

SEWARD COUNTY  
NEBRASKA

RESOLUTION  
No. 2567

ADOPTED BY SEWARD COUNTY, NEBRASKA  
JUNE 26, 2007

EFFECTIVE DATE  
JUNE 26, 2007

Prepared By



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SEWARD COUNTY, NEBRASKA  
ZONING RESOLUTION

A resolution, consistent with the Comprehensive Development Plan, Adopted for the purpose of promoting health, safety, morals, convenience, order, prosperity, and welfare of the present and future inhabitants of Seward County, Nebraska, to regulate and restrict the location, height, bulk, number of stories, size of buildings and other structures, including tents, cabins, house trailers, and automobile trailers; the percentage of lot areas which may be occupied, building setback lines; size of yards, courts, and other open spaces; the density of population; the uses of buildings; and the uses of the land for agriculture, forestry, recreation, residence, industry, and trade, after considering factors relating to soil conservation, water supply conservation, surface water drainage and removal, or other uses; to divide the County into districts of such number, shape, and area as may be best suited to carry out the purposes of this resolution to regulate, restrict, or prohibit the erection, construction, reconstruction, alteration or use of non-farm buildings or structures, and the use, conditions of use or occupancy of land in the unincorporated areas of the County; to provide for the adoption of a zoning map; to provide for a board of adjustment, its members, powers, and duties; to provide for off-street parking and loading area requirements; to provide for conditional uses by conditional use permit; to provide for the proper subdivision and development of land, as provided in the Subdivision Regulations; to provide for non-conforming uses, to provide for the administration and the enforcement of these provisions, and for the violations of its provisions and the prescribed penalties, and including among others such specific purposes as:

1. Developing both urban and non-urban areas;
2. Lessening congestion in the streets or roads;
3. Reducing the waste of excessive amounts of roads;
4. Securing safety from fire and other dangers;
5. Lessening or avoiding the hazards to persons and damage to property resulting from the accumulation or run-off of storm or flood waters;
6. Providing adequate light and air;
7. Preventing excessive concentration of population and excessive and wasteful scattering of population or settlement;
8. Promoting such distribution of population, such classification of land uses, and such distribution of land development as will assure adequate provisions for transportation, water flowage, water supply, drainage, sanitation, recreation, soil fertility, food supply, and other public requirements;
9. Protecting the tax base;
10. Protecting property against blight and depreciation;
11. Securing economy in governmental expenditures;
12. Fostering the County's agriculture, recreation, and other industries;
13. Encouraging the most appropriate use of land in the County; and
14. Preserving, protecting, and enhancing historic buildings, places, and districts, all in accordance with the comprehensive plan.

WHEREAS Nebraska Revised Reissued Statutes, 1943, Sections 23-114 through 23-114.05 and 23-164 through 23-174.06 as amended, empowers the County to adopt a zoning and subdivision resolution and to provide for its administration, enforcement, and amendment; and

WHEREAS, the Seward County Board of Commissioners deem it in the interest of the public health, safety, morals, convenience, order, prosperity, and welfare of said County and its present and future residents; and

WHEREAS, the Seward County Board of Commissioners has adopted a Comprehensive Development Plan pursuant to Neb. R. R. S. 1943, Sections 23-114 through 23-114.03, as amended, and known as Seward County Comprehensive Development Plan, 2006, as amended; and

WHEREAS, the Seward County Planning Commission has recommended the division of the unincorporated areas of the County into districts and recommended regulations pertaining to such districts consistent with the adopted Comprehensive Development Plan based on a future land use plan designed to lessen congestion on roads and highways, to secure safety from fire, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to conserve agricultural land and values, to facilitate sewerage, schools, parks, and other public needs; and

WHEREAS, the Seward County Planning Commission has given reasonable consideration, among other things, to the prevailing agricultural and rural characteristics now predominant in the County, to the character of the districts and their peculiar suitability for the particular permitted uses, with a reasonable understanding of the objective to conserve the value of lands and improvements while encouraging the development of the most appropriate uses of land throughout the County; and

WHEREAS, the Seward County Planning Commission has made a preliminary report, held public hearings, submitted its recommended final report to the County Board of Commissioners; and the County Board of Commissioners have given due public notice of hearings relating to the Comprehensive Development Plan, to the zoning districts, regulations, subdivision regulations, and restrictions, and has held such public hearing; and

WHEREAS, The Seward County Board of Commissioners have deemed it necessary to adopt the Comprehensive Development Plan, the zoning districts, regulations, subdivision regulations, and restrictions for the purpose of the conservation of the existing rural agricultural developments and land uses, of providing for the harmonious development and orderly expansion of urban areas radiating outwardly from existing rural communities, for the orderly extension and planned arrangements of county roads, utilities, for adequate sanitary facilities, for safe and health drinking water, and for reducing flood damage potentials; and

WHEREAS, the requirements of Neb. R.R.S. 1943, Section s 23-114 through 23-124.05, Sections 23-164 through 23-174, and Section 23-174.02, as amended, with regard to the recommendations of the Planning Commission, the Comprehensive Development Plan, the zoning districts, regulations, subdivision regulations and restrictions and the subsequent action of the Seward County Board of Commissioners have been met;

NOW THEREFORE BE IT RESOLVED BY THE COUNTY BOARD OF COMMISSIONERS OF SEWARD COUNTY, NEBRASKA.

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**ARTICLE 1: TITLE, INTENT AND PURPOSE**

**Section 1.01 Short Title**

This Resolution shall be known, cited, and referred to as the "Zoning Regulations of Seward County, Nebraska."

**Section 1.02 Intent and Purpose**

This Resolution is a new regulation for Seward County and is consistent with the Seward County Comprehensive Development Plan and designed for the purpose of promoting the health, safety, morals, convenience, order, prosperity, and welfare of the present and future inhabitants of Seward County, including, among others, such purposes as

1. Developing both urban and non-urban areas;
2. Lessening congestion in streets, roads, and highways;
3. Reducing the waste of excessive amounts of roads;
4. Securing safety from fire and other dangers;
5. Lessening or avoiding the hazards to persons and damage to property resulting from the accumulation or runoff of storm or flood waters;
6. Providing adequate light and air;
7. Preventing excessive concentration of population and excessive and wasteful scattering of population or settlement;
8. Promoting such distribution of population, such classification of land uses, and such distribution of land development as will assure adequate provisions for transportation, water flowage, water supply, drainage, sanitation, recreation, soil fertility, food supply, and other public requirements;
9. Protecting the tax base;
10. Protecting property against blight and depreciation; securing economy in governmental expenditures;
11. Fostering the state's agriculture, recreation, and other industries;
12. Encouraging the most appropriate use of land in the county, preserving, protecting, and enhancing historic buildings, places, and districts.

These regulations have been made with reasonable consideration, among other things, to the character of the district, and its peculiar suitability for encouraging the most appropriate use of land throughout the unincorporated portions of Seward County, Nebraska.

**Section 1.03 Jurisdiction**

The provisions of this Resolution shall apply to unincorporated areas of Seward County except that portion thereof over which cities or villages have been permitted to extend and are exercising zoning jurisdiction; and furthermore at such time as a city or village adopts an Resolution to exercise zoning or control over an unincorporated area, its regulations shall supersede those of Seward County.

**Section 1.04 Highest Standard**

Whenever the regulations of this Resolution impose or require higher standards than are required in any other statute, local Regulations, or regulation, the provisions of the regulations made under authority of this Resolution as provided by the cited Nebraska R. R. S., 1943 sections shall govern.

**Section 1.05 Comprehensive Development Plan Relationship**

These zoning regulations are designed to implement various elements of the Comprehensive Development Plan as required by state statutes. Any amendment to the district regulations or map shall conform to the Comprehensive Development Plan adopted by the governing body.

**Section 1.06 Planning Commission Recommendations**

Pursuant to Section 23-114.01 et. seq., (Nebraska Reissue Revised Statutes, 1943), it shall be the purpose of the Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. The Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the County Board of Commissioners shall not hold its public hearings or take action until it has received the final report of the Commission.

**ARTICLE 2: CONSTRUCTION AND DEFINITIONS**

**Section 2.01 Construction and General Terminology**

For the purpose of carrying out the intent of this Resolution, words, phrases, and terms shall be deemed to have the meaning ascribed to them. When not inconsistent with the context, words used in the present tense include the future; words in the singular include the plural and those in the plural include the singular; "or" includes "and", and "and" includes "or"; and the masculine gender shall include the feminine.

1. The word "Assessor" shall mean the County Assessor of Seward County.
2. The words "Board" shall mean the Board of Commissioners of Seward County.
3. The words "Board of Commissioners" shall mean the Board of Commissioners of Seward County.
4. The word "Building" includes the word "Structure," but shall not include "Temporary Structures".
5. The word "Commission" shall mean the Planning Commission of Seward County.
6. The word "County" shall mean Seward County.
7. The words "County Register" shall mean the County Register of Deeds of Seward County.
8. The word "Federal" shall mean the Government of the United States of America.
9. The word "Shall" is mandatory; and the word "may" is permissive.
10. The word "State" shall mean the State of Nebraska.
11. The word "used" includes the words "arranged for, designed for, occupied or intended to be occupied for."
12. The words "Zoning Map" shall mean the Official Zoning Map of Seward County.
13. The word "Inspector" shall mean the Building Inspector of Seward County.
14. The word "Resolution" shall mean the Zoning Regulation of Seward County.
15. The word "Comprehensive Plan" shall mean the Seward County Comprehensive Development Plan.

**Section 2.02 Abbreviations and Acronyms**

For purposes of this Resolution, this section contains a listing of abbreviations and acronyms used throughout this document.

1. AU = Animal Unit
2. CAFO = Confined Animal Feeding Operation
3. FCC = Federal Communication Commission
4. FEMA = Federal Emergency Management Agency
5. FT = Foot or Feet
6. GIS = Geographic Information System
7. kV = Kilovolt
8. kW = Kilowatt
9. LFO = Livestock Feeding Operation
10. NDA = Nebraska Department of Aeronautics or successor department
11. NDEQ = Nebraska Department of Environmental Quality or successor department
12. NSFm = Nebraska State Fire Marshall or successor department
13. NHHS = Nebraska Department of Health and Human Services or successor department
14. NDNR = Nebraska Department of Natural Resources or successor department
15. NDOR = Nebraska Department of Roads or successor department
16. R.O.W. = Right-of-Way or Rights-of-Way
17. SF = Square Feet
18. SY = Square Yard
19. USDA = United States Department of Agriculture
20. YD = Yard

**Section 2.03 Definition of Terms**

- 2.03.01 **ABANDONMENT** shall mean to cease or discontinue a use or activity without intent to resume as distinguished from short term interruptions such as during periods of remodeling, maintenance, or normal periods of vacation or seasonal closure.
- 2.03.02 **ABUT, ABUTTING** shall mean to border on, being contiguous with or have property or district lines in common, including property separated by an alley
- 2.03.03 **ACCESS OR ACCESS WAY** shall mean the place, means, or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by this Regulation.
- 2.03.04 **ACCESSORY APARTMENT** shall mean a secondary dwelling unit established in conjunction with and clearly subordinate to a primary dwelling unit, whether a part of the same structure as the primary dwelling unit or in conjunction with an accessory detached garage.
- 2.03.05 **ACCESSORY BUILDING** shall mean any detached subordinate building that serves a function customarily incidental to that of the main building or main use of the premises. Customary accessory building includes farm buildings, garages, carports, and small storage sheds.
- 2.03.06 **ACCESSORY LIVING QUARTERS** shall mean living quarters within an accessory building located on the same premises with the main building, for use by temporary guests of the occupant of the premises, such quarters having no kitchen facilities and not rented or otherwise used as a separate dwelling unit.
- 2.03.07 **ACCESSORY STRUCTURE** shall mean a detached subordinate structure located on the same lot with the principal structure, the use of which is incidental and accessory to that of the principal structure.
- 2.03.08 **ACCESSORY USE** shall mean a use incidental, related, appropriate and clearly subordinate to the main use of the lot or building, which accessory use does not alter the principal use of the subject lot or affect other properties in the district.
- 2.03.09 **ACRE** shall mean a full acre containing 43,560 square feet of area within the property lines of a lot or parcel.
- 2.03.10 **ACREAGE** shall mean any tract or parcel of land that does not qualify as a farm or development.
- 2.03.11 **ADJACENT** shall mean near, close, or abutting; for example, an Industrial District across the street or highway from a Residential District shall be considered as "Adjacent".
- 2.03.12 **ADULT CABARET** shall mean a nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities or films, motion pictures, video cassettes, slides, or other photographic reproductions in which more than 10 percent of the total presentation time is devoted to the showing of material that is characterized by any emphasis upon the depiction of specified sexual activities or specified anatomical areas.
- 2.03.13 **ADULT COMPANIONSHIP ESTABLISHMENT** shall mean an establishment which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- 2.03.14 **ADULT ESTABLISHMENT** shall mean any business offering its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas," including, but without limitation, adult bookstores, adult motion picture theaters, adult saunas, adult companionship establishments,

adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, and adult body painting studios.

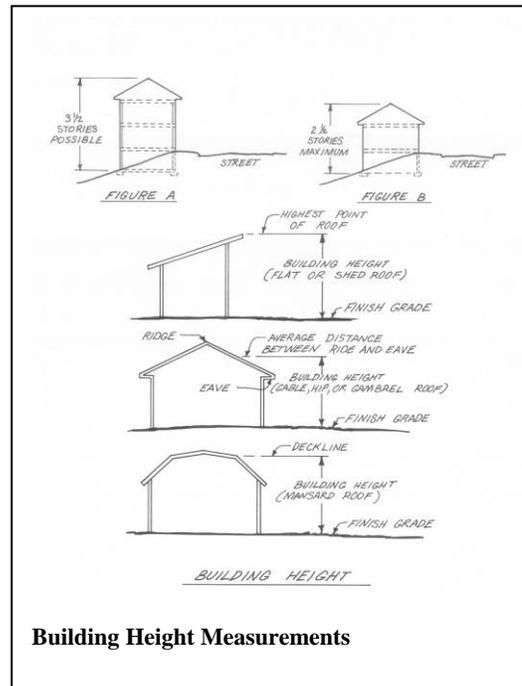
- 2.03.15 **ADULT HOTEL OR MOTEL** shall mean a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."
- 2.03.16 **ADULT MASSAGE PARLOR, HEALTH CLUB** shall mean a massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- 2.03.17 **ADULT MINI-MOTION PICTURE THEATER** shall mean a business premises within an enclosed building with a capacity for less than 50 persons used for presenting visual-media material if such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- 2.03.18 **ADULT MOTION PICTURE ARCADE** shall mean any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motor picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."
- 2.03.19 **ADULT MOTION PICTURE THEATERS** shall mean a business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- 2.03.20 **ADULT NOVELTY BUSINESS** shall mean a business which has as a principal activity the sale of devices which simulate human genitals or devices, which are designed for sexual stimulation.
- 2.03.21 **ADULT SAUNA** shall mean a sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- 2.03.22 **ADVERTISING STRUCTURE** shall mean any notice or advertisement, pictorial or otherwise, and all such structures used as an outdoor display, regardless of size and shape, for the purposes of making anything known, the origin or place of sale of which is not on the property with such Advertising Structure.
- 2.03.23 **AESTHETIC ZONING** shall mean zoning to accomplish a standard of exterior architectural appeal and/or neighborhood harmony.
- 2.03.24 **AGRICULTURAL AND FARM BUILDINGS AND STRUCTURES** shall mean any building or structure which is necessary or incidental to the normal conduct of a farm including but not limited to residence of the operator, residence of hired men, barns, buildings and sheds for housing livestock, poultry and farm machinery, buildings for the storage or shelter of grain, hay and other crops, silos, windmills and water storage tanks.
- 2.03.25 **AGRICULTURAL OPERATIONS** (see "Farming")
- 2.03.26 **AGRICULTURE** shall mean the use of land for agricultural purposes, of obtaining a profit by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of, or the produce of,

- livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products, or any other agricultural or horticultural use. Agricultural use shall not be construed to include any parcel of land of less than twenty acres or any non-agricultural commercial or industrial development.
- 2.03.27 **AIRPORT** shall mean any area which is used or is intended to be used for the taking off and landing of aircraft, including helicopters, and any appurtenant areas which are used or are intended to be used for airport buildings or facilities, including open spaces, taxiways, and tie-down areas.
- 2.03.28 **AIRPORT HAZARD ZONE** consists of Operation Zones, Approach Zones, Turning Zones and Transition Zones. The outer boundary of the Hazard Zone is composed of a series of connected tangents and simple curves that also constitute the outer boundaries of the Approach and Turning Zones.
- 2.03.29 **ALLEY** shall mean a minor public service street or public thoroughfare 20 feet or less in width, through a block of lots primarily for vehicular service access to the rear or side of properties otherwise abutting on another street. Buildings facing an alley shall not be construed as satisfying the requirements of this regulation related to frontage on a dedicated street.
- 2.03.30 **ALTERATION** shall mean any change, addition or modification in construction or occupancy of an existing structure.
- 2.03.31 **ALTERATION, STRUCTURAL** (see Structural Alteration)
- 2.03.32 **AMENDMENT** shall mean a change in the wording, context, or substance of this Regulation, an addition or deletion or a change in the district boundaries or classifications upon the zoning map.
- 2.03.33 **AMUSEMENT ARCADE** shall mean a building or a part of a building where five or more pinball machines, video games, or other similar player-orientated amusement devices are available and are maintained for use.
- 2.03.34 **AMUSEMENT PARK** shall mean a facility, primarily outdoors, that may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or sale of items, buildings for shows and entertainment, and restaurants and souvenir sales.
- 2.03.35 **ANIMAL HOSPITAL** shall mean a place where animals or pets are given medical or surgical treatment and are cared for during the time of treatment. Use as a kennel shall be limited to short-time boarding and shall be only incidental to such hospital use.
- 2.03.36 **ANIMAL UNIT** (see Livestock Feeding Operation)
- 2.03.37 **ANIMALS, DOMESTIC** (see Household Pet)
- 2.03.38 **ANIMALS, FARM** shall mean livestock associated with agricultural operation, commonly kept or raised as a part of a agricultural operation including but not limited to horses, cattle, sheep, swine, goats, chickens and turkeys.
- 2.03.39 **ANTENNA** shall mean any attached or external system of wires, poles, rods, reflecting disks or similar devices used for the transmission or reception of electromagnetic waves. (Also, see Satellite Dish Antenna and Tower.)
- 2.03.40 **ANTIQUÉ SHOPS** shall mean a place offering primarily antiques for sale. An antique for the purpose of this Resolution shall be a work of art, piece of furniture, decorative object, or the like, of belonging to the past, at least 30 years old.
- 2.03.41 **APARTMENT** shall mean a room or a suite of rooms within an apartment house or multiple family dwelling arranged, intended or designed for a place of residence of a single family or group of individuals living together as a single housekeeping unit. (Also, see Dwelling Unit.)

- 2.03.42 **APARTMENT HOTEL** shall mean a multiple family dwelling under resident supervision which maintains an inner lobby through which all tenants must pass to gain access to the apartments and which may furnish services ordinarily furnished by hotels, such as drug store, barber shop, beauty parlor, shoeshine shop, cosmetologists shop, cigar stand or newsstand, when such uses are located entirely within the building with no entrance from the street nor visible from any public sidewalk, and having no sign or display visible from the outside of the building indicating the existence of such use.
- 2.03.43 **APARTMENT HOUSE** (see Dwelling, Multiple Family)
- 2.03.44 **APPEARANCE** shall mean the outward aspect visible to the public.
- 2.03.45 **APPROPRIATE** shall mean the sympathetic, or fitting, to the context of the site and the whole community.
- 2.03.46 **APPURTENANCES** shall mean the visible, functional objects accessory to and part of buildings.
- 2.03.47 **AQUACULTURE** shall mean land devoted to the hatching, raising, and breeding of fish or other aquatic plants or animals for sale or personal use.
- 2.03.48 **AQUIFER** shall mean a geological unit in which porous and permeable conditions exist and thus are capable of bearing and producing usable amounts of water.
- 2.03.49 **AQUIFER, CONFINED (ARTESIAN)** shall mean aquifers found between layers of clay, solid rock, or other material of very low permeability. Water in confined aquifers is often under pressure because the aquifer is confined between impermeable layers and is usually recharged at a higher elevation than the top confining layer.
- 2.03.50 **AQUIFER, UNCONFINED (OR WATER TABLE)** shall mean an aquifer where the top of the aquifer is identified by the water table. Above the water table, known as the zone of aeration, interconnected pore spaces are open to the atmosphere. Also known as a water table aquifer.
- 2.03.51 **AQUIFER RECHARGE AREA** shall mean an area that has soils and geological features that are conducive to allowing significant amounts of surface water to percolate into groundwater.
- 2.03.52 **ARCHITECTURAL CHARACTER** (see Architectural Concept)
- 2.03.53 **ARCHITECTURAL CONCEPT** shall mean the basic aesthetic idea of a building, or group of buildings or structures, including the site and landscape development that produces the architectural character.
- 2.03.54 **ARCHITECTURAL FEATURE** shall mean a prominent or significant part or element of a building, structure, or site. Architectural features may include special lines, massing, and/or texture.
1. **LINES** shall mean visual elements of the building, either within the façade or on the building edge, which are in a linear form either horizontally or vertically and may be composed of masonry, glass, or other related materials.
  2. **MASS** shall pertain to the volume, bulk of a building or structure.
  3. **TEXTURE** shall mean the quality of a surface, ranging from mirror finish, smooth, to coarse and unfinished.
- 2.03.55 **ARCHITECTURAL STYLE** shall mean the characteristic form and detail, as of buildings of a particular historic period.
- 2.03.56 **AREAS OF CONTRIBUTION** shall mean the upland recharge areas and cone of depression from which well water is drawn.
- 2.03.57 **AREAS OF INFLUENCE** shall mean the two-dimensional area (as viewed on a map) of water table drawdown created by a pumping well, also see Cone of Depression.

