

ORDINANCE NO. 109

ORDINANCE NO. 109 AMENDING ORDINANCE NO. 36, AS AMENDED, THE BLACK HAWK COUNTY, IOWA, AGRICULTURAL PRESERVATION ZONING ORDINANCE ADOPTED FEBRUARY 2, 1999.

Be it ordained by the Board of Supervisors of Black Hawk County, State of Iowa, that the Black Hawk County Agricultural Preservation and Zoning Ordinance No. 36 is amended as set out herein, repealing those sections that the minutes indicate are being replaced and setting forth the amendment or replacement sections, and further amending the Ordinance by adding amendments as set out herein. Said Ordinance, as amended, shall apply to all lands lying outside the corporate city limits of any City within the boundaries of Black Hawk County, Iowa. Said Ordinance shall become effective upon adoption by the Board of Supervisors.

Be it ordained by the Board of Supervisors of Black Hawk County, State of Iowa:

SECTION V: DEFINITIONS, SUB SECTION A (10):

Create in its entirety a new Section V (A) (10) and renumber the remaining definitions accordingly:

10. Base Flood: The flood having one (1) percent chance of being equaled or exceeded in any given year. (see One Hundred (100) Year Flood).

Be it ordained by the Board of Supervisors of Black Hawk County, State of Iowa:

SECTION V: DEFINITIONS, SUB SECTION A (11):

Amend in portion the present Section V (A) (10) and replace that section with the following amended Section V (A) (11):

11. Basement / Cellar: That portion of a building having more than one-half (½) of its height below grade. A basement / cellar is not included in computing the number of stories for the purpose of height measurement. For floodplain management purposes only, a basement / cellar shall mean any enclosed area of a building having its floor or lowest level below ground level (sub grade) on all sides.

Be it ordained by the Board of Supervisors of Black Hawk County, State of Iowa:

SECTION V: DEFINITIONS, SUB SECTION A (29):

Create in its entirety a new Section V (A) (29) and renumber the remaining definitions accordingly:

29. Department of Natural Resources (DNR): Where found in the Ordinance pertaining to flood management, this shall mean the Iowa Department of Natural Resources (IDNR), the State agency that has underlying floodplain permit authority for the State of Iowa.

Be it ordained by the Board of Supervisors of Black Hawk County, State of Iowa:

SECTION V: DEFINITIONS, SUB SECTION A (33):

Amend in portion the present Section V (A) (31) and replace that section with the following amended Section V (A) (33):

33. Dwelling: Any building or portion thereof which is designed or used exclusively for residential purposes, but not including a tent, cabin, trailer, mobile home, recreational vehicle, or similar motor vehicle.

Be it ordained by the Board of Supervisors of Black Hawk County, State of Iowa:

SECTION V: DEFINITIONS, SUB SECTION A (41):

Create in its entirety a new Section V (A) (41) and renumber the remaining definitions accordingly:

41. Existing Construction: For floodplain management purposes only, any structure for which the “start of construction” commenced before 11/17/82, the effective date of the first floodplain management regulations adopted by Black Hawk County. May also be referred to as “existing structure”.

Be it ordained by the Board of Supervisors of Black Hawk County, State of Iowa:

SECTION V: DEFINITIONS, SUB SECTION A (101):

Amend in portion the present Section V (A) (98) and replace that section with the following amended Section V (A) (101):

101. New Construction (New Buildings, New Mobile or Manufactured Home Parks): For floodplain management purposes only, those structures or development for which the start of construction commenced on or after 11/17/82.

Be it ordained by the Board of Supervisors of Black Hawk County, State of Iowa:

SECTION V: DEFINITIONS, SUB SECTION A (113):

Amend in portion the present Section V (A) (110) and replace that section with the following amended Section V (A) (113):

113. Recreational Vehicle: A vehicle which is: (a) built on a single chassis; (b) four hundred (400) square feet or less when measured at the largest horizontal projection (this provision is for floodplain management purposes only); (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Be it ordained by the Board of Supervisors of Black Hawk County, State of Iowa:

SECTION V: DEFINITIONS, SUB SECTION A (145):

Amend in portion the present Section V (A) (142) and replace that section with the following amended Section V (A) (145):

145. Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions. Also, any improvement that increases the original floor area of a structure by 25 percent or more.

