maintained on Level B2 roads.
9. Repairs. There will be no road repair on a regular basis.
10. Uniform width. Uniform width for the traveled portion of the road will not be maintained.
11. Inspections. Regular inspections will not be conducted.
12. Entrances. Granular material will be applied to entrances on Level B1 roads as needed and at the convenience of the County. No maintenance of the entrances on Level B2 roads will be performed.
13. Crops. The farming of crops in the rights of way of public roads is unlawful. The County may mow, remove or destroy crops in the rights of way of Area Service System B roads at its convenience or may take other actions and collect damages and recover costs or perform a combination of such, as permitted by law. The County incurs no liability for crops located within the rights of way of Area Service System B roads.

4-1-8 EXEMPTION FROM LIABILITY. As provided in 309.57 of the Code of Iowa the County and officers, agents, and employees of the County are not liable for injury to any person or for damage to any vehicle or equipment, which occurs proximately as a result of the maintenance of a road which is classified as Area Service System B, if the road has been maintained as provided in Section 4-1-7 of this ordinance. The County may, in certain instances, elect to maintain roads classified as Area Service System B roads at a greater level of maintenance than as provided in Section 4-1-7, but shall remain exempt from liability as herein provided should injury occur proximately as a result of said maintenance.

## AREA SERVICE SYSTEM C

4-1-9 PURPOSE. The purpose of this ordinance is to classify certain roads on the area service system in Pocahontas County, Iowa as Area Service System "C" roads so as to provide for the reduced level of maintenance effort and restricted access, pursuant to Iowa Code section 309.57.

4-1-10 DEFINITIONS. For use in this ordinance, certain terms or words used herein shall be defined as follows:

1. "Area Service System" includes those public roads outside of municipalities not otherwise classified.
  - A. "Area Service System "A" roads shall be maintained in conformance with applicable state statutes.
  - B. "Area Service System "C" roads shall not be required standards of maintenance equal to farm to market, or area service system. A roads. Area Service System C roads shall not mean what is construed in the normal sense as a driveway or private lane to a farm building or dwelling.
2. "Board" shall mean the Board of Supervisors of Pocahontas County.
3. "County" shall mean Pocahontas County, Iowa.
4. "Engineer" shall mean the County Engineer of Pocahontas County, Iowa.

## 4-1-11 HOW ESTABLISHED.

1. Resolution. Roads may only be classified as Area Service "C" by resolution of the Board upon petition signed by all landowners adjoining the road. The resolution shall specify the level of maintenance effort and the persons who will have access to the road.
2. Notice of Action. Before the Board may take action on a petition to establish an Area Service "C" road, a notice of the proposed action, including the location of the Area Service "C" road and the time and place of the meeting at which the Board proposes to take action on the petition, shall be published as provided by law.
3. Board Action. At the meeting, the Board shall receive oral or written comments from any resident or property owner of the county. After all comments have been received and considered, the Board, at that meeting or a date to which it is adjourned, may take action on the petition after consultation with the County Engineer.

4-1-12 ACCESS. Access to any Area Service "C" road shall be restricted by means of a gate or other barrier, as determined by the County Engineer. The gate shall be purchased and installed by the County and maintained or replaced, as the case may be, by the adjoining landowners. If not so maintained as determined at the sole discretion of the County Engineer, the County may remove the gate.

4-1-13 SIGNS. Area Service "C" roads shall have signs conforming to the Iowa Signing Manual per 761 Iowa Administrative Code (IAC) Chapter 130. The signs shall be installed and maintained by the County at all access points to the Area Service "C" roads from other public roads to warn the public that access and maintenance is limited.

4-1-14 TRESPASS. Entering or remaining upon an Area Service "C" road without justification after being notified or requested to abstain from entering or to remove or vacate the road by any person lawfully allowed access shall be a trespass as defined in Iowa Code Section 716.7.

4-1-15 RECLASSIFICATION. A road with an Area Service "C" classification shall retain the classification until such time as a petition for reclassification is submitted to the Board or the road is entirely vacated as per Iowa Code. The petition shall be signed by one or more adjoining landowners. The Board shall approve or deny the request for reclassification within 60 days of receipt of the petition. Should such road be reclassified or vacated, the gates shall remain property of the County.

4-1-16 POWERS OF THE BOARD. All jurisdiction and control over Area Service "C" roads shall rest with the Board, pursuant to Iowa Code section 309.57.

4-1-17 EXEMPTION FROM LIABILITY. As provided in Iowa Code Section 309.57, the County and officers, agents and employees of the County are not liable for injury to any vehicle or equipment or contents thereof which occurs proximately as a result of the maintenance of a road which is classified as Area Service "C", if the road has been maintained to the level of maintenance effort described in the establishing resolution.



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

### **CHAPTER 2 SNOW AND ICE REMOVAL**

4-2-1	Purpose	4-2-4	Limitation of Service
4-2-2	Level of Service	4-2-5	Emergency Conditions
4-2-3	Sequence of Service		

4-2-1 **PURPOSE.** The purpose of this ordinance is to establish this County's policy and level of service in respect to clearance of snow or ice and maintenance of its secondary road system during the winter months specifically defined as November through April, as provided in Section 668.10(2) (2003), Code of Iowa, and pursuant to the provisions of Section 309.67, Code of Iowa. This policy and level of service are to be implemented within the amount of money budgeted for this service, and as contained in this County's secondary road budget as submitted to and approved by the Iowa Department of Transportation and adopted by the Board of Supervisors. The term "Engineer" in this ordinance shall mean the Pocahontas County Engineer or his designee.

4-2-2 **LEVEL OF SERVICE.** Clearance of snow or ice and maintenance of the secondary road system during the winter months is primarily for the benefit of the local residents of this County. Each storm has individual characteristics and must be dealt with accordingly. The portion of the roadway improved for travel will have upon it snow and ice in a compacted condition. These conditions may be continuous, or they may be more concentrated on hills, valleys, curves, and/or intersections. The County's existing snow removal equipment will be utilized for this purpose. On occasion County personnel may be rendered unavailable due to the requirements of the Omnibus Transportation Employee Testing Act of 1991. Except for "emergencies" as determined by the County Engineer's professional judgement, or his/her designee acting in his/her absence, on a case by case basis, all clearance of snow or ice, sanding, salting, and other maintenance respecting winter conditions shall be accomplished within the amount of money budgeted for this service and is practicable. The entire width of that portion of the road improved for travel may not be cleared of snow, ice, compacted snow and ice, or frost. Snow cleared from that part of the roadway improved for travel shall be placed on or in the adjacent shoulder, ditch, or right-of-way. Snow can be expected to accumulate adjacent to the traveled portion to the extent that a motorist's sight distance to both the left and right may be greatly reduced or impaired. The snow removed from intersections will be piled in its corners in piles of unequal height. The lines of sight, sight distance, or visibility of motorists approaching these intersections may be greatly reduced or impaired. The County shall not be responsible for snow pushed or otherwise placed on the roadway or shoulders by others. Motorists shall drive their vehicles during these conditions with additional caution and watchfulness, especially in respect to the surface of the roadway, and reduced or impaired visibility, and are advised to reduce their speed at least 25 miles per hour below that legally permitted or advised under normal conditions. In respect to roadways that have only one lane open, further extreme watchfulness and caution should be exercised by motorists, and their speed should not exceed ten (10) miles per hour. During these conditions, no additional warning or regulatory signs will



be placed that warn of impaired sight distances, visibility at intersections, road blockages, one-lane conditions, or that the road surface is slick or slippery, or what the advised speed should be.

**4-2-3 SEQUENCE OF SERVICE.** In the implementation of snow and ice removal and other maintenance of the County's secondary road system during the winter months, the County Engineer or designee shall select the actual sequence of roads to be cleared as provided for in this section of the ordinance, and shall determine when drifting, wind velocity, and additional snow or snow storms require that the snow removal equipment be removed from the roadway, or that additional clearance of paved routes be accomplished prior to the clearance of unpaved roads. The County Engineer's professional judgment or his designee, shall prevail unless it is clearly erroneous.

1. Paved Routes

- A. The initial effort will be to get all routes open to one-lane traffic as soon as possible and/or practicable and within the hours of 6 a.m. to 6 p.m.
- B. After one-lane travel is possible, subsequent snow removal may be carried on during normal working hours.
- C. The truck-mounted snow plows and spreaders will not normally be in operation between the hours of 4 p.m. and 7:30 a.m. The trucks may be called off the road if snow and/or blowing snow reduces visibility to hazardous working conditions, in the professional judgment of the Engineer or designee.
- D. When required, due to drifting snow, motor graders may be used to keep the paved roads open and the opening of unpaved roads may be delayed.
- E. It is not the policy of the County to provide a "dry" pavement condition.
- F. After roads have been plowed as provided in this section, intersections, hills, curves, and portions of the roadway as deemed necessary may have placed on them sand or salt or other abrasives. These intersections, hills and curves, and portions of the roadway may not be resanded, resalted, or have other abrasives replace on them between snowstorms. The sequence of service will not normally be performed between the hours of 4:00 p.m. and 7:30 a.m.

2. Unpaved Roads

- A. The initial effort will be to get roads open to one-lane traffic to reach all occupied residences as soon as possible and/or practicable after a storm has passed, and some roads may not be opened depending upon the snow accumulation thereon and time and resources available. These actions would normally take place between the hours of 6 a.m. and 6 p.m.

- B. After one-lane travel is possible to all occupied residences, subsequent snow removal may be carried on during normal working hours.
  - C. Motor graders and/or truck plows will not normally be in operation between the hours of 4:00 p.m. and 7:30 a.m. Unpaved roads may not be plowed if the wind is causing continual drifting. The motor graders and/or truck plows may be called off the road if snow and blowing snow reduces visibility to hazardous working conditions, in the professional judgment of the Engineer or designee.
  - D. Snow will not be removed from roads designated as Area Service System B roads and may not be removed where residences do not exist or are unoccupied.
  - E. Snow may not be removed from roads or portions of roads classified as "NO SNOW REMOVAL". "NO SNOW REMOVAL" roads or portions will be designated by the Engineer, approved by the Board of Supervisors, and signed with a 30 inch by 30 inch warning sign stating "NO SNOW REMOVAL". Advisory plates may accompany such signs to identify limits of such designation where portions of the road and not the entire road are so designated.
3. Private Drives. The County will not clear snow from private drives. Normal snow removal operations may result in snow being deposited in private drives. Snow from private drives shall not be placed on the roadway, shoulders, or ditches.
4. Removal on roadway

In the event the Engineer identifies a snow or ice obstruction on the roadway, he may attempt to persuade the person responsible for the obstruction to remove it, or the Engineer may proceed under subparagraph (A) or (B) below.

- A. If the Engineer deems a snow or ice obstruction on the roadway to constitute an immediate and dangerous hazard, he may without notice or liability in damages, cause the obstruction to be removed and the actual costs of removal and a fine of not more than \$100 to be assessed against the owner (s) of the abutting property and person (s) responsible for placement of the snow obstruction. If the notice is not served on more than one person, the notice shall still be proper against the person served.
- B. Any snow or ice obstruction not deemed to be such a hazard may be removed from the roadway without liability after forty-eight (48) hours' notice of the need to remove snow obstruction to the owner(s) of the abutting property and person(s) responsible for placement of the snow obstruction, this notice being served in the manner in which an original

notice is served or in writing by certified mail. Notice shall be reasonably calculated to appraise the recipient of the impending actions and liability.

- C. Upon removal of the snow or ice obstruction, the Engineer may immediately mail a statement of the actual cost of removal and a fine of not more than \$100 to the person assessed. If within ten (10) days after mailing the statement of actual cost and fine is not paid, the Engineer through the County Attorney or Assistant County Attorney or designee may institute proceedings in the District Court system to collect the cost of removal and fine. In the alternative, the County Attorney may assess the costs of removal and fine against the property for collection in the same manner as a property tax, after notice to the property owner and hearing, if a hearing is requested by the property owner.
- 5. Mailboxes. The County will assume no liability for mailboxes and fences damaged because of snow removal unless such action can be determined to be malicious or caused by driver negligence or mishap. In such cases, at the County's discretion, County shall repair or replace the mailbox or pay the resident or landowner, as the case may be, not more than twenty-five dollars (\$25) for replacement thereof. The County will not pay for mailbox replacement where such has been damaged by the force of snow thrown from the plow or where located too close to the traveled portion of the roadway.

There is no time limit after a snowstorm in which any of the above sequence of clearance, on paved or unpaved roads, shall take place. Neither is there an obligation of the County in performing such operations when lack of visibility or driver fatigue, in the opinion of the Engineer, may cause hazardous working conditions.

4-2-4 LIMITATIONS OF SERVICE. Notwithstanding anything else stated in this ordinance, the policy and level of service provided for in this ordinance shall not include the performance of the following services:

- 1. Sanding, salting, or placing of other abrasives upon the roadway that are slick, slippery, and dangerous due to the formation of frost.
- 2. Sanding, salting, or placing other abrasives upon paved roadways due to freezing precipitation between hours of 6 p.m. and 6 a.m.
- 3. Placing of additional warning or regulatory signs warning of impaired sight distances, visibility at intersections, road blockages, one-lane conditions, or that the road surface is slick or slippery or what the advised speed should be.
- 4. Sanding, salting, or placing abrasives upon any unpaved road, except in case of solid ice or packed snow on steep grades when said condition cannot be improved by blading, as determined by the Engineer, as equipment availability and condition of the paved roadway system permits, and an "emergency" exists.

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

#### 4-2-5 EMERGENCY CONDITIONS.

1. Service or the level or sequence of service may be suspended or modified during "Emergency" conditions. An "Emergency" condition shall be considered as one where loss of life is probable, where a serious injury has occurred, or where extensive loss of property is imminent. These conditions should be verified through a physician's or sheriff's office. The County may respond to all "Emergency" conditions, either during or after a snowstorm. Any person who makes a false report of an "Emergency" to an officer, official, or county employee or causes a false report to be made, shall be subject to a fine of not more than five hundred dollars (\$500).
2. The provisions of the ordinance shall be further suspended in an event the Governor, by proclamation, implements the State disaster plan, or the Chairman of the Board of Supervisors, by proclamation, implements the County disaster plan. If such occurs, the County personnel and equipment shall be immediately subject to direction of the Governor or the Chairperson of the Board of Supervisors.



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

### **CHAPTER 3 SPEED LIMITS**

4-3-1	Purpose	4-3-3	Effective
4-3-2	Speed Limits	4-3-4	Penalty

4-3-1    **PURPOSE.** The purpose of this ordinance is to establish a reasonable and proper speed limit on a secondary road pursuant to Section 321.285, Code of Iowa.

4-3-2    **SPEED LIMITS.** The speed limit on the paved road on the West Corporate line of Laurens, Iowa, is as follows: On Rush Lake Road from Veteran's Road to Olive Street, thirty-five (35) miles per hour; from Olive Street to Section Line Road, twenty-five (25) miles per hour; from Section Line Road to Iowa Street, thirty-five (35) miles per hour.

4-3-3    **EFFECTIVE.** Said speed limits shall be effective when appropriate signs giving notice thereof are properly erected pursuant to law.

4-3-4    **PENALTY.** Operating a motor vehicle at any speed on said secondary road in excess of said speed limits shall be unlawful and shall be punishable under Section 321.285, Code of Iowa as a simple misdemeanor.

NOTE: Original ordinance passed 4/15/86



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

### **CHAPTER 4 PROTECT AND REGULATE SECONDARY ROAD RIGHT-OF-WAY**

4-4-1	Purpose	4-4-4	Administration
4-4-2	Definitions	4-4-5	Abatement
4-4-3	Violations Generally/Penalty	4-4-6	Enforcement

4-4-1 PURPOSE. The purpose of this ordinance is to restrict Pocahontas County land owners or their tenants adjoining secondary road right-of-ways from farming, fencing, or otherwise abusing such right-of-way, which will damage the road and its shoulders, cause hazardous obstructions, create potential liability to Pocahontas County, and unjustly enrich these owners at the expense of the County.

4-4-2 DEFINITIONS. For use in this ordinance terms or words used herein shall be interpreted or defined as follows:

1. "Obstruction" shall mean anything that is placed in a secondary road right-of-way by persons other than persons authorized to do so by the Pocahontas County Board of Supervisors. It includes but is not limited to property such as fences, growing crops, tree limbs, rocks, trash, corn cobs, piles of brush, abandoned vehicles or machinery, billboards, advertising signs or devices, open ditches, and water breaks, tile and tile outlets, snow from private drives placed on roadway or shoulders, mud and other debris from farm fields which is deposited on secondary county roads, and the cultivation or growing of crops within the secondary road right-of-way.
2. "Board" shall mean the Pocahontas County Board of Supervisors or its designee.
3. "Engineer" shall mean the Pocahontas County Engineer or designee.
4. "Attorney" shall mean the Pocahontas County Attorney or designee.
5. "Unauthorized Use of the County Secondary Roadway Right-of-Way" does not include the mowing or harvesting of grasses in the County Right-of-Way so long as the activity can be done without causing any danger or hazard to traffic.

All other terms shall be interpreted and construed in accordance with the provisions of Chapter 4, Code of Iowa, 2014, and generally as an implementation of or in harmony with Chapter 318, Code of Iowa, 2014.



#### 4-4-3 VIOLATIONS GENERALLY/PENALTY

1. The creation by any person of an obstruction in Pocahontas County is declared a public nuisance and is prohibited.
2. A person shall not excavate, fill, or make any physical change within the right-of-way of a secondary road without obtaining a permit from the Engineer.
3. Any work performed under a permit shall be performed in conformity with the specifications prescribed by the Engineer, and may include posting of bond. If the excavation, fill, or physical change within the right-of-way does not conform to the specifications that accompany the permit, the permittee shall be reasonably notified by the Engineer to make such conforming changes. If after twenty (20) days the changes have not been made, the Engineer may make the necessary changes and immediately send a statement of the cost to the permittee. If within ten (10) days after sending the statement the cost is not paid, the County may proceed to collect the cost of corrections as provided in Section 6 below.
4. The Engineer and utility companies are exempt from the provisions of this section.
5. Any person who violates the provisions of this section for a twenty-four (24) hour period shall, upon conviction, be fined up to two hundred fifty dollars (\$250.00) or imprisoned in the County jail for up to thirty (30) days. Each twenty-four (24) hour period is a separate and distinct violation.

4-4-4 ADMINISTRATION. In the event the Engineer identifies obstructions within the County, the engineer shall attempt to persuade the person responsible for the obstruction to remove it. If such an attempt is unsuccessful, the Engineer shall proceed under Section 5 or Section 6 of this ordinance, or both.

#### 4-4-5 ABATEMENT.

1. Emergency. If the Engineer deems an obstruction to constitute an immediate and dangerous hazard, the Engineer may without prior notice or liability in damages, cause the obstruction to be removed and the costs of removal to be assessed against:
  - A. The owner of any billboard, advertising sign or device so removed.
  - B. The vehicle or machinery owner in the case of abandoned vehicles or machinery.
  - C. The abutting property in the case of fences and other obstructions placed by the owner of, or tenant on, said property.
  - D. The owner or person responsible for placement of all other obstructions.

2. Notice. If the Engineer does not deem an obstruction to be an immediate and dangerous hazard, the engineer may serve a notice to abate obstruction/public nuisance on the person who would be assessed for County costs of removing the obstruction. The notice to abate shall be served in the manner of an original notice or in writing by certified mail. Notice to abate shall also be sent by ordinary mail. If the obstruction/public nuisance is not removed within the time period prescribed in the notice, the engineer may cause the obstruction to be removed. The engineer may perform such removal without liability for damages.
3. Request for hearing. Any person notified to abate an obstruction/public nuisance may have a hearing with the Board as to whether the obstruction exists. A request for hearing before the Board must be in writing and delivered to the County Auditor within the time stated in the notice, or it will be conclusively presumed that an obstruction exists and it must be abated as set forth in the notice. The hearing will be before the Board at a time and place fixed by the Board. The findings of the Board shall be conclusive and if an obstruction is found to exist, it shall be abated within the time period specified by the Board.
4. Survey. If a request for hearing before the Board is made and a determination is made after the hearing that a bonafide dispute as to the location of the County right of way exists, then there shall be a survey done of the County right-of-way in question. If the County is correct, the person served the notice to abate shall pay the cost of the survey. If the person served the notice to abate is correct, the County shall pay the cost of the survey.
5. Contents of Notice. The notice to abate shall contain
  - A. A legal description of the County right-of-way, and if applicable, a legal description of the adjacent property and site map.
  - B. A description of the obstruction and conditions that exist that caused the obstruction /public nuisance designation to be applied.
  - C. A statement of the acts necessary to abate the obstruction.
  - D. A reasonable time within which to complete the abatement or to make a written request for hearing.
  - E. An estimate of the cost to abate the nuisance.
  - F. A statement that if the obstruction is not abated as directed and no request for hearing is made within the time prescribed, the County will abate it and assess the costs to the person receiving the notice to abate.

6. Statement of Costs of Removal. Upon removal of the obstruction by the County, the Engineer may immediately send a statement of the cost of removal to the person assessed. If within ten (10) days after sending the statement, the cost is not paid, the Engineer through the Attorney may institute proceedings to collect the cost of removal as provided in Section 6 below.
7. Installment Payments. If the amount expended to abate the obstruction exceeds five hundred dollars (\$500.00), the County may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under Iowa Code Chapter 384, Division IV.