- 2.03.58 **ARTISAN PRODUCTION SHOP** shall mean a building or portion thereof used for the creation of original handmade works of art or craft items by more than three but less than six artists or artisans, as either a principal or accessory use.
- 2.03.59 **ARTIST STUDIO** shall mean a place designed to be used, or used as, both a dwelling place and a place of work by an artist, artisan, or craftsman, including persons engaged in the application, teaching, or performance of fine arts such as, but not limited to, drawing, vocal or instrumental music, painting, sculpture, and writing.
- 2.03.60 **ATTACHED PERMANENTLY** shall mean attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent foundation or structural change in such structure in order to relocate it to another site.
- 2.03.61 **ATTRACTIVE** shall mean having qualities that arouse interest and pleasure in the observer.
- 2.03.62 **AUTOMATIC TELLER MACHINE (ATM)** shall mean an automated device that performs banking or financial functions at a location remote from the controlling financial institution.
- 2.03.63 **AUTOMOBILE WRECKING YARD** shall mean any lot, or the use of any portion of a lot, for the dismantling or wrecking of automobiles, tractors, farm machinery, or other motor vehicles, or for the storage or keeping for sale of parts and equipment resulting from such dismantling or wrecking.
- 2.03.64 **BALLROOM** shall mean a place or hall used for dancing, other than those listed under the definition of "Adult Cabaret". Ballrooms shall also be used for reunions, weddings and receptions.
- 2.03.65 **BAR** shall mean any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises. (Also, see Nightclub.)
- 2.03.66 **BASEMENT** shall mean a building space partly underground, and having at least one-half of its height, measuring from its floor to its ceiling, above the average adjoining finished ground grade line.
- 2.03.67 **BEACON** shall mean any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.
- 2.03.68 **BED and BREAKFAST INN** shall mean a house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises.
- 2.03.69 **BEDROOM** shall mean a room within a dwelling unit planned and intended for sleeping, separable from other rooms by a door.
- 2.03.70 **BERM** shall mean a raised form of earth to provide screening or to improve the aesthetic character.
- 2.03.71 **BEST INTERESTS OF COMMUNITY** shall mean interests of the community at large and not interest of the immediate neighborhood.
- 2.03.72 **BEST POSSIBLE MANAGEMENT PRACTICES** shall mean livestock management techniques and practices as set forth by various agencies, including the Nebraska Department of Environmental Quality, that encourage and protect the environment and public.
- 2.03.73 **BILLBOARD** (see Sign, Billboard)
- 2.03.74 **BLOCK** shall mean a parcel of land platted into lots and bounded by public streets or by waterways, right-of-ways, unplatted land, City-County boundaries, or adjoining property lines.
- 2.03.75 **BLOCK FRONTAGE** shall mean that section of a block fronting on a street between two intersecting streets or other block boundary.

- 2.03.76 **BOARD OF ADJUSTMENT** shall mean that board that has been created by the city and which has the statutory authority to hear and determine appeals, interpretations of, and variances to the zoning regulations.
- 2.03.77 **BOARDING OR ROOMING HOUSE** shall mean a building containing a single dwelling unit and provisions for not more than five guests, where lodging is provided with or without meals for compensation.
- 2.03.78 **BORROW PIT** shall mean any place or premises where dirt, soil, sand, gravel or other material is removed below the grade of surrounding land for any purpose other than that necessary and incidental site grading or building construction.
- 2.03.79 **BREW-ON PREMISES STORE** shall mean a facility that provides the ingredients and equipment for a customer to use to brew malt liquor at the store. Brew-on-premises stores do not include the sale of intoxicating liquor, unless the owner of the brew-on-premises store holds the appropriate liquor license.
- 2.03.80 **BREW PUB** shall mean a restaurant or hotel which includes the brewing of beer as an accessory use. The brewing operation processes water, malt, hops, and yeast into beer or ale by mashing, cooking, and fermenting. By definition, these establishments produce no more than 10,000 barrels of beer or ale annually. The area, by definition, used for brewing, including bottling and kegging, shall not exceed 25 percent of the total floor area of the commercial space.
- 2.03.81 **BREWERY** shall mean an industrial use that brews ales, beers, meads and/or similar beverages on site. Breweries are classified as a use that manufactures more than 10,000 barrels of beverage (all beverages combined) annually.
1. **BREWERY, CRAFT** shall mean a brew pub or a micro brewery.
  2. **BREWERY, MICRO** shall mean a facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail or wholesale, on or off premises, with a capacity of not more than 10,000 barrels per year. The development may include other uses such as standard restaurant, bar, or live entertainment as otherwise permitted in the zoning district.
- 2.03.82 **BROADCASTING TOWER** shall mean a structure for the transmission or broadcast of radio, television, radar, or microwaves which exceed the maximum height permitted in the district in which it is located; provided, however, that noncommercial radio towers not exceeding 50 feet in height shall not be considered broadcast towers.
- 2.03.83 **BUFFER** shall mean a strip of land established to protect one type of land use from another incompatible land use or between a land use and a private or public road. (Also, see Screening.)
- 2.03.84 **BUFFER ZONE** shall mean an area of land that separates two zoning districts and/or land uses that acts to soften or mitigate the effects of one use on the other.
- 2.03.85 **BUILDABLE AREA** shall mean the portion of a lot remaining after the required yards have been provided.
- 2.03.86 **BUILDING** shall mean any structure built and maintained for the support, shelter or enclosure of persons, animals, chattels, or property of any kind, but shall not include temporary buildings as defined in "Temporary Structure". Trailers, with or without wheels, shall not be considered as buildings.
- 2.03.87 **BUILDING, ACCESSORY** (see Accessory Building)



- 2.03.88 **BUILDING, AREA OF** shall mean the sum in square feet of the ground areas occupied by all buildings and structures on a lot.
- 2.03.89 **BUILDING CODE** shall mean the various codes of the City that regulate construction and requires building permits, electrical permits, mechanical permits, plumbing permits, and other permits to do work regulated by the adopted building code of the City, and other codes adopted by the City that pertain to building construction.
- 2.03.90 **BUILDING HEIGHT** shall mean the vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched, hipped, or shed roof, measured from the highest adjoining sidewalk or ground surface within a five foot horizontal distance at the exterior wall of the building. (see Figure 2.03-1)
- 2.03.91 **BUILDING INSPECTOR** shall mean the Building Inspector for Seward County, Nebraska.
- 2.03.92 **BUILDING, PRINCIPAL** shall mean a building within which the main or primary use of the lot or premises is located. (Also, see Use, Principal.)
- 2.03.93 **BUILDING SETBACK LINE** shall mean the minimum of distance as prescribed by this regulation between any property line and the closed point of the building line or face of any building or structure related thereto.
- 2.03.94 **CAMPGROUND** shall mean a parcel of land intended for the temporary occupancy of tents, campers, and major recreational vehicles and which primary purpose is recreational, having open areas that are natural in character.
- 2.03.95 **CAR WASH** shall mean a building or structure or an area of land with machine or hand operated facilities for the cleaning, washing, polishing, or waxing of motor vehicles, not including semi-trailer tractors, buses, and commercial fleets.
- 2.03.96 **CAR WASH, INDUSTRIAL** shall mean a mechanical facility for the washing, waxing and vacuuming of heavy trucks and buses.
- 2.03.97 **CARPORT** shall mean a permanent roofed structure with not more than two enclosed sides used or intended to be used for automobile shelter and storage.
- 2.03.98 **CELLAR** shall mean a building space having more than one-half of its height below the average adjoining grade lines.
- 2.03.99 **CEMETERY** shall mean land used or intended to be used for the burial of the dead and dedicated for such purposes, including columbarium, crematoriums, and mausoleums.
- 2.03.100 **CENTERLINE** shall have the same meaning as "Street or Road Center Line".
- 2.03.101 **CENTRALIZED SEWER** shall mean a sewer system established by an individual(s), sanitary improvement district or developer for the purpose of serving two or more buildings, structures, and/or uses. Said system shall have a central point of sanitary waste collection and processing.
- 2.03.102 **CENTRALIZED WATER** shall mean a water supply system established by an individual(s), sanitary improvement district or developer for the purpose of serving two or more buildings, structures and/or uses. Said system shall have a central point(s) of supply with pressurized distribution from said supply point(s).
- 2.03.103 **CHANNEL** shall mean the geographical area within either the natural or artificial banks of a watercourse or drainageway.
- 2.03.104 **CHARITABLE** shall mean a public or semi-public institutional use of a philanthropic, charitable, benevolent, religious, or eleemosynary character, but not including sheltering or caring of animals.

2.03.105 **CHILD CARE** shall mean the provision of care as follows:

1. To four or more children under age 13 at any time of families other than that of the provider;
2. For on the average of less than 12 hours per day;
3. For compensation, either indirect or direct;
4. On a regular basis; and
5. By a person other than their parents/guardians.

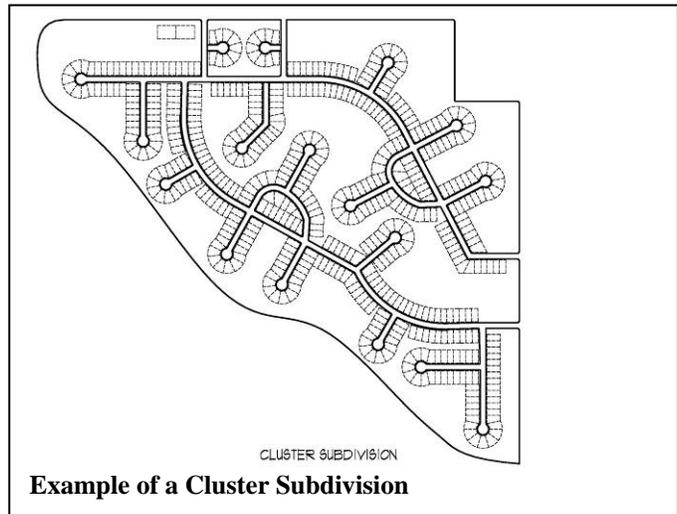
2.03.106 **CHILD CARE CENTER** shall mean a facility licensed to provide child care for 13 or more children. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.

2.03.107 **CHURCH** shall mean a permanently located building commonly used for religious worship fully enclosed with walls (including windows and doors) and having a roof and conforming to applicable legal requirements.

2.03.108 **CLEAR VIEW ZONE** shall mean the area of a corner lot closest to the intersection that is kept free of visual impairment to allow full view of both pedestrian and vehicular traffic. (Also see Sight Triangle.)

2.03.109 **CLUB** shall mean an association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not including groups which are organized primarily to render a service carried on as a business for profit.

2.03.110 **CLUSTER DEVELOPMENT** shall mean a development designed to concentrate buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and the preservation of environmentally sensitive areas.



2.03.111 **COMMERCIAL ANIMAL FEEDING OPERATION** (See Livestock Feeding Operation)

2.03.112 **COMMERCIAL USES** shall mean a business use or activity at a scale greater than home industry involving retail or wholesale marketing of goods and services. Examples of commercial uses include offices and retail shops.

2.03.113 **COMMISSION** shall mean the Seward County Planning Commission.

2.03.114 **COMMON AREA OR PROPERTY** shall mean a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the Owners of the individual building sites in a Clustered/Mixed Use Development (CMD) or condominium development.

2.03.115 **COMMON OPEN SPACE** shall mean an area of land or water or combination thereof planned for passive or active recreation, but does not include areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas. However, the area of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open space.

2.03.116 **COMMUNITY CENTER** shall mean a place, structure, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve various segments of the community.

- 2.03.117 **COMMUNITY SANITARY SEWER SYSTEM** shall mean an approved central sewer collecting system, meeting state and county requirements, available to each platted lot and discharging into a treatment facility. This does not include individual septic systems.
- 2.03.118 **COMMUNITY WATER SUPPLY SYSTEM** shall mean a public water supply system which serves at least fifteen service connections used by year round residents or uses, or regularly serves 25 or more year round residents or uses.
- 2.03.119 **COMPATIBLE USES** shall mean a land use that is congruous with, tolerant of, and has no adverse effects on existing neighboring uses. Incompatibility may be affected by pedestrian or vehicular traffic generation, volume of goods handled and environmental elements such as noise, dust, odor, air pollution, glare, lighting, debris generated, contamination of surface or ground water, aesthetics, vibration, electrical interference, and radiation.
- 2.03.120 **COMPREHENSIVE DEVELOPMENT PLAN** shall mean the Comprehensive Development Plan of Seward County, Nebraska, as adopted by the County Board of Commissioners, setting forth policies for the present and foreseeable future community welfare as a whole, and meeting the purposes and requirements set forth in Section 23-174.05, Nebraska R.R.S. 1943, as the same may, from time-to-time, be amended.
- 2.03.121 **CONCENTRATED ANIMAL FEEDING OPERATION, LARGE** shall mean a livestock feeding operation which contains 1,000 A.U.'s or more.
- 2.03.122 **CONCENTRATED ANIMAL FEEDING OPERATION, MEDIUM** shall mean a livestock feeding operation which contains between 301 and 999 A.U.'s.
- 2.03.123 **CONCENTRATED ANIMAL FEEDING OPERATION, SMALL** shall mean a farming operation other than those defined as a Medium or Large Operation.
- 2.03.124 **CONDITIONAL USE** shall mean a use allowed by the district regulations that would not be appropriate generally throughout the entire zoning district without special restrictions. However, said use if controlled as to number, size, area, location, relation to the neighborhood or other minimal protective characteristics would not be detrimental to the public health, safety, and general welfare.
- 2.03.125 **CONDITIONAL USE PERMIT** shall mean a permit issued by the Planning Commission and County Board that authorizes the recipient to make conditional use of property in accordance with the provisions of Article 5 and any additional conditions placed upon, or required by said permit.
- 2.03.126 **CONDOMINIUM** shall be as defined in Section 76-824 - 76-894, Nebraska R.R.S. 1943, as the same may, from time-to-time, be amended, the Condominium Law, whereby four or more apartments are separately offered for sale.
- 2.03.127 **CONE OF DEPRESSION** shall mean the three-dimensional area of water table created by a pumping well. The pumping well creates an artificial discharge area by drawing down (lowering) the water table around the well.
- 2.03.128 **CONFINEMENT** shall mean totally roofed buildings, which may be open-sided (for ventilation purposes only) or completely enclosed on the sides, wherein animals or poultry are housed over solid concrete or dirt floors, or slatted (partially open) floors over pits or manure collection areas in pens, stalls, cages, or alleys, with or without bedding materials and mechanical ventilation. The word "confinement" shall not mean the temporary confined feeding of livestock during seasonal adverse weather.
- 2.03.129 **CONFLICTING LAND USE** shall mean the use of property that transfers over neighboring property lines, negative economic or environmental effects. Including, but not limited to, noise, vibration, odor, dust, glare, smoke, pollution, water vapor, mismatched land uses and/or density, height, mass, mismatched layout of adjacent uses, loss of privacy, and unsightly views.

- 2.03.130 **CONGREGATE HOUSING** shall mean a residential facility for people 55 years or over, their spouses, or surviving spouses, providing living and sleeping facilities. Said facilities might include meal preparation, dining areas, laundry services, room cleaning and common recreational, social, and service facilities for the exclusive use of all residents including resident staff personnel who occupy a room unit in the residential facility. (Also, see Housing for the Elderly.)
- 2.03.131 **CONSERVATION AREAS** shall mean environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance or character, except in overriding public interest, including but not limited to: wetlands, floodways, flood plains, drainage ways, river or stream banks, and areas of significant biological productivity or uniqueness.
- 2.03.132 **CONSERVATION EASEMENT** shall mean an easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded condition and retaining such areas as suitable habitat for fish, plants, or wildlife, or maintaining existing land uses.
- 2.03.133 **CONVENIENCE STORE** shall mean a one-story, retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket.") It is dependent on, and is designed to attract and accommodate large volumes of stop-and-go traffic. (Also, see Self-Service Station.)
- 2.03.134 **CONTIGUOUS** shall mean the same as "Abut".
- 2.03.135 **COUNTRY CLUB** shall mean buildings and facilities owned and operated by a corporation or association of persons for social and recreational purposes, but not operated for a profit. The affairs and management, of such club, are conducted by a board of directors, executive committee, or similar body chosen by the members. It is designed to serve food and alcoholic beverages on such premises to members and their guests, provided that the serving of food and alcoholic beverages is secondary to some other principal purpose of the association or corporation. Customary country clubs include, but are not limited to: swimming, tennis, and golf course country clubs.
- 2.03.136 **COUNTY** shall mean Seward County, Nebraska.
- 2.03.137 **COUNTY BOARD** shall mean the County Board of Commissioners of Seward County, Nebraska.
- 2.03.138 **COURT** shall mean an open, unoccupied space, other than a yard, on the same lot with a building or buildings and abounded on two or more sides by such buildings.
- 2.03.139 **COURT, INNER** shall mean a court enclosed on all sides by the exterior walls of a building or buildings.
- 2.03.140 **COURT, OUTER** shall mean a court enclosed on all but one side by exterior walls of building or buildings or lot lines on which fences, hedges, or walls are permitted.
- 2.03.141 **CUL-DE-SAC** shall mean a short public way that has only one outlet for vehicular traffic and terminates in a vehicular turn-around.
- 2.03.142 **CURB LEVEL** shall mean the level of the curb in front of the lot, or in case of a corner lot, along that abutting street where the curb level is the highest.
- 2.03.143 **CURVE LOT** (see Lot, Curve).
- 2.03.144 **DAIRY FARM** shall mean any place or premises upon which milk is produced for sale or other distribution.
- 2.03.145 **DANCE HALL** (see Ballroom)

- 2.03.146 **DENSITY** shall mean the number of dwelling units per gross acre of land.
- 2.03.147 **DEVELOPER** shall mean any person, corporation, partnership, or entity that is responsible for any undertaking that requires a building or zoning permit, conditional use permit or sign permit.
- 2.03.148 **DEVELOPMENT** shall mean any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations for which necessary permits may be required.
- 2.03.149 **DEVELOPMENT AREA** shall mean an area of land that may or may not have been subdivided that contains three or more homes per nine acres.
- 2.03.150 **DEVELOPMENT CONCEPT PLAN** (See Site Plan)
- 2.03.151 **DEVELOPMENT REVIEW** shall mean the review, by the county of subdivision plats, site plans, rezoning requests, or permit review.
- 2.03.152 **DOG KENNEL** (See Kennel, Commercial; and Kennel, Private)
- 2.03.153 **DOMESTIC ANIMALS** (See Household Pet)
- 2.03.154 **DOWNZONING** shall mean a change in zoning classification of land to a less intensive or more restrictive district such as from commercial district to residential district or from a multiple family residential district to single family residential district.
- 2.03.155 **DRAINAGE WAY** shall mean any depression two feet or more below the surrounding land serving to give direction to a current of water less than nine months of the year, having a bed and well-defined banks. In the event of doubt as to whether a depression is a watercourse or drainage way, it shall be presumed to be a watercourse.
- 2.03.156 **DRAWDOWN** shall mean a lowering of the groundwater level caused by pumping.
- 2.03.157 **DRIVE-IN FACILITY** shall mean an establishment where customers can be served without leaving the confinement of their vehicle.
- 2.03.158 **DRIVEWAY** shall mean any vehicular access to an off-street parking or loading facility.
- 2.03.159 **DUMP** shall mean a place used for the disposal, abandonment, discarding by burial, incineration, or by any other means for any garbage, sewage, trash, refuse, rubble, waste material, offal or dead animals. Such use shall not involve any industrial or commercial process.
- 2.03.160 **DUPLEX** shall mean the same as "Dwelling, Two Family".
- 2.03.161 **DWELLING** shall mean any building or portion thereof which is designed and used exclusively for single family residential purposes, excluding mobile homes.
- 2.03.162 **DWELLING, MANUFACTURED HOME** shall mean a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with standards promulgated by the United States Department of Housing and Urban Development.
- 2.03.163 **DWELLING, MOBILE HOME** shall mean any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially in a complete condition and mounted on wheels, skids or roller, jacks, blocks, horses, skirting or a permanent or temporary foundation or any prefabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other

means. The term mobile home shall include trailer home and camp car, but the definition shall not apply to any vehicle lawfully operated upon fixed rails.

- 2.03.164 **DWELLING, MODULAR** (Is considered a conventional type single-family dwelling). Any prefabricated structure, used for dwelling purposes, moved on to a site in an essentially complete constructed condition, in one or more parts, and when completed is a single family unit on a permanent foundation, attached to the foundation with permanent connections. To be a modular home it shall meet or be equivalent to the construction criteria as defined by the Nebraska State Department of Health and Human Services under the authority granted by Section 71-1555 through 71-1567 Revised Nebraska R.R.S. 1943, as the same may, from time-to-time, be amended, those that do not meet the above criteria shall be considered a mobile home.
- 2.03.165 **DWELLING, MULTIPLE** shall mean a building or buildings designed and used for occupancy by three or more families, all living independently of each other and having separate kitchen and toilet facilities for each family.
- 2.03.166 **DWELLING, SEASONAL** shall mean a dwelling designed and used as a temporary residence and occupied less than six months in each year.
- 2.03.167 **DWELLING, SINGLE FAMILY** a building having accommodations for or occupied exclusively by one family that meets all the following standards:
1. The home shall have no less than 900 square feet of floor area, above grade, for single story construction;
  2. The home shall have no less than an 18 foot exterior width;
  3. The roof shall be pitched with a minimum vertical rise of two and one-half inches for each 12 inches of horizontal run;
  4. The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single family construction;
  5. The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, standing seam metal roofing, tile, or rock;
  6. The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed;
  7. The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.
  8. Permanent foundation: Base on which building rests to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of 42 inches below the final ground level.
- 2.03.168 **DWELLING, SINGLE-FAMILY (ATTACHED)** shall mean a one-family dwelling unit that is attached to one additional single-family dwelling. Said dwelling units are separated by an unpierced common wall through the center of the structure that also sits along the property line separating ownership of the structure.
- 2.03.169 **DWELLING, TWO FAMILY** shall mean a building designed or used exclusively for the occupancy of two families living independently of each other and having separate kitchen and toilet facilities for each family.
- 2.03.170 **DWELLING UNIT** shall mean one room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or lease on a weekly, monthly, or longer basis, and physically separate from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, toilet and sleeping facilities.
- 2.03.171 **EASEMENT** shall mean a space or a lot or parcel of land reserved for or used for public utilities or public or private uses.

- 2.03.172 **EDUCATIONAL INSTITUTION** shall mean a public or nonprofit institution or facility which conducts regular academic instruction at preschool, kindergarten, elementary, secondary, and collegiate levels, including graduate schools, universities, junior colleges, trade schools, nonprofit research institutions and religious institutions. Such institutions must either:
1. Offer general academic instruction equivalent to the standards established by the State Board of Education; or
  2. Confer degrees as a college or university or undergraduate or graduate standing; or
  3. Conduct research; or
  4. Give religious instruction.
- Private schools, academies, or institutes, incorporated or otherwise, which operate for a profit, commercial, or private trade schools are not included in this definition.
- 2.03.173 **EFFECTIVE DATE** shall mean the date that this chapter shall have been adopted, amended, or the date land areas became subject to the regulations contained in this chapter as a result of such adoption or amendment.
- 2.03.174 **ELECTRIC DISTRIBUTION SUBSTATION** shall mean an electric substation with a primary voltage of less than 161 KV, with distribution circuits served.
- 2.03.175 **ELECTRIC TRANSMISSION SUBSTATION** shall mean an electric transformation or switching station with a primary voltage of more than 161 KV without distribution circuits served.
- 2.03.176 **ELEEMOSYNARY INSTITUTIONS** shall mean an institution supported by charity and designed to assist persons such as those recovering from mental or emotional illness.
- 2.03.177 **ENCROACHMENT** shall mean an advancement or intrusion beyond the lines or limits as designated and established by the Regulation, and to infringe or trespass into or upon the possession or right of others without permission.
- 2.03.178 **ENLARGEMENT** shall mean the expansion of a building, structure, or use in volume, size, area, height, length, width, depth, capacity, ground coverage, or in number.
- 2.03.179 **ERECTED** shall mean constructed upon or moved onto a site.
- 2.03.180 **ENVIRONMENTALLY CONTROLLED HOUSING** shall mean any livestock operation meeting the definition of a Livestock Feeding Operation (LFO) and is contained within a building which is roofed, and may or may not have open sides and contains floors which are hard surfaced, earthen, slatted or other type of floor. The facility is capable of maintaining and regulating the environment in which the livestock are kept.
- 2.03.181 **EXISTING AND LAWFUL** shall mean the use of a building, structure, or land was in actual existence, operation, and use, as compared to the use being proposed, contemplated, applied for, or in the process of being constructed or remodeled. In addition, the use must have been permitted, authorized, or allowed by law or any other applicable regulation prior to the enactment of a zoning regulation when first adopted or permitted, authorized or allowed by the previous zoning regulation prior to the adoption of an amendment to that zoning regulation.
- 2.03.182 **EXPRESSWAY** shall mean a street or road that provides fast and efficient movement of large volumes of vehicular traffic between areas and does not provide direct access to property.
- 2.03.183 **EXTRATERRITORIAL JURISDICTION** shall mean the area beyond the corporate limits, in which a city or village has been granted the powers by the state to exercise zoning and building regulations and is exercising such powers.
- 2.03.184 **FACADE** shall mean the exterior wall of a building exposed to public view from the building's exterior.

