

## CHAPTER 55

# ZONING REGULATIONS

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**55.01 TITLE AND PURPOSE.** This chapter shall be known and may be cited and referred to as the “Marion County, Iowa, Zoning Ordinance,” and is referred to herein as the “Zoning Ordinance.” The Zoning Ordinance is adopted for the purpose of promoting public health, safety, morals, comfort and general welfare; to conserve and protect property and property values, to secure and provide the social and economic advantages resulting from an orderly planned use of land resources; and to facilitate adequate, but economical provisions for public improvements, all in accordance with a comprehensive plan and as permitted by the provisions of Chapter 335 of the *Code of Iowa*.

**55.02 INTERPRETATION OF STANDARDS.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements. Where this chapter imposes a greater restriction than is imposed or required by other provisions of law or by other rules, regulations, or resolutions, the provisions of this Zoning Ordinance shall control.

**55.03 AGRICULTURAL EXEMPTION.** In accordance with the provisions of Chapter 335 of the *Code of Iowa*, no regulation or restriction adopted under the provisions of this chapter shall be construed to apply to land, farm houses, farm barns, farm outbuildings or other buildings, structures or erections which are primarily adapted, by reason of nature and area, for use for agricultural purposes, while so used; provided, however, such regulations or restrictions which relate to any structure, building, dam, obstruction, deposit or excavation in or on the flood plains of any river or stream shall apply thereto. It is the responsibility of any person or group claiming that certain property is entitled to exemption on the basis of this section to demonstrate that the property is used for agricultural purposes. Refer to Section 55.04 of this chapter for definition of “farm” to identify land used by reason of nature and area for agricultural purposes. In cases where the existing farm house is proposed to be divided from a remnant farm parcel, both the farm house parcel and the remnant farm parcel must be

at least ten (10) acres in size following the lot split in order for said parcels to qualify for an agricultural exemption.

**55.04 DEFINITIONS.** For the purpose of this chapter, the following terms and words are defined, and the words “used or occupied” include the words “intended, designed, or arranged to be used or occupied.”

1. “Accessory use or structure” means a use or structure subordinate to the principal use of a building on the lot and serving a purpose customarily incidental to the use of the principal building. Accessory structures include, but are not limited to, garages, sheds, decks, gazebos, swimming pools, and playground equipment. For purposes of this chapter, fences, temporary swimming pools that are removed each winter, concrete patios, and driveways shall not be considered an accessory structure.

2. “Adult” refers to a person who has attained the age of 18 years.

3. “Adult entertainment business” means a business which as a part of or in the process of delivering goods and services displays to its patrons specified sexual activities or specified anatomical areas in printed form or through any form of photographic medium or by use of models. In reference to the above, the following definitions apply:

A. “Adult art studio” or “adult modeling studio” means an establishment or business which provides the services of modeling for the purpose of viewing and/or reproducing the human body wholly or partially in the nude by means of photography, painting, sketching, drawing or otherwise; provided entrance to such establishment and such services are available only to adults.

B. “Adult artist” – body painting studio” means an establishment or business which provides the services of applying paint or other substance whether transparent or nontransparent to or on the human body when such body is wholly or partially nude; provided entrance to such establishment and such services are available only to adults.

C. “Adult bath house” means an establishment or business which provides the services of baths of all kinds, including all forms and methods of hydrotherapy; provided entrance to such establishment and such services are available only to adults; and not including such services provided by a medical practitioner or professional physical therapist licensed by the State of Iowa.

D. “Adult book store” means an establishment or business having a substantial part of its stock in trade, books, magazines, photographs, pictures and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined herein, and limited in sale of such sexual materials to adults.

E. “Adult cabaret” means a cabaret which features go-go dancers, exotic dancers, strippers, impersonators, or similar entertainers.

F. “Adult massage” means any method of treating the external parts of the human body by rubbing, stroking, kneading, tapping, or vibrating with the hand, other parts of the body, or any instrument, for any consideration or gratuity.

G. “Adult massage establishment” means any establishment having a fixed place of business where massages are administered for any form of consideration or gratuity, including but not limited to, massage parlors, health clubs, sauna baths, and steam baths. This definition shall not be construed to include an establishments employing: (i) persons licensed by the State of Iowa under the provisions of Chapters 148, 148A, 148B, 148C, 149, 150, 150A, 151, 152, 152B, 152C, 157 or 158 of the *Code of Iowa*, when performing massage services as a part of the profession or trade for which licensed; (ii) persons performing massage therapy or massage services under the direction of a person licensed as described in (i) above; (iii) persons performing massage therapy or massage services upon a person pursuant to the written instruction or order of a licensed physician; (iv) nurses, aides, technicians and attendants at any hospital or health care facility licensed pursuant to Chapter 135B, 135C or 145A of the *Code of Iowa*, in the course of their employment and under the supervision of the administrator thereof or of a person licensed as described in (i) above; (v) an athletic coach or trainer in any accredited public or private secondary school, junior college, college or university, or employed by a professional or semi-professional athletic teams or organization, in the course of his or her employment as such coach or trainer. This definition shall not be construed to include a volunteer fire department, a volunteer rescue squad or a nonprofit organization operating a community center, swimming pool, tennis court, or other educational, cultural, or recreational and athletic facilities, and facilities for the welfare of the residents of the area.

H. “Adult mini motion picture theater” means an enclosed building with a capacity for less than 50 persons used for presenting motion pictures, slides or photographic reproductions distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas as defined herein for observation by patrons therein.

I. “Adult motel” means a motel wherein material is presented which is distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

J. “Adult motion picture arcade” means any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing specified sexual activities or specified anatomical areas.

K. “Adult motion picture theater” means an enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting or describing specified sexual activities or specified anatomical areas for observation by patrons therein.

L. “Juice bar” means any establishment where alcoholic beverages are prohibited and where for any form of consideration or gratuity, models, dancers, strippers, and similar entertainers perform in nude or semi-nude for observation by patrons therein.

M. “Model” means any person who for consideration or gratuity appears either nude or semi-nude to be either viewed, photographed, sketched, drawn, sculptured; to dance; to provide reading or counseling sessions; for body painting; to deliver a service or in connection with the sale of merchandise; or to present materials distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

N. “Model studio” means any establishment where for any form of consideration or gratuity, models who display specified anatomical areas are provided to be observed, or subject to lawful tactile conduct, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such consideration or gratuity, or where for any form of consideration or gratuity, nude or semi-nude dancing, readings, counseling sessions, body painting and other activities that present materials distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas are provided for observation by or communication to persons paying such consideration or gratuity.

O. “Nude encounter parlor” means an establishment having a fixed place of business where any person, therein engages in, conducts, or carries on, or permits to be engaged in, conducted or carried on, any business of viewing any person or persons or the actual encounter of any person or persons depicting, describing or relating to specified sexual activities as defined herein.

P. “Nude photographic parlor” means an establishment having a fixed place of business, where any person, association, firm or corporation therein engages in, conducts, or carries on, or permits to be engaged in, conducted or carried on any business of photographing any person or persons depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined herein.

Q. “Specified anatomical areas” means: human genitals, pubic region, buttocks and female breasts below a point immediately above the top of the areola.

R. “Specified sexual activities” means any sexual contact, actual or simulated, either natural or deviate, between two or more persons, or between a person and an animal, by penetration of the penis into the vagina or anus, or by contact between a finger of one person and the genitalia of another person or by use of artificial sexual organs or substitute therefor in contact with the genitalia or anus.

S. “Substantial” means more than 25% of the book, magazine, film or video tape inventory is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

An adult entertainment business is any one or more of the above or similar uses, which are customarily not open to persons who have not attained the age of 18 years.

4. “Agriculture” means the use of land for purposes of growing the usual agricultural or farm products, including vegetables, fruit, trees and grains, pasturage, dairying, livestock and poultry husbandry, and the necessary accessory uses for

treating or storing the produce, provided that the operation of such accessory uses shall be secondary to that of the regular agricultural activities. If the tract of land is less than ten acres, it shall be presumed by nature and area that the tract is not primarily used for agricultural purposes.

5. "Airport Hazard" or means any structure, tree or obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace for the purpose of determining the height limits as set forth in Chapter 62 and Chapter 63 of the Marion County Code of Ordinances.

6. "Airport, Official" means an official airport having height restrictions approved by Marion County, included as a chapter in the Marion County Code of Ordinances, and regulated by the Federal Aviation Administration (FAA).

7. "Airstrip, private" means a private air strip or air field that is not an official airport but may be regulated by the Federal Aviation Administration (FAA), provided a Special Use Permit and Airport Layout Plan have been approved by Marion County. The owner of the private airstrip shall own or have a legally recorded easement covering the airstrip, runway protection zone, and all facilities as shown on the approved site plan. For the purposes of this chapter, the leasing or selling of hanger space or runway use shall not be permitted in any private airstrip.

8. "Apartment" means a room or suite of rooms in a multiple dwelling intended for or designed for use as a residence by a single family.

9. "Automobile salvage yard" means dismantling or wrecking of motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot, parcel, or tract of land, of nine (9) or more vehicles which for a period exceeding thirty (30) days have not been capable of operating under their own power, and from which parts have been removed or are to be removed for reuse, salvage, or sale, shall constitute *prima facie* evidence of an automobile salvage yard. (See also "salvage yard.")

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

11. "Bed and breakfast home" means a private residence which provides lodging and meals for guests, in which the host or hostess resides and in which no more than two (2) guest families are lodged at the same time and which, while it may advertise and accept reservations, does not hold itself out to the public to be a restaurant, hotel, or motel, does not require reservations and serves food only to overnight guests.

12. "Billboard" includes all structures, regardless of the material used in the construction of the same, that are erected, maintained, or used for public display of posters, painted signs, wall signs, whether the structure be placed on the wall or painted on the wall itself, pictures or other pictorial reading matter which advertise a business or attraction which is not carried on or manufactured in or upon the premises upon which said signs or billboards are located.

13. "Board" means Marion County Board of Adjustment.

14. "Boarding house" means a building, other than a hotel, where for compensation, meals or lodging and meals are provided for five (5) or more persons.

15. "Borrow pit" means any place or premises where dirt, soil, sand, gravel, or other material is removed below the grade of surrounding land for any purpose other than that necessary and incidental to site grading or building construction.
16. "Buffer zone" means an area of land used to visibly separate one use from another or to shield or block noise, lights, or other nuisances.
17. "Build-to line" is a line created by existing principal building lines of neighboring properties.
18. "Building" means any structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property, but not including signs or billboards. When a structure is divided in separate parts by unpierced walls extending from the ground up, each part is deemed a separate building.
19. "Building line" means the extreme over-all dimensions of a building as determined from its exterior walls or any part of a structural support or component which is nearest to the property line, other than usual uncovered steps, patios and decks. Horizontally projecting roof overhangs and chimneys into the setback up to two (2) feet shall be permitted, provided no part of a side of a building for residential occupancy which is not attached to another building shall be closer than five (5) feet to a lot line or within ten (10) feet of another building.
20. "Building, height of" means 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 mean height level between eaves and ridge for gable, hip, and gambrel roofs.
21. "Building Permit" means a written statement issued by the Zoning Official authorizing buildings, structures or uses consistent with the terms of this Zoning Ordinance and for the purpose of carrying out and enforcing its provisions.
22. "Bulk stations" means distributing stations commonly known as bulk or tank stations, used for the storage and distribution of flammable liquids, or liquefied petroleum products where the aggregate capacity of all storage tanks is more than six thousand (6,000) gallons.
23. "Cabin" means a dwelling that is utilized primarily for recreational purposes. Such structure is not to be utilized as a primary residence nor will it be occupied for more than 182 days in a calendar year.
24. "Campground" means an area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, and which is primarily used for recreational purposes and retains an open air or natural character whether commercial or non-commercial. Commercial campgrounds contain one or more campsites that are available to the general public, including non-profit organizations, for short-term stays for a fee. Non-commercial campgrounds in any agricultural district shall not be considered a campground for purposes of this chapter unless the parcel contains permanent infrastructure related to said campgrounds. Noncommercial campgrounds in any residential district shall not be considered a campground for purposes of this chapter unless there is more than one occupied campsite on the parcel. Further, any campground that is developed, redeveloped, or improved with permanent infrastructure after the effective date of this ordinance shall be required to obtain Site Plan approval in accordance with this chapter.

25. “Canopy” means a permanent roofed structure, including marquees and awnings, attached to and supported by a building and projecting from a building.
26. “Car wash” means an area of land and/or a structure with machine- or hand-operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles.
27. “Carport” means a roofed structure providing space for the parking of motor vehicles and enclosed on not more than two (2) sides. For the purpose of this chapter, a carport attached to a principal building shall be considered as part of the principal building and subject to all yard requirements herein.
28. “Cellar” means that portion of a building having more than one-half (1/2) of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.
29. “Cemetery” means land used or intended to be used for the burial of the dead, including mausoleums, columbariums, and crematoriums when operated in conjunction with and within the boundary of such cemetery.
30. “Church or place of religious worship” means an institution that people regularly attend to participate in or hold religious services, meetings, and other activities. The term “church” shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.
31. “Clinic, medical or dental” means a building or buildings in which physicians, dentists, or allied professional assistants are associated for the purpose of carrying on their professions.
32. “Club” means an organization of persons for special purposes or for the promulgation of sports, arts, literature, politics, fitness, or the like but not operated for profit, excluding churches, or other houses of worship.
33. “Cocktail lounge” means any place of business, other than a “night club,” located in and accessory to a hotel, motel, or restaurant, where liquor, beer or wine is sold for consumption on the premises, where music or other entertainment is limited to a piano bar or other one person performance.
34. “Commercial use” means the barter, exchange, sale, service or trade of goods, materials, or services, either tangible or intangible for financial, material, or monetary gain.
35. “Commission” means the Marion County Zoning Commission.
36. “Communications tower” means a structure that is intended for transmitting or receiving television, radio, or telephone communications.
37. “Comprehensive Plan” means the Comprehensive Plan for Marion County, Iowa, which sets forth the County’s long-range plans for land use and transportation management and development policies to guide the County’s growth and on which the County’s zoning regulations shall be based.
38. “Concentrating solar power system (CSP)” means an energy system that uses lenses/mirrors and tracking systems to focus or reflect a large area of sunlight onto a small area. The concentrated energy is absorbed by a thermal medium, such as water, salt, or a permanently gaseous fluid, and used as a heat source for a conventional power plan, such as a steam power plant, or for a power conversion unit, such as a sterling engine. Although several concentrating solar technologies exist, the most

common types are the solar trough, parabolic dish, and solar power tower. Energy storage technologies used by concentrating solar thermal devices (e.g. molten salt storage) are also including within this definition.

39. “Conditional use” – see “special use.”

40. “Condominium” means an estate in real property as regulated by Chapter 499B of the *Code of Iowa* consisting of an undivided interest in common with other purchasers in a portion of a parcel of real property, together with a separate interest in space in a building, such as an apartment. A condominium may include, in addition, a separate interest in other portions of such real property.

41. “Conservation easement” means an easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, wooded, or topographic condition, retaining such areas as suitable habitat for fish, plants, or wildlife; or maintaining existing slopes and land use.

42. “Convenience store” means any retail establishment offering for sale food products, household items and other goods commonly found in grocery stores, as well as retail gas sales, and having a gross floor area of more than one-thousand two-hundred (1,200) square feet but less than five-thousand (5,000) square feet.

43. “Cul-de-sac” means a local street, one end of which is closed and consists of a circular turn around.

44. “Day care center, day nursery or nursery school” means any private or public agency, institution, establishment, or place which provides supplemental parental care and/or educational work, other than lodging overnight, for seven (7) or more unrelated children of preschool age, for compensation.

45. “Day care home” means a private residence where care, protection and supervision are provided, for a fee, at least twice a week to less than seven (7) children at one time.

46. “Density, gross” means the gross number of dwelling units permitted per gross acre of gross land within a defined area including public streets and open spaces.

47. “Density, net” means the number of dwelling units per net acre of land being developed exclusive of public streets and open spaces.

48. “Development” means any subdivision of land or man-made changes to improved or unimproved real estate, including but not limited to the construction of buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

49. “District” means a section or sections of the County within which the regulations governing the use of buildings and premises or the height and area of buildings and premises are uniform.

50. “Drive-in facility” means an establishment that, by design of physical facilities or by service or packaging procedures, permits customers to receive a service or obtain a product while remaining in a motor vehicle or to be entertained while remaining in a motor vehicle.

51. “Driveway” means a privately owned roadway giving access from a public street to a building plat or abutting property.



52. “Dump” means premises used for illegal discarding of trash, garbage, junk or other refuse; but not including legally operating, and fills or junk yards.
53. “Dwelling” means a structure or portion thereof that is used exclusively for human habitation.
54. “Dwelling unit” means a room or group of rooms which are arranged, designed, or used as a dwelling for the occupancy of one (1) family containing sleeping, bathroom, and kitchen facilities.
55. “Dwelling, condominium” means a multiple dwelling as defined herein whereby the title to each dwelling unit is held in separate ownership, and the real estate on which the units are located is held in common ownership solely by the owners of the units, with each owner having an undivided interest in the common real estate.
56. “Dwelling, garden home” means a building containing only one dwelling unit on a separate lot and designed for and occupied exclusively for residence purposes by only one family within a townhome development.
57. “Dwelling, multiple family” means a residence designed for or occupied by three (3) or more families, with separate housekeeping and cooking facilities for each.
58. “Dwelling, row” means any one (1) of two (2) or more horizontally attached dwelling units in a continuous row located within a townhome development. Each dwelling is erected as a unit on a separate lot having an individual entrance. No more than six (6) units shall be permitted in a single structure.
59. “Dwelling, single-family” means a detached residence designed for or occupied by one family only.
60. “Dwelling, two-family” (duplex) means a residence designed for or occupied by two (2) families only, with separate housekeeping and cooking facilities for each.
61. “Dwelling, tiny house” means a small building designed for use as a residential dwelling, generally four-hundred (400) square feet or less. Tiny houses on wheels shall be considered an RV or camper for purposes of this ordinance, unless properly tied-down and skirted, in which case it shall be considered as a mobile homes. Tiny houses on permanent foundations shall be considered to be a single-family detached dwelling.
62. “Dwelling, townhome” or “townhouse” means a row dwelling or garden home which is characterized by common elements which are specified in or determined under the rules and regulations set forth by recorded covenants. Said covenants shall establish the guidelines for maintenance of common elements and permit free movement through common areas by members of the homeowners association to assure access to the structure exterior of each townhome unit by the individual unit owner.
63. “Easement” means a granted right by a landowner to a person, government agency, or public utility company to use land owned by another for a specific purpose.
64. “Exotic animals” means animals, other than domesticated livestock, poultry, or common pets such as cats, dogs, hamsters, guinea pigs, canaries, or other similar pets as determined by the Zoning Official.
65. “Fall zone” means the area of land centered beneath the tower and circumscribed by a circle with a radius equal to a length of one (1) foot for every ten

(10) feet of tower structure height. No structures other than fences shall be constructed or permitted with any required fall zone. The area within any required fall zone shall be owned, leased, or in an easement running to the benefit of the tower owner.

66. “Family” means one or more persons occupying a single dwelling unit, provided that unless all members are related by blood, marriage, or adoption, no such family shall contain over four (4) persons.

67. “Farm” means a land area comprised of ten (10) acres or more which is used for agriculture.

68. “Feedlot” means any parcel of land or premises on which the principal use is the concentrated feeding within a confined area of cattle, hogs or sheep. The term does not include areas which are used for the raising of crops or other vegetation, and upon which livestock are allowed to graze or feed.

69. “Fill” means to raise the grade of land with the depositing of earth.

70. “Flashing lights” means a sudden or transient outburst of bright light; a flood of light briefly appearing and disappearing, or a single flash at regular intervals, the duration of light always being less than the duration of darkness.

71. “Flea market” means an occasional or periodic sales activity held within a building, structure, or open area where groups of individual sellers offer goods for sale to the public, not to include private garage sales.

72. “Flood” means 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.

73. “Flood plain” means a land area susceptible to being inundated by water as a result of a flood.

74. “Floor” means the lower horizontal surface of a hollow structure, story or room, or the horizontal structure which separates stories in a building.

75. “Floor area” means the total area of all floors of a building or portion thereof measured to the outside surface of exterior walls or the centerline of walls to attached buildings or uses. It does not include garages, porches, balconies, and other appurtenances. Space in the basement or cellar and all other space shall be included as floor area if habitable and used for a principal or accessory use permitted in the zone in which the building is located.

76. “Floor area ratio” means the square footage of floor area on all floors divided by the land area within the property lines.

77. “Foundation” means the part of the structure that supports the weight and transfers the load to the underlying soil or rock.

78. “Freeboard” means a safety factor indicating the height above a projected flood occurrence level to which a levy or floodwall is constructed.

79. “Frontage” means the lot line adjoining a public street as measured along the street.

80. “Funeral home” means a building or part thereof used for human funeral services. Such building may contain space and facilities for: (i) embalming and the performance of other services used in preparation of the dead for burial; (ii) the

performance of autopsies and other surgical procedures; (iii) the storage of caskets, urns, and other related funeral supplies; (iv) the storage of funeral vehicles; and (v) facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.

81. “Garage, private” means a building for the private use of the owner or occupant of a principal building situated on the same lot of the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

82. “Garage, public” means a building designed and used for the storage of automotive vehicles operated as a business enterprise with a service charge or fee being paid to the owner or operator for the parking or storage of privately owned vehicles.

83. “Garage, repair” means any building, premises, or land in which or upon which a business, service, or industry involving the maintenance, servicing, repair or painting of motor vehicles is conducted or rendered.

84. “Garage, storage” means any building or premises, used for housing only, of motor-driven vehicles pursuant to previous arrangements and not to transients, and at which automobile fuels and oils are not sold and motor-driven vehicles are not equipped, repaired, hired or sold.

85. “Gas, filling or service station” means any building or premises used for the retail sale of liquefied petroleum products for the propulsion of motor vehicles, and including such products as kerosene, fuel oil, gasoline, diesel fuel, packaged naphtha, lubricants, tires, batteries, antifreeze, motor vehicle accessories, and other items customarily associated with the sale of such products. The rendering of accessory services is permitted including automatic car wash for one vehicle at a time, and making of repairs to motor vehicles except those of a major type. Repairs of a major type are defined to be spray painting; body, fender, differential, axle, spring, and frame repairs; major overhauling of engines requiring the removal of engine cylinder head or crankcase pan; repairs to radiators requiring the removal thereof; or complete recapping or retreading of tires.

86. “Grade” means the average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five (5) feet of a sidewalk, alley or other public way, the above ground level shall be measured at the elevation of the sidewalk, alley or public way.

87. “Greenhouse” means a building or accessory structure constructed chiefly of glass or other translucent material, which is devoted to the protection or cultivation of flowers or other tender plants.

88. “Group care facility” means a government licensed or approved facility which provides resident services in a dwelling to more than eight (8) individuals not including resident staff, but not exceeding thirty (30) individuals. These individuals are developmentally disabled, aged or undergoing rehabilitation; are in need of adult supervision; and are provided services in accordance with their individual needs. Group care facilities shall not include nursing homes.

89. “Half-story” means a story with at least two (2) of its opposite sides situated in a sloping roof, the floor area of which does not exceed two-thirds (2/3) of the floor area of the floor immediately below it.

90. “Hazardous materials” means any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive, or otherwise injurious properties may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with such material or substance.

91. “Health club” means an establishment providing physical fitness facilities and services to the public for a fee, including but not limited to: game courts, exercise equipment, exercise areas, running tracks, swimming pools, physical fitness maintenance and weight control services and instructors, locker rooms, saunas and associated retail shop intended for members of club only.

92. “Home occupation” means a business, profession, occupation or trade conducted for gain or support as an accessory use entirely within a dwelling, or a structure, which is incidental and secondary to the use of such building for dwelling purposes and which does not change the essential residential character of such building.

93. “Homeowners or property owners association” means a formally constituted non-profit association or corporation made up of the property owners and/or residents of a definitive area; who collectively may take permanent responsibility for costs and upkeep of commonly owned or designated community property.

94. “Hospital” means an institution licensed by State law providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.

95. “Hotel or motel” means a building containing six (6) or more guest rooms in which lodging is provided and offered to the public on a temporary basis for compensation, and which is open to transient guests, in contrast to a boarding house or rooming house.

96. “Inoperable vehicle” means any motor vehicle, recreational vehicle, boat, trailer or semi-trailer which lacks a current registration or component part which renders the vehicle unfit for legal use.

