CHAPTER 2

ADMINISTRATION

2.1 Administration And Enforcement. An Administrative Officer designated by the Board of Supervisors shall administer and enforce this ordinance. He may be provided with the assistance of such other persons as the Board of Supervisors may direct.

If the Administrative Officer shall find that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of its provisions.

2.2 Appeals From Decision Of Administrative Officer. Appeals from any decision of the Administrative Officer may be taken to the Board of Adjustment as provided in Section 2.13.

2.3 Interpretation Of Provisions. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion and protection of public health, safety, morals, and general welfare. Wherever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive, or that imposing the higher standards, shall govern.

2.4 Violations and Penalties. In accordance with Iowa Code Chapter 331.307, "County Infractions", any person, firm, or corporation who shall violate or fail to comply with the provisions of this ordinance shall be guilty of a civil infraction and upon conviction shall be fined not more than seven hundred and fifty ($750.00) dollars on the first offense. On repeated offenses, upon conviction, the fine shall not be more than one thousand ($1,000.00) dollars. Each day such violations continue shall constitute a separate offense.

2.5 Separate Offenses May Be Charged. The owners or tenant of any building, structure, land, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains a violation may each be charged with a separate offense and upon conviction suffer the penalties herein provided.

2.6 Injunction, Mandamus. Nothing herein contained shall prevent the County from taking other lawful action as is necessary to prevent or remedy any violation.

2.7 Construction Compliance Certificate. Subsequent to the adoption of this ordinance, a Construction Compliance Certificate shall be obtained from the Administrative Officer before any building or structure shall be erected, reconstructed, or structurally altered to increase the exterior dimensions, height, floor area, number of dwellings units or to accommodate a change in use of the building and/or premises or part thereof. The Construction Compliance Certificate shall state that the proposed construction complies with all provisions of this ordinance and no subsequent modifications shall be made to plans or to actual construction that would be in violation of this ordinance.

2.8 Occupancy Compliance Certificate. Subsequent to the effective date of this ordinance, no change in the use or occupancy of land nor any change in use or occupancy of an existing building, other than for single-family dwelling purposes shall be made, nor shall any new building be occupied for any purpose other than single-family dwelling until an Occupancy Compliance Certificate has been issued by the Administrative Officer. Every Occupancy Compliance Certificate shall state that the new occupancy

complies with all provisions of this ordinance and no subsequent modifications shall be made to the occupancy, use, or method of operation that would be in violation of this ordinance.

2.9 Application For Compliance Certificates. Applications for Compliance Certificates shall be made prior to beginning construction or assuming occupancy on fully completed application forms obtained from the Administrative Officer, accompanied by such plans and information necessary to determine that the proposed construction or occupancy complies with all applicable provisions of this ordinance. The Administrative Officer shall, within seven (7) days thereof, approve or deny said applications. If denied, the Administrative Officer shall submit his reasons thereof in writing to the applicant.

2.10 Fees. The Administrative Officer is directed to issue a Construction Compliance Certificate and/or Occupancy Compliance Certificate as required by this ordinance for proposed construction, reconstruction, or alteration which complies with all provisions contained herein and to charge a fee as established by the rule of the Jackson County Board of Supervisors for each Construction Compliance Certificate or Occupancy Compliance Certificate issued separately. Only one (1) fee shall be charged for a Construction Compliance Certificate and Occupancy Compliance Certificate issued jointly.

There shall be no fees charged to the United States Government, the State of Iowa, or any political subdivision thereof.

All fees are required and shall be paid to the Administrative Officer, who shall keep a complete and accurate record of fees received and shall forthwith deposit them to the credit of the general revenue fund of the county.

2.11 Board of Adjustment Created. A Board of Adjustment is hereby established. The Board shall consist of five (5) members to be appointed by the Board of Supervisors for a term of five (5) years, except that when the Board shall first be created one (1) member shall be appointed for a term of five (5) years, one for a term of four (4) years, one for a term of three 93) years, one for a term of two (2) years and one for a term of one (1) year. Members of the Board of Adjustment may be removed from office by the Board of Supervisors for cause upon written charges and after a public hearing. Vacancies shall be filled by the Board of Supervisors for the unexpired term of the member.

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

The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Board.

2.13 Hearings; Appeals; Notice. Appeals to the Board of Adjustment concerning the interpretation or administration of this ordinance may be taken by any person aggrieved or by any officer or bureau of the governing body of the County affected by any decision of the Administrative Officer. Such appeals shall be taken within a reasonable time, not to exceed sixty (60) days or such lesser period as may be provided by the rules of the Board, by filing with the Administrative Officer and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Administrative Officer shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.

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

A fee as established by rule of the Jackson County Board of Supervisors shall be paid to the Administrative Officer at the time the notice of appeal is filed which the Administrative Officer shall forthwith pay over to the credit of the general fund of the County.

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

2.15 The Board of Adjustment: Powers And Duties: The Board of Adjustment shall have the following powers and duties:

1. Administrative Review. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Administrative Officer in the enforcement of this ordinance.

