

**BUCHANAN COUNTY ZONING CODE OF ORDINANCES  
2008**

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Chapter 50 – Zoning

# TITLE VI – PROPERTY AND LAND USE

## CHAPTER 50

### ZONING

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**50.01 PURPOSE.** This ordinance is designed to allow for the orderly growth of the rural, unincorporated areas of Buchanan County for the general good of the citizens of this county, while maintaining the natural resources of the county and coordinating residential, commercial, industrial and agricultural uses throughout the county. This ordinance is designed to implement the goals and objectives of the residents of Buchanan County, as adopted in the Comprehensive Plan. This ordinance is adopted to regulate the use of land and structures, the height and size of buildings and their location, the size of lots, yards and other open spaces in the rural, unincorporated areas of Buchanan County.

**50.02 TITLE.** This ordinance shall be known as the “Buchanan County, Iowa, Zoning Ordinance.”

**50.03 FARM EXEMPTION.** Except to the extent required to implement Section 335A.27, Code of Iowa, this ordinance shall not apply to land, farm houses, farm buildings or other structures which are primarily adopted by reason of nature and area, for use for agricultural purposes. However, this ordinance shall apply to any structure, building, dam, obstruction, deposit or excavation in or on the flood plains of rivers in Buchanan County, Iowa.

**50.04 OPEN MEETINGS.** The Buchanan County Zoning Commission and the Buchanan County Zoning Board of Adjustment shall be subject to all the requirements of Chapter 21, Code of Iowa, which deals with official meetings open to the public.

**50.05 ZONING DISTRICTS.** In order to classify and regulate the location of trades and industries, and the location of buildings designed for specified uses, to regulate the height and bulk of buildings hereafter erected or altered, to regulate the intensity of the use of lot areas and to regulate and determine the areas of yards, courts, and other open spaces within and surrounding such buildings, the unincorporated area of Buchanan County, Iowa, is hereby divided into nine districts, whose use, height and area regulations are uniform within each of the following districts:

“A-1” Prime Agricultural

“A-2” Agricultural

“R-1” Residential

“R-2” Residential

- “R-3” Residential
- “C” Commercial
- “C-M” Commercial Manufacturing
- “I” Industrial
- “F-P” Flood Plain

The boundaries of these districts are indicated upon the Official Zoning Maps of Buchanan County, Iowa. The Official Zoning Maps are made a part of this ordinance by reference and shall be on file and open to the public in the office of the Buchanan County Zoning Administrator, who shall be appointed by the Board of Supervisors to administer and enforce the provisions of this ordinance. Where uncertainty exists with respect to the boundaries of the various districts as shown on the Official Zoning Maps, the following rules shall apply:

1. Boundaries indicated as approximately following the centerline of roads, lot lines, rivers, waterways or railroads shall be construed to follow such centerlines, and in the event of a change in the river, stream, creek or other waterway, shall be construed to be the new centerline of the waterway.
2. Boundaries indicated as approximately following section lines, quarter section lines, quarter-quarter section lines, shall be construed as following such lines.

The Board of Supervisors may amend, supplement or change the boundaries or regulations herein and subsequently established. However, no such change or amendment shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least four (4) days notice of the time and place of such hearing shall be published in a paper of general circulation in Buchanan County. As part of any amendment changing land from one zoning district to another zoning district, the Board of Supervisors may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property owner before the public hearing or the adjournment of the hearing. The conditions must be reasonable and satisfy public needs which are directly caused by the requested change. In case, however, of a protest against the change signed by the owners of twenty (20) percent or more either of the area included in the proposed change, or the area immediately adjacent to the proposed change and within five hundred (500) feet of the boundaries of the proposed change, the amendment shall not become effective except by the favorable vote of all members of the Board of Supervisors.

Prior to any action by the Board of Supervisors, a rezoning petition requesting such amendment or change to the boundaries or ordinance shall be presented to the Zoning Commission for review. Said rezoning petition shall contain the legal description of the property involved, the existing and requested zoning classifications, and shall also be signed by the owners of at least fifty percent of the property involved in the request.

Should a rezoning petition be denied by the Board of Supervisors, no new petition covering the same property shall be considered by the Board of Supervisors for a period of six months from the date of the initial petition filing.

## 50.06 DEFINITIONS.

1. Accessory Structure: A structure located on the same lot with, and subordinate to, the principal structure.
2. Accessory Use: A use of a building or lot clearly incidental to the principal use of said building or lot.
3. Agriculture: The science and art of farming; the work of cultivating the soil, producing crops and raising livestock.
4. Airport: A place where aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair, accommodations for passengers and offices.
5. Alley: A narrow public street normally located behind structures facing opposite roadways and meant as secondary access to said structures, or the property upon which the structures are located.
6. Alteration: Any physical change, or addition to structures or land.
7. Apartment House: A building in which the rooms are arranged in sets of one or more for the purpose of human habitation and normally for rent or lease.
8. Appeals: A procedure granted to the Board of Adjustment allowing any person aggrieved by a decision of the Zoning Administrator to have said decision reviewed.
9. Basement: A building part with at least one-half of its height located below the surrounding ground level, and without a ground level entrance.
10. Billboard: All structures that are used for display of signs advertising a message, a business or attraction which is not carried on upon the premises where the structure is located, and larger than one hundred square feet.
11. Buildable Area: That area of a lot remaining after the minimum yard requirements have been met.
12. Building: A structure, of more or less permanent construction, having a roof and intended to be used for sheltering people, animals, property or business activity.
13. Building Height: The vertical distance measured from the average natural grade of the surrounding terrain to the top of the structure.
14. Bulk Stations: Distribution stations used for the storage and wholesale distribution of flammable liquids or liquefied petroleum products with a total capacity of twelve thousand gallons or more.
15. Bulletin Board: A structure upon which notices, bulletins and displays are temporarily placed.
16. Business: A retail or wholesale operation involving the exchange of goods or services, and the sale or storage of such goods.