Be it ordained by the Board of Supervisors of Black Hawk County, State of Iowa:

SECTION V: DEFINITIONS, SUB SECTION A (151):

Amend in portion the present Section V (A) (148) and replace that section with the following amended Section V (A) (151):

151. Vacation or Recreational Cabin: A structure consisting of not more than four (4) sleeping rooms, kitchen and living area used as a temporary residence for recreational purposes. Such a structure shall meet all regulations for a single-family dwelling.

Be it ordained by the Board of Supervisors of Black Hawk County, State of Iowa:

SECTION XVII: USE REGULATION FOR "E-S"
ENVIRONMENTALLY SENSITIVE OVERLAY DISTRICT:

Amend in portion the present Section XVII and replace that section with the following amended Section XVII:

Within the "E-S" Environmentally Sensitive Overlay District, areas are identified per Section VI of this Ordinance. This section shall prescribe permitted uses, conditional uses, and performance standards for those areas. Development within the Overlay District must conform to the requirements of both the zoning district and the Overlay District or the most restrictive of the Ordinance's requirements.

A. Floodplains

1. Intent: It is the intent of this section to promote the public health, safety and general welfare by minimizing those flood losses described in Section XVI, Findings of Fact, with provisions designed to: (a) preserve and protect the natural character of the lands within this district, and their values for flood control and water holding capacity, maintenance of water quality, benefits of recharge of groundwater, wildlife, recreation and conservation, reduced soil erosion and sedimentation, and woodland management, (b) reserve sufficient floodplain area for the conveyance of flood flows so that flood heights and velocities will not be increased, (c) restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities, (d) require that uses vulnerable to floods, including public utilities which serve such uses, be protected against flood damage at the time of initial construction, or substantial improvement, (e) protect individuals from buying lands which are unsuited for intended purposes because of flood hazards, (f) reduce public expenditures for construction of flood control works, emergency action and post-disaster assistance, (g) reduce loss of life, injury, and hardship due to floods, and (h) assure that eligibility is maintained for property owners in the county to purchase flood insurance through the National Flood Insurance Program.
2. Warning and Disclaimer of Liability: The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside the floodplain or land uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of Black Hawk County or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.
3. Divisions of the Floodplain:
 - a. Floodway District ("F-W"):
General Intent: It is the intent of the Floodway District ("F-W") that the identified area is designed to carry floodwaters and should be protected from developmental encroachment.
 1. Principal Permitted Uses - The following uses shall be permitted within the Floodway District to the extent they are not prohibited by any other Ordinance (or allowed according to the underlying zoning

district) and provided they do not require placement of structures, dwellings, factory built homes, fill or other obstruction, the storage of materials or equipment, excavation, or alteration of a watercourse.

- a. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting, but not including livestock feedlots.
 - b. Industrial-commercial uses such as loading areas, parking areas, airport landing strips.
 - c. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.
 - d. Residential uses such as lawns, gardens, parking areas and play areas.
 - e. Such other open space uses similar in nature to the above uses.
2. Conditional Uses - The following uses which involve structures (temporary or permanent), fill, storage or materials or equipment may be permitted only upon issuance of a Conditional Use Permit. Such uses must also meet the applicable provisions of the Floodway District Performance Standards.
- a. Uses or structures accessory to open space uses.
 - b. Circuses, carnivals, and similar transient amusement enterprises.
 - c. Extraction of sands, gravel, and other materials.
 - d. Marinas, boat rentals, docks, piers, and wharves.
 - e. Utility transmission lines, underground pipelines.
 - f. Other uses similar in nature to uses described above which are consistent with the provisions of the performance standards and the general spirit and purpose of this section.
3. Performance Standards - All Floodway District uses allowed as a permitted or conditional use shall meet the following standards.
- a. No use shall be permitted in the Floodway District that would result in any increase in the one hundred (100) year flood level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
 - b. All uses within the Floodway District shall:
 1. Be consistent with the need to minimize flood damage.

