

# **Supplement 1 – Amendment to: 1.8 Pioneer Cemetery, Section 2**

**Resolution 2020-14**

**Passed Mtg 9-February 25, 2020**

**Approve the Pioneer Cemetery Commission amendment to consist of seven persons appointed by the Board of Supervisors**

**WHEREAS**, the Clay County Board of Supervisors deems it necessary for the purposes of promoting the health, safety, and general welfare of Clay County, Iowa and its citizens to enact this ordinance amendment, and

**WHEREAS**, the Clay County Board of Supervisors have made recommendations in relation to the Clay County Ordinance amendment establishing a Pioneer Cemetery Commission to assume jurisdiction and management of pioneer cemeteries in Clay County, Iowa, and

**WHEREAS**, the Board of Supervisors has considered the proposed ordinance amendment and has held public hearings thereon the 11<sup>th</sup> day of February 2020 and the 25<sup>th</sup> day of February 2020; and

**WHEREAS**, the Clay County Board of Supervisors supports the adoption of the proposed amendment to the ordinance;

**NOW THEREFORE BE IT ENACTED AND ORDAINED:**

**Supplement No#1  
Amended  
Clay County Ordinance  
1.8 Pioneer Cemetery, Section 2**

The Commission shall consist of seven persons, residents of Clay County, Iowa, appointed by the Board of Supervisors as follows: Two of the members shall be appointed for the term expiring December 31, 2020 and two for the term expiring December 31, 2021, two for a term expiring December 31, 2022, and one for a term expiring December 31, 2023. Their successors in all cases shall be appointed for a term of three years, and all appointments to fill vacancies shall be for the unexpired term.

The above and foregoing resolution was adopted by the Board of Supervisors of Clay County, Iowa, 25<sup>th</sup> day of February 2020 and the vote thereon being as follows:

Ayes: Anderson, Hamrick, Matthews, Skelton, Swanson.

Nays: None.

Abstentions: None.

Resolution adopted.

/s/Dan Skelton, Chairperson, Clay County Board of Supervisor's

ATTEST: /s/Marjorie A. Pitts, County Auditor

# **Supplement 2– Ordinance 2.8 Providing for the Division of Taxes Levied on Taxable Property in the Clay County Urban Renewal Area, Pursuant to Section 403.19 of the Code of Iowa**

**Resolution 2020-27**

**Passed Mtg 13-April 7, 2020**

**WHEREAS**, on October 9, 2018, the Clay County Board of Supervisors approved and ordained the Clay County Code of Ordinances;

**WHEREAS**, new ordinances or regulations and/or amendments to ordinances or regulations continue to be adopted by the Clay County Board of Supervisors which require the Code of Ordinances to be supplemented;

**WHEREAS**, the new ordinances or regulations and amendments to ordinances or regulations may be copied as a supplement to the Clay County Code of Ordinances and become a part of the Code by resolution pursuant to Iowa Code §331.302(9).

**NOW, THEREFORE BE IT RESOLVED** that the Ordinance 2.8 An Ordinance Providing for the Division of Taxes Levied on Taxable Property in the Clay County Urban Renewal Area, Pursuant to Section 403.19 of the Code of Iowa attachment hereto be approved and adopted as addition to the Clay County Code of Ordinances.

**BE IT FURTHER RESOLVED** that the Clay County Auditor is directed to copy and distribute Supplement No. 2 to the Clay County Code of Ordinances.

The above and foregoing resolution was adopted by the Board of Supervisors of Clay County, Iowa this April 7, 2020 and the vote thereon being as follows:

Ayes: Anderson, Hamrick, Matthews, Skelton, Swanson. Nays: None. Abstentions: None.

Resolution adopted

/s/Dan Skelton, Chairperson, Clay County Board of Supervisors

ATTEST:

I, Deputy County Auditor Ann Baschke, hereby certify that this supplement to the Clay County Code of Ordinances was adopted on the 7<sup>th</sup> of April 2020.

/s/Ann Baschke, Deputy County Auditor

ORDINANCE NO. 2.8

An Ordinance Providing for the Division of Taxes Levied on Taxable Property in the Clay County Urban Renewal Area, Pursuant to Section 403.19 of the Code of Iowa

BE IT ENACTED by the Board of Supervisors of Clay County, Iowa:

Section 1. Purpose. The purpose of this ordinance is to provide for the division of taxes levied on the taxable property in the Clay County Urban Renewal Area, each year by and for the benefit of the state, city, county, school districts or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness to finance projects in such area.

Section 2. Definitions. For use within this ordinance the following terms shall have the following meanings:

“County” shall mean Clay County, Iowa.

“Urban Renewal Area” shall mean the taxable property in the Clay County Urban Renewal Area described below, such property having been identified in the Urban Renewal Plan approved by the Board of Supervisors by resolution adopted on January 28, 2020:

**Windtower Listing by Tower #**

| <u>Tax District</u> | <u>Tower Parcel</u> | <u>Land Parcel</u> | <u>Property Address</u> | <u>Township</u> | <u>Tower #</u> | <u>Landowner Name</u>   |
|---------------------|---------------------|--------------------|-------------------------|-----------------|----------------|---|
| 100                 | 973820200903        | 973820200008       | 120th Ave               | Waterford       | Substation     | Mid American Energy Company                                       |
| 100                 |                     | 973820200007       | 120th Ave               | Waterford       |                | Interstate Power & Light Company                                  |
| 120                 | 963836100901        | 963836100005       | 3826 150th Ave          | Lone Tree       | T001           | Breezy Acres LLC  |
| 120                 | 963825300901        | 963825300004       | 1540 380th St           | Lone Tree       | T002           | Thomas W & Peggy L Muhlbauer                                      |
| 120                 | 963826200901        | 963826200003       | 3735 150th Ave          | Lone Tree       | T003           | Dianne Alber Revocable Trust                                      |
| 120                 | 963826200902        | 963826200004       | 3737 150th Ave          | Lone Tree       | T004           | Dianne Alber Revocable Trust                                      |
| 120                 | 963826100901        | 963826100004       | 3730 140th Ave          | Lone Tree       | T005           | Mills Residuary Trust f/b/o Susan Ireland                         |
| 120                 | 963827100901        | 963827100005       | 3744 130th Ave          | Lone Tree       | T007           | Roger Haberman  |
| 120                 | 963828200901        | 963828200010       | 3745 130th Ave          | Lone Tree       | T008           | David L Fell Trust & Barbara G Fell Trust                         |
| 120                 | 963828100901        | 963828100003       | 3740 120th Ave          | Lone Tree       | T009           | Audrey Thiessen   |
| 120                 | 963828100902        | 963828100004       | 3742 120th Ave          | Lone Tree       | T010           | Audrey Thiessen   |
| 120                 | 963829400902        | 963829400003       | 3755 120th Ave          | Lone Tree       | T011           | Hobbs Family Trust  |
| 120                 | 963829400901        | 963829400002       | 1160 380th St           | Lone Tree       | T012           | Dianne Holt Revocable Trust                                       |
| 120                 | 963823100901        | 963823100006       | 1450 370th St           | Lone Tree       | T013           | Mills Residuary Trust f/b/o David P Mills                         |
| 120                 | 963823300901        | 963823300007       | 1452 370th St           | Lone Tree       | T014           | Mills Residuary Trust f/b/o David P Mills                         |
| 120                 | 963820100901        | 963820100003       | 3640 110th Ave          | Lone Tree       | T017           | Renee C Nath  |
| 120                 | 963820200902        | 963820200002       | 1165 120th St           | Lone Tree       | T016           | Linda D Raid, Bradley S Schmidt, Kimberly J Webb, & Nancy A Sills |
| 120                 | 963820200901        | 963820200001       | 3615 120th Ave          | Lone Tree       | T015           | Linda D Raid, Bradley S Schmidt, Kimberly J Webb, & Nancy A Sills |