17. Business Permit: A secondary, commercial or commercial-manufacturing use conducted entirely within an accessory building by a member of the family residing at this location, and with no more than two, non-resident assistants, and where said business is not a nuisance by virtue of excessive noise, odors, electrical disturbances or traffic generation, and allowed by an annual permit from the Board of Supervisors.
18. Church: A building for public religious worship.
19. Clinic: A structure commonly used for outpatient medical care.
20. Crop Suitability Rating: An index for ranking the productivity of soils and their suitability for crop production in Iowa, commonly called "CSR."
21. Day Nursery: Any institution, establishment or place which provides supplemental parental care and/or pre-school education for six or more children for pay.
22. Development: Any man-made change altering the existing use of a parcel of land.
23. District: A geographic area of Buchanan County within which the use of structures and premises, including heights, yards, etc., are regulated by this ordinance.
24. Dump: An area used for the disposal of non-polluting material, such as rocks, trees, brush or cement.
25. Dwelling: A building, or a portion thereof, used for residential purposes.
26. Dwelling, single family: A dwelling occupied by one family only.
27. Dwelling, two family: A dwelling occupied by two families, with separate housekeeping facilities for each family.
28. Dwelling, multiple: A dwelling designed for three or more families, with separate housekeeping facilities for each family.
29. Family: 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 more than four persons.
30. Farm: An area comprising thirty-five (35) or more contiguous acres which is used for agricultural purposes and the growing and production of agricultural products thereon, their storage on the area, or for the raising thereon of livestock. Division of said area by roadways does not render the property non-contiguous.
31. Farmstead: The buildings, including the dwelling unit, and adjacent service area of the farm.
32. Feed Lot: A parcel of land on which the principal use is the confinement of livestock, primarily for the purposes of concentrated feeding and growth prior to slaughter, or the sale of products derived from such animals.

33. Feed Lot, Commercial: A feet lot in which more than one thousand hogs, five hundred cattle or sheep, or ten thousand fowl are on feed at any one time.
34. Flood: A general and temporary condition of partial or complete inundation of normally dry land areas resulting from an overflow of streams or rivers, or from the unusual and rapid runoff of surface waters from any source.
35. Flood Plain: That area, normally adjacent to rivers or streams, which have been or may be hereafter covered by floodwater.
36. Floor Area: The total sum of all floors of a building, normally measured in square feet.
37. Floor Area Ratio: The total floor area of all buildings on a lot divided by the lot area on which the building or buildings are located.
38. Frontage: All that property between a structure and the road that it faces.
39. Garage, Private: An enclosed structure intended for the parking of the motor vehicles.
40. Garage, Public: Any building used for equipping, refueling, servicing, repairing or storing motor vehicles.
41. Grade: The average level of the finished surface of the ground adjacent to the exterior walls of a structure.
42. Grain Elevator: A structure or group of related structures whose primary purpose is the receiving, selling, processing, storage, drying or transporting of grain.
43. Home Occupation: A secondary use carried on entirely within the residence where there is no evidence of such occupation being conducted on the premises by virtue of large displays, or excessive noise, odors, electrical disturbances or traffic generation, and with no more than one non-resident assistant, and where no more than one-half of the floor area of any one floor is devoted to such use, and allowed by an annual permit from the Buchanan County Board of Supervisors.
44. Hotel: A building in which lodging is offered and provided to the public for compensation, and normally includes an eating room and lounge for the guests.
45. House, Boarding or Lodging: A dwelling in which rooms are offered and let to the public for compensation for overnight stay.
46. Junk or Salvage: Old, used or scrap metals, rags, batteries, paper, trash, tires and other rubber debris, inoperable appliances, discarded furniture, used building materials, or similar materials. This definition shall include dismantled or wrecked vehicles, vehicular parts and inoperable farm equipment and machinery.
47. Junk or Salvage Yard: Any area not completely enclosed within a building where waste; trash; scrap metal, plastic or wood; rags; used paper, bottles, appliances, furniture, equipment and building material are disassembled, kept, stored or handled. The presence of three (3) or more inoperable or unlicensed vehicles, or three (3) or more inoperable, used machinery and farm implements

located on any tract of land shall constitute prima facie evidence of a junk or salvage yard.

48. Kennel: An area upon which four or more dogs, six months of age or older, are kept for the purposes of breeding, grooming, boarding or care.
49. Lot: An area of land, less than thirty-five (35) acres, with fixed boundaries, used or intended to be used for one structure and its accessory structures, and not divided by a public roadway or alley.
50. Lot Line: The boundary line between different parcels of land.
51. Lot of Record: A lot which is part of a recorded subdivision, or a lot which was recorded in the office of the Buchanan County Recorder prior to the adoption of this ordinance on June 10, 1974.
52. Lumber Yard: A business dealing with wood already sawed into boards of various sizes and related construction materials.
53. Manufactured Home: A factory-built dwelling that meets or exceeds the minimum construction standards set by the federal government and so noted upon said dwelling, and which does not have permanently attached to it, wheels, axles or hitch. A mobile home is a manufactured home if the vehicular frame is modified for placement, and it is placed upon a permanent foundation; and the mobile home vehicle title is surrendered to the County Assessor and the dwelling is entered upon the tax rolls.
54. Maps, Official Zoning: Those drawings of Buchanan County which designate the various zoning districts, and adopted by the Buchanan County Board of Supervisors by resolution, and on file in the office of the Zoning Administrator.
55. Mobile Home: Any vehicle without motive power used or so constructed or manufactured as to permit its being used as a conveyance upon the public streets and highway, so designed, constructed or reconstructed so as to permit the vehicle to be used as a place for human habitation by one or more persons, but shall also include any such vehicle with motive power not registered as a motor vehicle.
56. Mobile Home Park: Any lot upon which two or more mobile homes are located and occupied.
57. Motel: A hotel designed primarily for those traveling by vehicle, usually with direct access from each room to a vehicular parking area.
58. Non-conforming Use: The lawful use of any property that was established prior to the enactment of this ordinance, or any subsequent amendment, which does not conform to the requirements of the ordinance following the enactment in the district in which the use is located.
59. Non-conforming Structure: The lawful existence of any structure that was established prior to the enactment of this ordinance, or any subsequent amendment, which no longer conforms to the requirements of the ordinance following enactment, in the district in which the structure is located.

60. Nursing Home: A building having accommodations and care for invalid, inform, aged, convalescent, or physically disabled persons.
61. Obstruction: Any structure which impedes the flow of water.
62. Park: An area of land, either public or private, normally limited to recreational or scenic uses.
63. Parking Lot: An area of land, or structure, designed to accommodate the temporary placement of motor vehicles.
64. Parking Space: That minimum amount of area required for the parking of one motor vehicle.
65. Pavement: The driving surface of a road covered with solid material, such as, asphalt, concrete or brick.
66. Principal Use: The primary and single use of land or structures.
67. Public Agency: Any tax-supported group or subdivision of such group.
- 67A. Public Hunting Area: Any area specifically designated by an agency of the federal, state, or county government as open to members of the public for the hunting of game birds and animals.
68. Quarry: An area where sand or rock is excavated or removed on a regular basis for the purposes of commercial sale.
69. Regulatory Flood: The amount of overflow water from a stream, creek, or river that has the frequency of occurrence of approximately one hundred years, as determined by the Iowa Department of Natural Resources.
70. Rezoning: An amendment or a change in the Buchanan County Zoning Ordinance or Official Zoning Maps.
71. Right-of-Way: That area of land secured for use by a public agency, generally for roads, pipelines, cables, etc.
72. Road: All land and bridges intended for public use as a way of traveling between places, including the entire right-of-way.
73. Road, Private: All land and bridges intended for private use as a way of traveling between places.
74. Roadside Stand: A temporary structure used to prepare, display and sell products and merchandise.
75. Sanitary Landfill: Land used for the disposal of organic or hazardous wastes as authorized by the Buchanan County Board of Supervisors, and in accordance with state and federal regulations.
76. Sawmill: The location and/or business where logs and timber are cut into boards, shingles, etc., and stored.
77. School: A building or buildings used for teaching and learning purposes.