- 2.03.185 **FACTORY** shall mean a structure or plant within which something is made or manufactured from raw or partly wrought materials into forms suitable for use.
- 2.03.186 **FAMILY** shall mean a household head and one or more persons related to the head by blood, marriage or adoption living together in a single dwelling unit.
- 2.03.187 **FAMILY CHILD CARE HOME I** shall mean a child care operation in the provider's place of residence which serves between four and eight children at any one time. A Family Child Care Home I provider may be approved to serve no more than two additional school-age children during non-school hours. In addition to these regulations, a Child Care Home shall meet requirement of the State of Nebraska.
- 2.03.188 **FAMILY CHILD CARE HOME II** shall mean a child care operation either in the provider's place of residence or a site other than the residence, serving 12 or fewer children at any one time. In addition to these regulations, a Child Care Home shall meet requirement of the State of Nebraska.
- 2.03.189 **FARM** shall mean an area containing at least 20 acres or more which is used for growing of the usual farm products such as vegetables, fruit, and grain, and the storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce and the feeding of livestock as hereinafter prescribed; provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.
- 2.03.190 **FARMING** shall mean the planting, cultivating, harvesting and storage of grains, hay or plants commonly grown in Nebraska with the necessary accessory uses for treating or storing the produce and the feeding of livestock as prescribed hereunder, provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.
- 2.03.191 **FARMSTEAD** shall mean in contrast to a farmstead dwelling, a tract of land of not less than one acre and not more than 20 acres, upon which a farm dwelling and other outbuildings and barns existed at the time of the adoption of this resolution and was used for single-family resident purposes.
- 2.03.192 **FEED LOT** shall mean the confinement of horses, sheep, pigs, and other food animals in buildings, lots, pens, pools or ponds which normally are not used for raising crops or for grazing animals.
- 2.03.193 **FLOOD** shall mean the water of any watercourse or drainage way which is above the banks or outside the channel and banks of such watercourse or drainage way.
- 2.03.194 **FLOOD PLAIN** shall mean the area adjoining a watercourse which has been or may be covered by flood waters.
- 2.03.195 **FLOODWAY** shall mean the channel of a watercourse or drainage way and those portions of the flood plain adjoining the channel which are reasonably required to carry and discharge the flood water of any watercourse or drainage way.
- 2.03.196 **FLOOR AREA** shall be used as a basis for requiring off-street parking for any structure; it shall be assumed that, unless otherwise stated, said floor area applies not only to the ground floor area but also to any additional stories of said structure. All horizontal dimensions shall be taken from the exterior faces of walls.
- 2.03.197 **FRONTAGE** shall mean that portion of a parcel of property that abuts a dedicated public street or highway.
- 2.03.198 **FUNERAL HOME** shall mean a building or part thereof used for human funeral services. Such building may contain space and facilities for (1) a funeral chapel; (2) embalming and the performance of other services used in preparation of the dead for burial; (3) the performance of autopsies and other surgical procedures; (4) the storage of caskets, funeral urns, and other related funeral supplies; (5) the storage of funeral vehicles; and (6) facilities for cremation.

- 2.03.199 **GARAGE, PRIVATE** shall mean a detached accessory building or a portion of a main building on the same lot as a dwelling for the housing of vehicles of the occupants of the dwelling, including carports.
- 2.03.200 **GARAGE, PUBLIC** shall mean any garage other than a private garage.
- 2.03.201 **GARAGE, REPAIR** shall mean a building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work. (Also, see Service Station.)
- 2.03.202 **GARBAGE** shall mean any waste food material of an animal or vegetable nature, including waste that may be used for the fattening of livestock.
- 2.03.203 **GRADE** shall mean the following:
1. For buildings having walls facing one street only, the elevation of the sidewalk at the center of the wall facing the street shall be grade.
  2. For buildings having walls facing more than one street, the grade shall be the average of the grades (as defined in (1) above) of all walls facing each street.
  3. For buildings having no walls facing a street, the average level of the finished surface of the ground adjacent to the exterior walls of the building shall be grade.
- Any wall approximately parallel to and not more than five feet from a street line is considered as facing a street.
- 2.03.204 **GLACIAL TILL** shall mean the unsorted deposits of glacial debris pushed to piles by the last advance of the glaciers. They consist of an unsorted mixture of all sizes of soil and rock fragments and are usually not very porous or permeable – i.e. not good aquifers.
- 2.03.205 **GRANNY FLAT** see Accessory Apartment
- 2.03.206 **GREENHOUSE** shall mean a building or premises used for growing plants, preparation of floral arrangements for off-site delivery to customers, cold storage of flowers or dry storage of materials used for agricultural or horticultural purposes.
- 2.03.207 **GROUNDWATER** shall mean water occurring beneath the surface of the ground that fills available openings in the rock or soil materials such that they may be considered saturated.
- 2.03.208 **GROUND WATER HEAT PUMP WELL** shall mean a well constructed for the purpose of utilizing the geothermal properties of the earth.
1. Open Loop Heat Pump well shall mean a well that transfers heat via pumped ground water which is discharged above and/or below ground. For below ground discharge refer to NDEQ Title 122.
  2. Closed Loop Heat Pump well shall mean a well constructed for the purpose of installing the underground closed loop pipe necessary to recirculate heat transfer fluid.
    - a. Horizontal Closed Loop means a trench or pit essentially parallel to the horizon and into which a closed loop pipe is placed for the purpose of heat transfer.
    - b. Vertical Closed Loop means a borehole essentially perpendicular to the horizon into which a closed loop pipe is placed for the purpose of heat transfer.
- 2.03.209 **GROUNDWATER RECHARGE** shall mean the filling of groundwater aquifers by rain and melting snow percolating into the ground and saturating the pores between rock and soil particles.
- 2.03.210 **GROUP CARE HOME** shall mean a home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home which is designed to provide twenty-four hour care for individuals in a residential setting.
- 2.03.211 **GROUP HOME FOR THE HANDICAPPED** shall mean a dwelling with resident staff shared by four or more handicapped persons who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as

possible in order to reach their maximum potential. As used herein, the term "handicapped" shall mean having:

1. A physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently;
2. A record of having such an impairment; or
3. Being regarded as having such impairment.

2.03.212 **GROUP HOUSING** shall mean two or more separate buildings on a lot, each containing one or more dwelling units.

2.03.213 **GUEST HOUSE** shall mean an attached or detached building used to house guests of the occupants of the principal building, and which is never rented or offered for rent.

2.03.214 **GUEST RANCH** shall mean a use incorporating two or more guest rooms, other than a boardinghouse, hotel or motel, and including outdoor recreational facilities, such as, but not limited to, horseback riding, swimming, tennis courts, shuffleboard courts, barbeque and picnic facilities intended primarily for use by the guests of the guest ranch. Bars and restaurants that cater primarily to those other than guests of the guest ranch are not permitted.

2.03.215 **GUEST ROOM** shall mean a room which is designed to be occupied by one or more guest for sleeping purposes, having no kitchen facilities, not including dormitories.

2.03.216 **HALF-STORY** shall mean a story under a gable, hip or gambrel roof, plates of which are not more than three feet above the floor of such story.

2.03.217 **HALFWAY HOUSE** shall mean a licensed home for individuals on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, living together as a single housekeeping unit, wherein supervision, rehabilitation and counseling are provided to mainstream residents back into society, enabling them to live independently.

2.03.218 **HAZARDOUS WASTE** shall mean waste products of industrial or chemical process including finished surplus, used, contaminated or unwanted fertilizer, herbicide, petroleum products, or other such processed waste material.

2.03.219 **HEALTH CARE FACILITIES** shall mean a facility licensed or approved by the state or an appropriate agency, if required, used in any of the following:

1. Hospitals including offices or medical societies, offices of charitable public health associations, and private office space for the practice of medicine and dentistry under a license from the Department of Health of the State of Nebraska; provided, that any such private offices for the practice of medicine and dentistry shall be occupied only by those on the staff of the hospital;
2. Convalescent or nursing home;
3. A facility for outpatient physical, occupational, or vocational therapy or rehabilitation;
4. Public health clinics and facilities; and
5. Ambulatory surgical care center which does not allow for overnight stay by patients.
6. Except as herein provided, health care facilities do not include doctors, or dentists professional offices and private clinics.

2.03.220 **HEALTH CLUB** shall mean privately owned for profit facilities such as gymnasiums, athletic clubs, health clubs, recreational clubs, reducing salons, and weight control establishments.

2.03.221 **HEALTH RECREATION FACILITY** shall mean an indoor or outdoor facility including uses such as game courts, exercise equipment, locker rooms, whirlpool spa and/or sauna and pro shop.

2.03.222 **HEIGHT OF BUILDING** shall mean the vertical distance above grade to the highest point of the coping of a flat roof, of the peak of a gable roof, or of any other type of pitched, hipped, or mansard roof. The grade may mean the highest adjoining sidewalk or ground surface within a five foot horizontal distance of the exterior wall of the building, when such sidewalk or ground surface is not

more than 10 feet above grade. The height of a stepped or terraced building is the maximum height of any segment of the building.

- 2.03.223 **HIGHWAY, MAJOR INTER-REGIONAL** shall mean a "U.S." or "State" designated highway with 100 feet right-of-way or more on which partial control of access and geometric design and traffic control measures are used to expedite the safe movement of through vehicular traffic.
- 2.03.224 **HIGHWAY SETBACK LINE** shall mean the future right-of-way line or plan lines of any highway. A yard abutting such a highway shall be measured from this future right-of-way line.
- 2.03.225 **HISTORIC SITE** shall mean one or more parcels, structures, or buildings that is either: Included on a city listing of historic properties covered by the city's historic property overlay zoning district, included on the state register of historic properties, designated on the National Register of Historic Places, or authenticated as historic in a survey and report by a registered architect or an architectural historian and the report accepted by the County. The historic survey and report includes: dating the property from a specified period, associating the property with significant events or outstanding past people or groups, determining the distinguishing architectural characteristics or style of the buildings, and demonstrating the role of the building in the community's heritage.
- 2.03.226 **HISTORIC STRUCTURE** shall mean any structure that is:
1. Listed individually on the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
  2. Certified or 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 district.
  3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
  4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - a. By an approved state program as determined by the Secretary of the Interior or
    - b. Directly by the Secretary of the Interior in states without approved programs.
- 2.03.227 **HOLDING POND** shall mean an impoundment made by constructing an excavated pit, dam, embankment, or combination of these for temporary storage of liquid livestock wastes.
- 2.03.228 **HOME OCCUPATION, GENERAL** shall mean a business, occupation, trade or profession conducted for gain and carried on within a residential dwelling by the resident thereof.
- 2.03.229 **HOMEOWNERS ASSOCIATION** shall mean a private, nonprofit corporation or association of homeowners of properties in a fixed area, established for the purpose of owning, operating, and maintaining various common properties and facilities.
- 2.03.230 **HOSPITAL** shall mean an institution providing health and emergency services of medical or surgical nature to human patients and injured persons and are licensed by the state to provide facilities and services in surgery, obstetrics, and general medical practice.
- 2.03.231 **HOTEL** shall mean a building or portion thereof, or a group of buildings, offering transient lodging accommodations on a daily rate to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities. The word "hotel" includes motel, inn, automobile court, motor inn, motor lodge, motor court, tourist court, motor hotel.
- 2.03.232 **HOUSE TRAILER** (see Dwelling: Mobile Home)
- 2.03.233 **HOUSEHOLD PET** shall mean an animal that is customarily kept for personal use or enjoyment within the home. Household pet shall include but not be limited to domestic dogs, domestic cats, domestic tropical birds, fish, and rodents.

- 2.03.234 **HOUSING FOR THE ELDERLY** shall mean a building or group of buildings containing dwellings in which each dwelling unit is occupied by at least one person of 55 years of age or more. This does not include developments containing convalescent or nursing facilities. (Also, see Congregate Housing.)
- 2.03.235 **HOUSING FOR THE PHYSICALLY HANDICAPPED** shall mean a building containing a dwelling or a group of dwellings in which each occupied dwelling unit is occupied by at least one physically handicapped person with a mobility impairment which requires certain construction design features for ingress, egress, and freedom of movement within the premises.
- 2.03.236 **IMMEDIATE FAMILY MEMBER** shall mean father, mother, grandfather, grandmother, son, daughter, son-in-Law, daughter-in-law, child, or children legally adopted.
- 2.03.237 **INCIDENTAL USE** shall mean a use that is subordinate to the main use of a premise.
- 2.03.238 **INDIVIDUAL SEPTIC SYSTEM** shall mean a wastewater treatment system for a dwelling that has a septic tank and absorption system.
- 2.03.239 **INDUSTRIAL PARK** shall mean a planned coordinated development of a tract of land with two or more separate industrial buildings. The development is planned, designed, constructed, and managed on an integrated and coordinated basis with an enforceable master plan and/or covenants, conditions, and restrictions with special attention to on-site vehicular circulation, parking, utility needs, building design, and orientation and open space.
- 2.03.240 **INDUSTRIAL USES** shall mean an industrial use or activity at a scale greater than home industry involving the manufacture and distribution of materials and/or products generated from a raw material or the assemblage of a product from several pre-manufactured pieces.
- 2.03.241 **INDUSTRIAL WASTE** shall mean any material resulting from a production or manufacturing operation having no net economic value to the source producing it.
- 2.03.242 **INDUSTRIAL WASTE DISPOSAL** shall mean the discarding of any Industrial Waste in either a legal or illegal manner.
- 2.03.243 **INDUSTRY** shall mean the manufacture, fabrication, processing reduction or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof and including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.
- 2.03.244 **INOPERABLE MOTOR VEHICLE** shall mean any motor vehicle that:
1. Does not have a current state license plate; or,
  2. May or may not have a current state license plate, but is disassembled or wrecked in part or in whole, or is unable to move under its own power, or is not equipped as required by Nebraska State Law for operation upon streets or highways.
  3. A vehicle that is wholly or partially dismantled shall not be considered inoperable when said vehicle is inside a completely enclosed building.
- 2.03.245 **INTENSITY** shall mean the degree to which land is used referring to the levels of concentration or activity in uses ranging from uses of low intensity being agricultural and residential to uses of highest intensity being heavy industrial uses. High intensity uses are normally uses that generate concentrations of vehicular traffic and daytime population and are less compatible with lower intensive uses.
- 2.03.246 **INTENT AND PURPOSE** shall mean that the Commission and Board by the adoption of this Regulation have made a finding that the health, safety, and welfare of the Community will be served by the creation of the District and by the regulations prescribed therein.
- 2.03.247 **JUICE BAR** (See Adult Establishment.)

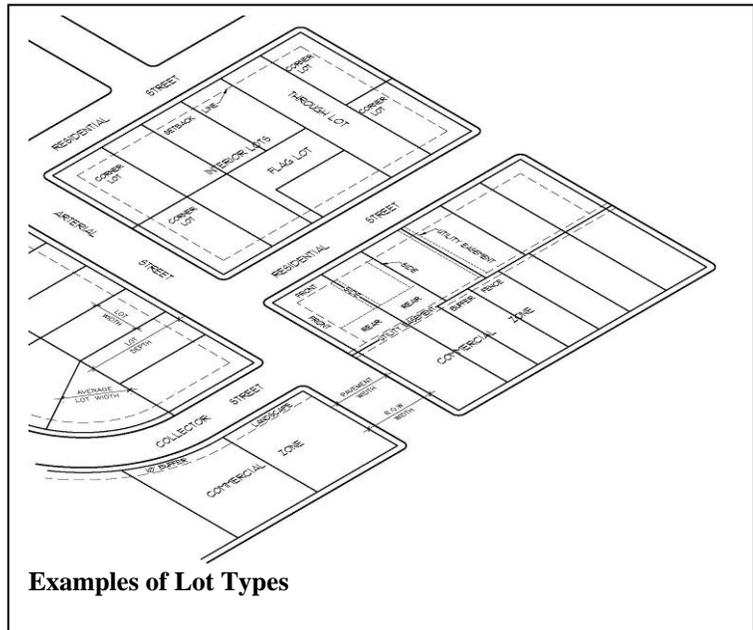
- 2.03.248 **JUNK** shall be any worn-out, cast-off, old, or discarded articles of scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material.
- 2.03.249 **JUNK YARD** shall mean any lot, land parcel, building, or structure or part thereof for storage, collection, purchase, sale, salvage, or disposal of machinery, farm machinery, and including motor vehicles, parts and equipment resulting from dismantling or wrecking, or keeping of junk, including scrap metals or other scrap materials, with no burning permitted. (For motor vehicles, see "Automobile Wrecking Yard")
- 2.03.250 **KENNEL, BOARDING AND TRAINING** shall mean any lot or premises on which four or more dogs or cats or any combination thereof, at least four months of age, are boarded, bred, or trained for a fee.
- 2.03.251 **KENNEL, COMMERCIAL** shall mean an establishment where five or more dogs or cats, or any combination thereof, other household pets, or non-farm/non-domestic animals at least four months of age are groomed, bred, boarded, trained, or sold as a business.
- 2.03.252 **KENNEL, PRIVATE** shall mean any premises used for the keeping of four or less dogs, cats, or a combination thereof, or other non-farm/non-domestic animals by the owner/occupant or occupant of the premises for the purpose of show, hunting, or as pets.
- 2.03.253 **LAGOON** shall mean a wastewater treatment facility that is a shallow, artificial pond where sunlight, bacterial action, and oxygen interact to restore wastewater to a reasonable state of purity. This includes both human and livestock wastes. All lagoons shall meet the minimum design criteria established by the Nebraska Department of Environmental Quality and the Nebraska Department of Health and Human Services. All lagoons shall have the proper permits approved prior to starting construction.
- 2.03.254 **LANDFILL** shall mean a disposal site employing a method of disposing solid wastes in a manner that minimizes environmental hazards in accordance with state and federal requirements.
- 2.03.255 **LANDSCAPING** shall include the original planting of suitable vegetation in conformity with the requirements of this Regulation and the continued maintenance thereof.
- 2.03.256 **LAUNDRY, SELF SERVICE** shall mean an establishment that provides home-type washing, drying, and/or ironing facilities for customers on the premises.
- 2.03.257 **LEAPFROG DEVELOPMENT** shall mean the development of cheaper land on the urban fringe by jumping over more expensive land located immediately adjacent to an existing development. Thus, resulting in inadequate or the lack of support services such as: access to a street system designed to carry high volume traffic, utilities, and other commercial facilities or public services such as police, fire, schools, and parks, thus adding to the tax burden of the general public and being an uneconomical growth pattern to the community or county.
- 2.03.258 **LIFE CARE FACILITY** shall mean a facility for the transitional residency of the elderly and/or disabled persons, progressing from independent living to congregate apartment living where residents share common meals and culminating in full health and continuing care nursing home facility. (Also, see Housing for the Elderly.)
- 2.03.259 **LIQUID MANURE** shall mean that type of livestock waste that is in liquid form, collected in liquid manure pits or lagoons and which can be sprayed or injected beneath the surface.
- 2.03.260 **LIQUID MANURE STORAGE PITS** shall mean earthen or lined pits wholly or partially beneath a semi or totally housed (ECH) livestock operation or at some removed location used to collect waste production.
- 2.03.261 **LIVESTOCK** (See Animals, Farm)

2.03.262 **LIVESTOCK FEEDING OPERATION (LFO)** shall mean any farming operation in a confined area where grazing is not possible, and where the confined area is for more than six months in any one calendar year, and where the number of animals so maintained exceeds 1,000 Animal Units as defined below. The confined area of the LFO shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds, and related facilities. Such facilities shall be constructed and operated in conformance with applicable county, state, and federal regulations. Two or more LFO's under common ownership are deemed to be a single LFO if they are adjacent to each other and utilize a common area of system for the disposal of livestock wastes; otherwise the separation distances shall apply as per Table 1. Animal Units (A.U.) are defined as follows:

- One A.U. = One Cow/Calf combination;
- One A.U. = One Slaughter, Feeder Cattle;
- One A.U. = One-half Horse;
- One A.U. = Seven Tenths Mature Dairy Cattle;
- One A.U. = Two and One Half Swine (55 lbs or more);
- One A.U. = 25 Weaned Pigs (less than 55 lbs);
- One A.U. = Two Sows with Litters;
- One A.U. = 10 Sheep;
- One A.U. = 100 Chickens;
- One A.U. = 50 Turkeys;
- One A.U. = Five Ducks.

2.03.263 **LIVESTOCK WASTES** shall mean animal and poultry excreta and associated feed losses, bedding, spillage, or overflow from watering systems, wash and flushing waters, sprinkling waters from livestock cooling, precipitation polluted by falling on or flowing onto a livestock operation, and other materials polluted by livestock or their direct product.

2.03.264 **LOADING SPACE** shall mean an off-street space or berth on the same lot with a main building, or contiguous to a group of buildings, for the temporary parking of commercial vehicles while loading or unloading, and which abuts a street, alley, or other appropriate means of ingress and egress.



2.03.265 **LOCAL STREET OR LOCAL HIGHWAY** shall mean a street or road primarily for service to abutting property.

2.03.266 **LOT** shall mean a parcel or tract of land which is or may be occupied by a use herein permitted, together with yards, and other open spaces herein required, that has frontage upon a street, and is a part of a recorded subdivision plat or has been recorded prior to the adoption of the Regulation, or a parcel of real property delineated on an approved record of survey, lot-split or sub-parceling map as filed in the office of the Register of Deeds and abutting at least one public street or right-of-way, two thoroughfare easements, or one private road.

2.03.267 **LOT AREA** shall mean the total area, on a horizontal plane, within the lot lines of a lot.