### Windtower Listing by Tower #

| <u>Tax District</u> | <u>Tower Parcel</u> | <u>Land Parcel</u> | <u>Property Address</u> | <u>Township</u> | <u>Tower #</u> | <u>Landowner Name</u>   |
|---------------------|---------------------|--------------------|-------------------------|-----------------|----------------|---|
| 120                 | 963815200902        | 963815200011       | 3547 140th Ave          | Lone Tree       | T018           | Elizabeth A Vermeer   |
| 120                 | 963817300902        | 963817300006       | 1140 360th St           | Lone Tree       | T020           | Bradley Schmidt   |
| 120                 | 963817300901        | 963817300003       | 1116 360th St           | Lone Tree       | T021           | Linda D Raid, Bradley S Schmidt, Kimberly J Webb, & Nancy A Sills               |
| 120                 | 963818300901        | 963818300002       | 1060 360th St           | Lone Tree       | T022           | Stanley Jongma Rev Tr & Jodene Jongma Rev Tr                                    |
| 120                 | 963818400901        | 963818400001       | 1062 360th St           | Lone Tree       | T023           | Stanley Jongma Rev Tr & Jodene Jongma Rev Tr                                    |
| 120                 | 963818200901        | 963818200003       | 3527 110th Ave          | Lone Tree       | T024           | Bradley Schmidt   |
| 100                 | 973835200901        | 973835200008       | 1455 Hwy 18             | Waterford       | T025           | Elizabeth A Vermeer   |
| 100                 | 973835100901        | 973835100003       | 3250 140th Ave          | Waterford       | T026           | David J Groenewold  |
| 100                 | 973834400901        | 973834400002       | 3255 140th Ave          | Waterford       | T027           | Mark Scharnberg   |
| 100                 | 973834400902        | 973834400005       | 1370 330th St           | Waterford       | T028           | Mark Scharnberg & Cathi Rae Scharnberg  |
| 100                 | 973834100902        | 973834100010       | 3240 130th Ave          | Waterford       | T029           | Rebecca Kirksey, Patricia D Halverson-Adhav Revocable Trust, & Barbara Anderson |
| 100                 | 973833200901        | 973833200002       | 3247 130th Ave          | Waterford       | T030           | Lester L & Kimberly A Tessum  |
| 100                 | 973826300901        | 973826300004       | 3140 140th Ave          | Waterford       | T032           | Robert L Scharnberg Rev Tr & Mildred M Scharnberg Rev Tr                        |
| 100                 | 973826400901        | 973826400001       | 3142 140th Ave          | Waterford       | T033           | Robert L Scharnberg Rev Tr & Mildred M Scharnberg Rev Tr                        |
| 100                 | 973826100901        | 973826100003       | 1435 310th St           | Waterford       | T034           | Jensen Farms Inc  |
| 100                 | 973827400901        | 973827400007       | 3173 140th Ave          | Waterford       | T035           | Jeffry E & Cynthia L Pearson  |
| 100                 | 973827200901        | 973827200002       | 1351 310th St           | Waterford       | T037           | Jeffry Pearson, Patricia Monnahan, & Nancy Harmon                               |
| 100                 | 973828400901        | 973828400001       | 1260 Hwy 18             | Waterford       | T038           | Steven D & Elizabeth J Berends  |
| 100                 | 973829300902        | 973829300010       | 3150 110th Ave          | Waterford       | T039           | Juno Capital LLC  |
| 100                 | 973829300901        | 973829300001       | 3152 110th Ave          | Waterford       | T040           | Kirby L & Sandra K Schmidt  |
| 100                 | 973829100901        | 973829100001       | 3120 110th Ave          | Waterford       | T041           | Juno Capital LLC  |
| 100                 | 973822300901        | 973822300002       | 3060 130th Ave          | Waterford       | T042           | Elizabeth A Vermeer   |
| 100                 | 973821400901        | 973821400004       | 1270 310th St           | Waterford       | T043           | Harms Implement Co  |
| 100                 | 973821300902        | 973821300004       | 1240 310th St           | Waterford       | T044           | Harms Implement Co  |
| 100                 | 973821300901        | 973821300003       | 1212 310th St           | Waterford       | T045           | Steven D & Elizabeth J Berends  |
| 100                 | 973820400901        | 973820400004       | 3085 120th Ave          | Waterford       | T046           | Lester W & Barbara L Dykstra Rev Tr   |
| 100                 | 973820300902        | 973820300002       | 3072 110th Ave          | Waterford       | T047           | Linda DeMuth  |
| 100                 | 973820300901        | 973820300001       | 3070 110th Ave          | Waterford       | T048           | Linda DeMuth  |
| 100                 | 973821200901        | 973821200004       | 3035 130th Ave          | Waterford       | T049           | Steven D & Elizabeth J Berends  |
| 100                 | 973820200902        | 973820200002       | 1185 300th St           | Waterford       | T051           | Rebecca S Kirksey, Barbara J Anderson, & Patricia D Halverson-Adhav Rev Tr      |
| 100                 | 973820200901        | 973820200001       | 1155 300th St           | Waterford       | T052           | Rebecca S Kirksey, Barbara J Anderson, & Patricia D Halverson-Adhav Rev Tr      |
| 100                 | 973820100901        | 973820100002       | 1135 300th St           | Waterford       | T053           | Alma H Olson-Life Est, Jeanette Olson Leitz, & LeOrLee Lageschulte              |
| 100                 | 973816400901        | 973816400002       | 2965 130th Ave          | Waterford       | T054           | Ronald L Harris   |
| 100                 | 973816200902        | 973816200003       | 1255 130th Ave          | Waterford       | T055           | Bernard J Hildreth & Jeffrey J Hildreth   |