78. Sign: A publicly displayed board, placard, etc., bearing information in visual form.
79. Sign, Exterior: A sign attached to a building.
80. Sign, Free Standing or Post: A sign not attached to a building.
81. Stable: A structure used or intended for the housing of horses.
82. Story: That portion of a building between the floor and the ceiling or roof above.
83. Structure: Anything constructed or erected on the ground or is attached to something located on the ground.
84. Subdivision: The process and result of dividing a parcel of land into three or more lots for developmental purposes other than agricultural.
85. Summer Cottage: A dwelling designed for temporary occupancy during the year.
86. Technical Review: The report compiled by the Zoning Administrator for presentation to the Zoning Commission during the consideration of rezoning requests. The report is designed to assist the commissioners in determining, among other things, site characteristics, suitability, physical features, ecosystems, public services available, wildlife considerations, soil ratings, legal descriptions, etc.
87. Travel Trailer or Motor Home: A licensed vehicle customarily used for recreational or vacation purposes.
88. Truck Garden: An area of land less than thirty-five acres upon which vegetable, fruit, etc. are produced for sale.
89. Utility: Those businesses, either public or private, providing service for the general public, such as, but not limited to telephone, electricity, water, sewer, gas and cable television.
90. Variance: Authority granted to the Board of Adjustment which allows relief from the exact terms or requirements of the Zoning Ordinance where such relief will not be contrary to the public interest and where, due to the conditions peculiar to a certain property and not the result of actions by the property owner, a literal enforcement of the Zoning Ordinance would result in unnecessary and undue hardship.
91. Yard: That area on a parcel of land between the lot lines and the structure located on that parcel.
92. Yard, Front: The yard extending across the full width of a lot in the direction of the structure is facing, and extending from the front of the structure to the front lot line.
93. Yard, Rear: The yard extending across the full width of a lot in the opposite direction a structure is facing, and extending from the rear of the structure to the rear lot line.

94. Yard, Side: The yard extending from the front yard to the rear yard and extending from the side lot lines to the structure.
95. Zoning Administrator: The person designated or appointed by the Board of Supervisors to administer and enforce the provisions of the Zoning Ordinance and the Comprehensive Plan.
96. Zoning Board of Adjustment: A five-member group of County residents responsible to hear and decide appeals and requests for variances.
97. Zoning Commission: A nine-member group of County residents whose purpose it is to make recommendations to the Board of Supervisors on amendments to the Zoning Ordinance and to the Official Zoning Maps.

#### **50.07 GENERAL PROVISIONS.**

1. Any addition to the unincorporated area of Buchanan County shall be automatically placed in the "A-1" Agricultural District.
2. No structure or land shall be used or altered without conforming with the requirements of this ordinance, except as hereinafter provided.
3. Within an agricultural district, a farmstead in existence at the time of enactment of this ordinance, June 10, 1974, may be severed from the farm, with a minimum of two acres per dwelling.
4. No yard or lot area requirement shall be considered as providing a yard or lot area requirement for any structure on any other lot.
5. Whenever any road is vacated by the Board of Supervisors, the zoning district on each side of the road shall be extended to the center of the vacated road.
6. All applications for rezoning, variances, appeals and special permits must be in writing and include the legal description of the property involved, the present and proposed zoning classification and the reason for the request.
7. No lot shall be reduced in area so as to make any yard less than the minimum required for that zoning district.
8. Off-street parking and locating areas may occupy all or part of any required yard, except as specified elsewhere in this ordinance.
9. Whenever a yard requirement in any other ordinance, regulations or agreement is more restrictive than the requirements in this ordinance, those more restrictive requirements shall apply.
10. Temporary structures used in conjunction with construction work are allowed in all districts during the period the work is being done, with the structures being removed upon completion of the work.
11. Accessory buildings may be constructed in a required yard, but shall not occupy more than thirty (30) percent of the yard.
12. No basement shall be occupied for dwelling purposes unless at least one story of the building above the basement has been completed.

13. A summer cottage may be located in agricultural or flood plain districts along any river provided the yards comply with the “R-2” Residential District requirements, and a permit has been received from the Iowa Department of Natural Resources.
14. A dwelling shall not be erected, constructed, or moved to or within 200 yards of a Public Hunting Area; provided, however, that this prohibition shall not be applicable to the erection, construction, or moving of a dwelling on or to a farm, a lot of record, or a subdivision platted and recorded prior to the date of adoption of this ordinance, nor to the replacement of a dwelling which has been destroyed by casualty or disaster and which was in existence on the date of adoption of this ordinance.

**50.08 FAMILY HOMES.** The intent of this section is to assist in improving the quality of life of developmentally disabled persons by integrating them into the mainstream of society by making available to them community residential opportunities in the residential areas of this County. This section shall be liberally construed.

1. Developmentally disabled means a disability of a person which has continued or can be expected to continue indefinitely and which is one of the following:
  - a. Attributable to mental retardation, cerebral palsy, epilepsy, autism, or a mental or nervous disorder.
  - b. Attributable to any condition found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons, or requires treatment and services similar to those required for the persons.
  - c. Attributable to dyslexia resulting from a disability described in either paragraph (a) or (b).
2. Family home means a community-based residential home which is licensed as a residential care facility under Chapter 135C, Code of Iowa, or a child foster care facility under Chapter 237, Code of Iowa, to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight developmentally disabled persons and any necessary support personnel. However, family home does not mean an individual foster family home licensed under Chapter 237, Code of Iowa.
3. Permitted use means any use authorized in all residential zoning districts.
4. Residential means regularly used by its occupants as a permanent place of abode, which is made one’s home as opposed to one’s place of business and which has housekeeping and cooking facilities for its occupants only.

