

**MINUTES AND PROCEEDINGS OF A REGULAR MEETING OF THE BUTLER COUNTY BOARD OF SUPERVISORS HELD ON JULY 19, 2011.**

Meeting called to order at 9:00 a.m. by Chairman Karl Nelson with member Tom Heidenwirth present. Also present were Mark Reiher, Recorder Janice Jacobs, CPC Bob Lincoln and Allison Tribune-Journal Editor Staci Miller.

Minutes of the previous meeting were read and approved as read.

Board canvassed the results of District 3 Special Election held on Tuesday, July 12, 2011 wherein Mark Reiher was declared the winner.

The Oath of Office was administered by Board Chairman Karl Nelson to Mark Reiher, District 3 Supervisor for Butler County, Iowa.

Board reviewed Quarterly Reports of the Sheriff and Recorder and ordered them placed on file.

Nelson shared recent correspondence from Paige Seidel wherein she indicated her frustration with finding outstanding court costs assessed to her from a past court case against the County. Discussion ensued wherein it was made clear that said costs were actually hers to pay. However, Heidenwirth indicated the Seidels may have suffered a financial hardship due to the court case. It was then moved by Heidenwirth, second by Reiher to cover said costs in the amount of \$65.83 payable to the Butler County Clerk of Court. Motion carried.

Moved by Heidenwirth, second by Nelson to approve Land Application Agreement for F122 – Wessels (county farm). Motion carried.

Board acknowledged receipt of Manure Management Plan Annual Update for Nolte Finisher Farm and Turkeyroot.

Board made and approved the following appointments of county officials:

BOARD	APPOINTED	ALTERNATE
2 <sup>nd</sup> Judicial District Dept. of Correctional Services	Karl Nelson	Tom Heidenwirth
North Iowa Juvenile Detention Center	Karl Nelson	Mark Reiher
Butler County Zoning Administrator	Steve Busse	
Community Service/General Relief Director	Bob Lincoln	
Iowa Northland Regional Housing Authority	Mark Reiher	Karl Nelson
Iowa Northland Regional Housing Council (INRCOG)	Mark Reiher	Karl Nelson
Mental Health Institute Citizens Advisory Board	Tom Heidenwirth	Ken Oldenburger
Regional Transit Commission Board	Tom Heidenwirth	Karl Nelson
Butler County Weed Commissioner	Dan Forry	
Mental Health Retardation Coordinator	Bob Lincoln	
HAZMAT Board	Tom Heidenwirth	Mitch Nordmeyer
DECAT Board	Tom Heidenwirth	Holly Fokkena
Iowa Northland Regional Council of Governments (INRCOG)	Karl Nelson	Mark Reiher
Butler County Development	Karl Nelson	Tom Heidenwirth
Local Emergency Planning Commission	Karl Nelson	
North Iowa Community Action	Tom Heidenwirth	
Cedar Valley Resource, Conservation & Development	Tom Heidenwirth	
Pathways Behavioral Services	Karl Nelson	
Butler County Safety Committee	Tom Heidenwirth	Karl Nelson
Butler County Community Foundation	Karl Nelson	Holly Fokkena
Iowa Workforce Development	Mark Reiher	
County Social Services 28E Governing Board	Mark Reiher	Holly Fokkena
Butler County Board of Health	Mitch Nordmeyer	

Butler County Solid Waste Commission	Mark Reiher	Tom Heidenwirth
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Board held a Public Hearing to consider changes to Ordinance Title V, No. 7 – Flood Plain Management. Zoning Administrator Steve Busse and County Engineer John Riherd were present, as were Gale Brinkman and Lucas Wedeking, Greene, Iowa. No written or oral comments were received prior to the Hearing. Busse indicated that the proposed amendment to the Ordinance was necessary to insure that the County was compliant with FEMA and National Flood Insurance Program requirements. Brinkman discussed various requirements of obtaining flood insurance and questioned how the amendments would impact property owners. Busse recommended the Board approve said Amendment to Ordinance Title V, No. 7. Upon the close of the Public Hearing, it was moved by Heidenwirth, second by Reiher to adopt same as follows:

**TITLE V ORDINANCE #7  
FLOOD PLAIN MANAGEMENT ORDINANCE**

**SECTION 1 – Statutory Authority, Findings of Fact and Purpose**

This ordinance establishes a development permit system which requires a permit for all development within the Special Flood Hazard Area (i.e., Zone A or the shaded area as shown on the community’s Flood Insurance Rate Map) and Undetermined Special Flood Hazard Area (i.e., Zone AE, X). Specific performance standards for construction within these areas are given in Section III of this ordinance.