4-4-6 ENFORCEMENT. Upon approval of the Board, the County may take legal action to enjoin or abate an obstruction, and obtain a judgment for damages caused by an obstruction, including the costs of removal; and to pursue any other appropriate remedy, including assessment of the costs against the property for collection in the same manner as a property tax in accordance with Iowa Code Section 331.384, or criminal prosecution under Chapter 716, Code of Iowa, 2014.

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

### **CHAPTER 5 ALL TERRAIN AND OFF ROAD UTILITY VEHICLES**

4-5-1	Purpose	4-5-4	Unlawful Operations
4-5-2	Definitions	4-5-5	Exempt Vehicles
4-5-3	Operation on Roadways	4-5-6	Penalties

4-5-1 **PURPOSE.** The purpose of this chapter is to designate that portion of county roadways upon which All-Terrain and Utility Vehicles may be operated during a specified period, to specify said period, and to establish regulations regarding such operation.

4-5-2 **DEFINITIONS.** For use of this chapter, unless the context specifically indicates otherwise, the following terms are defined:

1. "All-Terrain Vehicle" as defined by Iowa Code Section 321I.1(1)(a) means a motorized vehicle with not less than three and not more than six non-highway tires that is limited in engine displacement to less than one thousand cubic centimeters and in total dry weight to less than one thousand two hundred pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.
2. "Off Road Utility Vehicle": as defined in Iowa Code Section 321I.1(17) means a motorized flotation-tire vehicle with not less than four and not more than eight low-pressure tires that is limited in engine displacement to less than 1500 cubic centimeters and in total dry weight to not more than 1800 pounds and that has a seat of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control.
3. "Roadway" as defined in Iowa Code Section 321I.1(24) means that portion of highway improved, designed, or ordinarily used for vehicular travel.

4-5-3 **OPERATION ON ROADWAYS.** If an All-Terrain or Off-Road Utility Vehicle is properly registered pursuant to Iowa Code Section 321I.3, the same may be operated on any Pocahontas County, Iowa, roadway, such operation limited to roadways lying outside the city limits of any incorporated city which does not have an ordinance or other regulation in effect allowing such operation and such operation further limited to the hours from official sunrise to official sunset of the same day, as established by the National Weather Service.

4-5-4 **UNLAWFUL OPERATIONS:**

1. A person shall not drive or operate an All-Terrain or Off-Road Vehicle:

- A. At a rate of speed in excess of the posted speed limit, nor greater than reasonable under all existing circumstances.
  - B. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.
  - C. While under the influence of intoxicating liquor or narcotics or habit forming drugs.
  - D. Without a lighted headlight and taillight.
  - E. In any tree nursery or planting in a manner which damages or destroys growing stock.
  - F. On any public land, ice or snow, in violation of official signs of Pocahontas County Conservation Board or Iowa Department of Natural Resources prohibiting such operation in the interest of safety for persons, property, or the environment. Any officer of the Pocahontas County Conservation Board or the Iowa Department of Natural Resources may post an official sign in an emergency for the protection of persons, property, or the environment.
  - G. In any park, wildlife area, preserve, refuge, game management area, or any portion of a meandered stream, or any portion of the bed of a non-meandered stream, which has been identified as a navigable stream or river by rule adopted by the Iowa Department of Natural Resources which is covered by water, except on designated riding areas and designated riding trails. This paragraph does not prohibit the use of ford crossing of public roads or any other ford crossing when used for agricultural purposes; the operation of construction vehicles engaged in lawful construction, repair, or maintenance in a streambed; or the operation of all-terrain vehicles on ice.
  - H. Upon a railroad right-of-way. An All-Terrain or Off-Road vehicle may be driven across a railroad right-of-way only at an established crossing and, notwithstanding any other provisions of law, may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic. This paragraph does not apply to law enforcement officers or employee's duties or to an employee of a utility with authority to enter upon the railroad right-of-way in the lawful performance of the employee's duties.
2. A person shall not operate or ride in an All-Terrain or an Off-Road Utility Vehicle with a firearm in the person's possession unless it is unloaded and enclosed in a carrying case. However, a non-ambulatory person may carry an uncased and unloaded firearm while operating or riding on an All-Terrain or Off-Road Vehicle.

3. A person shall not operate an All-Terrain or Off-Road Utility Vehicle with more persons on the vehicles than it was designed to carry.
4. A person shall not operate an All-Terrain or Off-Road Utility Vehicle on a designated riding area or designated trail unless the riding area is signed as Open to All-Terrain Off-Road Utility Vehicle operation.
5. A person shall not operate a vehicle other than an All-Terrain or Off-Road Utility Vehicle on a designated riding area or designated trail unless the riding area or trail is signed as open to such other use.
6. A person shall not operate an All-Terrain or Off-Road Utility Vehicle unless the operator is 16 years of age or older and has a valid Iowa Driver's License; unless the vehicle is duly registered; and unless the operator has proof of insurance complying with that required of the operator of a motor vehicle pursuant to applicable Iowa Statutes; Rules, and Regulations, including but not limited to Iowa Code Sections 321.20B and 321A.21.

4-5-5 EXEMPT VEHICLES. Registrations shall not be required for All-Terrain Vehicles used exclusively to conduct agricultural operations pursuant to Iowa Code Section 321I.9(3).

4-5-6 PENALTIES. Violation of this ordinance shall constitute a SIMPLE MISDEMEANOR punishable by a minimum fine of \$65.00, a maximum fine of \$625.00, plus applicable surcharges and court costs, and/or up to thirty (30) days in County Jail.





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

### **CHAPTER 1 CONSTRUCTION, RECONSTRUCTION, AND ABANDONMENT OF PRIVATE WATER WELLS IN POCAHONTAS COUNTY**

5-1-1	Enactment	5-1-6	Penalties
5-1-2	Permit and Permit Fees	5-1-7	Enforcement
5-1-3	Notification	5-1-8	Jurisdiction
5-1-4	Contractor Certification	5-1-9	Hearings
5-1-5	Notice of Violation		

5-1-1 ENACTMENT. Pursuant to Iowa Code Section 331.302, Chapter 49 “Non Public Water Wells” and Chapter 39 “Requirements for Properly Plugging Abandoned Wells” of the Iowa Administrative Code 567 (Environmental Protection) be adopted by reference in its entirety as part of this ordinance

5-1-2 PERMIT AND PERMIT FEES. No person, firm or corporation shall begin construction, reconstruction or alteration of any private water supply in Pocahontas County, Iowa without first having obtained a permit.

Permit fees shall be established by the Pocahontas County Board of Health.

Any person desiring a permit to construct, reconstruct, or alter a private water supply must file with the Pocahontas county Environmental Health Department, an application containing the owner’s name, correct house number, legal description, and such other information as may be required.

Upon approval, the permit shall be issued upon payment of the required fees to the Pocahontas County Environmental Health Department.

5-1-3 NOTIFICATION. The Pocahontas County Environmental Health Department shall be notified not less than 24 working hours in advance between 8:00 a.m. and 4:00 p.m. by the applicant or well contractor of the construction, reconstruction, alteration, or plugging schedule.

5-1-4 CONTRACTOR CERTIFICATION. Any person, firm or corporation desiring to construct, reconstruct, alter, or plug any private water well in Pocahontas County, Iowa shall employ a well contractor that is certified with Iowa’s Department of Natural Resources. Work to the private water well may be completed by the person, firm, or corporation owning such property in the presence of the Pocahontas County Environmental Health Specialist.

A list of well contractors that are certified with Iowa’s Department of Natural Resources shall be kept available to any person, firm, or corporation desiring to construct, reconstruct, alter, or plug any private water well in Pocahontas County.



5-1-5 NOTICE OF VIOLATION. Should a violation of any provision of this ordinance occur, the Pocahontas County Environmental Health Department shall give notice of such alleged violation to the person or persons responsible. Such notice shall:

1. Be in writing.
2. Include a statement of the reasons why it is being issued.
3. Allow a reasonable time for the performance of any act it may require.
4. Be served upon the owner or his/her agent or the occupant, as the case may require; provided that such notice shall be deemed to be properly served upon the owner or agent upon occupant, if a copy thereof is served upon him personally; or if a copy thereof is sent by certified mail, a return receipt requested to addressee only, to his last known address; or if he is served with such a notice by any other method authorized or required under the laws of this state.

Such notice may contain an outline of remedial action which, if taken, will effect compliance with the provisions of this ordinance and with other pertinent regulations.

5-1-6 PENALTIES. Any person violating this ordinance or any provision thereof, shall be guilty of a simple misdemeanor as authorized by the Code of Iowa, Chapter 137.21 and upon conviction thereof may be fined not more than one hundred dollars (\$100) or imprisoned in jail for a period not to exceed 30 days. Each additional day of neglect or failure to comply with such provision, regulation, or order, after notice of violation by the Pocahontas County Board of Health shall constitute a separate offense.

When upon indictment, complaint, or civil action any person found guilty of a violation of this ordinance, the court before such finding is had may, in addition to the fine imposed, if any, to the judgement for damages or cost for which a separate execution may issue, order that such violation be corrected at the expense of the owner or his/her agent or the occupant, and after inquiry into and estimating as nearly as may be the sum necessary to defray the expenses of such action, the court may issue a warrant therefor.

5-1-7 ENFORCEMENT. This ordinance shall be enforced by the Pocahontas County Board of Health as required in the Code of Iowa 455B.172(4). The Board of Health or its agent shall be responsible for issuance of required permits. The Board of Health policy shall establish permit fees.

5-1-8 JURISDICTION. The provisions of this ordinance shall apply throughout all of Pocahontas County.

5-1-9 HEARINGS. In the event any interested person is aggrieved by any order made by the Pocahontas County Board of Health or the Pocahontas County Environmental Health Department, he/she may within 20 days of the date of such order appeal to the Board of Health in writing by stating his/her reasons for requesting such order to be rescinded or modified. The

Board of Health shall review the action or order compliance with the said order. Appeal from any order of the Board of Health may be taken within 20 days to the District Court of Pocahontas County.

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

### **CHAPTER 2 STANDARDS FOR ON-SITE WASTEWATER TREATMENT SYSTEMS**

5-2-1	Enactment	5-2-8	Building Permits
5-2-2	General Requirements	5-2-9	Licensed Septic Tank Pumpers
5-2-3	Permit and Permit Fees	5-2-10	Notice of Violation
5-2-4	Notification	5-2-11	Penalties
5-2-5	Inspection of On-Site Wastewater System	5-2-12	Enforcement
5-2-6	Contractor Registration	5-2-13	Jurisdiction
5-2-7	Variances	5-2-14	Hearings

5-2-1 ENACTMENT. That pursuant to Iowa Code Section 331.302, Chapter 69 "Onsite Wastewater Treatment and Disposal Systems" of the Iowa Administrative Code 567 (Environmental Protection) be adopted by reference in its entirety as part of this ordinance.

5-2-2 GENERAL REQUIREMENTS. In the event a private sewage disposal system should fail, or otherwise be found to cause a nuisance or requires repairs to the system, a connection to a public sewer may be required where applicable.

In the event an on-site wastewater treatment and disposal system should fail, or otherwise be found to cause a nuisance and a sanitary sewer is not available said system shall be made to conform to these rules and regulations. If the system is not made to conform to these rules and regulations, an order may be placed on the property to cease the use of the property as a residence, area of congregation of people, or employment.

Any time a contractor encounters cast iron or clay tile pipe after the septic tank on an old system, it shall be replaced with plastic pipe.

The Pocahontas County Board of Health shall set all fees connected to this chapter policy.

If an easement is required, it is the property owner's responsibility to obtain it prior to installation.

All plans must be approved before construction may begin.

5-2-3 PERMIT AND PERMIT FEES. Any person, firm, or corporation desiring a permit to construct, reconstruct, alter, or repair a private sewage disposal system, must file with the Pocahontas County Environmental Health Department, an application stating therein, the owner's name, the correct house number, the name of the street and such other pertinent information as may be required

A permit is not needed to do routine pumping of the tank, adjusting or replacing the distribution box, or work that does not change the system. The Pocahontas County Environmental Health Department does need to be contacted within 30 days in order to update the permit record.

A site evaluation shall be conducted by the Pocahontas County Environmental Health Specialist or other entity approved by the Pocahontas County Environmental Health Department prior to the issuance of a septic system permit.

The site evaluation shall include a soil evaluation conducted by the Pocahontas County Environmental Health Specialist or other entity approved by the Pocahontas County Environmental Health Department. If the soil evaluation is inconclusive, a percolation test will be conducted.

Upon approval, the permit shall be issued upon payment of the required fees to the Pocahontas County Environmental Health Department. The permit fees shall be established by the Pocahontas County Board of Health

Permits shall be valid for a maximum of 12 months from the time of issuance. If the on-site wastewater treatment and disposal system is not completed in that time, the permit must be reviewed and any additional fees paid.

5-2-4 NOTIFICATION. The Pocahontas County Environmental Health Department shall be notified not less than 48 working hours in advance between 8:00 a.m. and 4:00 p.m. by the septic system contractor or homeowner prior to construction in order for a soil evaluation or percolation test to be completed.

The Pocahontas County Environmental Health Department will be notified 8 hours in advance prior to the completion of the septic system.

5-2-5 INSPECTION OF ON-SITE WASTEWATER SYSTEM. No part of the system shall be used or covered so as to deny the mandatory final inspection by the Environmental Health Specialist. An on-site wastewater treatment and disposal system is considered ready for inspection when the house sewer, septic tank, distribution box, and drainage pipe are in place. However, the Department may give permission for coverage in some circumstances.

When the on-site wastewater treatment and disposal system has been completed, a drawing must be made showing the exact layout of the septic tank, all distribution boxes, the secondary treatment system, and location of the structure to be served by the system. This drawing must be made by referencing two fixed corners of the dwelling or other structure to the center of the septic tank, and center of the distribution box(es). The location of all wells must be shown.

5-2-6 CONTRACTOR REGISTRATION. Any person, firm or corporation desiring to construct, reconstruct, alter, or repair any private sewage system in Pocahontas County, Iowa shall be approved and registered with the Pocahontas County Environmental Health Department. Work to the private sewage systems may be completed by the person, firm, or corporation owning such property without prior registration with the Department.

Application forms are available from the Pocahontas County Environmental Health Department. Forms must be completed and an annual registration fee established by the Board of Health paid.

The applicant must demonstrate adequate knowledge of the duties involved prior to registration approval. The contractor must stay informed of all relevant rules, regulations, industry changes, and attend any mandatory training sessions as determined by the Board of Health.

Registration with the Pocahontas County Board of Health may be revoked if the contractor violates any rules of this ordinance.

No person who has had their registration revoked may be issued a new registration within a six month period after the effective date of revocation except on the recommendation of the Board of Health.

5-2-7 VARIANCES. Variances to these rules and regulations may be granted by the proper authority provided sufficient and proposed alternative information is provided to substantiate the need and propriety of such action. Variances shall be requested in writing and addressed to the Pocahontas County Board of Health and the Iowa Department of Natural Resources, if necessary. All decisions regarding this topic shall be issued in writing to the requester.

5-2-8 BUILDING PERMITS. Prior to issuing a building permit, the homeowner must identify the location of the septic system and lateral fields. No construction will be permitted which denies access to the septic tank or in any way alters the absorption field.

The Pocahontas County Department of Environmental Health shall be contacted and supplied a detailed drawing of the system location and the location of the proposed construction.

It is the discretion of the Pocahontas Environmental Health Department to follow-up with a field inspection of the location of a pre-existing system.

5-2-9 LICENSED SEPTIC TANK PUMPERS. According to Chapter 68, Commercial Septic Tank Cleaners, all septic tanks that are pumped in Pocahontas County shall be pumped by a licensed septic tank cleaner.

Tank cleaners may apply for a license by completing a form provided by the department and submitting it with the license fee to the Department of Natural Resources.

5-2-10 NOTICE OF VIOLATION. Should a violation of any provisions of this ordinance occur, the Pocahontas County Environmental Health Department shall give notice of such alleged violation to the person or persons responsible. Such notice shall:

1. Be in writing.
2. Include a statement of the reasons why it is being issued.



3. Allow a reasonable time for performance of any act it may require.
4. Be served upon the owner or his/her agent or the occupant, as the case may require, provided that such notice shall be deemed to be properly served upon the owner or agent upon occupant, if a copy thereof is served upon him personally, or if a copy thereof is sent by certified mail, a restricted return receipt requested to addressee only, to his last known address, or if he/she is served with such a notice by any other method authorized or required under the laws of this state.

Such notice may contain an outline of remedial action which, if taken, will effect compliance with the provisions of this ordinance and with other pertinent regulations.

5-2-11 PENALTIES. Any person violating this ordinance or any provision thereof, shall be guilty of a simple misdemeanor as authorized by Code of Iowa Chapter 137.12 and upon conviction thereof may be fined not more than one hundred dollars (\$100) or imprisoned in jail for a period not to exceed 30 days. Each additional day of neglect or failure to comply with such provision, regulation, or order, after notice of violation by the Pocahontas County Board of Health shall constitute a separate offense.

When upon indictment, complaint, or civil action any person found guilty of a violation of this ordinance, the court before such findings is had may, in addition to the fine imposed, if any, to the judgement for damages or cost for which a separate execution may issue, order that such violation be corrected at the expense of the owner or his/her agent or the occupant, and, after inquiry into and estimating as nearly as may be the sum necessary to defray the expenses of such action, the court may issue a warrant therefor.

5-2-12 ENFORCEMENT. This ordinance shall be enforced by the Pocahontas County Board of Health as required in the Code of Iowa 455B.172(4). The Board of Health or its agent shall be responsible for issuance of required permits. The Board of Health policy shall establish permit fees.

5-2-13 JURISDICTION. The provisions of this ordinance shall apply throughout all of Pocahontas County.

5-2-14 HEARINGS. In the event any person is aggrieved by any order made by the Pocahontas County Board of Health agent, he/she may within twenty (20) days of the date of such order appeal to the Board of Health in writing by stating his/her reasons for requesting such order to be rescinded or modified. The Board of Health shall review the action or order compliance with the said order. Appeal from any order of the Board of Health may be taken within twenty (20) days to the District Court of Pocahontas County.

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

### **CHAPTER 3 HAZARDOUS SUBSTANCE OR HAZARDOUS WASTE**

5-3-1 Purpose	5-3-6 Notifications
5-3-2 Construction	5-3-7 Police Authority
5-3-3 Definitions	5-3-8 Liability
5-3-4 Cleanup Required	5-3-9 Penalty
5-3-5 Liability for Cleanup Costs	

5-3-1 **PURPOSE.** In order to reduce the danger to public health, safety and welfare from the leaks and spills and other hazardous conditions caused by hazardous substances or hazardous waste, these regulations are promulgated to establish responsibility for the treatment, removal and cleanup of leaks and spills and other hazardous conditions within the County limits, and provide criminal penalties for certain violations.

5-3-2 **CONSTRUCTION.** The ordinance shall be broadly construed to effectuate its purpose.

5-3-3 **DEFINITIONS.** For the purpose of this ordinance these words have the following meanings:

1. "Hazardous waste" means a waste or combination of wastes that, because of its quantity, concentration, biological degradation, leaching from precipitation, or physical, chemical, or infectious characteristics, has either of the following effects:
  - A. Causes, or significantly contributes to an increase in mortality or an increase serious irreversible, or incapacitating reversible, illness.
  - B. Poses a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. "Hazardous waste" may include but is not limited to wastes that are toxic, corrosive, or flammable, or irritants, strong sensitizers or explosives.
2. "Hazardous waste" does not include:
  - A. Agricultural wastes, including manures and crop residues that are returned to the soil as fertilizers or soil conditioners.
  - B. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.  
(455B.411(3A(2)), Code of Iowa)

3. “Hazardous substance” means any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, or that is an irritant or that generates pressure through decomposition, heat or other means. “Hazardous substance” may include any hazardous waste identified or listed by the administrator of the United States Environmental Protection Agency (EPA) under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, or any toxic pollutant listed under section 307 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous substance designated under section 311 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous material designated by the Secretary of Transportation under the Hazardous Material Transportation Act.
4. “Hazardous condition” means any situation involving the actual, imminent or probable spillage, leakage, or release of a hazardous waste or hazardous substance into the land, into a water of the state, or into the air or atmosphere which creates an immediate or potential danger to the public health or safety or to the environment. For purposes of this division, a site which is an abandoned or uncontrolled disposal site as defined in Section 455B.411, subsection 1, in the Code of Iowa is a hazardous condition.  
(Sub section 445B.381(4), Code of Iowa)
5. “Person having control over a hazardous substance or hazardous waste” means any person, corporation, partnership, firm, associate, cooperative or government agency of any kind who at any time produces, handles, stores, uses, transports, refines, or disposes of a hazardous substance or hazardous waste, the release of which creates a hazardous condition, including bailees, carriers, and any other person in control of a hazardous substance or hazardous waste when a hazardous condition occurs, whether the person owns the hazardous substance or hazardous waste or is operating under a lease, contract, or other agreement with the legal owner of the hazardous substance or hazardous waste.  
(455B.381(7), Code of Iowa)
6. “Clean up” means action necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove, or dispose of a hazardous substance or hazardous waste.  
(455B.381(1), Code of Iowa)
7. “Treatment” means a method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of a hazardous substance or hazardous waste so as to neutralize it or to render the substance non-hazardous, safer for transport, amenable for recovery, amenable for storage, or to reduce it in volume. Treatment includes any activity or processing design to change the physical form or chemical composition of hazardous substance or hazardous waste to render it nonhazardous.