A family home shall be considered a residential use of property for the purposes of zoning, and shall be a permitted use in all residential zones or districts, including all single-family residential zones or districts of the County. However, all new family homes shall be located at least one-quarter mile from any other family home.

Any restriction, condition or covenant in a subdivision plan or plat prohibiting use of a property as a family home for the developmentally disabled to the extent of the prohibition shall be considered null and void.

**50.09 "A-1" AGRICULTURAL DISTRICT.** This district is intended to serve the agricultural community and protect the natural resources of the area by limiting the encroachment of urban land uses into this district. In so doing, the following uses are allowed in this district:

- 1. Principal Permitted Uses:
  - a. Agricultural and incidental agricultural related uses.
  - b. Feedlots and confinement facilities for livestock.
  - c. Specialized animal farms, including but not limited to, fowl, rabbits, mink, bees, and chinchillas.
  - d. Specialized horticultural operations including orchards, truck gardens, Christmas tree farms, wholesale nurseries, floriculture, viticulture, greenhouses, and sod farms.
  - e. Stables and kennels.
  - f. Forest reserves, timbers.
  - g. Any use conducted by a public agency, including structures for such use.
  - h. Public utility structures and uses, including pipeline warning signs.
  - i. Transmitting towers and stations.
  - j. Single family dwellings, if one of the following conditions apply:
    - i. The dwelling was in existence at the time of adoption of this ordinance;
    - ii. The dwelling is, or can be located upon a Lot of Record;
    - iii. One-half the lot consists of a combination of the following soil types, which have a Crop Suitability Rating less than 55 or prime agricultural:

41	63B	110B	241B	408C
41B	63C	159	284	776
41C	110	159C	284B	776C

- 2. Accessory Uses:
  - a. Home Occupations.
  - b. Bulletin boards and signs, no larger than twenty-five (25) square feet, pertaining to home occupations or any material grown or treated within the district, provided the signs are located on the property in which such materials are grown or treated.
  - c. Organizational signs, including city, school and church recognition signs.

- d. Accessory structures and uses customarily incidental to the principal uses listed above.
  - e. Dwellings for persons employed on the premises, or a member of the immediate family which owns the farm.
  - f. Summer cottages.
  - g. Seed and feed dealerships.
  - h. Roadside stands.
3. Height Regulations: Any structure hereafter erected or structurally altered may not be of such height as to be in conflict with any Buchanan County regulations, more specifically “The Independence Municipal Airport Height Zoning Ordinance.”

4. Minimum lot areas and yard requirements are as follows:

Setback Use	Lot Area	Lot Width	Front	Side	Rear
Dwelling	2 acres	200 ft.	50 ft.	25 ft.	50 ft.
Kennels/Stables	5 acres	200 ft.	50 ft.	50 ft.	50 ft.
Summer Cottage	8000 sq. ft.	80 ft.	30 ft.	10 ft.	30 ft.
Bulletin Boards/signs			10 ft.	10 ft.	10 ft.
Accessory Structures			10 ft.	10 ft.	10 ft.
Transmitting Towers			(One-half total height)		
Other Structures			10 ft.	10 ft.	10 ft.

**50.10 "A-2" LIMITED AGRICULTURAL DISTRICT.** The purpose of the “A-2” District is to allow similar and interrelated agricultural uses as those in the “A-1” District, but which cannot be specifically defined as agricultural. In the “A-2” District, the following provisions and restrictions apply:

- 1. Principal Permitted Uses:
  - a. Any use permitted in the “A-1” District.
  - b. Veterinary clinics.
  - c. Grain elevators.
  - d. Airports.
  - e. Parks, golf courses, outdoor recreational areas, pools, campgrounds.
  - f. Churches, pastors’ residence, Sunday School buildings.
  - g. Cemeteries, mausoleums.
- 2. Accessory Uses:
  - a. Accessory buildings and uses customarily incidental to any of the principal uses.

3. Height Regulations: Same as specified in the “A-1” District.
4. Minimum lot areas, yard setbacks for the “A-2” District are as follows:

Use	Lot Area	Lot Width	Yards		
			Front	Side	Rear
Dwellings	2 acres	200 ft.	50 ft.	25 ft.	50 ft.
Cemetery	20 acres	N/A	25 ft.	25 ft.	25 ft.
Churches	2 acres	200 ft.	50 ft.	25 ft.	50 ft.
Veterinary Clinic	2 acres	200 ft.	50 ft.	50 ft.	50 ft.

**50.11 ”R-1” RESIDENTIAL DISTRICT.** The “R-1” Residential District is intended to provide for the development of both low and moderate density land uses and structures in the unincorporated areas of Buchanan County.

1. Principal Permitted Uses:
  - f. Single and two-family dwellings.
  - g. Schools, both public and private.
  - h. Churches, pastors’ residence, Sunday School buildings.
  - i. Hospitals, clinics, funeral homes.
  - j. Parks, playgrounds, pools, golf courses.
  - k. Public utility structures and uses.
2. Accessory Uses:
  - a. Buildings customarily with, but incidental to, the principal uses allowed.
  - b. Bulletin boards, home occupation signs and signs for principal uses.
  - c. Home occupations and business permits.
3. Height Regulations:
 

Same as in an “A-1” Agricultural District.
4. Minimum lot areas and yard setbacks for the “R-1” District are as follows:

Use	Lot Area	Lot Width	Yards		
			Front	Side	Rear
Dwellings	2 acres	200 ft.	50 ft.	25 ft.	50 ft.
Subdivision dwelling*	1 acre	100 ft.	30 ft.	30 ft.	30 ft.
Other Structures			30 ft.	30 ft.	30 ft.
Access Structures			30 ft.	10 ft.	10 ft.

\*Shall have either common water or common sewer systems, or both

**50.12 "R-2" MULTIPLE RESIDENTIAL DISTRICT.** The intent of the Multiple Residential District is to provide for mixed residential development, including subdivisions, where common sewers and common water utilities are available.

1. Principal Permitted Uses:
  - a. Any use permitted in the "R-1" Residential District.
  - b. Multiple family dwellings.
  - c. Hotels, motels.
  - d. Mobile home parks.
  - e. Boarding houses, lodges, apartments.
  
2. Accessory Uses:
  - a. Accessory buildings and uses customarily incidental to the principal uses.
  - b. Home occupation and business permits.
  - c. Bulletin boards and signs no larger than twenty-five (25) square feet, pertaining to home occupations or any material grown or treated within the District, provided the signs are located on the property in which such materials are grown or treated.
  - d. Retail shops inside hotels, motels.
  