97. “Insignias and flags” means insignias, flags and emblems of the United States, the State of Iowa, Marion County, municipal and other bodies of established government, or flags which display the recognized symbol of a non-profit or non-commercial organization.

98. “Junk” means old, wrecked, inoperable, or discarded automobiles, trucks, tractors and other such vehicles and parts thereof, wagons and other kinds of vehicles and parts thereof, scrap, used building materials, scrap contractor’s equipment, tanks, cans, barrels, boxes, drums, piping, bottles, glass, old iron, machinery, rags, paper excelsior, hair, mattresses, beds or bedding or any other kind of scrap or waste material which is stored, kept, handled or displayed for barter, resale, reuse, salvage, stripping, or trade.

99. “Junk yard” means any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled or packed, disassembled or handled, including the dismantling or “wrecking” of automobiles or other vehicles or machinery, house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including areas where

such uses are conducted entirely within a completely enclosed building. The presence on any property of ten (10) or more motor vehicles (as defined by Chapter 321 of the *Code of Iowa*) without current registration which for a period exceeding thirty (30) days have not been capable of operating under their own power, and/or from which parts have been removed for re-use, salvage, or sale, shall constitute *prima facie* evidence of a junk yard.

100. “Kennel” means any premises on which five (5) or more dogs, six (6) months or older, are kept for board, breeding, or sales purposes.

101. “Landfill” means a disposal site employing an engineering method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day.

102. “Laundry, self-service” means a business that provides home-type washing, drying and/or ironing machines for hire to be used by customers on the premises.

103. “Livestock” means animals kept, or raised for use or pleasure including cattle, horses, sheep, goats, swine, mules, donkeys, llamas, and similar hoofed animals excluding buffalo and elk.

104. “Loading space” means any off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking (less than twenty-four (24) hours) for a commercial vehicle while loading or unloading merchandise or materials.

105. “Lodging house” means a building where lodging only is provided for compensation for four (4) or more persons.

106. “Lot” means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area and to provide such yards and other open space as are herein required. Such lot shall have frontage on a public road or approved private 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 the Zoning Ordinance.

107. “Lot lines” means the lines bounding a lot, including the right-of-way line of any public road or highway acquired by easement.

108. “Lot of record” means a lot which is a part of a subdivision recorded in the office of the County Recorder of Marion County, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

109. “Lot width” means the width of a lot measured at the building line and at right angles to its depth.

110. “Lot, corner” means a lot abutting upon two (2) or more streets at their intersection.

111. “Lot, depth of” means the mean horizontal distance between the front and rear lot lines.
112. “Lot, double frontage” means a lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.
113. “Lot, flag” means a lot with access provided to the bulk of the lot by means of a narrow corridor which does not meet the minimum permitted lot width requirements at the minimum setback distance from the public street.
114. “Lot, interior” means a lot other than a corner lot.
115. “Lot, reversed frontage” means a corner lot the side street line of which is substantially a continuation of the front lot line of the first platted lot to its rear.
116. “Lumber yard” means a premises on which primarily new lumber and related building materials are sold.
117. “Manufactured home” is a factory-built structure, which is built under the authority of 42 U.S.C. Sec. 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. If a manufactured home is placed in a mobile home park, the home must be titled and is subject to the mobile home square foot tax. If a manufactured home is placed outside a mobile home park, the home must be titled and is to be assessed and taxed as real estate.
118. “Marina” means a facility for storing, servicing, fueling, berthing, and securing and launching of private pleasure water craft that may include the sale of fuel and incidental supplies for the boat owners, crews, and guests.
119. “Mini-warehouse” means a building or group of buildings, no more than twenty-five (25) feet in height and not having any dimensions greater than one-hundred-fifty (150) feet per building, containing varying sizes of individualized, compartmentalized, and controlled stalls or lockers for the dead storage of customers’ goods or wares, excluding junk, explosive, or flammable materials, and other noxious or dangerous materials. No business activities other than rental of storage units shall be conducted on the premises.
120. “Mobile home” means a factory-built housing unit used for living, sleeping, business, or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses or skirtings, and which is, has been or reasonably may be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. All properties as defined by Chapter 322 of the *Code of Iowa* “mobile homes” are subject to inspections by the Department of Public Safety, State of Iowa.
121. “Mobile home park” means any lot or portion of a lot upon which two (2) or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.
122. “Modular home” means a factory-built structure 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. If a modular home is placed in a mobile home park, the home is subject to the annual tax as required by Section 435.22, *Code of Iowa*. If a modular home is placed outside a mobile home park the home shall be considered real property and is to be assessed and taxed as real estate.

123. “Motel, auto court” means a building or group of attached or detached buildings containing individual sleeping or living units for overnight auto tourists, with garage attached or parking facilities conveniently located to each such unit.

124. “New construction” means those structures or development for which the start of construction or installation commenced on or after the effective date of this Zoning Ordinance.

125. “Night club” means any place of business located within any building or establishment, established and operated for the purpose of supplying entertainment or music and a dance floor and providing meals and/or refreshments prepared for consumption on the premises.

126. “Nonconforming lot” means a lot which lawfully existed prior to the adoption, revision, or amendment of this Zoning Ordinance, but which fails by reason of such adoption, revision, or amendment to conform to the new district regulation in which it is located.

127. “Nonconforming structure” means a building or structure existing at the effective date of adoption or amendment of this Zoning Ordinance which is allowed to lawfully exist, but does not comply with the terms of this chapter by reason of restrictions on area, lot coverage, height, setbacks, architecture, or other characteristics of the structure or its location on the lot.

128. “Nonconforming use” means a lawful use of land or building that does not comply with the use regulations for its zoning district, but which complied with applicable regulations at the time the use was established.

129. “Non-profit institution” means a non-profit establishment maintained and operated by a society, corporation, individual, foundation or public agency for the purpose of providing charitable, social, education or similar services to the public, groups, or individuals. Cooperative non-profit associations, performing a service normally associated with retail sales or trade such as cooperative groceries, granaries, equipment sales, etc., shall not be considered a non-profit institution under this chapter.

130. “Nursing or convalescent home” means a building or structure having accommodations and where care is provided for invalid, infirm, aged, convalescent, or physically disabled, or injured persons; not including mentally insane, mental deficiency or deterioration, inebriate, or contagious cases.

131. “Off premises” means the purpose is to advertise, identify and/or direct attention to a profession, business, service, activity, product, campaign or attraction which is not carried on, sold, offered, or manufactured in or upon the premises.

132. “Oscillating light” means light which is totally eclipsed at regular intervals; the duration of light is always greater than the duration of darkness (such as an electronic information display).

133. “Parcel or tract” means an aliquot part of a section, a lot within an official plat, or a government lot; said parcel must be contiguous in order to be considered as one parcel for purposes of this chapter.

134. “Park” means any public or private land reserved for active and passive recreation to include such facilities as playgrounds, swimming pools, tennis courts, trails, shelters, and other similar uses associated with a designed recreation area. The

term park is not intended to include private or public amusement parks, permanent carnivals, or similar type activities.

135. "Parking area, satellite" means off-street parking spaces located on a separate lot not adjoining the principal use for which they are required or associated with, whether in the same ownership as the property occupied by the principal use or leased from a separate owner.

136. "Parking space" means an area on a lot and/or within a building intended for the use of parking of a personal vehicle. This term is used interchangeably with parking stall.

137. "Patron" means a customer who purchases a commodity or service.

138. "Place of business" means any vehicle, building, structure, yard, area, lot, premises, or part thereof, or any other place in which or on which one or more persons engage in gainful occupation.

139. "Planned Unit Development" (PUD) means any development in which the proposed land use, transportation elements, population densities, building arrangement and types are set out in a unified, contiguous plan.

140. "Plant nursery" means any land used to raise trees, shrubs, flowers, and other plants for transplanting.

141. "Porch, unenclosed" means a roofed projection which has no more than fifty percent (50%) of each outside wall area enclosed by a building or siding material other than meshed screens.

142. "Poultry" means domesticated fowl valued for their meat or eggs and kept or raised for use or pleasure including chickens, turkeys, ducks, geese, guinea fowl, ostriches, emus and similar fowl.

143. "Premises" means any lot, plot, parcel or tract of land, building or buildings, structure or structures, used publicly or privately as a place of business, dwelling or meeting place.

144. "Principal building" means a building in which the principal use of the lot on which the building is located is conducted.

145. "Principal use" means the main use of land or structures as distinguished from an accessory use.

146. "Print shop" means a retail establishment that provides duplicating services using photocopy, blueprint, and offset printing equipment, including collating of booklets and reports.

147. "Public"; when used as an adjective for a particular use such as "public library" or "school, public"; means a specific use that is under the jurisdiction and maintenance of a governmental agency of the Federal, State, County or City government which may be used by the general public.

148. "Public thoroughfare" means any right-of-way under the jurisdiction and maintenance of the governmental agencies of the federal, State or County government, which may be used by the public in general, and which may or may not serve as a frontage street to the abutting property.



149. “Quarter-quarter section” means the northeast, northwest, southwest or southeast quarter of a quarter section delineated by the United States Government system of land survey, and which is approximately forty (40) acres in size.

150. “Recreational vehicle” (RV) means a vehicle which is: (i) built on a single chassis; (ii) four-hundred (400) square feet or less when measured at the largest horizontal projection; (iii) designed to be self-propelled or permanently towable by a light duty vehicle; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

151. “Recreational vehicle park or RV park” means any parcel of land upon which two (2) or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

152. “Recycling center” means a building in which used material is separated and processed prior to shipment to others who will use those materials to manufacture new products.

153. “Recycling collection point” means an incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of such items is allowed. This facility would generally be located in a shopping center parking lot or in other public/quasi-public areas, such as in churches and schools.

154. “Research laboratory” means a building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products except as incidental to the main purpose of the laboratory.

155. “Residential” or “residence” means any lot, plot, parcel, tract, area, or place of land or any building used exclusively for family dwelling purposes or intended to be used, including accessory uses specified herein.

156. “Restaurant” means an establishment that prepares and serves food and beverages to persons for immediate consumption.

A. “Carry-out” means a restaurant which prepares food and/or beverages which are packaged and delivered to the patrons or are picked up at the establishment by the customer, there is no consumption of food or beverages on the premises by patrons.

B. “Dine-in” means a restaurant where the patron consumes foods and beverages while seated at tables or counters located on the premises.

C. “Drive-in” means a restaurant that delivers prepared food and/or beverages to patrons in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption on or off the premises.

157. “Resubdivision” means any change in the shape or size of any lot, tract, or parcel of land previously platted for the purpose, whether immediate or future, of sale, rent, lease, building development, or other use. Any change in the shape or size of any lot, tract or parcel of land previously approved for building purposes whether immediate or future and regardless of whether or not the same is vacant or improved in whole or in part, for sale, rent, lease, building development or other use.

158. “Right-of-way” means a strip of land occupied or intended to be occupied by a road, walkway, drainageway, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer, trail, or other public use.

159. “Road, private” means a right-of-way open to vehicular ingress and egress established as a separate tract for the common use and benefit of certain, adjacent properties. This definition does not apply to individual driveways.

160. “Salvage dealer” means any person who buys, sells, transfers, delivers, or stores junk, including all persons who carry on such businesses at a shop, a salvage yard or as a peddler, and any person who by advertisement, sign or otherwise holds himself or herself out as a salvage dealer, or dealer in old or discarded metals, machinery, rags, paper stock, and the like.

161. “Salvage yard” means any place not fully enclosed within a building where a salvage dealer, in connection with the salvage dealer business, stores or deposits junk encompassing either (i) an area of two-hundred (200) square feet or more, or (ii) ten (10) or more inoperable motor vehicles, or used parts and materials thereof, which taken together equal the bulk of ten (10) or more motor vehicles.

162. “School” means a facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, middle schools, and high schools.

163. “School, business training” means a school which specializes in business, commercial and industrial training courses and is operated for commercial gain.

164. “Screening” means the method by which a view of one site from another adjacent site is shielded, concealed or hidden. Screening techniques include fences, walls, hedges, berms, or other features. (See also “buffer zone.”)

165. “Seating capacity” means the actual seating capacity of an area based upon the number of seats or one seat per eighteen (18) inches of bench or pew length.

166. “Setback” means the required minimum horizontal distance permitted between the building line and the related front, side, or rear property line.

167. “Shipping container” means a metal sided container typically used for multimodal shipping, not placed on a foundation. Shipping containers shall also include portions or enclosures removed from a chassis and no longer with wheels or axels like a semi-trailer box, panel truck enclosure, or box trailer.

168. “Shopping center” means a grouping of retail businesses and service uses within a single Master Planned Complex of one or more buildings with common parking facilities, access and open space.

169. “Sidewalk café” means an area which is part of and adjacent to and directly in front of a street-level restaurant and located within the sidewalk area of the public right-of-way exclusively for dining, drinking, and pedestrian circulation. The encroachment area of the sidewalk cafe may be separated from the remainder of the sidewalk by railings, fencing, or landscaping planter boxes or a combination thereof as required by the Board.

170. “Sign” means any device designed to inform or attract the attention of persons not on the premises on which the sign is located; provided, however, the following shall not be included in the application of the regulations herein:

- A. Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
- B. Flags and insignia of any government except when displayed in connection with commercial promotion;
- C. Legal notices; identification, informational or directional signs erected or required by governmental bodies;
- D. Integral, decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights;
- E. Signs directing and guiding traffic and parking on private property, and bearing no advertising matter; not exceeding two (2) square feet in area.

171. "Sign area" means the surface area of a sign shall be computed as including the entire area within a regular geometric form or combinations of regular geometric 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 the surface area, except where such frames and structural members are used as an integral primary or subsidiary portion of the graphic, literal, or numerical display, such as forming a picture frame to facilitate continuity or providing contrasts to emphasize the intended purpose of the sign.

172. "Sign, awning" means a sign painted on or incorporated into an awning. The area of an awning sign shall be the area of the inscription or message incorporated into the awning, provided the awning is not internally illuminated. For an awning sign incorporated on an awning internally illuminated, the area of the entire awning shall be considered the sign area.

173. "Sign, building" means a sign which is wholly supported by the building wall, parallel to the plane thereof and which does not extend beyond the surface of said building wall more than twelve (12) inches. A building sign may be painted on, incorporated in, or affixed to the building wall, or any sign consisting of cut-out letters or devices affixed to the building wall with no background defined on the building wall.

174. "Sign, bulletin board" means a sign containing a surface area upon which is displayed the name of a religious institution, charitable organization, school, library, community center or similar institution and the announcement of its services or activities.

175. "Sign, construction" means signs identifying the architects, engineers, contractors and other individuals involved in the construction of a building and such signs announcing the character of the building enterprise or the purpose for the building is intended but not including product advertising.

176. "Sign, development identification" means a sign incorporated in or on the face of a wall which is approved as part of a subdivision plat or site plan and not a building sign.

177. "Sign, development off-premises" means signs identifying location or direction to a specific development or facility that is located on premises or off premises of the development or facility site.

178. “Sign, directory” means any sign that does not advertise a product or place of business but exists solely to direct vehicular or pedestrian traffic to a location of a business or part of a business.

179. “Sign, free standing” means free standing signs including pole and ground signs, as regulated by this chapter, and includes any sign which is supported by one or more uprights or braces in or upon the ground and not attached to any building or wall.

180. “Sign, ground or monument” means an on-premises statuary, memorial or work of art or an on-premises free standing sign, other than a pole sign, that is supported in or upon the ground with a supporting column that has a perimeter which is not less than fifty-percent (50%) of the sign perimeter.

181. “Sign, identification” means an on-premises sign that displays no more than the name, address, crest or insignia, occupation, or profession of an occupant of the premises, name of any building on the premises or the trademark of the occupant.

182. “Sign, illuminated” means any sign which has characters, letters, figures, designs or outline illuminated by electric lights or luminous tubes as-part of the sign proper.

183. “Sign, highway” means an on-premises pole sign which is constructed to attract the attention of highway travelers and is located within one thousand two hundred (1,200) feet of a State or County highway

184. “Sign, memorial” means signs or tablets, names of buildings and date of erection when engraved into any masonry surface or when constructed of bronze or other incombustible materials. Memorial signs shall not contrast in color from the material of which said sign is constructed.

185. “Sign, obsolete” means signs that advertise an activity, business, product, or service no longer conducted on the premises on which the sign is located.

186. “Sign, on-premises” means a sign the primary purpose of which is to advertise, identify, and/or direct attention to a profession, business, service, activity, product, campaign, or attraction which is carried on, sold, offered or manufactured in or upon the premises.

187. “Sign, panel” means a message, inscription or logo which is painted or affixed to a panel of wood, plastic, cloth, fiberglass, or other material, which is not part of the building’s exterior materials, is of greater area than the message, inscription, or logo, and provides a background for the message, inscription or logo.

188. “Sign, perimeter” means the external boundary of a sign at its widest point per plain view.

189. “Sign, pole” means an on-premises free standing sign that is supported by one or more uprights not attached to, or braced by, any other structure.

190. “Sign, political campaign” means a sign, either on or off premises, announcing candidates seeking public political office in a forthcoming election or signs announcing political issues, for or against, to be considered in a forthcoming election.

191. “Sign, portable” means a free-standing sign not permanently anchored or secured to the ground or any building or wall.

192. “Sign, projecting” means a sign, other than a wall sign, which projects from and is supported by a wall of a building or structure.

193. “Sign, public” means a sign of a non-commercial nature and in the public interest, erected by or upon the order of a public officer in the performance of public duty, such as safety signs, danger signs, trespassing signs, traffic signs, memorial plaques, signs of historical interest and all other similar signs, including signs designating hospitals, libraries, schools, airports and other institutions or places of public interest or concern.

194. “Sign, real estate” means a sign advertising the sale, rental or lease of the premises or part of the premises on which the sign is displayed.

195. “Sign, roof” means a sign erected upon or above a roof or parapet of a building.

196. “Sign, service” means a sign identifying restrooms, public telephone facilities, first aid stations, emergency shelters and other similar public service facilities.

197. “Sign, temporary” means a sign not permanently attached to the ground, wall or building, and intended to be displayed for a short and limited period of time.

198. “Sign, vehicle” means a message, inscription or logo painted, attached, or incorporated on a motor vehicle which advertises or promotes the interest of any private or public firm, person, organization, or other entity, or to draw attention to the use on the premises.

199. “Site improvements” include all improvements to a site plan in addition to proposed buildings, and including but not limited to utilities, storm water management, parking, loading areas, landscaping, buffers, and free-standing signs.

200. “Site plan” means a plan, prepared to scale, showing accurately and with complete dimensions the boundaries of a site and the location of all buildings, structures, uses, and principal site development features including contours proposed for a specific parcel of land as required by these regulations.

201. “Site plan, temporary” means a plan, prepared to scale, showing the location of buildings, proposed uses, parking stalls, access, and similar site elements.

202. “Slope” means the change in ground elevation between two points.

203. “Small wireless facility” means a wireless facility that meets the following requirements: (1) Each antenna is no more than six (6) cubic feet in volume; and (2) All other equipment associated with the small wireless facility is cumulatively no more than twenty-eight (28) cubic feet in volume. For purposes of this definition, volume shall be measured by the external displacement of the primary equipment enclosure, not the internal volume of such enclosure. An associated electric meter, concealment, telecommunications demarcation box, ground-based enclosures, battery backup power systems, grounding equipment, power transfer switch, cutoff switch, cable, conduit, and any equipment that is concealed from public view within or behind an existing structure or concealment may be located outside of the primary equipment enclosure and shall not be included in the calculation of the equipment volume. Small wireless facility does not include any structure that supports, or houses equipment described in this definition.

204. “Solar array” means a grouping of photovoltaic solar panels and any necessary hardware used to assemble and connect them. This definition encompasses

all styles installation including but not limited to structure mounted, ground mounted, or integrated as a mechanical or structural component of a structure.

205. “Solar energy system, private” means an energy system that uses one or more solar arrays to convert energy for immediate onsite use and/or storage or to be fed back to the electrical grid. Private solar energy systems are an accessory use on the lot or parcel.

206. “Solar energy system, utility scale” means an energy system, commonly referred to as a solar farm, which uses one or more solar arrays to convert energy for transmission through the electrical grid for offsite use or wholesale and/or retail sale. Utility scale solar energy systems are the principal use on the lot or parcel.

207. “Special use” means use of land, water or building which is allowable only after the issuance of a special use permit by the Board of Adjustment under conditions specified in this chapter.

208. “Stable, private” means an accessory building in which horses are kept for private use and not for remuneration, hire or sale.

209. “Stable, public” means an accessory building in which horses are kept for commercial use including boarding, hire, instructions, and sale.

210. “Stable, riding club” means a building or structure used or intended to be used for the housing only of horses by a group of persons for noncommercial purposes.

211. “Start of construction” means the actual start which occurs when footings or structural support columns are installed or constructed. For a factory-built home, actual start will occur when it is placed on a site or foundation is constructed.

212. “Storage, outdoor” means the storage of items not wholly contained within the walls and under the roof of a structure. Items stored within or under carports, porches, and similar structures, whether said structures stand alone or are attached to an enclosed structure, are considered as outdoor storage.

213. “Story” means that portion of a building included between the surface of any floor and the surface of the floor next above, except that the topmost story shall be that portion of a building included between the surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a walkout basement is more than five (5) feet above grade such basement shall be considered a story.

214. “Street or road line” means a dividing line between a lot, tract, or parcel of land and a contiguous street or road.

215. “Street or road, public” means any thoroughfare or public way which has been dedicated to the public or deeded to the County for street or road purposes.

216. “Street or road, private” means any roadway providing access to more than one parcel or land use, whether said parcels are under the same ownership or different ownership, that has not been dedicated to the public or deed to the County for street or road purposes. No private street or road shall be accepted by the County unless said street or road and associated right-of-way conform to the requirements of Chapter 56.

217. “Structural alterations” means 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.

218. “Structural trim” means the molding, battens, capping, nailing strips, lattice, and platforms which are attached to the sign structure.

219. “Structure” means 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, antenna, mobile homes, billboards, poster panels, factories, sheds, cabins, factory-built homes, satellite dish antenna, storage tanks, towers, and other similar uses.

220. “Subdivision” means a division of a lot, tract, or parcel of land into two (2) or more lots, building plots or sites, or other subdivisions of land for the purpose, whether immediate or future, of sale, transfer for building development, right-of-way dedication, or other use; provided, however, this definition of a subdivision does not include divisions of land into aliquot forty (40) acres or more in size parcels of land for agricultural purposes.

221. “Substantial damage” means 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 percent (50%) of the market value of the structure before the damage occurred.

222. “Substantial improvement” means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the improvement. This includes structures which have incurred substantial damage regardless of the actual repair work performed. 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 officer and which are the minimum necessary to assure safe living conditions.

223. “Subterranean home” means a home which has all but one wall completely covered and landscaped with earth including the roof.

224. “Tent” means any structure or enclosure, the roof or one-half or more of the sides of which are of silk, cotton, canvas, or any light material, either attached to a building or structure, or unattached.

225. “Tourist cabin” means a small, single-family dwelling of simple construction used as one of the units of a tourist park.

226. “Tourist park” means any lot or plot of real property upon which two (2) or more tourist cabins or two (2) or more recreational vehicles, camp sites, travel trailers or any combination of tourist cabins, recreational vehicles, camp sites are located and maintained for seasonal temporary occupancy.

227. “Tower, guyed” means a tower that is supported, in whole or in part, by guy wires and ground anchors.

228. “Tower, lattice” means a self-supporting tower with three (3) or four (4) sides, open, steel framed structure used to support equipment.

229. “Tower, monopole” means a tower consisting of a single pole, constructed without guy wires and ground anchors.

230. “Townhouse” means a dwelling unit which is attached horizontally, and not vertically to one or more other dwelling units, wherein the land or lot beneath each

dwelling is individually owned by the owner of the dwelling. A townhouse subdivision shall have common elements which are specified in or determined under the rules and regulations set forth by recorded covenants. Covenants for a townhouse subdivision shall establish the guidelines for maintenance of common elements and permit free movement through common areas by members of the homeowners association (council of co-owners) to assure access to the structural exterior of each townhouse unit by the individual unit owner.

231. "Trail" means a walkway or bike-way designed with a paved surfaced pathway for travel by means other than by motorized vehicles.

232. "Trash" means cuttings from vegetation, refuse, paper, bottles, rags. (See also "junk.")

233. "Travel trailer park" see "recreational vehicle park."

234. "Travel trailer" see "recreation vehicle."

235. "Truck stop" means a service station which is designed principally for the servicing and temporary parking of trucks.