### Windtower Listing by Tower #

| <u>Tax District</u> | <u>Tower Parcel</u> | <u>Land Parcel</u> | <u>Property Address</u> | <u>Township</u> | <u>Tower #</u> | <u>Landowner Name</u>                        |
|---------------------|---------------------|--------------------|-------------------------|-----------------|----------------|--|
| 100                 | 973816300901        | 973816300001       | 2960 120th Ave          | Waterford       | T056           | Gloria J Harris                              |
| 100                 | 973817400901        | 973817400001       | 2974 110th Ave          | Waterford       | T057           | Alma H Olson Revocable Trust                 |
| 100                 | 973817300902        | 973817300002       | 2972 110th Ave          | Waterford       | T058           | Alma H Olson Revocable Trust                 |
| 100                 | 973817300901        | 973817300001       | 2970 110th Ave          | Waterford       | T059           | Alma H Olson Revocable Trust                 |
| 100                 | 973809300901        | 973809300004       | 1250 290th St           | Waterford       | T060           | Jerome G & Beverly J Kimball Revocable Trust |
| 100                 | 973809300902        | 973809300004       | 1224 290th St           | Waterford       | T061           | Jerome G & Beverly J Kimball Revocable Trust |
| 100                 | 973808400902        | 973808400004       | 2885 120th Ave          | Waterford       | T062           | Bernard J Hildreth                           |
| 100                 | 973808400901        | 973808400003       | 1170 290th St           | Waterford       | T063           | Bernard J Hildreth                           |
| 100                 | 973808300901        | 973808300004       | 1140 290th St           | Waterford       | T064           | Kent Kimball                                 |
| 100                 | 973808300902        | 973808300001       | 2874 110th Ave          | Waterford       | T065           | Kent Kimball                                 |
| 100                 | 973807200901        | 973807200002       | 2837 110th Ave          | Waterford       | T067           | Rodney Boersen                               |
| 100                 | 973807200902        | 973807200005       | 2839 110th Ave          | Waterford       | T068           | Rodney Boersen                               |
| 100                 | 973805400902        | 973805400002       | 2765 120th Ave          | Waterford       | T071           | Mark A & Susan K Nothwehr                    |
| 100                 | 973805400901        | 973805400003       | 2775 120th Ave          | Waterford       | T072           | Darrell E & Connie R Stave                   |
| 100                 | 973805300901        | 973805300004       | 1140 280th St           | Waterford       | T073           | Darrell E & Connie R Stave                   |
| 100                 | 973806400901        | 973806400001       | 2773 110th Ave          | Waterford       | T075           | Jerome G & Beverly J Kimball Revocable Trust |
| 80                  | 973706100901        | 973706100001       | 2700 160th Ave          | Summit          | T076           | Harold D & Joyce A Prior                     |
| 100                 | 973804200902        | 973804200004       | 1279 270th St           | Waterford       | T077           | Verland J & Arlene E Meyer                   |
| 100                 | 973804200901        | 973804200003       | 1263 270th St           | Waterford       | T078           | Verland J & Arlene E Meyer                   |
| 100                 | 973804100901        | 973804100005       | 1235 270th St           | Waterford       | T079           | Barbara L Dykstra                            |
| 100                 | 973805200901        | 973805200001       | 1175 270th St           | Waterford       | T080           | Rita R Schacherer Rev Tr Agrmt & Diane Nitz  |
| 100                 | 973805100902        | 973805100002       | 1149 270th St           | Waterford       | T081           | Bernard J Hildreth                           |
| 100                 | 973805100901        | 973805100001       | 1123 270th St           | Waterford       | T082           | Bernard J Hildreth                           |
| 100                 | 973806200901        | 973806200006       | 2725 110th Ave          | Waterford       | T083           | Peter J Stallman                             |
| 100                 | 973829300903        | 973829300903       | 3170 110th Ave          | Waterford       | Met 1          | Schmidt, Kirby L & Sandra K                  |
| 80                  | 973706100902        | 973706100001       | 2702 160th Ave          | Summit          | Met 2          | Harold D & Joyce A Prior                     |

Section 3. Provisions for Division of Taxes Levied on Taxable Property in the Urban Renewal Area. After the effective date of this ordinance, the taxes levied on the taxable property in the Urban Renewal Area each year by and for the benefit of the State of Iowa, the County and any city, school district or other taxing district in which the Urban Renewal Area is located, shall be divided as follows:

(a) that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the County Board of Supervisors certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in paragraph (b) below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

(b) that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the County to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the County to finance or refinance, in whole or in part, projects in the Urban Renewal Area, and to provide assistance for low and moderate-income family housing as provided in Section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the Code of Iowa, to the extent authorized by Section 403.19(2) of the Code of Iowa, taxes for the instructional support program of a school district imposed pursuant to Section 257.19 of the Code of Iowa, to the extent authorized by Section 403.19(2) of the Code of Iowa, and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection (a) of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

(c) the portion of taxes mentioned in subsection (b) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the County for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the County to finance or refinance in whole or in part projects in the Urban Renewal Area.

(d) as used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

Section 4. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 5. Saving Clause. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 6. Effective Date. This ordinance shall be effective after its final passage, approval and publication, as provided by law.

Passed and approved by the Board of Supervisors of Clay County, Iowa, on the 24th day of March, 2020.

/s/Dan Skelton, Chairperson, Board of Supervisors  
Attest: /s/ Marjorie A Pitts, County Auditor

## Supplement 3 – Tanning Facilities Ordinance 3.12

**Resolution 2020-29**

**Passed Mtg 13-April 7, 2020**

**WHEREAS**, on October 9, 2018, the Clay County Board of Supervisors approved and ordained the Clay County Code of Ordinances;

**WHEREAS**, new ordinances or regulations and/or amendments to ordinances or regulations continue to be adopted by the Clay County Board of Supervisors which require the Code of Ordinances to be supplemented;

**WHEREAS**, the new ordinances or regulations and amendments to ordinances or regulations may be copied as a supplement to the Clay County Code of Ordinances and become a part of the Code by resolution pursuant to Iowa

**NOW, THEREFORE BE IT RESOLVED** that the Resolution 2020-28 attachment hereto be approved and adopted as addition to the Clay County Code of Ordinances.

**BE IT FURTHER RESOLVED** that the Clay County Auditor is directed to copy and distribute Supplement No. 3 to the Clay County Code of Ordinances.

The above and foregoing resolution was adopted by the Board of Supervisors of Clay County, Iowa this April 7, 2020 and the vote thereon being as follows:

Ayes: Supervisors Swanson, Anderson, Matthews, Hamrick, and Skelton Nays: None. Abstentions: None.

/s/Dan Skelton, Chairperson, Clay County Board of Supervisors

ATTEST:

I, Deputy County Auditor Ann Baschke, hereby certify that this supplement to the Clay County Code of Ordinances was adopted on the 7<sup>th</sup> of April 2020.