5-3-4 **CLEANUP REQUIRED.** Whenever a hazardous condition is created in Pocahontas County by the deposit, injection, or dumping, spilling, leaking or placing of a hazardous substance or hazardous waste, so that the hazardous substance or hazardous waste or a constituent of the hazardous waste or hazardous substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the person having control over the hazardous substance or hazardous waste shall cause the condition to be remedied by a clean up, as defined in section 5-3-2 (6), as rapidly as feasible to an acceptable safe condition. If that person does not cause the clean-up to begin in a reasonable time in relation to the hazard and circumstances of the incident, the County may by an authorized officer give reasonable notice, based on the character of the hazardous condition, said notice setting a deadline for accomplishing the clean up and stating that the County will proceed to procure cleanup service and bill the person having control over a hazardous substance or hazardous waste. If the bill for those services is not paid within thirty (30) days the Board of Supervisors may authorize the County Attorney to proceed to obtain payment by all legal means. The authorized officer shall report the nonpayment to the Board of Supervisors and may immediately seek any State or Federal funds available to said clean up. The Board of Supervisors may at any time authorize the County Attorney to seek injunctive relief concerning the hazardous condition from a Court or agency

5-3-5 **LIABILITY FOR CLEANUP COSTS.** The person having control over a hazardous substance or hazardous waste shall be strictly liable to the County for all of the following:

1. The reasonable clean up costs incurred by the County as a result of the failure of the person having control over a hazardous substance or hazardous waste to cleanup pursuant to this chapter or any State or Federal law or regulation the hazardous substance or hazardous waste involved in a hazardous condition.
2. The reasonable costs incurred by the County to evacuate people from the area threatened by a hazardous substance or hazardous waste involved in the hazardous condition.
3. The reasonable damages to the County for the injury to, destruction of, or loss of any and all County property, including parks and roads, caused by the hazardous substance or hazardous waste involved in a hazardous condition. The reasonable damages may also include the costs of assessing the injury, destruction or loss.
4. All other reasonable costs or damages incurred by the County caused by the hazardous substance or hazardous waste involved in a hazardous condition or the clean up of it.

All persons having control over a hazardous substance or hazardous waste shall be jointly & severally liable under this chapter.

5-3-6 NOTIFICATIONS.

1. A person having control over a hazardous substance or hazardous waste shall notify the Pocahontas County Emergency Management Director and the Pocahontas County Sheriff of the occurrence of a hazardous condition as soon as possible, but not later than six (6) hours after the onset of the hazardous condition or discovery of the hazardous condition. The Pocahontas County Emergency Management Director shall notify the proper State office in the manner established by the State of Iowa.
2. Any county employee or any member of a law enforcement agency who discovers a hazardous condition shall notify the Pocahontas County Emergency Management Director and the Pocahontas County Sheriff. The Pocahontas County Emergency Management Director shall notify the appropriate County departments and the proper State office in the manner established by the State of Iowa.

5-3-7 POLICE AUTHORITY. If the circumstances reasonably so require, the Pocahontas County Sheriff or the Pocahontas County Emergency Management Director or any other peace officer or law enforcement officer may:

1. Order the evacuation of persons from their homes to areas away from the site of the hazardous condition.
2. Order the establishment perimeters or other boundaries at or near the site of a hazardous condition and limit access to clean-up personnel.
3. Issue any other reasonable order to ensure the safety of persons or property or the containment of the hazardous condition.

No person shall disobey a lawful order or written order issued under this section by the Pocahontas County Emergency Management Director, Pocahontas County Sheriff or any other peace officer or law enforcement officer issued under this section.

5-3-8 LIABILITY. Pocahontas County shall not be liable to any person for claims of damages, injuries or losses resulting from any hazardous condition, except, if the County is the person having control over a hazardous substance or hazardous waste.

5-3-9 PENALTY. Any person, corporation, partnership, firm, associate, cooperative, or government agency of any kind who violates any provisions of section 5-3-6 or 5-3-7 of this chapter shall be guilty of a simple misdemeanor. A simple misdemeanor violation under this Ordinance shall carry a maximum fine of \$100.00, plus surcharge and costs, or a sentence not to exceed 30 days in the county jail. Each day a violation occurs shall constitute a separate offense.

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

### **CHAPTER 4 CONSTRUCTION OF LIVESTOCK BUILDINGS**

5-4-1	Purpose	5-4-4	Requirements
5-4-2	Applicability	5-4-5	Approval Consideration Procedure
5-4-3	Definitions	5-4-6	Fees

5-4-1 **PURPOSE.** The purpose of this ordinance shall be to ensure the public health and well being by providing an information bank to address potential problems of livestock waste disposal.

5-4-2 **APPLICABILITY.** This ordinance shall apply to all livestock buildings constructed in areas zoned Agriculture within Pocahontas County. It shall not apply to livestock building built within incorporated municipalities. Where the County Zoning Adjustment Board has granted a variance or special use within a different zoning district than those listed herein, it shall also apply.

5-4-3 **DEFINITIONS.** As utilized herein, the following definitions shall control:

1. "Livestock building". Any structure in which animals are confined and which is totally roofed.
2. "Livestock". Any animal raised or kept for sale or slaughter attendant to a business activity of the owner. It shall not include animals raised solely as pets, animals raised for hobby or show, pet stores or animals kept less than thirty days.
3. "Owner". The individual in whose name fee title to the tract of proposed structure is shown. It shall further mean any contract purchasers, lessees, renters, or other parties or entities having a direct interest in the construction and use of the proposed structure. It shall include natural persons, partnerships, corporations, limited liability companies, estates, trusts and other artificial entities capable of holding title to or controlling the use of real estate under the laws of the State of Iowa.

5-4-4 **REQUIREMENTS.** Before any construction of livestock buildings commences the following procedure must be followed:

1. An application for a construction permit shall be obtained from the office of the Pocahontas County Auditor.
  - A. The application shall be completed and signed by the owner and submitted to the Auditor for consideration by the Board of Supervisors at their next regular meeting.

- B. The application shall contain, in all instances, the following information:
- 1) A sketch, map or blueprint showing building design, configuration both exterior and interior, dimensions and construction materials.
  - 2) A statement of manure management including manure disposal plans. Where the structure is subject to the jurisdiction of the Iowa Department of Natural Resources a copy of the management and disposal plan as required by the Department shall be deemed sufficient for purpose of this permit.
  - 3) A recitation of what steps are taken to identify agricultural drainage tile lines and, if said lines are impacted by the proposed structure, recitation of the remedial measures to be taken to protect the integrity of the tiling drainage system.
  - 4) A statement of the responsible parties who will supervise the construction and initial operation of the structure.
  - 5) In conjunction with the waste disposal recitation, a statement, where applicable, of a plan for runoff management.
  - 6) A recitation and report of steps taken to identify agricultural drainage wells and natural sink holes which may be affected by the construction of the proposed building. In ascertaining sink holes and sink wells the criteria of groundwater runoff patterns, tiling systems and proximity shall be used. All such sink wells and sinkholes within 2,500 feet of the proposed structure shall be listed. Additionally, all meandered streams, artificial open drainage ditches, lakes, ponds both natural and artificial, marshlands and quarries shall be identified and disclosed in conjunction with the requirements of the subsection.
2. For purposes of this ordinance, the term “construction” shall include excavation, placement of footings, installation of forms, framing and concrete work. It shall not include removal of vegetative growth, road construction, preliminary grading or earthwork or installation of temporary utility services.
3. Repairs and Reconstruction. This ordinance shall not apply to repairs made to existing or permitted structures within the ordinary course of business. It shall apply where more than fifty percent of the structure is altered in configuration either in interior or exterior form and regardless of whether a continued used of similar operations is contemplated. Total demolition of a structure previously permitted shall not require any further permitting or notification under this ordinance.

5-4-5 APPROVAL CONSIDERATION PROCEDURE. Once submitted to the Board of Supervisors the permit shall be agendaized and considered. At that time the owner, his/her attorney or agent may appear and present such information to supplement or explain the application as the owner deems appropriate. Thereafter the Board of Supervisors shall evaluate the compliance with the requisites herein. If said requisites have been substantially met, the Board shall proceed to issue the construction permit. The Board shall have the right where matters affect the jurisdiction of the County Zoning Ordinance, to refer the pending permit to the zoning administrator, who shall make an independent investigation as to compliance with applicable zoning regulations. In the event the administrator determines the proposed structures in compliance with the county zoning regulations, he/she shall report, in writing, this conclusion to the Board of Supervisors within 14 days of the referral to him and the Board shall proceed to finalize the permit consideration. If the Administrator determines a zoning question exists, he/she shall refer the matter to the Pocahontas County Zoning Commission or the Pocahontas County Zoning Adjustment Board, which shall proceed to consider the matter. The administrator shall report the matter back to the Board of Supervisors at the conclusion of the zoning considerations so that the Board of Supervisors may proceed to conclude the construction permit issues.

5-4-6 FEES. The Board of Supervisors may, at its discretion, establish a reasonable fee to be paid with the submission of the completed application.

NOTE: Original ordinance #16 was published September 10, 1996.



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

### **CHAPTER 5 CONFINED ANIMAL FEEDING OPERATION RULES**

5-5-1	Purpose	5-5-6	Water Pollution – All Confinement
5-5-2	Definitions		Buildings over 1,000 Animal Units
5-5-3	Toxic Air Emission	5-5-7	Penalties
5-5-4	Complaint Procedures	5-5-8	Variances
5-5-5	Water Pollution – All Confinement Buildings of 1,000 Animal Units or Less		

5-5-1 **PURPOSE.** To establish health regulatory standards to enhance and protect the opportunity for Pocahontas County residents to live and work in a healthy environment by providing confined animal feeding operations emission standards that protects the long term air and water quality for the residents of Pocahontas County.

5-5-2 **DEFINITIONS.** The definitions and terms as used in this ordinance are:

1. “Air Quality Easements”. An agreement between a landowner and an animal feeding operation that allows for additional space inside the landowner’s property line where air quality will not be measured. The air quality easement must be properly filed with the Recorder’s Office.
2. “Animal capacity”. The maximum number of animals which the owner or operator will confine in an animal feeding operation at any one time. The animal capacity of all confinement buildings will be included in the determination of the animal capacity of the operation.
3. “Animal/livestock”. A domesticated animal belong to the cattle, sheep, hogs, goats, horse or fowl species.
4. “Animal unit”. A unit of measurement used to determine the animal capacity of an animal feeding operation, based upon the product of multiplying the number of animals in each species by the following.

A.	Slaughter and feeder cattle	1.0
B.	Mature dairy cattle	1.4
C.	Butcher and breeding swine, over 55 pounds	0.4
D.	Swine between 15 and 55 pounds	0.1
E.	Sheep or lambs	0.1
F.	Horse	2.0



- |    |                           |       |
|----|---------------------------|-------|
| G. | Turkeys                   | 0.018 |
| H. | Broiler or layer chickens | 0.01  |
5. "Animal waste". Any animal excrement, animal carcass, feed waste, animal water waste, or any other waste associated with animals.
  6. "Animal waste water". Any animal excreta, and liquid which comes into contact with any manure, litter, bedding, or other raw material or intermediate or final material or product used in or resulting from livestock production or indirectly used in the operation of a livestock confinement operation or spillage or overflow from livestock watering systems, and liquid used in washing, cleaning, or flushing pens, barns or manure pits, or any liquid used in washing or spraying to clean animals or any liquid used for dust control on the premises of a confinement feeding operation.
  7. "Animal weight capacity". The sum of the average of all animals in a confinement feeding operation is at full animal capacity. For confinement feeding operations with only one species, the animal weight capacity is the product of multiplying the animal capacity by the average weight during a production cycle. For operations with more than one species, the animal weight capacity of the operation is the sum of the animal weight capacities for all species.
  8. "Animal Feeding Operation". A lot, yard, corral, building, or other area in which animals are confined and fed and maintained for 45 days or more in a 12-month period, and all structures used for the storage of manure from animals in the operation. An animal feeding operation does not include a livestock market. Open feedlots and confinement feeding operations are considered to be separate animal feeding operations.
  9. "Application". The disposal of animal waste or animal wastewater by injection into the land or on top of the land.
  10. "Aquifer". A formation, group of formations, or part of a formation containing sufficient saturated permeable material that could yield a sufficient quantity of water that may be extracted and applies to a beneficial use.
  11. "Complainant". A resident of Pocahontas County that presents a written and signed form to the Pocahontas County Board of Health objecting to odors or other possible health risks connected with a specific livestock confinement operation within two (2) miles of their residence.
  12. "Confinement Building". A building used in conjunction with a confinement feeding operation to house animals.
  13. "Confined Animal Feeding Operation (CAFO)". An animal feeding operation in which animals are confined to areas, which are totally roofed.



14. "Confined Animal Feeding Operation Structure". A formed manure storage structure, egg wash water storage structure, earthen manure storage basin, or confinement building.
15. "Confinement Site". A site where there is located a manure storage structure which is part of a confinement feeding operation.
16. "Drainage Well". A well used to drain storm runoff into a subsurface formation.
17. "Dry Handling Waste". Manure (urine or feces), litter, bedding, or feed waste from animal feeding operations.
18. "EPA". Environmental Protection Agency, Region 7 which includes Iowa, Kansas, Missouri, Nebraska is located at 901 1 5th Street, Kansas City, Kansas 66101.
19. "Feedlot". Any land area structure, yard corral, or other area whether enclosed with a roof or enclosed wherein livestock are confined in close quarters for the purpose of fattening, feeding, growing, raising, or birthing such livestock for final shipment to market or slaughter. A "feedlot" does not include enclosed pasture areas, which are used for the raising of crops or other vegetation upon which livestock are allowed to graze or feed.
20. "Formed Manure Storage Structure". A structure either covered or uncovered, used to store manure from a confinement feeding operation, which has walls, and a floor constructed of concrete, concrete block, wood, steel or similar materials. Similar materials may include, but are not limited to, plastic, rubber, fiberglass, or other synthetic materials. Materials used in formed manure storage structure shall have structural integrity to withstand expected internal and external load pressures.
21. "Ground Water or Groundwater".
  - A. Generally, all subsurface water is distinct from surface water, specifically, the part that is in the saturated zone of a defined aquifer.
  - B. Water that seeps downward and saturates soil or rock, supplying springs and wells. The upper level of the saturate zone is called the water table.
  - C. Water stored underground in rock crevices and in the pores of geologic materials that make up the earth's crust. Ground water lies under the surface in the ground's zone of saturation, and is referred to as Phreatic Water.

22. "Iowa DNR". Iowa Department of Natural Resources located at 502 E 9th Street, Wallace State office Building, Des Moines, Iowa 50319-0034.
23. "Lease". A written contract for the exclusive use of real property which specifically grants unto the lessee the right to apply animal waste and animal wastewater to the leased premises.
24. "Objectionable Odor". Any odors present in the ambient air that by itself or in combination with other odors that are harmful or injurious to human health and welfare. Odors are harmful and injurious to human physical or mental health if they tend to lessen human food and water intake, interfere with sleep, upset appetite, produce irritation of the upper respiratory tract, produce irritation of the eyes, or cause symptoms of nausea or diarrhea, or if their chemical or physical nature is or may be detrimental or dangerous to human health.
25. "Owner". The person who has title to the property where the animal feeding operation is located or the person who has title to the animal feeding operation structures.
  - A. Fee simple title
  - B. A leasehold interest
  - C. Any interest in an entity which holds fee simple title or
  - D. Any interest in an entity that has a leasehold interest
26. "Person". Includes natural persons and also includes corporations, partnerships, associations, and any other business or charitable entities, a natural person who has supervisory authority over the operation of a confinement feeding operation whether or not such a person is an owner of this operation, and a natural person who applies animal waste or animal waste water originating from the operation.
27. "Plant Filter Area". Land used or reserved for the application of liquid waste from a livestock lagoon or holding pit.
28. "Pocahontas County Environmental Health Department". The administrative branch of the Board of Health designated to execute the activities as set forth under subsections 5-5-3, 5-5-4, 5-5-5, and 5-5-6 of this ordinance.
29. "Subsurface Water". Ground water and water in the vadose zone that may become ground water or surface water in the reasonably foreseeable future or may be utilized by vegetation.
30. "Surface Water".

- A. An open body of water such as a stream, lake, or reservoir.
  - B. Water that remains on the earth's surface; all waters whose surface is naturally exposed to the atmosphere, for example; drainage ditches, rivers, reservoirs, ponds, streams, impoundments, seas, estuaries, etc., and all springs, wells, or other collectors directly influenced by surface water.
  - C. A source of drinking water that originates in rivers, lakes, and run-off from melting snow, either drawn directly from a river or captured behind dams and stored in reservoirs.
- 31. "Unformed Manure Storage Structure". A covered or uncovered animal feeding operation structure in which manure is stored, other than a formed manure storage structure or egg wash water storage structure, which is an anaerobic lagoon, earthen structure, or earthen manure storage basin.
  - 32. "Wet Handling Wastewater". Water containing waste or contaminated by waste including process-generated and contaminated rainfall run-off.

#### 5-5-3 TOXIC AIR EMISSION.

- 1. A confined animal feeding operation must submit an Air Emission Plan. For all new buildings, this plan shall be submitted to the Pocahontas County Board of Health thirty (30) days prior to building. The plan shall include the following:
  - A. Methods and practices that will be used to minimize air emissions.
  - B. Measures to be used to mitigate air emissions in the event a violation of this ordinance occurs.
  - C. A complaint response describing the procedures the owner will use to respond to complaints directed at the facility, including:
    - 1) A determination of the odor sources most likely to generate significant amounts of odors.
    - 2) A list of anticipated odor control strategies and techniques for addressing each of the significant odor sources.

Within 18 months, all existing confined animal feeding operations must submit an Air Emission Plan upon passage of said ordinance.

An air emission form may be obtained from the Pocahontas Board of Health.

Confined animal feeding operations of 1,000 animal units or less are exempt from submitting an air emission plan.

2. Once the Air Emission Plan is received, base line air quality measurements will be taken at the property line.
3. No person shall cause or allow to occur the emission of objectionable odorous air contaminants or toxic air emissions from confinement structures, manure storage and treatment, waste disposal modalities, land application, and/or carcass disposal to degrade air quality. The concentration of gases at the property or air quality easement line of the land resulting from this operation shall not exceed the following levels:

<u>Gas</u>	<u>Maximum Allowable Concentrate</u>	<u>Exposure Period</u>
Hydrogen Sulfide (H <sub>2</sub> S)	15 ppb at residence 70 ppb at CAFO property line	Average over 1 hour Not to exceed 2 times per year with notice to DNR & residence
Ammonia (NH <sub>3</sub> )	150 ppb at residence 500 ppb at CAFO property line	Averaged over 1 hour Not to exceed 2 times per year with notice to DNR & residence

4. The emission levels as set forth in subsection 3 above shall be applicable until such time as the Iowa Department of Natural Resources establishes emission standards contained in the Iowa Administrative Code which shall become part of this ordinance as if set forth in full herein.
5. Air emission limits may be exceeded only on manure spreading days.

#### 5-5-4 COMPLAINT PROCEDURES.

1. For toxic air emission complaints to be considered, complaint forms must be completed, signed, and received by the Pocahontas county Board of Health. The person submitting the complaint must reside within two (2) miles of the site against which the complaint is lodged. The complaint must state the nature and basis of the complaint, the location of the suspected source of emission, and all record owners and/or leaseholders as shown by the records of the Pocahontas County Recorder. The Pocahontas County Board of Health shall not consider complaints not in compliance with this section. Complaint forms may be obtained from the Pocahontas County Board of Health.
2. Within 72 hours of the receipt of complaint, test sampling shall be initiated by the Pocahontas County Board of Health.

Measurements shall be made at the line of the property from which the emission originates or at the property/air quality easement line. Measurements will also be taken at the complainant's property.

An air quality easement must be filed and recorded with the Pocahontas County Recorder.

At least three (3) air quality measurements shall be made within a period of one (1) hour. These measurements shall be separated by at least 15 minutes.

Within fourteen (14) days, the three (3) air quality measurements will be re-taken in the same locations using the same procedure.

The Pocahontas County Board of Health will notify by restricted certified mail the person or entity against whom the complaint was lodged once all testing is completed.

If the confined animal feeding operation is in violation, further testing may be required and testing costs will be the responsibility of the animal producer.

The confined animal feeding operation will have ten (10) business days to correct the problem.

An emission source that exceeds the standards of this ordinance following the ten (10) day correction period shall constitute a county infraction for which a civil action may be commenced in the Iowa District Court against the responsible person, entity, and landowners shown by the records of the Pocahontas County Recorder.

3. An air quality measurement report shall be completed by the person conducting the air measurements. The report shall include the following:
  - A. All odor emissions monitoring procedures or test methods.
  - B. Date.
  - C. Place of measurement.
  - D. Time of sampling.
  - E. Company or entity performing analysis.
  - F. Method used.

- G. Operating conditions existing at the National Weather Service Telecommunications Operations Center the time of analysis. (Temperature, winds direction, relative humidity, and wind rate).
  - H. Measurements recorded and identity of persons taking samples.
  - I. Estimated distance between the source of the emissions and the location of the measurement.
4. The initial two testing days (within 72 hours and then again within 14 days) shall be conducted at the expense of the Pocahontas County Board of Health. Additional testing required due to a violation of this ordinance, the entity against which the complaint was made, will be responsible for all additional testing costs.

If no violation was detected, and the complainant requests further investigation, the complainant may be responsible for all additional testing costs.

All additional testing costs shall be established by the Pocahontas County Board of Health.