3. Height Regulations:
  - a. In addition to the height requirements of the "A-1" Agricultural District, no principal building shall exceed three stories or forty-five (45) feet in height, whichever is lower, except additional height for additional stories may be added at the rate of two feet in height for each one foot that the building is set back from the required yard lines.
  - b. No accessory structure shall exceed one story or eighteen (18) feet in height, whichever is lower.
  
4. Water and Sewer Systems: All dwellings, hotels, motels, apartments, etc., shall have common water and common sewer systems, as approved by the Buchanan County Health Department. Existing lots of record and lots having a minimum area of two acres shall be allowed to use an individual septic system and individual well, subject to approval by the Buchanan County Health Department.
  
5. Minimum lot area and yard requirements for the "R-2" District are as follows:

Use	Lot Area *	Lot Width	Yards		
			Front	Side	Rear
Dwellings:					
Single-family	8,000 sq. ft.	66 ft.	30 ft.	10 ft.	30 ft.
Two-family	10,000 sq. ft.	66 ft.	30 ft.	10 ft.	30 ft.
Multiple	10,000 sq. ft.	66 ft.	30 ft.	10 ft.	30 ft.
Mobile home park	12,960 sq. ft.	96 ft.	10 ft.	10 ft.	10 ft.
Motels, Hotels	37,800 sq. ft.	270 ft.	50 ft.	10 ft.	30 ft.

\*The lot area requirements are exclusive of road right-of-way easements.

**50.13 “R-3” RESIDENTIAL DISTRICT.** The intent of the “R-3” Residential District is to provide for single family dwellings in a rural setting, and may include low density agriculture as provided for in the permitted uses categories. This district is not designed for moderate to high population density. In the “R-3” District the following provisions and restrictions shall apply:

1. Principal Permitted Uses:
  - a. Single family dwellings.
  - b. Truck gardening.
  - c. Animals subject to the following maximum density requirements:  
 Large animals: Horses, cattle, buffalo, deer, elk, etc.: 1/acre.  
 Intermediate animals: Hogs, sheep, goats, dogs, and etc.: .5/acre.  
 Small animals: Poultry, rabbits, mink, pigeons, and etc.: .25/acre.
  - d. Any combination that does not exceed the above listed animal limitations.
  
2. Accessory Uses:
  - a. Accessory buildings, such as private garages, storage sheds, etc.
  - b. Home occupations and business permits.
  - c. Private stables. (see above listed limitations)
  - d. Roadside stands.
  - e. Bulletin boards and signs, no larger than twenty-five (25) feet, pertaining to Home Occupations or Business Permits, or any material grown or treated within the district, provided the signs are located on the property in which such materials are grown or treated.
  
3. Height Regulations:
 

Structures shall not exceed three stories or forty (40) feet in height, whichever is lower, measured from the average height of the surrounding ground.
  
4. Water and Sewer Systems:
 

Individual septic systems and private water wells are allowed, subject to approval of the Buchanan County Health Department.
  
5. Minimum lot areas, frontage and yard requirements are as follows:

Use	Lot Area	Width	Front	Side	Reat
Dwelling	2 acres	150 ft.	50 ft.	25 ft.	50 ft.
Animal Structures			50 ft.	50 ft.	50 ft.
Stables			50 ft.	50 ft.	50 ft.
Bulletin boards and signs			10 ft.	30 ft.	10 ft.

**50.14 COMMERCIAL DISTRICT.** The intent of the “C” District is to provide for commercial business uses to serve the general needs of the residents of the rural areas of Buchanan County. In the “C” District, the following provisions and restrictions shall apply:

1. Principal Permitted Uses:
  - a. Single family dwellings are permitted when physically attached to, or a part of a business, office or recreational establishment.
  - b. Any business, service or recreational establishment such as the following:
 

Accounting business	Automobile parts stores
Agricultural buss/service outlets	Bait shops
Antique shops	Bakeries
Apparel shops, seamstress/tailors	Banks/financial institutions
Appliance stores, sales and service	Barber shops
Architects and civil engineers	Beauty parlors
Art galleries	Book stores
Art supply shops	Business machine, computers
Camera Shops	Locksmiths
Candy stores	Medical offices/clinics
Dental offices	Music stores
Department stores	Newspaper offices
Drug stores	Paint/carpet/wallpaper
Electrical supply stores	Parking lots, commercial
Florists	Radio and TV stations
Fruit and vegetable markets	Radio and TV stations
Furniture stores	Real estate agencies
Gift shops	Recreation facilities, indoor
Grocery stores	Restaurants and cafes
Hardware stores	Sporting goods stores
Hobby or craft stores	Taverns/bars/lounges
Insurance offices	Toy stores
Jewelry/watch businesses	Travel bureaus
Laundromats	Variety stores
Lawyer/attorney offices	
2. Accessory Uses:
  - a. Billboards, bulletin boards and signs.
  - b. Home Occupations.
3. Height Regulations:
  - a. In addition to the height requirements of the “A-1” Agricultural District, no principal building shall exceed three stories or forty-five (45) feet in height, whichever is lower, except additional height for additional stories may be added at the rate of two feet in height for each one foot that the building is set back from the required yard lines.
4. Minimum lot areas and yard requirements are as follows:

	<b>(In Feet)</b>		<b>Yards</b>
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Use	Lot Area	Width*	Front	Side	Rear
Business/shops/stores	12,400 sq. ft.	82.5	25	10	25
Restaurants, cafes, taverns, grocery stores, recreation facilities, Laundromats	2 acres	150	25	10	25
Accessory Uses			10	10	10

\*Lot areas measured exclusive of roads, streets, alleys.

**50.15 COMMERCIAL-MANUFACTURING DISTRICT.** The intent of the “C-M” District is to provide for light manufacturing, with these businesses. In the “C-M” district the following provisions and restrictions apply:

1. Principal Permitted Uses:
  - a. Any use allowed in the “C” District.
  - b. Bookbinding, printing, publishing.
  - c. Carpenter shops.
  - d. Car, truck or tractor washes.
  - e. Dry cleaners.
  - f. Exterminating businesses.
  - g. Lawn and garden vehicle sales and service.
  - h. Lumber yards, building material sales.
  - i. Monument sales.
  - j. Plumbing and heating shops.
  - k. Sale auction businesses.
  - l. Sign painting businesses.
  - m. Storage warehouse businesses.
  - n. Tire sales, manufacturing, vulcanizing and retreading.
  - o. Vehicular sales, service, repairs.
2. Accessory Uses:
  - a. Billboards, bulletin boards, signs.
  - b. Accessory uses and structures incidental to permitted uses.
3. Height Regulations:
  - a. Same as in a “C” Commercial District.