/s/Ann Baschke, Deputy County Auditor

## Resolution 2020-28

**WHEREAS**, the Clay County Board of Supervisors deems it necessary for the purposes of promoting the health, safety, and general welfare of Clay County, Iowa and its citizens to enact this ordinance, and

**WHEREAS**, the Clay County Board of Supervisors have made recommendations in relation to the Clay County Ordinance providing for the regulation of tanning facilities and devices used for the purpose of tanning human skin through the application of ultraviolet radiation. This includes, but is not limited to, public and private businesses, hotels, motels, apartments, condominiums, health and country clubs in Clay County, Iowa, and

**WHEREAS**, the Board of Supervisors has considered the proposed ordinance and has held public hearings thereon the 24<sup>th</sup> day of March 2020 and the 7<sup>th</sup> day of April 2020; and

**WHEREAS**, the Clay County Board of Supervisors supports the adoption of the proposed ordinance;

**NOW THEREFORE BE IT ENACTED AND ORDAINED:**

### Clay County Tanning Facilities Ordinance No. 3.12

Providing for the regulation of tanning facilities and devices used for the purpose of tanning human skin through the application of ultraviolet radiation. This includes, but is not limited to, public and private businesses, hotels, motels, apartments, condominiums, health and country clubs in Clay County, Iowa

### CLAY COUNTY TANNING FACILITIES ORDINANCE

#### Ordinance Number: 3.12

**Section I: Purpose** This ordinance provides for the regulation of tanning facilities and devices used for the purpose of tanning human skin through the application of ultraviolet radiation. This includes, but is not limited to, public and private businesses, hotels, motels, apartments, condominiums, health and country clubs. All references to CFR's in this chapter are those in effect as of April 30, 2007. These rules stipulate minimum safety requirements relating to the operation of tanning devices; qualifications for tanning facility operators; and procedures for the Board of Health to provide for the inspection of tanning facilities and enforcement of these rules. Tanning facilities which are in compliance with these rules are not relieved from the requirements of any other federal and state regulations or local ordinances.

### Section II: Definitions

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted to give them the meaning they have in common usage and to give this Ordinance it's most reasonable application.

**Board of Health-** Means the Clay County Board of Health.

**Cleansing-** Means to remove soil, dirt, oils or other residues from the surface tanning unit which may come into contact with the skin.

**Cleansing agent-** Means a substance capable of producing the effect of cleansing. These agents shall not adversely affect the equipment or the health of the consumer and shall be acceptable to the Iowa Department of Public Health or the Board of Health.

**Consumer-** Means any member of the public who is provided access to a tanning facility in exchange for a fee or other compensation, or any individual who, in exchange for a fee or other compensation, is afforded use of a tanning facility as a condition or benefit of membership or access.



**Department-** Means the Iowa Department of Public Health (IDPH).

**Exposure position-** Means any position, distance, orientation, or location relative to the radiation surfaces of a tanning device at which the user is intended to be exposed to ultraviolet radiation from the product, as recommended by the manufacturer.

**Formal training-** Means a course of instruction approved by the department for operators of tanning facilities.

**Healthcare Professional-** Means an individual, licensed by the state of Iowa, who has received formal medical training in the use of phototherapy.

**Inspection-** Means an official examination or observation including but not limited to tests, surveys, and monitoring to determine compliance with rules, orders, requirements and conditions of these rules.

**Manufacturer's recommendations-** Means written guidelines established by a manufacturer and approved by the U.S. Food and Drug Administration for the installation and operation of the manufacturer's equipment.

**Operator-** Means an individual designated to control operation of the tanning facility and to instruct and assist the consumer in the proper operation of the tanning devices.

**Permit or Permit to Operate-** Means a document issued by the Iowa Department Public Health which authorizes a person to operate a tanning facility.

**Person-** Means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, or any other state or political subdivision or agency thereof, and any legal successor, representative, agent or agency of the foregoing, but shall not include federal government agencies.

**Phototherapy device-** Means a piece of equipment that emits ultraviolet radiation and is used by a health care professional in the treatment of disease.

**Tanning device-** Means any equipment that emits electromagnetic radiation with wavelengths in the air between two hundred (200) and four hundred (400) nanometers and that is used for tanning of human skin, such as sunlamps, tanning booths, or tanning beds. The term also includes any accompanying equipment such as protective eyewear, timers, and handrails.

**Tanning facility-** Means a place that provides access to tanning devices for compensation.

**Ultraviolet radiation-** Means electromagnetic radiation with wavelengths in air between two hundred (200) nanometers and four hundred (400) nanometers.

### **Section III: Exemptions**

Iowa Department of Public Health and or The Board of Health may upon application or upon its own initiative, grant exemptions from the requirements of these rules as long as it will not result in undue hazard to public health and safety. The following categories of devices are exempt from the provisions of this ordinance:

- A. Other Purposes. Devices intended for purposes other than the deliberate exposure of human skin to ultraviolet radiation which produce or emit ultraviolet radiation incidental to their proper operation.
- B. Personal Use. Tanning devices which are limited exclusively to personal use by an individual and this individual's immediate family. Multiple ownership of the device by persons for personal use only does not qualify it for the "personal use only" exemption.

- C. Phototherapy Devices. Phototherapy devices used by properly trained health care professional in the treatment of disease.

### **Section IV: Permits and Fees**

- A. No tanning facility shall be operated in Clay County without having a permit to operate issued by the Iowa Department of Public Health.
- B. Inspections.
  - 1. Inspections shall be conducted annually.
  - 2. Inspection fees.
    - a. An inspection fees will be set by the Board of Health.
    - b. Inspection fees shall be due upon receipt of payment due notice. The fees billed will be paid to the Board of Health or its designee.
    - c. Inspection fees not received within forty-five days of the date of billing will be assessed a \$25 late fee penalty for each month or fraction thereon that the bill is delinquent.
    - d. A penalty fee of \$25 per facility may be assessed for the following: Failure to respond to a notice of violation with 30 days fo the date of the inspection. Failure to correct violations cited during the inspection.
  - 3. Inspections shall include the following areas: proper operation and maintenance of devices, review of required records and training documentation, operator understanding and competency, and the requirements of these rules.

### **Section V: Construction and Operation of Tanning Facilities**

Unless otherwise ordered or approved by the department and the Board of Health, each tanning facility shall be constructed, operated, and maintained to meet the following minimum requirements:

- A. A tanning facility shall provide and post the following warning signs and statements that describe the hazards associated with the use of tanning devices:
  - 1. A warning sign in a conspicuous location readily visible to persons entering the establishment. This warning sign shall use 0.5-inch (12.7 millimeter) letters for "Danger, Ultraviolet Radiation" and 0.25-inch (6.4 millimeter) letters for all other lettering. The sign shall use lettering against a white background, be at least nine inches by twelve (12) inches (22.9 centimeters by 30.5 centimeters) and have the following wording:

**DANGER  
ULTRAVIOLET RADIATION**

Overexposure can cause:

- Eye and skin injury
- Allergic reaction

Repeated exposure may cause:

- Premature aging of the skin
- Skin cancer

Failure to wear protective eyewear may result in:

- Severe burns to eyes
- Long-term injury to eyes

Medication or cosmetics may increase your sensitivity.