- 5. If an emission source is found to exceed the standards set by the ordinance, the responsible person may petition, for good cause, the Board of Health for an extension of time to bring the source into compliance. No petition for extension shall be considered if not delivered to the Pocahontas county Board of Health before the expiration of the ten (10) business day correction period.
- 6. Within twenty (20) days, the Board of Health shall hold a hearing to consider extension of time to bring the source into compliance. The burden shall be on the person or entity in violation to show good cause. If good cause is shown, the Board of Health shall grant a one (1) month extension.
- 7. If an emission source against which a complaint has been lodged is brought into compliance before the expiration period or extension period, the Pocahontas County Board of Health shall dismiss the complaint. However, the complaint will be retained on file with the Pocahontas County Board of Health.

**5-5-5 WATER POLLUTION: ALL CONFINEMENT BUILDINGS OF 1,000 ANIMAL UNITS OR LESS.** These regulations shall apply to all CONFINED ANIMAL FEEDING OPERATIONS except where the structures do not contain liquid waste storage.

- 1. Transport systems, construction, and maintenance of buildings, collections systems, conveyance systems, and permanent or temporary storage facilities shall prevent leakage of organic matter, nutrients, and pathogens into the ground, surface water, or drainage tiles.



2. Monitoring of ground water at the outlet of any soil drainage system on the facility site shall be done by the Pocahontas County Board of Health upon receipt of a signed written complaint.

The Pocahontas County Board of Health may periodically monitor any soil drainage system as deemed necessary.

3. Samples must be collected according to the protocol established by the State Hygienic Lab or other certified laboratory.
4. Reports shall be sent to the Pocahontas County Board of Health.
5. An operation found to be in violation of the contaminant parameters as established by the State of Iowa Department of Health, shall have thirty (30) days to correct the problem upon notification by the Pocahontas County Board of Health.

5-5-6 WATER POLLUTION: ALL CONFINEMENT BUILDINGS OVER 1,000 ANIMAL UNITS. These regulations shall apply to all CONFINED ANIMAL FEEDING OPERATIONS except where the structures do not contain liquid waste storage.

1. Transport systems, construction, and maintenance of buildings, collection system, conveyance systems, and permanent or temporary storage facilities shall prevent leakage of organic matter, nutrients, and pathogens into the ground, surface water, or drainage tiles.
2. One (1) ground water monitoring well shall be installed at a site to obtain representative samples of ground water from the uppermost aquifer underlying an animal livestock liquid waste or wastewater storage structure. The monitoring well shall be constructed according to IAC 567 Chapter 110.

At the discretion of the Pocahontas County Board of Health, under certain circumstances, additional monitoring wells may be required.

The monitoring well shall be placed down gradient of any confinement feeding operation structure containing liquid storage. The well shall be within fifty (50) feet or less of the confinement feeding operation structure.

A baseline water test will be conducted by the Pocahontas County Board of Health at time of well completion. A baseline water test will be conducted on new construction before the confinement building.

or

A confined animal feeding operation may be exempt from a monitoring well if:

- A. Drainage lines installed at the time of construction (for all buildings) to lower the groundwater table are present and

- B. Drainage lines are installed at the same depth as the manure storage and
  - C. A device to allow monitoring of the water in the drainage tile lines is installed and
  - D. A device to allow shutoff of the drainage tile lines is installed if the drainage tile lines do not have a surface outlet accessible (drainage ditch) on the property where the manure storage structure is located and
  - E. A baseline water test shall be conducted prior to stocking the confinement building.
3. A permit for a ground water monitoring well shall be obtained from the Pocahontas County Board of Health.

Information necessary for establishing the site's groundwater monitoring system will include the depth of the uppermost groundwater underlying the animal livestock liquid waste or wastewater storage structure and the direction of this groundwater flow.

Logs of all soil and/or of a water supply well constructed on the site, where a confinement feeding operation's animal livestock liquid waste or wastewater storage structure is to be located, shall be prepared by a knowledgeable Iowa certified engineer, geologist, or well driller, and submitted to the Pocahontas County Environmental Health Department.

4. These contaminants will include, but may not be limited to chlorides, phosphates, nitrates and fecal coliform bacteria. The allowable contaminant levels will follow the Environmental Protection Agency National Limits. If contamination above allowable levels is found, additional test may be required for other contaminants.

Cost of all testing will be the responsibility of the confined animal feeding operation operator/owner.

5. Testing shall be done by the Pocahontas County Board of Health. One (1) sample will be collected during the time of recharge to the aquifers between spring thaw and the start of the growing season. In addition, the Pocahontas County Board of Health at any time may randomly test monitoring wells without prior notice of the owner/person.
6. Monitoring wells with unsatisfactory water test results shall be retested within seven (7) days of receiving the unsatisfactory test results. Reports shall be sent to the Pocahontas County Board of Health directly from the Hygienic Laboratory or other certified laboratory as well as to the owner of the well.



7. An operation found in violation of the water contaminant parameters shall have thirty (30) days to present a plan to rectify the situation after notification by the Pocahontas County Board of Health.

5-5-7 PENALTIES. Responsible parties failing to meet the standards set forth in this ordinance shall be subject to a civil penalty as provided in Section 331.302(15) of the Code of Iowa.

5-5-8 VARIANCES. Variances to these rules may be granted by the Pocahontas County Board of Health provided sufficient information is submitted to substantiate the need and propriety for such action. Applications for variances and justification shall be in writing and copies filed with the department.



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

### **CHAPTER 6 OPEN BURNING**

5-6-1	Purpose	5-6-3	Exceptions
5-6-2	Burning Restrictions	5-6-4	Violations

5-6-1 **PURPOSE.** The purpose of this Ordinance is to enhance and to coordinate fire protection in unincorporated areas of Pocahontas County, Iowa by requiring persons to notify county officials in advance of any open burning.

5-6-2 **BURNING RESTRICTIONS.** No person or entity shall kindle or burn any building or other structure, farmland, pasture, Conservation Reserve Program (CRP) land, ditches, fence line, rural ground, woodland, or brush, trash or other material exceeding in quantity that of normal yard waste, without first notifying the Pocahontas County Communications Center at least one (1) hour prior to engaging in any of the above activity.

5-6-3 **EXCEPTIONS.** Nothing in the Ordinance shall be deemed to apply to cooking, recreational or normal yard waste fires.

5-6-4 **VIOLATION.** Violation of this Ordinance constitutes a simple misdemeanor, punishable by a fine of at least \$65.00 and not exceeding \$625.00, and/or up to 30 days in jail.

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 1 ASSESSMENT OF WIND ENERGY CONVERSION PROPERTY**

6-1-1 Purpose	6-1-5 Amount of Valuation
6-1-2 Definitions	6-1-6 Declaration of Special Valuation
6-1-3 Authority to Establish	6-1-7 Reporting Requirements
6-1-4 Establishment	6-1-8 Repeal of Special Valuation

6-1-1 **PURPOSE.** The purpose of this ordinance is to provide for the special valuation of wind energy conversion property pursuant to Iowa Code Chapter 427B.26.

6-1-2 **DEFINITIONS.** For use in this ordinance, certain terms and words used herein shall be interpreted or defined as follows:

1. "Net Acquisition Cost" means the acquired cost of the property including all foundations and installation cost less any excess cost adjustment.
2. "Wind Energy Conversion Property" means the entire windplant including, but not limited to, a wind charger, windmill, wind turbine, tower and electrical equipment, pad mount transformers, power lines, and substation.

6-1-3 **AUTHORITY TO ESTABLISH.** The Board of Supervisors is authorized, pursuant to Iowa Code Chapter 427B.26 to provide by ordinance for special valuation of Wind Energy Conversion Property as provided in Section 6-1-4.

6-1-4 **ESTABLISHMENT.** Pursuant to Iowa Code Chapter 427B.26, a special valuation of wind energy conversion property is allowed in lieu of the valuation assessment provisions in Iowa Code Chapter 441.21(8)(b) and (c), and Iowa Code Chapters 428.24 to 428.29. The special valuation shall only apply to wind energy conversion property first assessed on or after January 1, 1994, and on or after the effective date of this ordinance (February 6, 2002).

6-1-5 **AMOUNT OF VALUATION.** Wind energy conversion property first assessed on or after the effective date of the ordinance shall be valued by the County Assessor for property tax purposes as follows:

1. For the first assessment year, at zero percent (0%) of the net acquisition cost.
2. For the second through sixth assessment years, at a percent of the net acquisition cost which rate increases by five percent (5%) each assessment year.
3. For the seventh and succeeding assessment years, at thirty percent (30%) of the net acquisition cost.

6-1-6 DECLARATION OF SPECIAL VALUATION. The taxpayer shall file with the County Assessor by February 1<sup>st</sup> of the assessment year in which the wind energy conversion property is first assessed for property tax purposes, a declaration of intent to have the property assessed at the value determined under Section 6-1-5 in lieu of the valuation assessment provisions in Iowa Code Chapter 441.21(8)(b) and (c), and Iowa Code Chapters 428.24 to 428.29.

If the taxpayer does not file with the County Assessor by February 1 of the assessment year for which the persons files a declaration of intent to have the property assessed as provided above, then the declaration of intent shall be considered as a declaration filed for the following year.

6-1-7 REPORTING REQUIREMENTS. The following reports shall be filed annually with the County Assessor by the taxpayer; in the first year, with the declaration of intent as prescribed in Section 6-1-6; and by February 1<sup>st</sup> of each year thereafter:

1. Copy of Asset Ledger sheet to IRS;
2. Engineering breakdown of component parts;
3. Tower numbering system;
4. Name of contact person, phone number, FAX number, and mailing address; and
5. Report of all leased equipment, the name(s) of the company(s) it is leased from, and the agreement between the lessor and lessee regarding who is responsible for the property tax on the leased equipment.

6-1-8 REPEAL OF SPECIAL VALUATION. If in the opinion of the Board of Supervisors continuation of the special valuation provided under Section 6-1-4 ceases to be of benefit to the County, the Board of Supervisors may repeal the ordinance. Property specially valued under Section 6-1-4 prior to repeal of the ordinance shall continue to be valued under Section 6-1-4 until the end of the nineteenth (19<sup>th</sup>) assessment year following the assessment year in which the property was first assessed.

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 2 AIRPORT TALL STRUCTURE ZONING ORDINANCE**

6-2-1	Short Title	6-2-6	Variances
6-2-2	Definitions	6-2-7	Board of Adjustment
6-2-3	Airport Zones and Airspace Height Limitations	6-2-8	Judicial Review
6-2-4	Use Restrictions	6-2-9	Administrative Agency
6-2-5	Lighting	6-2-10	Penalties
		6-2-11	Conflicting Regulations

6-2-1 **SHORT TITLE.** This Ordinance shall be known and may be cited as “The City of Pocahontas Municipal Airport Height Zoning Ordinance”.

6-2-2 **DEFINITIONS.** As used in this ordinance, unless the context otherwise requires:

1. **Airport.** The City of Pocahontas Municipal Airport.
2. **Airport Elevation.** The highest point of an airport’s usable landing area measured in feet above mean sea level, which is established to be 1223.5 feet.
3. **Airport Hazard.** Any structure or object of natural growth located on or in the vicinity of a public airport, or any use or land near such airport, which obstructs the airspace required for the flight of aircraft in landing or takeoff at such airport or is otherwise hazardous to such landing or takeoff of aircraft.
4. **Airport Primary Surface.** A surface longitudinally centered on a runway. When the runway has a specifically prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of the runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
5. **Airspace Height.** For the purpose of determining the height limits in all zones set forth in this ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
6. **Control Zone.** Airspace extending upward from the surface of the earth which may include one (1) or more airports, and is normally a circular area of five (5) statute miles in radius, with extensions where necessary to include instrument approach and departure paths.

7. **Instrument Runway.** A runway having an existing instrument approach procedure utilizing air navigation facilities or area type navigation equipment, for which an instrument approach procedure has been approved or planned.
8. **Minimum Descent Altitude.** The lowest altitude, expressed in feet above sea level, to which descent is authorized on final approach or during circle-to-land maneuvering in execution of a standard instrument approach procedure, where no electronic glide slope is provided.
9. **Minimum Enroute Altitude.** The altitude in effect between radio fixes which assures acceptable navigational signal coverage and meets obstruction clearance requirements between those fixes.
10. **Minimum Obstruction Clearance Altitude.** The specified altitude in effect between radio fixes or VOR airways, off-airway routes, or route segments which meets obstruction clearance requirements for the entire route segment and which assures acceptable navigational signal coverage only within twenty-two (22) miles of a VOR.
11. **Runway.** A defined area on an airport prepared for landing and takeoff of aircraft along its length.
12. **Visual Runway.** A runway intended solely for the operation of aircraft using visual approach procedures with no straight-in-instrument approach procedure and no instrument designation indicated on a FAA approved airport layout plan, a military services approved military airport layout plan or by a planning document submitted to the FAA by competent authority.

6-2-3 **AIRPORT ZONES AND AIRSPACE HEIGHT LIMITATIONS.** In order to carry out the provisions of this Section, there are hereby created and established certain zones which are depicted on the Pocahontas Municipal Airport Height Zoning Map. A structure located in more than one (1) zone of his following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. **Airport Height Zones.**
  - A. **Horizontal Zone.** The land lying under a horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by:
    - 1) Swing arcs of 5,000 feet radii from the center of each end of the primary surface of Runways 11, 29, 18 and 36, and connecting the adjacent arcs by lines tangent to those arcs.

No structure shall exceed 150 feet above the established airport elevation in the horizontal zone, as depicted on the Pocahontas Municipal Airport Height Zone Map.

B. Conical Zone. The land lying under a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet. No structure shall penetrate the conical surface in the conical zone, as depicted on the Pocahontas Municipal Airport Height Zoning Map.

C. Approach zone. The land lying under a surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.

1) The inner edge of the Approach Surface is:

a. For Visual Utility – 250 feet in width for Runways 18 and 36.

b. For NPI Utility – 500 feet in width for Runways 11 and 29.

2) The outer edge of the Approach Zone is:

a. For Visual Utility – 1,250 feet for Runways 18 and 36.

b. NPI Utility – 2,000 feet for Runways 11 and 29.

3) The Approach Zone extends for a horizontal distance of:

a. For Utility Runway - 5,000 feet at a slope of 20 to 1 for Runways 11, 29, 18, and 36.

No structure shall exceed the Approach Surface to any runway, as depicted on the Pocahontas Municipal Airport Height Zoning Map.

D. Transitional Zone. The land lying under those surfaces extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 from the sides of the primary surface and from the sides of the Approach Surfaces. No structure shall exceed the Transitional Surface, as depicted on the Pocahontas Municipal Airport Height Zoning Map.

E. No structure shall be erected in Pocahontas County that raises the published Minimum Descent Altitude for an instrument approach to any runway, nor shall any structure be erected that causes the Minimum Obstruction Clearance Altitude, or Minimum Enroute Altitude to be increased on any Federal Airway in Pocahontas County.

6-2-4 USE RESTRICTIONS. Notwithstanding any other provisions of Section 6-3-3, no use may be made of land or water within Pocahontas or Pocahontas County in such a manner as to



interfere with the operation of any airborne aircraft. The following special requirements shall apply to each permitted use:

1. All lights or illumination used in conjunction with street, parking signs or use of land and structures shall be arranged and operated in such a manner that it is not misleading or dangerous to aircraft operating from the Pocahontas Municipal Airport or in the vicinity thereof.
2. No operations from any use shall produce smoke, glare or other visual hazards within three (3) statute miles of any usable runway of the Pocahontas Municipal Airport.
3. No operations from any use in Pocahontas or Pocahontas County shall produce electronic interference with navigation signals or radio communication between the airport and aircraft.

#### 6-2-5 LIGHTING.

Notwithstanding the provisions of 6-2-4, the owner of any structure over 150 feet above ground level must install on the structure, lighting in accordance with Federal Aviation Administration (FAA), Advisory Circular 70-7460-2I and amendments. Additionally, any structure, constructed after the effective date of this ordinance and exceeding 949 feet above ground level, must install on that structure, high intensity white obstruction lights in accordance with Chapter 6 of FAA Advisory Circular 70/7460-2I and amendments.

Any permit or variance granted may be so conditioned as to require the owner of the structure or growth in question to permit the City of Pocahontas, at its own expense, to install, operate and maintain thereto such markers or lights as may be necessary to indicate to the pilots the presence of an airspace hazard.

6-2-6 VARIANCES. Any person desiring to erect or increase the height of any structure, or to permit the growth of any tree, or otherwise use his property in violation of any section of this ordinance, may apply to the Board of Adjustment for variance from such regulations. No application for variance to the requirements of this ordinance may be considered by the Board of Adjustments unless a copy of the application has been submitted to the Pocahontas Airport Commission for their opinion as to the aeronautical effects of such a variance. If the Pocahontas Airport Commission does not respond to the Board of Adjustments within fifteen (15) days from receipt of copy of the application, the Board may make its decision to grant or deny the variance.

#### 6-2-7 BOARD OF ADJUSTMENT.

1. There is hereby created a Board of Adjustment to have and exercise the following powers:

- A. To hear and decide appeals from any order, requirement, decision, or determination made by the Airport Zoning Commission in the enforcement of this Ordinance.
  - B. To hear and decide special exemptions to the terms of the Ordinance upon which such Board of Adjustment under such regulations may be require to pass.
  - C. To hear and decide specific variances.
- 2. The Board of Adjustment shall consist of five (5) members appointed pursuant to the provisions of Section 329.12, Code of Iowa, and each shall serve for a term of five (5) years and until his successor is duly appointed and qualified.
  - 3. The Board of Adjustment shall adopt rules for its governance and in harmony with the provisions of this Ordinance. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board of Adjustment may determine. The Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses.

All meetings of the Board of Adjustment shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the Office of the Pocahontas Zoning Administrator, and on due cause shown.

- 4. The Board of Adjustment shall have the powers established in Iowa Statues, Section 414.12.
- 5. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect variations of this Ordinance.

6-2-8 JUDICIAL REVIEW. Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to the Court of Record as provided in Iowa Code, Section 414.15.

6-2-9 ADMINISTRATIVE AGENCY. It shall be the duty of the Pocahontas County Zoning Officer to administer the regulations prescribed herein. Applications for permits and variances shall be made to the Pocahontas County Zoning Officer upon a form furnished by him/her. Applications required by this ordinance to be submitted to the Administrative Agency shall be promptly considered and granted or denied.

**6-2-10 PENALTIES.** Each violation of this ordinance or of any regulation, order or ruling promulgated hereunder shall constitute a misdemeanor, and be punishable by a fine of not more than one hundred (\$100.00) dollars or imprisonment for not more than thirty (30) days or both; and each day a violation continues to exist shall constitute a separate offense.

**6-2-11 CONFLICTING REGULATIONS.** Where there exists a conflict between any of the regulations or limitations prescribed in this ordinance and any other regulations applicable to the same area, whether the conflict be with respect to height of structures, the use of land or any other matter, the more stringent limitation or requirement shall govern and prevail.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 3 ELECTION DISTRICTS

6-3-1	Purpose	6-3-3	Description of Supervisor Districts
6-3-2	Precinct Establishment		Establishment

6-3-1 PURPOSE. As provided by Chapter 49.3, 49.4 of the Code of Iowa the Board of Supervisors shall draw election precincts that shall be used for all elections. That said precincts may be composed partially of unincorporated territory and partially of all or any part of a city within a single county in any manner that is not contrary to Chapter 49.3 Code of Iowa.

6-3-2 PRECINCT ESTABLISHMENT. The following seven (7) precincts shall become effective on January 15, 2012 and shall be used for all subsequent elections:

1. Swan Lake-North Marshall  
Laurens, Swan Lake Township, Marshall Township, Sec 1-6  
Vote at the Municipal Building in Laurens
2. Des Moines-North Garfield-Cummins-North Sherman-Powhatan-North Roosevelt  
Rolfe, Havelock, Plover, Des Moines Township, Cummins Township, Powhatan Township, Garfield Township Sec 1-30, Sherman Township Sec 1-12, Roosevelt Township Sec 1-18  
Vote at the Community Center in Rolfe
3. Grant-South Marshall-South Sherman  
Grant Township, Marshall Township Sec 7-36, Sherman Township Sec 13-36  
Vote at the Fire Station in Pocahontas
4. Pocahontas #1  
That part of the City of Pocahontas included in the following description:  
commencing at the intersection of Hwy 3 & Hwy 4; west on Hwy 3 to the corporate city limits; north on NW 13<sup>th</sup> Street to 6<sup>th</sup> Avenue NW; East on 6<sup>th</sup> Avenue NW to NW 4<sup>th</sup> Street, South to 5<sup>th</sup> Avenue NW, East to Lizard Creek; following the Creek to Hwy 3; West on Hwy 3 to the northeast edge of census block 191517802001297 south, west and north around said census block to Hwy 3; west along Hwy 3 to Main Street; South on Main Street to 5<sup>th</sup> Avenue SE; West on a line to Hwy 4; North on Hwy 4 to the point of beginning.  
Vote at the Court House in Pocahontas
5. Pocahontas #2-Center-South Roosevelt-North Lincoln-South Garfield-North Lake  
That part of the City of Pocahontas North and East of Lizard Creek; South and East of Hwy 3 and South Main Street excluding census block 191517802001297; south and West of Hwy 3 and Hwy 4; North of 6<sup>th</sup> Avenue NW and the North side

of 6<sup>th</sup> Avenue NW; East side of NW 4<sup>th</sup> Street between 5<sup>th</sup> Avenue NW and 6<sup>th</sup> Avenue NW; North side of 5<sup>th</sup> Avenue NW East of NW 4<sup>th</sup> Street; Center Township; Roosevelt Township Sec 19-36; Lincoln Township Sec 1-18; Lake Township Sec 1-6; Garfield Township lying South of a line beginning at the intersection of 280<sup>th</sup> Avenue and 510<sup>th</sup> Street; thence east on 510<sup>th</sup> Street to the railroad tracks; thence southeast on the railroad tracks to the corporate limits of Gilmore City; that portion of Gilmore City in Pocahontas County.  
Vote at the Public Library in Pocahontas

6. Cedar-Colfax-Dover

Fonda, Varina, Cedar Township, Colfax Township, Dover Township  
Vote at the Community Center in Fonda

7. Bellville-Lizard-South Lincoln-South Lake

Palmer, Bellville Township, Lizard Township, Lincoln Township Section 19-36, Lake Township Section 7-36

Vote at the Community Center in Palmer

6-3-3 DESCRIPTION OF SUPERVISOR DISTRICTS ESTABLISHMENT. Pocahontas County elects County Supervisors under Plan 3, providing election from single-member equal population districts in which the voters elect one supervisor who must reside in that district and is thus established as follows:

1. District 1

Des Moines  
Cummins  
Powhatan  
Rolfe  
Havelock  
Plover  
N Sherman Sec. 1-12  
N Roosevelt Sec. 1-18  
N Garfield Sec. 1-130

2. District 2

Swan Lake  
N Marshall Sec. 1-6  
Laurens

3. District 3

That part of the City of Pocahontas included in the following description; commencing at the intersection of Hwy 3 & Hwy 4; west on Hwy 3 to the corporate city limits; north on NW 13<sup>th</sup> Street to 6<sup>th</sup> Avenue NW; East on 6<sup>th</sup> Avenue NW to NW 4<sup>th</sup> Street, South to 5<sup>th</sup> Avenue NW, East to Lizard Creek; following the Creek to Hwy 3; West on Hwy 3 to the northeast edge of census block 191517802001297 south, west and north around said census block to Hwy

3; west along Hwy 3 to Main Street; South on Main Street to 5<sup>th</sup> Avenue SE; West on a line to Hwy 4; North on Hwy 4 to the point of beginning.