2. Special Exceptions: Conditions Governing Applications: Procedures. To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this ordinance; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this ordinance and to deny special exceptions when not in harmony with the purpose and intent of this ordinance. Additionally, the Board of Adjustment shall have the power to modify by special exception any quantitative requirements under the same conditions and using the same procedures as set out in this section for listed special exception uses, providing the modification is less than fifty percent of the requirement, or, in situations involving setbacks from public roads, the County Engineer has determined that the interests of government entities in safety, engineering, and potential cost factors are negligible.

a. In granting any special exception, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this ordinance and punishable under Section 2.4 of this ordinance. The Board of Adjustment shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception.

b. A special exception shall not be granted by the Board of Adjustment unless and until:

(1) A written application for a special exception is submitted indicating the section of this ordinance under which the special exception is sought and stating the grounds on which it is requested.

(2) Notice shall be given at least ten (10) but no more than twenty (20) days in advance of the public hearing by publication in a newspaper of general circulation in the country.

(3) The public hearing shall be held. Any party may appear in person or by an agent or attorney.

c. In reviewing an application for a special exception, the Board of Adjustment shall consider the following:

(1) the Jackson County Land Use Policy Statement;

(2) other policy statements adopted by the Board of Supervisors including Resolution #184-12-07-99 addressing the preservation of ancient burial mounds;

(3) the purpose and intent of the Ordinance and of its specific districts;

(4) the most appropriate use of the land;

(5) the conservation and stabilization of property values;

(6) adequate open spaces for light and air;

(7) concentration of population;

(8) congestion of public streets;

(9) the promotion of public safety, health, convenience, and comfort;

(10)the general welfare of the persons residing or working in the general area.

d. Before any special exception is granted, the Board shall make the following written findings regarding the case in question:

(1) The Board is empowered under the section of this ordinance described in the application to grant the special exception.

(2) It complies with any specific regulations governing individual special exceptions.

(3) Satisfactory provision has been made concerning the following, where applicable:

(a) Vehicular access to property with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

(b) Off-street parking, loading, and service areas where required;

(c) Economic, noise, dust, heat, glare, or odor effects of the special exception on surrounding properties;

(d) Utilities, with reference to locations, availability, adequacy, and compatibility;

(e) Screens and buffers with reference to type, dimensions, character, and adequacy;

(f) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with surrounding properties;

(g) Required yards and other open spaces;

(h) General compatibility with surrounding properties.

(4) It is in harmony with the Land Use Policy Statement.

(5) It will not adversely affect the public interest.

3. Variances: Conditions Governing Applications: Procedures. To authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:

a. A written application for a variance is submitted demonstrating:

(1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

(2) That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;

(3) That the special conditions and circumstances do not result from the actions of the applicant;

(4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

b. Notice of public hearing shall be given as in Section 2.15.2(b) above.

c. The public hearing shall be held. Any party may appear in person by an agent or by an attorney.

d. The Board of Adjustment shall make findings that the requirements of Section 2.15.3(a) have been met by the applicant for a variance.

e. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

f. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 2.4 of this ordinance. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permitted in the district involved or any use expressly or by implication prohibited by the terms of this ordinance in said district. The effective date of variances granted shall be twenty-one (21) days from the date of granting, except that when a variance has been reaffirmed, with or without modification, after being remanded by the Board of Supervisors under the Provisions of section 2.17 below, the variance shall be effective immediately or as specified in the motion to reaffirm.

2.16 Decisions Of The Board of Adjustment. In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made and to that end shall have powers of the Administrative Officer from whom the appeal is taken. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Administrative Officer or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance or to effect any variation in the application of this ordinance.

2.17 Remanding of Variances by the Board of Supervisors. Under the authority of Iowa Code Section 335.10, the Board of Supervisors shall have the power to remand any variance granted by the Board of Adjustment. Accordingly, the following provisions shall apply:

1. A written report of all actions taken by the Board of Adjustment shall be provided promptly by its secretary to the applicant and to the Board of Supervisors, to include also the effective date of any variances granted.

2. Upon considering the report of actions and any other information available, the Board of Supervisors may choose to remand any decision to grant a variance, so long as it acts by official motion and before the effective date of the variance. The remanding of a variance will automatically delay its effective date for thirty (30) days from the date of the remand, or until the Board of Adjustment has taken an official action on the remand, as required by subsection four (4) below, whichever comes first.

3. Upon notice of such remand, the Board of Adjustment shall schedule a special public hearing, to occur before the new effective date of the variance, to hear any new testimony available on the matter. Notice of this hearing shall be provided in the customary manner and to all persons who commented on the request, either at the original hearing or in writing to the Board of Adjustment.

4. Upon holding such a special hearing, the Board of Adjustment shall make findings and take action to affirm its original decision, or to modify it by the placement of conditions on the variance, or by denying the variance.

5. If the Board of Adjustment fails to act before the effective date of a variance, the variance stands and any further redress of grievances shall come from a court of record as noted below.

2.18 Appeals From The Board of Adjustment: Any person or persons or any board, taxpayer, department, board, or bureau of the county aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision in the manner provided by the laws of the State and particularly by Chapter 358A, Code of Iowa.