- A. The Legislature of the State of Iowa has in Chapter 331, Code of Iowa, as amended, delegated the power to counties to exercise any power and perform and function it deems appropriate to protect and preserve the rights, privileges, and property of the county or of its residents, and to preserve and improve the peace, safety, health welfare, comfort and convenience of its residents.
- B. Find of Fact
  - 1. The flood hazard areas of Butler County, Iowa are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.
  - 2. These flood losses, hazards, and related adverse effects are caused by; (i) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the flood plain causing increases in flood heights and velocities.

C. Statement of Purpose

It is the purpose of this Ordinance to protect and preserve the rights, privileges and property of Butler County and its residents and to preserve and improve the peace, safety, health, welfare and comfort and convenience of its residents by minimizing those flood losses described in Section IB1 of this Ordinance with provisions designed to:

- 1. 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.
- 2. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
- 3. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
- 4. Assure the eligibility is maintained for property owners in the community to purchase flood insurance through the National Insurance Program.

**SECTION II - General Provisions**

A. Lands to Which Ordinance Apply

The provisions of this ordinance shall apply to all lands and uses which have significant flood hazards. The Flood Insurance Rate Map (FIRM) for Butler County and Incorporated Areas, dated September 16, 2011, which were prepared as part of the Butler County Flood Insurance Study, shall be used to identify such flood hazard areas and all areas shown thereon to be within the boundaries of the 100-year flood shall be considered as having significant flood hazards. Where uncertainty exists with respect to the precise location of the 100-year flood boundary, the location shall be determined on the basis of the 100-year flood elevation at the particular site in question. The Butler County Flood Insurance Study is hereby adopted by reference and is made a part of this ordinance for the purpose of administering floodplain management regulations.

B. Rule for Interpretation of Flood Hazard Boundaries

The boundaries of the Special Flood Hazard areas shall be determined by scaling distances on the official Flood Insurance Rate Maps. When an interpretation is needed as to the exact location of a boundary, the Zoning Administrator shall make the necessary interpretation. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any

requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this Ordinance.

**C. Compliance**

No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance.

**D. Abrogation and Greater Restrictions**

It is not intended by this Ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provision of this Ordinance shall prevail. All other ordinance inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

**E. Interpretation**

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

**F. Warning and Disclaimer of Liability**

The standards required by this Ordinance are considered reasonable for regulatory purposes. This Ordinance does not imply that areas outside the designated special flood hazard areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of Butler County or any officer or employee thereof for any flood damages that occur from reliance on this Ordinance or any administrative decision lawfully made thereunder.

**G. Severability**

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

**SECTION III – Flood Plain Management Standards**

All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where 100-year flood data has not been provided in the Flood Insurance Rate Map, the Department of Natural Resources shall be contacted to compute such data.

**A. All development within the special flood hazard areas 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.
4. Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.

**B. Residential Buildings – All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 foot above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed subject to favorable consideration by the County Board of Supervisors, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.**

All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

**C. Non-residential Buildings – All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 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 100-year flood; and that the structure, below the 100-year flood level is watertight with wall substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum) to which any structures are flood proofed shall be maintained by the 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 openings having total net area of not less than one 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 foot above grade.
- c. Openings may be equipped with screens, louvers valves or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

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 with the components during conditions of flooding.

**E. Factory-built Homes:**

1. All 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 one(1) foot above the 100-year flood level.
2. All factory-build homes, including those placed in existing factory-built home parks or subdivisions shall be anchored to resist flotation, collapse, or lateral movement. The following specific requirements (or their equivalent) shall be met:
  - a. Over-the-top ties shall be provided at each of the four corners of the factory-built home, with two (2) additional ties per side at intermediate locations and factory-built homes less than fifty (50) feet long requiring one (1) additional ties per side;
  - b. Frame ties shall be provided at each corner of the home with five (5) additional ties per side at intermediate points and factory-built less than fifty(50) feet long requiring four (4) additional ties per side;
  - c. All components of the anchoring system shall be capable of carry a force of 4800 pounds.
  - d. Any additions to factory-built homes shall be similarly anchored.