Vote at the Court House in Pocahontas

4. District 4

That part of the City of Pocahontas North and East of Lizard Creek; South and East of Hwy 3 and South Main Street excluding census block 191517802001297; south and West of Hwy 3 and Hwy 4; North of 6<sup>th</sup> Avenue NW and the North side of 6<sup>th</sup> Avenue NW; East side of NW 4<sup>th</sup> Street between 5<sup>th</sup> Avenue NW and 6<sup>th</sup> Avenue NW; North side of 5<sup>th</sup> Avenue NW East of NW 4<sup>th</sup> Street; Center Township; Roosevelt Township Sec 19-36; Lincoln Township Sec 1-18; Lake Township Sec 1-6; Garfield Township lying South of a line beginning at the intersection of 280<sup>th</sup> Avenue and 510<sup>th</sup> Street; thence east on 510<sup>th</sup> Street to the railroad tracks; thence southeast on the railroad tracks to the corporate limits of Gilmore City; that portion of Gilmore City in Pocahontas County.

5. District #5

Cedar

Colfax

Dover

Grant

Fonda

Varina

S Marshall Sec. 7-36

S Sherman Sec 13=36

NOTE: Original Ordinance adopted by Supervisors November 29, 2011.

## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 4 FLOODPLAIN MANAGEMENT ORDINANCE**

6-4-1	Statutory Authority, Findings of Fact and Purpose	6-4-5	Nonconforming Uses
6-4-2	General Provisions	6-4-6	Penalties for Violation
6-4-3	Floodplain Management Standards	6-4-7	Amendments
6-4-4	Administration	6-4-8	Definitions

#### **6-4-1 STATUORY AUTHORITY, FINDINGS OF FACT AND PURPOSE. - Statutory Authority, Findings of Fact and Purpose**

1. The Legislature of the State of Iowa has in Chapter 331, Code of Iowa, as amended, delegated the power to counties to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the county or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents.
2. Findings of Fact
  - A. The flood hazard areas of Pocahontas County are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.
  - B. These flood losses, hazards, and related adverse effects are caused by: (i) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.
3. Statement of Purpose

It is the purpose of this Ordinance to protect and preserve the rights, privileges and property of Pocahontas County and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in 6-4-1(2)(A) of this Ordinance with provisions designed to:

- A. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.
- B. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
- C. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
- D. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

#### 6-4-2 GENERAL PROVISIONS.

##### 1. Lands to Which Ordinance Apply

The provisions of this Ordinance shall apply to all areas having special flood hazards within the jurisdiction of Pocahontas County. For the purpose of this Ordinance, the special flood hazard areas are those areas designated as Zone A on the Flood Insurance Rate Map for Pocahontas County and Incorporated Areas, dated May 16, 2017, which is hereby adopted and made a part of this Ordinance.

##### 2. Rules for Interpretation of Flood Hazard Boundaries

The boundaries of the Special Flood Hazard areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the Pocahontas County Assistant to the Engineer shall make the necessary interpretation. The Pocahontas County Board of Supervisors shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Pocahontas County Assistant to the Engineer in the enforcement or administration of this Ordinance.

##### 3. Compliance

No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance.

##### 4. Abrogation and Greater Restrictions

It is not intended by this Ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance



imposes greater restrictions, the provision of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

5. Interpretation

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

6. Warning and Disclaimer of Liability

The standards required by this Ordinance are considered reasonable for regulatory purposes. This Ordinance does not imply that areas outside the designated special flood hazard areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of Pocahontas County or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

7. Severability

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

6-4-3 FLOODPLAIN MANAGEMENT STANDARDS.

All uses must be consistent with need to minimize flood damage and meet the following applicable performance standards. Where 100-year flood elevations and floodway data have not been provided on the Flood Insurance Rate Maps, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination. Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where (i) the bridge or culvert is located on a stream that drains less than one hundred (100) square miles, and (ii) the bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567-71.2(1)b, Iowa Administrative Code.

1. All development within the special flood hazard areas shall:
  - A. be consistent with the need to minimize flood damage.
  - B. Use construction methods and practices that will minimize flood damage.

- C. Use construction materials and utility equipment that are resistant to flood damage.
  - D. Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
2. Residential buildings - All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed subject to favorable consideration by the Pocahontas County Board of Supervisors, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.

All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

3. Non-residential buildings - All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.
4. All new and substantially improved structures:
- A. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

- 1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- 2) The bottom of all openings shall be no higher than one foot above grade.
- 3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

- B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  - C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. Factory-built homes:
- A. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.
  - B. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
6. Utility and Sanitary Systems:
- A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
  - B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities

(other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.

- C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.
  - D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
- 7. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.
  - 8. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.
  - 9. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
  - 10. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this Ordinance. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood.

Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Special Flood Hazard Area.

- 11. Accessory Structures to Residential Uses

- A. Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.
  - 1) The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 sq. ft. in size. Those portions of the structure located less than 1 foot above the BFE must be constructed of flood-resistant materials.
  - 2) The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.
  - 3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
  - 4) The structure shall be firmly anchored to resist flotation, collapse and lateral movement.
  - 5) The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.
  - 6) The structure's walls shall include openings that satisfy the provisions of 6-4-3(4)(A) of this Ordinance.
- B. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

## 12. Recreational Vehicles

- A. Recreational vehicles are exempt from the requirements of 6-4-3(5) of this Ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.
  - 1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
  - 2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- B. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of 6-4-3(5) of this Ordinance regarding anchoring and elevation of factory-built homes.
13. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

#### 6-4-4 ADMINISTRATION.

- 1. Appointment, Duties and Responsibilities of Floodplain Administrator
  - A. The Pocahontas County Assistant to the Engineer is hereby appointed to implement and administer the provisions of this Ordinance and will herein be referred to as the Administrator.
  - B. Duties of the Administrator shall include, but not necessarily be limited to the following:
    - 1) Review all floodplain development permit applications to assure that the provisions of this Ordinance will be satisfied.
    - 2) Review floodplain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.
    - 3) Record and maintain a record of the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures in the special flood hazard area.
    - 4) Record and maintain a record of the elevation (in relation to North American Vertical Datum 1988) to which all new or substantially improved structures have been floodproofed.
    - 5) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
    - 6) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Ordinance.
- 2. Floodplain Development Permit

- A. **Permit Required - A Floodplain Development Permit** issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.
- B. **Application for Permit - Application** shall be made on forms furnished by the Administrator and shall include the following:
- 1) Description of the work to be covered by the permit for which application is to be made.
  - 2) Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
  - 3) Indication of the use or occupancy for which the proposed work is intended.
  - 4) Elevation of the 100-year flood.
  - 5) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.
  - 6) For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
  - 7) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this Ordinance.
- C. **Action on Permit Application - The Administrator** shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this Ordinance and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore.
- The Administrator shall not issue permits for variances except as directed by the County Board of Supervisors.
- D. **Construction and Use to be as Provided in Application and Plans - Floodplain Development Permits** based on the basis of approved plans and



applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of any structure.

3. Variance

A. The Pocahontas County Board of Supervisors may authorize upon request in specific cases such variances from the terms of this Ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.

- 1) Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.
- 2) Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 3) In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this Ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.

B. Factors Upon Which the Decision of the Pocahontas County Board of Supervisors Shall be Based - In passing upon applications for Variances, the Board shall consider all relevant factors specified in other sections of this Ordinance and:

- 1) The danger to life and property due to increased flood heights or velocities caused by encroachments.



- 2) The danger that materials may be swept on to other land or downstream to the injury of others.
  - 3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
  - 4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - 5) The importance of the services provided by the proposed facility to the County.
  - 6) The requirements of the facility for a floodplain location.
  - 7) The availability of alternative locations not subject to flooding for the proposed use.
  - 8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - 9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
  - 10) The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - 11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
  - 12) The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
  - 13) Such other factors which are relevant to the purpose of this Ordinance.
- C. Conditions Attached to Variances - Upon consideration of the factors listed above, the Board of Supervisors may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:
- 1) Modification of waste disposal and water supply facilities.
  - 2) Limitation of periods of use and operation.

- 3) Imposition of operational controls, sureties, and deed restrictions.
- 4) Requirements for construction of channel modifications, 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 purpose of this Ordinance.
- 5) Floodproofing measures.

#### 6-4-5 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance, but which is not in conformity with the provisions of this Ordinance, may be continued subject to the following conditions:
  - A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this Ordinance.
  - B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this Ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

#### 6-4-6 PENALTIES FOR VIOLATION.

Violations of the provisions of this Ordinance or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$(500.00 (FIVE HUNDRED)) or imprisoned for not more than (30 (THIRTY)) days. Nothing herein contained prevent the County of Pocahontas from taking such other lawful action as is necessary to prevent or remedy violation.

#### 6-4-7 AMENDMENTS.

The regulations and standards set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

6-4-8 DEFINITIONS. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

1. Appurtenant Structure – A structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
2. Base Flood - The flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood).
3. Base Flood Elevation (BFE) – The elevation floodwaters would reach at a particular site during the occurrence of a base flood event.
4. Basement - Any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."
5. Development - Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. "Development" does not include "minor projects" or "routine maintenance of existing buildings and facilities" as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling, grading.
6. Existing Construction - Any structure for which the "start of construction" commenced before the effective date of the first floodplain management regulations adopted by the community. May also be referred to as "existing structure."
7. Existing Factory-Built Home Park or Subdivision - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.
8. Expansion of Existing Factory-Built Home Park or Subdivisions - The preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
9. Factory-Built Home - Any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the

purpose of this Ordinance factory-built homes include mobile homes, manufactured homes, and modular homes; and also include "recreational vehicles" which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

10. Factory-Built Home Park - A parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
11. Flood - A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
12. Flood Elevation - The elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of flood waters related to the occurrence of the 100-year flood.
13. Flood Insurance Rate Map (FIRM) - The official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.
14. Flood Insurance Study (FIS) - A report published by FEMA for a community issued along with the community's Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.
15. Floodplain - Any land area susceptible to being inundated by water as a result of a flood.
16. Floodplain Management - An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplain s, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.
17. Floodproofing - Any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.
18. Floodway - The channel of a river or stream and those portions of the floodplain s adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.
19. Floodway Fringe - Those portions of the Special Flood Hazard Area outside the floodway.

20. Highest Adjacent Grade – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
21. Historic Structure - Any structure that is:
- A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of 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 by either (i) 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.
22. Lowest Floor - The floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:
- A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of 6-4-3(4)(A) of this Ordinance and
  - B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
  - C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level, and
  - D. The enclosed area is not a "basement" as defined in this section.

In cases where the lowest enclosed area satisfies criteria a, b, c, and d above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

23. Minor Projects - Small development activities (except for filling, grading and excavating) valued at less than \$500.
24. New Construction - (new buildings, factory-built home parks) - Those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.
25. New Factory-Built Home Park or Subdivision - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the first floodplain management regulations adopted by the community.
26. One Hundred (100) Year Flood - A flood, the magnitude of which has a one (1) percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.
27. 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 a temporary living quarters for recreational, camping, travel, or seasonal use.
28. Routine Maintenance of Existing Buildings and Facilities – Repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:
- A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
  - B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
  - C. Basement sealing;
  - D. Repairing or replacing damaged or broken window panes;



- E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.
29. Special Flood Hazard Area (SFHA) - The land within a community subject to the "base flood". This land is identified on the community's Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.
30. Start of Construction - Includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
31. Structure - Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factor-built homes, storage tanks, and other similar uses.
32. Substantial Damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.
33. Substantial Improvement - Any improvement to a structure which satisfies either of the following criteria:
- A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (i) before the "start of construction" of the improvement, or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred.

The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or

safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of an "historic structure", provided the alteration will not preclude the structure's designation as an "historic structure".

- B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.
- 34. Variance - A grant of relief by a community from the terms of the floodplain management regulations.
  - 35. Violation - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.



## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 5 ZONING**

6-5-1	Short Title and Jurisdiction	6-5-11	Additional Area and Height Regulations
6-5-2	Interpretation of Regulations	6-5-12	Off Street Parking
6-5-3	Definitions	6-5-13	Off Street Loading
6-5-4	Districts	6-5-14	Signs
6-5-5	Agricultural District (A-1)	6-5-15	Special Exception Uses
6-5-6	Agricultural Residential District (R-1)	6-5-16	Nonconforming Uses
6-5-7	Residential District (R-2)	6-5-17	Administration
6-5-8	Planned Unit Development District (R-3)	6-5-18	Violation and Penalty
6-5-9	Commercial District (C-1)	6-5-19	Board of Adjustment
6-5-10	Industrial District (I-1)	6-5-20	Changes and Amendments

#### **6-5-1 SHORT TITLE AND JURISDICTION**

1. **SHORT TITLE.** This Ordinance shall be known and may be cited and referred to as the "Zoning Ordinance of Pocahontas County, Iowa," to the same effect as if the full title was stated.
2. **JURISDICTION.** In accordance with the provisions of Chapter 335, of the Code of Iowa and amendatory acts thereto, this Ordinance is adopted by Pocahontas County, Iowa, governing the zoning of all lands within the unincorporated area.

#### **6-5-2 INTERPRETATION OF REGULATIONS**

1. **INTERPRETATION.** In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements. Where this Ordinance imposes a greater restriction than is imposed or required by other provisions of law, other rules, regulations, or ordinances, the provisions of this Ordinance shall govern.
2. **FARMS EXEMPT.** In compliance with Chapter 335.2, Code of Iowa, no regulation or restriction adopted under the provision of this Ordinance shall be construed to apply to land, farm houses, farm barns, farm out-buildings, or other buildings, structures, or erections which are primarily adapted by reason of nature and area, for use for agricultural purposes while so used; provided, however, that such regulations or restrictions which relate to any structure, building, dam, obstruction, deposit, or excavation in or on the flood plains of any river to stream shall apply thereto. To enable Pocahontas County to determine whether a zoning compliance proposal is farm related, zoning compliance permits will be required

for the construction, reconstruction, alterations, remodeling, or expansion of buildings and uses customarily associated with the pursuit of agricultural enterprises in the County, including farm buildings, farmstead dwellings, farm fences, farm ponds, soil conservation or similar buildings and uses.

6-5-3 DEFINITIONS. For the purpose of this Ordinance certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural number includes the singular; the word "shall" is mandatory, the word "may" is permissive; the word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual; the words, "used" or "occupied" include the words intended, designed, or arranged to be used or occupied; and the word "he" includes the word she. The current issue of Webster's Dictionary shall be used where difference in interpretation exist or a definition is absent.

1. Abandoned Farmstead: A tract of land which is/was at one time the location of a farm dwelling and/or related outbuildings, but which has not been reclaimed for row crop or grazing agriculture.
2. Accessory Use or Structure: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to the principal use or structure, such as a garage being an accessory use to a residential structure.
3. Agriculture: The use of land for agricultural purposes including farming, milk production, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for packing, treating, or storing the produce; provided, however that the operation of such accessory use shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include the commercial feeding of garbage or offal to animals.
4. Alley: A public or private thoroughfare that affords only a secondary means of access to abutting property.
5. Apartment: A single room or set of rooms occupied as a dwelling (including independent sleeping, sanitary, and cooking facilities) which is part of multi-family structure.
6. Awning/Canopy: A roof like cover extending over or before a place as a shelter.
7. Basement: A story having more than one-half (1/2) of its height below grade. A basement is not counted as a story for the purpose of height regulations.
8. Billboard: A structure, regardless of the material used, that is erected, maintained or used for public display of posters, painted signs, or wall signs, whether the structure be placed on the wall or painted itself, pictures or other pictorial reading material which advertise a business or attraction which is not carried on,

manufactured, grown or sold on the premises where said sign or billboard is located.

9. Block: Property abutting on at least one (1) street and lying within two (2) or more intersecting or parallel streets or unsubdivided acreage or railroad right-of-way.
10. Boarding, Rooming, or Lodging House, (also Bed and Breakfast): A building other than a hotel where for compensation, and by arrangement, lodging is provided.
11. Buildable Area: The portion of a lot remaining after required yards have been provided.
12. Building (and/or Structure): A structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property. The principal building on a lot is that structure in/on which the principal use of the lot occurs.
13. Building, Height of: The vertical distance from the average natural grade at the building line, to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof.
14. Bulk Stations: Distributing stations commonly known as bulk or tank stations used for the storage and distribution of flammable liquids or liquefied petroleum products and other flammable, such as fertilizer.
15. Business: The words business, commercial, and manufacturing when used herein refer to the engaging in the purchase, sale or exchange of goods or services, or the operation for profit of offices or recreational amusement enterprises.
16. Carport: Space for the housing or storage of motor vehicles and enclosed on not more than two (2) sides by walls. A carport may be attached to another building or be an accessory structure.
17. Club or Lodge (Private): An association of persons for the promotion of a nonprofit objective, who are members paying annual dues, which owns, hires, or leases a building, or portion thereof, the use of such premises being restricted to members and their guests. It shall be permissible to serve food and meals to members and their guests on such premises provided adequate dining room space and kitchen facilities are available and are operated in compliance with state and municipal laws.
18. Commission: The Pocahontas County Planning and Zoning Commission.
19. Corn Suitability Rating: A numeric number that is set by the USDA Soil Conservation Service that is designed to identify the approximate worth of a

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

20. Cottage: A small single unit structure used for vacation or seasonal occupancy.
21. Day Nursery or Nursery School: Any private agency, institution, establishment or place which provides, for compensation, supplemental parental care and/or educational work, other than overnight lodging, for five (5) or more children not related to the owner/operator.
22. Driveway: A traffic way providing access for vehicles to a building on property abutting a public street. A driveway shall not have an average width of more than twenty-four (24) feet in any "R" District, or thirty-six (36) feet in any District other than "R."
23. Dwelling: Any habitable building, or portion thereof, including manufactured and modular homes converted to real estate, designed or used exclusively for residential purposes with facilities for living, sleeping, cooking and eating, but not including a tent or recreational vehicle. All dwellings shall have a permanent foundation. A mobile home that has been converted to real estate and has a permanent foundation and is attached to normal utilities is considered a dwelling for purposes of this ordinance.
24. Dwelling, Multiple: A residence designed for the occupancy by three (3) or more families, with separate housekeeping and cooking facilities for each.
25. Dwelling, Single Family: A detached residence designed for or occupied by only one (1) family and contains independent cooking facilities for the family.
26. Dwelling, Two Family: A residence designed for or occupied by two (2) families, with separate entrances, housekeeping, and cooking facilities for each.
27. Essential Services: The erection, construction, alteration or maintenance by developers, public utilities, or governmental agencies of underground or overhead gas, telephone, television, electrical, wastewater, water transmission, treatment, or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, traffic signals, hydrants, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or governmental agencies or for public health or safety or general welfare.
28. Family: One (1) or more persons occupying a dwelling and living as a single housekeeping unit, as distinguished from a group occupying a boarding or lodging house, nursing or convalescent home, hotel or motel, as herein defined.