2. Use construction methods and practices that will minimize flood damage.
 3. Use construction materials and utility equipment that are resistant to flood damage.
- c. No use shall affect the capacity or conveyance of the channel or floodway or any tributary to the main stream, drainage ditch, or any other drainage facility or system.
 - d. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable performance standards of the Shallow Flooding ("S-F") and Floodway Fringe ("F-F") Districts and shall be constructed or aligned to present the minimum possible resistance to flood flows.
 - e. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.
 - f. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the Floodway District within the time available after flood warning.
 - g. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
 - h. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.
 - i. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.
 - j. Mobile homes shall not be permitted.
 - k. Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall a) be on the site for fewer than one hundred eighty (180) consecutive days, and b) be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions. A recreational vehicle that is accessory to a principal permitted use and is fully licensed and ready for highway use may be on the site for more than 180 consecutive days for storage purposes only and not living quarters.
- b. Floodway Fringe District ("F-F"):
General Intent: It is the intent of the Floodway Fringe District that the identified area is designed to preserve and protect the natural character of the lands within the district and their values for flood control and water holding capacity. The areas within this district should be protected from developmental encroachment.

1. Principal Permitted Uses - The following uses shall be permitted within the "F-F" Floodway Fringe District to the extent they are not prohibited by any other Ordinance (or underlying zoning district) and provided they do not require the placement of dwellings or factory built homes. All uses shall meet applicable performance standards of the Floodway Fringe District.
 - a. Any use permitted in a Floodway District as a principal permitted use.
2. Conditional Uses - The following uses involving structures (temporary or permanent), fill, storage of materials or equipment may be permitted only upon issuance of a conditional use permit. Such use must also meet the applicable provisions of the Floodway Fringe District performance standards.
 - a. Any conditional use permitted in a Floodway District.
 - b. Subdivisions and new or substantially improved residential buildings, in accordance with Section XVII (A)(3)(b)(3).
3. Performance Standards - All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards.
 - a. All structures shall: (1) be adequately anchored (including factory built homes) to prevent flotation, collapse or lateral movement of the structure, (2) be constructed with materials and utility equipment resistant to flood damage, and (3) be constructed by methods and practices that minimize flood damage.
 - b. New or Substantially Improved Residential Buildings: New or substantially improved residential structures shall have the lowest floor, (including basements) elevated a minimum of three (3) feet above the one hundred (100) year flood level. The preferred method of elevation shall be on piles, posts, piers or columns, or on walls or a crawl space. Enclosures created by a crawl space or solid walls below the base flood elevation shall only be used for building access, vehicle parking, and storage of materials that have low damage potential. Enclosures shall be constructed of flood resistant materials and utilities must be raised a minimum of three (3) feet above the base flood elevation. Enclosures must be floodable and have openings as provided in Section XVII (A)(3)(d) below. The methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. Elevation on fill shall be discouraged to protect flood storage capacity and to prevent flood heights from increasing due to a loss of flood storage capacity. When permitted, elevation on fill shall be upon compacted fill which shall, at all points, be no lower than three (3) feet above the one hundred (100) year flood level and extend at such elevation at least eighteen (18) feet beyond the limits of any structure erected thereon. Elevation on fill shall not be permitted when the natural grade is more than two (2) feet below the base flood elevation unless compensatory storage is created to offset any loss of flood storage. Compensatory storage shall not include excavation areas that create ponds or low-lying areas likely to have their storage capacity exhausted by non-floodwaters.