**F. Utility and Sanitary Systems:**

1. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
2. All new and replacement sanitary sewage systems shall be designed to minimize and eliminate infiltration of floodwaters into the system as well as the discharge of effluent into floodwaters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.
3. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.
4. Utilities such as gas or 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. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.**

**H. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 foot 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.**

**I. Watercourse alterations or relocations must be designed to maintain the flood within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.**

J. Subdivision (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 (including the installation of public utilities) shall meet the applicable performance standards of this Ordinance. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Special Flood Hazard Area.

**K. Accessory Structures**

1. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied.
  - a. The structure shall not be used for human habitation.
  - b. The structure shall be designed to have low flood damage potential.
  - c. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
  - d. The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
  - e. The structure service facilities such as electrical and heating equipment shall be elevated or flood proofed to at least one foot above the 100-year flood level.
2. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

**L. Recreational Vehicles**

1. Recreational vehicles are exempt from the requirements of Section III E of this Ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.
  - a. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
  - b. The recreational vehicle must 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 and is attached to the site only by quick disconnect type utilities and security devices and has not permanently attached additions.
2. Recreational vehicles that are located on the site for more than 180 consecutive days and are not ready for highway use must satisfy requirements of Section III E of this Ordinance regarding anchoring and elevation of factory-built homes.

M. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

**SECTION IV – Special Floodway Provisions**

In addition to the General Floodplain Standards, uses within the floodway must meet the following applicable standards. The floodway is that portion of the floodplain which must be protected from developmental encroachment to allow the free flow of flood waters. Where floodway data has been provided in the Flood Insurance Study, such data shall be used to define the floodway. Where no floodway data has been provided, the Department of Natural Resources shall be contacted to provide a floodway delineation. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

- A. No use shall be permitted in the floodway that would result in any increase in the 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 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 of 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 General Floodplain standards 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 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.

## **SECTION V – Administration**

### **A. Appointment, Duties and Responsibilities of Flood Plain Administrator**

- 1. The Zoning Administrator is hereby appointed to implement and administer the provisions of this Ordinance and will herein be referred to as the Administrator.
- 2. Duties of the Administrator shall include, but not necessarily be limited to the following:
  - a. Review all flood plain development permit applications to assure that the provisions of this Ordinance will be satisfied.
  - b. Review flood plain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.
  - c. Record and maintain a record of elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the special flood hazard area.
  - d. Record and maintain a record of the elevation (in relation to North American Vertical Datum) to which all new or substantially improved structures have been flood proofed.
  - e. Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
  - f. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Ordinance.

### **B. Flood Plain Development Permit**

- 1. Permit Required – A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any man-made change to improved and unimproved real estate, including but not limited to building or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.
- 2. Application for Permit – Application shall be made on forms furnished by the Administrator and shall include the following.
  - a. Description of work to be covered by the permit for which application is to be made.
  - b. Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
  - c. Indication of the use or occupancy for which the proposed work is intended.
  - d. Elevation of the 100-year flood.
  - e. Elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood proofed.
  - f. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
  - g. Such other information as the Administrator deems reasonable necessary (e.g., drawings or a site plan) for the purpose of this Ordinance.

3. **Action on Permit Application – the Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this Ordinance and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing of the specific reasons therefore. The Administrator shall not issue permits for variance except as directed by the County Board of Supervisors.**
4. **Construction and Use to be as provided in Application and Plans – Flood Plain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance. The applicant shall be required to submit certification by a Professional Engineer or Land Surveyor, as appropriate, licensed in the State of Iowa, that the finished fill, building floor elevations, flood proofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of any structure.**

