

**CLAY COUNTY BUILDING HEIGHT ORDINANCE**

Effective: \_\_\_\_\_

**CLAY COUNTY BUILDING HEIGHT ORDINANCE**

ARTICLE I. TITLE, AUTHORITY, PURPOSE AND GENERAL EFFECT.

SECTION 1.1 TITLE.

This Chapter shall be known and cited as the Clay County Building Height Ordinance, and may be referred to as the “Building Height Ordinance”.

SECTION 1.2 FINDINGS.

That the Clay County Board of County Commissioners have duly considered and determined:

- (1) That there is limited fire protection equipment within Clay County, North Carolina, which is available to fight fires in Clay County, North Carolina;
- (2) That there is limited fire protection personnel within Clay County, North Carolina, which is available to fight fires in Clay County, North Carolina;
- (3) That the limited fire protection equipment and the limited fire protection personnel located in Clay County, North Carolina, is not sufficient to effectively and efficiently fight fires which occur or which could occur in buildings which are over 40 feet in height;
- (4) That while Clay County seeks to avoid and/or prevent fires in buildings, fires in buildings are inevitable from time to time whether the result of accident, negligence or otherwise;
- (5) That as a result of the foregoing, fires which occur in buildings which are over 40 feet in height have the potential to increase the risk of unnecessary loss of human life, injury to persons and damage and/or destruction of property;
- (6) That as a result of the foregoing, buildings in Clay County, North Carolina, which are over 40 feet in height constitute a condition, in the event of fire, which would be detrimental to the health, safety and welfare to the citizens of Clay County, North Carolina;
- (7) That as a result of the foregoing, and in order to protect the health, safety and welfare of the citizens of Clay County, North Carolina, this Building Height Ordinance is necessary.

SECTION 1.3 STATUTORY AUTHORITY.

The legislature of the State of North Carolina has in Section 153A-121, Article 6, of Chapter 153A, of the North Carolina General Statutes authorized Counties within the State of North Carolina to by Ordinance define, regulate, prohibit, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the County.

SECTION 1.4 STATEMENT OF PURPOSE.

The purpose of this Building Height Ordinance is to establish building height restrictions within the territorial jurisdiction of Clay County, North Carolina, to help protect the citizens of Clay County, North Carolina, and to promote the health, safety and welfare of the citizens of Clay County, North Carolina, as a result of the foregoing.

SECTION 1.5 DEFINITIONS.

For the purposes of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) BUILDING HEIGHT.

The vertical distance from the main elevation of the finished grade along the front of the building to the highest point of a flat roof, or to the deck line of a mansard roof, or to the main height level between the eaves and the ridge for gable, hip and gambrel roofs.

SECTION 1.6 BUILDING HEIGHT REGULATIONS.

No building shall be hereafter erected or structurally altered within the territorial jurisdiction of Clay County, North Carolina, so that the building height of the same exceeds 40 feet in height.

The foregoing building height regulations shall be subject to the following exceptions:

- A. The building height shall not include any of the following:
  - 1. Church spires, belfries, cupolas, and domes not intended for human occupancy, monuments, water towers, transmission towers, communications towers, chimneys, smoke stacks, flag poles, radio towers, television towers, masts, ariels, except as otherwise provided in the vicinity of airports.

ARTICLE II.

SECTION 2.1 VIOLATIONS, PENALTIES AND REMEDIES.

The violation of any provision of the this Ordinance shall subject the offender to a civil penalty in the amount of \$50 to be recovered by the County.

Violators shall be issued a written citation which must be paid with in 10 days. Each day that there is building in violation of this Building Height Ordinance shall constitute a separate violation of this Ordinance and shall be a separate and distinct offense.

This Ordinance may be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction, including but not limited to legal and/or equitable action to enjoin the erection of buildings in violation of or which will be in violation of the building height regulations set forth hereinabove and/or to abate and/or remove any buildings hereafter erected which have a building height in excess of 40 feet in height.

Nothing in this section shall be construed to limit the use of remedies available to the County. The County may to enforce this Building Height Ordinance by using any one, all or a combination of remedies.

The Clay County Building Inspector shall monitor construction within the territorial jurisdiction of Clay County, North Carolina, for compliance with this Building Height Ordinance and shall enforce the same within the territorial jurisdiction of Clay County under this Ordinance and report any and all violations to the Clay County Board of County Commissioners.

SECTION 2.2 SEPARABILITY.

Should any section or provision of this Building Height Ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Building Height Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or in valid.

SECTION 2.3 AMENDMENTS.

The Board of Commissioners may from time to time amend the terms of this Building Height Ordinance.

No amendment shall be adopted by the Board of Commissioners until it has held a public hearing on the amendment. Notice of the hearing shall be published in a newspaper of general circulation in the Clay County area at least once a week for two consecutive calendar weeks prior to the hearing. The initial notice shall appear not more than 25 days nor less than 10 days prior to the hearing date. In computing the 10 and 25 day periods, the date of publication is not to be counted, but the date of the

hearing is.

SECTION 2.4 EFFECTIVE DATE.

This Building Height Ordinance shall take effect and be enforced from and after the \_\_\_\_ day of \_\_\_\_\_, 2006.

CLAY COUNTY BOARD COMMISSIONERS

By: \_\_\_\_\_  
Chairman

Attest:

\_\_\_\_\_  
Clerk to the Board

( County Seal )