4. Minimum lot areas and yard requirements are as follows:

Use	Lot Area	Lot Width	Yards		
			Front	Side	Rear
Principal Uses			25 ft.	25 ft.	25 ft.
Accessory Uses			10 ft.	10 ft.	10 ft.

**50.16 INDUSTRIAL DISTRICT.** The intent of the “I” Industrial District is to provide for heavy industrial uses and structures which, due to their size and nature, would not be compatible in any other district. The following provisions and restrictions apply:

1. Principal Permitted Uses:
  - a. Any use permitted in the “C-M” District, except there shall be no residential uses in the Industrial District.
  - b. Acid manufacture and storage.
  - c. Agricultural seed processing and storage.
  - d. Bottling businesses and breweries.
  - e. Carpet, rug and bag cleaning and manufacture.
  - f. Carting, express, hauling and storage yards.
  - g. Chemical manufacture and storage.
  - h. Coal, coke yards.
  - i. Concrete and cement manufacture and concrete plants.
  - j. Contractor’s equipment storage yards or plant.
  - k. Cooperage works.
  - l. Cosmetic and pharmaceutical manufacture.
  - m. Creameries.
  - n. Cylinder recharging.
  - o. Enameling, lacquering businesses.
  - p. Explosive manufacture and storage.
  - q. Extraction and the processing of stone, sand, gravel, soil.
  - r. Chemical fertilizer manufacture.
  - s. Flammable liquid storage.
  - t. Foundries, kilns, casting shops.

- u. Hatcheries.
  - v. Insulation manufacture.
  - w. Laboratories.
  - x. Livestock sale and auction barns.
  - y. Machine shops, tooling and dieing.
  - z. Manufacture or assembly of electrical appliances or motors.
  - aa. Petroleum, liquid or gaseous, or its products, refining and wholesale
  - bb. storage, or the extraction thereof.
  - cc. Rendering works.
  - dd. Sawmills, planing mills.
  - ee. Sign manufacture, repair – electrical.
  - ff. Slaughterhouses, meatpacking and processing plants, and stockyards.
  - gg. Smelting of metals.
  - hh. Tanneries.
  - ii. Vehicular assembly.
  - jj. Vehicular salvage or junk storage and wrecking yards.
2. Accessory Uses:
- a. Billboards, bulletin boards and signs.
  - b. Accessory structures and uses customarily incidental to the principal uses and structures.
3. Height Regulations:
- a. Same as the “C-M” District.
4. Minimum Lot Areas, Frontage and Yard Setback Requirements:

Use	Lot Area	Width	Yards		
			Front	Side	Rear
Principal Structures			25 ft.	10 ft.	25 ft.
Accessory Structures			10 ft.	10 ft.	10 ft.

**50.17 FLOOD PLAIN DISTRICT.** The intent of the “F-P” Flood Plain District is to protect the environmentally sensitive areas of Buchanan County from irreparable damage caused by development. These areas, located along the rivers and streams of Buchanan County have been shown to have the ability of becoming inundated with floodwaters at the rate of once every one hundred years. The basis for locating these areas will rest with the Iowa Department of Natural Resources, although the general

location of these areas can be found on the Flood Hazard Boundary Maps provided by the U.S. Department of Housing and Urban Development, and the Wapsipinicon River and Malone Creek Flood Plain Information prepared by the U.S. Army Corps of Engineers.

1. Principal Permitted Uses:
  - a. Summer cottages.
  - b. Recreational uses, such as marinas, docks, swimming areas, parks, playgrounds, wildlife and nature preserves, hunting and fishing areas, hiking/biking trails, camping areas, etc.

*\*All structures located in the designated flood plain of Buchanan County after the effective date of this ordinance shall have a permit from the Iowa Department of Natural Resources.*

**50.18 AGRICULTURAL LAND PRESERVATION AREAS.** It is recognized that the primary resource in Buchanan County is the production of agricultural commodities. It is further non-farm development that will ultimately undermine this resource. It is the intention of this district to provide for the establishment of voluntary agricultural land preservation areas in accordance with Chapter 352, Code of Iowa, and the provisions of this ordinance.

1. Creation of Agricultural Land Preservation Areas:
  - a. An owner or owners of farmland may submit a proposal to the County Board of Supervisors for the creation of an agricultural land preservation area within the county. An agricultural land preservation area, at its creation, shall include at least three hundred (300) acres of farmland; however, a smaller area may be created if the farmland is adjacent to an established area.
  - b. The proposal shall include a legal description of the proposed area, including its boundaries. The territory shall be as compact and as nearly adjacent as feasible, requiring a map outlining the proposed area.
  - c. Land shall not be included in an agricultural land preservation area without the consent of the owner.
  - d. Agricultural land preservation areas shall not exist within the limits of a city.
  - e. The County Board may consult with the Department of Natural Resources when creating or expanding an agricultural area contiguous to a location which is under the direct supervision of the Department including a state park, state preserve, state recreation area, or sovereign lake.
  - f. Agricultural areas may be created in a county which has adopted zoning ordinances with the exception that the use of the land in agricultural areas is limited to farm operations.
2. Principal Permitted Uses:
  - a. Farm operations as defined in Chapter 352, Code of Iowa.
  - b. Residences constructed for occupation by a person engaged in farming or in a family farm operation. Nonconforming, pre-existing residences may be continued in residential use.

- c. Property of a public or private utility, or a pipeline company.
3. Exceptions: The Board of Supervisors may permit any use not listed in an agricultural land preservation area, provided it meets the following requirements:
- a. The use is consistent with the purposes set forth in Chapter 352.1, Code of Iowa, and is consistent with the Buchanan County Comprehensive Plan and does not interfere with farming operations in the district.
  - b. The use does not materially alter the stability of the overall land use pattern in the area.
4. Procedure:
- a. Within thirty (30) days of receipt of a proposal for an agricultural land area which meets the statutory requirements, the Board of Supervisors shall provide notice of the proposal by publishing notice in a newspaper of general circulation in the county. Within forty-five (45) days after receipt, the Board of Supervisors shall hold a public hearing on the proposal.
  - 5. Within sixty (60) days after receipt, the Board of Supervisors shall adopt the proposal, or any Resisting Arrest Prohibited
  - 6. Penalty
  - b. modification of the proposal it deems appropriate, unless to do so would be inconsistent with the purposes of this ordinance.
5. Certification:
- a. The Board of Supervisors shall file with the Buchanan County Auditor and Buchanan County Recorder the legal description of the agricultural land preservation area.
  - b. Upon creation, the description of the area shall be incorporated onto the Official Buchanan County Zoning Maps.
6. Withdrawal:
- a. At any time after three (3) years from the date of creation of an agricultural land preservation area, an owner may withdraw from said area by filing with the Board of Supervisors a request for withdrawal containing a legal description of the land to be withdrawn and a statement of reasons for the withdrawal. The Board of Supervisors shall, within sixty (60) days of receipt of the request, approve or deny the request for withdrawal.
  - b. At any time after six (6) years from the date of creation of an agricultural land preservation area, an owner may withdraw from said area by filing with the Board of Supervisors a notice of withdrawal containing the legal description of the land to be withdrawn.
  - c. The Board of Supervisors shall cause the description of that agricultural land preservation area filed with the Buchanan County Auditor and Recorder to be modified to reflect such withdrawal.
  - d. Said modification shall be made by the withdrawal of described boundary from the Official Buchanan County Zoning Maps.