### **C. Variance**

1. **The County Board of Supervisors may authorize upon request in specific cases such variances from the terms of this Ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. Variance granted must meet the following applicable standards.**
  - a. **Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.**
  - b. **Variances shall not be issued within any designated floodway if any increase in flood levels during the 100-year flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that any equal degree of development would be allowed for similarly situated lands.**
  - c. **Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard to afford relief.**
  - d. **In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this Ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.**
2. **Factors Upon Which the Decision of the Board of Supervisors Shall be Based – In passing upon applications for Variances, the Board shall consider all relevant factors specified in other sections of this Ordinance and:**
  - a. **The danger to life and property due to increased flood heights or velocities caused by encroachments**
  - b. **The danger that materials may be swept on the other land or downstream to the injury of others.**
  - c. **The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.**
  - d. **The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.**
  - e. **The importance of the services provided by the proposed facility to the County.**
  - f. **The requirements of the facility for a flood plain location.**
  - g. **The availability of alternative locations not subject to flooding for the proposed use.**
  - h. **The compatibility of the proposed use to the comprehensive plan and flood plain management program for the area.**
  - i. **The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.**
  - j. **The safety of access to the property in times of flood for ordinary and emergency vehicles.**
  - k. **The expected heights, velocity, duration, rate of rise and sediment transport of the floodwater expected at the site.**

- l. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical, and water systems). Facilities, streets and bridges.
    - m. Such other factors which are relevant to the purpose of this Ordinance.
- 3. Conditions Attached to Variances – Upon consideration of the factors listed above, the Board of Supervisors may attach such conditions to the granting of variance as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:
- 4.
  - a. Modification of waste disposal and water supply facilities.
  - b. Limitation of periods of use and operation.
  - c. Imposition of operational controls, sureties and deed restrictions.
  - d. Requirements for construction of channel modifications, dikes, levees and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Ordinance.
  - e. Flood proofing measures.

#### **SECTION VI – Nonconforming Uses**

- A. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance, but which is not in conformity with the provisions of this Ordinance, may be continued subject to the following conditions:
  - 1. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this Ordinance.
  - 2. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
- B. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, except unless it is reconstructed in conformity with the provisions of this Ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

#### **SECTION VII – Penalties 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 \$100 or imprisoned for not more than 30 days for each offense, and each day that a violation is permitted to exist shall constitute a separate offense. Nothing herein contained prevent the County of Butler from taking such other lawful action as is necessary to prevent or remedy violation.

#### **SECTION VIII – Amendments**

The regulations and standards set forth in this Ordinance may from time to time be amended, supplemented, changed or repealed. No amendment, supplement, change or modification shall be undertaken without prior approval of the Department of Natural Resources.

#### **SECTION IX – Definitions**

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

**BASE FLOOD** – The flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood).

**BASEMENT** – Any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor”.

**DEVELOPMENT** - Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

**EXISTING CONSTRUCTION** – Any structure for which the “start of construction” commenced before the effective date of the community’s Flood Insurance Rate Map. May also be referred to as “existing structure”.

**EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION** – A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring

of concrete pads) is completed before the effective date of flood plain management regulations adopted by the community.

**EXPANSION OF EXISTING FACTORY – BUILT HOME PARK OR SUBDIVISION** – The preparation of addition sites by the construction of facilities for servicing lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FACTORY-BUILT HOME** – Any structure, designed for residential use, which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a build site. For the purpose of this Ordinance factory-built homes include mobile homes, manufactured homes and modular homes and also includes “recreational vehicles” which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

**FACTORY-BUILT HOME PARK** – A parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

**FLOOD** – A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

**FLOOD ELEVATION** – The elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevations is the elevation of floodwaters related to the occurrence of the 100-year flood.

**FLOOD INSURANCE RATE MAP(FIRM)** – The official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

**FLOOD PLAIN** – Any land area susceptible to being inundated by water as a result of a flood.

**FLOOD PLAIN MANAGEMENT** – An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, flood proofing and flood plain management regulations.

**FLOOD PROFFING** – Any combination of structural and nonstructural additions, changes or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

**FLOODWAY** – The channel of a river or stream and those portions of the flood plains adjoining the channel, which are required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

**FLOODWAY FRINGE** – Those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

**HISTORIC STRUCTURE** – Any structure that is:

- A. Listed individually in the Natural Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register.
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district:
- C. Individually listed on state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
- D. Individually listed on a state inventory of historic places in states with historic preservation programs that have been certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

**LOWEST FLOOR** – The floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

- A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section III D1 of this Ordinance and;
- B. The enclosed area is unfinished (not carpeted, dry walled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
- C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level, and
- D. The enclosed area is not a “basement” as defined in this section.