- 2.03.268 **LOT, CORNER** shall mean a lot located at the intersection of two or more streets at an angle of not more than 135 degrees. If the angle is greater than 135 degrees, the lot shall be considered an "Interior Lot". The setbacks for a front yard shall be met on all abutting streets.
- 2.03.269 **LOT COVERAGE** shall mean the portion of a lot or building site which is occupied by any building or structure, excepting paved areas, walks and swimming pools, regardless of whether said building or structure is intended for human occupancy or not.
- 2.03.270 **LOT, CURVE** shall mean a lot fronting on the outside curve of the right-of-way of a curved street, which street has a centerline radius of 300 feet or less.
- 2.03.271 **LOT DEPTH** shall mean the horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.
- 2.03.272 **LOT, DOUBLE FRONTAGE** shall mean a lot having a frontage on two non-intersecting streets as distinguished from a corner lot.
- 2.03.273 **LOT, FLAG** shall mean a lot with frontage and access provided to the bulk of the lot by means of a narrow corridor, see diagram above.
- 2.03.274 **LOT, FRONTAGE** shall mean the side of a lot abutting on a legally accessible street right-of-way other than an alley or an improved county road. For the purposes of this definition, on corner lots, all sides of a lot adjacent to streets or roads shall be considered frontage.
- 2.03.275 **LOT, INTERIOR** shall mean a lot other than a corner lot.
- 2.03.276 **LOT LINE** shall mean the property line bounding a lot.
- 2.03.277 **LOT LINE, FRONT** shall mean the property line abutting a street.
- 2.03.278 **LOT LINE, REAR** shall mean a lot line not abutting a street which is opposite and most distant from the front lot line.
- 2.03.279 **LOT LINE, SIDE** shall mean any lot line not a front lot line or rear lot line.
- 2.03.280 **LOT, NONCONFORMING** shall mean a lot having less area or dimension than required in the district it is located and lawfully created prior to the zoning thereof and whereby the larger area or dimension requirements were established, or any lot, other than one shown on a plat recorded in the office of the County Register of Deeds, which does not abut a public road or public road right-of-way and which was lawfully created prior to the effective date of this Regulation.
- 2.03.281 **LOT THROUGH** shall mean a lot having frontage on two dedicated streets, not including a corner lot.
- 2.03.282 **LOT OF RECORD** shall mean a lot held in separate ownership as shown on the records of the County Register of Deeds at the time of the passage of a regulation or regulation establishing the zoning district in which the lot is located.
- 2.03.283 **LOT WIDTH** shall mean the average horizontal distance between the side lot line, measured at right angles to the lot depth at a point midway between the front and rear lot lines.
- 2.03.284 **MAINTENANCE GUARANTEE** shall mean any security, other than cash, that may be accepted by the County to insure that required improvements will be maintained. (Also, see Performance Guarantee.)
- 2.03.285 **MANUFACTURED HOME PARK** shall mean a parcel of land under single ownership that has been planned and improved for the placement of manufactured housing used or to be used for dwelling purposes and where manufactured home spaces are not offered for sale or sold. The term

"manufactured home park" does not include sales lots on which new or used manufactured homes are parked for the purposes of storage, inspection, or sale.

- 2.03.286 **MANUFACTURED HOME SUBDIVISION** shall mean any area, piece, parcel, tract or plot of ground subdivided and used or intended to be used for the purpose of selling lots for occupancy by manufactured homes.
- 2.03.287 **MANUFACTURING** shall mean uses primarily engaged in the mechanical or chemical transformation of materials or substances into new products. These uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Uses engaged in assembling component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of material such as lubricating oils, plastics, resins, or liquors. Manufacturing production is usually carried on for the wholesale market, for interplant transfer, or to order for industrial users, rather than for direct sale to the domestic consumer.
- 2.03.288 **MAP, OFFICIAL ZONING DISTRICT** shall mean a map delineating the boundaries of zoning districts, which, along with the zoning text, is officially adopted by the Seward County Board of Commissioners' zoning regulations for Seward County, Nebraska.
- 2.03.289 **MASSAGE PARLOR** (See Adult Uses)
- 2.03.290 **MEDICAL OR DENTAL CLINIC** shall mean any building or portion thereof, other than a hospital, used or intended to be used as an office for the practice of any type of medicine, including chiropractic, dentistry, or optometry.
- 2.03.291 **MINI-STORAGE OR MINI-WAREHOUSE** (See Self-Service Storage Facility)
- 2.03.292 **MOBILE HOME** (See Dwelling, Mobile Home)
- 2.03.293 **MOBILE HOME PARK** (See Manufactured Home Park)
- 2.03.294 **MOBILE HOME SUBDIVISION** (See Manufactured Home Subdivision)
- 2.03.295 **MOTEL** (See Hotel)
- 2.03.296 **MOTOR VEHICLE** shall mean every self-propelled land vehicle, not operated upon rails, except mopeds and self-propelled invalid chairs.
- 2.03.297 **NEBRASKA REVISED REISSUED STATUTES, 1943** and the abbreviated term Nebr. R. R. S., 1943 are one and the same.
- 2.03.298 **NIGHTCLUB** shall mean a commercial establishment dispensing beverages for consumption on the premises and in which dancing is permitted or entertainment is provided. (Also, see Bar)
- 2.03.299 **NONCOMMUNITY WATER SUPPLY SYSTEM** shall mean any public water supply system that is not a community water supply system.
- 2.03.300 **NON-CONFORMING BUILDING** shall mean a building or portion thereof which was lawful when established but which does not conform to subsequently established zoning or zoning regulations.
- 2.03.301 **NON-CONFORMING USE** shall mean a use lawful when established but which does not conform to subsequently established zoning or zoning regulation.
- 2.03.302 **NON-FARM BUILDINGS** are all buildings except those buildings utilized for agricultural purposes on a farmstead of twenty acres or more which produces one thousand dollars or more of farm products each year.

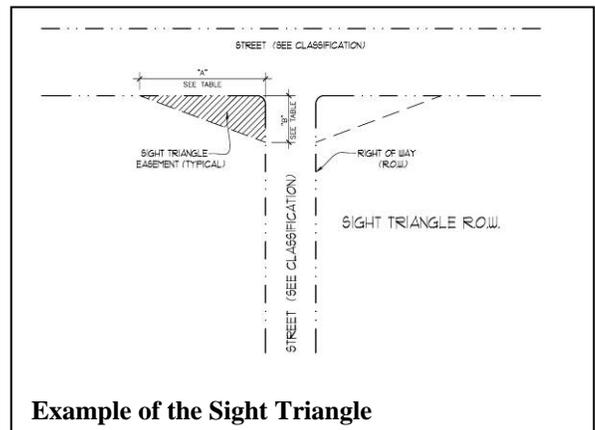
- 2.03.303 **NUISANCE** shall mean anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses such as noise, dust, odor, smoke, gas, pollution, congestion, lighting, and litter.
- 2.03.304 **NURSERY** shall mean the use of a premises for the propagation, cultivation, and growth of trees, shrubs, plants, vines, and the like from seed or stock, and the sale thereof, and including the sale of trees, shrubs, plants, vines, and the like purchased elsewhere and transplanted into the soil of the premises. In connection with the sale of plants, such fungicides, insecticides, chemicals, peat moss, humus, mulches, and fertilizers as are intended to be used in preserving the life and health of the plants may be sold.
- 2.03.305 **NURSERY SCHOOL** (see Preschool)
- 2.03.306 **NURSING HOME** shall mean a facility used or occupied by persons recovering from illness or suffering from infirmities of old age requiring skilled nursing care and related medical services and licensed by the appropriate state or federal agency or agencies.
- 2.03.307 **OFFICIAL MAP** (See Map, Official Zoning District)
- 2.03.308 **OFF-STREET PARKING AREA or VEHICULAR USE** shall refer to all off street areas and spaces designed, used, required, or intended to be used for parking, including driveways or access ways in and to such areas.
- 2.03.309 **OPEN LOTS** shall mean pens or similar concentrated areas, including small shed-type areas or open-front buildings, with dirt, or concrete (or paved or hard) surfaces, wherein animals or poultry are substantially or entirely exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed-type areas.
- 2.03.310 **OPEN SPACE** shall mean a parcel or parcels of land, together with the improvements thereon, primarily set aside for recreational use and enjoyment, exclusive of land areas used for streets, alleys, roads, driveways, parking areas, structures, and buildings.
- 2.03.311 **OUTDOOR ADVERTISING** shall include the definitions of "Advertising Structure" and "Sign".
- 2.03.312 **OVERLAY DISTRICT** shall mean a district in which additional requirements will act in conjunction with the underlying zoning district. The original zoning district designation does not change.
- 2.03.313 **OWNER** shall mean one or more persons, including corporations, who have title to the property, building or structure in question.
- 2.03.314 **PARCEL** shall mean a lot or a contiguous group of lots in single ownership or under single control that may be considered as a unit for purposes of development.
- 2.03.315 **PARK** shall mean any public or private land available for recreational, educational, cultural, or aesthetic use.
- 2.03.316 **PARKING AREA, PRIVATE** shall mean an area, other than a street, used for the parking of automotive vehicles capable of moving under their own power and restricted from general public use.
- 2.03.317 **PARKING AREA, PUBLIC** shall mean an area, other than a private parking area or street used for the parking of vehicles capable of moving under their own power, either free or for remuneration.
- 2.03.318 **PARKING SPACE, AUTOMOBILE** shall mean an area, other than a street or alley, reserved for the parking of an automobile, such space having a dimension not less than eight and one-half feet by 20 feet, plus such additional area as is necessary to afford adequate ingress and egress.
- 2.03.319 **PARKWAY** shall mean an arterial highway with full or partial control of access, and located within a park or ribbon of park like development.

- 2.03.320 **PERFORMANCE GUARANTEE** shall mean a financial guarantee to ensure that all improvements, facilities, or work required by these Regulations will be completed in compliance with these regulations as well as with approved plans and specifications of a development (Also, see Maintenance Guarantee.)
- 2.03.321 **PERMANENT FOUNDATION** shall mean a base constructed from either poured concrete or laid masonry rock or brick and placed on a footing located below ground level to a point below the frost line upon which a building or structure is permanently attached.
- 2.03.322 **PERMANENTLY ATTACHED** shall mean connected to real estate in such a way as to require dismantling, cutting away, or unbolting in order to remove, relocate, or replace.
- 2.03.323 **PERMEABILITY** shall mean the ability of a material to transmit water. Permeability determines its ability to yield water.
- 2.03.324 **PERMITTED USE** shall mean any land use allowed without condition within a zoning district.
- 2.03.325 **PERSON** shall mean an individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, City, County, special district or any other group or combination acting as an entity, except that it shall not include Seward County, Nebraska.
- 2.03.326 **PLANNING COMMISSION** shall mean the Planning Commission of Seward County, Nebraska.
- 2.03.327 **PLAT** shall mean a map showing the location, boundaries, and legal description of individual properties.
- 2.03.328 **POLICY** shall mean a statement or document of the county, such as the comprehensive plan, that forms the basis for enacting legislation or making decisions.
- 2.03.329 **POROSITY** shall mean the ratio of the volume or pore space to the volume of solids in a material. Porosity determines the capacity of the material to hold water -- the more pores, the more water.
- 2.03.330 **POULTRY, COMMERCIAL FEEDING** shall mean a poultry commercial feed lot, whether the confined feeding operations are enclosed or outdoors.
- 2.03.331 **PREMISES** shall mean a tract of land, consisting of one lot or irregular tract, or more than one lot or irregular tract, provided such lots or tracts are under common ownership, contiguous, and used as a single tract. A building or land within a prescribed area.
- 2.03.332 **PRESCHOOL** shall mean an early childhood program which provides primarily educational services, where children do not nap and where children are not served a meal.
- 2.03.333 **PRIVATE CLUB** shall mean a non-profit association of persons who are bona fide members paying dues, which owns, hires or leases a building or premises, or portion thereof, the use of such building or premises being restricted to members and their guests. The affairs and management of such private clubs are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting. A private club may include the serving of food and meals on said premises while providing adequate dining room space and kitchen facilities. A private club may include the sale of alcoholic beverages to members and their guests provided the activity is secondary and incidental to the promotion of some common objective by the organization; and, said sale of alcoholic beverages is in complete compliance with all municipal, state and federal laws.
- 2.03.334 **PRIVATE WELL** shall mean a well that provides water supply to less than 15 service connections and regularly serves less than 25 individuals.
- 2.03.335 **PROHIBITED USE** shall mean any use of land, other than nonconforming, which is not listed as a permitted use or conditional use within a zoning district.

- 2.03.336 **PROMOTIONAL DEVICE** shall mean any sign intended to be displayed either with or without a frame, with or without characters, letters, illustrations, or other material, on a fabric of any kind. National flags, flags of political subdivisions, or symbolic flags of any institutions or business shall be considered a promotional device for the purpose of this definition. Banners, pennants, inflatable characters, streamers, or fringe-type ribbons or piping, shall be considered as a promotional device.
- 2.03.337 **PUBLIC UTILITY** shall mean any business which furnishes the general public telephone service, telegraph service, electricity, natural gas, water and sewer, or any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the state or federal government.
- 2.03.338 **PUBLIC WATER SUPPLY** shall mean a water supply system designed to provide public piped water fit for human consumption, if such system has at least 15 service connections or regularly serves at least twenty-five individuals. This definition shall include:
1. Any collection, treatment, storage, or distribution facilities under the control of the operator of such system and used primarily in connection with such system; and
  2. Any collection or pretreatment storage facilities not under such control which are used primarily in the connection with such system.
- 2.03.339 **RACETRACK** shall mean a measured course where machines, usually automobiles, are entered in competition against one another or against time.
- 2.03.340 **RAILROAD** shall mean the land use including the right-of-way (R.O.W.) abutting railroad properties occupied by uses pertinent to the railroad operation and maintenance, but not including properties owned by the railroad and leased for use by others.
- 2.03.341 **RECHARGE AREAS** shall mean the places where rain and snow melt percolate into the ground, refilling the groundwater aquifers.
- 2.03.342 **RECHARGE RATE** shall mean the time that is required to add to, or replenish water in an aquifer or water table.
- 2.03.343 **RECREATIONAL FACILITY** shall mean facilities for the use by the public for passive and active recreation including tennis, handball, racquetball, basketball, track and field, jogging, baseball, soccer, skating, swimming, or golf. This shall include country clubs and athletic clubs, but not facilities accessory to a private residence used only by the owner and guests, nor arenas or stadiums used primarily for spectators to watch athletic events. In addition, recreational facilities shall mean museums, amphitheaters, race tracks (including all motor powered vehicles) and wildlife conservation areas (used for public viewing), and theme parks.
- 2.03.344 **RECREATIONAL VEHICLE (RV)** shall mean a vehicular unit less than 40 feet in overall length, eight feet in width, or 12 feet in overall height, primarily designed as a temporary living quarters for recreational camping or travel use having either its own power or designed to be mounted on or drawn by a motor vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, camping trailer, and fifth wheel.
- 2.03.345 **RECREATIONAL VEHICLE (RV) PARK** shall mean a tract of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes by campers, vacationers, or travelers.
- 2.03.346 **RECYCLING CENTER** shall mean a facility other than a junkyard in which recoverable resources such as paper, glass, metal cans, and plastics, are collected, bundled, stored, flattened, crushed, or reduced in some manner within a completely enclosed building, in preparation for shipment to others for reuse.
- 2.03.347 **RECYCLING COLLECTION POINT** shall mean a drop-off point for temporary storage of recoverable resources such as paper, glass, cans, and plastics, and where no processing of such items takes place.

- 2.03.348 **RECYCLING PLANT** shall mean a facility other than a junkyard where recoverable resources such as paper products, glass, metal cans and other products are recycled, reprocessed, and treated to return the products to a condition in which they may be reused for production.
- 2.03.349 **RESEARCH LABORATORY OR CENTER** shall mean a building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, and not including manufacture or sale of products, except as incidental to the main purpose of the laboratory.
- 2.03.350 **RESIDENCE** shall mean a building used, designed, or intended to be used as a home or dwelling place for one or more families.
- 2.03.351 **RESTAURANT** shall mean a public eating establishment at which the primary function is the preparation and serving of food primarily to persons seated within the building.
- 2.03.352 **RESTAURANT, DRIVE-IN** shall mean an establishment that has the facilities to serve prepared food and/or beverages to customers seated within motor vehicles for consumption either on or off the premises.
- 2.03.353 **RESTAURANT, FAST FOOD** shall mean an establishment whose principal business is the sale of food and/or beverages in ready-to-consume individual servings, for consumption either within the establishment, for carry-out, or drive-in, and where foods are/or beverages are usually served in paper, plastic, or other disposable containers.
- 2.03.354 **RETAIL TRADE** shall mean uses primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of goods. Uses engaged in retail trade sell merchandise to the general public or to households for personal consumption.
- 2.03.355 **REVERSE SPOT ZONING** shall mean an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and that uniquely burdens an individual owner largely to secure some public benefit. Reverse spot zoning usually results from downzoning a tract of land to a less intensive use classification than that imposed on nearby properties.
- 2.03.356 **REZONING** shall mean an amendment to or change in the zoning regulations either to the text or map or both.
- 2.03.357 **REZONING, PIECEMEAL** shall mean the zoning reclassification of individual lots resulting in uncertainty in the future compatible development of the area.
- 2.03.358 **RIGHT-OF-WAY** shall mean an area or strip of land, either public or private, on which an irrevocable right of passage has been dedicated, recorded, or otherwise legally established for the use of vehicles or pedestrians or both.
- 2.03.359 **ROAD** shall mean the same as "Street".
- 2.03.360 **ROAD, IMPROVED** shall mean a street, county road, and/or State/Federal Highway that are graded, surfaced and maintained on a regular basis with an approved granular material or hard-surfacing material.
- 2.03.361 **ROAD, PRIVATE** shall mean a way, other than driveways, open to vehicular ingress and egress established for the benefit of certain, adjacent properties. (Also, see Right-of-Way and Street.)
- 2.03.362 **ROAD, PUBLIC** shall mean all public right-of-way reserved or dedicated for street or road traffic. (Also, see Right-of-Way and Street.)
- 2.03.363 **ROAD, UNIMPROVED** shall mean a road officially declared or designated as minimum maintenance. Said road will not generally be graded, crowned or contain a surfacing material of either a granular or hard-surfaced nature.

- 2.03.364 **ROADSIDE STAND** shall mean a temporary structure or vehicle used solely for the sale of farm products produced on the premises or adjoining premises.
- 2.03.365 **ROOM** shall mean an un-subdivided portion of the interior of a dwelling unit, excluding bathroom, kitchen, closets, hallways, and service porches.
- 2.03.366 **SATELLITE DISH ANTENNA** shall mean a round, parabolic antenna incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, or cone and used to transmit and/or receive radio or electromagnetic waves.
- 2.03.367 **SCHOOL, DAY** shall mean a preschool or nursery school for children.
- 2.03.368 **SCHOOL, DAY, PRE-, OR NURSERY** shall mean a school or center for children under school age, whether licensed as a daycare center or not, shall be approved by the Nebraska State Fire Marshall as being in safety conformance with the National Fire Protection Association, Pamphlet 101, known as the Life Safety Code and shall be approved by the Nebraska Department of Health and Welfare as meeting their health and welfare standards.
- 2.03.369 **SCHOOL, ELEMENTARY, JUNIOR HIGH, or HIGH** shall mean public and other non-profit institutions conducting regular academic instruction at kindergarten, elementary, and secondary levels. Such institutions shall offer general academic instruction equivalent to the standards prescribed by the State Board of Education.
- 2.03.370 **SCHOOL, PRIVATE** shall mean an institution conducting regular academic instruction at kindergarten, elementary or secondary levels operated by a non-governmental organization in conformance with the Section 79-1701 through 79-1707, Nebraska R. R. S., 1943.
- 2.03.371 **SCHOOL, TRADE** shall mean an institution offering extensive instruction in the technical, commercial, or trade skills and operated by a non-governmental organization.
- 2.03.372 **SCREENING** shall mean a method by which a view of one site from another adjacent site is shielded, concealed, or hidden during all seasons of the year and may include fences, walls, hedges, beams, or other features. (Also, see Buffer.)
- 2.03.373 **SELF-SERVICE STATION** shall mean an establishment where motor fuels are stored and dispensed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products.
- 2.03.374 **SELF-SERVICE STORAGE FACILITY** shall mean a building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage.
- 2.03.375 **SEPARATE OWNERSHIP** shall mean ownership of a parcel of land by a person who does not own any of the land abutting such parcel.
- 2.03.376 **SERVICE STATIONS** shall mean buildings and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and motor vehicle accessories and where light maintenance activities such as engine tune-ups, lubrications, and washing may be conducted, but not including heavy maintenance and repair such as engine overhauls, painting, and body repair.
- 2.03.377 **SETBACK LINE, FRONT YARD** shall mean the line which defines the depth of the required front yard. Said setback line shall be parallel with the right-of-way line or highway setback line when one



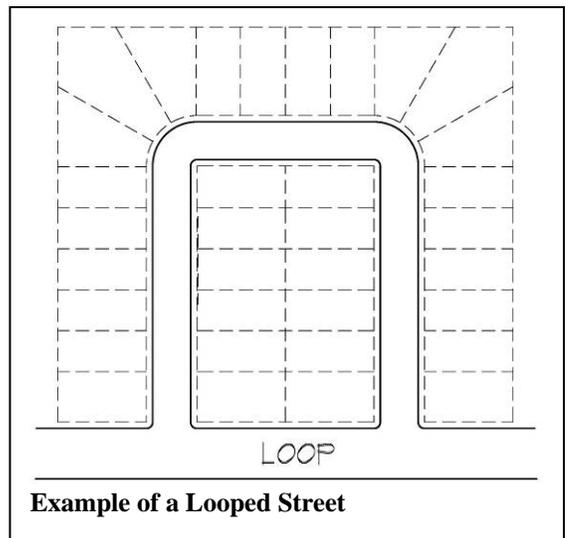
has been established.