- B. A warning sign with the identical wording set forth in subsection (1)(A) of this section posted within one meter of the tanning device in a conspicuous location readily visible to a person preparing to use the device. This warning sign shall use 0.5-inch (12.7 millimeter) lettering for "Danger, Ultraviolet Radiation" and 0.25-inch (6.4 millimeter) lettering. The sign shall use lettering against a white background and be at least six inches by nine inches (15.2 centimeters by 22.9 centimeters) in size.
- C. A tanning facility shall provide each customer with a written warning statement prior to the customer's initial exposure which includes at least the following information:
  - 1. A representative list of potential photosensitizing drugs and agents; this list should at least include drugs or agents in the product classes of acne treatment, antibacterial, antibiotics, anticonvulsants, antidepressants, antidiabetics, antihypertensive, dye, estrogen and progesterone's, melanogenic, perfumes and toilet articles, tranquilizers, antihistamines, and antimicrobials/anti-infectious agents. A partial list of drugs and agents in these product classes is found in Appendixes IA, IB, and IC of Chapter 46 of the Iowa Administrative Code and is adopted by reference.
  - 2. Basic information on how different skin types respond to tanning (See Appendix No. 2 of Chapter 46 of the Iowa Administrative Code);
  - 3. An explanation of the need to use eyewear;
  - 4. The operator shall then request that the consumer sign a statement that the information has been read and understood.

D. Federal Certification

- 1. Only tanning devices manufactured and certified under the provisions of 21 CFR Part 1040.20, "Sunlamp products and ultraviolet lamps intended for use in sunlamp products," shall be used in tanning facilities. Compliance shall be based on the standard in effect at the time of manufacture as shown on the device identification label required by 21 CFR Part 1010.2 and 1010.3.
- 2. Labeling shall meet the requirements, be visible on each unit and be permanently affixed. Labeling shall include:
  - i. Warning statement with the words:
  - ii. "Danger—Ultraviolet radiation. Follow instructions. Avoid overexposure. As with natural sunlight, overexposure can cause premature aging of the skin and skin cancer. WEAR PROTECTIVE EYEWEAR; FAILURE TO MAY RESULT IN SEVERE BURNS OR A LONG-TERM INJURY TO THE EYES. Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications or have a history of skin problems or

believe yourself especially sensitive to sunlight. If you do not tan in the sun, you are unlikely to tan from the use of this product."

- iii. Recommended Exposure Position(s). Any exposure position may be expressed either in terms of a distance specified both in meters and in feet (or in inches) or through the use of markings or other means to indicate clearly the recommended exposure position.
- iv. Directions for achieving the recommended exposure position(s) and a warning that the use of other positions may result in overexposure.
- v. A recommended exposure schedule including duration and spacing of sequential exposures and maximum exposure time(s) in minutes.
- vi. A statement of the time it may take before the expected results appear.
- vii. Designation of the ultraviolet lamp type to be used in the product.
- viii. Attention: This sunlamp product should not be used on persons under the age of 18 years. —The text shall be placed in a black box with text at least 10mm in height. It shall appear on a part or panel displayed prominently under normal conditions of use so that it is readily accessible to view whether the tanning bed canopy (for tanning booth door) is open or closed when the persons who will be exposed approaches the equipment.

#### E. Tanning Device Timers.

1. Each tanning device shall have a timer which complies with the requirements of 21 CFR Part 1040.20. The maximum timer interval shall not exceed the manufacturer's maximum recommended exposure time. No timer shall have an error factor greater than +/- 10 percent of the indicated setting.
2. Each tanning device must have a method of remote timing located so that customers may not control their own exposure time.
3. Tokens for token timers shall not be issued to any consumer in quantities greater than the device manufacturer's maximum recommended exposure time for the consumer.
4. Each tanning device shall incorporate a control on the product to enable the consumer to manually terminate the radiation emission from the product at any time without disconnecting the electrical source or removing the ultraviolet lamp.
5. The operator shall ensure that the facility interior temperature does not exceed one hundred (100) degrees Fahrenheit or thirty-eight degrees Celsius.
6. Condition of Tanning Devices.
  - a. There shall be physical barriers to protect consumers from injury induced by touching or breaking the lamps.
  - b. The tanning devices shall be maintained in good repair and comply with all state and local electrical code requirements.
7. Additional Requirements for Stand-up Booths.
  - a. There shall be physical barriers (handrails, etc.) or other means (floor markings) to indicate the proper exposure distance between ultraviolet lamps and the consumer's skin.

- b. The construction of the booth shall be such that it will withstand the stress of use and the impact of a falling person.
  - c. Access to the booth shall be of rigid construction; doors shall open outwardly. Handrails and nonslip floors shall be provided.
8. Protective Eyewear.
- a. Eyewear shall not be re-used by another consumer.
  - b. Protective eyewear shall meet the requirements of 21 CFR Part 1040.20(c)(4).
  - c. Protective eyewear shall not be altered in any manner that would change its use as intended by the manufacturer (i.e., removal of straps).
  - d. A tanning facility operator shall not allow a consumer to use a tanning device if that consumer does not use the protective eyewear required by this sub-rule. To verify that a consumer has the proper eye wear, the operator must:
    - i. Ask to see the eyewear before the consumer enters the tanning room; OR
    - ii. Provide disposable eyewear in the tanning room at all time and post a sign stating that the eyewear is available, and that eyewear must be worn.
  - e. A tanning facility operator shall instruct the consumer in the proper utilization of the protective eyewear required by this sub-rule.

F. Operation.

- 1. A trained operator must be present when a tanning device is operated. The operator must be within hearing distance to allow the consumer to easily summon help if necessary. If the operator is not in the immediate vicinity during use, the following conditions must be met:
  - a. The consumer can summon help through use of an audible device such as an intercom or buzzer; and
  - b. The operator can reach the consumer within a reasonable amount of time after being summoned.
- 2. The facilities permit to operate shall be displayed in an open public are of the tanning facility.
- 3. A record shall be kept by the facility operator of each consumer's total number of tanning visits and tanning times, exposure lengths in minutes, times and dates of the exposure, and any injuries or illness resulting from the use of the tanning device.
- 4. Any tanning injury NOT requiring a physician's care and any resulting changes in tanning sessions shall be noted in the consumer's file. A written report of any tanning injury requiring a physician's care shall be forwarded by the permit holder to the Iowa Department of Public Health and the local Board of Health within five working days of its occurrence or knowledge thereof, the report shall include:
  - a. The name of the affected individual;
  - b. The name and location of the tanning facility involved;
  - c. The nature of the injury;
  - d. The name and address of health care provider treating the affected individual, if any; and
  - e. Any other information considered relevant to the situation.