236. "Truck terminal" means land and buildings used as a relay station for the transfer of a load from one vehicle to another or one party to another. The terminal cannot be used for permanent or long-term storage. The terminal facility may include storage areas for trucks, and buildings or areas for the repair of trucks associated with the terminal.

237. "Utility pole" means a pole or similar structure owned or utilized in whole or in part by a public utility, municipality, wireless service provider, or electric utility that is designed specifically for and used to carry lines, cable, transmission equipment, or wires for telephone, wireless service, cable television, or electricity service, or for lighting, the vertical portion of support structures for traffic control signals or devices, signage, information kiosks, or other similar functions."

238. "Variance" means a modification of the specific regulations of this chapter granted by resolution of the Board of Adjustment in accordance with the terms of this chapter for the purpose of assuring that no property, because of special circumstances and hardships applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same vicinity and zoning district.

239. "Vineyard" means the use of land for purposes of growing grapes and other fruits, or vegetables and the necessary accessory uses for storing the produce, but not including winery uses.

240. "Warehouse" means a building used primarily for the storage of goods and materials.

241. "Waterfront" means any site shall be considered as waterfront premises providing any of its lot lines abut on or are contiguous to any body of water, including a creek, canal, lake, river, or any other body of water, natural or artificial, not including a swimming pool, whether said lot line is front, rear or side.

242. "Wind energy conversion system" or "WECS" means a wind turbine electrical generating facility comprised of an aggregation of parts, including the base, tower, generator, rotor, blades, supports, guy wires, and accessory equipment such as power lines, transformers, and battery banks, in such configuration as necessary to



convert the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

243. “Small wind energy conversion system” or “SWECS” means a wind energy conversion system that has a rated capacity of up to one-hundred (100) kilowatts and that is incidental and subordinate to a permitted use on the same parcel. A system is considered a SWECS only if it supplies electrical power solely for on-site use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on site use may be used by the utility company in accordance with Section 199, Chapter 15.11(5) of the *Iowa Administrative Code*.

244. “Wind turbine generator” means the component of a wind energy conversion system that transforms mechanical energy from the wind into electrical energy.

245. “Winery” means the production of wines from grapes or other fruits and vegetables and including wholesale and retail sales, catering, restaurant, banquet rooms, vineyard, or any combination thereof and provided all necessary permits and licenses have been approved.

246. “Yard” means an open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from thirty (30) inches above the general ground level upward, except as otherwise provided herein. 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, exclusive of public or private right-of-way, 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, exclusive of public or private right-of-way, and the nearest permitted building shall be used.

247. “Yard, front” means a yard extending across the full width of the lot and measured between the front lot line, exclusive of public or private right-of-way, and the building or any projection thereof, other than the projection of the usual steps or unenclosed porches; the narrow frontage on a corner lot. In all cases, the front yard depth shall be measured from the right-of-way line.

248. “Yard, rear” means a yard extending across the full width of the lot measure between the rear lot line and the building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots, the rear yard is the opposite end of the lot from the front yard.

249. “Yard, side” means a yard extending from the front yard to the rear yard and measured between the side lot line and the nearest building.

250. “Yard, interior side” means any side yard that is not facing or adjacent to a public or private street or right-of-way.

251. “Yard, street side” means a side yard on a corner lot that abuts a public or private street or right-of-way.

252. “Zero lot line” means the location of a building on a lot in such a manner that one or more of the building’s sides rests directly on a lot line.

253. “Zone” means any one of the classes of districts established by this chapter which is designated by area upon the Official Zoning Map of Marion County.

254. “Zoning Official” means the administrative officer designated or appointed by the Board of Supervisors to administer and enforce the regulations contained in this Zoning Ordinance.

255. “Zoning certificate/building permit” means a written statement issued by the Zoning Official authorizing buildings, structures or uses consistent with the terms of this Zoning Ordinance and for the purpose of carrying out and enforcing its provisions.

**55.05 OFFICIAL ZONING MAP.** The boundaries of districts are indicated upon the Official Zoning Map of Marion County, Iowa, which map is made a part of the Zoning Ordinance by reference hereto. The Official Zoning Map and all the notations, references and other matters shown thereon shall be as much a part of the Zoning Ordinance as if the notations, references, and other matters set forth by said map were all fully described herein. The Official Zoning Map shall be on file in the office of the Marion County, Iowa, Zoning Official and shall bear the signature of the Chairman of the Board of Supervisors attested by the County Auditor, under the certification that it is the Official Zoning Map referred to herein. If in accordance with the provisions of the Zoning Ordinance, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, the ordinance number and date of said change shall be recorded by the County Auditor on the Official Zoning Map. The Board of Supervisors may from time to time adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map, in the event that the Official Zoning Map becomes damaged or destroyed; or for purposes of clarity due to a number of boundary changes, or to correct drafting errors or omissions or to correspond to text amendments to the Zoning Regulations; provided, however, any such adoption shall not have the effect of amending the original Zoning Ordinance or any subsequent amendment thereof. *(See EDITOR'S NOTE at the end of this chapter for ordinances amending the zoning map.)*

**55.06 VACATED STREETS.** Whenever any street, road, alley or other public way is vacated by official action as provided by law, the Zoning Districts adjoining the side of such public way shall be automatically extended, depending on the side or sides to which such lands revert, to include the right-of-way of the public way thus vacated, which shall thenceforth be subject to all regulations of the extended district or districts.

**55.07 DISINCORPORATION.** All territory which may hereafter become part of the unincorporated area of Marion County, Iowa, that is regulated by the Zoning Ordinance, by the disincorporation of any city, or any part thereof, shall automatically be classed as lying and being in the A-1 Agricultural District until such classification shall have been changed by amendment to this Zoning Ordinance, as provided by law.

**55.08 INTERPRETATION OF DISTRICT BOUNDARIES.** In cases where the exact location of a district boundary is unclear as shown on the Official Zoning Map in the office of the Zoning Official, the following rules shall be used in determining the location of said district boundary.

1. Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following city limits shall be construed as following city limits.
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.

6. Boundaries indicated as approximately following section lines, quarter section lines or quarter-quarter section lines shall be construed as following such lines.
7. Boundaries indicated as parallel to, or extensions of features indicated in Subsections 1 through 6 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the Map.
8. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Subsections 1 through 7 above, the Board of Adjustment shall interpret the district boundaries.

**55.09 APPLICATION OF DISTRICT REGULATIONS.** The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

1. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.
2. No building or other structure shall hereafter be erected or altered:
  - A. To exceed the height,
  - B. To accommodate or house a greater number of families,
  - C. To occupy a greater percentage of lot area, or
  - D. To have narrower or smaller rear yards, front yards, side yards or other open spaces; than herein required; or in any other manner contrary to the provisions of this of this chapter.
3. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.
4. No yard or lot existing at the time of passage of the Zoning Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of the Zoning Ordinance shall meet at least the minimum requirements established by this chapter.

**55.10 NONCONFORMING USES.**

1. Intent. Within the districts established by the Zoning Ordinance (or amendments that may later be adopted), there exist lots, structures and uses of land and structures which were lawful before the Zoning Ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of the Zoning Ordinance or future amendment. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, or used as grounds for adding other structures or uses prohibited elsewhere in the same district. To avoid undue hardship, nothing in this chapter should be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of the Zoning Ordinance and upon

which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that such work shall be diligently carried on until completion of the building involved.

2. Nonconforming Lots of Record. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record prior to the effective date of this ordinance even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district provided the following requirements are met:

- A. The lot has a minimum of forty (40) feet of frontage on one street or a recorded exclusive unobstructed private easement of access at least twenty (20) feet wide to a street that is used by or benefits no more than one single-family dwelling.
- B. The sum of the side yard widths of any such lot shall not be less than twelve (12) feet, but in no case less than four (4) feet of width of the lot line for any one side yard.
- C. The depth of the rear yard of any such lot need not exceed twenty percent (20%) of the depth of the lot, but in no case less than fifteen (15) feet.
- D. The depth of the front yard of any such lot shall be a minimum of twenty-five (25) feet.
- E. The lot has access to public water and public sewer or has space on the property to accommodate private systems to comply with all of the requirements and standards of Marion County Public Health.

3. Nonconforming Uses of Land. Where, at the effective date of adoption or amendment of the Zoning Ordinance, lawful use of land exists that is made no longer permissible under the terms of the Zoning Ordinance as enacted or amended, such use may be continued subject to the following provisions:

- A. No such nonconforming use shall be enlarged or increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the Zoning Ordinance.
- B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of the Zoning Ordinance.
- C. If any such nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

4. Nonconforming Use of Structures. If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of the Zoning Ordinance that would not be allowed in the district under the terms of this chapter, the lawful use may be continued subject to the following provisions:

- A. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
  - B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of the Zoning Ordinance, but no such use shall be extended to occupy any land outside such building.
  - C. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use of the same or of a more restricted classification.
  - D. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for two (2) years, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located.
  - E. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.
  - F. Any structure devoted to a use made nonconforming by the Zoning Ordinance that is destroyed by any means to an extent of fifty percent (50%) or more of its replacement cost at the time of destruction, exclusive of the foundation, shall not be reconstructed and used as before such happening. If the structure is less than fifty percent (50%) destroyed above the foundation, it may be reconstructed and used as before, provided it is done within one year of such happening, and is built of like or similar materials.
  - G. For single-family detached residences constructed prior to January 1, 2017, within C-1, C-2, M-1 or M-2 zoning district, the non-conforming single-family use of the structure and premises is permitted to continue provided said use is not discontinued or abandoned for a period of two (2) years. If so discontinued or abandoned, the structure and premises shall thereafter be used only in conformance with the regulations of the district in which it is located. Further, said non-conforming single-family structures may be enlarged, extended, reconstructed, or structurally altered by up to twenty-five percent (25%) of the square footage of the structure as it existed on January 1, 2017. In addition, one two-car garage may be constructed on said premises without being considered as part of said twenty-five percent (25%) expansion. Furthermore, said nonconforming single-family dwelling and/or accessory garage may be reconstructed should it be destroyed by any means, provided the size of the replacement dwelling does not exceed one-hundred-twenty-five percent (125%) of the square footage of the existing dwelling and the replacement garage does not exceed one-hundred-twenty-five percent (125%) of the square footage of the existing garage and provided that all required setbacks are met.
5. Nonconforming Structures. Where a structure exists at the effective date of adoption or amendment of the Zoning Ordinance that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or

other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such structure may be enlarged or altered in a way which increases its nonconformity.

B. Should such structure be destroyed by any means to an extent of fifty percent (50%) or more of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Zoning Ordinance.

6. Repairs and Maintenance. On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, provided the cubic content of the building as it existed at the time of passage or amendment of the Zoning Ordinance shall not be increased. Nothing herein shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared unsafe by any official charged with protecting public safety, upon order of such official.

**55.11 VISIBILITY AT INTERSECTIONS IN ALL DISTRICTS.** On a corner lot in any zoning district, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and a half (2½) and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines twenty-five (25) feet from the point of the intersection.

**55.12 STREET FRONTAGE REQUIRED.** No lot shall contain any building used in whole or in part for residential, commercial, or industrial purposes unless such lot abuts at least one established public or private street. The minimum street frontage for each such lot shall be the minimum lot width as required based on the zoning of the property unless the lot is an approved flag lot. Flag lots, when permitted, shall have at least forty (40) feet of frontage on at least one street, and must be approved either by the Zoning Official via a Plat of Survey or by the Board via a Plat of Subdivision. For lots established after the effective date of this Ordinance, access easements shall not be considered acceptable frontage for building purposes. For agricultural purposes only, access may be provided via a private easement at least twenty (20) feet wide to a public or private street. Private streets shall be established only via a Plat of Subdivision and shall meet the subdivision regulations in accordance with Chapter 56.

**55.13 ACCESSORY STRUCTURES.** Accessory structures shall not be permitted within any required front yard. On corner lots or double frontage lots, accessory structures shall conform to the required front yard setback regulations for all abutting streets. Accessory buildings, except buildings housing animals or fowl, may be erected as a part of the principal building, or may be connected thereto by a breezeway or similar structure, provided all yard requirements for a principal building are complied with. An accessory building which is not a part of the main building shall not occupy more than thirty percent (30%) of the rear yard and shall not exceed the maximum height permitted by the applicable zoning district regulations and shall be built no less than ten (10) feet from a principal building or any other accessory building; however, this regulation shall not be interpreted to prohibit the construction of a four-hundred-forty (440) square foot garage on a minimum rear yard.

**55.14 CORNER LOTS.** For corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension, except where the owner shall elect to front his building on the street parallel to the lot line having the greater dimension. On double frontage lots, the front yard shall be the street from which the lot is accessed and the rear yard setback on the opposite street frontage. If the corner lot is part of a platted subdivision the recorded subdivision frontage requirements apply.

**55.15 BUILDING LINES ON APPROVED PLATS.** Whenever the plat of a land subdivision approved by the Board of Supervisors and on record in the office of the County Recorder shows a building line along any street for the purpose of creating a front yard or side street yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in this chapter unless specific yard requirements in this chapter require a greater setback.

**55.16 ZONING DISTRICTS DIVIDING PROPERTY.** Where one parcel of property is divided into two or more portions by reason of different zoning district classifications, each of these portions shall be used independently of the others in its respective zoning classification, and for the purpose of applying the regulations of the Zoning Ordinance, each portion shall be considered as if in separate and different ownership. If there is uncertainty that all portions of the parcel independently meet the regulations for their respective districts, including applicable setbacks for existing structures, the Zoning Official shall require a Plat of Survey or Plat of Subdivision, as appropriate, to divide the parcel along all proposed zoning district boundary lines in order to demonstrate all requirements are met.

**55.17 HOME OCCUPATIONS.** Subject to the limitations of this section, any home occupation that is customarily incidental to the principal use of a building as a dwelling shall be permitted in any dwelling unit. Any question of whether a particular use is permitted as a home occupation, as provided herein, shall be determined by the Zoning Official pursuant to the provisions of this chapter. The regulations of this section are designed to protect and maintain the residential character of established neighborhoods while recognizing that certain professional and limited business activities have traditionally been carried on in the home. This section recognizes that such activities can take place in a residential structure without changing the character of either the neighborhood or the structure. The following regulations apply to dwellings located in all zoning districts.

1. Public Health and Safety. All home occupations shall register their activity and location with the Zoning Official to ensure appropriate public health and safety measures are in place for events requiring emergency response.
2. Use Limitations. In addition to all of the use limitations applicable to the district in which it is located, no home occupation shall be permitted unless it complies with the following restrictions:
  - A. Home occupation shall be secondary to the use of the property as a residence.
  - B. Home occupation shall be compatible with residential uses.
  - C. No alteration of the principal residential building shall be made which changes the character and appearance thereof as a dwelling.
  - D. The home occupation shall be conducted within the principal dwelling unit or in a permitted building accessory thereto.



- E. The home occupation activities shall not be visible from an adjacent property or street.
- F. The home occupation shall not generate on-street parking or substantial traffic through the residential area.
- G. No more than one vehicle or piece of equipment shall be displayed for sale on the property.
- H. No mechanical, electrical or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare, or other nuisance outside the residential or accessory structure shall be used.
- I. No home occupation shall be permitted which is noxious, offensive, or hazardous by reason of vehicular traffic, generation or emission of noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, refuse, radiation, or other objectionable emissions.
- J. No sign, other than one unlighted sign not over four (4) square feet in area attached flat against the dwelling.

**55.18 PROHIBITED STORAGE OF MOTOR VEHICLES.** Outdoor storage of more than one (1) inoperable vehicle is prohibited in any residential, commercial, or industrial zoning district; or of more than three (3) inoperable vehicles is prohibited on parcels under ten (10) acres in size in any agricultural zoning district; or of more than nine (9) inoperable vehicles is prohibited on parcels ten acres or larger in size in any agricultural zoning district. Motor vehicles held for sale by a licensed motor vehicle dealer at said dealer's place of business in a zoning district where motor vehicle sales are permitted shall be exempt from the requirements of this section. With approved screening, the Board of Adjustment may determine the number of motor vehicles that can be stored outdoors provided the property owner has obtained all necessary licenses from the State or Iowa for vehicle recycling, salvaging, or similar license.

#### **55.19 SIGN REGULATIONS**

- 1. Signs Permitted in All Zoning Districts. Signs hereinafter designated are permitted in all zoning districts.

- A. Temporary Signs.

- (1) Real Estate Signs. Signs advertising the sale, rental, or lease of the premises or part of the premises on which the signs are displayed. One non-illuminated sign, not to exceed eight (8) square feet, shall be permitted on each premises in all districts except the A-1 district which shall be permitted to have a non-illuminated sign not to exceed fifty (50) square feet. Such signs shall not extend higher than four (4) feet above grade level or be closer than ten (10) feet to any property line unless located on the wall of a building. Such signs shall be removed within seven (7) days after the disposition of the premises.

- (2) Construction Signs. Signs identifying the architect, engineer, contractor or other individuals involved in the construction of a building and such signs announcing the character of the building enterprise or the purpose for which the building is intended but not including product advertising. One (1) non-illuminated sign not to

exceed fifty (50) square feet shall be permitted per street frontage. Such sign shall not extend higher than ten (10) feet above grade level or be closer than ten (10) feet to any property line unless located on the wall of a building on the premises or on a protective barricade surrounding the construction. Such signs shall be removed within one week following completion of construction.

(3) Political Campaign Signs. Signs announcing candidates seeking public political office or pertinent political issues. Such signs shall be confined to private property and shall be removed within one week following the election to which they pertain.

(4) Street Banners. Signs advertising a public event providing that specific approval is granted under regulations established by the Board of Supervisors.

(5) Seasonal Decorations. Signs pertaining to recognized national holidays and national observances.

B. Directory Signs. Signs without names or logos, existing solely to direct vehicle or pedestrian traffic to a business location, provided signs are no larger than eight (8) square feet per face, no taller than three (3) feet tall, and at least five (5) feet from public right-of-way. Directory Signs shall be on premises signs, with no more than five (5) such signs per property.

C. Public Signs. Signs of a non-commercial nature and in the public interest, erected by or upon the order of a public officer in the performance of public duty, such as safety signs, danger signs, trespassing signs, traffic signs, memorial plaques, signs of historical interest and other similar signs, including signs designating hospitals, libraries, schools and other institutions or places of public interest or concern.

D. Integral Signs. Signs for churches or temples, or names of buildings, dates of erection, monumental citations, commemorative tablets and other similar signs when carved into stone, concrete or other building material or made of bronze, aluminum, or other permanent type of construction and made an integral part of the structure to which they are attached. Integral signs shall not use color to increase visibility from the public right-of-way.

E. Window Signs. Such signs which are displayed inside of a window or within a building, provided however, that lighted window signs shall be permitted only in those districts where lighted signs are permitted.

2. Signs Permitted Based on Zoning. Signs hereinafter designated shall be permitted only in the designated zoning district, with size and height restrictions specified for each district.

Signs Permitted Based On Zoning								
District	Building		Freestanding		Development Identification		Highway High Rise	
	Max. Area (sf/lf)	Max. Height (ft)	Max. Area (sf)	Max. Height (ft)	Max. Area (sf)	Max. Height (ft)	Max. Area (sf)	Max. Height (ft)
A-1	-	-	10	12	-	-	-	-
C-A	2	10	50	25	-	-	750	50
A-R R-1,2,3	-	-	-	-	50	12	-	-

R-4	-	-	-	-	50	12	-	-
C-1	2	10	50	25	-	-	750	50
C-2	2	15	200	30	-	-	750	50
M-1,2	2	15	200	30	-	-	750	50

A. Building signs include: building signs, awning signs, identification signs, projecting signs not prohibited herein, roof signs not prohibited herein. Maximum building sign area shall be based on linear feet of building frontage being occupied by the premises. Building signs shall be situated on building walls facing the street. In no case shall building signs be visible from an adjacent residential district; building signs shall not be located on a wall facing an adjacent "R" district, projecting signs shall not be permitted on buildings adjoining residential district. However, building signs shall be permitted across the street from residential districts.

B. Freestanding signs include: pole signs, ground signs, monument signs and identification signs. Freestanding signs do not include highway high rise signs. Freestanding signs shall not be located in any side or rear yards adjacent to residential districts. Maximum freestanding sign area shall be per face, with a maximum of two (2) faces per sign. Pole signs shall not be less than twelve (12) feet above the sidewalk or ten (10) feet above the surface of the ground on which it is erected. Ground signs shall not be more than ten (10) feet tall. Freestanding sign faces shall be no more than nine (9) feet wide or tall.

C. Highway High Rise. Highway High Rise signs shall not be permitted in any residential district. Such signs shall be situated no more than one-thousand-two hundred (1,200) feet from the centerline of a State or county highway and no closer than five hundred (500) feet from the nearest other Highway freestanding sign. Maximum highway freestanding sign shall be per face, with a maximum of two (2) faces per sign.

D. Development Identification Signs include development identification signs and development off-premises signs provided such off-premises signs do not exceed thirty-two (32) square feet in area.

E. Miscellaneous Signs. Miscellaneous signs shall be a type of sign that is permitted in all zoning districts. Such signs must not be temporary signs nor prohibited signs as defined by this Zoning Code. Miscellaneous signs shall only be placed in front yards and cannot be larger than ten (10) square feet in area and cannot be higher than twelve (12) feet above the ground. Miscellaneous signs may be free standing or affixed to a structure or fence. Miscellaneous signs do not include building signs, highway high rise signs, development identification signs, or any other sign defined by this Zoning Code.

3. Prohibited Signs. Signs hereinafter designated shall be prohibited in all zoning districts.

A. Obsolete Signs. Signs that advertise an activity, business, product or service no longer conducted on the premises on which the sign is located.

B. Banners, Balloons, Posters, etc. Signs which contain or consist of banners, balloons, posters, pennants, ribbons, streamers, spinners, or other similarly moving devices, except as specifically provided herein. These devices when not part of any sign are also prohibited.

C. Off-Premises Signs on Public Property. Off-premises signs located on public property.

D. Flashing Signs. No flashing, blinking, or rotation lights shall be permitted for either permanent or temporary signs.

E. Moving Signs. No sign shall be permitted, any part of which moves by any mechanical or electronic means.

F. Painted Wall Signs. Off-premises signs painted on building walls.

4. General Sign Regulations.

A. Conformance Required. Except as may be hereinafter specified, no sign shall be erected, placed, maintained, converted, enlarged, reconstructed, or structurally altered which does not comply with all of the regulations established by this chapter.

B. Maintenance. All signs shall be maintained in a good state of repair, including, but not limited to, the structural components, the lighting if any, the portion attaching the sign to the ground or structure, and the surface features.

C. Nonconforming Signs. Where a sign exists at the effective date of adoption or amendment of the Zoning Ordinance that could not be built under the terms of this chapter by reason of restrictions on area, use, height, setback, or other characteristics of the sign or its location on the lot, such sign may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No such sign may be enlarged or altered in a way which increases its nonconformity; however, reasonable repairs and alterations may be permitted.

(2) Should such sign be destroyed by any means to an extent of fifty percent (50%) or more of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

D. Permit Required. A sign permit, approved by the Zoning Official, shall be required before the erection, construction, alteration, placing, or locating of all signs conforming with this chapter.

E. Permit Not Required. A permit shall not be required for temporary signs, repainting without changing permanent wording, composition, or colors; or for non-structural repairs.

F. Plans. A copy of plans and specifications shall be submitted to the Zoning Official for each sign regulated by this chapter. Such plans shall show sufficient details about size of the sign, location and materials to be used and such other data as may be required for the Zoning Official to determine compliance with this chapter.

G. Appeal. Any person or persons aggrieved by the decision of the Zoning Official to approve or disapprove a sign permit, as provided by this chapter, may appeal such decision to the Board of Adjustment as provided in this chapter.

**55.20 OFF-STREET LOADING SPACES REQUIRED.** In any district in connection with every building or part thereof hereafter erected, having a gross floor area of ten-thousand (10,000) square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one off-street loading space plus one additional such loading space for each twenty-thousand (20,000) square feet or major fraction thereof of gross floor area so used in excess of ten-thousand (10,000) square feet. Each loading space shall be not less than twelve (12) feet in width and forty (40) feet in length. Such space may occupy all or any part of any required yard or open space, except where adjoining an "R" district, it shall be set back at least twenty (20) feet and effectively screen planted.