- 2.03.378 **SETBACK LINE, HIGHWAY** shall mean the same as "Highway Setback Line".
- 2.03.379 **SETBACK LINE, REAR YARD OR SIDE YARD** shall mean the line which defines the width or depth of the required rear or side yard. Said setback line shall be parallel with the property line, removed therefrom by the perpendicular distance prescribed for the yard in the district.
- 2.03.380 **SHOPPING CENTER** shall mean a grouping of retail business and service uses on a single site with common parking facilities.
- 2.03.381 **SIGHT TRIANGLE** shall mean an area at a street or road intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision of traffic at an intersection as established within these regulations.
- 2.03.382 **SIGN** shall mean and include any outdoor sign, display, declaration, device, figure, drawing, illustration, message, placard, poster, billboard, insignia, or other things which are designed, intended, or used for direction, information, identification, or to advertise, to inform, or to promote any business, product activity, service, or any interest.
- 2.03.383 **SIGN, ADVERTISING** shall mean a sign which directs attention to any product, activity, or service; provided, however, that such sign shall not be related or make reference to the primary use, business activity, or service conducted on the premises.
- 2.03.384 **SIGN, ARCHITECTURAL CANOPY** shall mean an enclosed, illuminated (backlit awning) or non-illuminated structure that is attached to the wall of a building with the face of the sign approximately parallel to the wall and with the sign's area integrated into its surface.
- 2.03.385 **SIGN AREA** shall mean the entire area including the background of a sign on which copy can be placed but not including the minimal supporting framework or bracing. The area of individually painted letter signs, individual letter signs or directly or indirectly illuminated individual letter signs, shall be calculated on the basis of the smallest geometric figure that will enclose the entire copy area of the sign. Any such calculation shall include the areas between the letters and lines, as well as the areas of any devices, illuminated or non-illuminated.
- 2.03.386 **SIGN, AUDIBLE** shall mean any sign that conveys either a written message supported by an audible noise including music, spoken message, and/or sounds to attract attention to the sign. Audible signs also include signs conveying only the audible noise including music, spoken message, and/or sounds to attract attention.
- 2.03.387 **SIGN, AWNING, CANOPY OR MARQUEE** shall mean a sign that is mounted, painted, or attached to an awning, canopy, or marquee that is otherwise permitted by the Zoning Regulations.
- 2.03.388 **SIGN, BILLBOARD** shall mean a sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.
- 2.03.389 **SIGN, BUILDING** shall mean any sign supported by, painted on or otherwise attached to any building or structure.
- 2.03.390 **SIGN, DESTINATION** shall mean a sign used to inform and direct the public to important public places and buildings, landmarks, and historical sites in the most simple, direct, and concise manner possible.
- 2.03.391 **SIGN, ELECTRONIC MESSAGE BOARD** shall mean a sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

- 2.03.392 **SIGN, FLASHING** shall mean a sign designed to give an electrical light flash intermittently or a revolving beacon light.
- 2.03.393 **SIGN, FREESTANDING** shall mean any sign supported by uprights or braces placed on or in the ground, which is used principally for advertising or identification purposes and is not supported by any building.
- 2.03.394 **SIGN, GROUND (LOW PROFILE)** shall mean a sign mounted directly to the ground with a maximum height not to exceed six feet.
- 2.03.395 **SIGN, ILLUMINATED** shall mean a sign illuminated in any manner by an artificial light source.
- 2.03.396 **SIGN, ON-PREMISE** shall mean a sign, display, or device advertising activities conducted on the property on which such sign is located.
- 2.03.397 **SIGN, OPEN** shall mean a sign attached to or hung from a marquee, canopy, or other covered structure, projecting from and supported by the building and extending beyond the building wall, building line, or street lot line.
- 2.03.398 **SIGN, PORTABLE** shall mean a sign, usually of a temporary nature, not securely anchored to the ground or to a building or structure and which obtains some or all of its structural stability with respect to wind or other normally applied forces by means of its geometry or character.
- 2.03.399 **SIGN, PROJECTING** shall mean a projecting sign attached to a building.
- 2.03.400 **SIGN, ROOF** shall mean a sign identifying the name of a business, enterprise, or the product sold on the premises and erected on the roof of the building.
- 2.03.401 **SIGN, SETBACK** shall mean the horizontal distance from the property line to the nearest projection of the existing or proposed sign.
- 2.03.402 **SIGN, SUBDIVISION** shall mean a sign erected on a subdivision identification lot which identifies the platted subdivision where the sign is located.
- 2.03.403 **SIGN, SURFACE** shall mean the entire area of a sign.
- 2.03.404 **SIGN, TEMPORARY** shall mean a sign constructed of cloth, fabric, or other material with or without a structural frame intended for a limited period of display, including displays for holidays or public demonstrations. Temporary signs shall include portable signs as defined in this section.
- 2.03.405 **SIGN, VIDEO** shall mean any on-premises or off-premises sign that convey either a commercial or non-commercial message, including a business or organization name, through means of a television or other video screen.
- 2.03.406 **SIGN, WALL** shall mean a sign attached to or erected against the wall of a building with the exposed face of the sign in a plane parallel to the wall of the building and not projecting more than 18 inches from the face of the building wall.
- 2.03.407 **SIGN, WINDOW** shall mean a sign painted, stenciled, or affixed on a window, which is visible from a right-of-way.
- 2.03.408 **SIMILAR USE** shall mean the use of land, buildings, or structures of like kind or general nature with other uses within a zoning district as related to bulk, intensity of use, traffic generation and congestion, function, public services requirements, aesthetics or other similarities.
- 2.03.409 **SITE PLAN** shall mean a plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, drives, parking, drainage, landscape features, and other principal site development improvements for a specific parcel of land.

- 2.03.410 **SITE, SEPTIC** shall mean the area bounded by the dimensions required for the proper location of the septic tank system.
- 2.03.411 **SLUDGE** shall mean solids removed from sewage during wastewater treatment and then disposed of by incineration, dumping, burial, or land application.
- 2.03.412 **SOLID WASTE** shall mean waste materials consisting of garbage, trash, refuse, rubble, sewage, offal, dead animals, or paunch manure.
- 2.03.413 **SPECIFIED ANATOMICAL AREAS** shall mean anatomical areas consisting of less than completely and opaquely covered human genitals, buttock, or female breast(s) below a point immediately above the top of the areola.
- 2.03.414 **SPECIFIED SEXUAL ACTIVITIES** shall mean activities consisting of the following:
1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts of conduct: Anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty; or clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence; or
  2. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
  3. Fondling or touching of nude human genitals, pubic region, buttocks, or female breast(s); or
  4. Situation involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint or any such persons; or
  5. Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or
  6. Human excretion, urination, menstruation, vaginal, or anal irrigation.
- 2.03.415 **SPOT ZONING** shall mean an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and primarily promotes the private interest of the owner rather than the general welfare. Spot zoning usually results from an upzoning to a more intensive use classification.
- 2.03.416 **STABLE, PRIVATE** shall mean a detached accessory building for the keeping of horses owned by the occupants of the premises and not kept for remuneration, hire or sale.
- 2.03.417 **STABLE, RIDING** shall mean a structure in which horses or ponies, used elusively for pleasure riding or driving, are housed, boarded, or kept for remuneration, hire, or sale.
- 2.03.418 **STATE** shall mean the State of Nebraska.
- 2.03.419 **STOCKPILING** shall mean the accumulation of manure in mounds, piles, or other exposed and non-engineered site locations for storage or holding purposes for a period of not more than one year.
- 2.03.420 **STORAGE** shall mean the keeping, in a roofed or unroofed area, of any goods, junk, material, merchandise, or vehicles on the same tract or premises for more than 30 days.
- 2.03.421 **STORY** shall mean a space in a building between the surface of any floor and the surface of the floor above, or if there is not floor above, then the space between such floor and the ceiling or roof above.
- 2.03.422 **STORY, ONE-HALF** shall mean the same as "Half-Story".
- 2.03.423 **STREET** shall mean a public thoroughfare or right-of-way dedicated, deeded, or condemned for use as such, other than an alley, which affords the principal means of access to abutting property including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except as excluded in this Regulation.

- 2.03.424 **STREET, ARTERIAL** shall mean a street designed with the primary function of efficient movement of through traffic between and around areas of a city, village, or county with controlled access to abutting property.
- 2.03.425 **STREET, COLLECTOR** shall mean a street or highway that is intended to carry traffic from minor streets to major streets. Collector streets are usually the principal entrance streets to residential developments and the streets for circulation within the development.
- 2.03.426 **STREET, CURVILINEAR** shall mean local streets that deviate from straight alignment and change direction without sharp corners or bends.
- 2.03.427 **STREET, FRONTAGE ACCESS** shall mean a street parallel and adjacent to a major street, major inter-regional highway, or major collection road and primarily for service to the abutting properties, and being separated from the major street by a dividing strip.
- 2.03.428 **STREET, LOCAL** shall mean a street designed for local traffic that provides direct access to abutting residential, commercial, or industrial properties.
- 2.03.429 **STREET, LOOPED** shall mean a continuous local street without intersecting streets and having its two outlets connected to the same street.
- 2.03.430 **STREETS, MAJOR** shall mean a street or highway used primarily for fast or high volume traffic, including expressways, freeways, boulevards, and arterial streets.
- 2.03.431 **STREET, PRIVATE** shall mean an open, unoccupied space, other than a street or alley dedicated to the public, but permanently established as the principal means of vehicular access to abutting properties. The term "private street" includes the term "place."
- 2.03.432 **STREET, SIDE** shall mean that street bounding a corner or reversed corner lot and which extends in the same general direction as the line determining the depth of the lot.
- 2.03.433 **STREET CENTERLINE** shall mean the centerline of a street right-of-way as established by official surveys.
- 2.03.434 **STREET LINE** shall mean a dividing line between a lot, tract, or parcel of land and the contiguous street.
- 2.03.435 **STRUCTURE** shall mean anything constructed or built, any edifice or building of any kind, any lagoon used for waste water treatment, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming and wading pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts, and similar recreation areas.
- 2.03.436 **STRUCTURE, ADVERTISING** shall mean the same as "advertising structure".
- 2.03.437 **STRUCTURAL, ALTERATION** shall mean any change in the support members of a building, such as in a bearing wall, column, beam or girder, floor or ceiling joists, roof rafters, roof diaphragms, foundations, piles, or retaining walls or similar components.
- 2.03.438 **SUBDIVISION** shall mean the division of land, lot, tract, or parcel into two or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether



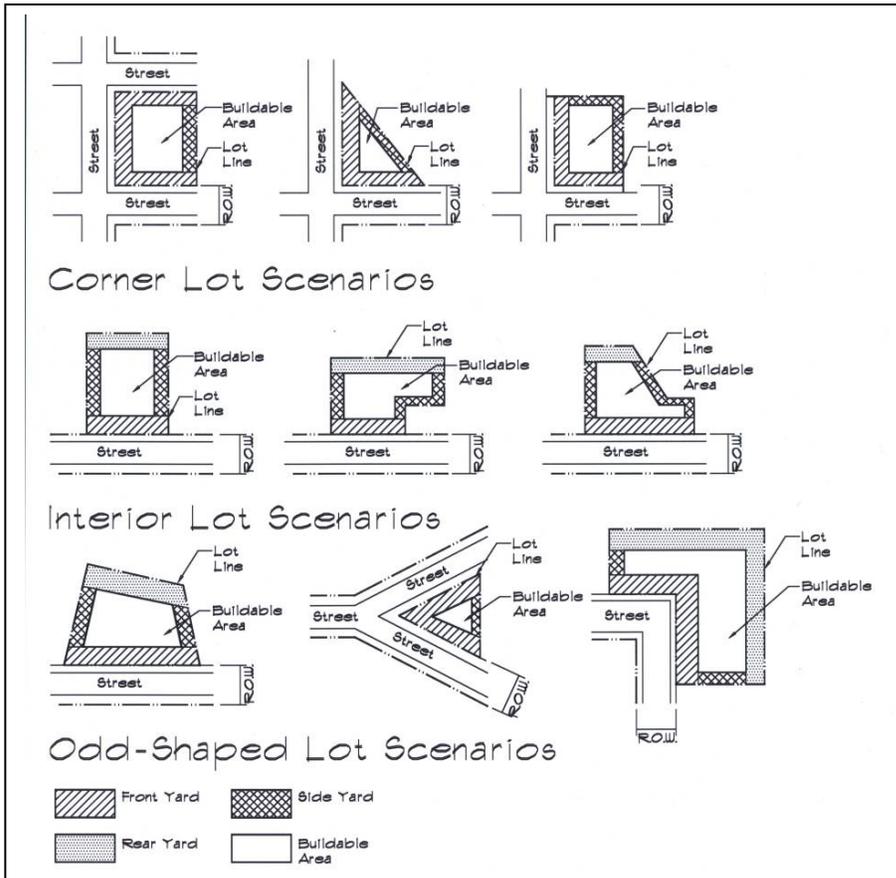
immediate or future. The term shall also include the division of residential, commercial, industrial, agricultural, or other land whether by deed, metes, and bounds description, lease, map, plat, or other instrument.

- 2.03.439 **SUBSTANTIAL IMPROVEMENT** shall mean any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either,
1. Before the improvement or repair is started, or
  2. If the structure has been damaged, and is being restored before the damage occurred. For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any alteration to comply with existing state or local health, sanitary, building or life safety codes or regulations.
- 2.03.440 **SURFACE WATER CLASS A -- PRIMARY CONTACT RECREATION** shall mean surface waters which are used, or have a high potential to be used, for primary contact recreational activities. Primary contact recreation includes activities where the body may come into prolonged or intimate contact with the water, such that water may be accidentally ingested and sensitive body organs (e.g. eyes, ears, nose, etc.) may be exposed. Although the water may be accidentally ingested, it is not intended as a potable water supply unless acceptable treatment is supplied. These waters may be used for swimming, water skiing, canoeing, and similar activities.
- 2.03.441 **SURFACE WATERS** shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, springs, canal systems, drainage systems, and all other bodies or accumulations of water, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.
- 2.03.442 **TAVERN** (See Bar.)
- 2.03.443 **TEMPORARY STRUCTURE** shall mean a structure without a permanent foundation or footing and removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.
- 2.03.444 **TEMPORARY USE** shall mean a use intended for limited duration to be located in a zoning district not permitting such use.
- 2.03.445 **TOWER** shall mean a structure situated on a site that is intended for transmitting or receiving television, radio, or telephone communications. (Also, see Antenna.)
- 2.03.446 **TRANSFER STATION** shall mean a fixed facility where solid waste from collection vehicles is consolidated and temporarily stored for subsequent transport to a permanent disposal site. This does not include an infectious waste incineration facility.
- 2.03.447 **TRADING AREA** shall mean the area served by an existing commercial development or to be served by the proposed commercial development and from which said development draws its support.
- 2.03.448 **TRAILER, AUTOMOBILE** shall mean a vehicle without motive power, designed and constructed to travel on the public thoroughfares and to be used for human habitation or for carrying property, including a trailer coach.
- 2.03.449 **TRANSIENT** shall mean a person who is receiving accommodations for a price, with or without meals, for a period of not more than 180 continuous days in any one year.
- 2.03.450 **TRANSITIONAL USE** shall mean a permitted use or structure that, by nature or level and scale or activity, acts as a transition or buffer between two or more incompatible uses.
- 2.03.451 **TRANSMISSIVITY** shall mean the ability of an aquifer to yield a certain output of groundwater over a set period of time.

- 2.03.452 **TREE COVER** shall mean the area directly beneath the crown and within the dripline of a tree.
- 2.03.453 **UPZONING** shall mean a change in zoning classification of land to a more intensive or less restrictive district such as from residential district to commercial district or from a single family residential district to a multiple family residential district.
- 2.03.454 **URBAN AREA** shall mean a municipality not exercising its zoning powers and unincorporated village within the county.
- 2.03.455 **USE, BEST** shall mean the recommended use or uses of land confined in an adopted comprehensive plan. Such use represents the best use of public facilities, and promotes the public health, safety and general welfare.
- 2.03.456 **USE, HIGHEST** shall mean an appraisal or real estate market concept that identifies the use of a specific tract of land that is most likely to produce the greatest net return on investment.
- 2.03.457 **USE, PRINCIPAL** shall mean the main use of land or structure, as distinguished from an accessory use. (Also, see Building, Principal)
- 2.03.458 **USED MATERIALS YARD** shall mean any lot or a portion of any lot used for the storage of used materials. This shall not include "Junk Yard" or "Automobile Wrecking Yards".
- 2.03.459 **UTILITY EASEMENT** shall mean the same as "Easement".
- 2.03.460 **VARIANCE** shall mean a relief from or variation of the provisions of this chapter, other than use regulations, as applied to a specific piece of property, as distinct from rezoning.
- 2.03.461 **VEHICLE** shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved solely by human power or used exclusively upon stationary rails or tracks.
- 2.03.462 **VEHICLE, MOTOR** (See Motor Vehicle)
- 2.03.463 **VISUAL OBSTRUCTION** shall mean any fence, hedge, tree, shrub, wall or structure exceeding two feet in height, measured from the crown of intersecting or intercepting streets, alleys or driveways, which limit the visibility of persons in motor vehicles on said streets, alleys, or driveways. This does not include trees kept trimmed of branches below a minimum height of eight feet.
- 2.03.464 **WAREHOUSE** shall mean a building used primarily for the storage of goods and materials.
- 2.03.465 **WAREHOUSE AND DISTRIBUTION** shall mean a use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment.
- 2.03.466 **WASTE HANDLING SYSTEM** shall mean any and all systems, public or private, or combination of said structures intended to treat human or livestock excrement and shall include the following types of systems
1. **Holding pond** shall mean an impoundment made by constructing an excavated pit, dam, embankment or combination of these for temporary storage of liquid livestock wastes, generally receiving runoff from open lots and contributing drainage area.
  2. **Lagoon** shall mean an impoundment made by constructing an excavated pit, dam, embankment or combination of these for treatment of liquid livestock waste by anaerobic, aerobic or facultative digestion. Such impoundment predominantly receives waste from a confined livestock operation.
  3. **Liquid manure storage pits** shall mean earthen or lined pits located wholly or partially beneath a semi or totally housed livestock operation or at some removed location used to collect waste production.
  4. **Sediment** shall mean a pond constructed for the sole purpose of collecting and containing sediment.

5. **Human disposal systems** shall comply with the requirements of Title 124 at the Nebraska Department of Environmental Quality or subsequent agencies.
- 2.03.467 **WASTE, INDUSTRIAL** shall mean any material resulting from a production or manufacturing operation having no net economic value to the source producing it.
- 2.03.468 **WASTEWATER LAGOON** (See Lagoon)
- 2.03.469 **WATERS OF THE STATE** shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water surface or underground, material or artificial, public or private, situated wholly within or bordering upon the state.
- 2.03.470 **WATER SYSTEM, REGIONAL** shall mean a water system which has been constructed for the expressed purpose of supplying potable water to densely populated areas. A regional system shall be an extension of an existing municipal system and shall not be dependent upon individual wellfields or other water source other than those serving the municipality.
- 2.03.471 **WATER DISTRICT, RURAL** shall mean a water district, as defined by the State of Nebraska, which has been constructed for the expressed purpose of supplying potable water to densely populated areas and/or rural residents. A rural system shall include independent wellfields, pressurization systems, and storage.
- 2.03.472 **WATER TABLE** shall mean the upper limit of the portion of the soil that is completely saturated with water. The seasonal high water table is the highest level to which the soil is saturated.
- 2.03.473 **WETLAND** shall mean an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soiled conditions, commonly known as hydrophytic vegetation.
- 2.03.474 **WHOLESALE ESTABLISHMENT** shall mean an establishment for the on-premises sales of goods primarily to customers engaged in the business of reselling the goods.
- 2.03.475 **WHOLESALE TRADE** shall mean a use primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. The principal types of establishments included are: Merchant wholesalers; sales branches and sales offices (but not retail stores) maintained by manufacturing enterprises apart from their plants for the purpose of marketing their products; agents, merchandise or commodity brokers, and commission merchants; petroleum bulk storage, assemblers, buyers, and associations engaged in cooperative marketing of farm products. The chief functions of uses in wholesale trade are selling goods to trading establishments, or to industrial, commercial, institutional, farm and professional; and bringing buyer and seller together. In addition to selling, functions frequently performed by wholesale establishments include maintaining inventories of goods; extending credit; physically assembling, sorting and grading goods in large lots, breaking bulk and redistribution in smaller lots; delivery; refrigeration; and various types of promotion such as advertising and label designing.
- 2.03.476 **XERISCAPING** shall mean landscaping characterized by the use of vegetation that is drought-tolerant or a low water use in character.
- 2.03.477 **YARD** shall mean any open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed from the ground upward to the sky, except for building projections or for accessory buildings or structures permitted by this Regulation.
- 2.03.478 **YARD, FRONT** shall mean a space between the front yard setback line and the front lot line or highway setback line, and extending the full width of the lot.

- 2.03.479 **YARD, REAR** shall mean a space between the rear yard setback line and the rear lot line, extending the full width of the lot.
- 2.03.480 **YARD, SIDE** shall mean a space extending from the front yard or from the front lot line where no front yard is required by this Regulation, to the rear yard, or rear lot line, between a side lot line and the side yard setback line.
- 2.03.481 **ZONE OF AERATION** shall mean the underground, above the zone of saturation, where both air and moisture are found in the spaces between soil and rock particles.
- 2.03.482 **ZONE OF SATURATION** shall mean the area underground where every pore space between rock and soil particles are saturated with water.
- 2.03.483 **ZONING ADMINISTRATOR** shall mean the person or persons authorized and empowered by the county to administer and enforce the requirements of this chapter.
- 2.03.484 **ZONING DISTRICT** shall mean the same as "District".
- 2.03.485 **ZONING DISTRICT, CHANGE OF** shall mean the legislative act of removing one or more parcels of land from one zoning district and placing them in another zoning district on the zone map of the County



**ARTICLE 3: GENERAL REGULATIONS****Section 3.01 Nonconforming, General Intent**

It is the intent of this resolution to permit lawful non-conformities to continue until they are removed, but not encourage their survival. Such uses are declared by this resolution to be incompatible with permitted uses in the districts involved. It is further the intent of this resolution that non-conformities shall not be enlarged upon, expanded or extended nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district except as may be authorized in this title.

**Section 3.02 Nonconforming Lots of Record**

1. In any district where buildings and structures are permitted, notwithstanding limitations imposed by other provisions of this Resolution, use and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Resolution. This provision shall apply even though such lot fails to meet the requirements for area or width, or both that are generally applicable in the district; provided:
  - a. The yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located;
  - b. Such lot has been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would have been lawful; and
  - c. Has remained in separate and individual ownership from adjoining lots or tracts of land continuously during the entire period in which this or previous Resolution would have prohibited creation of such lot
2. Variance of area, width and yard requirements shall be obtained only through action of the Board of Adjustment.