- e. Withdrawal shall be effective on the date of recording.
  - f. The agricultural land preservation areas from which the land is withdrawn shall continue in existence even if smaller than three hundred (300) acres after withdrawal.
7. Incentives for Agricultural Land Preservation Area Creation:
- a. A political subdivision or benefited district providing public services such as sewer, water, or lights, or for non-farm drainage, shall not impose benefit assessments or special assessments on land used primarily for agricultural production within an agricultural land preservation area on the basis of frontage, acreage, or value, unless the benefit assessments or special assessments were imposed prior to the formation of the agricultural land preservation area, or unless the service is provided to the landowner on the same basis as others having the service.
  - b. A farm or farm operation located in an agricultural land preservation area shall not be found to be a nuisance regardless of the established date of operation or expansion of the agricultural activities of the farm or farm operation. This paragraph does not apply if the nuisance results from the negligent operation of the farm or farm operation. This does not apply to actions or proceedings arising from injury or damage to person or property caused by the farm or farm operation before the creation of the agricultural area. This does not affect or defeat the right of a person to recover damages for injury or damage sustained by the person because of the pollution or change in condition of the waters of a stream, the overflowing of the person's land, or excessive soil erosion onto another person's land, unless the injury or damage is caused by an act of God.
  - c. In the application for a permit to divert, store, or withdraw water, and in the allocation of available water resources under a water permit system, the Iowa Department of Natural Resources shall give priority to the use of water resources by a farm or farm operation, exclusive of irrigation, located in an agricultural land preservation area over all other uses, except the competing uses of water for ordinary household purposes.
  - d. A person shall not bring an action or proceeding based on a claim of nuisance arising from a farm operation unless the person proceeds with mediation as provided in Iowa Code Chapter 654B.
  - e. If a defendant is a prevailing party in an action or proceeding based on a claim of nuisance and arising from a farm operation conducted on farmland within an agricultural area, the plaintiff shall pay court costs and reasonable attorney fees incurred by the defendant, if the court determines that the claim is frivolous.

## **50.19 NONCONFORMING USES.**

- 1. General Intent:
  - a. This section deals with lots, structures and uses which were lawful before this ordinance was passed or amended, but which would be prohibited,

regulated or restricted under the terms of this ordinance or future amendments.

- b. It is the intent of this ordinance to permit these nonconformities to continue until they are removed or abandoned, but not to encourage nonconformities to be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
        - c. Any use in existence at the time of adoption of this ordinance which was not an authorized nonconforming use under the previous zoning ordinance shall not be authorized to continue as a nonconforming use pursuant to this ordinance, or amendments thereto.
2. Nonconforming Use of Land: The lawful use of land upon which no structure is erected or located which becomes nonconforming under the terms of this ordinance as adopted, or amended, may be continued so long as it remains otherwise lawful, subject to the following provisions:
  - a. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.
  - b. If any such nonconforming use of land ceases for a period of more than one (1) year, any subsequent use of such land shall conform to the district regulations for the district in which such land is located, unless an extension is granted by the Board of Supervisors.
3. Nonconforming Use of Structures: If a lawful use of a structure, or a structure and land in combination, exists at the effective date of adoption or amendments of this ordinance that would not be allowed in the district under the terms of this ordinance, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:
  - a. No existing structure devoted, entirely or in part, to a use not permitted by this ordinance in the district in which it is located, shall be enlarged, extended, reconstructed, or structurally altered, unless the use is changed to a use permitted in the district in which such structure is located.
  - b. If no structural alterations are made, a nonconforming use of a structure may be changed to another nonconforming use of a similar nature within the same or more restricted classification.
  - c. When nonconforming use of a structure or premises is discontinued or abandoned for one (1) year, the structure or premises shall not thereafter be used except in conformity with the regulations of the district in which it is located, unless an extension is granted by the Board of Supervisors.
4. Nonconforming Structures: Where a nonconforming structure exists at the effective date of adoption or amendment of this ordinance, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
  - 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 the extent that it is deemed unusable, reconstruction and subsequent usage shall be in complete conformity with the provisions of this ordinance.
5. Nonconforming Lots of Record: In any district in which a single-family dwelling is permitted, notwithstanding limitations imposed by other provisions of this ordinance, then a single-family dwelling and accessory buildings may be erected on a Lot of Record. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable to the district.
6. Repairs and Maintenance: All nonconforming structures may be repaired for normal maintenance. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition any building declared to be unsafe by any official charged with protecting the public safety, upon order of such official. Said maintenance or repair shall not affect those structures deemed unusable by said officials.

#### **50.20 VEHICULAR PARKING.**

1. In all districts, space for parking of vehicles shall be provided in accordance with the following schedule; however no parking area required shall be less than one thousand square feet in area except for dwellings, and business stores under one thousand square feet in area:
  - a. Vehicle sales and service garages – 50% of total floor area.
  - b. Financial, professional offices – 75% of total floor area (at least 10 spaces).
  - c. Bowling alleys – 5 spaces per lane.
  - d. Churches, schools – 1 space for each 6 seats.
  - e. Dance and assembly halls – 200% of floor area.
  - f. Dwellings – 2 spaces per family unit.
  - g. Funeral homes – 1 space for each 5 seats.
  - h. Furniture, appliance and small retail stores – 50% of floor area.
  - i. Hospitals – 1 space for each 3 beds.
  - j. Hotels, motels – 1 space for each bed.
  - k. Manufacturing plants – 1 space for every 3 seats.
  - l. Nursing, convalescent and retirement homes – 1 space per 4 beds.
  - m. Restaurants, taverns, clubs, etc. – 1 space for every three seats.
  - n. Retail stores, supermarkets, etc. – 250% of floor area.