**55.21 OFF-STREET PARKING AREA REQUIRED.**

1. In all districts, in connection with every industrial, commercial business, trade, institutional, recreational, or dwelling use, and similar uses, spaces for parking and storage of vehicles shall be provided in accordance with the following schedule. Required off-street parking facilities shall be primarily for the parking of private passenger automobiles of occupants, patrons or employees of the principal use served. All parking lots, whether paved or unpaved, shall provide the required number of paved handicap-accessible parking stalls with paved aisle and sidewalks to the building, in conformance with the Americans with Disabilities Act (ADA) Standards for Accessible Design.

- A. Automobile sales and service garages – One (1) space per four-hundred (400) square feet of gross floor area.
- B. Banks, business, and professional offices – One (1) space per two-hundred (200) square feet of gross floor area.
- C. Bowling alleys – Five (5) spaces for each alley.
- D. Churches and schools – One (1) space for each five (5) seats in a principal auditorium. Where no auditorium is involved, one (1) space for each staff member.
- E. Dance halls, assembly halls, events centers, banquet rooms, party barns – One (1) space per one-hundred (100) square feet of floor area used for dancing or assembly.
- F. Dwellings – Two (2) parking spaces for each family or dwelling unit; including mobile homes located within or outside a mobile home park.
- G. Funeral homes, mortuaries – One (1) parking space for each five (5) seats in the principal auditorium.
- H. Furniture and appliance stores – One (1) space per four hundred (400) square feet of floor area used for display.

- I. Hospitals – One (1) space for each four (4) beds, plus one (1) space for each 3 employees, plus one (1) space for each two (2) staff doctors.
  - J. Hotels, motels, lodging houses – One (1) space for each bedroom.
  - K. Manufacturing plants – One (1) space for each three (3) employees on the maximum working shift.
  - L. Restaurants, wine-tasting rooms, taverns, and night clubs – One (1) space per one-hundred (100) square feet of gross floor area.
  - M. Retail stores, shops, supermarkets, etc., over two-thousand (2,000) square feet in floor area – One (1) space per one-hundred (100) square feet of gross floor area.
  - N. Retail stores, shops, supermarkets, etc., under two-thousand (2,000) square feet of floor area – One (1) space per two-hundred (200) square feet of gross floor area.
  - O. Sports arenas, auditoriums other than in schools – One (1) parking space for each five (5) seats.
  - P. Theaters, assembly halls with fixed seats – One (1) parking space for each five (5) seats.
  - Q. Wholesale establishments or warehouses – One (1) space for each two (2) employees, with a minimum of one (1) space per five-thousand (5,000) square feet of gross floor area.
2. In the case of any building, structure or premises the use of which is not specifically mentioned herein, provisions for a use which is so mentioned, and to which said use is similar, as determined by the Zoning Official, shall apply.
3. Where a lot does not abut on a public or private street, road, alley or easement of access, there shall be provided an access drive of not less than ten (10) feet in width in the case of a dwelling, and not less than twenty (20) feet in width in all other cases, leading to the loading or unloading spaces and parking or storage areas required hereunder in such manner as to secure the most appropriate development of the property in question. Except where provided in connection with a use permitted in a residence district, such easement of access or access drive shall not be located in any residence district.
4. Every parcel of land hereafter used as a public or private parking area, for all uses other than single-family and two family residential, shall be developed and maintained in accordance with the following requirements.
- A. No part of any parking space shall be closer than five (5) feet to any established highway, street right-of-way or alley line. In case the parking lot or driveway adjoins an “R” district, it shall be set back at least twenty-five (25) feet from the “R” district boundary and shall be effectively screen-planted.
  - B. Any off-street parking area having access from a paved public street or highway shall have a paved approach within the public right-of-way. The pavement materials for the approach, size and location of any required culverts, and the location for all driveway approaches shall be in accordance with SUDAS and approved by the County Road Department.

C. Any lighting used to illuminate any off-street parking area, including any commercial parking lot, shall be so arranged as to reflect the light away from adjoining premises in any “R” district and public rights-of-way.

5. Off-street parking areas shall be provided on the same lot with the principal use. Off-street parking and loading areas may occupy all or part of any required yard or open space, subject to the provisions of this section, except that no required off-street parking or loading areas shall be located in any required front yard in an agricultural or residential district.

**55.22 DISTRICTS ESTABLISHED.** The provisions of this chapter are applicable to:

1. In order to carry out the purpose and intent of the Zoning Ordinance, the unincorporated area of the County, with the exception of that land located within ONE (1) mile of the corporate limits of the City of Pella delineated as “Subarea A” on the Official Zoning Map of Marion County, Iowa, pursuant to a 28E Agreement adopted by the County and the City of Pella as set out in Subsection 2 below, is hereby divided into eleven (11) zoning district classifications as follows:

A. Base Zoning Districts:

(1) Agricultural Districts:

- A-1 Agricultural District
- C-A Commercial-Agriculture District
- A-R Agricultural Residential District

(2) Residential Districts:

- R-1 Single-Family Residential District
- R-2 Single-Family and Two-Family Residential District
- R-3 Multiple-Family Residential District
- R-4 Mobile Home Park Residential District

(3) Commercial Districts:

- C-1 General Commercial District
- C-2 Highway Commercial District

(4) Industrial Districts:

- M-1 Light Industrial District
- M-2 Heavy Industrial District

B. Overlay Zoning Districts:

(1) Special and Overlay Districts:

- FP Flood Plain Zone
- AHL Airport Height Limitation Zone

2. Pursuant to Section 414.23 of the *Code of Iowa* and an agreement in accordance with Chapter 28E of the *Code of Iowa* between Marion County and the City of Pella, that unincorporated Marion County land located within ONE (1) mile of the corporate limits of the City of Pella delineated as “Subarea A”, on the Official Zoning Map of Marion County, Iowa, is under the exclusive zoning jurisdiction of the City of Pella and not part of this chapter.

**55.23 AGRICULTURAL ZONING DISTRICT REGULATIONS (A-1, C-A, A-R).**

Agricultural Districts are intended and designed to preserve the agricultural resources of the County, including agriculturally related services, and protect agricultural land from encroachment of non-agricultural uses and activities.

1. Agricultural Districts.

A. A-1 Agricultural District. The A-1 District is intended to provide and preserve the agricultural and rural use of land, while accommodating very low-density residential development generally associated with agricultural uses.

B. C-A Commercial Agricultural District. The C-A District is intended to provide for those agriculturally related service uses unique to and interrelated to the A-1 District. Areas designated as a C-A District are to be dispersed through the A-1 District.

C. A-R Agricultural Residential District; also known as “Ag Residential District”. The A-R District is intended to provide for and accommodate low-density Agricultural Residential development and acreages. Areas designated as an A-R District areas are to be dispersed through the A-1 District.

2. Principal Permitted Uses. Only the following uses of structures or land shall be permitted in the agricultural districts.

PRINCIPAL PERMITTED USES	A-1	C-A	A-R
Agriculture - Animal Production, including raising and breeding of domesticated animals such as poultry and livestock, but not including feed lots, poultry farms or hog confinement facilities.	P	P	P
Agriculture - Animal Production feed lots, poultry farms or hog confinement facilities.	PR	PR	PR
Agriculture - Crop Production for growing of the usual farm products such as vegetables, fruits (including vineyards), trees, and hay; and grain storage and grain drying facilities provided such storage is secondary to that of the principal normal farming operation.	P	P	P
Agriculture – Agricultural Experience: Includes any agriculture-related activity, as a secondary use in conjunction with agricultural production, on a farm which activity is open to the public with the intended purpose of promoting or educating the public about agriculture, agricultural practices, agricultural activities, or agricultural products.	P	P	
Agriculture – Storage and repair facilities of custom hire machinery, equipment and supplies incidental to farming including tillage equipment, chemical application equipment (ground types only) and similar uses.		P	
Agriculture – Custom cleaning and grain drying facilities.		SUP	
Agriculture – Farm equipment repair such as blacksmith, welding, mechanical repair, and related services.		P	
Agriculture - Kennels for the raising, breeding and boarding of dogs or other small domesticated animals.	PR		
Agriculture - Exotic animal husbandry such as mink farms or wildlife parks.	SUP		
Agriculture - Nurseries, greenhouses and truck gardens.	P		P
Agriculture – Tiling contractor storage and repair facilities, including incidental supplies and equipment.	P	P	



PRINCIPAL PERMITTED USES	A-1	C-A	A-R
Agriculture – Sale barns, with restrictions.		SUP	
Agriculture - Sales of cheese, milk, ice cream, and similar products primarily produced on-site, including processing of same.		P	
Agriculture – Sales of feed, seed, fertilizer and agricultural chemicals except ammonia.		P	
Agriculture – Storage and pumping facilities for anhydrous ammonia.		SUP	
Agriculture – Veterinary clinics.		PR	
Agriculture – Wineries including accessory uses such as wine sales, banquet rooms, catering and food sales, vineyards, and no more than one accessory residential dwelling		P	
Cemeteries, including mausoleums.	PR		
Churches, chapels, temples and similar places of worship including parish house and Sunday school building.	P		P
Dwellings - Single-family (non-farm).	P		P
Dwellings - Duplex, two-family.	P		
Education - Elementary and secondary schools, public and private.	P		P
Education - Colleges and universities, public or private, including offices and dormitories.	P		P
Mining - Mining and extraction of minerals and raw materials including sand and gravel pits, with restrictions.	SUP		
Parks - Forests and wildlife preserves.	P		P
Parks – Public parks, playgrounds, golf course and recreation areas.	SUP		SUP
Public – Any public building erected and used by any department of the township, County, State or Federal government.	SUP		
Recreation - Riding Stables, public or private.	P		
Recreation - Gun clubs, skeet-shooting ranges and similar uses.	SUP		
Recreation – Campgrounds, private campgrounds with permanent infrastructure and tourist parks.	SUP		
Recreation – Automobile race tracks, drag strips and snowmobile tracks.	SUP		
Recreation – Private parks and recreational areas including country clubs, swimming pools, golf courses and ballfields; but excluding miniature golf courses, drive-in theaters and similar commercial uses.	SUP		SUP
Recreation - Public and private events centers, banquet halls, party barns, cabins. More than three (3) cabins require a SUP.		PR / SUP	
Storage – Mini-warehouse facilities.		PR	
Temporary enterprises - Involving large assemblages of people or automobiles including, but not limited to, carnivals, circuses, rodeos, show rings, music festivals, sporting events, farm machinery auctions, and related auctions.	SUP		
Temporary enterprises, small scale - Involving smaller assemblages of people or automobiles including, but not limited to, campgrounds and food vendors intended to serve attendees of large events such as Knoxville Nationals or RAGBRAI.	PR		
Transportation - Airstrips and airports, public or private.	SUP		
Utilities – Utility pole mounted small wireless facility.	PR	PR	PR
Utilities – Water supply and sewage treatment facilities, public or private.	SUP		SUP
Utilities – Electrical and natural gas transmission, regulating and storage facilities.	SUP		SUP

<b>PRINCIPAL PERMITTED USES</b>	<b>A-1</b>	<b>C-A</b>	<b>A-R</b>
Utilities – Electrical substations, telephone exchanges, sanitary sewer lift stations, lagoons, well water treatment facilities, and gas.	SUP	P	SUP
Utilities – Microwave, radio, television, and cellular telephone communication towers.	PR	PR	
Utilities - Sanitary landfills, solid waste disposal facilities and yard waste composting facilities, both public and private.	SUP		
Utilities – Utility Scale Solar Energy System.		PR	
Other retail business or service establishments determined by the Zoning Official to be equivalent to other permitted uses.		P	
Key: P = Permitted Use PR = Permitted Use With Restrictions SUP = Special Use Permit required Blank = Use Not Permitted			

3. Restrictions for Principal Permitted Uses. The following restrictions shall apply to the appropriate permitted uses in agricultural zoning districts:

A. Animal Production Feed Lots. All feed lots, poultry farms and hog confinement facilities are permitted provided that all hog confinement facilities, feed lots and poultry farms meet all of the waste treatment requirements of the Iowa Department of Natural Resources and obtain the necessary permits, where applicable, in conformance with the *Code of Iowa*, and a copy of the IDNR permit is provided to the Zoning Official prior to construction of said facilities.

B. Cemeteries and Mausoleums. All buildings shall be at least two-hundred (200) feet from adjacent property lines

C. Exotic Animal Husbandry. Exotic animal husbandry uses shall be in compliance with all Iowa laws governing such uses, including regulations regarding dangerous animals and permit requirements.

D. Kennels. All buildings, including exercise runways, are at least two-hundred (200) feet from all property lines.

E. Veterinary Clinics. All buildings, including any livestock holding facilities, are at least two-hundred (200) feet from “R” residential district or A-R district boundary lines.

F. Mining and Extraction of Minerals, including sand and gravel pits. All operations are subject to the approval of the Iowa Department of Natural Resources, including plans for final site treatment of any such operation located in or on the flood plain of any river or stream.

G. Sale Barns. All buildings, including any livestock holding facilities, are at least four-hundred (400) feet from “R” residential district boundary lines.

H. Storage. Mini-warehouse facilities are only permitted in C-A when the following are met:

- (1) The storage is indoor.
- (2) The mini-warehouse building is an accessory structure. (No standalone mini-warehouses are permitted.)

I. Small wireless facility utility pole height limitations. New, replacement, or modified utility pole or wireless support structure shall not exceed the greater of ten (10) feet in height above the tallest utility pole existing, located within five hundred (500) feet of the new, replacement, or modified utility pole, or forty (40) feet in height above ground level.

J. Microwave, radio, television, and cellular telephone communication towers but not utility poles. All towers must have a fall zone. The minimum distance from the base of any new ground mounted communication tower to public right-of-way or any property line shall be:

(1) A distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining property line.

(2) A distance equal to at least one hundred (100) feet or one hundred percent (100%) of the height in the tower, whichever is greater, from any residential zoned district or residential use property line.

K. Temporary enterprises, small scale. All small-scale temporary enterprises shall be required to obtain an approved permit for a temporary site plan in conformance with Section 55.30 from the Zoning Official prior to commencing operations.

L. Events Centers, Banquet halls, and Party Barns. On-site parking shall be provided for the maximum event, parking shall not be permitted on public or private streets. All buildings shall comply with all applicable fire codes, including number and location of exits.

M. Utility Scale Solar Energy Systems. Solar arrays installed as a utility scale solar energy system and as the principal use shall conform to all height, setback, and other requirements of the district. The following additional standards apply to all solar arrays as a principal use:

(1) Prohibited. Concentrating solar power (CSP) systems shall be prohibited.

(2) Site Plan. A site plan shall be submitted to the Zoning Official demonstrating compliance with:

a. Setback and height limitations as established in the underlying zoning district.

b. Applicable zoning district requirements.

c. Applicable solar requirements per this section.

(3) Compliance. Solar arrays installed as utility-scale solar energy system installations shall comply with applicable local, state, and federal regulations.

(4) Installation. System shall be installed according to manufacturer's recommendations and industry best practices.

(5) Solar Glare. All solar arrays shall incorporate antiglare measures into the system or installation shall be placed in areas so that the solar glare shall not be directed onto residential properties or public rights-of-way.

(6) Design. The design of the solar panel arrays shall use materials, colors, textures, screening, and landscaping similar to their background or the existing natural environment to the most reasonable extent possible without prohibiting the installation.

(7) Fencing. A security fence must be installed along all exterior sides of the utility-scale solar array installation and be equipped with a minimum of one gate and locking mechanism on the primary access side. Security fences, gates, and warning signs must be maintained in good condition until the installation is dismantled and removed from the site according to the decommissioning plan as established in Paragraph 9, below; and

(8) Screening. The site shall be constructed with natural screening when abutting all public rights-of-way and residential properties.

(9) Avoidance and mitigation of damages to public infrastructure.

a. Roads. Applicants shall identify all roads to be used for the purpose of transporting solar array components, substation parts, cement, and/or equipment for construction, operation or maintenance of the solar arrays and obtain applicable weight and size permits from the impacted road authority prior to construction.

b. Existing Road Conditions. Applicant shall conduct a preconstruction survey, in coordination with the impacted local road authority to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public facility. The applicant is responsible for on-going road maintenance and dust control measures identified by the Marion County Road Department during all phases of construction.

c. Drainage System. The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the solar arrays.

d. Required Financial Security. The applicant shall be responsible for restoring or paying damages as agreed to by the applicable road authority sufficient to restore the roads and bridges to preconstruction conditions. Financial assurance mechanism(s) in the form of a performance bond and/or other security approved by the Marion County Attorney's Office shall be submitted covering one-hundred-thirty (130) percent the costs of all required improvements. This requirement may be waived or modified by the Board of Supervisors by recommendation from the Marion County Road Department.

## (10) Decommissioning Plan.

a. The applicant shall submit a decommissioning plan signed by the party responsible for decommissioning and the landowner addressing the following with the permit application.

i. Defined conditions upon which decommissioning will be initiated (e.g. end of land lease, no power production for twelve (12) months, etc.)

ii. Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and foundations

iii. Restoration of property to the condition prior to the development of the utility-scale solar panel array system.

iv. The timeframe for completion of decommissioning activities.

v. Description of any agreement (e.g. lease) with the landowner regarding decommissioning.

vi. The party currently responsible for decommissioning.

vii. Plans for updating this decommissioning plan.

4. Special Use Permits. Principal permitted uses designed “SUP” in Subsection 2 of this section shall be permitted only upon approval of a Special Use Permit by the Board of Adjustment in accordance with Section 53.38 of this chapter in addition to conformance with all appropriate restrictions outlined Subsection 3 of this section.

5. Permitted Accessory Uses. The following accessory uses are permitted in agricultural zoning districts:

A. Customary accessory uses and structures incidental and subordinate to the permitted principal uses, unless otherwise excluded.

B. Private garage or carport (A-1 and A-R only).

C. Accessory Mobile Home Dwellings (A-1 only), subject to the following:

(1) No more than one (1) mobile home for use as a non-farm dwelling on a lot accessory to a principal farm dwelling may be permitted subject to approval by the Zoning Official. Said principal farm dwelling must meet perimeter foundation requirements to qualify for an accessory mobile home dwelling. All properties as defined by Chapter 322 of the *Code of Iowa* “mobile homes” are subject to inspections by the Department of Public Safety, State of Iowa.

(2) A permit for a temporary accessory mobile home dwelling for a period as determined by the Zoning Official shall be required.

- (3) The Zoning Official shall approve, conditionally approve, or deny such request for an accessory mobile home dwelling.
- D. Home Occupations as permitted in and as limited by Section 55.17.
- E. The taking of boarders or the leasing of rooms by a resident family, provided the total number of boarders and roomers does not exceed three (3) per building (A-1 only).
- F. No more than three shipping containers are allowed on parcels of ten (10) acres or less and no more than five storage containers on parcels over ten (10) acres.
- G. Temporary buildings, including mobile homes or trailers, for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work. Temporary buildings or dwellings shall not be permitted for a period longer than one (1) year unless approved in writing by the Zoning Official.
- H. Roadside stands for the sale of products grown on the premises.
- I. Private Solar Energy Systems.
- (1) Ground Mounted Solar Array. Ground-mounted solar array shall be:
- Located in the side or rear yard.
  - Set back from lot lines as if the arrays were a detached accessory structure.
  - Sized as if the arrays were a detached accessory structure.
  - Screened from adjacent residential properties.
- (2) Building-Mounted Solar Array. Building-mounted solar array shall be:
- Mounted on a principal building or accessory structure in a way that does not extend more than twelve (12) inches above or beyond the surface to which it is mounted, or
  - Serve as a structural component that meets the same setback requirements as the district.
- J. Small wind energy conversion systems (SWECS) are a permitted accessory use subject to the requirements set forth in this subsection.
- (1) SWECS Height. SWECS structure height shall not exceed 125 feet.
- (2) Setbacks. The base of the SWECS shall be set back from all lot lines by a distance at least equal to one-and-a-half (1 ½) times the height of the system.
- (3) Clearance. Rotor blades on SWECS must maintain at least twenty-four (24) feet of clearance between their lowest point and the ground.

(4) Compliance with FAA regulations. SWECS must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.

(5) Appearance. Towers and rotor blades for small wind energy systems shall maintain such finish or be painted in such manner as to conform the tower color and appearance to the surrounding environment to reduce visual obtrusiveness. No such tower shall have any signage, writing, or pictures that may be construed as advertising placed on it at any time. In addition, no flags, streamers, or decorative items shall be attached to a small wind energy system tower or turbine.

(6) Removal of nonfunctional or abandoned SWECS. Any small wind energy system which is nonfunctional or abandoned for a continuous period of six (6) months shall be repaired and placed back in operation by the owner or operated, or else the same shall be removed.

K. Processing of cheese, milk, ice cream, and similar items.

L. Wine making or processing; excluding wineries with banquet rooms, catering, restaurants, or food sales, tasting rooms accommodating more than twenty-five (25) patrons providing on-site parking is provided, or having more than one-hundred-fifty (150) square feet used for the purpose of retail sales. Special events allowed only in accordance with an approved Temporary Site Plan.

M. Small outdoor scrap yards in A-I and C-A districts only; provided said scrap yards in accordance with an approved Temporary Site Plan. Temporary site plan shall include all necessary dimensions which shall limit the total storage area for all scrap piles to no more than two-hundred (200) square feet in size and no more than six (6) feet in height. A six (6) feet tall opaque fence shall be provided to effectively screen all scrap piles from adjacent homes, residential zoning districts and the public right-of-way. The property owner is responsible for obtaining and complying with all necessary federal, state, and local permit requirements.

N. Beekeeping and apiaries.

6. Site Development Regulations. The following minimum requirements shall be observed, subject to modifications contained in Section 55.28 of this chapter.

<b>BULK REGULATIONS</b>			
<b>Regulator</b>	<b>A-1</b>	<b>C-A</b>	<b>A-R</b>
<i>Minimum Lots Area<sup>1</sup></i>	3 acres	1	3 acres
<i>Minimum Lot Width<sup>1</sup></i>			
Dwellings	150 feet	-	150 feet
Other Permitted Uses	200 feet	150 feet	200 feet
<i>Maximum Density</i>			
Per 40-acre aliquot tract	4 buildable parcels	-	-

<b>BULK REGULATIONS</b>			
<b>Regulator</b>	<b>A-1</b>	<b>C-A</b>	<b>A-R</b>
<i>Minimum Front Yard<sup>1</sup></i>			
Dwellings	35 feet	-	35 feet
Other Permitted Uses	35 feet	50 feet	35 feet
<i>Minimum Rear Yard<sup>1</sup></i>			
Dwellings	25 feet	-	25 feet
Other Permitted Uses	25 feet	50 feet	25 feet
Accessory Structures	4 feet	4 feet	4 feet
<i>Minimum Side Yard<sup>1</sup></i>			
Dwellings, each side	15 feet	-	15 feet
Other uses, adj to "A", "M"	15 feet	50 feet	15 feet
Other uses, adj to "R", "C"	15 feet	100 feet	15 feet
Accessory Structures	4 feet	4 feet	4 feet
<i>Maximum Height</i>			
Principal Structure	No limitation	40 feet	35 feet
Accessory structure	No limitation	30 feet	25 feet
<i>Maximum Number of Stories</i>			
Principal Structure	No limitation	3 stories	3 stories
Accessory structure	No limitation	2 stories	2 stories
Key: - = not applicable <b>Note:</b> 1. Bulk regulation minimum requirements are based on "net" areas or distances, exclusive of public rights-of-way or private street easements.			

7. Additional Requirements.
- A. Foundations. A permanent foundation is required for all principal buildings.
- B. Land Division and Subdivision. No parcel of land, or residual parcel of land, shall be created following adoption of this chapter by means of division, subdivision, adjustment, or combination that does not meet the requirements of this Zoning Ordinance.
- C. Existing Parcels. Any parcel of land created and recorded prior to adoption of this chapter shall not be considered as a buildable lot or parcel until a determination is made by the Zoning Official in accordance with Section 55.28 of this chapter.
- D. Street Frontage. Street frontage to either a public or private street shall be provided as required by Section 55.12 of this chapter. Private ingress/egress easements or similar access easements shall not be accepted in lieu of street frontage for building purposes. Front yard depth shall be measured from the right-of-way line.
- E. Flag Lots. Flag lots may not be permitted for building purposes in agricultural zoning districts unless there exists a unique and demonstrable need based upon topography or similar existing conditions. Flag lots shall only be created via a Plat of Survey or a Plat of Subdivision and said plat must be approved by the Zoning Official prior to recording.



F. Off-Street Parking and Loading. Off-street parking and loading shall be as required by Sections 55.20 and 55.21 of this chapter.

G. Signs. All signs shall be as permitted and limited by Section 55.19 of this chapter.

H. Site Plans. A Site Plan shall be required for all uses except farms, single-family residential and duplex residential uses in accordance with Section 55.29 of this chapter.