**Section 3.03 Nonconforming Structures**

- 3.03.01 *Authority to continue:* Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.
- 3.03.02 *Enlargement, Repair, Alterations:* Any such structure described in Section 3.03.01 may be enlarged, maintained, repaired or remodeled, provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure, except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be in conformance with this section, unless otherwise permitted by conditional use permit unless otherwise approved or as specified in the Residential District.
- 3.03.03 *Damage or Destruction:* In the event that any structure described in Section 3.03.01 is damaged or destroyed, by any means, to the extent of more than 50 percent of its structural value:
  1. Such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located, unless otherwise provided herein; provided that structures located on a lot that does not comply with the applicable lot size requirements in Section 3.02, shall not have a side yard of less than five feet. When a structure is damaged to the extent of less than 50 percent of its structural value, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within six months after the date of such partial destruction and is diligently pursued to completion.
  2. Complete reconstruction of a nonconforming structure may be allowed through a Zoning Permit if the structure is damaged or destroyed by natural means and not through intentional destruction or actions of the property owner or tenant. Reconstructed structures shall not be allowed to increase the level of nonconformity with regard to setbacks or lot coverage.
  3. In the A-1, TA-1, and R-1 districts where the maximum density of residential dwellings has been exceeded at the time of adoption of this Resolution and the residential dwelling has been lived (not abandoned) in during the year prior to the adoption of this Resolution, a residential dwelling may be enlarged or reconstructed (site cannot be vacant for 12 consecutive months or more). This is allowed provided the residential density at the time of the adoption of this Resolution is not exceeded.
- 3.03.04 *Moving:* No structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

**Section 3.04 Nonconforming Uses**

- 3.04.01 *Nonconforming Uses of Land:* Where at the effective date of adoption or amendment of this resolution, lawful use of land exists that is made no longer permissible under the terms of this resolution as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:
1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this resolution;
  2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this resolution.
  3. If any such nonconforming use of land ceases for any reason for a period of more than 12 months, any subsequent use of such land shall conform to the regulations specified by this resolution for the district in which such land is located.
- 3.04.02 *Nonconforming Uses of Structures:* If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this resolution, that would not be allowed in the district under the terms of this resolution, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:
1. No existing structure devoted to a use not permitted by this resolution in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to use permitted in the district in which it is located;
  2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this resolution but no such use shall be extended to occupy any land outside such building;
  3. If no structural alterations are made, any nonconforming use of a structure or structures and premises may be changed to another nonconforming use provided that the Board of Adjustment either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguard in accord with the provisions of this resolution;
  4. Any structure, or structure and land in combination, in any or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed;
  5. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for 12 months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located;
  6. Where nonconforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

**Section 3.05 Repairs and Maintenance**

1. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of six consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing provided that the cubic area of the building as it existed at the time of passage of amendment of this Resolution shall not be increased.
2. Nothing in this resolution shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

**Section 3.06 Uses Under Conditional Use Permit not Nonconforming Uses**

Any use for which a Conditional Use Permit has been issued as provided in this Resolution shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

**Section 3.07 Interpretation**

In interpreting and applying the provisions of these regulations, they shall be held to be the minimum requirements for the promotion of public safety, health, convenience, comfort, moral, prosperity, and general welfare. It is not intended by these regulations to interfere with or abrogate or annul any easements, covenants or other agreements between the parties, except that if these regulations impose a greater restriction, these regulations shall control.

### **Section 3.08 Scope of Regulations**

No building, structure, or land in the unincorporated areas, excluding the portion of unincorporated areas over which cities and village are granted and are exercising zoning jurisdiction in Seward County shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered, except in conformity with the provisions of this Resolution herein specified for the district in which it is located and except after receiving a zoning permit from the Seward County Zoning Administrator and:

1. Every building hereafter erected shall be located on a lot of record.
2. Only one principal building will be permitted on one lot of record, except in a Clustered/Mixed Use Development.
3. In a Clustered/Mixed Use Development, before a zoning permit can be granted, an application for a Zoning Compliance Certificate shall be submitted for approval.
4. After a county road has been classified as a minimum maintenance road or is an unimproved road, no permits for residential dwellings, mobile home, or manufactured home shall be issued for construction on any property adjoining such classified road.

### **Section 3.09 Zoning Standards**

No building, structure, or part thereof shall hereafter be erected or altered, unless a variance is granted:

1. To reduce any required yard setbacks
2. To exceed the height or bulk
3. To occupy a greater percentage of lot area
4. To erect or place any building, or structure, or part thereof into any zoning district to be used or occupied
5. To relocate or transport any building, structure, or part thereof into any zoning district to be used or occupied
6. To accommodate or house a greater number of families
7. No part of a yard or other open space required in connection with any building, occupancy, or use for the purpose of complying with these regulations shall be included in the calculations to determine the size of area necessary to accommodate the off-street parking and loading space requirements.

### **Section 3.10 District Regulations, Restrictions, Boundary Creation**

No such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearings shall be given by publication thereof in a paper of general circulation in the County at least one time 10 days prior to such hearing.

### **Section 3.11 Right-of-Way Splits and Minimum Lot Requirements**

In circumstances where a parcel of ground owned by one individual or party was split into two or more parcels by action taken by the Nebraska Department of Roads or Seward County and one or more of the resulting lots has been made a non-conforming tract(s) for development, the required minimum lot size may be less than required and may be approved administratively. However, in all circumstances, the minimum setback requirements shall be observed. In addition, said tract(s) was conforming prior to said action.

### **Section 3.12 Lot**

1. Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot or lot of record and in no case shall there be more than one principal building on a lot unless otherwise provided.
2. More than one principal building of a single permitted use may be located upon a lot or tract in the following instances if recommended by the Planning Commission and approved by the County Board.
  - a. Institutional buildings
  - b. Public or semi-public buildings
  - c. Multiple-family dwellings
  - d. Commercial or industrial buildings
  - e. Home for the aged
  - f. Agricultural buildings

### **Section 3.13 Reductions in Lot Area Prohibited**

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this Regulation are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

**Section 3.14 Yard Requirements**

1. Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.
2. All accessory buildings that are attached to principal buildings (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.
3. Any side or rear yard in a residential district which is adjacent to any existing industrial or commercial use shall be no less than 25 feet and shall contain landscaping and planting suitable to provide effective screening.
4. Any yard for a commercial or industrial use which is adjacent to any residential use or district shall be increased to 40 feet and shall contain landscaping and planting suitable to provide effective screening.

**Section 3.15 Drainage**

No building, structure, or use shall be erected on any land, and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Anyone desiring to build or otherwise change the existing drainage situation shall be responsible for providing to the County or their designated agent that such changes will not be a detriment to the neighboring lands.

**Section 3.16 Permitted Obstructions in Required Yards**

The following shall not be considered obstructions when located in the required yards:

3.16.01 All Yards:

1. Steps and accessibility ramps used for wheelchair and other assisting devices which are four feet or less above grade which are necessary for access to a permitted building or for access to a lot from a street or alley;
2. Chimneys projecting 24 inches or less into the yard;
3. Recreational and laundry-drying equipment;
4. Approved freestanding signs;
5. Arbors and trellises;
6. Flag poles;
7. Window unit air conditioners projecting not more than 18 inches into the required yard; and
8. Fences or walls subject to applicable height restrictions are permitted in all yards.
9. Egress windows and bulkhead enclosure.

3.16.02 Front Yards:

1. Bay windows projecting three feet or less into the yard are permitted.
2. Open or screened porches, platforms or terraces not over three feet above the average level of the adjoining ground, including a permanently roofed-over terrace or porch provided they do not extend or project into the yard more than six feet and has no more than 48 square feet of area;
3. Awnings and canopies provided they do not extend or project into the yard more than six feet and has no more than 48 square feet of area.

3.16.03 Rear and Side Yards:

1. Open off-street parking spaces,
2. Balconies or outside elements of central air conditioning systems.
3. Open or screened porches, platforms or terraces not over three feet above the average level of the adjoining ground, including a permanently roofed-over terrace or porch;

3.16.04 Double Frontage Lots:

The required front yard shall be provided on each street.

3.16.05 Building Groupings:

For the purpose of the side yard regulation a group of business or industrial buildings separated by a common party wall shall be considered as one building occupying one lot.

**Section 3.17 Accessory Building and Uses**

1. No accessory building shall be constructed upon a lot for more than 18 months prior to beginning construction of the principal building. No accessory building shall be used for more than 12 months unless the main building on the lot is also being used or unless the main building is under construction; however, in no event shall such building be used as a dwelling unless a certificate of occupancy shall have been issued for such use.

2. No detached accessory building or structure shall exceed the maximum permitted height of the principal building or structure.
3. No accessory building shall be erected in or encroach upon the required side yard on a corner lot or the front yard of a double frontage lot.
4. Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than 10 feet.
5. Garages and outbuildings in Residential Districts and Subdivisions used for storage and other structures customary and appurtenant to the permitted uses shall be stick built and constructed of materials customarily used in residential construction. The sidewalls of said building shall not exceed 18 feet in height.
6. Regulation of accessory uses shall be as follows:
  - a. Except as herein provided, no accessory building shall project beyond a required yard line along any street.
  - b. Service station pumps and pump island may occupy the required yards, provided, however, that they are not less than 15 feet from street lines.

**Section 3.18 Permitted Modifications of Height Regulations**

1. The height limitations of this Regulation shall not apply to:

Belfries	Public Monuments
Chimneys	Ornamental Towers and Spires
Church Spires	Radio and Television
Conveyors	Towers less than 100 feet in height
Cooling Towers	Grain Elevators and Silos
Elevator Bulkheads	Smoke Stacks
Fire Towers	Stage Towers or Scenery Lots
Water Towers and Standpipes	Tanks
Flag Poles	Air-Pollution Prevention Devices
2. When permitted in district, public or semi-public service buildings, hospitals, institutions, or schools may be erected to a height not exceeding 75 feet when each required yard line is increased by at least one foot for each one foot of additional building height above the height regulations for the district in which the building is located.

**Section 3.19 Occupancy of Basements and Cellars**

No basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed.

**Section 3.20 Well Fields**

No development of any kind shall be located closer than 1,000 feet to any wellhead location as defined on the adopted zoning map.

**Section 3.21 Amenities, Fire**

Open or lattice-enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard, may be permitted by the Zoning Administrator for a distance of not more than three and one-half feet and where the same are so placed as not to obstruct lights and ventilation.

**Section 3.22 Side Yards**

No side yards are required where dwelling units are erected above commercial and industrial structures.

**Section 3.23 Corner Lots**

On a corner lot in any district, nothing shall be erected, planted or allowed to grow in such a manner as to materially impede vision between a height of two and one-half and 10 feet above the grades of the centerline of the intersecting street or road, from the point of intersection 120 feet in each direction measured along the centerline of the streets or roads.

**Section 3.24 Recreation Equipment, Storage**

For purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pickup campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. No major recreational equipment shall be parked or stored on any lot in a residential district

except in a carport or enclosed building or behind the nearest portion of a building to a street, provided however, that such equipment may be parked anywhere on residential premises not to exceed 24 hours during loading or unloading. No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

**Section 3.25 Parking and Storage of Certain Vehicles**

Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings. On Agricultural zoned properties, a maximum of 40 scrapped, inoperative or dismantled motor vehicles may be parked or stored for non-commercial use purposes. On agricultural zoned properties within one-half mile of a state or federal highway, a maximum of 40 scrapped, inoperative or dismantled motor vehicles may be parked or stored for non-commercial purposes provided, they are in spaces visually screened from the highway by fencing and/or evergreen shrubbery.

**Section 3.26 Storage of Goods and Equipment**

Goods, equipment, supply materials, machinery and parts thereof, shall not be stored on any residentially zoned property except as provided under Section 3.17 other than in completely enclosed buildings or in spaces screened by fencing and/or evergreen shrubbery.

**Section 3.27 Building Setback**

1. The building setback lines shall be determined by measuring the horizontal distance from the property line to the furthest architectural projection of the existing or proposed structure, or
2. Where the centerline of a road is identified, said setback shall be from the centerline of the road to a point horizontally located at the required minimum distance.
3. All new non-farm residences shall locate no less than the corresponding distances provided in Section 4.03.07 from an Existing Agricultural Operation or LFO with more than 100 animal units located in any affected adjacent Zoning District.

**Section 3.28 Temporary Structures**

Temporary structures incidental to construction work, but only for the period of such work, are permitted in all districts; however, basements and cellars shall not be occupied for residential purposes until the entire building is completed.

**Section 3.29 Caretaker's Quarters**

Caretaker's quarters are permitted in all districts, providing the use is incidental to the principal use.

**Section 3.30 Front Yards**

The front yards heretofore established shall be adjusted where 40% or more of the frontage on one side of the street between two intersecting streets is developed with buildings that have not observed a front yard as described above, then:

1. Where a building is to be erected on a parcel of land that is within 100 feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners or the adjacent buildings on the two sides, or
2. Where a building is to be erected on a parcel of land that is within 100 feet of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building.

**Section 3.31 Screening**

1. Junkyards (salvage or wrecking yards) shall be screened with an eight foot high opaque, solid fence, brick wall, or earth berm so as to provide visual and aural separation between such use and adjacent areas.
2. Junkyards (salvage or wrecking yards) located next to railroad right-of-way shall have a 10 foot high opaque, solid fence, brick wall, or earth berm on the property line common to the railroad right-of-way
3. All extractive industries shall be screened by means of plant materials, earth mounding, or solid fencing at least six feet in height to provide visual and aural separation between such use and adjacent areas.
4. All holding or incineration areas of dead livestock shall be screened by means of plant materials, earth mounding, or solid fencing at least six feet in height to provide visual and aural separation between such use and adjacent areas. No storage or incineration of dead livestock shall be located in road right-of-way or on any other land not owned or leased by the livestock operation.

**Section 3.32 Fences, Walls, Hedges and Trees**

1. Notwithstanding other provisions of this Resolution, fences, walls and hedges may be permitted in any required yard or along the edge of any yard, provided that no fence, wall or hedge along the sides or front edge of any front yard shall be over two and one-half feet in height.
2. Trees may be permitted in any required yard or along the edge of any yard, provided that such trees are located 40 feet, or more, from the public right-of-way of a County road or State Highway.

**Section 3.33 Public Utility Facilities Lot Size Requirements**

Notwithstanding any other provision of these regulations, none of the following public utility or public service uses shall be required to comply with the lot size requirements and bulk regulations of the zoning district in which they are located:

1. Electric and telephone substations and distribution systems, including transformer stations.
2. Gas regulator stations.
3. Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves or other similar equipment for the transmission of electricity, gas, or water.
4. Broadcasting and microwave transmitting or relay stations and towers, except as may be required to meet setback requirements.
5. Water tower or standpipes.
6. Pumping stations.

**Section 3.34 Irrigation Equipment Setbacks Requirements**

The setback for irrigation wells, affixed irrigation accessory equipment, irrigation re-use pits and livestock pollution control facilities (the road dam structure being excluded) shall be 50 feet from the centerline of any local, primary, or collector county road. These facilities shall be located a minimum of 10 feet from the right-of-way line of a State Highway.

**Section 3.35 Fees**

The payment of any and all fees for any zoning or subdivision related action or permit request shall be required prior to the issuance or investigation of any said action or permit request. Such fees shall be adopted by the County Board of Commissioners by separate Resolution.

**Section 3.36 Historical and Environmental Sites**

This section shall apply to the designating or the alteration of a historic structure or site within Seward County.

**3.36.01 *Designation of Historical and Environmental sites district:***

1. The owner may make an application for designation to the Seward County Zoning Administrator.
2. The criteria for application and designation of a historical or environmental site are as follows:
  - a. The building or structure must be at least fifty (50) years old.
  - b. The structure has unique historical significance.
  - c. Remodeling has not covered the original architectural features of the structure.
  - d. A description of the characteristics of the historic or environmental site that justifies its designation.
  - e. A legal description of the location and boundaries of the site
3. Revocation of designation:
  - a. The owner shall be entitled to revocation of designation upon the filing of the same application and following the review procedures as outlined for the original designation.

**3.36.02 *Structural alterations of buildings or land within the Historic and Environmental Sites District:***

1. No person shall carry out a permit on a designated district any new construction, alteration, removal, demolition, or any other alteration of a building, land, or other designated feature without first receiving review for the proposed work, as well as any other permits required by the Seward County Zoning Regulations.
2. Department review:
  - a. The Zoning Administrator shall maintain a current record of all designated historic or environmental designated areas and pending designations.
  - b. The Zoning Administrator shall review all development application information within these areas and make a determination as to whether there would be a significant impact or potential detriment to the character of the site as a result of the proposal.
  - c. The Zoning Administrator shall forward all proposed changes to buildings and land to the Planning Commission.
3. Planning Commission review:

- a. If the Zoning Administrator determines there may be a significant impact or potential detriment to the character of the site as a result of the proposal, then prior to the Zoning Administrator signing off on the building permit, the Planning Commission will be notified of the proposed change and have a maximum of forty five days to review and comment on the application. The Commission shall determine whether the proposal would significantly impact or be a potential detriment to the character of the site and if so, will make a recommendation to the applicant as a means to diminish the impact of detriment to the character of the site. The applicant will need to have Planning Commission approval before any alterations or changes are made to the site.

**Section 3.37 Prohibited Uses**

All uses not specifically listed within a particular zoning district are deemed to be prohibited until some point where this Resolution is amended to include a given use.

**Section 3.38 Conflicts between District Text and Use Matrix**

Whenever there is a conflict in how a use is allowed (permitted use vs. a conditional use), the body of the district text shall take precedence. This shall not apply to situations where a use is not listed within the text body or matrix.

**Section 3.39 Provision for Official Zoning Map**

1. The county is hereby divided into districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Resolution. The Official Zoning Map shall be identified by the signature of the Chair, attested by the County Clerk, and bearing the seal of the County under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 3.39 of Resolution No. \_\_\_\_\_ of the County of Seward County, Nebraska", together with the date of the adoption of this Resolution. If, in accordance with the provisions of this Resolution, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the County Board of Commissioners.
2. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the County Board of Commissioners may by resolution adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Chair, attested by the County Clerk and bearing the seal of the County under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted \_\_\_\_\_ (Resolution No. \_\_\_\_\_ of the County of Seward County, Nebraska." Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

**ARTICLE 4: DISTRICTS AND INTERPRETATION OF DISTRICT BOUNDARIES**

**Section 4.01 Boundaries**

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines or right-of-way of streets, highways or alleys shall be construed to follow such center or right-of-way lines unless otherwise noted.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as following city/village limits shall be construed as following city/village limits.
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.
6. Boundaries indicated as parallel to or extensions of features indicated in subsection 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstance not covered by subsections 1 through 6 above, the Board of Adjustment shall interpret the district boundaries.

**Section 4.02 Districts**

For the purpose of this Chapter, the County is hereby divided into 13 districts, designated as follows:

- |         |   |
|---------|---|
| (A-1)   | Agricultural Preservation District          |
| (TA-1)  | Transitional Agricultural District          |
| (R-1)   | Residential Estates District                |
| (R-2)   | Urban Density Residential District          |
| (R-M)   | Mobile Home Residential District            |
| (C-1)   | Village Development District                |
| (C-2)   | Highway Commercial District                 |
| (I-1)   | Light Industrial District                   |
| (CMD)   | Clustered Mixed Use District                |
| (GWC)   | Groundwater Conservation District (overlay) |
| (FW/FP) | Flood Plain (overlay)                       |
| (WHP)   | Wellhead Protection District (overlay)      |

**Section 4.03 A-1 Agricultural Preservation District****4.03.01 Intent**

The A-1 Agricultural Preservation District regulations are intended to provide for the preservation of lands best suited for agricultural uses of all types including feed lots and the commercial feeding of livestock and accessory uses; to prevent encroachment of uses that could be mutually incompatible and continue to provide for agricultural uses as a major use to the economy of the area for the use and conservation of agricultural land, to protect the value of such land, and to protect it from indiscriminate residential and urban development and other incompatible and conflicting land uses.

The A-1 Agricultural Preservation District is also intended to conserve and protect the value of open space, wooded areas, streams, mineral deposits and other natural resources and to protect them from incompatible land uses and to provide for their timely utilization. The district intends to provide for the location and to govern the establishment and operation of land uses that are compatible with agriculture and are of such nature that their location away from residential, commercial and industrial areas is most desirable. In addition, to provide for the location and to govern the establishment of residential uses which are accessory to and necessary for the conduct of agriculture and to provide for the location and to govern the establishment and use of limited non-agricultural residential uses. Such non-agricultural residential uses shall not be so located as to be detrimental to or conflict with other uses that are named as permitted or conditional uses in this district and are appropriate to other property in the area.

The nature of the A-1 Agricultural Preservation District and the uses allowed as a permitted use or by conditional use permit precludes the provision of services, amenities and protection from other land uses which are afforded to residential uses by the regulations of other districts, and it is not intended that the A-1 Agricultural Preservation District regulations afford such services, amenities and protection to residential uses located therein.

**4.03.02 Permitted Uses**

The following principal uses are permitted in the A-1 Agricultural Preservation District.

1. Agricultural operations, and the usual agricultural and farm buildings and structures, including the residences of the owners and their families and any tenants and employees who are engaged in agricultural operations on the premises.
  - a. State agencies shall govern all use of farm chemicals, including application of pesticides and herbicides, and applicants using restricted-use pesticides shall be required to be certified as required by law.
  - b. The spreading of manure by a "Farming" Operation. (as defined in Article 2 of this Resolution)
  - c. Livestock feeding operations of less than 1,000 A.U.'s are considered a farm and are considered a permitted use, provided other requirements in this district are met and submission of a no-fee livestock registration permit to the Seward County Zoning Administrator is done.
  - d. All Confined Animal Feeding Operations shall locate the distance prescribed in Table 1 from any platted residential area, public park, recreational area, church, cemetery, religious area, school, historical site, Interstate 80 R.O.W., and/or residential district.
2. Single family dwellings, ranch and farm dwellings, provided the intensity of use and all other requirements of this district are met, including:
  - a. Subject to Section 4.03.07.
  - b. In no case are single-family dwellings permitted on tracts without direct legal access to an improved road.
  - c. The density within any ¼ section of ground shall not exceed two dwelling units. Each parcel shall be given the opportunity for a dwelling unit until the zoning density has been met, see Section 3.03.03 (3) for additional information.
  - d. If a parcel of ground is within two different ¼ sections then the applicant shall declare to which ¼ section the residence will be attached.
3. Recreational camps, parks, playgrounds, golf courses, country clubs, tennis courts and other similar recreational uses.
4. Utility substation, pumping station, water reservoir and telephone exchange
5. Fire Stations.
6. Churches, seminary and convent.
7. Public and parochial schools, college.
8. Publicly owned and operated buildings and facilities such as community centers, auditoriums, libraries, museums.

9. Private kennels and facilities, provided that all buildings and facilities be at least 100 feet from the property line and 300 feet from any neighboring residence.
10. Roadside stands offering agricultural products for sale on the premises.
11. Seed and feed sales, machine repair shop, livestock equipment construction and sales, as a primary occupation in conjunction with an agricultural operation and be operated on the premises.
12. Farm and industrial equipment sales.
13. Public and private riding academies provided that no stable, building or structure in which horses or other animals are kept is no closer than 100 feet from the property line.
14. All other uses indicated as Permitted within the Zoning Matrix.

#### 4.03.03 Conditional Uses

The following uses are subject to any conditions listed in this Resolution and are subject to conditions relating to the placement of said use on a specific tract of ground in the A-1 Agricultural Preservation District.