In cases where the lowest enclosed area satisfies criteria a, b, c, and d above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

**MINOR PROJECTS** – Small development activities (except for filling, grading, and excavating) valued at less than \$500.

**NEW CONSTRUCTION** – (new buildings, factory-built home parks) – Those structures or development for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map.

**NEW FACTORY-BUILT HOME PARK OR SUBDIVISION** – A factory-built home park or subdivision for the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of flood plain management regulations adopted by the community.

**ONE HUNDRED (100) YEAR FLOOD** – A flood, the magnitude of which has a one (1) percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.

**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;
- 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 a temporary living quarters for recreation, camping, travel or seasonal use.

**ROUTINE MAINTENANCE OF EXISTING BUILDINGS AND FACILITIES** – Repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

- A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding.
- B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work
- C. Basement sealing
- D. Repairing or replacing damaged or broken window panes
- E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems

**SPECIAL FLOOD HAZARD AREA** – The land within a community subject to the “100-year flood”. This land is identified as Zone A on the community’s Flood Insurance Rate Map.

**START OF CONSTRUCTION** – Includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the state of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings such as garages or shed not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE** – Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, and other similar uses.

**SUBSTANTIAL DAMAGE** – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** – Any improvement to a structure which satisfies either or the following criteria:

- A. 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 (i) before the “start of construction” of the improvement, or (ii) if the structure has been “substantially damaged” and is being restored, before the damage occurred. 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 conditions for the existing use. The term also does not include any alteration of a “historic structure”, provided the alteration will not preclude the structure’s designation as a “historic structure”.

- B. Any addition which increase the original floor area of a building by 25 percent or more. All additions constructed after (FIRM DATE) shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

**VARIANCE** – A grant of relief by the County from the terms of the flood plain management regulations.

**VIOLATION** – The failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

Passed and adopted this 19<sup>th</sup> day of July, 2011.

Upon Roll the vote thereon was as follows:

AYES: Karl Nelson                      NAYS: None  
      Tom Heidenwirth  
      Mark Reiher

ABSENT: None

ATTEST: Holly A. Fokkena, County Auditor

Board held a Public Hearing to consider Ordinance Title V, No. 14 – Repealing Ordinances 1, 2, 9, as amended and 10 regarding Private Wells and On-Site Waste Water Treatment. No taxpayers were present and no written or oral comments were received. Upon the close of the Public Hearing, it was moved by Heidenwirth, second by Reiher to adopt said Ordinance as follows:

**ORDINANCE #14**  
**TITLE V: Public Order, Safety & Health**  
**Code of Ordinances of Butler County, Iowa**

TITLE: An Ordinance repealing previous County Ordinances 1, 2, 9 as amended, and 10 regarding private wells and on-site waste water treatment.

WHEREAS, the Butler County, Iowa, Board of Health has now passed rules regarding private wells and on-site waste water treatment as provided by Iowa law and the need no longer exists for ordinances currently in place by Butler County, Iowa,

BE IT NOW ORDAINED by Butler County, Iowa, as follows:

SECTION 1: **Repeal.** The following Ordinances:

Title V, Ordinances 1, 2, 9 as amended and 10, are hereby repealed in their entirety.

SECTION 2: **Severability.** If any section, provision or part of this ordinance shall be adjudged unconstitutional or otherwise invalid, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not invalid or unconstitutional.

SECTION 3: **When effective.** This ordinance shall be effective after its final passage, approval and publication as provided by law.

Passed and approved this 19<sup>th</sup> day of July, 2011.

Upon Roll the vote thereon was as follows:

AYES: Karl Nelson                      NAYS: None  
      Tom Heidenwirth  
      Mark Reiher

ABSENT: None

ATTEST: Holly A. Fokkena, Butler County Auditor

The 1<sup>st</sup> Reading of said Ordinance was approved.

It was further moved by Reiher, second by Heidenwirth to suspend the rules and waive the second and third reading of said Ordinance and proclaim the Ordinance adopted. Motion carried.