**55.24 RESIDENTIAL ZONING DISTRICT REGULATIONS (RE, R-1, R-2, R-3, R-4, R-5).** The residentially zoned districts are intended to provide for residential areas of various densities, to promote neighborhood quality of life, and to provide for those areas in a manner consistent with the comprehensive plan. It is intended that the district shall not be used indiscriminately to permit any use that could potentially be detrimental to the public health, welfare, and safety of the community. No temporary buildings, trailers, tents, portable or potentially portable structures shall be used for dwelling purposes.

1. Residential Districts.

A. R-1 Suburban Residential District. The R-1 District is intended and designed to provide for the development or redevelopment of low-density residential areas of the County with single family dwellings on individual platted lots.

B. R-2 Single-Family and Two-family Residential District. The R-2 District is intended to provide for the development or redevelopment of low-density residential areas of the County with one and two-family dwellings on platted lots.

C. R-3 Multiple-Family Residential District. The R-3 District is intended to provide for redevelopment of higher-density residential areas now developed with one-family, two-family, multiple-family dwellings, and condominiums and for development of areas where similar residential development seems likely to occur

D. R-4 Mobile Home Park Residential District. The R-4 District is intended to provide for the development of certain medium density residential areas, which by reason of their design and location are compatible with surrounding residential areas, for use as mobile home parks.

E. Pursuant to the Marion County Board of Supervisors resolution adopted 9/28/2021 unincorporated Marion County land located within the unincorporated town of Pershing, as identified on the Official Zoning Map of Marion County, Iowa, shall now be zoned R-1, Single Family Residential under the Marion County zoning regulations. Any structures in existence prior to the adoption of the ordinance change January 1, 2023, shall be considered a non-conforming use as defined in Section 55.10 of this Zoning Code.

2. Principal Permitted Uses. No more than one principal structure is permitted on any lot or parcel in residential zoning districts. Principal permitted uses for residential districts are as follows:

PRINCIPAL PERMITTED USES	R-1	R-2	R-3	R-4
Agricultural - Crop Production only for growing of farm products such as vegetables, fruits (including vineyards), trees, hay and grain but excluding crop storage, animal production, commercial animal raising or roadside stands.	PR	P	P	P
Agriculture - Nurseries, greenhouses and truck gardens.	PR			
Cemeteries adjacent to or an extension of existing cemeteries.	PR			
Churches, chapels, temples and similar places of worship including parish house, Sunday school building	P	P		

PRINCIPAL PERMITTED USES	R-1	R-2	R-3	R-4
Civic – Private clubs, lodges or veterans organizations, excepting those holding a beer permit or liquor license.			P	
Civic – Public museums, libraries, or community centers and similar cultural, administrative or public services uses.	P	P	P	
Dwellings – Boarding Houses.			P	
Dwellings – Elder family homes as permitted by and as limited by Section 335.31 and Section 231A.2, <i>Code of Iowa</i> .	P	P		
Dwellings – Family homes as permitted by and as limited by Section 335.25, <i>Code of Iowa</i> .	P	P		
Dwellings - Mobile Home Parks, including mobile home dwellings but not including mobile home sales or display areas.				PR
Dwellings - Multiple-family dwellings (up to 6 dwelling units per building) including apartments, townhomes and condominiums.			P	
Dwellings - Multiple-family dwellings (more than 6 dwelling units per building) including apartments, townhomes and condominiums.			P	
Dwellings - Nursing homes, Assisted Care facilities, Independent Care facilities, and group homes.			P	
Dwellings - Single-family, detached.	P	P	P	
Dwellings - Townhomes, attached or detached (up to 6 units per building).			P	
Dwellings - Two-family dwellings (duplexes).		P	P	
Education - Child Care, including Daycares and Preschools.			PR	
Education - Colleges and Universities, including classrooms, administration buildings and athletic facilities but excluding commercial trade schools and business colleges.			P	
Education - Primary and secondary schools, public & private, excluding boarding schools.	P	P	P	
Education - Residential Housing including dormitories, Fraternities and Sororities if recognized by the local college or university.			P	
Parks – Public or private parks and playgrounds.	P	P	P	P
Recreation – Private non-commercial recreational areas and facilities including country clubs, swimming pools, ball fields and public or private golf courses; but excluding miniature golf courses, drive-in theaters, campgrounds, and similar non-commercial uses.	PR	PR		
Utilities – Utility pole mounted small wireless facility.	PR	PR	PR	PR
Key: P = Permitted Use PR = Permitted Use With Restrictions SUP = Special Use Permit required Blank = Use Not Permitted				

3. Restrictions for Principal Permitted Uses. The following restrictions shall apply to the appropriate permitted uses in agricultural zoning districts:

A. Agricultural Crop Production, Nurseries, Greenhouses, and Truck Gardens. Such agricultural uses shall be permitted in residential districts provided that no offensive odors are created and provided further that no

offensive dust is created beyond the usual and customary dust associated with tilling, harvesting or similar necessary activities.

B. Cemeteries. All buildings shall be at least two-hundred (200) feet from adjacent property lines.

C. Recreation - Private Golf Courses. Commercial golf courses may be permitted by the Board of Supervisors only after public hearing and recommendation by the Zoning Commission.

D. Multiple-Family Dwellings. Multiple-family dwellings, including townhomes, are permitted in locations having common water and sewer systems unless specifically approved by the Marion County Health Department. Said approval may include increased lot areas or other restrictions as deemed necessary by the Health Department.

E. Small wireless facility utility pole height limitations. New, replacement, or modified utility pole or wireless support structure shall not exceed the greater of ten (10) feet in height above the tallest utility pole existing, located within five hundred (500) feet of the new, replacement, or modified utility pole, or forty (40) feet in height above ground level.

4. Special Use Permits. Principal permitted uses designed "SUP" in Subsection 2 of this section shall be permitted only upon approval of a Special Use Permit by the Board of Adjustment in accordance with Section 55.37 of this chapter in addition to conformance with all appropriate restrictions outlined Subsection 3 of this section.

5. Permitted Accessory Uses. The following accessory uses are permitted in residential zoning districts:

A. Customary accessory uses and structures incidental and subordinate to the permitted principal uses, unless otherwise excluded.

B. Private garage or carport.

C. Home Occupations as permitted in and as limited by Section 55.17.

D. Nursery schools, preschools and child care centers in R-2 and R-3 districts only, provided the principal building is located at least twenty (20) feet from all property lines, and further provided there is established and maintained a completely fenced and screened playlot in connection therewith.

E. No more than one shipping container may be used for storage in a residential zoning district.

E. Temporary buildings, including mobile homes or trailers, for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work. Temporary buildings or dwellings shall not be permitted for a period longer than one year unless approved in writing by the Zoning Official.

F. Solar collectors mounted on the ground in the rear yard or attached to the principal building facing the front, side or rear yard at a height no greater than the peak of the roof of the principal structure. If required, solar access easements may be obtained from the adjoin property owners in accordance with State statutes.

G. Private Solar Energy Systems.

(1) Ground-Mounted Solar Array. Ground-mounted solar array shall be:

- a. Located in the side or rear yard.
  - b. Set back from lot lines as if the arrays were a detached accessory structure.
  - c. Sized as if the arrays were a detached accessory structure.
  - d. Screened from adjacent residential properties.
- (2) Building Mounted Solar Array. Building mounted solar array shall be:
  - a. Mounted on a principal building or accessory structure.
  - b. Mounted in a way that does not extend more than twelve (12) inches above or beyond the surface to which it is mounted.
- H. Small wind energy conversion systems (SWECS) are a permitted accessory use subject to the requirements set forth in this subsection:
  - (1) SWECS Height. SWECS structure height shall not exceed one-hundred-twenty-five (125) feet.
  - (2) Setbacks. The base of the SWECS shall be set back from all lot lines by a distance at least equal to one and a half (1 ½) times the height of the system.
  - (3) Clearance. Rotor blades on SWECS must maintain at least twenty-four (24) feet of clearance between their lowest point and the ground.
  - (4) Compliance With FAA Regulations. SWECS must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
  - (5) Appearance. Towers and rotor blades for small wind energy systems shall maintain such finish or be painted in such manner as to conform the tower color and appearance to the surrounding environment to reduce visual obtrusiveness. No such tower shall have any signage, writing, or pictures that may be construed as advertising placed on it at any time. In addition, no flags, streamers, or decorative items shall be attached to a small wind energy system tower or turbine.
  - (6) Removal of Nonfunctional or Abandoned SWECS. Any small wind energy system which is nonfunctional or abandoned for a continuous period of six months shall be repaired and placed back in operation by the owner or operated, or else the same shall be removed.
- I. Common sewage treatment facilities or lagoons, common water supply facilities in accordance with requirements of Iowa DNR.
- J. Accessory uses in R-4 include only those non-residential uses required for the direct servicing and well-being of mobile home park residents and for park management and maintenance, such as common facility service

buildings, storm shelters, laundry facilities, vending machines, garage, parking areas, storage facilities, garages, park management or maintenance buildings, community buildings, swimming pools and similar uses.

K. Beekeeping and apiaries; up to a maximum of four (4) hives per acre and provided all hives are set back a minimum of twenty-five (25) feet from property lines.

6. Site Development Regulations. The following minimum requirements shall be observed, subject to modifications contained in Section 55.28 of this chapter.

<b>BULK REGULATIONS</b>				
<b>Regulator</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>
<i>Minimum Lots Area<sup>1</sup> (in square feet)</i>				
SF: common water & sewer	10,000	10,000	10,000	-
SF: individual water or sewer	43,560	43,560	43,560	-
2F dwellings: common water & sewer	-	30,000	30,000	-
2F dwellings: individual water or sewer	-	65,340	65,340	-
Multiple Family & Row Houses	-	-	15,000 <sup>2</sup>	-
Other Permitted uses	43,560	43,560	43,560	43,560
<i>Minimum Lot Width<sup>1</sup> (in feet)</i>				
SF: common water & sewer	80	80	80	-
SF: individual water or sewer	100	100	100	-
2F dwellings: common water & sewer	-	120	120	-
2F dwellings: individual water or sewer	-	150	150	-
Multiple Family	-	-	150	-
Row Houses	-	-	120	-
Other Permitted uses	100	100	100	600
<i>Maximum Density (dwellings per acre)</i>			15	8
<i>Minimum Front Yard<sup>1</sup> (in feet)</i>				
SF Dwellings	35	35	35	-
2F Dwellings, Row Houses	-	35	35	-
Multiple-Family	-	-	-	-
Other Permitted Uses	50	50	50	75
<i>Minimum Rear Yard<sup>1</sup> (in feet)</i>				
SF Dwellings	25	25	25	-
2F dwellings,	-	35	35	-
Multi-family, Row House	-	-	35	-
Other Permitted Uses	50	50	50	75
Accessory Structures	4	4	4	4
<i>Minimum Side Yard<sup>1</sup> (in feet)</i>				
SF: common water & sewer	8	8	8	-
SF: individual water or sewer	12	12	12	-
2F dwellings,	-	12	12	-
Multi-family, Row House	-	-	12	-
Other Permitted uses	12	12	12	75
Accessory Structures	4	4	4	4
<i>Maximum Height (in feet)</i>				
Principal structures	35	35	40	25
Accessory structures	25	25	25	25
<i>Maximum Number of Stories</i>				

Principal building	3	3	3	1
Accessory building	2	1½	2	2
Key: - = not applicable				
<b>Notes:</b>				
1. Bulk regulation minimum requirements are based on “net” areas or distances, exclusive of public rights-of-way or private street easements.				
2. Plus an additional two-thousand-five-hundred (2,500) SF per dwelling unit above three (3) interior row units shall be twenty-feet (20’) wide, exterior row units shall be thirty-feet (30’) side (minimums)				

7. Additional Requirements.

A. Foundations. A permanent foundation is required for all principal buildings.

B. Minimum Building Width. The minimum dimension of the main body of the principal building shall not be less than twenty-four (24) feet.

C. Land Division and Subdivision. No parcel of land, or residual parcel of land, shall be created following adoption of this Zoning Ordinance by means of division, subdivision, adjustment, or combination that does not meet the requirements of this Zoning Ordinance.

D. Existing Parcels. Any parcel of land created and recorded prior to adoption of this Ordinance shall not be considered as a buildable lot until a determination is made by the Zoning Official in accordance with Section 55.28 of this chapter.

E. Street Frontage. Street frontage to either a public or private street shall be provided as required by Section 55.12 of this chapter. Private ingress/Egress easements or similar access easements shall not be accepted in lieu of street frontage. Front yard depth shall be measured from the right-of-way line.

F. Flag Lots. Flag lots shall not be permitted in residential zoning districts unless there exists a unique and demonstrable need based upon topography or similar existing conditions. Flag lots shall be only created via a Plat of Survey or a Plat of Subdivision and said plat must be approved by the Zoning Commission prior to recording.

G. Off-Street Parking and Loading. Off-street parking and loading shall be as required by Sections 55.20 and 55.21 of this chapter.

H. Signs. All signs shall be as permitted and limited by Sections 55.19 of this chapter.

I. Site Plans. A Site Plan shall be required for all uses except single-family residential and duplex residential uses in accordance with Section 55.28 of this chapter.

J. Additional Requirements for Mobile Home Parks:

(1) Plan Required. Each petition for a change to the R-4 zoning classifications submitted to the Board of Supervisors shall be accompanied by a mobile home park plan. Said plan shall show each mobile home space; the water, electrical, sewer lines serving each

mobile home space; the location of fire hydrants, garbage cans, accessory buildings, driveways, walkways, recreation areas; required yards, parking facilities, lighting, landscaping, storm shelters and community facilities. The plan shall be considered by the County Zoning Commission, County Emergency Management Commission, and the Board, who may approve or disapprove said plan or require such changes thereto as are deemed necessary to effectuate the intent and purpose of this Zoning Ordinance, all in conformance to Section 55.41 of this chapter.

(2) Lots. The individual mobile home lot shall contain not less than four-thousand-five-hundred (4,500) square feet, with a minimum depth of ninety (90) feet. Each lot shall have a front yard of not less than fifteen (15) feet measured from the edge of the interior street to the mobile home. A minimum separation of at least twenty-five (25) feet shall be provided between the rear and sides of all mobile homes and structures. Entrance-ways, rooms, breezeways or other additions may be constructed as additions to any mobile home provided a minimum separation of 10' is maintained between all structures. No part of any mobile home space shall be closer than seventy-five (75) feet to any public right-of-way.

(3) Streets. Entrance roads into the park from public streets shall be paved with Portland cement concrete or asphalt with concrete curb and gutter shall have a minimum pavement width of thirty-one (31) feet, measured from back-to-back of curbs. Interior streets inside the park shall be private streets and paved with Portland cement concrete or asphalt with concrete curb and gutter and shall have a minimum pavement width of twenty-eight (28) feet, measured from back-to-back of curbs.

(4) Parking. Each mobile home shall be provided a minimum of two (2) off-street parking spaces, all conveniently located no more than two-hundred (200) feet from the associated mobile home. All parking areas shall be paved with Portland cement concrete or asphalt.

(5) Skirting. Skirting of a permanent type material and construction shall be installed within ninety (90) days of installation of each mobile home to enclose the open space between the bottom of a mobile home floor and the ground at the mobile home stand. This skirting shall be maintained in an attractive manner consistent with the exterior of the mobile home and to preserve the appearance of the mobile home park.

(6) Utilities. Public or common sewer and water facilities shall be provided for each mobile home park space and appropriate accessory structures in accordance with the requirements of the Iowa Department of Natural Resources. Any lagoons, or other treatment facilities, constructed in conjunction with the development, shall be located not less than seventy-five (75) feet from any right-of-way or lot line (in the case of a lagoon, this distance shall be measured from the outside toe of the levee slope.)



(7) Recreation Areas. One or more recreation areas shall be provided that is easily accessible to all park residents. Said recreation areas shall have a minimum of two-hundred-fifty (250) square feet of area for each mobile home in the park, exclusive of area within the individual mobile home lots.

(8) Storm Shelters. A storm shelter for residents shall be required within the mobile home park, designed to withstand at least two-hundred-fifty (250) mile per hour winds and fulfill the requirements of the Marion County Emergency Management Commission.

**55.25 COMMERCIAL ZONING DISTRICT REGULATIONS (C-1, C-2).** The commercially zoned districts are intended to provide for high quality area of various densities and intensities in an effort to promote quality of life, health and general welfare of citizens and visitors while providing a large variety of services and shopping, all consistent with the Comprehensive Plan. It shall be generally recognized that the type of use is not so important as the manner in which the use is accomplished. It is intended that these districts shall not be used indiscriminately to permit any use that could potentially be detrimental to the intent of the Zoning Ordinance.

1. Commercial Districts.

A. C-1 General Commercial District. The C-1 District is intended and designed to provide for general uses and activities of a retail business, service industry or professional office character that, by nature of their business, provide service and commodities that benefit the local needs of the unincorporated areas of the County. This district is most appropriately located along paved streets.

B. C-2 Highway Commercial Services District. The C-2 District is intended and designed to provide for general uses and activities of a retail business, service industry or professional office character that, by nature of their business, provide service and commodities that benefit the general needs of the County and the highway traveling public. This district is most appropriately located along arterial streets or in areas that can be adequately buffered from residential districts.

2. Principal Permitted Uses. Principal permitted uses for commercial districts are as follows:

PRINCIPAL PERMITTED USES	C-1	C-2
Agriculture - Animal hospital, veterinary clinic or kennel.	PR	PR
Automotive - gas or filling stations.	PR	PR
Automotive - Convenience stores, including gas and food sales.		PR
Automotive - tire and auto accessory store.	P	P
Automotive - public parking lots and garages.	P	P
Automotive - service and repair garages.	P	P
Automotive - car wash.	P	P
Automotive - automobile, trailer, mobile home, and farm implement establishments for display, hire, sales, and repair, including sales lots; but excluding automobile, tractor, machinery, or similar wrecking and used parts yards.		P

<b>PRINCIPAL PERMITTED USES</b>	<b>C-1</b>	<b>C-2</b>
Business - Banks loan offices, and Financial Institutions.	P	P
Business - Professional and commercial offices.	P	P
Business – Travel bureaus, real estate office and similar agencies.	P	P
Civic - Libraries, Museums and similar institutions.	P	P
Civic - Private Clubs, lodges, youth centers or veterans organizations, including those holding a beer permit or liquor license.	P	P
Clothing – Apparel shops and clothing accessory shops for items such as handbags, hosiery, hair and similar accessories.	P	P
Clothing – Clothing repair shops including tailors.	P	P
Clothing – Furriers.	P	P
Clothing – Costume rental shops.	P	P
Clothing – Shoe sales or repair shops.	P	P
Clothing – Hat sales, cleaning or repair shops.	P	P
Clothing, Laundry – Commercial laundry, dry cleaning or dyeing establishments.		PR
Clothing, Laundry – Diaper services.	P	P
Clothing, Laundry – Dry cleaning pick up stations, not including on-site cleaning processes.		
Clothing, Laundry – Laundromats.	P	P
Commercial Entertainment – Amusement Parks.		P
Commercial Entertainment – Bowling alleys.	P	P
Commercial Entertainment – Billiard Hall.	P	P
Commercial Entertainment – Camping grounds and tourist parks.	P	P
Commercial Entertainment – Theaters, indoor only.	P	P
Commercial Entertainment – Theaters, outdoor .	P	P
Food – Meat markets, butcher shops.	P	P
Food – Drug stores.	P	P
Food – Restaurants, including sit-down restaurants, tea rooms, delicatessens, coffee shops, excluding drive-thrus.	P	P
Food – Drive-thru restaurants and coffee shops.	PR	PR
Food – Taverns or similar drinking establishments.	P	P
Food – Milk and dairy stores and distribution stations, excluding processing.	P	P
Food – Commercial Bakeries.		PR
Personal Services – Beauty shops, barber shops.	P	P
Personal Services – Cosmetics, manicure shops.	P	P
Personal Services – Masseur salons, spas; excluding adult entertainment businesses.	P	P
Personal Services – Opticians and optical sales and repairs.	P	P
Personal Services - Reducing Salons and fitness centers.	P	P
Personal Services – Medical and Dental clinics.	P	P
Recreation - Baseball fields, softball fields, soccer fields, swimming pools, skating parks, golf driving ranges or similar recreational uses and facilities.	P	P
Recreation - Public and private events centers, banquet halls, party barns.	PR	PR
Retail – Bicycle sales and repair shops.	P	P
Retail – Book stores.	P	P
Retail – Bird or pet stores.	P	P
Retail – Florist shops gift and card shops.	P	P
Retail – Hardware, paint, and wallpaper stores.	P	P
Retail Commercial greenhouses.		PR

PRINCIPAL PERMITTED USES	C-1	C-2
Retail – Toy shops.	P	P
Retail – Variety stores, discount stores.	P	P
Trades Services – Carpenter, sheet metal and sign painting shops.		PR
Hotel – Hotels, motels.	P	P
Utilities – Utility pole mounted small wireless facility.	PR	PR
Utility – Electrical substations, telephone exchanges, sanitary sewer lift stations, lagoons, wells, water treatment facilities, gas regulating stations.	P	P
Utility – Microwave, radio, television, and cellular telephone communication towers.	PR	PR
Warehouses – Mini-storage facilities.	P	P
Other retail business or service establishments determined by the Zoning Official to be equivalent to the permitted uses listed above.	P	P
Key: P = Permitted Use PR = Permitted Use With Restrictions SUP = Special Use Permit required Blank = Use Not Permitted		

3. Restrictions for Principal Permitted Uses. The following restrictions shall apply to the appropriate permitted uses in commercial zoning districts:

A. Animal Hospital, Veterinary Clinic or Kennel. Such animal uses shall be permitted provided any structure or area used for such purpose shall be at least two-hundred (200) feet from any “R” district boundary and one-hundred (100) feet away from any “A-1” or A-R” district boundary.

B. Gas Stations and Convenience Stores.

(1) No gasoline filling station or a commercial customer or employee parking lot for twenty-five (25) or more motor vehicles, or a parking garage or automobile repair shop shall have an entrance or exit for vehicles within two-hundred (200) feet along the same side of a street of any school, public playground, church, hospital, public library or institution for dependents or for children, except where such property is in another block or on another street which the subject lot does not abut.

(2) Pump islands, light standards and related minor accessory equipment not involving repair work or servicing of vehicles other than for fuel, air, and water shall be permitted in the yard areas provided no gasoline pump or fuel dispensing equipment shall be located within twelve (12) feet of any street right-of-way.

(3) No oil draining pit or appliance for such purpose shall be located within twenty-five (25) feet of any “R” district boundary or street right-of-way line.

(4) On all corner lots, all vehicular entrances to, or exits from, and curb openings shall be set back a minimum of one-hundred-fifty (150) feet from the projecting intersection of curb lines or edge of pavement and such openings shall not exceed thirty-five (35) feet in width at the curb line or edge of pavement. There shall be a minimum of twenty (20) feet of separation measured along the curb line between any series of driveways.