- c. Non-Residential Buildings: All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of three (3) feet above the one hundred (100) year flood level, or together with attendant utility and sanitary systems, be flood proofed to such a level. When flood proofing is utilized, a professional engineer registered in the State of Iowa shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the one hundred (100) year flood; and that the structure, below the one hundred (100) year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to mean sea level) to which any structures are flood proofed shall be maintained by the Zoning Administrator.
- d. All New and Substantially Improved Structures:
1. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:
 - a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one (1) foot above grade.
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 2. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 3. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- e. Factory Built Homes:
1. Factory built homes, including those placed in existing factory built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements are that:
 - (a) over-the-top ties be provided at each of the four corners of the factory built home with

- two (2) additional ties per side at intermediate locations for factory built homes fifty (50) feet or more in length or one (1) such tie for factory built homes less than fifty (50) feet in length;
 - (b) frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points for factory built homes fifty (50) feet in length or four (4) such ties for homes less than fifty (50) feet in length;
 - (c) all components of the anchoring system be capable of carrying a force of 4800 pounds; and
 - (d) any additions to the factory built home be similarly anchored.
2. Factory built homes, including those placed in existing factory built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of three (3) feet above the one hundred (100) year flood level.
 3. Factory built homes not being placed in existing factory built home parks or subdivisions shall be placed on lots or pads elevated so that the lowest floor of the factory built home will be a minimum of three (3) feet above the 100 year flood level. In addition, the tie-down specifications enumerated within subparagraph (1) above must be met and adequate surface drainage and access for a hauler must be provided. New factory built home parks, expansions to existing factory built home parks, and factory built home parks where the repair, reconstruction or improvement of the streets, utilities, and pads equals or exceeds 50% or more of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced shall provide:
 - (a) lots or pads that have been elevated so that the lowest floor of the factory built homes will be a minimum of three (3) feet above the 100 year flood level;
 - (b) adequate surface drainage;
 - (c) access for a hauler; and
 - (d) ground anchors for factory built homes.

f. Utility and Sanitary Systems:

1. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities shall be provided with a level of flood protection equal to or greater than three (3) feet above the one hundred (100) year flood elevation.
2. On site waste disposal systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

3. New or replacement water supply systems shall be designed to eliminate infiltration of floodwaters into the system. Water supply treatment facilities shall be provided with a level of protection equal to or greater than three (3) feet above the one hundred (100) year flood elevation.
 4. Utilities such as gas and electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
- g. Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall either a) be on the site for fewer than one hundred eighty (180) consecutive days, b) be fully licensed and ready for highway use, or c) meet the permit requirements for "manufactured homes" of this Section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.
 - h. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of three (3) feet above the one hundred (100) year flood level. Other material and equipment must either be similarly elevated or: (1) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (2) be readily removable from the area within the time available after flood warning.
 - i. Flood control structural works such as levees, flood walls, etc., shall provide, at a minimum, protection from a one hundred (100) year flood with a minimum of three (3) feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.
 - j. No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch, or other drainage facility or system.
 - k. Subdivisions (including factory built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals shall meet the applicable performance standards. Subdivision proposals intended for residential development shall provide all lots with a means of vehicular access that will remain dry during occurrence of the one hundred (100) year flood.
 - l. The exemption of detached garages, sheds, fences, flag poles and similar structures from the 100 year flood elevation requirements may result in increased premium rates for insurance coverage of the structure and contents; however, said detached garages, sheds, fences, flag poles and similar accessory type structures are exempt from the 100 year flood elevation requirements when:
 1. The structure shall not be used for human habitation.

2. The structure shall be designed to have low flood damage potential.
3. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
4. Structures shall be firmly anchored to prevent flotation, which may result in damage to other structures.
5. The structure's service facilities such as electrical and heating equipment shall be elevated or flood proofed.

6. A professional engineer registered in the State of Iowa shall certify that these requirements are met.

PASSED AND ADOPTED by the Black Hawk County Board of Supervisors this 15th day of June, 2010 and July 6, 2010.

CERTIFICATION

The Black Hawk County Auditor shall certify to the adoption of this Ordinance.

VOTING FOR PASSAGE:

Craig White, Chair

Frank Magsamen

Tom Little

Scott Jordan

ABSENT: John Miller

ATTEST: Grant Veeder, County Auditor

ATTEST: Grant Veeder, County Auditor

Publication Date: July 9, 2010 in The Courier

BLACK HAWK COUNTY, IOWA:ss
Filed for record July 6, 2010 at 1.47 p.m.
and recorded in Fee Book 2011-00000361