Board met with County Engineer John Riherd to consider Resolution to close 220<sup>th</sup> Street for repairs to the Iowa Northern crossing. Moved by Heidenwirth, second by Reiher to approve said Resolution.

**Resolution #736**  
**Construction Road Closure**

WHEREAS, The Butler County Board of Supervisors is empowered under authority of the Code of Iowa to close roads or highways under their jurisdiction when necessary for construction, and

WHEREAS, an Iowa Northern Railway at-grade railroad crossing construction project on 220<sup>th</sup> Street near Vail Ave requires that 220<sup>th</sup> Street from Union Ave east to Vail Ave be closed to all traffic, and

NOW THEREFORE BE IT RESOLVED by the Butler County Board of Supervisors that the above described roads be closed and proper signs be erected for the duration of the construction projects as determined by the County Engineer.

BE IT FURTHER RESOLVED that upon completion of the construction work, as determined by the County Engineer, the road shall be opened to the traveling public without further action of this board.

Upon Roll the vote thereon was as follows:

AYES: Karl Nelson                      NAYS: None  
Tom Heidenwirth  
Mark Reiher

ABSENT: None

WHEREUPON, said Resolution was duly adopted this 19th day of July, 2011 .

ATTEST: Holly A. Fokkena, County Auditor

Board approved claims as submitted.

Board discussed request from Greene Jaycees for assistance from Secondary Roads to relocate a shelter house to facilitate the building of a new structure. Engineer John Riherd was present and indicated he did not feel it appropriate for the County to participate in the project. The Board indicated their agreement. Heidenwirth agreed to communicate decision to the Greene Jaycees.

Board met with Treasurer Louise Squires regarding the following:

1) Board reviewed the Treasurer's Semi-Annual Report and June 30, 2011 Investment Report and ordered placed on file. 2) Board heard taxpayer request for suspension of property taxes for property located in Greene, Iowa. Moved by Heidenwirth, second by Nelson to approve same. Motion carried. Sheriff Jason Johnson was present. 3) Squires addressed recent concerns noted in correspondence dated June 28, 2011 from the Iowa Department of Human Services requesting information regarding "internal control over segregation of duties in the Treasurer's Office." Squires reported that Auditor of State David A. Vaudt has corresponded with the Iowa DHS indicating that "no audit findings relating to the Federal awards identified above were included on the Schedule of Findings and Questioned Costs or the Summary Schedule of Prior Audit Findings." Squires provided the Board a copy of her response to the Iowa DHS and the Board found it acceptable. The Board did request that Squires make every effort to work with the Office of Auditor of State to remedy said segregation of duties concerns in the future.

Board held a Public Hearing to hear public comments on proposed Allison Equipment & Maintenance Facility. Scott T. Blum, Accord Architecture was present, as was County Engineer John Riherd. No taxpayers were present. No written or oral comments were received and said Public Hearing was closed.

At the time set to open bids for said project the following individuals were also present:

Chad Kelley, Waterloo, Iowa; Kyle DeBettignies, Mason City, Iowa; Steve Sande, Humboldt, Iowa; Aaron Homan, Waterloo, Iowa; and Milo Lien, Lake Mills, Iowa.

The Board then proceeded to open bids for as follows:

Cardinal Construction, Inc., Waterloo, Iowa	\$1,413,000.00
Huff Contracting, Inc., Waterloo, Iowa	\$1,442,800.00
Kehe Construction Co., Waverly, Iowa	\$1,449,384.00
Larson Contracting Central, Lake Mills, Iowa	\$1,392,750.00
Point Builders North, Inc., Mason City, Iowa	\$1,499,000.00
Sande Construction & Supply Co., Inc., Humboldt, Iowa	\$1,341,731.00

No action was taken pending review of the bid documents by the architect and County Engineer. Final action to be taken on Tuesday, July 26, 2011 at 9:30 a.m.

Moved by Heidenwirth, second by Nelson to adjourn to Tuesday, July 26, 2011 at 9:00 A.M. Motion carried.

The above and foregoing is a true and correct copy of the minutes and proceedings of a regular adjourned meeting of the Board of Supervisors of Butler County, Iowa on July 19, 2011.