- C. Drive-thru Restaurants. Drive-thru restaurants shall be permitted in any commercial district provided the drive-thru lanes provide sufficient space for vehicle queuing on the premises and provided all drive-thru lanes and associated menu boards and speaker systems are located at least two-hundred (200) feet from any “R” district or “A-R” district.
- D. Outdoor Theaters. The screen for any drive-in movie theater or outdoor theater shall be so located as to not be visible from adjacent highways or streets. Sufficient driveway area shall be provided so that cars will not be waiting in line on any public right-of-way or otherwise create a hazard to vehicular movement.
- E. Trade services, clothes bakeries, cleaning/dyeing, lumber yards, greenhouses. No heating plant or ventilating flue in connection with any such commercial operations shall be within fifty (50) feet of any “R” district.
- F. Events Centers, Banquet halls, and party barns. On-site parking shall be provided for the maximum event, parking shall not be permitted on public or private streets. All buildings shall comply with all applicable fire codes, including number and location of exits.
- G. Microwave, radio, television, and cellular telephone communication towers but not utility poles. All towers must have a fall zone. The minimum distance from the base of any new ground mounted communication tower to public right-of-way or any property line shall be: 1) A distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining property line. 2) A distance equal to at least one-hundred-feet (100') or one-hundred-percent (100%) of the height the tower, whichever is greater, from any residential zoned district or residential use property line.
- H. Small wireless facility utility pole height limitations. New, replacement, or modified utility pole or wireless support structure shall not exceed the greater of ten (10) feet in height above the tallest utility pole existing, located within five-hundred (500) feet of the new, replacement, or modified utility pole, or forty (40) feet in height above ground level.
- I. Permitted uses with restrictions shall not be permitted to be established or maintained in any commercial district which by reason of its nature or manner of operation is or may become hazardous, noxious, or offensive owing to the emission of odor, dust, smoke cinders, gas, fumes, noise, vibrations, refuse matter or water-carried waste.
- J. Permitted uses with restrictions shall demonstrate said use will not have any detrimental impact on existing neighboring uses due to traffic congestion or parking needs.
4. Special Use Permits. Principal permitted uses designed “SUP” in subsection 2 of this section shall be permitted only upon approval of a Special Use Permit by the Board of Adjustment in accordance with Section 53.38 of this chapter in addition to conformance with all appropriate restrictions outlined subsection 3 of this section
5. Permitted Accessory Uses. Uses not permitted as a principal permitted use for that zoning district shall not be permitted as an accessory use except as specifically

permitted in this subsection. The following accessory uses are permitted in commercial zoning districts:

- A. Customary accessory uses and structures incidental to the permitted principal uses.
- B. Private garage or carport in association with a permitted residential use.
- C. No more than three (3) shipping containers are allowed on parcels of ten (10) acres or less and no more than five shipping containers on parcels over ten (10) acres.
- D. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work. Temporary buildings or dwellings shall not be permitted for a period longer than one year unless approved in writing by the Zoning Official.
- E. Private Solar Energy Systems.
  - (1) Ground-Mounted Solar Array. Ground-mounted solar array shall be:
    - a. Located in the side or rear yard.
    - b. Set back from lot lines as if the arrays were a detached accessory use.
    - c. Sized as if the arrays were a detached accessory structure.
    - d. Screened from adjacent residential properties.
  - (2) Building-Mounted Solar Array. Building-mounted solar array shall be:
    - a. Mounted a principal building or accessory structure.
    - b. Mounted in a way that does not extend more than twelve (12) inches above or beyond the surface to which it is mounted.
- F. Small Wind Energy Conversion Systems (SWECS) are a permitted accessory use subject to the requirements set forth in this subsection.
  - (1) SWECS Height. SWECS structure height shall not exceed one-hundred-twenty-five (125) feet.
  - (2) Setbacks. The base of the SWECS shall be set back from all lot lines by a distance at least equal to one and a half times the height of the system.
  - (3) Clearance. Rotor blades on SWECS must maintain at least twenty-four (24) feet of clearance between their lowest point and the ground.
  - (4) Compliance With FAA Regulations. SWECS must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.

(5) Appearance. Towers and rotor blades for small wind energy systems shall maintain such finish or be painted in such manner as to conform the tower color and appearance to the surrounding environment to reduce visual obtrusiveness. No such tower shall have any signage, writing, or pictures that may be construed as advertising placed on it at any time. In addition, no flags, streamers, or decorative items shall be attached to a small wind energy system tower or turbine.

(6) Removal of Nonfunctional or Abandoned SWECS. Any small wind energy system which is nonfunctional or abandoned for a continuous period of six (6) months shall be repaired and placed back in operation by the owner or operated, or else the same shall be removed.

G. Beekeeping and apiaries; up to a maximum of four (4) hives per acre and provided all hives are set back a minimum of twenty-five (25) feet from property lines.

6. Site Development Regulations. Dimensional requirements for commercial districts are as follows:

<b>BULK REGULATIONS</b>		
<b>Regulator</b>	<b>C-1</b>	<b>C-2</b>
<i>Minimum Lot Area</i>	1 acre	1 acre
<i>Minimum Lot Width</i>	None	None
<i>Minimum Front Yard Depth</i>	30	30
<i>Minimum Side Yard Depth</i>		
Adjacent to "A" District	50	50
Adjacent to "R" District	75	75
Adjacent to "C" District	10	10
Adjacent to "M" District	10	10
Accessory Structures	4	4
<i>Minimum Rear Yard Depth</i>	35	35 <sup>1</sup>
Accessory Structures	4	4
<i>Maximum Height (in feet)</i>		
Principal structures	35	40
Accessory structures	15	40
<i>Maximum Number of Stories</i>		
Principal structures	2½	3
Accessory structures	1	3
<b>Notes:</b>		
1. Microwave, radio, television and cellular telephone communication towers may exceed the maximum height restrictions under an approved special use permit and provided all fall zone requirements are met.		

7. Foundations. A permanent foundation is required for all principal buildings.

8. Off-Street Loading. Off-street loading shall be provided as required by Section 55.20.
9. Off-Street Parking. See Section 55.21 for off-street parking requirements.
10. Site Plans. Site plans shall be required for all uses in all commercial districts except single family and duplex family residential buildings. See Section 55.29 for Site Plan requirements.
11. Signs. All signage including, but not limited to, building and wall signs, monument and pole signs, shall be in conformance with Section 55.19 of this chapter.
12. Exceptions and Modifications. See Section 55.28.

**55.26 INDUSTRIAL ZONING DISTRICT REGULATIONS (M-1, M-2).** The industrially zoned districts are intended to provide for manufacturing processes of various intensities needed on a local, State or national level while promoting the quality of life, health, and general welfare desired by the citizens of the County, all consistent with the Comprehensive Plan.

1. Industrial Districts.
  - A. M-1 Light Industrial District. The M-1 district is intended to reserve sites appropriate for the location of industrial uses of a light industrial nature with relatively limited environmental effects. No residential uses are permitted except farm dwellings in area used for agriculture, and except for owner or night watchman's residence.
  - B. M-2 Heavy Industrial District. The M-2 district is intended to accommodate a wide variety of heavy industrial uses, some of which may have significant external effects. These uses may have operating characteristics that create conflicts with lower-intensity surrounding land uses. No residential uses are permitted except farm dwellings in area used for agriculture, and except for owner or night watchman's residence.
2. Principal Permitted Uses. Principal permitted uses for industrial districts are as follows:

PRINCIPAL PERMITTED USES	M-1	M-2
Agriculture - Animal Production, including raising and breeding of domesticated animals such as poultry and livestock, but not including feed lots, poultry farms or hog confinement facilities.	P	P
Agriculture - Animal Production feed lots, poultry farms or hog confinements	PR	PR
Agriculture - Crop Production for growing of the usual farm products such as vegetables, fruits (including vineyards), trees, and hay; and grain storage and grain drying facilities provided such storage is secondary to that of the principal normal farming operation.	P	P
Agriculture – Storage and repair facilities of custom hire machinery, equipment and supplies incidental to farming including tillage equipment, chemical application equipment (ground types only) and similar uses.	P	P
Agriculture – Commercial grain elevator, custom cleaning and grain drying facilities.		SUP
Agriculture – Farm equipment repair such as blacksmith, welding, mechanical repair and related services.	P	P
Agriculture – Tiling contractor storage and repair facilities, including incidental supplies and equipment.	P	P

PRINCIPAL PERMITTED USES	M-1	M-2
Agriculture – Sale barns, with restrictions.	SUP	SUP
Agriculture – Sales of feed, seed, fertilizer and agricultural chemicals except ammonia.	P	P
Agriculture – Storage and pumping facilities for anhydrous ammonia.	SUP	SUP
Agriculture – Animal hospital, veterinary clinics, kennels.	PR	PR
Agriculture – Wineries including accessory uses such as wine sales, banquet rooms, catering and food sales and vineyards.	P	P
Agriculture – Abattoirs, slaughter houses, meat packing and processing plants and stockyards, and distillation of bones.		SUP
Automobile assembly and major repair.	P	P
Automotive - Gas or filling stations.	PR	PR
Automotive - Convenience stores, including gas and food sales.	PR	PR
Automotive - Tire and auto accessory store.	P	P
Automotive - Public parking lots and garages.	P	P
Automotive - Service and repair garages.	P	P
Automotive - Car wash.	P	P
Automotive - Automobile, trailer, mobile home, and farm implement establishments for display, hire, sales, and repair, including sales lots; but excluding automobile, tractor, machinery, or similar wrecking and used parts yards.	P	P
Business - Banks, loan offices, and Financial Institutions,	P	P
Business - Professional and commercial offices.	P	P
Business – Travel bureaus, real estate office and similar agencies.	P	P
Cemetery – Crematory, if located not less than two-hundred (200) feet from any “R” district.	P	P
Civic - Private Clubs, lodges, youth centers or veterans’ organizations, including those holding a beer permit or liquor license.	P	P
Clothing – Apparel shops and clothing accessory shops for items such as handbags, hosiery, hair accessories.	P	P
Clothing – Clothing repair shops including tailors.	P	P
Clothing – Furriers.	P	P
Clothing – Costume rental shops.	P	P
Clothing – Shoe sales or repair shops.	P	P
Clothing – Hat sales, cleaning, or repair shops.	P	P
Clothing, Laundry – Bag, carpet, and rug cleaning; provided necessary equipment is installed and operated for the effective precipitation or recovery of dust.	P	P
Clothing, Laundry – Commercial laundry, dry cleaning, or dyeing.	PR	PR
Clothing, Laundry – Laundromats, dry cleaning pickup stations, diaper services.	P	P
Commercial Entertainment – Adult entertainment business.	SUP	SUP
Commercial Entertainment – Amusement Parks.	P	P
Commercial Entertainment – Bowling alleys.	P	P
Commercial Entertainment – Billiard Hall.	P	P
Commercial Entertainment – Theaters, indoor only.	P	P
Commercial Entertainment – Theaters, outdoor.	P	P
Commercial Entertainment – Ball fields, soccer fields, swimming pools, skating parks, golf driving ranges or similar recreational uses and facilities.	P	P
Food – Meat markets, butcher shops.	P	P



PRINCIPAL PERMITTED USES	M-1	M-2
Food – Drug stores.	P	P
Food – Restaurants, including sit-down restaurants, tea rooms, delicatessens, coffee shops, excluding drive-thrus.	P	P
Food – Drive-thru restaurants and coffee shops.	PR	PR
Food – Taverns or similar drinking establishments.	P	P
Food – Milk and dairy stores and distribution stations, excluding processing.	P	P
Food – Commercial Bakeries.	PR	PR
Laboratories – experimental, film or testing.	P	P
Manufacture of acids or wholesale storage of acid.		SUP
Manufacture and repair of electric signs, advertising structures, light sheet metal products, and heating & ventilating equipment.	P	P
Manufacture of musical instruments, novelties, and molded rubber products.	P	P
Manufacture of pottery or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or natural gas.	P	P
Manufacture or assembly of electrical appliances, instruments, and devices.	P	P
Manufacturing creameries, bottle works, wholesale ice and ice cream plants, cold storage warehousing and distribution stations.	P	P
Manufacturing, compounding, assembling or treatment of articles or merchandise from previously prepared materials such as bone, cloth, cork, fiber, leather, paper, plastics, metals or stones, tobacco, wax, yarns and wood.	P	P
Manufacturing, distribution, compounding, processing, packaging or treatment of cosmetics, pharmaceuticals, and food products, except fish and meat products, cereals, sauerkraut, vinegar, yeast, stock feed, flour, and the rendering or refining of fats and oils.	P	P
Manufacturing of fertilizer, gas or glue and fat rendering.		SUP
Manufacture and storage of explosives.		SUP
Metals - Blacksmith, welding, cooperage works or other metal shop including enameling, lacquering, or painting with controlled emissions not causing noxious fumes or odors and excluding drop hammers and the like.	P	P
Metals - Foundry casting lightweight non-ferrous metals or electric foundry, not causing noxious fumes or odors.	P	P
Mineral Extraction, sand & gravel pits, and smelting of ores.		SUP
Mineral smelting or reduction of ores or metallurgical products.		SUP
Petroleum or petroleum products refining.		SUP
Printing and/or publishing houses.	P	P
Personal Services – Beauty shops, barber shops.	P	P
Personal Services – Cosmetics, manicure shops.	P	P
Personal Services – Masseur salons, spas; excluding adult entertainment.	P	P
Personal Services – Opticians and optical sales and repairs.	P	P
Personal Services - Reducing Salons and fitness centers.	P	P
Personal Services – Medical and Dental clinics.	P	P
Retail – Bicycle sales and repair shops.	P	P
Retail – Book stores.	P	P
Retail – Bird or pet stores.	P	P
Retail – Florist shops gift and card shops.	P	P
Retail – Hardware, paint, and wallpaper stores.	P	P
Retail – Commercial greenhouses.	PR	PR
Retail – Toy shops.	P	P
Retail – Variety stores, discount stores.	P	P

PRINCIPAL PERMITTED USES	M-1	M-2
Sawmill, planing mill, and manufacture of wood products not involving chemical treatment.	P	P
Trades Services – Carpenter, sheet metal and sign painting shops	PR	PR
Trades Services – Concrete mixing, concrete products manufacture, including cement, lime, gypsum or plaster of paris		SUP
Utilities – Utility pole mounted small wireless facility	PR	PR
Utility – Electrical substations, telephone exchanges, gas regulating stations	P	P
Utility – Microwave, radio, television, and cellular telephone communication towers.	PR	PR
Utility – Utility Scale Solar Energy Systems	PR	PR
Utility – Wind Energy Conversion System (WCES)	SUP	SUP
Warehouse – Mini-storage facilities	P	P
Warehouse – Wholesale warehouse or business	P	P
Yards – Building material sales yards, retail lumber yards	P	P
Yards - Circus, carnival, or similar transient enterprise, provided such structures or buildings shall be at least two hundred (200) feet from any “R” District.	P	P
Yards - Contractors’ equipment storage yard or plant, including hauling services, or rental of equipment commonly used by contractors.	P	P
Yards – flammable liquid storage yard, underground storage only, not to exceed fifty-thousand (50,000) gallons	P	P
Yards – Salvage yards including auto wrecking and salvage, used parts sales and junk, iron, rag storage or bailing.		SUP
Yards – storage and wholesale distribution of grains	P	P
Yards – storage and sale of livestock, feed and/or fuel provided dust is effectively controlled.	P	P
Yards - Sanitary Landfill or transfer station.		SUP
Yards – Garbage, offal or dead animal reduction or dumping		SUP
Yards – Truck terminal yards	P	P
Other retail business or service establishments determined by the Zoning Official to be equivalent to the permitted uses listed above.	P	P
Key: P = Permitted Use PR = Permitted Use With Restrictions SUP = Special Use Permit required Blank = Use Not Permitted		

3. Restrictions for Principal Permitted Uses. The following restrictions shall apply to the appropriate permitted uses in industrial zoning districts:

A. Adult Entertainment. It is the purpose of this subsection to regulate adult entertainment businesses to limit their inherent adverse impact in the community while at the same time permitting lawful businesses to conduct operations in the County. Because of their very nature, such businesses are recognized as having serious, objectionable operational characteristics which are magnified when located in close proximity to dwellings, churches, schools and parks. Special regulation of adult entertainment businesses is necessary to ensure these adverse effects will not contribute to the blighting or downgrading of surrounding areas. The Board further finds these regulations are necessary to protect the youth of this county from the objectionable operational characteristics of such businesses by restricting their location. The Board further finds these regulations are necessary to protect the health, safety and general welfare of all residents of the County.

(1) Establishment of adult entertainment businesses shall include the opening of such business as a new business, operation of such business at an existing location under new management or ownership, the relocation of such business, or the conversion of an existing business location to any of the uses defined in Section 55.04. Adult entertainment business shall be subject to the following restrictions and no person shall cause or permit the establishment of any adult entertainment business contrary to said restrictions, limitations and prohibited activities or without an approved Special Use Permit.

(2) Limitations on Adult Entertainment Businesses. Adult entertainment businesses shall be subject to the following restrictions and no person shall cause or permit the establishment of any adult entertainment business contrary to said restrictions:

- a. No adult entertainment business shall be open for business between the hours of 12:00 midnight and 6:00 a.m.
- b. An adult entertainment business shall not be allowed within five-hundred (500) feet of another existing adult entertainment business.
- c. An adult entertainment business shall not be located within five-hundred (500) feet of any residentially zoned district.
- d. An adult entertainment business shall not be located within one-thousand (1,000) feet of a pre-existing care center, school, private or public park, or church.
- e. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult entertainment business to the point on the property line of such other business, school, church, park or areas zoned for residential use which is closest to the said main entrance of such adult entertainment business.

(3) Prohibited Activities of Adult Entertainment Businesses.

- a. No adult entertainment business shall employ any person under 18 years of age.
- b. No adult entertainment business shall furnish merchandise or services to any person who is under 18 years of age.
- c. No adult entertainment business shall be conducted in any manner that permits the observation of any model or any material depicting, describing, or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use. No operator of an adult entertainment business or any officer, associates, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct or permit any

other person to engage in an activity of conduct in or about the premises which is prohibited by the chapter or any laws of the State.

d. No part of the interior or the adult entertainment business shall be visible from any pedestrian sidewalk, walkway, trail, street or other public or semi-public area.

e. An adult entertainment business shall post a sign at the entrance of the premises which shall state the nature of the business and shall state that no one under the age of 18 years is allowed on the premises. This section shall not be construed to prohibit the owner from establishing an older age limitation for coming on the premises.

f. Except as hereinafter provided no person shall intentionally expose those part of his or her body herein listed to others in any public place, or in any place where such exposure is seen by another person or persons located in any public place: (i) a woman's nipple, the areola thereof, or any portion of the female breast at or below the nipple thereof, except as necessary in the breast feeding of a baby; and (ii) the pubic hair, pubes, perineum, or anus, the penis or scrotum, or the vagina, excepting such body parts of prepubescent infants of either sex.

(4) Special Use Permit. Adult entertainment businesses may be permitted subject to approval of a Special Use Permit in conformance with Section 55.37, provided further that applications for such permit shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan defining the areas to be developed for buildings and structures, the areas to be developed for parking, the locations of driveways and the points of ingress and egress, the location and height of walls, the location and type of landscaping, the location, size and number of signs and the manner of providing water supply and sewage treatment facilities.

B. Animal Production Feed Lots. All feed lots, poultry farms and hog confinement facilities are permitted provided that all hog confinement facilities, feed lots and poultry farms meet all of the waste treatment requirements of the Iowa Department of Natural Resources and obtain the necessary permits, where applicable, in conformance with the *Code of Iowa*, and a copy of the IDNR permit is provided to the Zoning Official prior to construction of said facilities.

C. Animal Hospitals, Veterinary Clinic or Kennel. Such animal uses shall be permitted provided any structure or area used for such purpose shall be at least two-hundred (200) feet from any "R" district boundary and one-hundred (100) feet away from any "A-1" or A-R" district boundary.

D. Gas Stations and Convenience Stores.

(1) No gasoline filling station or a commercial customer or employee parking lot for twenty-five (25) or more motor vehicles, or

a parking garage or automobile repair shop shall have an entrance or exit for vehicles within two-hundred (200) feet along the same side of a street of any school, public playground, church, hospital, public library or institution for dependents or for children, except where such property is in another block or on another street which the subject lot does not abut.

(2) Pump islands, light standards and related minor accessory equipment not involving repair work or servicing of vehicles other than for fuel, air, and water shall be permitted in the yard areas provided no gasoline pump or fuel dispensing equipment shall be located within twelve (12) feet of any street right-of-way.

(3) No oil draining pit or appliance for such purpose shall be located within twenty-five (25) feet of any "R" district boundary or street right-of-way line.

(4) On all corner lots, all vehicular entrances to, or exits from, and curb openings shall be set back a minimum of one-hundred-fifty (150) feet from the projecting intersection of curb lines or edge of pavement and such openings shall not exceed thirty-five (35) feet in width at the curb line or edge of pavement. There shall be a minimum of twenty (20) feet of separation measured along the curb line between any series of driveways.

E. Drive-thru Restaurants. Drive-thru restaurants shall be permitted in any industrial district provided the drive-thru lanes provide sufficient space for vehicle queuing on the premises and provided all drive-thru lanes and associated menu boards and speaker systems are located at least two-hundred (200) feet from any "R" district or "A-R" district.

F. Outdoor Theaters. The screen for any drive-in movie theater or outdoor theater shall be so located as to not be visible from adjacent highways or streets. Sufficient driveway area shall be provided so that cars will not be waiting in line on any public right-of-way or otherwise create a hazard to vehicular movement.

G. Salvage Yards. Salvage yards shall be permitted in industrial districts, in accordance with a special use permit, provided no portion of the front yard is to be used for the conduct of business in any manner whatsoever except for parking of customer or employee vehicles. Any premises on which such activities are carried on shall be wholly enclosed within a building or by a wooden or masonry fence or wall not less than six (6) feet in height and in which any openings or cracks are less than fifteen (15) percent of the total fence area.

H. Trade Services, Clothes, Bakeries, Cleaning/Dyeing, Lumber Yards, Greenhouses. No heating plant or ventilating flue in connection with any such commercial operations shall be within fifty (50) feet of any "R" district.

I. Utility Scale Solar Energy Systems. Solar arrays installed as a utility scale solar energy system and as the principal use shall conform to all height, setback, and other requirements of the district. The following additional standards apply to all solar arrays as a principal use:

- (1) Prohibited. Concentrating solar power (CSP) systems shall be prohibited.
- (2) Site Plan. A site plan shall be submitted to the Zoning Official demonstrating compliance with:
  - a. Setback and height limitations as established in the underlying zoning district;
  - b. Applicable zoning district requirements;
  - c. Applicable solar requirements per this section.
- (3) Compliance. Solar arrays installed as utility-scale solar energy system installations shall comply with applicable local, state, and federal regulations;
- (4) Installation. System shall be installed according to manufacturer's recommendations and industry best practices;
- (5) Solar Glare. All solar arrays shall incorporate antiglare measures into the system or installation shall be placed in areas so that the solar glare shall not be directed onto residential properties or public rights-of-way;
- (6) Solar Design. The design of the solar panel arrays shall use materials, colors, textures, screening, and landscaping similar to their background or the existing natural environment to the most reasonable extent possible without prohibiting the installation;
- (7) Fencing. A security fence must be installed along all exterior sides of the utility-scale solar array installation and be equipped with a minimum of one gate and locking mechanism on the primary access side. Security fences, gates, and warning signs must be maintained in good condition until the installation is dismantled and removed from the site according to the decommissioning plan as established in paragraph 9, below; and
- (8) Screening. The site shall be constructed with natural screening when abutting all public rights-of-way and residential properties.
- (9) Avoidance and Mitigation of Damages to Public Infrastructure.
  - a. Roads. Applicants shall identify all roads to be used for the purpose of transporting solar array components, substation parts, cement, and/or equipment for construction, operation or maintenance of the solar arrays and obtain applicable weight and size permits from the impacted road authority prior to construction.
  - b. Existing Road Conditions. Applicant shall conduct a preconstruction survey, in coordination with the impacted local road authority to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public facility. The applicant is responsible for on-going road maintenance

and dust control measures identified by the Marion County Road Department during all phases of construction.

c. Drainage System. The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation, or maintenance of the solar arrays.

d. Required Financial Security. The applicant shall be responsible for restoring or paying damages as agreed to by the applicable road authority sufficient to restore the roads and bridges to preconstruction conditions. Financial assurance mechanism(s) in the form of a performance bond and/or other security approved by the Marion County Attorney's Office shall be submitted covering one-hundred-thirty percent (130%) of the costs of all required improvements. This requirement may be waived or modified by the Board of Supervisors by recommendation from the Marion County Road Department.

(10) Decommissioning Plan.

a. The applicant shall submit a decommissioning plan signed by the party responsible for decommissioning and the landowner addressing the following with the permit application.

i. Defined conditions upon which decommissioning will be initiated (e.g. end of land lease, no power production for twelve (12) months, etc.)

ii. Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and foundations.

iii. Restoration of property to the condition prior to the development of the utility-scale solar panel array system.

iv. The timeframe for completion of decommissioning activities.

v. Description of any agreement (e.g. lease) with the landowner regarding decommissioning.

vi. The party currently responsible for decommissioning.

vii. Plans for updating this decommissioning plan.

J. Utility Scale Wind Energy Systems. Wind energy conversions systems (WCES) installed as a utility shall conform to the following:

(1) Site Plan A site plan shall be submitted and reviewed prior to approval of a WECS.

(2) Additional information. In addition to all submittal requirements of a site plan, the application for a WECS shall include the following information, supplied by the owner, operator, or contractor installing the structures: Plans and specifications from a registered professional engineer experienced in the design and/or analysis of wind towers. The plans and specifications shall include:

- a. Number and location of towers.
- b. Tower heights, and height from base to the highest point of the rotor.
- c. Types of tower structure.
- d. Types of materials.
- e. Specification for materials used for structural elements of the towers.
- f. Name of tower manufacturer.
- g. Soils investigation.