- o. Schools, theaters, enclosed sport arenas – 1 space per 4 seats in main auditorium.
  - p. Hotels, motels, lodges, boarding houses – 1 space per unit.
  - q. Warehouses, wholesale businesses – 1 space per 2 employees.
2. Any use of premises not specifically mentioned herein shall have parking spaces in the amount required for the most similar use mentioned.
  3. Parking lots shall provide a permanent fence or shrubbery screen on all sides abutting a Residential District.

**50.21 SIGNS.**

1. In all districts where permitted, and subject to Iowa Department of Transportation regulations, billboards and signs are further subject to the following prohibitions:
  - a. No sign may encroach upon or overhang a County road right-of-way.
  - b. No sign may be lighted in such a manner which impairs the vision of the driver of any motor vehicle.
  - c. No sign may obstruct the view of any road or railroad so as to render dangerous the use of the road or railroad.
  - d. No sign may imitate or resemble an official county traffic control sign, signal or device.
  - e. No sign may obscure or physically interfere with an official traffic sign, signal or device.

**50.22 BOARD OF ADJUSTMENT.** Members of the Buchanan County Board of Adjustment, hereafter referred to as the Board, shall be appointed by the Board of Supervisors for a term of five years. The Board is empowered to adopt rules of procedure, elect officers, reject or allow variances and appeals to this Zoning Ordinance, or its interpretation, and to keep a public record of all of these in the office of the Zoning Administrator. A majority of the board shall reside outside the corporate limits of any city.

The Board may, in appropriate cases and subject to appropriate conditions and safeguards, make variances to the terms of this ordinance in harmony with its general purpose and intent, and in accordance with the general or specific rules herein contained, and provide that any property owner aggrieved by the action of the Board of Supervisors in the adoption of this regulation may petition this Board directly to modify the regulations as applied to such property owners.

The specific powers of the board are as follows:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter or any ordinance adopted pursuant thereto.
2. To authorize in specific cases, such variance from the terms of this ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this ordinance will result in unnecessary hardship, and so that the spirit of this ordinance shall be observed and substantial justice done.

## **50.23 VIOLATION PROVISION.**

1. Any violation of this ordinance may be prosecuted as a County infraction pursuant to Section 331.307, Code of Iowa.
2. The Zoning Administration, or any other Buchanan County representative duly authorized by the Board of Supervisors, may issue a civil citation to any person who commits a violation of this ordinance.
3. The citation may be served by personal service as provided in Rule of Civil Procedure 1.305, or by certified mail addressed to the respondent at the respondent's last known mailing address, return receipt requested, or by publication in the manner provided in rule of civil procedure 60 and subject to the conditions of Rule of Civil Procedure 1.311.
4. A copy of the citation shall be retained by the issuing officer, and one copy shall be sent to the Clerk of the District Court. The citation shall serve as notification that a civil offense has been committed and shall contain the name and address of the respondent; the name or description of the infraction; the location and time of the infraction; the amount of civil penalty to be assessed or the alternate relief sought, or both; the manner, location and time in which the penalty may be paid; the time and place of court appearance; the penalty for failure to appear in court.
5. If the person named in the citation is served as provided in this section and fails without good cause to appear in response to the civil citation, judgment shall be entered against the person cited.
6. A violation of this ordinance may be a civil offense punishable by a civil penalty of not more than five hundred dollars (\$500) for each violation, or if the violation is a repeat offense, a civil penalty not to exceed seven hundred and fifty dollars (\$750) for each repeat offense. Each day that a violation occurs or is allowed by the respondent to exist constitutes a separate offense. A person found guilty of a County infraction is liable for the court costs and fees. If a person is found not guilty of a County infraction or the action is dismissed, the County is liable for the court costs and court fees.
7. Seeking a civil penalty, as authorized in this section, does not preclude Buchanan County from seeking alternative relief from the court in the same action.
8. Buchanan County shall have the burden of proof that a violation occurred and that the respondent committed the violation, or allowed the violation to occur on property under his or her control. The proof shall be by clear, satisfactory and convincing evidence. The court shall ensure that the respondent has received a copy of the charges and that the respondent understands the charges. The respondent may question all witnesses who appear for Buchanan County and the respondent may produce evidence or witnesses on his own behalf. The respondent may be represented by counsel of the respondent's own selection and at the respondent's own expense. The respondent may enter a plea admitting or denying the violation.
9. When judgment has been entered against a respondent, the court may do any of the following:

- a. Impose a civil penalty by entry of a personal judgment against the respondent.
  - b. Direct that payment of the civil penalty be suspended or deferred under conditions imposed by the court.
  - c. Grant appropriate alternative relief ordering the respondent to abate or cease the violation.
  - d. Authorize Buchanan County to abate or correct the violation.
  - f. Order that Buchanan County's costs for abatement or correction of the violation be entered as a personal judgment against the respondent or assessed against the property where the violation occurred, or both.
10. If a respondent willfully violates the terms of an order imposed by the court, the failure is contempt.
11. The magistrate or district associate judge shall have jurisdiction to assess or enter judgment for costs of abatement or correction in an amount not to exceed the jurisdictional amount for a money judgment in a civil action pursuant to Section 631.1(1), Code of Iowa, for magistrates, and Section 602.6306(2), Code of Iowa, for district associate judges. If Buchanan County seeks abatement or correction costs in excess of those amounts, the case shall be referred to the district court for hearing and entry of an appropriate order. The procedure for hearing in the district court shall be the same procedure as that for a small claims appeal pursuant to Section 631.13, Code of Iowa.
12. A respondent or Buchanan County may file a motion for a new trial or may appeal the decision of the magistrate or district associate judge to the district court. The procedure on appeal shall be the same as for a small claim pursuant to Section 631.13, Code of Iowa. A factual determination made by the trial court, supported by substantial evidence as shown in the record, is binding for purposes of appeal relating to the violation at issue, but shall not be admissible or binding as to any future violation for the same or similar ordinance provision by the same respondent.
13. The issuance of a civil citation for a County violation, or any ensuing court proceeding, does not provide an action for false arrest, false imprisonment or malicious prosecution.
14. Nothing in this section precludes the prosecution of violations of this ordinance as a simple misdemeanor, pursuant to Section 331.302(2), Code of Iowa.

**50.24 VALIDITY.** Should any section or provision of this ordinance be declared invalid by a court of competent jurisdiction, that decision shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

**50.25 EFFECTIVE DATE.** This ordinance shall be in full force and effect from and after June 21, 1991, as authorized by Chapter 358A, Code of Iowa. This ordinance was amended June 5, 1995.