1. Bed and breakfast residence subject to the following conditions in addition to those imposed by the Planning Commission:
  - a. The bed and breakfast residence shall be within a conforming single-family dwelling.
  - b. Guest rooms shall be within the principal residential building only and not within an accessory building.
  - c. Each room that is designated for guest occupancy must be provided with a smoke detector which is kept in good working order.
  - d. Two off-street parking spaces shall be provided for each dwelling unit plus one off-street parking space for each sleeping room designated for guests. Such parking areas shall not be within the required front or side yards.
  - e. One identification sign on not more than four square feet of sign area shall be permitted.
2. Publicly and privately owned dude ranches, forest and conservation areas, motorized cart tracks, or other outdoor recreational areas such as gun clubs, and archery, trap and skeet ranges.
3. Industrial uses as provided in the Zoning Matrix and the following minimum conditions are met:
  - a. Meets minimum lot requirements as established by this Resolution.
  - b. Meets minimum off-street parking requirements as established by this Resolution.
  - c. Meets minimum sanitary sewer requirements for the proposed use.
  - d. The lot(s) takes access from an improved county road or highway or are along a developed public or private road that accesses an improved county road or highway.
4. Commercial uses as provided in the Zoning Matrix and the following minimum conditions are met:
  - a. Meets minimum lot requirements as established by this Resolution.
  - b. Meets minimum off-street parking requirements as established by this Resolution.
  - c. Meets minimum sanitary sewer requirements for the proposed use.
  - d. The lot(s) takes access from an improved county road or highway or are along a developed public or private road that accesses an improved county road or highway.
5. All other uses indicated as a Conditional Uses within the Zoning Matrix, provided the following minimum conditions are met:
  - a. Meets minimum lot requirements as established by this Resolution.
  - b. Meets minimum off-street parking requirements as established by this Resolution.
  - c. Meets minimum sanitary sewer requirements for the proposed use.
  - d. The lot(s) takes access from an improved county road or highway or are along a developed public or private road that accesses an improved county road or highway.
6. Development of natural resources and the extraction of raw materials such as rock, gravel, sand, etc., including gas and oil extraction and exploration, and subject to the requirements of the Supplementary Regulations.
7. Radio, cellular and television towers and transmitters and are subject to the requirements of Section 8.01 of the Supplementary Regulations.
8. Airports.
9. Manufacture of light sheet metal products including heating and ventilation equipment.
10. Manufacture and/or processing of agricultural products including but not limited to ethanol plants, bio-diesel and mills.
11. Truck and freight terminals.
12. Commercial mining, quarries, sand and gravel pits and accessory uses and are subject to the requirements of Section 8.02 of the Supplemental Regulations.
13. Storage of trucks, tractors, and trailers engaged in the transportation of explosives.
14. Race tracks, drag strips and similar uses and associated accessory uses.

15. Commercial/Utility Grade Wind Energy systems and are subject to the requirements of Section 8.04 of the Supplemental Regulations.
16. Community sewage disposal facilities.
17. Mobile homes are permitted only when the land is used or intended to be used only for agricultural operations. All mobile homes require a one-year permit which must be renewed annually and which shall be subject to the conditions of the permit. Mobile homes shall be placed on a permanent foundation.
18. Sanitary landfill or expansion conducted in a manner and method approved by the County Board of Commissioners, provided said landfill is not closer than 1,000 feet to a municipal well and/or one mile to any village or city limits or any subdivision, addition or residence platted as of the effective date of this resolution, see Section 8.05 of the Supplemental Regulations.
19. Lawn and Garden Nurseries.
20. Commercial Kennels and facilities for the raising, breeding and boarding of dogs and other small animals, including exotic, non-farm and non-domestic animals, provided that all buildings and facilities be at least 100 feet from the property line and 300 feet from any neighboring residence.
21. The spreading, stockpiling, or composting of dead livestock, sludge, by-products from manufacturing or any processing plant, and/or paunch manure on agricultural land by municipalities or operations inside or outside of the County.
22. The application of livestock manure in Seward County by operations located outside the County.
23. Anhydrous ammonia, bulk fuel, propane, chemical or liquid fertilizer commercial storage, provide the following requirements, at a minimum, are met:
  - a. The outer boundaries of the lot line of said storage facility shall not be closer than ¼ mile to the centermost point of a residential use not of the same property.
  - b. No such structure or uses shall be established within one mile of any church, school or public facility use.
  - c. Any expansion of existing facilities shall be at least a ¼ mile from any residential use not of the property.
  - d. Applicant shall provide the County with a certified list of all landowners and residents within ¼ mile so that said individuals can receive notice of the public hearing.
24. Livestock Feeding Operations, subject to the license requirements, waste disposal requirements and recommendations of the State of Nebraska and the Land Use specifications.

**4.03.04 Standards for Livestock Feeding Operations**

1. Agricultural Operations less than 1,000 A.U. are considered a farm as defined in these Regulations and do not require a Conditional Use Permit.
2. A Conditional Use Permit may be approved after public notice has been given and public hearing is conducted as required by law.
3. All existing LFO's that have been granted a conditional use permit may expand within their designated level, provided that required separation distances can be met; except for operations with 20,000 A.U.'s or more which will be required to get a new Conditional Use Permit for each expansion beyond 20,000 A.U.'s.
4. All new LFO's and those expanding to the next level shall require a Conditional Use Permit and shall be located no less than a distance from non-farm residences or other residences not on an owner's property in any affected Zoning District as hereafter described:
  - a. Small Confined Feeding Operation = considered a farming operation;
  - b. Medium Confined Feeding Operation = 301 A.U.'s to 999 A.U.'s;
  - c. Large Confined Feeding Operation I = 1,000 A.U.'s to 4,999 A.U.'s;
  - d. Large Confined Feeding Operation II = 5,000 A.U.'s to 9,999 A.U.'s
  - e. Large Confined Feeding Operation III = 10,000 A.U.' to 19,999 A.U.'s
  - f. Large Confined Feeding Operation IV = 20,000 A.U.'s or more

**TABLE 1: LFO SPACING AND DISTANCE** (Distances given in miles)

Size of Proposed LFO in Animal Units/real numbers (as indicated).	Non-farm or Other Residence and Other LFO's (feet)
<b>Small Confined Feeding Operation</b>	1,320
<b>Medium Confined Feeding Operations</b>	2,640
<b>Large Confined Feeding Operations I</b>	3,300
<b>Large Confined Feeding Operations II</b>	3,960
<b>Large Confined Feeding Operations III</b>	5,280
<b>Large Confined Feeding Operations IV</b>	5,280 + 12 inches for each additional animal unit above 20,000.

5. LFO's shall locate at a distance as specified under Table 1 from a residence not on the property, platted residential area, public park, recreational area, church, cemetery, religious area, Interstate 80, school, historical site, and/or residential district.
6. Measurements shall be from the nearest point of any LFO to the nearest point of the other use/structure including other LFO's. When there are two or more LFO's of different size, the separation distance for the larger LFO shall be applied. The setback is not intended to be measured from property line to property line.
7. All LFO's over 20,000 Animal Units shall be required to obtain a new Conditional Use Permit prior to any expansion, unless it meets the standards of the exceptions in the Exceptions Section.
8. The producer shall have a Pre-submission meeting with the Seward County Zoning Administrator to discuss tentative plans and layouts prior to formal submission of any application.
  - a. New waste handling facilities for LFO's defined as any class of Large Confined Feeding Operation shall either be synthetically lined or be a concrete structure.
  - b. A proposed site plan and conditions or requirements of this regulation pending approval of application for a proposed operation and waste disposal plan from the Nebraska Department of Environmental Quality (NDEQ) or any other applicable State Agency.
  - c. The applicant shall submit all pertinent materials and designs, as per the Conditional Use Permit Application for Livestock Feeding Operations.
  - d. The applicant shall file a copy of the proposed Operation and Maintenance Plan and proposed Manure Management Plan. The approved plans shall be submitted after NDEQ approval if different from the proposed. Said plans shall be filed with the Seward County Zoning Administrator.
  - e. Shall also file a copy of all approved NDEQ plans and permits with the Seward County Zoning Administrator within 30 days after they are issued by the NDEQ.
  - f. An annual manure management plan shall be submitted to the Seward County Zoning Administrator which shall follow "best possible management practices" as specified by NDEQ in order to protect the environment, as well as the health, safety and general welfare of the public and their property values.
  - g. If stockpiling of animal waste and/or composting of dead carcasses, as per State Statutes, are part of the manure management plan, the waste shall be maintained in an area as outlined in Table 1 of this Section. Said area shall also be located on the proposed site plan indicated in number (1) above.
  - h. All ground surfaces within outside livestock pens shall be maintained to insure proper drainage of animal waste and storm or surface runoff in such a manner as to minimize manure from being carried into any roadway ditch, drainage area or onto a neighbor's property.
  - i. In no event shall any manure storage unit or system be constructed where the bottom of the unit or system is either in contact with or below the existing water table where the unit or system is to be constructed. Application of manure in flooded areas of standing water shall be prohibited.
  - j. All runoff or waste generated by an LFO facility shall be contained within the associated farming operation, or, on the premises upon which the confined feeding facility or feedlot is located. The applicant must verify that all runoff control ponds, lagoons, methods of manure disposal and dust control measures are designed to minimize offer and air pollution, and avoid surface or groundwater contamination as regulated by the State of Nebraska.
9. Exceptions:
  - a. The modification of any existing waste handling system as required by either or both EPA and/or NDEQ for purposes of compliance with State and Federal regulations shall be allowed to be modified outright and shall not require any conditional use permit.

#### **4.03.05 Accessory Uses**

The following accessory buildings and uses are permitted in the A-1 District.

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Home occupation as provided for in Section 8.07 and 8.08.
3. Temporary buildings and uses incidental to construction work which shall be removed upon the completion or abandonment of the construction work.
4. Small Wind Energy Systems as provided for in Section 8.03.

**4.03.06 Lot Requirements and Intensity of Use**

The following table lists the minimum lot requirements and maximum building requirements in an A-1 District. These requirements shall be followed unless otherwise modified by this Resolution

Uses	Min Lot Area (acres)	Min. Lot Width (feet)	Setbacks			Max. Lot Coverage (%)	Max. Building Height (feet)
			Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)		
Permitted Uses	20	100	35	35	20	10	35 <sup>1</sup>
Conditional Uses	20	100	35	35	20	10	35 <sup>1</sup>
Agricultural uses	1	100	35	35	20	10	35 <sup>1</sup>

<sup>1</sup> for structures intended for human occupancy, all others have no minimum requirements.

**4.03.07 Supplementary Regulations**

1. No new building shall be hereafter erected or any existing building structurally altered with any portion of said building nearer than 120 feet from the R.O.W. line of a U. S. or State designated highway, and not nearer than 90 feet from the centerline of a County road.
2. Residential dwelling units on non-agricultural land existing at the time of passage of these regulations, may construct accessory structures, make repairs, replace, remodel, rebuild or replace the residential structure in case of damage regardless of the percent of damage or extent of structural change provided the use does not change.
3. New non-farm residences shall be located no less than at the following distances and those shown in Table 2: Non-farm Residence Spacing and Distance, from an existing agricultural operation having between 50 and 300 animal units and an LFO based upon the type of operation.

**TABLE 2: NON-FARM RESIDENCE SPACING AND DISTANCE (Distances given in feet)**

New Non-Farm Residence	SIZE OF EXISTING AGRICULTURAL OPERATION AND LFO IN A.U.					
	300 and less	301-1,000	1,001 -4,999	5,000 – 9,999	10,000-19,999	20,000+
	2,640	5,280	6,600	7,920	10,560	13,200

**Section 4.04 TA-1 Transitional Agricultural District****4.04.01 Intent**

The intent of this district is to recognize the transition between agricultural uses of land and communities; to encourage the continued use of that land which is suitable for agriculture, but limit the land uses that may be a detriment to the efficient pursuit of agricultural production.

**4.04.02 Permitted Uses**

The following principal uses are permitted in the TA-1 Transitional Agricultural District:

1. Agriculture, farming, dairy farming, livestock and poultry raising, and all uses commonly classed as agricultural, with no restrictions as to operation of such vehicles or machinery as are customarily incidental to such uses, and with no restrictions as to the sale or marketing of products raised on the premises. Livestock may be allowed in this district provided the following ratio is met:
  - a. One A.U. for the first acre
  - b. One A.U. for each additional one-half acre of ground
  - c. No more than 300 A.U.'s will be allowed on any tract of land.
2. Churches and publicly owned and operated community buildings, public museums, public libraries.
3. Single-family dwellings provided the intensity of use and all other requirements of this district are met, including:
  - a. In no case are single-family dwellings permitted on tracts without direct legal access to an improved road.
  - b. The density within any ¼ section of ground shall not exceed four dwelling units. Each parcel shall be given the opportunity for a dwelling unit until the zoning density has been met, see Section 3.03.03 (3) for additional information.
  - c. If a parcel of ground is within two different ¼ sections then the applicant shall declare to which ¼ section the residence will be attached.
4. Fish hatcheries, apiaries, aviaries.
5. Forests and wildlife reservations, or similar conservation projects.
6. Golf courses and clubhouses customarily attached thereto, miniature golf, driving ranges, and other similar activities operated as a business.
7. Hospitals, sanitariums, homes for the aged and feeble minded.
8. Private kennels, provided the buildings and pens shall be located at least 100 feet from the property line and 300 feet from any neighboring residence.
9. Mushroom barns and caves.
10. Nurseries, greenhouses, and truck gardens.
11. Philanthropic or eleemosynary institutions.
12. Publicly owned parks and playgrounds, including public recreation or service building within such parks, picnic areas, tennis courts, public administrative building, police and fire stations and public utility buildings and structures.
13. Public schools, elementary and high, and private schools with curriculum equivalent to that of a public elementary or high school, and institutions of higher learning, including stadiums and dormitories in conjunction, if located on the campus.
14. Railroad rights-of-way not including railroad yards.
15. Riding stables and riding tracks.
16. Cemeteries and mortuaries.
17. All other uses indicated as Permitted within the Zoning Matrix.

**4.04.03 Conditional Uses**

The following uses are subject to any conditions listed in this Resolution and are subject to conditions relating to the placement of said use on a specific tract of ground in the TA-1 Transitional Agricultural District.

1. Airports and heliports.
2. Bed and breakfast residence subject to the following conditions in addition to those imposed by the Governing Body:
  - a. The bed and breakfast residence shall be within a conforming single-family dwelling.
  - b. Guest rooms shall be within the principal residential building only and not within an accessory building.
  - c. Each room that is designated for guest occupancy must be provided with a smoke detector which is kept in good working order.

- d. Two off-street parking spaces shall be provided for each dwelling unit plus one off-street parking space for each sleeping room designated for guests. Such parking areas shall not be within the required front or side yards.
- e. One identification sign on not more than four square feet of sign area shall be permitted.
3. Commercial kennels and facilities for the raising, breeding and boarding of dogs and other small animals, including exotic, non-farm and non-domestic animals, provided that all buildings and facilities be at least 100 feet from the property line and 300 feet from any neighboring residence.
4. Industrial uses as provided in the Zoning Matrix and the following minimum conditions are met:
5. Meets minimum lot requirements as established by this Resolution.
6. Meets minimum off-street parking requirements as established by this Resolution.
7. Meets minimum sanitary sewer requirements for the proposed use.
8. The lot(s) takes access from an improved county road or highway or are along a developed public or private road that accesses an improved county road or highway.
9. Commercial uses as provided in the Zoning Matrix and the following minimum conditions are met:
10. Meets minimum lot requirements as established by this Resolution.
11. Meets minimum off-street parking requirements as established by this Resolution.
12. Meets minimum sanitary sewer requirements for the proposed use.
13. The lot(s) takes access from an improved county road or highway or are along a developed public or private road that accesses an improved county road or highway.
14. All other uses indicated as a Conditional Uses within the Zoning Matrix, provided the following minimum conditions are met:
15. Meets minimum lot requirements as established by this Resolution.
16. Meets minimum off-street parking requirements as established by this Resolution.
17. Meets minimum sanitary sewer requirements for the proposed use.
18. The lot(s) takes access from an improved county road or highway or are along a developed public or private road that accesses an improved county road or highway.
19. Farm and industrial equipment sales.
20. Development of natural resources and the extraction of raw materials, such as rock, gravel, sand and soil, and conditions referred to in Section 8.02 of the Supplemental Regulations.
21. Commercial/Utility Grade Wind Energy systems and are subject to the requirements of Section 8.04 of the Supplemental Regulations.
22. The application of manure by any livestock feeding operation (LFO as defined in these Regulations) from inside or outside the County.
23. Utility installations such as electric substations, sewer lift stations, telephone exchanges, gas regulators and major transmission lines (not including utility office, repair, storage or production facilities).
24. Radio, Cellular and television towers and transmitters and are subject to the requirements of Section 8.01 of the Supplemental Regulations.
25. Race tracks, drag strips and similar uses and associated accessory uses.

#### **4.04.04 Permitted Accessory Uses**

The following accessory buildings and uses are permitted in the A-2 District.

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Home occupation as provided for in Section 8.07 and 8.08.
3. Home business as provided for in Section 8.07 and 8.08.
4. Temporary buildings and uses incidental to construction work and shall be removed upon the completion or abandonment of the construction work.
5. Small Wind Energy Systems as provided for in Section 8.03.

**4.04.05 Area and Intensity Regulations**

In the TA-1 Transitional Agricultural District the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot, shall be as follows:

The following table lists the minimum lot requirements and maximum building requirements in an A-1 District. These requirements shall be followed unless otherwise modified by this Resolution

Uses	Min. Lot Area (acres)	Min. Lot Width (feet)	Setbacks			Max. Lot Coverage (%)	Max. Building Height (feet)
			Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)		
Permitted Uses	10	200	30	25	15	25	35 <sup>1</sup>
Conditional Uses	10	200	30	25	15	25	35 <sup>1</sup>
Accessory Uses	-	-	30	5	5	10	20

<sup>1</sup>for structures intended for human occupancy, all others no restrictions.

**4.04.06 Other Applicable Provisions**

No new building shall be hereafter erected or any existing building structurally altered with any portion of said building nearer than 120 feet from the R.O.W. line of a U. S. or State designated highway, and not nearer than 90 feet from the centerline of a County road.

**Section 4.05 R-1 Residential - District**

**4.05.01 Intent**

The R-1 district is established for the purpose of low-density single-family dwelling control and to allow certain public facilities. Regulations are intended to control density of population and to provide adequate open space around buildings and structures in the district to accomplish these purposes. The intent of this district is to recognize the gradual urbanization near cities and to provide for the proper development and facilities necessary for future growth.

**4.05.02 Permitted Uses**

The following principal uses are permitted in the R-1 Residential District.

1. Single-family dwellings provided the intensity of use and all other requirements of this district are met, including:
  - a. In no case are single-family dwellings permitted on tracts without direct legal access to an improved road.
  - b. The density within any ¼ section of ground shall not exceed eight dwelling units, see Section 3.03.03 (3) for additional information.
  - c. If a parcel of ground is within two different ¼ sections then the applicant shall declare to which ¼ section the residence will be attached.
2. Public parks and recreational areas and community buildings owned and operated by a public agency.
3. Churches, synagogues, and other similar places of worship.
4. Public and parochial schools.
5. Golf courses and driving ranges. Miniature golf is permitted if it is a part of the total golfing operation.
6. All other uses as indicated as Permitted in the Zoning Matrix.

**4.05.03 Conditional Uses**

The following uses are subject to any conditions listed in this Resolution and are subject to conditions relating to the placement of said use on a specific tract of ground in the R-1 Residential District.

1. Utility Substations.
2. Overhead and underground utilities main transmission lines, including but not limited to, power, telephone, gas, fuel, or fertilizer lines, substations, terminal facilities, and reservoirs
3. Commercial recreational areas and camping areas including fishing lakes, gun clubs, rifle ranges, trap shoots and similar uses
4. All other uses indicated as Conditional within the Zoning Matrix.

**4.05.04 Accessory Uses**

The following accessory buildings and uses are permitted in the R-1 District.

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as conditional uses including decks and gazebos.
2. Private swimming pools (above or below ground), tennis courts, and other recreational facilities in conjunction with a residence.
3. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
4. Home occupation as provided for in Section 8.07 and 8.08.
5. Home Business as provided for in Section 8.07 and 8.08.
6. Signs as provided for in Article 7.
7. Parking as provided for in Article 6.
8. Gardens and greenhouses.
9. Small Wind Energy Systems as provided for in Section 8.03.
10. Residential Animal Keeping Regulations shall allow a maximum of 1 A.U. per acre of ground except:

**Ratio of Animals per Acre**

Rabbits	Domestic/Exotic Birds	Goat
10	10	1

11. Additional Requirements:
  - a. Fencing shall be adequate to keep the animal(s) from infringing in any way no adjacent property, and selected and maintained for safety according to generally accepted standards, with lockable gates and appropriate to the animal(s) and the conditions under which they are being kept.

- b. Manure, urine and other organic wastes shall be disposed of and sanitized so as to preclude the presence of flies, and to prevent the presence of odors and noises offensive to neighboring residences. Such disposal shall also avoid pollution of ground water or any lake or stream.
- c. Animal housing or stabling shall be safe, humane and generally consistent with the appearance of other structures appurtenant to residences in the same area.
- d. Free range animals only.

**4.05.05 Area and Intensity Regulations**

In the R-1 Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot or tract, shall be as follows:

Uses	Min. Lot Area (acres)	Min. Lot Width (feet)	Setbacks			Max. Lot Coverage (%)	Max. Building Height (feet)
			Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)		
Permitted Uses	5 <sup>1</sup>	100	30	35	35	25	35 <sup>1</sup>
Conditional Uses	5 <sup>1</sup>	100	30	35	35	25	35 <sup>1</sup>
Accessory Uses	-	-	30	5	5	10	20

<sup>1</sup> 20,000 sq. ft. with individual or community water and a community sewage disposal system.

**4.05.06 Other Applicable Provisions**

- 1. No new building shall be hereafter erected or any existing building structurally altered with any portion of said building nearer than 120 feet from the R.O.W. line of a U. S. or State designated highway, and not nearer than 90 feet from the centerline of a County road.
- 2. The off-street parking requirements shall be as provided in Article 6.
- 3. All new dwellings, including Residential Acreage Developments, shall be on hard-surfaced or maintained Roads/Street/Highways. Dwelling shall not be permitted on an officially designated minimum maintenance Road/Street/Highways.
- 4. All access to said properties shall meet County Highway Superintendents specifications.

**Section 4.06 R-2 Urban Density Residential**

**4.06.01 Intent**

The R-2 district is established for the purpose of urban density single-family dwelling control and to allow certain public facilities. Regulations are intended to control density of population and to provide adequate open space around buildings and structures in the district to accomplish these purposes. The intent of this district is to recognize the gradual urbanization near cities and to provide for the proper development and facilities necessary for future growth.

**4.06.02 Permitted Uses**

The following principal uses are permitted in the R-2 Urban Density Residential District.

1. Single-family dwellings
2. Two family dwellings
3. Single-family, attached, townhouses, condominiums
4. Public parks and recreational areas and community buildings owned and operated by a public agency.
5. Churches, synagogues, and other similar places of worship.
6. Public and parochial schools.
7. Publicly owned and operated buildings and facilities such as community centers, auditoriums, libraries, museums
8. Fire stations
9. Golf courses and driving ranges. Miniature golf is permitted if it is a part of the total golfing operation.
10. All other uses as indicated as Permitted in the Zoning Matrix.