(3) Site and Structure Requirements.

a. Location relative to property lines and adjoining residences. All structures in a wind farm, including guy wire anchors shall meet the most restrictive of the following provisions

i. Setback All structures in a wind farm, including guy wire anchors, shall be setback at least one-and-one-half-(1 1/2) times the tower height from the property lines.

ii. Separation distances. All structures in a wind farm shall be separated from a residential structure on adjoining property by at least one-thousand-five hundred (1,500) feet.

iii. Setbacks from Public Road Right of Way, rail right of way and power lines one-and-one-half (1 1/2) times the tower height.

iv. Setbacks from all public conservation areas of two-thousand (2,000) acres or more TWO (2) miles; of all public ground of two-thousand (2,000) acres or less ONE (1) mile.

v. Setbacks from all Corporate limits of ONE (1) mile.

vi. Tower Setback, Freestanding Towers. Freestanding towers shall be located on the lot so that the distance from the base of the tower to any adjoining property line is a minimum of one-and-one-half (1 1/2) times of the proposed tower height.



Tower setback, guyed towers. Guy supported towers shall be located so that the distance from the base of the tower to any adjoining property line is a minimum of one-hundred-percent (100%) of the effective tower height from its base.

vii. Multiple Towers. Multiple towers shall be spaced apart by at least one-hundred-percent (100%) of the tower height.

(4) Compliance with FAA Regulations. Wind towers must comply with applicable Federal Aviation Administration regulations.

(5) Noise. Sound produced by any wind energy devices under normal operating conditions, as measured at the property line shall not produce sound at a level that would constitute a nuisance. Industry standards support that wind energy noise should not exceed 50dba at any adjacent residential structure.

(6) Lighting. No permanent lighting is allowed on towers except as required by the FCC or the FAA.

(7) Interference. Any signal interference complaints associated with wind farm towers or related equipment shall be addressed in accordance with FCC rules and procedures.

(8) Other Permits and Approvals. All necessary permits and approvals from the state utilities board and the Federal Energy Regulatory Commission shall be obtained.

(9) Avoidance and Mitigation of Damages to Public Infrastructure.

a. Roads. Applicants shall identify all roads to be used for the purpose of transporting wind tower components, substation parts, cement, and/or equipment for construction, operation or maintenance of the wind towers and obtain applicable weight and size permits from the impacted road authority prior to construction.

b. Existing Road Conditions. Applicant shall conduct a preconstruction survey, in coordination with the impacted local road authority to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public facility. The applicant is responsible for on-going road maintenance and dust control measures identified by the Marion County Road Department during all phases of construction.

c. Drainage System. The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation, or maintenance of the wind towers.

d. Required Financial Security. The applicant shall be responsible for restoring or paying damages as agreed to by the applicable road authority sufficient to restore the roads

and bridges to preconstruction conditions. Financial assurance mechanism(s) in the form of a performance bond and/or other security approved by the Marion County Attorney's Office shall be submitted covering one-hundred-thirty-percent (130%) the costs of all required improvements. This requirement may be waived or modified by the Board of Supervisors by recommendation from the Marion County Road Department.

(10) Decommissioning Plan.

a. The applicant shall submit a decommissioning plan signed by the party responsible for decommissioning and the landowner addressing the following with the permit application.

- i. Defined conditions upon which decommissioning will be initiated (e.g. end of land lease, no power production for twelve (12) months, etc.)
- ii. Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and foundations.
- iii. Restoration of property to the condition prior to the development of the WECS.
- iv. The timeframe for completion of decommissioning activities.
- v. Description of any agreement (e.g. lease) with the landowner regarding decommissioning.
- vi. The party currently responsible for decommissioning.
- vii. Plans for updating this decommissioning plan.

K. Microwave, Radio, Television and Cellular Telephone Communication Towers but not Utility Poles. All towers must have a fall zone. The minimum distance from the base of any new ground mounted communication tower to public right-of-way or any property line shall be: 1) A distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining property line. 2) A distance equal to at least one hundred (100) feet or one hundred percent (100%) of the height the tower, whichever is greater, from any residential zoned district or residential use property line.

L. Small Wireless Facility Utility Pole Height Limitations. New, replacement, or modified utility pole or wireless support structure shall not exceed the greater of ten feet in height above the tallest utility pole existing, located within five hundred (500) feet of the new, replacement, or modified utility pole, or forty (40) feet in height above ground level.

M. Permitted uses with restrictions shall not be permitted to be established or maintained in any industrial district which by reason of its nature or manner of operation is or may become hazardous, noxious, or

offensive owing to the emission of odor, dust, smoke cinders, gas, fumes, noise, vibrations, refuse matter or water-carried waste.

N. Permitted uses with restrictions shall demonstrate said use will not have any detrimental impact on existing neighboring uses due to traffic congestion or parking needs.

4. Special Use Permits. Principal permitted uses designed “SUP” in Subsection 2 of this section shall be permitted only upon approval of a Special Use Permit by the Board of Adjustment in accordance with Section 53.38 of this chapter in addition to conformance with all appropriate restrictions outlined Subsection 3 of this section.

5. Permitted Accessory Uses. Uses not permitted as a principal permitted use for that zoning district shall not be permitted as an accessory use except as specifically permitted herein. The following accessory uses are permitted in industrial zoning districts:

A. Customary accessory uses and structures incidental to permitted principal uses.

B. No more than three (3) shipping containers are allowed on parcels of ten (10) acres or less and no more than five storage containers on parcels over ten (10) acres.

C. Temporary buildings, including mobile homes or trailers, for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work. Temporary buildings or dwellings shall not be permitted for a period longer than one year unless approved in writing by the Zoning Official.

D. Private Solar Energy Systems.

(1) Ground-Mounted Solar Array. Ground-mounted solar array will be:

- a. Located in the side or rear yard.
- b. Set back from lot lines as if the arrays were a detached accessory structure.
- c. Sized as if the arrays were a detached accessory structure.
- d. Screened from adjacent residential properties.

(2) Building-Mounted Solar Array. Building-mounted solar array shall be:

- a. Mounted on a principal building or accessory structure.
- b. Mounted in a way that does not extend more than twelve (12) inches above or beyond the surface to which it is mounted.

E. Small Wind Energy Conversion System (SWECS) are a permitted accessory use subject to the requirements set forth in this subsection:

(1) SWECS Height. SWECS structure height shall not exceed one-hundred-twenty-five (125) feet.

(2) Setbacks. The base of the SWECS shall be set back from all lot lines by a distance at least equal to one and a half times the height of the system.

(3) Clearance. Rotor blades on SWECS must maintain at least twenty-four (24) feet of clearance between their lowest point and the ground.

(4) Compliance with FAA Regulations. SWECS must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.

(5) Appearance. Towers and rotor blades for small wind energy systems shall maintain such finish or be painted in such manner as to conform the tower color and appearance to the surrounding environment to reduce visual obtrusiveness. No such tower shall have any signage, writing, or pictures that may be construed as advertising placed on it at any time. In addition, no flags, streamers, or decorative items shall be attached to a small wind energy system tower or turbine.

(6) Removal of Nonfunctional or Abandoned SWECS. Any small wind energy system which is nonfunctional or abandoned for a continuous period of six (6) months shall be repaired and placed back in operation by the owner or operated, or else the same shall be removed.

E. No more than one (1) single family dwelling per parcel provided said dwelling is occupied by a night watchman or the owner of the industrial enterprise.

F. Beekeeping and apiaries; up to a maximum of four (4) hives per acre and provided all hives are set back a minimum of twenty-five (25) feet from property lines.

6. Site Development Regulations. Dimensional requirements for industrial districts are as follows:

<b>BULK REGULATIONS</b>		
<b>Regulator</b>	<b>M-1</b>	<b>M-2</b>
<i>Minimum Lot Area</i>	1 acre	1 acre
<i>Minimum Lot Width</i>	None	None
<i>Minimum Front Yard Depth</i>	50	50
<i>Minimum Side Yard Depth</i>		
Adjacent to "A" District	75	75
Adjacent to "R" District	100	100
Adjacent to "C" District	10	10
Adjacent to "M" District	10	10
Accessory Structures	4	4
<i>Minimum Rear Yard Depth</i>	40 <sup>1,2</sup>	50 <sup>1,2</sup>
Accessory Structures	4	4

<i>Maximum Height (in feet)</i>		
Principal structures	50	None
Accessory structures	25	25
<i>Maximum Number of Stories</i>		
Principal structures	3	None
Accessory structures	2	2
<p>Key: - = not applicable</p> <p>1. Microwave, radio, television and cellular telephone communication towers may exceed the maximum height restrictions under an approved special use permit and provided all fall zone requirements are met.</p> <p>2. No rear yard required where the rear of the property adjoins a railroad right-of-way.</p>		

7. Additional Requirements.

A. Outdoor Storage. All permitted uses specified in Subsection 2 shall be conducted wholly within a complete enclosed building except for parking, loading, and unloading facilities or outdoor storage areas. Outdoor storage shall be permitted only in locations designated for such use on an approved Site Plan. Outdoor storage shall be effectively screened from the public right-of-way and adjacent residential or commercial districts by continuous evergreen landscaping or opaque fence.

B. Uses Not Permitted. No use shall be permitted to be established or maintained which by reason of its nature or manner of operation is or may become hazardous, noxious, or offensive owing to the emission of odor, dust, smoke, cinders, gas fumes, noise, vibrations, refuse matter or water-carried waste.

C. IDNR Compliance. All facilities required for the discharge, collection, and treatment of liquid, solid or gaseous wastes shall be designed, constructed and operated in accordance with the regulations of the Iowa Department of Natural Resources (IDNR).

D. Foundations. A permanent foundation is required for all principal buildings.

E. Land Division and Subdivision. No parcel of land, or residual parcel of land, shall be created following adoption of the chapter by means of division, subdivision, adjustment or combination that does not meet the requirements of this Zoning Ordinance.

F. Existing Parcels. Any parcel of land created and recorded prior to adoption of this chapter without prior approval of the Zoning Official, or the Zoning Commission shall not be considered a buildable lot until a determination is made by the Zoning Official in accordance with Section 55.28 of this chapter.

G. Street Frontage. Street frontage to either a public or private street shall be provided as required by Section 55.12 of the chapter. Private ingress/egress easements or similar access easements shall not be accepted in

lieu of street frontage unless approved as part of a Plat of Subdivision for a larger development.

H. Off-street Parking. Off-street parking and loading shall be as required by Sections 55.20 and 55.21 of this chapter.

I. Signs. All signs shall be as permitted and limited by Sections 55.19 of this chapter.

J. Site Plans. A Site Plan shall be required for all uses except farms in accordance with Section 55.29 of this chapter.

K. Exceptions and Modifications. See Section 55.28 of this chapter.

**55.27 OVERLAY DISTRICT REGULATIONS (FP, AHL, RPZ).** Special and Overlay Districts provide for modified base districts that are adapted to the specific needs of different parts of Marion County. These overlay districts are designed to recognize those special conditions which require specific regulation. Overlay districts are used in combination with base districts to expand the base district regulations, such that all parcels, uses and structures shall conform to the overlay district regulations where appropriate in addition to the applicable base zoning district regulations.

1. FP Flood Plain Overlay Zoning District (FP).

A. The Flood Plain is designed as a zoning overlay to identify the general location of areas within the floodway and/or having special flood hazards. The flood plain includes the floodway, flood hazard areas and the U.S. Army Corps of Engineers Flowage Easement area, whether or said Flood Plain Zone appears on the Official Zoning Map.

B. Additional regulations are imposed upon properties within the Flood Plain overlay district for the protection of life and property from losses and hazards caused by the occupancy and use of the floodplain by buildings, structures or activities that may increase the effects of flooding.

C. Marion County has adopted the regulations and flood maps of the Federal Emergency Management Agency (FEMA) in accordance with the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973. The Flood Insurance Study and Flood Insurance Rate Maps for Marion County, Iowa, and the FEMA regulations are included in Chapter 61 of this Code of Ordinances.

D. No structure or land shall be used, and no structure or wastewater treatment facility (including septic systems) shall be located, extended, converted or structurally altered in designated flood hazard areas without full compliance of the regulations of Chapter 61 of this Code of Ordinances, the Corps of Engineers, the Natural Resources Council, and FEMA.

E. If there are any discrepancies between the flood plain as depicted on the Official Zoning Map and the flood hazard areas as depicted on the Flood Insurance Rate Map, the Flood Insurance Rate Map shall govern.

F. If any discrepancies between the flood plain as depicted on Official Zoning Map and the flowage easement area as defined by U.S. Army Corps of Engineers, the flowage easement shall govern.

2. Airport Height Limitation Overlay Zoning District. (AHL)

- A. An Airport Height Limitation Zone (HLZ) is designed as a zoning overlay to identify the general location of areas having height restrictions based upon the proximity of the structure, tree or similar hazard to an official airport within Marion County whether or said Airport Height Limitation Zone appears on the Official Zoning Map.
- B. Official airports within Marion County are as follows:
- (1) Knoxville Municipal Airport as referenced in Chapter 62 of Marion County Code of Ordinances
  - (2) Pella Municipal Airport as referenced in Chapter 63 of Marion County Code of Ordinances
- C. No structure or land shall be used or located, extended, converted, or structurally altered in a designated airport height limitations overlay zone without full compliance of applicable chapter of Marion Code of Ordinances.
- D. Boundary lines for the airport height limitation zone for specific, official airports are indicated on the Official Zoning map for informational purposes only and are based on the following approved Airport Maps:
- (1) Knoxville Municipal Airport Height Zoning Map as referenced in Chapter 62 of this Code of Ordinances.
  - (2) Pella Municipal Airport FAR Part 77 Surface map as referenced in Chapter 63 of this Code of Ordinances.
- E. If there are any discrepancies between the airport height limitation overlay zone as depicted on the Official Zoning Map and any height restriction imposed by the approved Airport Map, the Airport Map shall govern.
- F. Approval for Building Permits within the AHL.
- (1) Zoning Official shall determine whether the Building Permit shall require approval of the appropriate airport authority. No Building Permits shall be issued without such approval if it is deemed necessary by the Zoning Official.
  - (2) The property owner, organization or applicant shall be responsible for obtaining approval from the appropriate airport authority if necessary.
- G. The property owner, organization or applicant shall be responsible for notifying the FAA and obtaining all necessary approvals and permits from the FAA prior to construction.

#### **55.28 SUPPLEMENTAL AND QUALIFYING REGULATIONS.**

1. Construction of Accessory Building Before Principal Building. No certificate for an accessory building shall be issued until and unless a certificate has been issued for the principal building in any residential, commercial, or industrial zoning district. An accessory building shall not be occupied prior to the beginning of construction on the principal building.
2. Replacement Dwellings – Temporary Construction Occupancy of Original Structure. Whenever a zoning permit is issued for a new dwelling in an agricultural or

residential zoning district to replace an existing dwelling, the existing dwelling may remain occupied during construction only if approved by the Zoning Official. Said approval shall limit the duration of such occupancy to no longer than eighteen (18) months after the date of the zoning permit. The original dwelling shall be removed and properly disposed of within twenty-four (24) months of the date the zoning permit unless said structure conforms to all zoning regulations and has been so approved by the Zoning Official.

- A. A parcel of land created by specific quantity description for agricultural purposes does not constitute a Lot of Record and shall not be considered a buildable lot for any use unless the Zoning Official determines said parcel meets all requirements for a lot, based upon the zoning of said parcel. The Zoning Official may require a survey to demonstrate the parcel meets all applicable requirements, including lot size, lot width, street frontage, and setbacks to all proposed and existing structures.
3. Water and Sewage. In all districts where a proposed building, structure or use will involve the use of sewage facilities, and public sewer and/or water is not available, the sewage disposal system and domestic water supply shall comply with all of the requirements and standards of the Marion County Board of Health.
4. Structure Permitted Above Height Limits. The building height limitations of the Zoning Ordinance shall be modified as follows:
  - A. Chimneys, cooling towers, elevator bulk-heads, fire towers, monuments, stage towers or scenery lofts, water towers, small wind energy conservation systems, churches, ornamental towers and spires, wireless communication towers, radio or television towers or necessary mechanical appurtenances may be erected to a height in accordance with existing or hereafter adopted regulations of Marion County; provided, however, no such structure shall be permitted to extend into the approach zones, clear zones or other restricted air space required for the protection of any public airport.
  - B. Public, semi-public or public service buildings, hospitals, sanitariums, or schools, when permitted in a district, may be erected to a height not exceeding sixty (60) feet, and churches and temples, when permitted in a district, may be erected to a height not exceeding seventy-five (75) feet, if the building is set back from each property line at least one (1) foot for each foot of additional building height above the height limit otherwise provided in the district in which the building is built.
5. Other Exceptions to Yard Requirements. Every part of a required yard shall be open to the sky unobstructed with any building or structure, except for a permitted accessory building in a rear yard, and except for ordinary projections not to exceed twenty-four (24) inches, including roof overhang.
6. Mixed Use Yard Requirements. In instances where buildings are erected containing two (2) or more uses housed vertically, the required side yards for the first-floor use shall control.
7. Utility Outlot Exception. In any zoning district, outlots designated for public utility purposes shall not be required to meet the minimum lot size and frontage requirements if said outlot has been approved on a Plat of Survey or Plat of Subdivision. However, all above grade structures and appurtenances shall meet all setback requirements of the applicable zoning district.



8. Accessory Mobile Home Dwelling Regulations. In the A-1 district, one (1) mobile home for use as a non-farm dwelling on a lot accessory to a principal farm dwelling having a permanent foundation may be permitted subject to approval by the Zoning Official. A permit for a temporary accessory mobile home dwelling for a period as determined by the Zoning Official shall be required under this section. The Zoning Official shall approve, conditionally approve, or deny such request for an accessory mobile home dwelling.

#### **55.29 SITE PLAN REGULATIONS.**

1. Intent. To assure that the design and location of residential, commercial, and industrial areas will be in conformance with the zoning standards of this chapter and are properly related to and in harmony with the existing and future residential, business, and industrial development of the County. In rezoning, variance, and conditional use issues it is essential that new or expanding developments meet the established minimum standards to protect the existing built environment; to ensure adequate provisions for public/private utilities, such as sewer, water, and roads; and promote the health, safety, and general welfare of the public.

2. Application.

A. A site plan and corresponding review are required whenever a person, firm, corporation, or other group wishes to develop or redevelop a tract of land in Marion County. The following types of development are exempt from the site plan review process in any zoning district:

- (1) Standalone single-family dwellings.
- (2) Standalone two-family dwellings.
- (3) Farms as outlined in 55.03

B. When a project is redevelopment, enlargement, or extension of the existing use or structure the review may be handled administratively through review by the Marion County Zoning Official, Marion County Road Department, and Marion County Environmental Health. The administrative review does not apply to the following situations:

- (1) If the new structure or addition is larger than ten-thousand (10,000) square feet,
- (2) If the development covers or will cover more than eighty-percent (80%) of the lot,
- (3) If the development includes the installation of utility scale solar or wind energy conversion system (WECS) or
- (4) If the Zoning Official chooses to waive the administrative review.

3. Procedure.

A. The site plan shall be filed with the Zoning Official, who will determine if all the information is provided and adequate for review. Once all the required information is received, the Zoning Official may forward copies of the site plan to the Marion County Road Department, Marion County Environmental Health, and other entities such as the Iowa DOT for review and comment.

B. The Zoning Official shall then forward a copy of the site plan to each member of the Zoning Commission. The Zoning Commission shall, after receiving a report from county staff, review the site plan for conformity with the regulations and standards contained herein and may confer with the developer on changes deemed advisable.

C. The Commission may, in its discretion, hold a public hearing on the site plan of the proposed development and prescribe the notice thereof and to whom such notice shall be given.

D. The Zoning Commission shall forward its recommendation, either for approval or disapproval of the site plan to the Board of Supervisors in a timely manner after the date of the submission of said site plan.

E. The Board of Supervisors shall, upon receipt of the recommendation of the Commission, either approve or disapprove the site plan for the proposed development.

F. No building permit for any structure within any district in which a site plan is required shall be issued until the site plan has been approved as provided herein.

G. Upon final action by the Board of Supervisions on any site plan, a copy of said site plan, with the action of the Board of Supervisions included, shall be filed with the Zoning Official.

H. If the Zoning Official finds that any construction or proposed construction or occupancy of a development on a tract of land for which a site plan has been approved will not substantially comply with the site plan as approved, the Zoning Official shall suspend all building permits for the development and order all construction stopped until such time as the owner of the project, or the successors in interest, shall have provided satisfactory proof that the site plan will be complied with. Any person aggrieved by any decision or action of the Zoning Official under this section may appeal such action or decision to the Board of Adjustment.

I. If the owner or developer of a tract of land for which a site plan has been approved determines that an extension of time is necessary or that a modification of the site plan would provide for a more appropriate or more practicable development of the site, the owner may apply for an amendment of the site plan. The Zoning Commission may grant an extension of time or a modification of a previously approved site plan if it determines such modification of the site plan provides for a more appropriate development of the site.

J. Expiration of Approval. All site plan approvals shall expire and terminate one year after the date of Board of Supervisors approval unless a building permit has been issued for the construction provided for in the site plan. The Board of Supervisors may, upon written request by the developer, extend the time for the issuance of a building permit for 180 days. In the event the permit for the construction provided for in a site plan expires or is canceled, then such site plan approval shall thereupon terminate.

K. Application Fee. A non-refundable Application Fee for the Site Plan shall be paid in full to the Zoning Official at the time the application is made,

with the amount of said fee in accordance with a Fee Schedule adopted from time to time by Resolution of the Board of Supervisors. Under no condition shall said fee or any part thereof be refunded for failure of said site plan to be approved.

4. Information on Site Plan.

A. The purpose of the Site Plan is to show the facts needed to enable the Zoning Commission to determine whether the proposed development complies with the standards of this Ordinance. Every site plan is expected to be prepared in a professional manner. The site plan shall contain such information and data as outlined herein:

- (1) Location map showing relationship to surrounding roads, streams, and public facilities.
- (2) Scale of Site Plan shall not be more than one (1) inch to equal fifty (50) feet. Scale shall be shown in legend.
- (3) Contact information for property owner. Contact information for any engineer, architect, developer, or other similar party involved in the project is also required.
- (4) Date, north marker, and name of proposed development.
- (5) Property boundary lines, dimensions, and total area of proposed development.
- (6) Existing buildings with size and square footage labels, utilities, railroads, loading facilities, rights-of-way, easements, existing road with labels, stands of trees, and drainage ways.
- (7) Location and name of adjoining subdivisions, subdivision lots therein, and names of the adjoining landowners.
- (8) Zoning district classification.
- (9) Type of water supply, sewage disposal, and storm sewer disposal with locations.
- (10) Proposed location of buildings, structures, parking lots, signage, lighting, etc.
- (11) Determination of flood elevations and relationship of proposed development to flood prone areas, if applicable.
- (12) Proof of Ground Water Discharge Permit application, if applicable. Proof of permit from the Iowa Department of Natural Resources is required before the building permit is issued.
- (13) To ensure compliance with drainage laws and soil erosion control standards, Marion County may require the property owner to hire a licensed professional civil engineer to develop a storm water management plan and prepare plans for the improvements necessary to implement said plan if any of the following apply or any combination of the following cause reason to deem said plan to be required for proposed buildings, parking areas, or other impervious surfaces that:

- a. Are larger than ten-thousand (10,000) square feet in size,
- b. Represent more than eighty-percent (80%) of the area of the lot,
- c. Do not discharge directly into a natural drainage way, or
- d. Discharge to a natural drainage way that is unstable or susceptible to erosion.

(14) Additional information as requested by the Zoning Official.

5. Site Plan Review Standards. The standards of the site design listed below are intended only as minimum requirements. The site plan review standards are intended to provide a consistent and uniform method of review of proposed development plans, to ensure full compliance with the standards contained in this chapter, other applicable chapters of this Zoning Ordinance, standard engineering practices, and County, State, and federal rules, and laws.

A. Adequacy of information. The site plan must include all required information in sufficiently complete and understandable form to provide an accurate description of the proposed uses(s) and structures.

B. Use of land. The site plan shall indicate all proposed uses are permitted in the zoning district in which the site is located.

C. Site design characteristics. All elements of site design must be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property, and the type and size of buildings. The site must be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted by this chapter. The site must be designed to conform to all provisions of this chapter. Redevelopment of existing sites must be brought into conformance with all site improvement provisions of this chapter which are relative to and proportionate to the extent of redevelopment, as determined by the Zoning Commission or Zoning Official.