29. Feedlot/Animal Feeding Operation: A lot, yard, corral, building, or other area in which animals are confined and fed and maintained for forty-five (45) days or more in any twelve (12) month period, including all structures used for the storage of manure from animals in the operation.
30. Confined Animal Feeding Operation: A feedlot or animal feeding operation in which animals are confined to a specific area and are regulated by rules and regulations of the Iowa Department of Natural Resources.
31. Fence: An erection intended to prevent escape or intrusion or to mark a boundary. A fence is composed of posts, wire, boards, steel, aluminum, manufactured plastic, or similar materials. This definition does not pertain to the fencing requirements for junk and salvage yards as may be described elsewhere in this Ordinance.
32. Foundation, Permanent: A permanent foundation shall be of concrete, concrete block or treated wood and shall extend into the ground at least forty-eight (48) inches. The foundation shall extend the full perimeter of the structure.
33. Garage, Service: A building or portion thereof, designed, intended, or used for the equipping, servicing, selling, hiring, storing, care, or repair of motor vehicles, and which is operated for commercial purposes.
34. Garage, Private: An enclosed structure intended for and used for the parking of the private motor vehicles of the families' resident upon the premises.
35. Gasoline Service Stations: Any building or premises used for the retail sale of liquid fuels, oils and other items customarily associated with the sale of such products, but not for the purpose of making other than minor repairs. When the dispensing, retail sale or offering for retail sale is incidental to the conduct of a commercial garage, the premises shall be classified as a commercial garage.
36. Grade: The average level of the finished surface of the ground adjacent to the exterior walls of the building.
37. Home Occupation: An occupation or a profession conducted in a dwelling unit or on a farm for supplemental income, and which:
- A. Is customarily carried on in a dwelling unit or accessory buildings;
  - B. Is owned and operated by a member of the family residing in the dwelling unit;
  - C. Is clearly incidental and secondary to the use of the dwelling unit for residential or farm purposes;

- D. Does not employ more than two (2) person(s) outside the immediate family;
  - E. Has no exterior display or exterior storage of materials visible from any public road;
  - F. Has no exterior indication of the home occupation other than the permitted home occupation sign that does not exceed ten (10) square feet in area;
  - G. Produces no offensive noise, vibration, smoke, excessive congestion, dust, odors, heat or glare rendering such building or premises objectionable or detrimental to the residential character of the neighborhood.
38. Hotel: A building in which lodging or boarding is provided and offered to the public for compensation and which is open to a transient guest.
  39. Incidental: Subordinate in significance and bearing a reasonable relationship with the principal use.
  40. Juice Bar: An establishment where non-alcoholic beverages are served while male and/or female dancers perform various acts while undressing, or while undressed. The undress can include situations where genitals are exposed to public view.
  41. Junk Yard (or Landfill): Any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled or packed, disassembled, kept, stored or handled, including house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment.
  42. Permitting and Fencing Required: Where permitted by district regulation salvage shall either be located within a rear yard or fully enclosed within a building. In addition, junk yards located within one thousand (1,000) feet of a state, federal, or county highway shall obtain a current "Recycler's License" from the Iowa Department of Transportation. Junk Yards located over one thousand (1,000) feet from a state, federal, or county highway shall be screened from view from a public street by the same screening regulations as provided by the Iowa Department of Transportation when granting a "Recycler's License."
  43. Junk Vehicle (Junk Machinery): shall mean any vehicle or portion thereof not in running condition (not able to start or move off the property on its own power) and/or not licensed for the current year as provided by law and not legally placed in storage with the Treasurer of Pocahontas County, or any other vehicle or machinery which, because of its defective or obsolete condition, or rotted, rusted or loose parts, or in any other way constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1, Code of Iowa. The presence of two (2) or more junk vehicles on the same lot shall cause the lot to be classified as a junk yard.



44. Kennel: Any premises on which four (4) or more licensed dogs capable of breeding that are six (6) months old or older are kept.
45. Lot: A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area to provide such yards and other open space as herein required. Such lot shall have frontage on a public street and may consist of: (a) a single lot of record; (b) a portion of a lot of record; (c) a combination of complete lots of record; of complete lots of record and portions of lots of record; or of portions of lots of record; and (d) a parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.
46. Lot Area: The area of a horizontal plane bounded by the front, side and rear lot lines.
47. Lot, Corner: A lot fronting on two (2)-intersecting streets.
48. Lot Depth: The mean horizontal distance between the front and rear lot lines.
49. Lot, Interior: A lot other than a corner lot.
50. Lot Lines: The lines bounding a lot.
51. Lot Line, Front: In the case of an interior lot, abutting on only one (1) street, the front line is the street line of such lot. In the case of any other lot, the front lot line shall be considered as the line adjacent to the street upon which the lot has its least dimension.
52. Lot Line, Front Bordering a Lake: If a lot has one or more of its sides bordering a lake the lake shore side of the lot may become the front lot line.
53. Lot Line, Rear: That boundary line which is opposite and most distant from the front line.
54. Lot Line, Side: Any boundary lines not a front lot line or a rear lot line.
55. Lot of Record: A lot which is a part of a subdivision recorded in the office of the county recorder of Pocahontas County, or a lot or parcel described by metes and bounds, the description of which has been so recorded.
56. Lot, Through: An interior lot having frontage on two parallel, or approximately parallel streets and also known as a double fronted lot.
57. Lot Width: The width of a lot as measured at the required front yard setback line.

58. Manufactured Home: A factory-built structure built under authority of 42 U.S.C §5403, is required by federal law to display a seal from the United States Department of Housing and Urban Development, and was constructed on or after June 15, 1976. A manufactured home must have a permanent foundation and be attached to normal utilities to be considered a dwelling for purposes of this ordinance.
59. Mobile Home: Any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. A “mobile home” is not build to a mandatory building code, contains no state or federal seals, and was built before June 15, 1976. A mobile home that has been converted to real estate and has a permanent foundation and is attached to normal utilities may be considered a dwelling for purposes of this ordinance.
60. Mobile/Manufactured/Modular Home Converted to Real Estate: A Mobile/Manufactured/ Modular Home which has been attached to a permanent foundation on real estate, attached to utilities, and the property entered on the tax rolls of the county.
61. Mobile Home Park or Trailer Park: Any lot, site, field, or tract of land under common ownership upon which one (1) or more mobile homes, or manufactured or modular homes that have not been converted to real estate are harbored, either free of charge or for revenue purposes, and shall include any building, or structure used or intended for use as part of the equipment of the mobile home park.
62. Modular Home: A factory-built structure built on a permanent chassis which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa State Building Code for modular factory-built structures, and must display the seal issued by the State Building Code Commissioner. A modular home that has been converted to real estate and has a permanent foundation and is attached to normal utilities may be considered a dwelling for purposes of this ordinance.
63. Motel, Motor Court, Motor Lodge or Tourist Court: Any building or group of buildings containing guest rooms primarily for temporary occupancy, and laid out to provide space for parking vehicles used by the traveling public. Such building or group of buildings may include quarters for the use of the operating personnel.
64. Nonfarm Dwelling: A residential dwelling in the unincorporated areas of the County occupied by parties not involved in agricultural production.



65. Nursing Home (Including Convalescent and Group Homes): A building or structure having accommodations and where care is provided for invalid, infirmed, aged, convalescent, or physically disabled or injured persons, but not including penal or disciplinary cases.
66. Parking Lot: A parcel of land devoted to unenclosed parking spaces.
67. Parking Space: A surfaced 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 shall not encroach upon any public right-of-way.
68. Porch, Unenclosed: A roofed projection, which is partially enclosed by a building or siding material other than, meshed screens.
69. Principal Use: The main use of land or structures as distinguished from an accessory use.
70. Professional Office: Any building or part thereof used by one (1) or more persons engaged in the practice of law, accounting, architecture, medicine, engineering or other occupation customarily considered as a profession.
71. Roadside Stand: A temporary structure, unenclosed, and so designed and constructed so the structure is easily portable or can be readily moved, and which is adjacent to a road and used for a sale of farm products produced or grown on the premises.
72. Sanitary Sewer System: A public or private sewerage collection system with treatment and disposal facilities operated in accordance with Department of Natural Resources standards.
73. Sign Area: The surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of such forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area.
74. Sign, Exterior: A sign, which directs attention to a business, profession, service, product or activity, sold or offered upon the premises where such sign is located. An exterior sign may be attached flat against a building or structure, painted on the building or structure, projecting out from a building or structure, or erected upon the roof of a building or structure.
75. Sign, Free Standing or Post: Any sign erected or affixed in a rigid manner to any pole or post, and which carries any advertisement strictly incidental and subordinate to a lawful use of the premises on which it is located, including signs,

or sign devices indicating the business transacted, services rendered or goods sold or produced on the premises by an occupant thereof.

76. Split-Level: A story having not more than one-half (1/2) of its height below grade. A split-level story is counted as a story for purposes of height regulations.
77. Stable: A non-farm related accessory structure including, but not limited to a corral or paddock for the keeping of hoofed animals owned or controlled by the occupants of the premises and which are kept for pets, board, propagation, sale, or lease.
78. Story: That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.
79. Story, Half: A space under a sloping roof which has the line of intersection of roof decking and wall face not more than four (4) feet above the top floor level.
80. Street Line: The right-of-way line of a street, road or highway.
81. Street, Public: A public thoroughfare more than twenty feet in width.
82. Structural Alteration: Any replacement or changes in the type of construction or in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, beyond ordinary repairs, and maintenance.
83. Structure: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, billboards, decks, poster panels, and carports.
84. Trailer Camp or Tourist Ground: Any area providing spaces for two (2) or more travel trailers, camping trailers, or tent sites for temporary occupancy with necessary incidental services, sanitation, and recreation facilities to serve the traveling public.
85. Variance: A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship. A variance may be authorized only for height of structures and area and size of lots, yards, open spaces, and instances where numbers are involved. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance nor shall a variance be granted because of the presence of nonconformity in the zoning district or uses in adjoining zoning districts.

86. Yard: An open space on the same lot with a building or structure. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the least distance between the lot line and the main building shall be used. In measuring a yard for the purpose of determining the width of a side yard, the least distance between the lot line and the nearest permitted building shall be used.
87. Yard, Front: A yard extending across the full width of the lot and measured between the front lot line and the building or any projection thereof, other than the projection of the usual steps and eaves.
- A. In the case of corner lots, the front yard shall be considered as the yard adjacent to the street upon which the lot has its least dimension, unless the structure can be placed on the lot and meet all required yard requirements, in which case either street side may be the front yard.
- B. If a lot has one or more of its sides bordering a lake, the lake shore side of the lot may become the front yard.
88. Yard, Rear: A yard extending across the full width of the lot and measured between the rear lot line and the structure or any projections other than uncovered steps, balconies or eaves. On both corner lots and interior lots the opposite end of the lot from the front yard shall be considered the rear yard.
89. Yard, Side: A yard extending from the front yard to the rear yard and measured between the side lot lines and the nearest building.
90. Zoning Administrative Officer: The individual appointed by the Board of Supervisors of Pocahontas County, Iowa to administer and enforce the provisions of this Ordinance.
91. Zoning Compliance Permit: A permit issued by the Zoning Administrative Officer, authorizing the use of land in the manner and for the purpose specified in the application.

#### 6-5-4 DISTRICTS.

1. For the purpose and intent of this Ordinance Pocahontas County, Iowa is hereby divided into zoning district classifications as follows:
- A-1 - Agricultural District  
R-1 - Agricultural Residential District  
R-2 - Residential District  
R-3 - Planned Unit Development District  
C-1 - Commercial District  
I-1 - Industrial District

2. **Boundaries and Official Map.** The boundaries of these districts are indicated and established as shown upon maps designated as the Official Zoning Map of Pocahontas County, Iowa, which, with all their notations, designations, references, and other matters shown thereon, shall be as much a part of this Ordinance as if fully described and set forth herein. The Official Zoning Maps shall be identified by the Chairperson of the Board of Supervisors and attested by the County Auditor under the following words:

"This is to certify that this is the Official Zoning Map referred to in Article 4 of the Pocahontas County Zoning Ordinance, dated this 8th Day of April, 2003.

Amendments, supplements, or changes of the boundaries of districts as shown on the Official Zoning Map shall be made by an ordinance amending this Ordinance. The amending ordinance shall refer to the Official Zoning Map and shall set out the identification of the area affected by legal description and identify the zoning district as the same exists and the new district designation applicable to said property. The County Auditor shall after adoption and publication, record said ordinance. Such amendatory ordinance shall, however, not repeal or reenact said map, but only amend it. The Official Zoning Map, together with amending ordinances, shall be the final authority as to current zoning status of land and water areas, buildings, and other structures in the County.

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Board of Supervisors may, by resolution, adopt a new Official Zoning Map that shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such corrections shall have the effect of amending the original Official Zoning Ordinance or any subsequent amendment thereof.

3. **Interpretation of District Boundaries.** The scale of the Official Zoning Map and the inability to indicate precise measurements may make interpretation difficult. Therefore, where uncertainty exists as to boundaries of districts the following rules shall apply:
  - A. Boundaries indicated as approximately following the center lines of streets, highways, alleys or other public rights-of-way shall be construed to follow such center lines;
  - B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
  - C. Boundaries indicated as approximately following section lines, quarter section lines, or quarter-quarter section lines shall be construed as following such lines;



- D. Boundaries indicated as approximately following city limits shall be construed as following such city limits;
  - E. Boundaries indicated as approximately following the center line of streams, rivers, canals, lakes or other bodies of water shall be construed as following such center lines;
  - F. Boundaries indicated as following railroad lines shall be construed to be the main track;
  - G. Boundaries not capable of being determined by the previous paragraphs shall be as measured to the best ability from the Official Zoning Map.
4. Road or Public Way Vacation. Whenever any road, street, or other public way is vacated by the official action of the Board of Supervisors, the Zoning District(s) adjoining each side of such road or public way shall automatically extend to the center of such vacation and all areas included in such vacation shall then and there forth be subject to all appropriate regulations of the extended districts.
5. Disincorporation. All territory which may hereafter become part of the unincorporated area of Pocahontas County by the disincorporation of any city or town, or any part thereof, shall automatically be classified as lying and being within the (R-1) Agricultural Residential District until such classification shall have been changed by amendment to this Ordinance.
6. General Regulations.
- A. No building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any building or land be used, nor shall any use of the land be changed, which does not comply with all of the district regulations for the district in which the building or land is located.
  - B. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum required. No part of a yard or other open space, or off street parking or loading space provided about any building, structure, or use for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard, open space, or off street parking or loading space required under this Ordinance for another building, structure, or use.
  - C. Every building hereafter erected or subject to structural alteration shall be located on a lot as herein defined and in no case shall there be more than one (1) main building on one (1) lot unless otherwise provided in this Ordinance.

#### 6-5-5 AGRICULTURAL DISTRICT (A-1)

1. Intent. The Agricultural District (A-1) is applied to those areas of the County where it is desirable to reserve for agricultural use areas suitable for the raising of crops and livestock because of high quality soils, existing or potential drainage, or the overall agricultural character of the area. It is envisioned that intensive agriculture will be contained within the A-1 District; therefore, this district discourages the location of non-agricultural uses that would not be compatible with agriculture and its noise, pollution, and smells. Scattered site residential development will be permitted on abandoned farmsteads, but as a condition for location the County will distribute to applicants a brochure highlighting the smell, dust, and noise hazards of living within this zone.
2. Principal Uses Permitted. Only the following uses and structures shall be permitted in the Agricultural District (A-1).
  - A. Agriculture including the raising of crops and/or animals;
  - B. Bed and Breakfast establishments;
  - C. Cemeteries;
  - D. Churches, chapels, temples, and similar places of worship;
  - E. Confined Animal Feeding Operations as permitted by Department of Natural Resources rules and regulations for manure management plans and site distances to adjacent uses;
  - F. Drainage and flood control projects;
  - G. Grain storage bins or facilities;
  - H. Non-farm single family dwellings provided that the site meets all of the following criteria:
    - 1) Is an existing or abandoned farmstead;
    - 2) Is not located within a recognized FEMA flood hazard area;
    - 3) Has direct driveway access to a Class "A" county road or state highway;
  - I. Nurseries, greenhouses, and truck gardens;
  - J. Publicly owned and operated buildings and facilities;

K. Railroads.

3. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted:
  - A. Accessory uses and structures normally incidental and subordinate to the permitted uses and structures and to uses and structures permitted as exceptions;
  - B. Essential services;
  - C. Home occupations;
  - D. Roadside stands for the sale of agricultural produce grown on the premises;
  - E. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
4. Special Exception Uses and Structures. The following uses may be permitted in the Agricultural District (A-1) by the Board of Adjustment as provided for in Articles 15 and 19 of this Ordinance.
  - A. Agricultural service businesses involving the processing, storage, and sale of grain for seed, or for livestock and poultry feed; the sale of feed supplements; the sale of dry or slurry mix fertilizers; and the storage, distribution or sale of anhydrous ammonia; the sale of agricultural lime and agricultural chemicals; the storage and sale of fuels; the buying and storage of wool or hides; trenching or well drilling; contract farming; farm equipment repair shops; and the sale or display of farm machinery;
  - B. Airport or landing field;
  - C. Commercial auction yards and buying stations;
  - D. Extraction and processing of minerals or raw materials, including limestone, cement, clay, gypsum, and other similar natural materials;
  - E. Private utility structures and services, such as wind farms;
  - F. Private parks, playgrounds, fairgrounds, recreation areas, camping grounds, golf courses, country clubs, golf driving ranges, archery ranges, gun clubs, and swimming pools;
  - G. Sanitary landfill, transfer station, junk yard, or other type of waste disposal area;

- H. Transmitters, towers, and receiver equipment provided that they are located from public rights-of-way a distance equal to their height;
  - I. Wind farms.
5. Bulk Regulations. The following minimum requirements shall be observed subject to modifications contained in Article 11 of this Ordinance:
- A. Lot Area: The minimum area required by the County Sanitarian for private well and septic tank use, but not less than sixty thousand (60,000) square feet;
  - B. Lot Width: The minimum lot width shall be one hundred (100) feet;
  - C. Front Yard: The minimum front yard shall be twenty-five (25) feet;
  - D. Side Yard: The minimum side yard shall be ten (10) feet;
  - E. Rear Yard: The minimum rear yard shall be twenty-five (25) feet;
  - F. Maximum Height: No building shall exceed a height of two and one-half (2 1/2) stories or thirty-five (35) feet, unless otherwise provided.
6. Off-Street Parking. Off-street parking shall be provided in accordance with the provisions of Article 12 of this Ordinance.
7. Off-Street Loading. Off-street loading shall be provided in accordance with the provisions of Article 13 of this Ordinance.
8. Signs. Signs are permitted subject to the provisions of Article 14 of this Ordinance.

#### 6-5-6 AGRICULTURAL RESIDENTIAL DISTRICT (R-1)

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



- A. Agriculture including the raising of crops and/or animals;
  - B. Bed and breakfast businesses;
  - C. Cemeteries;
  - D. Churches, chapels, temples, and similar places of worship;
  - E. Confined Animal Feeding Operations as permitted by Department of Natural Resources rules and regulations. But, these uses are discouraged because of the severe danger for conflict with nonfarm land uses and the County will issue negative comments within the Confined animal Feeding Operations location matrix submitted to the Department of Natural Resources. Therefore, the developer is encouraged to meet with the County to determine an alternative location not within this District;
  - F. Drainage and flood control projects;
  - G. Grain storage;
  - H. Kennels or stables, provided that they be located at least three hundred (300) feet from any residential dwelling other than that of the owner;
  - I. Nature and wild life preserves;
  - J. Nurseries, greenhouses, and truck gardens;
  - K. Publicly owned and operated buildings and facilities;
  - L. Railroads;
  - M. Single family non-farm dwellings provided that the site:
    - 1) Is not located within a recognized FEMA flood hazard area;
    - 2) Has direct driveway access to a Class "A" county road or state highway.
3. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted:
- A. Accessory uses and structures normally incidental and subordinate to the permitted uses and structures and to uses and structures permitted as exceptions;

- B. Essential services;
  - C. Home occupations;
  - D. Roadside stands for the sale of agricultural produce grown on the premises;
  - E. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
4. Special Exception Uses and Structures. The following uses may be permitted in the Agricultural Residential District (R-1) by the Board of Adjustment as provided for in Articles 15 and 19 of this Ordinance.
- A. Extraction and processing of minerals or raw materials, including limestone, cement, clay, gypsum, and other similar natural materials;
  - B. Private parks, playgrounds, fairgrounds, recreation areas, camping grounds, golf courses, country clubs, golf driving ranges, archery ranges, gun clubs, and swimming pools;
  - C. Transmitters, towers, and receiver equipment provided that they are located from public rights-of-way a distance equal to their height.
5. Bulk Regulations. The following minimum requirements shall be observed subject to modifications contained in Article 11 of this Ordinance:
- A. Lot Area: The minimum required by the County Sanitarian for private well and septic tank use, but not less than sixty thousand (60,000) square feet;
  - B. Lot Width: The minimum lot width shall be one hundred (100) feet;
  - C. Front Yard: The minimum front yard shall be twenty-five (25) feet;
  - D. Side Yard: The minimum side yard shall be ten (10) feet;
  - E. Rear Yard: The minimum rear yard shall be twenty-five (25) feet;
  - F. Maximum Height: No building shall exceed a height of two and one-half (2 1/2) stories or thirty-five (35) feet, unless otherwise provided.
6. Off-Street Parking. Off-street parking shall be provided in accordance with the provisions of Article 12 of this Ordinance.
7. Off-Street Loading. Off-street loading shall be provided in accordance with the provisions of Article 13 of this Ordinance.