5. Defective or burned-out lamps or filters shall be replaced with a type intended for use in that device as specified on the product label on the tanning device, or, with lamps or filters that are "equivalent" under 21 CFR Part 1040, Section 1040.20 and policies applicable at the time of lamp manufacture.
6. The permit holder shall replace ultraviolet lamps and bulbs, which are not otherwise defective or damaged, at such frequency or after such duration of use as may be recommended by the manufacturer of such lamps or bulbs.
7. Contact surfaces of tanning devices shall be:
  - a. Cleansed by the operator with a cleansing agent between each use
  - b. Contact surfaces may be covered by a non-reusable protective material during each use. Or
  - c. Cleansed by consumer provided the following conditions are met:
    - i. The operator instructs the consumer annually on how to properly cleanse the unit
    - ii. The consumer annually signs a statement stating that the consumer agrees to cleanse the unit after each use
    - iii. Signs are posted in each tanning room reminding the consumer to cleanse the tanning unit after each use and stating the proper way to cleanse the unit; and
    - iv. The operator cleanses the tanning unit at least once a day.
8. Any records or documentation required by this chapter must be maintained in the tanning facility for a minimum of two years. Records maintained on computer systems shall be regularly copied, at least monthly, and updated on storage media other than the hard drive of the computer. An electronic record must be retrievable as a printed copy.
9. The operator shall limit the exposure of the consumer to the maximum exposure frequency and session duration recommended by the manufacturer.
10. When a tanning device is being used, no other person shall be allowed to remain in the tanning device area unless protective eyewear is worn.

#### G. Training of Operators.

1. No individual shall begin functioning as an operator unless the individual has satisfactorily completed a training program. Training shall include but not be limited to:
  - a. The requirements of Chapter 46 of the Iowa Administrative Code;
  - b. Procedures for correct operation of the tanning facility and tanning devices;
  - c. The determination of skin type of consumers and appropriate determination of duration of exposure to tanning devices;
  - d. Recognition of reaction or overexposure;
  - e. Manufacturer's procedures for operation and maintenance of tanning devices.
2. Owners and managers must complete formal training approved by the Iowa Department of Public Health and the Board of Health. All owners and managers must satisfactorily pass a certification examination approved by the Iowa Department of Public Health and the Board of Health before operating a tanning facility or training employees.

3. Owners and managers are responsible to train operators in the above topics and to provide review as necessary. Training programs shall be approved by the Iowa Department of Public Health and The Board of Health including final testing. Operators shall be questioned during inspections as to the level of the individual's understanding and competency in operating the tanning device.
4. Proof of training for both owner/managers and operators must be maintained in the tanning facility and available for inspection. For operators the employee record shall be the original test which bears the signature of the employee, the date, and a statement signifying that all answers have been completed by the employee and without prior knowledge to the scoring key.
5. Operators shall be at least 16 years of age.
6. Operators shall complete the required training and testing every five years.
7. Owner/Manager shall complete the required testing every five years.
  - a. The test that will be used is approved by the Iowa Department of Public Health and The Board of Health
  - b. Testing is available by appointment with the Board of Health or its designee.
  - c. Cost of testing will be set by the Board of Health

#### H. Promotional Materials.

1. A tanning facility shall not claim, or distribute promotional materials that claim, that using a tanning device is safe or free from risk or that the use of the device will result in medical or health benefits. The only claim that may be made is that the device is for cosmetic use only.

#### I. Requirements for electronically controlled facilities. Electronically controlled facilities are those facilities that rely on electronic means to monitor consumers.

1. Entry into the facility is allowed by card only. Two individuals may not enter under the same card. The card is specifically activated for tanning use if the facility offers other activities.
2. Police and all emergency services will have access to the facility through a key box located outside the entrance of the facility.
3. The tanning unit will not activate if the card is not programmed for tanning. The card will not activate if two individuals are in the tanning room.
4. The consumer must sign a tanning agreement that states the number of minutes per session that the consumer agrees to wear protective eyewear, that the consumer will cleanse the unit after tanning, and that the consumer is aware of the emergency access in each room.
5. The card will be programmed for the number of minutes the consumer is allowed to tan. The card may be reprogrammed for an increase in minutes per session only after the consumer has reviewed and re-signed the Tanning Agreement. After 30 consecutive days without the consumer's accessing the tanning facility, the card will be deactivated, and the consumer must reapply to access the tanning unit.
6. The operator will demonstrate to each consumer how to properly cleanse the unit after tanning, including the top, bottom, and handles. A sign will be placed in each room explaining the cleansing process. The operator will cleanse the units at least once a day when they are in use.
7. Free disposable eyewear will be placed in each room along with a sign stating that the disposable eyewear is available, and that eyewear must be worn.
8. An emergency call button or device will be placed in each tanning room conveniently located within reach of the tanning bed. This device will call the operator or emergency personnel.
9. During annual inspections, the inspector may ask any consumer about any of the above processes.

## Section VI: Inspections, Violations and Injunctions

1. Board of Health or its designee agent shall have access at all reasonable times to any tanning facility to inspect the facility to determine if this ordinance is being violated.
2. A person who operates or uses a tanning device or tanning facility in violation of this chapter or of any rule adopted pursuant to this ordinance is guilty of a simple misdemeanor.
3. If the Board of Health or its designee finds that a person has violated, or is violating or threatening to violate this ordinance and that the violation creates an immediate threat to the health and safety of the public, the Board of Health or its designee may petition the magistrates court for a temporary restraining order to restrain the violation or threat of violation.
4. On application for injunctive relief and a finding that a person is violating or threatening to violate this ordinance, the magistrate's court shall grant any injunctive relief warranted by the facts.
5. Enforcement
  - a. The Board of Health or its designee shall take the following steps or use any other applicable ordinances, resolutions, rules, and/or regulations when enforcement of these rules is necessary.
    - i. Cite each section of the state code or ordinance violated.
    - ii. Specify the manner in which the owner or operator failed to comply.
    - iii. Specify the steps required for correcting the violations.
    - iv. Request a corrective action plan, including a time schedule for completion of the plan.
    - v. Set a reasonable time limit, not to exceed thirty (30) days from the receipt of the notice, within which the permit holder must respond.
  - b. The Board of Health or its designee shall review the corrective action plan and approve it or require that it be modified.
  - c. In cases where the permit holder fails to comply with conditions of the written notice, the Board of Health or its designee shall send a regulatory letter, via certified mail, advising the permit holder that unless action is taken within five days of receipt, the case shall be turned over to the county attorney for court action.

## Section VII: Penalty for Violation

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

The above and foregoing resolution was adopted by the Board of Supervisors of Clay County, Iowa, 7<sup>th</sup> day of April 2020 and the vote thereon being as follows: Ayes: Supervisors Swanson, Anderson, Matthews, Hamrick, and Skelton. Nays: None. Abstentions: None.