D. Buildings. Principal building and accessory structures should be designed to meet setback standards, height and other dimensional standards, and be consistent with applicable building design standards. The proposed development shall be designed, and the buildings and improvements shall be located within the tract of the parcel in such manner as to not unduly diminish or impair the use and enjoyment of adjoining or surrounding property. The developer shall provide for such fences, landscaping and other improvements as are proper and necessary to buffer the proposed use from the existing or potential surrounding land uses.

E. Ingress and Egress. Internal roads and streets shall be adequately constructed to accommodate the traffic generated. Entrances and exits onto public streets shall not unduly increase congestion or traffic hazards on the public streets and the proposed site. All buildings or groups of buildings must be arranged so as to permit emergency vehicle access.

F. Drainage and Soil Erosion. The proposed development shall be designed with appropriate regard for topography, surface drainage, natural

drainage ways and streams, wooded areas and other naturally sensitive areas that lend themselves to protection from degradation. It shall be the property owners' responsibility to ensure there are no negative impacts to abutting or downstream properties due to development of the property, in accordance with Iowa drainage law. This includes impacts related to increased flows, longer duration of flows, erosion, and similar conditions.

G. Public Services. The proposed development shall be designed with adequate water supply and sewage treatment facilities and storm water drains and structures necessary to protect the public health and welfare by not overloading existing public utilities. Additionally, the proposed development shall be designed not to unduly increase danger of fire, explosion and other safety hazards on the general public and the persons residing or working in adjoining or surrounding property.

### **55.30 TEMPORARY SITE PLANS.**

1. Temporary Site Plans shall be submitted to the Zoning Official for administrative approval for small scale temporary enterprises, campgrounds, or other temporary uses when required by this Chapter or deemed appropriated by the Zoning Official. A non-refundable application fee for Temporary Site Plan permits shall be paid in full to the Zoning Official at the time the application is made, with the amount of said fee in accordance with a Fee Schedule adopted from time to time by Resolution of the Board of Supervisors.
2. Temporary site plans shall show the location of all existing buildings; existing parking stalls; proposed temporary tents, canopies, structures, and fences; proposed temporary parking; and other features as required by the Zoning Official.
3. Temporary site plans for small scale enterprises for public special events such as Knoxville Nationals or RAGBRAI shall be limited to a period of time starting no more than three (3) days prior to the start of the public special event and terminating no more than one (1) day after the end of said event.
4. Temporary site plans for short-term events not related to public special events, such as an outdoor sales event or a tent sale for a business enterprise, an outdoor banquet at a restaurant, or an outdoor concert at a bar; shall be permitted to continue for a period of no more than seven (7) consecutive days and shall not be permitted to occur more than two (2) times per year.
5. The property owner shall be responsible for obtaining and complying with all necessary federal, State, and local permits including, but not limited to liquor licensing.
6. A temporary site plan shall not be considered as approved by Marion County unless the Zoning Official has signed and issued a written temporary permit. The permit shall include the temporary site plan and shall limit the number of days the temporary enterprise is permitted to continue and may further stipulate other conditions such as hours of operation, number of campsites, distance to property line, or other such conditions deemed appropriate by the Zoning Official.
7. In certain cases, the Zoning Official may require the applicant to obtain a Special Use permit from the Board of Adjustment prior to approving a temporary site plan or issuing permit for same.

**55.31 APPLICATIONS FOR BUILDING PERMITS.** It is unlawful to do any excavating, erecting, construction, reconstruction, enlarging, altering, or moving of any building or structure until a Building Permit shall have been issued by the Zoning Official. It is also unlawful to change the use or occupancy of any building, structure, or land from one classification to another, or to change a nonconforming use without the issuance of a Building Permit.

1. Applications. Applications on approved forms shall be filed with the Zoning Official and shall be accompanied by plans in duplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon or to be changed in its use, in whole or in part, the exact location, size, and height of any building or structure to be erected or altered, the existing and intended use of each building or structure or part thereof, the number of families or housekeeping units the building is designed to accommodate and when no buildings are involved, the location of the present use and proposed use to be made of the lot, and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of the Zoning Ordinance.

A. One (1) copy of such plans shall be returned to the owner when such plans shall have been approved by the Zoning Official together with such Building Permit as may be granted.

B. All dimensions shown on these plans relating to the location and size of the lot to be built upon shall be based on an actual survey. The lot and the location for the building thereon shall be staked out on the ground before construction is started.

C. Evidence shall be submitted that any new proposed dwelling unit or occupied building has met the minimum requirements of the Marion County Board of Health with regard to sewage disposal systems and approval for the sewage disposal permit has been granted. This shall include any existing dwellings for which any additions to the number of bedrooms are proposed.

2. No Building Permit shall be issued for any new structure or any improvement to any existing structure without prior approval of the following:

A. A Site Plan in conformance with Section 55.29 where required.

B. An On-site Wastewater Treatment and Disposal System Permit in conformance with Chapter 44 where required.

3. It shall be the responsibility of the property owner to verify, or cause to be verified, that the staked location of the building, structure or fence meets all required setbacks and that the as-built location of said building meets said setbacks. Marion County shall not be responsible for verifying that setbacks are met.

4. Marion County does not provide building inspection services of any type in conjunction with the Building Permit. The property owner shall be responsible for obtaining all necessary or desired building inspections for items including but not limited to the inspection of footings, foundations, framing, electrical, plumbing, mechanical, decks, and fences. All properties are subject to any and all required inspections as outlined by the State of Iowa or any other applicable governing body.

5. Fees. A permit fee shall be charged for the issuance of a building permit for a principal use or structure and for an accessory use or structure. The amount of these

Building Permit fees shall be established from time to time by Resolution of the Marion County Board of Supervisors.

6. Time Limits. Building Permits issued in accordance with the provisions of this section shall be null and void at the end of six (6) months from the date of issuance if the construction, alteration or change of use is not commenced within a six-month period. Proposed construction or alteration must be completed within eighteen (18) months of the issuance of the building permit.

**55.32 ENFORCEMENT BY ZONING OFFICIAL.** A Zoning Official appointed by the Board of Supervisors shall administer and enforce the Zoning Ordinance. Said Zoning Official may be provided with the assistance of such other persons as the Board may direct.

**55.33 VIOLATIONS AND PENALTIES.**

1. Prevention of Violations. In case any building is, or is proposed to be, located, erected, constructed, reconstructed, altered, repaired, converted, maintained, or used, or any land is or is proposed to be used in violation of this chapter or any amendment or supplement thereto, the Board of Supervisors, the County Attorney of Marion County, the Zoning Official, or any adjacent or neighboring property owner who would be specifically damaged by such violation, in addition to other remedies provided by law, may institute an injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, restrain, correct, or abate such unlawful location, erection, construction, reconstruction, alternation, repair, conversion, maintenance, or use, to prevent the occupancy of said building or land, or to prevent any illegal act, conduct, business, or use in or about such premises, or to cause such buildings to be demolished or remodeled.

2. Violations. It shall be unlawful to locate, erect, construct, reconstruct, alter, repair, convert, use or maintain any building, land, or structure, or sign in violation of any regulation in, or any provisions of, this chapter, or any amendment or supplement thereto, lawfully adopted by the County Board of Supervisors; or to fail to comply with any reasonable requirement or condition imposed by the Board of Adjustment.

A. Notice. If the Zoning Official shall find that any of the provisions of the Zoning Ordinance are being violated, the Zoning Official or designee shall notify in writing the person responsible for such violation. The Zoning Official shall order discontinuance of illegal use of land, buildings, or structures, removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done, or shall take any other action authorized by the Zoning Ordinance to insure compliance with or to prevent violation of its provisions. The notice shall state the nature of the violation, order the action(s) necessary to correct it stating the nature of the violation, ordering the action necessary to correct it and providing a reasonable time limit for the satisfactory correction thereof.

B. A Notice of Violation may be served as a first attempt to gain compliance. If compliance is not met with the sending of a Notice of Violation then a Citation shall be served on the property owner. The offender shall be provided a reasonable time, not to exceed thirty (30) days in which to correct the violations.

C. A violation which occurs for a short period of time is observed having no other reasonable means for insuring compliance, may be served a citation immediately upon observation of a violation.

D. If the violation is not corrected, Marion County may seek such remedies, civil or criminal, as are authorized by law including, but not limited to, the provisions of Section 1.11 of this Code of Ordinances for County Infractions.

3. Penalties.

A. The Zoning Official or designee may assess the maximum civil penalty per day for each violation allowed upon each violation, as outlined in Section 1.11 of this Code of Ordinances for County Infractions.

B. If prosecution becomes necessary, it shall be administered under the provisions of Chapter 335, *Code of Iowa*, which states in part that the violation of any regulation, restriction or boundary adopted under said chapter or the occupancy or use of any structure erected, altered, or maintained in violation of said chapter shall constitute a misdemeanor. Such occupancy or use shall be deemed a continuing violation and may be the subject of repeated prosecutions if so continued.

4. Remedies.

A. If work is being done in violation of any provision of this ordinance and continues beyond the date of the notice and the work is not being done to correct a violation, an immediate stop-work order shall be issued by the Zoning Official. Such order shall be given to the owner of the property, his authorized agent, or the person or persons in charge of the activity on the property and shall be posted upon the property. The stop work order shall state the conditions under which work may be resumed.

B. Violations by an individual or property owner will prohibit any additional permits for that property or other properties to be issued unless said permits will remedy abatement of the violations. Stop work orders will be placed on any work on other property in which the violator is operating or owns.

C. If the Zoning Official determines that a violation is an immediate threat to public safety or welfare and the property owner has failed to take corrective action within the time period stated in the notice provided, Marion County may take such remedial action as is necessary to protect the public safety or welfare. Such remedial action may include entering the property where a violation is present, correcting the violation, and placing a lien on the property to secure payment and reimbursement of any and all expenses incurred by Marion County to correct such violation.

**55.34 BOARD OF ADJUSTMENT; APPOINTMENT AND TERMS; MEETINGS.** A Board of Adjustment is hereby created. Such Board of Adjustment shall consist of five (5) members appointed by the Board of Supervisors for staggered terms of five (5) years and vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The Board of Supervisors shall have power to remove any member of the Board of Adjustment for cause upon written charges and after public hearing. The Board of Adjustment shall organize and adopt rules in accordance with provisions of the Zoning Ordinance and the *Code of Iowa*. All meetings of the Board of Adjustment shall be held at the call of the Chair



and at such time and place within the County as the Board of Adjustment may determine. Such Chair, or in the Chair's absence, the acting chair, 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 complete records of its hearings and other official actions. Every rule, regulation, every amendment or repeal thereof and every order, requirement or decision of the Board of Adjustment shall immediately be filed in the office of the Board of Adjustment and shall be a public record. The presence of three (3) members shall be necessary to constitute a quorum.

#### **55.35 APPLICATIONS; APPEALS AND HEARINGS.**

1. Applications; When and By Whom Taken. An application, in cases in which the Board of Adjustment has original jurisdiction under the provisions of the Zoning Ordinance, may be taken by any property owner, including a tenant, or by a governmental officer, department, board or bureau. Such application shall be filed with the Zoning Official who shall transmit same to the Board of Adjustment.
2. Appeals; When and By Whom Taken. An appeal to the Board of Adjustment may be taken by any person aggrieved or by any officer of the County affected by any decision of the Zoning Official. Such appeal shall be taken within twenty (20) days after the decision by filing with the Zoning Official and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. The Zoning Official shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.
3. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Official certifies to the Board of Adjustment after the notice of appeal shall have been filed with the Zoning Official that by reason of facts stated in the certificate, a stay would, in the opinion of the Zoning Official, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise 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 Official and on due cause shown.
4. Hearings. The Board of Adjustment shall fix a reasonable time for the hearing on the appeal, give ten (10) days' notice by letter to all owners of property located within five hundred (500) feet two-hundred (200) feet for property zoned "R") in all directions from the property for which the variation is being sought, and decide same within a reasonable time after it is submitted. If the applicant is the only adjacent land owner within five-hundred (500) feet or two-hundred (200) feet of the property for which the variance is being sought, notice must be sent to the next adjacent landowners. Each application shall be accompanied with the amount of said fee in accordance with a fee schedule adopted from time to time by resolution of the Board of Supervisors. At the hearing, any party may appear in person or by agent, or by attorney.

#### **55.36 POWERS AND DUTIES OF BOARD OF ADJUSTMENT.** The Board of Adjustment shall have the following powers and it shall be its duty:

1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Official in the enforcement of the Zoning Ordinance or of any supplement or amendment.

2. To hear and permit special exceptions to the terms of the Zoning Ordinance upon which the Board of Adjustment is required to pass under the Zoning Ordinance.
3. To authorize, upon appeal, in specific cases, such variance from the terms of the Zoning Ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Zoning Ordinance will result in unnecessary hardship, and so that the spirit of the Zoning Ordinance shall be observed and substantial justice done.

**55.37 SPECIAL USE PERMITS.** The Board of Adjustment shall review, before issuing any special use permit, the conformity of the proposed building or use with the standards of the Comprehensive Plan and recognized principals of land use planning. The Board of Adjustment may approve the special use permit as submitted, or before approval, may require that the applicant modify, alter, adjust, or amend the proposal as the Board of Adjustment deems necessary to preserve the intent and purpose of this chapter in order to promote the health, safety and general welfare of the community.

1. Applications for Special Use Permits. Applications for a special use permit under the terms of this section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan in accordance with Section 55.29. A non-refundable application fee for a Special Use Permit shall be paid in full to the Zoning Official at the time the application is made, with the amount of said fee in accordance with a Fee Schedule adopted from time to time by Resolution of the Board of Supervisors.

2. In instances where the proposed use is an airport or landing field, the permit application shall include the Airport Layout Plan (ALP) prepared by a registered Professional Engineer and as approved by the Federal Aviation Administration (FAA). The ALP shall include an Airport Surface map and establishing airport zones that potentially impact surrounding parcels and property, including but not limited to:

- A. Larger Than Utility Runway Non-precision Instrument Approach Zone.
- B. Transitional Zones.
- C. Horizontal Zones.
- D. Runway Protection Zones.

- (1) If Runway Protection Zones are to be established as an RPZ Runway Protection Zoning District.

- 2A. In instances where the proposed use is a private airstrip, the permit application shall include the Airport Layout Plan (ALP) prepared by a Registered Professional Engineer and shall include a professional determination regarding the need for approval by the Federal Aviation Administration (FAA). The ALP shall include an Airport Surface map and including but not limited to:

- A. The ALP shall include an Airport Surface map illustrating the Runway Protection Zones at both ends of the runway.
- B. The owner of the private airstrip shall own or have a legally recorded easement covering the airstrip, runway protection zone, and all facilities as shown on the approved site plan.

- C. For the purposes of this Chapter, the leasing or selling of hanger space or runway use shall not be permitted in any private airstrip.
3. Before issuance of a special use permit for any of the above buildings or uses, the Board of Adjustment shall review the conformity of the proposal and site plan with the standards of the Comprehensive Land Use Plan, and with recognized principles of engineering design, land use planning and landscape architecture. The Board may approve or disapprove the special permit as submitted or, before approval, may require that the applicant modify, alter, or amend the proposal as the Board deems necessary to the end that it preserve the intent and purpose of the Zoning Ordinance to promote public health, safety, and the general welfare.
4. In its determination upon the particular use at the location requested, the Board of Adjustment shall consider all of the following conditions:
- A. That the proposed location, design, construction and operation of the particular use adequately safe-guards the health, safety and general welfare of persons residing or working in adjoining or surrounding property;
  - B. That such use shall not impair an adequate supply of light and air to surrounding property;
  - C. That such use shall not unduly increase congestion in the streets or public danger of fire and safety;
  - D. That such use shall not diminish or impair established property values in adjoining or surrounding property; and
  - E. That such uses shall be in accord with the intent, purpose and spirit of the Zoning Ordinance and the Comprehensive Land Use Plan of the County.
5. Following approval of the Special Use Permit, the applicant shall submit a Site Plan in conformance with Section 55.29 of this chapter if applicable. Granting of a Special Use Permit shall not subrogate approval of a Site Plan by the Zoning Commission.
6. In the event a special use permit is granted under the terms of this section, any change thereafter in the approved use or site plan shall be resubmitted and considered in the same manner as the original proposal.

#### **55.38 VARIANCES.**

1. No variation in the application of the provisions of the Zoning Ordinance shall be made unless and until the Board of Adjustment shall be satisfied that granting the variation will not:
- A. Merely serve as a convenience to the applicant and is not necessary to alleviate demonstrable hardship or difficulty so great as to warrant the variation.
  - B. Impair the general purpose and intent of the regulations and provisions contained in the Zoning Ordinance.
  - C. Impair an adequate supply of light and air to adjacent properties.
  - D. Increase the hazard from fire and other danger to said property.
  - E. Diminish the value of land and buildings in the County.

- F. Increase congestion and traffic hazards on public roads.
  - G. Otherwise impair the public health, safety, and general welfare of the inhabitants of the County.
2. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with the Zoning Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of the Zoning Ordinance and punishable under Section 55.33 of this chapter.
  3. The concurring vote of three (3) members of the Board of Adjustment shall be necessary to reverse any requirement, decision, order, or determination of the Zoning Official or to decide in favor of the applicant in regard to any matter upon which the Board is authorized by the Zoning Ordinance to render a decision.
  4. It is not the intention to grant to the Board of Adjustment the power or authority to alter or change the Zoning Ordinance or the District Maps. Such power and authority rests solely with the Board of Supervisors, in the manner provided in Section 55.41.
  5. A non-refundable application fee for a Variance shall be paid in full to the Zoning Official at the time the application is made, with the amount of said fee in accordance with a Fee Schedule adopted from time to time by Resolution of the Board of Supervisors.

#### **55.39 DECISIONS OF THE BOARD OF ADJUSTMENT.**

1. In exercising the above mentioned powers, the Board may, in conformity with the provisions of law, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determinations as it believes proper, and to that end shall have all the powers of the Zoning Official. The concurring vote of three of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Official, or to decide in favor of the applicant on any matter upon which it is required to pass under the Zoning Ordinance, provided, however, that the action of the Board shall not become effective until after the resolution of the Board, setting forth the full reason for its decision and the vote of each member participating therein, has been filed. Such resolution, immediately following the Board's final decision, shall be filed in the office of the Board, and shall be open to public inspection.
2. Every variation and exception granted or denied by the Board shall be supported by a written testimony or evidence submitted in connection therewith.
3. Any taxpayer, or any officer, department, board or bureau of Marion County, or any person or persons jointly or severally aggrieved by any decision of the Board may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board.
4. Whenever any application for a special use permit, variance, or appeal of any order, requirement, decision, or determination made by the Zoning Official shall have been denied by the Board of Adjustment, then no new application covering the same matter shall be filed with, or considered by the Board of Adjustment unless new

evidence has been introduced until one (1) year shall have elapsed from the date of filing of the first application.

**55.40 DISTRICT CHANGES AND AMENDMENTS.** Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Board of Supervisors may on its own action or by petition, after recommendation by the Zoning Commission and public hearing as specified herein, amend, supplement or change the regulations, district boundaries, or classification of property, now or hereafter established by the Zoning Ordinance or amendments hereof. The procedure for such amendment, supplement or change is as follows:

1. Applications for any change of district boundaries or classification of property as shown on the Official Zoning Map shall be submitted to the Zoning Official at their public office upon such forms and shall be accompanied by such data and information as may be prescribed for that purpose by the Zoning Commission so as to assure the fullest practicable presentation of facts for the permanent record. Each such application shall be verified by at least one of the owners of all of the property within the area proposed to be reclassified, attesting to the truth and correctness of all facts and information presented with the application. A non-refundable application fee for such request for rezoning shall be paid in full to the Zoning Official at the time the application is made, with the amount of said fee in accordance with a Fee Schedule adopted from time to time by Resolution of the Board of Supervisors. Applications for amendments of the text or requirements of the Zoning Ordinance shall likewise be submitted to the Zoning Official on forms prescribed by it and shall be verified by the person or persons preparing said amendment. The Zoning Official shall forward a copy of all such applications to each member of the Zoning Commission.
2. Before submitting its recommendations on a proposed amendment to the Board of Supervisors, the Zoning Commission shall hold at least one (1) public hearing thereon, notice of which shall be given to all property owners within five-hundred (500) feet of the property concerned (or two-hundred (200) feet if currently zoned "R"), by placing said notice in the United States Mail at least ten (10) days before date of such hearing. If the applicant is the only adjacent land owner within five-hundred (500) feet or two-hundred (200) feet, as applicable, of the property for which the amendment is being sought, notice must be sent to the next adjacent land owners. The notice shall state the place and time at which the proposed amendment to the Zoning Ordinance, including text and maps, may be examined. When the Zoning Commission has completed its recommendations on a proposed amendment, it shall certify the same to the Board of Supervisors.
3. After receiving the certification of said recommendations on the proposed amendment from the Zoning Commission and before adoption of such amendment, the Board of Supervisors shall hold a public hearing thereon, the notice of time and place of which shall be published not less than four (4) days or more than twenty (20) days by one publication in a newspaper of general circulation in the County. In addition, notices shall be sent by the United States Mail as specified in Subsection 2 above.
4. After receiving certification of the recommendations on the proposed amendment from the Zoning Commission and after holding the public hearing provided for, the Board of Supervisors shall consider such recommendations and vote upon the adoption of the proposed amendment. The proposed amendment shall become effective by a favorable vote of a majority of all of the members of the Board of Supervisors.

5. Any person or persons desiring a change in the zoning classification of property shall file with the application for such change a statement giving the names and addresses of the owners of all properties lying within 500 feet or 200 feet, as applicable, of any part of the property proposed to be changed.

6. Failure to notify as provided in Subsections 2 and 3 above shall not invalidate any recommendation of the Zoning Commission provided such failure was not intentional, and the omission of the name of any owner of property who may, in the opinion of the Zoning Commission be affected by such amendment or change, shall not invalidate any recommendation adopted hereunder; it being the intention of this subsection to provide, so far as may be, due notice to the persons substantially interested in the proposed change that an application is pending before the Zoning Commission proposing to make a change in the Zoning Map or the regulations set forth in the Zoning Ordinance.

7. Each application for an amendment, except those initiated by the Zoning Commission, shall be accompanied by a payment of a fee in an amount established from time to time by the Board of Supervisors to cover the approximate costs of this procedure and under no conditions shall said sum or any part thereof be refunded for failure of said amendment to be enacted into law.

8. Whenever any petition for an amendment, supplement or change of the zoning districts or regulations herein contained or subsequently established shall have been denied by the Board of Supervisors, then no new petition covering the same property and/or additional property shall be filed with or considered by the Board of Supervisors until one (1) year shall have elapsed from the date of the filing of the first petition.

<b>EDITOR'S NOTE</b>			
The following ordinances have been adopted amending the Official Zoning Map described in Section 55.05 of this chapter and have not been included as a part of this Code of Ordinances but have been specifically saved from repeal and are in full force and effect.			
<b>ORDINANCE NO.</b>	<b>DATE ADOPTED</b>	<b>ORDINANCE NO.</b>	<b>DATE ADOPTED</b>
All Zoning Map Amendments adopted prior to the effective date of this Zoning Ordinance.			
2010-12	6-28-10	2021-01	2-9-21
2010-13	10-11-10	2021-02	3-9-21
2010-14	11-8-10	2021-03	4-13-21
2010-15	11-8-10	2021-04	11-9-21
2011-24	10-24-11	2021-05	11-9-21
2011-25	10-24-11	2021-06	12-14-21
2012-28	10-8-12	2022-01	4-26-22
2012-29	10-8-12	2022-03	11-22-22
2012-30 Updated Official Zoning Map	11-13-12		
2013-32	3-12-13		
2013-33	3-12-13		
2013-34	7-23-13		
2013-35	10-8-13		
2013-36	10-8-13		
2013-37	11-12-13		
2014-39	5-27-14		
2014-40	11-25-14		
2015-41	3-10-15		
2015-42	4-14-15		
2015-43	4-28-15		
2015-44	10-13-15		
2015/45	11-10-15		
2016-46	6-28-16		
2016-47	7-12-16		
2016-48	9-13-16		
2016-49	9-13-16		
2017-51	5-23-17		
2017-52	5-23-17		
Corrective 2017-52	6-27-17		
2017-54	10-24-17		
2018-56	2-13-18		
2018-57	4-24-18		
2018-60	12-26-18		
2018-61	2-12-19		
2019-62	7-9-19		
2019-63	9-10-19		
2019-64	10-8-19		
2020-65	4-28-20		
2020-66	10-13-20		
2020-67	11-24-20		
2020-69	12-22-20		

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