8. Signs. Signs are permitted subject to the provisions of Article 14 of this Ordinance.

6-5-7 RESIDENTIAL DISTRICT (R-2)

1. Intent. The intent of the (R-2) Residential District is to provide for low to medium density residential development located within platted subdivisions and with a limited number of institutional and recreational facilities permitted. This district is expected to be located adjacent to cities, within scenic areas, and around lakes where one would expect nonfarm dwellings to concentrate.
2. Principal Uses Permits. Only the following principal uses and structures shall be permitted in the (R-2) Residential District.
  - A. Agriculture including the raising of crops and/or animals;
  - B. Cemeteries;
  - C. Churches, chapels, temples, and similar places of worship;
  - D. Confined Animal Feeding Operations as permitted by Department of Natural Resources rules and regulations. But, these uses are discouraged because of the severe danger for conflict with nonfarm land uses and the County will issue negative comments within the Confined animal Feeding Operations location matrix submitted to the Department of Natural Resources. Therefore, the developer is encouraged to meet with the County to determine an alternative location not within this District;
  - E. One (1) and two (2) family dwellings;
  - F. Private garage used only for interior storage.
  - G. Private recreation facilities;
  - H. Publicly owned and operated buildings, parks, playgrounds, golf courses, and recreation areas;
  - I. Schools and colleges having curriculums approved by the State of Iowa.

3. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted:
  - A. Accessory uses and structures normally incidental and subordinate to the permitted uses and structures and to uses and structures permitted as exceptions;
  - B. Essential services;
  - C. Home occupations;
  - D. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
4. Special Exception Uses and Structures. The following uses and structures may be permitted in the (R-2) Residential District subject to provisions of Articles 15 and 19 of this Ordinance and with the approval of the Board of Adjustment:
  - A. Boarding, lodging, and Bed and Breakfast establishments;
  - B. Day nursery or nursery school;
  - C. Multiple family residential structures containing three (3) or more units;
  - D. Private clubs or fraternities.
5. Bulk Regulations. The following minimum requirements shall be observed subject to modifications contained in Article 11 of this Ordinance:
  - A. Lot Area: When the use is connected to public water and sewer the minimum lot area shall be ten thousand (10,000) square feet. For uses not connected to both a public water or sewer system the minimum lot area shall be sixty thousand (60,000) square feet;
  - B. Lot Width: The minimum lot width shall be one hundred (100) feet;
  - C. Front Yard: The minimum front yard shall be fifty (50) feet (on lake front lots the front yard shall be the side facing the lake and the minimum may be reduced to twenty-five (25) feet);
  - D. Side Yard: The minimum side yard shall be ten (10) feet;
  - E. Rear Yard: The minimum rear yard shall be fifty (50) feet (for lake front lots the rear yard shall be the side facing the street);

- F. Maximum Height: No building shall exceed a height of two and one-half (2 1/2) stories or thirty-five (35) feet, unless otherwise provided.
6. Off-Street Parking. Off-street parking shall be provided in accordance with the provisions of Article 12 of this Ordinance.
7. Off-Street Loading. Off-street loading shall be provided in accordance with the provisions of Article 13 of this Ordinance.
8. Signs. Signs are permitted subject to the provisions of Article 14 of this Ordinance.

6-5-8 PLANNED UNIT DEVELOPMENT DISTRICT (R-3)

1. Intent. The intent of the (R-3) Planned Unit Development District is to provide regulation flexibility to site a mixed-use complex within an existing (parent) Residential Zoning District. The Planned Unit Development District is "carved out" of the Parent District through a change in zoning process and development parameter negotiations between the County Zoning Administrative Process and the Developer. A Planned Unit Development is located upon a specific tract of land, is planned and designed as a unit for one or more land use types under the regulations and procedures contained within this Ordinance, and contains design concepts that are approved by the County Board of Supervisors and are made subject to administrative enforcement.

When a property owner or developer intends to develop a tract of land that is to involve more than one establishment or a mix of several land use types he/she/they may approach the Board of Supervisors to have a parcel rezoned to Planned Unit Development District (R-3). The application shall first be provided to the Planning and Zoning Commission for review and comment. The Planning and Zoning commission shall provide a rezoning opinion to the Board of Supervisors and may also comment on the overall feasibility of the project and any special design qualifications they feel the County should establish as enforceable regulations to the approval process. This recommendation is reviewed by the Board of Supervisors and a decision is rendered.

2. Principal Uses Permitted. Only the following principal uses and structures shall be permitted in the (R-3) Planned Unit Development District.
- A. Uses and structures permitted under the provisions of the regulations of the Parent District(s) of which this district is made a part of. I.e. a Planned Unit Development District "carved out" of a Residential District may contain land uses permitted within the Parent Residential District and other uses (such as commercial or light industrial) as permitted through Board of Supervisor design standard approval.

3. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted:
  - A. Accessory uses and structures normally incidental and subordinate to the permitted uses and structures and to uses and structures permitted as exceptions;
  - B. Essential services;
  - C. Home occupations;
  - D. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
4. Special Exception Uses and Structures. The following uses and structures may be permitted in the (R-3) Planned Unit Development District subject to provisions of Articles 15 and 19 of this Ordinance and with the approval of the Board of Adjustment:
  - A. None.
5. Bulk Regulations. The following minimum requirements shall be observed subject to modifications contained in Article 11 of this Ordinance:
  - A. Lot Area: The minimum lot area shall be five (5) acres for a residential PUD, two (2) acres for a commercial PUD, and ten (10) acres for an industrial PUD;
  - B. Lot Width: The minimum lot width shall be one hundred (100) feet;
  - C. Front Yard: The minimum front yard shall be fifty (50) feet (on lake front lots the front yard shall be the side facing the lake and the minimum may be reduced to twenty-five (25) feet);
  - D. Side Yard: The minimum side yard shall be ten (10) feet;
  - E. Rear Yard: The minimum rear yard shall be fifty (50) feet (for lake front lots the rear yard shall be the side facing the street);
  - F. Maximum Height: No building shall exceed a height of two and one-half (2 1/2) stories or thirty-five (35) feet, unless otherwise provided.
6. Off-Street Parking. Off-street parking shall be provided in accordance with the provisions of Article 12 of this Ordinance.



7. Off-Street Loading. Off-street loading shall be provided in accordance with the provisions of Article 13 of this Ordinance.
8. Signs. Signs are permitted subject to the provisions of Article 14 of this Ordinance.

6-5-9 COMMERCIAL DISTRICT (C-1)

1. Intent. The intent of the (C-1) Commercial District is to provide for a limited number of establishments in size and scope which cater to agricultural needs of the rural agricultural area. Also included are uses located at major highway intersections that cater to a passing traffic.
2. Principal Uses Permitted. Only the following principal uses and structures shall be permitted in the (C-1) Commercial District:
  - A. Automobile sales and service;
  - B. Commercial or private camp ground;
  - C. Car/truck wash;
  - D. Commercial recreation or amusement;
  - E. Construction/contracting offices with incidental fabrication;
  - F. Craft stores;
  - G. Day nursery or nursery school;
  - H. Eating and drinking establishments, but not including "juice bars;"
  - I. Farm service sales and service, including implements;
  - J. Garden supplies stores;
  - K. Hay, grain, feed, seed, retail;
  - L. Livestock buying station;
  - M. Lumber and building materials;
  - N. Mobile home sales and service;
  - O. Motels, and motor lodges;



- P. Open-air sales of autos, implements, trucks;
  - Q. Private and public museums;
  - R. Private clubs;
  - S. Private parking lots;
  - T. Professional office;
  - U. Publicly owned and operated buildings and facilities;
  - V. Railroads;
  - W. Retail pet shop and veterinarian;
  - X. Similar uses to those listed in this section, as allowed by the Pocahontas County Zoning Administrator;
  - Y. Trucking firms;
  - Z. Vehicle service station and body shop, including incidental fabrication;
  - AA. Warehousing or storage.
3. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted:
- A. Accessory uses and structures normally incidental and subordinate to the permitted uses and structures and to uses and structures permitted as exceptions;
  - B. Essential services;
  - C. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work;
4. Special Exception Uses and Structures. The Board of Adjustment according to Articles 15 and 19 of this Ordinance may permit the following uses and structures in the (C-1) Commercial District.
- A. Transmitters, towers, and receiver equipment provided that they are located from public rights-of-way a distance equal to their height.

5. **BULK REGULATIONS.** The following minimum requirements shall be observed subject to modifications contained in Article 11 of this Ordinance:
  - A. Lot Area: The minimum lot area shall be sixty thousand (60,000) square feet or the minimum required by the County Sanitarian for private well and septic tank use;
  - B. Lot Width: The minimum lot width shall be one hundred (100) feet;
  - C. Front Yard: The minimum front yard shall be twenty-five (25) feet;
  - D. Side Yard: The minimum side yard shall ten (10) feet;
  - E. Rear Yard: The minimum rear yard shall be twenty-five (25) feet;
  - F. Maximum Height: No building shall exceed a height of two and one-half (2 1/2) stories or thirty-five (35) feet unless otherwise provided.
6. **Off-Street Parking.** Off-street parking shall be provided in accordance with the provisions of Article 12 of this Ordinance.
7. **Off-Street Loading.** Off-street loading shall be provided in accordance with the provisions of Article 13 of this Ordinance.
8. **Signs.** Signs are permitted subject to the provisions of Article 14 of this Ordinance.

#### 6-5-10 INDUSTRIAL DISTRICT (I-1)

1. **Intent.** The intent of the (I-1) Industrial District is to provide space for industrial uses and structures that are able to meet certain performance standards to protect nearby non-industrial uses from undesirable environmental conditions.
2. **PRINCIPAL USES PERMITTED.** Only the following principal uses and structures shall be permitted in the (I-1) Industrial District, except those uses which by reason of the emission of odor, excessive congestion, dust, fumes, smoke, noise and other obnoxious characteristics would be injurious to the public health, safety and general welfare of the community;
  - A. Assembly or fabrication of metal, rubber, cloth, plastic, stone, leather, wood, or similar raw materials;
  - B. Auto service, assembly, and repair;
  - C. Beverage bottling or processing;

- D. Blacksmith;
  - E. Cement warehousing and mixing;
  - F. Feed mixing;
  - G. Fertilizer manufacture, mixing, and storage;
  - H. Food processing, but not including packing or rendering plants;
  - I. Grain storage elevators;
  - J. Hatchery;
  - K. Lumber yard;
  - L. Moving company;
  - M. Private parking lots;
  - N. Produce warehouse;
  - O. Publicly owned and operated buildings and facilities;
  - P. Railroads;
  - Q. Similar uses to those listed in this section, as allowed by the Pocahontas County Zoning Administrative Officer;
  - R. Transfer company;
  - S. Warehouse or storage.
3. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted:
- A. Accessory uses and structures normally incidental and subordinate to the permitted uses and structures and to uses and structures permitted as exceptions;
  - B. Essential services;
  - C. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

4. Special Exception Uses and Structures. The following uses and structures may be permitted in the (I-1) District subject to provisions of Articles 15 and 19 of this Ordinance and with the approval of the Board of Adjustment:
  - A. Dairy products manufacture;
  - B. Day nursery or nursery schools provided by an employer for the benefit of employees working on the premises;
  - C. Explosive manufacturer;
  - D. Gas or ethanol manufacture;
  - E. Manufacture or smelting of metal, rubber, plastic, stone, leather, or wood products from basic raw materials;
  - F. Meat packing plants;
  - G. Salvage or junk yard, or landfill;
  - H. Sanitary landfill operated by a governmental entity;
  - I. Stockyard;
  - J. Transmitters, towers, and receiver equipment provided that they are located from public rights-of-way a distance equal to their height.
5. Bulk Regulations. The following minimum requirements shall be observed subject to modifications contained in Article 11 of this Ordinance:
  - A. Lot Area: The minimum lot area shall be sixty thousand (60,000) square feet or the minimum required by the County Sanitarian for private well and septic tank use;
  - B. Lot Width: The minimum lot width shall be one hundred (100) feet;
  - C. Front Yard: The minimum front yard shall be twenty-five (25) feet;
  - D. Side Yard: The minimum side yard shall ten (10) feet;
  - E. Rear Yard: The minimum rear yard shall be twenty-five (25) feet;
  - F. Maximum Height: No building shall exceed a height of two and one-half (2 1/2) stories or thirty-five (35) feet unless otherwise provided.

6. Off-Street Parking. Off-street parking shall be provided in accordance with the provisions of Article 12 of this Ordinance.
7. Off-Street Loading. Off-street loading shall be provided in accordance with the provisions of Article 13 of this Ordinance.
8. Signs. Signs are permitted subject to the provisions of Article 14 of this Ordinance.

#### 6-5-11 ADDITIONAL AREA AND HEIGHT REGULATIONS

1. Intent. The regulations set forth in this Article qualify, supplement or modify the area and height regulations set forth elsewhere in this Ordinance.
2. Lot Width. Any lot of record at the time of passage of this Ordinance having less width than herein required may be used as provided in this Ordinance with its side yards reduced to ten percent of the lot width, to the eve drop:
3. Yards.
  - A. In any district in which residences are permitted and where neither public water supply nor public sanitary sewer is available, the lot area and width requirements shall be either the minimum required for the particular district or that required by the Pocahontas County Board of Health for septic tank and private well use;
  - B. Buildings on through lots shall provide the required front yard on both streets;
  - C. The required side yard on the street side of a corner lot shall be not less than fifty (50) percent of the front yard required on the lots to the rear of the corner lot, and no accessory building shall project beyond the required front yard on either street;
  - D. On a corner lot in any district no fence, wall, hedge, tree, or other planting or structure that will obstruct vision between a height of two (2) feet and ten (10) feet above the ground shall be erected, placed, or maintained within the triangular area formed by connecting the right-of-way lines at points which are twenty-five (25) feet distant from the intersection of the right-of-way lines, and measured along the right-of-way lines;
  - E. The Zoning Administrative Officer may vary the front yard setback in instances where a portion of the block has been previously developed and the setbacks used do not conform to those set for the District. In these instances the Zoning Administrative Officer will measure two hundred (200) feet in each direction of the proposed use and require for the proposed use a setback

that is the average of those existing within the four hundred (400) foot distance.

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

Lot Width	Side Yard Requirement
100 feet or Greater	10 feet
75 to 99 feet	7 feet
50 to 74 feet	5 feet
35 to 49 feet	5 feet between eaves of both buildings (See also Article 10, Section 6.4)
Less than 34 feet	Variance Request to Board of Adjustment

4. Use of Public Right-of-Way. No portion of the public road, street or alley right-of-way shall be used for display purposes or to provide any parking or loading space required by this Ordinance.
5. Temporary Building. Temporary building(s) with construction work may be permitted in any district during the period that the construction work is in progress, but such temporary building(s) shall be removed within thirty (30) days after completion or abandonment of the construction work.
6. Accessory Buildings. Accessory buildings and uses customarily incidental to that of the main building may be erected or established is permitted, provided they comply with the following:
  - A. No accessory building shall be located within ten (10) feet of any side or rear lot line;
  - B. No accessory building is permitted within the limits of the front yard;
  - C. No accessory building shall be used for dwelling purposes;
  - D. Any open unenclosed uncovered steps, ground level patios, eaves not more than two (2) feet in width, or concrete slab driveways may project into a required yard;
  - E. Accessory buildings attached to, or connected to the principal building by a breezeway shall be considered to be a part of the principal building and must meet the yard requirements of the principal building.
7. Building Height. Certain items are exempt from the maximum building height. They are:



- A. Television and radio towers, church spires, belfries, monuments, farm buildings, tanks, water and fire towers, stage towers or scenery lofts, cooling towers, grain elevators, ornamental towers and spires, chimneys, elevator bulkheads, drilling rigs, conveyors, flagpoles and other pertinent mechanical apparatus which may be erected to any height not in conflict with any other applicable regulations.
- 8. Buildings to Have Access. Every principal use building hereafter erected shall be on a lot or parcel having frontage upon a public street or road, or have an exclusive unobstructed private easement or access of right-of-way at least twenty (20) feet wide to a street; and there shall be only one (1) principal use for each easement, unless permitted through a Planned Unit Development design standard agreement or a special consideration provided by the Pocahontas County Subdivision Ordinance.

#### 6-5-12 OFF STREET PARKING

- 1. Intent. After the effective date of this Ordinance there shall be provided at the time any new building or structure is erected, off-street parking spaces in accordance with the requirements set forth herein:
- 2. General Provisions:
  - A. All buildings and structures erected and all uses of lands in all districts established after the effective date of this Ordinance shall provide accessory parking as required under this section;
  - B. All off-street parking spaces required by this Ordinance shall be located on the same lot of the use it serves or on some land adjacent to, or within three hundred (300) feet of the principal use lot;
  - C. All yard area except the required front yard for residential districts may be used for off-street parking. The portion of a driveway crossing through the front yard may be used to satisfy the off-street parking requirements of this Ordinance;
  - D. A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be fulfilled, shall accompany an application for a zoning compliance permit.
- 3. Off Street Parking Requirements. At the time of construction, alteration, moving in, enlargement of a structure or building, or change in the use of the land, off-street parking spaces shall be provided, constructed, and maintained for all uses as follows:



- A. Residential - two (2) spaces per dwelling unit;
- B. Hotel/Motel - One (1) space per lodging unit;
- C. Nursing homes, retirement centers, rest homes, or similar uses - One (1) space for every four (4) patient beds;
- D. Places of public assembly such as auditoriums, theaters, stadiums, funeral homes, churches, community hall, public buildings, etc. - The greater of one (1) space for every four (4) seats or one (1) space per five hundred (500) square feet of gross floor area;
- E. Retail sales and service uses such as stores, restaurants, taverns, banks, professional offices, etc. - One space per three hundred (300) square feet of gross floor area;
- F. Manufacturing, wholesaling, warehousing, and similar uses - One space for every two (2) employees in the largest working shift;
- G. Salvage yards - One (1) space per one thousand (1000) square feet of display or floor area.

#### 6-5-13 OFF-STREET LOADING

- 1. Requirements. At the time of construction, alteration, or enlargement of a structure or building off-street loading areas shall be provided and maintained for all uses as follows:
  - A. A one thousand (1000) square foot off-street loading area shall be provided for each use, building, or structure of a size between five thousand (5,000) and twenty thousand (20,000) square feet;
  - B. For larger uses, buildings, and structures a one thousand (1000) square foot off-street loading area shall be provided for each additional twenty thousand (20,000) square feet or fraction thereof.
  - C. Where the off-street loading space borders a Residential District it shall be set back five (5) feet and shall be effectively screen planted.

#### 6-5-14 SIGNS

- 1. Requirements. Billboards and signs that are located in conjunction with principal permitted uses are allowed subject to the following regulations:
  - A. Agricultural District:

- 1) Church signs;
- 2) Service Organization signs;
- 3) Signs used by a farm operation to advertise seed and feed types.

**B. Residential District**

- 1) Church signs;
- 2) Service Organization signs;
- 3) Signs for home occupations are permitted.

**C. Commercial and Industrial Districts:**

- 1) Signs are permitted provided that they are either attached flush to the building, painted on the building, hang from an attached canopy, attached to the roof, are murals, or are attached to the building;
    - a. Roof signs shall not exceed ten (10) feet in height and shall provide a six (6) foot clearance from the building roof and three (3) foot setback from the building edge;
    - b. Wall signs shall not exceed six hundred (600) square feet, or twenty (20) percent of the total wall area, whichever is greater;
  - 2) One (1) free standing or post sign referring to a use or uses conducted on the premises may be erected in any yard abutting a public street; however, such sign shall not obstruct the public view;
  - 3) Outdoor advertising signs and billboards are permitted, provided that the yard and height requirements for a principal structure are met.
  - 4) Ground signs shall not exceed three hundred (300) square feet in area and shall not interfere with vehicle operator's vision for two hundred (200) feet.
2. Signs for Special Exception Uses. In all cases where a use is permitted as a special exception, signs will be allowed only through Board of Adjustment approval.
  3. Informational Signs. Informational and directional signs will be permitted in all districts.

4. Real Estate Signs. Real estate signs advertising for sale, rental, or lease only, the premises, lot or tracts on which they are located will be allowed in all districts. The area of such sign shall not exceed fifty (50) square feet in area in all Nonresidential Districts and five (5) square feet in area in any Residential District.
5. Intermittent Flashing Type Signs. No intermittent flashing type signs are permitted. No moving, flashing, rotating, illuminated signs or colored lights that may be confused with traffic lights are permitted.
6. Signs for Planned Unit Developments. Signs located within Planned Unit Development (R-3) Districts shall be approved as part of the County/Developer Design Standards Agreement.