/s/Dan Skelton, Chairperson, Clay County Board of Supervisors

ATTEST: /s/Ann Baschke, Deputy County Auditor



# Supplement 4 – Urban Renewal Plan Amendment

Resolution 2020-51

Passed Mtg 29-October 6, 2020

## RESOLUTION NO. 2020-44

### **A resolution to approve 2020-1 Urban Renewal Plan Amendment for the Clay County Urban Renewal Area**

WHEREAS, the Board of Supervisors of Clay County, Iowa (the “County”) has created the Clay County Urban Renewal Area (the “Urban Renewal Area”) and has approved an urban renewal plan for the Urban Renewal Area; and

WHEREAS, Chapter 403 of the Code of Iowa requires that, before a county adds property or approves any new urban renewal project, a county must amend the existing urban renewal plan to include that property and that new project; and

WHEREAS, an amendment to the urban renewal plan for the Urban Renewal Area has been prepared which proposes to add new property and describes new county urban renewal projects to be undertaken, including financing improvements to County buildings; and

WHEREAS, notice of a public hearing by the Board of Supervisors on the proposed urban renewal plan amendment for the Urban Renewal Area was heretofore given in strict compliance with the provisions of Chapter 403 of the Code of Iowa, and the Board has conducted said hearing; and

WHEREAS, copies of the urban renewal plan amendment, notice of public hearing and notice of a consultation meeting with respect to the urban renewal plan amendment were sent as required by law, and the consultation meeting was held;

NOW, THEREFORE, It Is Resolved by the Board of Supervisors of Clay County, Iowa, as follows:

- Section 1. It is hereby determined by this Board of Supervisors as follows:
- A. The 2020-1 Amendment to the Urban Renewal Plan for the Clay County Urban Renewal Area conforms to the general plan of the County;
  - B. The proposed projects described in the 2020-1 Amendment to the Urban Renewal Plan for the Clay County Urban Renewal Area are necessary and appropriate to facilitate the proper growth and development of the County in accordance with sound planning standards and local community objectives.
- Section 2. The 2020-1 Amendment to the Urban Renewal Plan for the Clay County Urban Renewal Area, in the form attached to this Resolution, is made a part hereof and is hereby in all respects approved.
- Section 3. All resolutions or parts thereof in conflict herewith are hereby repealed, to the extent of such conflict.

The above and foregoing resolution was adopted by the Board of Supervisors of Clay County, Iowa, this 6th day of October 2020 and the vote thereon being as follows:

AYES: Supervisors Swanson, Anderson, Matthews, Hamrick, and Skelton. NAYES: None.

/s/Dan Skelton, Chairperson

ATTEST: /s/Marjorie A. Pitts, County Auditor

**CLAY COUNTY, IOWA  
CLAY COUNTY URBAN RENEWAL AREA  
2020-1 AMENDMENT  
URBAN RENEWAL PLAN**

The Urban Renewal Plan for the Clay County Urban Renewal Area (the “Urban Renewal Area”) is hereby amended in accordance with the provisions of Chapter 403 of the Code of Iowa to give information about new properties that are being added to the Urban Renewal Area and new urban renewal projects that are proposed to be undertaken in the Urban Renewal Area.

The following County properties are hereby added to the Urban Renewal Area:

County Services Building, 505 2<sup>nd</sup> Avenue West  
Governmental Services Center, 217 West 5<sup>th</sup> Street  
County Courthouse, 215 West 4<sup>th</sup> Street  
Administration Building, 300 West 4<sup>th</sup> Street  
County Attorney, Sheriff’s Department and Jail, 3115 and 3121 West 4<sup>th</sup> Street

In addition, the following properties are also hereby added to the Urban Renewal Area, one of which will be selected as the site for a Secondary Roads Maintenance Facility:

Riverton Township, SE ¼ of Section 10, T-96N, R-37W  
Riverton Township, SW ¼ of Section 11, T-96N, R-37W  
Sioux Township, NE ¼ of Section 17, T-96N, R-36W  
Sioux Township, NE ¼ of Section 8, T-96N, R-36W

In connection with the addition of these properties to the Urban Renewal Area, the Board of Supervisors has determined that renovations and improvements to the existing buildings and construction of the Maintenance Facility would benefit the residents of the County and would contribute to continued growth and economic development in the County. In order to finance the renovations, improvements and new construction, the Board of Supervisors hereby designates the work on each of these properties as an urban renewal project for which general obligation bonds could be issued. Iowa law authorizes counties to issue general obligation bonds for urban renewal projects, provided a notice of hearing and intent to issue bonds is published, which notice must include the right of voters to petition for an election on the issuance of the bonds. Following approval of this 2020-1 Amendment, the Board of Supervisors intends to direct the publication of a notice of hearing related to the issuance of general obligation bonds to finance each of these projects. The Board of Supervisors does not intend to authorize the use of incremental property tax revenues or tax increment financing for any of these projects.

# **Supplement 5 – CLAY COUNTY OPERATION OF ALL-TERRAIN AND OFF-ROAD VEHICLES, NO. 3.10**

**Resolution 2020-52**

**Passed Mtg 35-November 17, 2020**

**WHEREAS**, the Clay County Board of Supervisors deems it necessary for the purposes of promoting the health, safety, and general welfare of Clay County, Iowa and its citizens to enact this ordinance, and

**WHEREAS**, the Clay County Board of Supervisors have made recommendations in relation to the Amendment to the Clay County Ordinance for operation of all-terrain and off road vehicles.

**WHEREAS**, the Board of Supervisors has considered the proposed ordinance and has held public hearings thereon the 5<sup>th</sup> day of November, 2020 and the 17<sup>th</sup> day of November 2020; and

**WHEREAS**, the Clay County Board of Supervisors supports the adoption of the proposed amendment to the ordinance;

**NOW THEREFORE BE IT ENACTED AND ORDAINED:**

## CLAY COUNTY OPERATION OF ALL-TERRAIN AND OFF-ROAD VEHICLES, NO. 3.10

An ordinance to designate that portion of county highways upon which All-Terrain Vehicles and Utilities Vehicles may be operated during a specified period, to specify said period, and to establish regulations regarding such operation.

### PURPOSE:

The purpose of this Resolution is to designate that portion of county highways upon which All-Terrain Vehicles and Utility Vehicles may be operated during a specified period, to specify said period, and to establish regulations regarding such operation.

### DEFINITIONS:

- (1) "All-terrain vehicle," as defined by Iowa Code Section 321I.1(1)(a), means a motorized vehicle with not less than three and not more than six non-highway tires that is limited in engine displacement to less than one thousand cubic centimeters and in total dry weight to less than one thousand two hundred pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

- (2) "Off-Road Utility Vehicle", as defined in Iowa Code Section 321I.1(17), means a motorized flotation-tire vehicle with not less than four and not more than eight low-pressure tires that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 1,800 pounds and that has a seat of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control.
- (3) "Roadway", as defined in Iowa Code Section 321I.1(26), means that portion of a highway improved, designed, or ordinarily used for vehicular travel.