#### 6-5-15 SPECIAL EXCEPTION USES

1. Procedures and Requirements. Allowable special exception uses may be permitted, enlarged, or altered upon application for a special exception use permit in accordance with the rules and procedures of the Board of Adjustment. The Board of Adjustment will grant or deny a special exception use permit in accordance with the standards set forth herein and with the intent and purpose of this Ordinance. In granting a special exception use permit, the Board of Adjustment may prescribe and impose appropriate conditions, safeguards, and a specified time limit for the performance of the special exception use permit.
2. Application for Special Exception Use Permit. A property owner or his authorized agent may initiate an application for a special exception use permit by filing an application with the Zoning Administrator upon forms prescribed for the purposes. A site plan and other such plans shall accompany the application and data showing the dimensions, arrangements, descriptive data, and other materials constituting a record essential to an understanding of the proposed use and proposed modification in relation to the standards set forth herein. The application shall also be accompanied by a fee as determined by resolution of the Board of Supervisors.
3. Procedure. The Board of Adjustment shall not grant a special exception permit unless and until the following procedures have been fulfilled:
  - A. The Board of Adjustment shall schedule a public hearing in relation to the special exception request. Notice shall be given to the public hearing as required by State Statute by publication in a newspaper of general circulation in the County. If feasible, notice of the public hearing will be mailed to property owners within two hundred (200) feet of the exception request;
  - B. The Board of Adjustment shall determine that it is empowered under this Ordinance to grant the special exception as described in the application, and

that granting of the special exception will not adversely affect the public interest;

- C. In granting any special exception, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this Ordinance and punishable under Article 17 of this Ordinance;
  - D. The concurring vote of three (3) members of the Board of Adjustment grants a special exception use permit. No order of the Board of Adjustment granting a special exception use permit shall be valid for a period longer than six (6) months from the date of such order, unless the Board of Adjustment specifically grants a longer period of time or a building permit is obtained within the six (6) month period and construction is commenced;
  - E. The Board of Supervisors may, after a decision of the Board of Adjustment is made, vote to delay the implementation of such decision for a period of thirty (30) days. The Board of Supervisors may not overturn a decision of the Board of Adjustment. During the thirty (30) day period the Board of Adjustment may or may not reconsider its decision.
4. Standards. The Board of Adjustment shall grant no special exception use permit unless such Board shall find:
- A. That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare of the community;
  - B. That the special exception use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood;
  - C. That the establishment of the special exception use will not impede the normal and orderly development in improvement of the surrounding property for uses permitted in the district;
  - D. That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided;
  - E. 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;
  - F. The use shall not include any activity involving the use or storage of flammable, or explosive material unless protected by adequate firefighting

and fire suppression equipment and by such safety devices as are normally used in handling of any such material;

- G. The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled;
- H. The use shall not include vibration which is discernible without instruments on any adjoining lot or property;
- I. The use shall not involve any malodorous gas or matter which is discernible on any adjoining property;
- J. The use shall not involve any pollution of the air by fly-ash, dust, vapors, or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, irritation, or excessive pollution;
- K. The use shall not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road or highway;
- L. The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are initiated to limit traffic hazards and congestion;
- M. The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments;
- N. That the use will not be in major conflict with the Comprehensive Land Use Plan.

#### 6-5-16 NONCONFORMING USES

1. Intent. Within the various districts established by this ordinance or amendments that may later be adopted there exists structures and uses of land and structures which were lawful prior to the adoption of this ordinance but which would be prohibited, regulated, or restricted under the provisions of this ordinance. It is the intent of this ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this ordinance to be incompatible with permitted uses in the districts involved.
2. Nonconforming Lots of Record in Any Residential District. A single family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in that district. The yard dimensions and other bulk



regulations for the district in which such lot is located shall apply. Variance of area, width, and yard requirements shall be obtained through action of the Board of Adjustment.

Two or more nonconforming lots, or portions thereof, that are contiguous in frontage and under the same ownership shall be considered to be an unsubdivided parcel for purposes of this Ordinance. No portion of said parcel shall be sold and then used which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Ordinance.

3. Nonconforming Uses or Structures in Any Residential District. Existing structures or premises devoted to a use not permitted by this Ordinance in the district which such structure or premise is located shall not be enlarged, extended, reconstructed, substituted, or structurally altered, except when required by law, unless:
  - A. The use is changed to a use permitted in the district in which such structure or premises is located;
  - B. A nonconforming use of a structure may be changed to another nonconforming use of the same or more restrictive classification, provided no structural alterations are made;
  - C. If a nonconforming use of any structure or premises is discontinued for a period of one (1) year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.
4. Nonconforming Uses or Structures in any District Other Than a Residential District. The regulations described in Section 3 of this Article shall apply to nonconforming uses in a commercial, industrial, or agricultural district, subject to the following exception:
  - A. Nonconforming structures may be structurally altered or enlarged in conformity with the lot area, lot width, yard, and height requirements of the district in which such use is located. Such construction shall be limited to buildings on a lot of record (or a combination of lots of record in the same ownership) prior to the effective date of this Ordinance. The structural alteration or enlargement of structures shall not change the nature of the nonconforming use that existed prior to the effective date of this Ordinance;
  - B. If a nonconforming use of any structure or premises is discontinued for a period of one (1) year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.
5. Permitted Structures and Use of Land and Structures Made Nonconforming By

the Requirements of the Bulk Regulations. A permitted structure or use that fails to meet the established bulk regulations of the district in which it is located may be structurally altered or extended provided that the alteration or extension is in compliance with the bulk regulations of the district in which it is located. Any variance must be obtained through action of the Board of Adjustment.

6. Replacing Damaged Buildings. Any nonconforming building or structure damaged by fire, flood, explosion, war, riot, or act of God may be restored, reconstructed, or used as before provided that reconstruction be started within one (1) year of such happening.
7. Uses Under Special Exception Provisions. Any use for which a special exception is permitted as provided in this Ordinance shall not be deemed a conforming use. Any additions shall be with Board of Adjustment approval.

#### 6-5-17 ADMINISTRATION

1. Administrator. The Board of Supervisors of Pocahontas County, Iowa shall appoint a Zoning Administrative officer, and it shall be the duty of said officer to enforce this Ordinance. Such officer may be a person holding other appointive office in the County or in another governmental agency.
2. Zoning Compliance Permits. No land shall be occupied or used, and no building hereafter erected or structurally altered shall be occupied or used in whole or in part for any purpose whatsoever, until a permit is issued by the Zoning Administrator, stating that the building and use comply with the provisions of this Ordinance.

No change of use shall be made in any building or part thereof, now or hereafter erected or structurally altered, without a permit being issued therefore by the Zoning Administrative Officer. No permit shall be issued to make a change unless the changes are in conformity with provisions of this Ordinance.

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

3. Application for Compliance Permit. Compliance permits shall be obtained from the Zoning Administrative Officer before starting or proceeding with the erection, construction, moving in, or the structural alteration of a building or structure. Permits shall be kept on file in the office of the Zoning Administrative Officer, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected. Compliance permits shall be issued to applicants within ten (10) days after application is made. Permits will be valid for one hundred-eighty (180) days. If construction is not completed within that time



period a new permit must be obtained. Failure to timely complete construction may be grounds for denial of an additional permit.

4. Plats. Each application for a compliance permit shall be accompanied by either a dimensioned drawing or plat drawn to scale showing the actual dimensions of the lot to be built upon, the size, shape and location of the building to be erected, the dimensions of the required yards, parking and open spaces, and such other information as may be necessary to provide for the enforcement of this Ordinance.
5. Construction and Use to be as Provided in Application, Plans and Permit. Compliance permits issued on the basis of plans and applications, approved by the Zoning Administrative Officer, authorize only those use arrangement and construction. Use, arrangement and construction at variance with that authorized shall be deemed a violation of this Ordinance and punishable as provided by Article 17.
6. Fees. Before receiving compliance permit, the owner or his agent shall pay to the County the permit fee as provided by resolution of the Board of Supervisors.
7. Special Exceptions. A compliance permit for a special exception may be issued by the Zoning Administrative Officer upon the order of the Board of Adjustment.

#### 6-5-18 VIOLATION AND PENALTY

1. Violation and Penalty. The violation of any of the provisions of this Ordinance shall constitute a misdemeanor. Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance, upon conviction, shall be subject to a fine of not more than five hundred (500) dollars or imprisonment of not more than thirty (30) days for each offense. Each day that a violation is permitted to exist constitutes a separate offense.
2. Restraining Order. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure of land is used in violation of this Ordinance, the County Attorney, in addition to other remedies may institute any proper action or proceed in the name of Pocahontas County, to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, conduct, business or use in or about said premises.

#### 6-5-19 BOARD OF ADJUSTMENT

1. Confirmation. The existing Board of Adjustment is hereby confirmed. The Board shall consist of five (5) members to be appointed by the Board of Supervisors for a term of five (5) years. The Board of Supervisors may remove

members of the Board of Adjustment from office for cause upon written charges and after a public hearing. The Board of Supervisors shall fill vacancies, for the unexpired term of the member.

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

The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official actions, all of which shall be a public record and be immediately filed in the office of the Zoning Administrative Officer. The presence of three (3) members shall constitute a quorum.

3. Hearings, Appeals, Notice. Appeals to the Board of Adjustment concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer or bureau of Pocahontas County affected by a decision of the Zoning Administrative Officer. Such appeals should be taken within a reasonable time, not to exceed thirty (30) days, by filing with the Zoning Administrative Officer and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. The Zoning Administrative Officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed was taken.

The Board of Adjustment shall fix a reasonable time for the hearing of appeals, give public notices thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person, by agent or attorney.

A fee to be determined by resolution of the Board of Supervisors shall be paid to the Zoning Administrative Officer at the time the notice is filed.

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

and duties:

- A. Administrative Review: To hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the Zoning Administrative Officer in the enforcement of this Ordinance.
- B. Special Exceptions: To hear and decide only such exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this Ordinance and as provided for in Article 13.
- C. Variances: To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until:
  - 1) A written application for a variance is submitted demonstrating:
    - a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
    - b. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;
    - c. That the special conditions and circumstances do not result from the actions of the applicant;
    - d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of land, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
  - 2) A public hearing shall be held, with the notice of such hearing being provided according to state statute. If feasible, notice of the public hearing shall be mailed to property owners within two hundred feet of the proposed variance.
  - 3) The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that

the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

- 4) The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
  - 5) The application for a variance shall be accompanied by a fee to be determined by resolution of the Board of Supervisors.
  - 6) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance.
  - 7) Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Article 16 of this Ordinance.
6. Decisions of the Board of Adjustment. In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination as ought to be made and to that end shall have powers of the Zoning Administrative Officer from whom the appeal is taken. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrative Officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in application of this Ordinance.

#### 6-5-20 CHANGES AND AMENDMENTS

1. This Ordinance and the districts created by said Ordinance may be amended from time to time. However, no amendment shall become effective unless it shall have been proposed by, or shall have been first submitted to the Planning and Zoning Commission for review and recommendation. The Planning Commission shall have thirty (30) days in which to submit its report to the Board of Supervisors. If the Commission fails to submit a report within the thirty (30) day period, it shall be deemed to have approved the proposed amendment.

The Board of Supervisors shall hold a public hearing before adoption of any proposed amendment to this Ordinance. A notice of such public hearing shall be published according to state statute. Such notice shall include the time and place for the public hearing.

In the case of a written protest against a change or repeal which is filed with the County Auditor and signed by the owners of twenty (20) percent or more of the area of the lots included in the proposed change or repeal, or by the owners of twenty (20) percent or more of the property which is indicated within two hundred (200) feet of the exterior boundaries of the property for which the change or repeal is proposed, the change or repeal shall not become effective unless it receives the favorable vote of at least sixty percent (60%) of all the members of the Board of Supervisors.

2. Application for Change in Zoning District Boundaries. Any person may submit to the Board of Supervisors an application requesting a change in the zoning district boundaries as shown on the official zoning map.
  - A. Such application shall be filed with the Zoning Administrative Officer accompanied by a fee as determined by resolution of the Board of Supervisors and shall contain the following information. Failure to approve the requested change shall not be deemed cause to refund the fee to the applicant.
    - 1) The legal description and local address of the property;
    - 2) The present zoning classification and the zoning classification requested for the property;
    - 3) The existing use and proposed use of the property;
    - 4) The names and addresses of the owners of all property within two hundred (200) feet of the property for which the change is requested;
    - 5) A statement of the reasons why the applicant feels the present zoning classification is no longer valid;
    - 6) A plat showing existing and proposed locations, dimensions and use of the applicant's property and all property within two hundred feet thereof, including streets, alleys, railroads, and other physical features;
  - B. Upon receipt of the application by the Zoning Administrative Officer a copy shall be forwarded immediately to the Commission for study and recommendation. The Commission shall, prior to making a recommendation, determine the following:
    - 1) Whether or not the current district classification of the property to be rezoned is valid;
    - 2) Whether there is a need for additional land zoned for the purpose requested;



- 3) Whether the proposed change is consistent with the current land use plan, considering such factors as:
    - a. Whether the rezoning would result in a population density or development which would in turn cause a demand for services and utilities in excess of the capacity planned for the area;
    - b. Whether the rezoning would result in traffic in excess of the capacity of existing or planned streets in the vicinity.
  - 4) Whether there is intent on the part of the applicant to develop the property to be rezoned diligently and within a reasonable time.
- C. The Commission shall hold a public hearing (the notice of which shall be according to state statute) and report its determinations and recommendations to the Board of Supervisors within thirty (30) days from receipt of the application, except that when no report is issued within that time, the application will be deemed approved by the Commission. If feasible, notice of the public hearing will be mailed to all property owners within two hundred (200) feet of the proposal.





## **TITLE VI PHYSICAL ENVIRONMENT**

### **CHAPTER 6 ZONING MAP**

#### **6-6-1 Purpose**

6-6-1 PURPOSE. The purpose is to amend the Official Zoning Map of Pocahontas County as adopted in Ordinance 26, Article 4, Sections 1 and 2. The County Planning and Zoning Commission has recommended said change to the described real estate below.

#### **6-6-2 Parcel of Land Described**

6-6-2 PARCEL OF LAND DESCRIBED. A parcel of land described as:

A 2.69 acre parcel in the SW ¼ Section 20, T-93-N, R-34-W, Swan Lake Township, Pocahontas County, IA

shall be changed from A-3 Suburban/Residential District of the Official Zoning Map to the C-1 Commercial District.

NOTE: Article 4, Sections 1 and 2 of Ordinance #26 now in 5-4-4. Original ordinance passed August 23, 2011.

**TITLE VII CULTURE, EDUCATION, AND RECREATION**

**CHAPTER 1 RESERVED**

## **AN ORDINANCE ADOPTING THE 2021 REPRECINCTING PLAN**

**SECTION 1: PURPOSE.** After a Federal Decennial Census, each County must review its precinct boundaries and see whether the existing boundaries comply with current laws, following population changes from the census. As provided by Iowa Code Chapter 331.210A, the Board of Supervisors shall establish a Temporary Reprecincting Commission, being Pocahontas County is a Plan Three County. The Temporary Reprecincting Commission shall draw and adopt the county's precinct plan in accordance with Iowa Code Sections 49.3, 49.4, and 49.6. Upon completion, the Temporary Reprecincting Commission shall submit the plan to the County Board of Supervisors.

**SECTION 2: PRECINCT ESTABLISHMENT.** The following seven (7) precincts shall become effective on January 15, 2022, and shall be used for all subsequent elections:

**Precinct 1:**

North Swan Lake

City of Laurens, Swan Lake Township Sections 1-30

**Precinct 2:**

Cummins, Powhatan, Sherman, Part Center

Cities of Havelock & Plover, Cummins Township, Powhatan Township, Sherman Township, Part of Center Township described as Census Block #'s: 191517802001140, 191517802001200 & 191517802001201.

**Precinct 3:**

Des Moines, Roosevelt, North Garfield, Part Center

City of Rolfe, Des Moines Township, Roosevelt Township, Garfield Township except Gilmore City, & Part of Center Township described as Census Block #'s: 191517802001174, 191517802001169, 191517802001153, 191517802001152, 191517802001151, 191517802001139, 191517802002000, & 191517802001156.

**Precinct 4:**

Pocahontas #1, Part Center Township

Pocahontas #1 is that part of the City of Pocahontas further described as: All of Pocahontas City Limits EXCEPT that part of the City of Pocahontas South of Highway 3 lying East of Highway 4 but West of Main Street, but INCLUSIVE of Census Blocks 191517802002063 & 191517802002064. Part of Center Township described as Census Block #'s 191517802002001, 191517802001179, & 191517802001232.

**Precinct 5:**

South Swan Lake, Marshall, Dover, Cedar, Grant, Colfax

Cities of Fonda & Varina, Swan Lake Township Sections 31-36, Marshall Township, Dover Township, Grant Township, Cedar Township, Colfax Township

**Precinct 6:**

North Lincoln, North Lake, Pocahontas #2, Part Center

Pocahontas #2 which is fully described as: That part of the City of Pocahontas South of Highway 3 lying East of Highway 4 but West of Main Street EXCEPT Census Blocks 191517802002063 & 191517802002064, City of Gilmore City, Lincoln Township Sections 1-18, Lake Township Sections 1-6, Part of Center Township described as Census Block #'s: 191517802002084, 191517802001177, 191517802001178, & 191517802001197.

**Precinct 7:**

South Lincoln, South Lake, Bellville, Lizard

City of Palmer, Lincoln Township Sections 19-36, Lake Township Sections 7-36, Bellville Township, Lizard Township

1<sup>st</sup> Published: 11-24-2021 2<sup>nd</sup> Published: 12-1-2021 3<sup>rd</sup> Published: NA

1<sup>st</sup> Reading: 11-30-2021 2<sup>nd</sup> Reading: 12-7-2021 3<sup>rd</sup> Reading: NA

This ordinance shall be passed by the Board of Supervisors of Pocahontas County on this 7th day of December, 2021, with an effective date of January 15, 2022, after its final passage, approval, and publication as provided by law with the caveat and condition that the reprecincting plan be approved by the Iowa Secretary of State upon submission to that office.

Clarence Siepker  
Clarence Siepker, Chairman

Jeffrey K. Ives  
Jeffrey K. Ives

Brent Aden  
Brent Aden

Louis Stauter  
Louis Stauter

Kyle Smith  
Kyle Smith

ATTEST: Kelly Jepsen  
Kelly Jepsen, County Auditor

AN ORDINANCE ESTABLISHING A NOTIFICATION REQUIREMENT FOR  
CONSTRUCTION AND TILING FROM AGRICULTURAL LANDS INTO COUNTY  
SECONDARY ROAD RIGHT-OF-WAY

BE IT ORDAINED, by the Pocahontas County Board of Supervisors, that hence forward no individual, or entity shall construct and maintain agricultural drainage tile so as to outlet it into the right-of-way of Pocahontas County secondary road systems without first obtaining prior written approval from the Pocahontas County Board of Supervisors and the Pocahontas County Engineer.

Such approval shall also include any surface drainage or alterations to surface drainage which would involve outlets or crossing the secondary roads or the right-of-way.

A request for prior written approval as noted hereinabove shall be made in writing and directed to the County Engineer. Said request shall include a brief description of any and all construction within the road right-of-way; the name of any contractors contemplated to do said work; and the name of any licensed Civil Engineer employed by the applicant to configure said drainage.

This Ordinance shall include all construction within the road right-of-way, inclusive of any dirt work, pipeline construction or electrical transmission line construction.

Any violation of the conditions, limitations and/or specification in the permit shall be a County Infraction punishable in Title I, Organization and Structure, Chapter 2 Penalty, Section 1-2-1 and 1-2-2 in the Pocahontas County Code of Ordinances.

In addition to any penalty above, any person or entity responsible who violates this ordinance shall be strictly liable and responsible for the abatement, removal, and/or repair of any county property damaged because of any unauthorized tile drainage. The county's costs for abatement or correction of the violation may be entered as a personal judgment against the defendant or assessed against the property where the violation occurred, or both.

It shall be the duty of the Pocahontas County Engineer to identify violations of this ordinance. The Pocahontas County Attorney shall take any necessary steps following recommendations from the Pocahontas County Engineer and Pocahontas County Board of Supervisors.

Upon violation of the conditions, limitations and/or of a permit, the Pocahontas County Engineer may, at his or her sole discretion to take any steps to recommend a cure of the violation and to assess any costs to the person or entity who violated this ordinance in lieu of any formal legal action. The County Engineer may also take any appropriate action authorized in this ordinance or any other actions authorized under the Pocahontas County Code of Ordinances or Code of Iowa.

**Nonconforming Use:** Nonconforming uses of all drainage tiles are uses lawfully in existence prior to the adoption of this Ordinance that do not meet the requirements of this Ordinance in the areas of county's secondary right-of-way in which they are located. The Pocahontas County Engineer shall identify all nonconforming uses of drainage tiles and notify all property owners of same following passage of this ordinance.

Nonconforming uses of drainage tiles in county's secondary right-of-way, shall be allowed subject to the following provisions:

1. Conformity encouraged. All nonconforming uses of drainage tile are encouraged to convert to conformity with this Ordinance whenever possible.
2. All nonconforming uses and nonconforming drainage tiles shall not be allowed to continue when there is a change of title or change of right of possession to any property.
3. If nonconforming use of any drainage tile is discontinued for a continuous period of twelve (12) months or more, it shall not be re-established and any subsequent use of drainage tile shall be conforming with this ordinance.
4. A nonconforming drainage tile damaged by fire, flood, Act of God or other causations to the point it needs to be repaired, must be repaired within one (1) year of damage unless said drainage tile cannot be repaired and is causing ongoing damage to the county's secondary right-of way. In that case, the owner shall take all immediate remedial measures to prevent any further damage to the county's secondary right-of-way including, but not limited to, the removal of said drainage tile. It shall be the responsibility of the owner to notify the County Engineer of any damaged drainage tile. However, the county may also notify the owner if any damaged tile is identified in the county's secondary right-of way. Any damaged drainage tile that has been repaired shall be subject to a final inspection and approval by the County Engineer.
5. Any substitution, reconstruction, or enlargement of any drainage tile shall be considered a variation and shall require prior approval by the County Engineer. The substitution, reconstruction, or enlargement, not part of any reparation as described in paragraph 4 above, is subject to inspection by the County Engineer to ensure the work to said drainage tile is being conducted in a timely manner and to ensure no damage is done to the county's secondary right-of-way.

This Ordinance being deemed of immediate importance, shall become effective upon publication.

Passed and adopted by the Board of Supervisors of Pocahontas County on this 13<sup>th</sup> day of May, 2025.

APPROVED BY:

  
Clarence Siepker, Chairman

  
Nita Hinrickson, AUDITOR