#### OPERATION ON ROADWAYS:

If an All-Terrain or Off-Road Utility Vehicle is properly registered pursuant to Iowa Code Section 321I.3, the same may be operated on any Clay County, Iowa, roadway, such operation limited to roadways lying outside the city limits of any incorporated city which does not have an ordinance or other regulation in effect allowing such operation

#### SPECIAL OPERATION ON PUBLIC PROPERTY:

All-terrain vehicles shall not be operated on any public property, streets, highways, sidewalks, trails or bridges within Clay County, except under the following circumstances:

- (1) The operation is incidental to the vehicle's use for the purpose of surveying by a licensed engineer or land surveyor.
- (2) The all-terrain vehicle is operated by an employee or agent of a public agency as defined in section 34.1 of the Iowa Code for the purpose of providing emergency services or rescue including all-terrain vehicles operated by or with the approval of the Spencer police department or fire department or Clay County sheriff's office.
- (3) An all-terrain vehicle that is owned by the owner of land adjacent to a highway may be operated by the owner of the all-terrain vehicle, or by a member of the owner's family, on the portion of the highway right of way that is between the shoulder of the roadway, or at least five feet (5') from the edge of the roadway, and the owner's property line.
- (4) An employee or volunteer of the Spencer police department or fire department or Clay County sheriff's office may operate all-terrain vehicles on the property of the political subdivision and on public sidewalks and trails as well as on streets and highways. Under this provision, all-terrain vehicles may be operated on sidewalks, trails and public property for maintenance and snow removal activities, public safety, emergency response and rescue.
- (5) Property owners or their agents may operate all-terrain vehicles on sidewalks adjacent to the property owner's property for the purpose of removing snow and ice. When being used for the removal of snow and ice from a sidewalk, operation on city streets shall be limited to such incidental operation as is reasonably necessary in the snow removal operation. Individuals who operate all-terrain vehicles on sidewalks for snow removal shall possess a valid Iowa driver's license.

UNLAWFUL OPERATIONS:

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

- a. At a rate of speed in excess of the posted speed limit, nor greater than reasonable or proper under all existing circumstances.
- b. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.
- c. All- Terrain Vehicles used in snow removal operations on city streets shall be equipped with a functioning yellow or amber flashing light visible from all points of the compass at all times.
- d. While under the influence of an alcoholic beverage or controlled substance.
- e. All- Terrain Vehicles operated at any time from sunset to sunrise shall be equipped with at least two (2) headlamps in accordance with Section 321.385 of the Iowa Code; at least one (1) red rear light pursuant to Section 321.387 of the Iowa Code; and a signal lamp to give a signal of an intention to stop pursuant to Section 321.404 of the Code of Iowa. (Ord. 795, 1-18-2016, eff. 4-1-2016; amd. Ord. 855, 5-18-2020)
- f. All- Terrain Vehicles operated on city streets shall be equipped with the original manufacturer's muffler and exhaust system or equivalent and shall not exceed the manufacturer's original emission specifications. Every such vehicle shall be equipped with lights and safety equipment required of motor vehicles under Iowa law.
- g. In any tree nursery or planting in a manner which damages or destroys growing stock.
- h. On any public land, ice, or snow, in violation of official signs of the commission prohibiting such operation in the interest of safety for persons, property, or the environment. Any officer appointed by the commission may post an official sign in an emergency for the protection of persons, property, or the environment.
- i. In any park, wildlife area, preserve, refuge, game management area, or any portion of a meandered stream, or any portion of the bed of a non-meandered stream, which has been identified as a navigable stream or river by rule adopted by the Department of Natural Resources and which is covered by water, except on designated riding areas and designated riding trails. This paragraph does not prohibit the use of ford crossing of public roads or any other ford crossing when used for agricultural purposes; the operation of construction vehicles engaged in lawful construction, repair, or maintenance in a streambed; or the operation of all-terrain vehicles on ice.
- j. With more persons on the vehicle than it was designated to carry, except that this subsection shall not apply to a person who operates an All-Terrain or Off-Road Utility Vehicle as part of a farm operation as defined in Iowa Code section 352.2.

- k. While in possession of a firearm in violation of the laws of the State of Iowa, including but not limited to Iowa Code Chapter 724.
  - l. Upon an operating railroad right-of-way. An All- Terrain or Off-Road Utility Vehicle may be driven directly across a railroad right-of-way only at an established crossing and, notwithstanding any other provisions of law, may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic. This paragraph does not apply to a law enforcement officer's or employee's duties or to an employee of a utility with authority to enter upon the railroad right-of-way in the lawful performance of the employee's duties.
  - m. Upon a designated riding area or designated trail unless the riding area or trail is signed as open to Off-Road Utility Vehicle operation.
- (2) A person shall not operate an All-Terrain or Off-Road Utility Vehicle unless the operator has a valid Driver's License, pursuant to the laws of the State of Iowa, including but not limited to Iowa Code section 321.174.
- (3) A person shall not operate an All-Terrain or Off-Road Utility Vehicle unless the vehicle is duly registered, pursuant to the laws of the State of Iowa, including but not limited to Iowa Code sections 321.18 and 321.20. This subsection shall not apply to All-Terrain or Off-Road Utility Vehicles used exclusively to conduct agricultural operations pursuant to Iowa Code section 321.9(3).
- (4) A person shall not operate an All-Terrain or Off-Road Utility Vehicle unless the operator has proof of insurance in compliance with the laws of the State of Iowa, including but not limited to Iowa Code Sections 321.20B and 321A.21.

PENALTIES:

Violation of this Ordinance shall constitute a SIMPLE MISDEMEANOR punishable by a fine and/or jail sentence, in addition to applicable surcharges and court costs, as provided by the laws of the State of Iowa, including but not limited to Iowa Code section 903.1(a).

JURISDICTION:

The provisions of this Ordinance shall apply throughout Clay County, Iowa, including municipalities which have not enacted a municipal ordinance dealing with similar subject matter.

REPEALER:

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SEVERABILITY CLAUSE:

If any section, provision, or part of this Ordinance shall be adjudged invalid or unconstitutional, such

adjudication shall not affect the validity of the Ordinance as a whole, or any section, provision or part thereof not adjudged invalid or unconstitutional.

EFFECTIVE DATE:

This ordinance shall become in effect following its final passage, approval and publication as provided by law.

The above and foregoing resolution was adopted by the Board of Supervisors of Clay County, Iowa, 17th day of November 2020 and the vote thereon being as follows:

Ayes: Anderson, Hamrick, Matthews, Swanson, Skelton.

Nays: None.

Abstentions: None.

/s/ Dan Skelton, Chairperson

ATTEST: /s/Marjorie A. Pitts, County Auditor