**4.06.03 Conditional Uses**

The following uses are subject to any conditions listed in this Resolution and are subject to conditions relating to the placement of said use on a specific tract of ground in the R-2 Urban Density Residential District.

1. Utility Substations.
2. Overhead and underground utilities main transmission lines, including but not limited to, power, telephone, gas, fuel, or fertilizer lines, substations, terminal facilities, and reservoirs
3. Multiple family dwellings
4. Day Care Center and Day Care Home
5. Charitable clubs and organization
6. Lodging and boarding houses
7. All other uses indicated as Conditional within the Zoning Matrix.

**4.06.04 Accessory Uses**

The following accessory buildings and uses are permitted in the R-1 District.

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as conditional uses including decks and gazeboes.
2. Private swimming pools (above or below ground), tennis courts, and other recreational facilities in conjunction with a residence.
3. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
4. Home occupation as provided for in Section 8.07 and 8.08..
5. Home Business as provided for in Section 8.07 and 8.08.
6. Signs as provided for in Article 7.
7. Parking as provided for in Article 6.
8. Gardens and greenhouses.
9. Residential Animal Keeping Regulations shall allow a maximum of 1 A.U. per acre of ground except:

**Ratio of Animals per Acre**

Rabbits	Domestic/Exotic Birds	Goat
10	10	1

10. Additional Requirements:
  - a. Fencing shall be adequate to keep the animal(s) from infringing in any way no adjacent property, and selected and maintained for safety according to generally accepted standards, with lockable gates and appropriate to the animal(s) and the conditions under which they are being kept.
  - b. Manure, urine and other organic wastes shall be disposed of and sanitized so as to preclude the presence of flies, and to prevent the presence of odors and noises offensive to neighboring residences. Such disposal shall also avoid pollution of ground water or any lake or stream.

- c. Animal housing or stabling shall be safe, humane and generally consistent with the appearance of other structures appurtenant to residences in the same area.
- d. Free range animals only

**4.06.05 Area and Intensity Regulations**

In the R-2 Urban Density Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot or tract, shall be as follows:

Uses	Min. Lot Area (sq. ft.)	Min. Lot Width (feet)	Setbacks			Max. Lot Coverage (%)	Max. Building Height (feet)
			Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)		
<b>Permitted Uses</b>	<b>12,000<sup>1</sup></b>	<b>200</b>	<b>30</b>	<b>35</b>	<b>35</b>	<b>25</b>	<b>35<sup>1</sup></b>
<b>Conditional Uses</b>	<b>12,000<sup>1</sup></b>	<b>200</b>	<b>30</b>	<b>35</b>	<b>35</b>	<b>25</b>	<b>35<sup>1</sup></b>
<b>Accessory Uses</b>	<b>-</b>	<b>-</b>	<b>30</b>	<b>5</b>	<b>5</b>	<b>10</b>	<b>20</b>

<sup>1</sup> All uses and structures requiring water and sanitary sewer systems shall be connected to municipal water and sanitary sewer system or community water and a community sewage disposal system that serves the subdivision.

**4.06.06 Other Applicable Provisions**

1. No new building shall be hereafter erected or any existing building structurally altered with any portion of said building nearer than 120 feet from the R.O.W. line of a U. S. or State designated highway, and not nearer than 90 feet from the centerline of a County road.
2. The off-street parking requirements shall be as provided in Article 6.
3. All new dwellings, including Residential Acreage Developments, shall be on hard-surfaced or maintained Roads/Street/Highways. Dwelling shall not be permitted on an officially designated minimum maintenance Road/Street/Highways.
4. All access to said properties shall meet County Highway Superintendents specifications.

**Section 4.07 R-M Mobile Home Residential District**

**4.07.01 Intent**

The intent of the Mobile Home Residential District shall be to provide for mobile home dwellings on leased or owned property in areas where a mobile home court is appropriate, where such development is recognized as being in the best interests of the citizens and taxpayers of Seward County.

**4.07.02 Permitted Uses**

The following principal uses are permitted in the R-M Mobile Home Residential District.

1. Mobile home dwellings.
2. Single family dwelling.
3. Public school.
4. Private and public park, playground and recreational facilities.
5. Church, educational facilities and parish house.
6. Multi-unit dwellings, provided such use is part of a Clustered/Mixed Use District.

**4.07.03 Conditional Uses**

The following uses are subject to any conditions listed in this Resolution and are subject to conditions relating to the placement of said use on a specific tract of ground in the R-M Mobile Home Residential District

1. Buildings and uses customarily incidental to the permitted uses.
2. Mobile Home Park, subject to regulations in Section 4.07.05 through 4.07.07 of this Section.
3. Nursery or daycare schools.
4. Utility installations such as electric substations, sewer lift stations, telephone exchanges, gas regulators and major transmission lines (not including utility office, repair, storage or production facilities).
5. Sewage disposal and water supply and treatment facilities.
6. Campgrounds.
7. Public buildings not including schools, parks and recreation facilities.

**4.07.04 Accessory Uses**

The following accessory buildings and uses are permitted in the R-M District.

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as conditional uses including decks and gazeboes.
2. Private swimming pools (above or below ground), tennis courts, and other recreational facilities in conjunction with a residence.
3. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
4. Home occupation as provided for in Section 8.07 and 8.08.
5. Home Business as provided for in Section 8.07 and 8.08.
6. Signs as provided for in Article 7.
7. Parking as provided for in Article 6.
8. Gardens and greenhouses.
9. Small Wind Energy Systems as provided for in Section 8.03.

**4.07.05 Area and Lot Requirements**

1. A mobile home park shall have an area of not less than five acres. No mobile homes or other structures shall be located less than 90 feet from the road centerline when contiguous to or having frontage to a County road and 120 feet from the R.O.W. line when contiguous to or having frontage along a federal or state highway. The setbacks internally are listed below.
2. Open areas along entrances and contiguous to county road, federal highways, or state highways shall be landscaped.
3. The minimum lot width for a mobile home court shall be 200 feet.

4. Each lot provided for occupancy of a single mobile home shall meet the following minimum standards:

Uses	Min. Lot Area (sq. ft.)	Min. Lot Width (feet)	Setbacks			Max. Lot Coverage (%)	Max. Building Height (feet)
			Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)		
<b>Permitted Uses</b>	7,500	70 <sup>1</sup>	30	25	8	25	35
<b>Conditional Uses</b>	7,500	70 <sup>1</sup>	30	25	8	25	35
<b>Accessory Uses</b>	-	-	30	5	8	10	20

<sup>1</sup> When a lot is located on a cul-de-sac the minimum frontage shall be 45 feet at the property line.

5. There shall be a minimum livable floor area of 500 square feet in each mobile home.

**4.07.06 Community Facilities**

1. Each lot shall have access to a hard surfaced private interior drive not less than 22 feet in width excluding parking.
2. Community water and community sewage disposal facilities shall be provided with connections to each lot. The water supply shall be sufficient for domestic use and for fire protection.
3. Service buildings including adequate laundry and drying facilities and toilet facilities for mobile homes which do not have these facilities within each unit.
4. Not less than 8% of the total court area shall be designated and used for park, playground, and recreational purposes.
5. Storm shelters shall be required and shall meet the following criteria:
  - a. Shelter space equivalent to two persons per mobile home lot,
  - b. Designed in conformance with “National Performance Criteria for Tornado Shelters” by FEMA and any other referenced material by FEMA,
  - c. Shelters shall be sited in order to provide maximum protection to park occupants and so that residents may reach a shelter within the maximum safe time frame as directed by FEMA.

**4.07.07 Plan Requirements**

A complete plan of the mobile home court shall be submitted showing:

1. A development plan and grading plan of the court.
2. The area and dimensions of the tract of land.
3. The number, location, and size of all mobile home spaces.
4. The area and dimensions of the park, playground and recreation areas.
5. The location and width of roadways and walkways.
6. The location of service buildings and any other proposed structures.
7. The location of water and sewer lines and sewage disposal facilities.
8. Plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home court.

**4.07.08 Other Applicable Provisions**

No new building shall be hereafter erected or any existing building structurally altered with any portion of said building nearer than 120 feet from the R.O.W. line of a U. S. or State designated highway, and not nearer than 90 feet from the centerline of a County road.

**Section 4.08 C-1 Village Development District****4.08.01 Intent**

The C-1 district is established as a mixed use district that is intended to accommodate communities where development has occurred but the community has never been incorporated or has recently unincorporated, especially Tamora and Ruby. Regulations are intended to control density of population and to provide adequate open space around buildings and structures in the district to accomplish these purposes.

**4.08.02 Permitted Uses**

The following principal uses are permitted in the C-1 Village Development District.

1. Public parks and recreational areas and community buildings owned and operated by a public agency.
2. Churches, synagogues, and other similar places of worship.
3. Public and parochial schools.
4. Publicly owned and operated buildings and facilities such as community centers, auditoriums, museums
5. Fire stations
6. Golf courses driving ranges. Miniature golf is permitted if it is a part of the total golfing operation.
7. All other uses indicated as Permitted within the Zoning Matrix.

**4.08.03 Conditional Uses**

The following uses are subject to any conditions listed in this Resolution and are subject to conditions relating to the placement of said use on a specific tract of ground in the C-1 Village Development District.

1. Single-family dwellings
2. Two family dwellings
3. Single-family, attached, townhouses, condominiums
4. Grain storage
5. Overhead and underground utilities main transmission lines, including but not limited to, power, telephone, gas, fuel, or fertilizer lines, substations, terminal facilities, and reservoirs.
6. Multiple family dwellings.
7. Day Care Center and Day Care Home.
8. Charitable clubs and organization.
9. Lodging and boarding houses.
10. Fertilizer mixing and manufacturing.
11. Fertilizer storage.
12. Gravel, sand or dirt removal, stockpiling, processing or distribution, and batching plants.
13. Concrete or cement products, manufacturing and batching plants.
14. Truck terminals, tractor, trailer or truck storage including maintenance facilities.
15. Storage, dump or yard for the collection, salvage or bailing of scrap paper, bottles, iron, rags, junk, etc.
16. Storage yards or buildings for lumber, or similar uses except explosives.
17. Ranch and farm buildings.
18. Raising of field crops including horticulture.
19. Warehousing and wholesaling of materials.
20. Contractors' storage yards or plants.
21. Retail sales of lumber and other building materials, farm equipment, motor vehicles, marine craft, aircraft, mobile homes, trailers, farm and garden supplies, fuel and ice.
22. All other uses indicated as Conditional within the Zoning Matrix.

**4.08.04 Accessory Uses**

The following accessory buildings and uses are permitted in the C-1 District.

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as conditional uses including decks and gazebos.
2. Private swimming pools (above or below ground), tennis courts, and other recreational facilities in conjunction with a residence.
3. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
4. Home occupation as provided for in Section 8.07 and 8.08.
5. Home Business as provided for in Section 8.07 and 8.08.
6. Small Wind Energy Systems as provided for in Section 8.03.
7. Signs as provided for in Article 7.
8. Parking as provided for in Article 6.

9. Gardens and greenhouses.

**4.08.05 Area and Intensity Regulations**

In the C-1 Village Development District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot or tract, shall be as follows:

Uses	Min. Lot Area (sq. ft.)	Min. Lot Width (feet)	Setbacks			Max. Lot Coverage (%)	Max. Building Height (feet)
			Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)		
<b>Permitted Uses</b>	12,000 <sup>1</sup>	100	30	35	35	25	35 <sup>1</sup>
<b>Conditional Uses</b>	12,000 <sup>1</sup>	100	30	35	35	25	35 <sup>1</sup>
<b>Accessory Uses</b>	-	-	30	5	5	10	20

All uses and structures requiring water and sanitary sewer systems shall be connected to municipal water and sanitary sewer system or community water and a community sewage disposal system that serves the subdivision.

**4.08.06 Other Applicable Provisions**

1. No new building shall be hereafter erected or any existing building structurally altered with any portion of said building nearer than 120 feet from the R.O.W. line of a U. S. or State designated highway, and not nearer than 90 feet from the centerline of a County road.
2. All new dwellings, including Residential Acreage Developments, shall be on hard-surfaced or maintained Roads/Street/Highways. Dwelling shall not be permitted on an officially designated minimum maintenance Road/Street/Highways.
3. All access to said properties shall meet County Highway Superintendents specifications.

**Section 4.09 C-2 Highway Commercial District**

**4.09.01 Intent**

The intent of this district is to provide for those trade services, cultural and recreational uses that are appropriate to be developed in conjunction with a highway or major street, thereby offering a desired convenience in location and accessibility to the motoring public.

**4.09.02 Permitted Uses**

The following uses are permitted in the C-2 Highway Commercial District.

1. Professional, medical and personal service uses – not including any use defined as an Adult Establishment.
2. Business services including: attorneys, banks, insurance, real estate, offices, postal stations, printing, credit services, security brokers, dealers and exchange, title abstracting, savings and loans, finance services and investment services.
3. Retail sales for use by or consumption by individuals including but not limited to: automobiles (including accessories and parts), appliances, bicycles and accessories, boats, books and stationery, baked goods, cameras, candy, carpets, clothing, curios, dairy products, pharmaceutical drugs, fish and seafood, farm equipment and supplies, furniture, flowers and plant materials, furs, groceries, hardware, instruments, hats, jewelry, liquor, meats, motor vehicles, newspapers and magazines, paint, pastries, poultry and poultry products, seed, shoes, sporting goods, tobacco and tobacco products, and trailers – not including any use defined as an Adult Establishment.
4. Hotels and motels – not including any use defined as an Adult Establishment.
5. Eating and drinking places – not including any use defined as an Adult Establishment.
6. Raising of field crops and horticulture.
7. Outdoor advertising business.
8. Lumber yards, hardware stores and building material sales yards.
9. All other uses indicated as Permitted within the Zoning Matrix.

**4.09.03 Conditional Uses**

The following uses are subject to any conditions listed in this Resolution and are subject to conditions relating to the placement of said use on a specific tract of ground in the C-2 Highway Commercial District

1. Utility substations.
2. Gasoline service stations with service and/or repair.
3. Truck terminals, tractor, trailer or truck storage, including maintenance facilities and parking areas.
4. Truck stops and plazas
5. Convenience Store with fuel sales.
6. Self-storage units
7. Race tracks, drag strips and similar uses and associated accessory uses.
8. Cultural, entertainment, drive-in movies, arenas and field houses, race tracks, fairgrounds, amusement parks, golf driving ranges, go-cart tracks, golf courses and country clubs, riding stables, athletic fields and parks.
9. Commercial/Utility Grade Wind Energy Systems
10. Radio, television and communication towers and transmitters, provided:
  - a. The use shall comply with Section 8.01 of this Resolution
  - b. The structure is within 1,500 feet of a major intersection.
  - c. Any proposed tower construction within 300 feet of a federal or state highway centerline shall be reviewed by the Property Management Division of the Nebraska Department of Roads.
  - d. Notwithstanding the provision of any other ordinance governing separation between towers, if a permit is granted for a new tower within a district, the separation distance between such tower and any preexisting towers shall be the distance, determined by the County Board at the time such Tower Development Permit is granted. The minimum distance shall be based upon current engineering data submitted by the applicant for the tower. Engineering data, at a minimum, shall include the determined manufacturer's designed fall distance rate.
  - e. All other setbacks between the tower, residentially zoned districts and occupied structures as set forth in Section 8.01 of this Resolution shall be set back the greater of (i) a distance equal to the tower manufacturer's designed fall distance rate, or (ii) the distances set forth in sections 8.01.
11. All other uses indicated as Conditional within the Zoning Matrix.

**4.09.04 Permitted Accessory Uses**

The following accessory buildings and uses are permitted in the C-2 District.

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as conditional uses.
2. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
3. Signs as provided for in Article 7.
4. Parking as provided for in Article 6.
5. Small Wind Energy Systems as provided for in Section 8.03.

**4.09.06 Area and Intensity Regulations**

In the HC Highway Commercial District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot or tract, shall be as follows:

Uses	Min. Lot Area (acres)	Min. Lot Width (feet)	Setbacks			Max. Lot Coverage (%)	Max. Building Height (feet)
			Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)		
Permitted Uses	5 <sup>1</sup>	100	50	20	10	40	50
Conditional Uses	5 <sup>1</sup>	100	50	20	10	40	50
Accessory Uses	-	-	50	10	10	10	

<sup>1</sup> The minimum lot area may be reduced to 20,000 square feet if the use is connected to a municipal or community water system and a sanitary sewer system.

**4.09.07 Other Applicable Provisions**

1. No new building shall be hereafter erected or any existing building structurally altered with any portion of said building nearer than 120 feet from the R.O.W. line of a U. S. or State designated highway, and not nearer than 90 feet from the centerline of a County road.
2. Supplementary district regulations shall be complied with as defined herein.

**Section 4.10 I-1 Industrial District**

**4.10.01 Intent**

The intent of this district is to provide a wide range of industrial and commercial uses that shall be able to meet comparatively rigid specifications as to nuisance free performance. Certain uses that are incompatible or would interfere with industrial development are excluded.

Adult Entertainment Facilities are included in this Zoning District. The intent of the Seward County Zoning Resolution is not to prohibit these uses but to regulate the secondary effects of these uses within the community.

**4.10.02 Permitted Uses**

The following uses are permitted in the I-1 Industrial District.

1. Farms, truck gardens, plant nurseries, greenhouses, grain storage facilities
2. Truck terminals, tractor, trailer or truck storage including maintenance facilities.
3. Contractors' storage yards or plants.
4. Farm implement service repair
5. Automotive vehicle service stations including repair shops but no storage of unlicensed vehicles or used parts.
6. Administrative, executive, professional, research and similar office use having limited public contact.
7. Buildings and installations for public utilities.
8. Outdoor advertising business.
9. Ranch and farm buildings.
10. Raising of field crops including horticulture.
11. Specific uses such as: animal hospitals (no kennels); bottling plants; blueprinting; brewery or distillery; cannery; carpentry or woodworking shops; castings of light nonferrous metals; dairy products; dry cleaning and laundry plants; galvanizing or plating of metals; feed and seed processing and storage; furniture repair and storage; garage (no body repair); glass manufacture; laboratories; lapidary; printer, sign painting and manufacturing; pulp or paper manufacture; sign painting and manufacture; stone or monument works; synthetic or plastic manufacture; tire recapping and retreading; trade or vocational schools; pottery manufacture; warehousing and wholesaling of materials.
12. Retail sales of lumber and other building materials, farm equipment, motor vehicles, marine craft, aircraft, mobile homes, trailers, farm and garden supplies, fuel and ice.
13. Transportation garage and maintenance facilities.
14. All other uses indicated as Permitted within the Zoning Matrix.

**4.10.03 Conditional Uses**

The following uses are subject to any conditions listed in this Resolution and are subject to conditions relating to the placement of said use on a specific tract of ground in the I-1 Industrial District

1. Gravel, sand or dirt removal, stockpiling, processing or distribution, and batching plants.
2. Concrete or cement products, manufacturing and batching plants.
3. Race tracks, drag strips and similar uses and associated accessory uses.
4. Commercial/Utility Grade Wind Energy Systems
5. Radio, television and communication towers and transmitters, provided:
  - a. The use shall comply with Section 8.01 of this Resolution
  - b. The structure is within 1,500 feet of a major intersection.
  - c. Any proposed tower construction within 300 feet of a federal or state highway centerline shall be reviewed by the Property Management Division of the Nebraska Department of Roads.
  - d. Notwithstanding the provision of any other ordinance governing separation between towers, if a permit is granted for a new tower within a district, the separation distance between such tower and any preexisting towers shall be the distance, determined by the County Board at the time such Tower Development Permit is granted. The minimum distance shall be based upon current engineering data submitted by the applicant for the tower. Engineering data, at a minimum, shall include the determined manufacturer's designed fall distance rate.
  - e. All other setbacks between the tower, residentially zoned districts and occupied structures as set forth in Section 8.01 of this Resolution shall be set back the greater of (i) a distance equal to the tower manufacturer's designed fall distance rate, or (ii) the distances set forth in sections 8.01.
6. Adult Entertainment establishments.
  - a. No adult business shall be closer than 1,000 feet to any similar use and no closer than 1,000 feet to a residential district/use, religious uses, educational uses and recreational uses. Measurements shall be

- made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult business to the point on the property line of such other adult business, residential district/use, religious use, educational uses and recreational use.
- b. Said businesses shall be screened along adjoining property lines as to prevent any direct visual contact of the adult business at the perimeter.
  - c. Doors, curtains, and any other means of obstruction to the opening of all booths and other preview areas, including but not limited to Adult Novelty Businesses, Adult Motion Picture Arcades, Adult Mini-Motion Picture Theaters, and Adult Motion Picture Theaters shall be removed and kept off at all times during the execution of this Permit. Failure to comply with this condition shall result in revocation of the Conditional Use Permit.
  - d. No adult business shall be open for business between the hours of 12 midnight and six a.m.
  - e. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety, and general welfare of persons residing or working in adjoining or surrounding property.
  - f. Such use shall not impair an adequate supply of light and air to surrounding property,
  - g. Such use shall not unduly increase congestion in the streets or public danger of fire and safety,
  - h. Such use shall not diminish or impair established property values in adjoining or surrounding property,
  - i. Such use shall be in accord with the intent, purpose and spirit of this Resolution and the Comprehensive Development Plan of Seward County.
  - j. Applications for adult businesses under the terms of this Section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan defining the areas to be developed for buildings and structure, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls, the location and type of landscaping, the location, size and number of signs and the manner of providing water supply and sewage treatment facilities.
  - k. An adult business shall post a sign at the entrance of the premises which shall state the nature of the business and shall state that no one under the age of 18 of age is allowed on the premises. This Section shall not be construed to prohibit the owner from establishing an older age limitation for coming on the premises.
  - l. Prohibited Activities of Adult Businesses:
    - i. No adult business shall employ any person under 18 years of age
    - ii. No adult business shall furnish any merchandise or services to any person who is under 18 years of age.
    - iii. No adult business shall be conducted in any manner that permits the observation of any model or any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use. No operator of an adult business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct in or about the premises which is prohibited by this Resolution or any other laws of the State.
  - m. No part of the interior of the adult business shall be visible from the pedestrian sidewalk, walkway, street, or other public or semi-public area.
7. All other Conditional Uses indicated as Conditional within the Zoning Matrix.

**4.10.04 Permitted Accessory Uses**

- 1. Sales of new merchandise when it is manufactured, processed, assembled, fabricated, or stored on the premises.
- 2. Caretakers' or watchmen's quarters.
- 3. Accessory uses normally appurtenant to the permitted uses when established in conformance with the space limits of this district.
- 4. Small Wind Energy Systems as provided for in Section 8.03.

**4.10.05 Area and Intensity Regulations**

In the L-1 Industrial District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot or tract, shall be as follows:

Uses	Min. Lot Area (acres)	Min. Lot Width (feet)	Setbacks			Max. Lot Coverage (%)	Max. Building Height (feet)
			Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)		
<b>Permitted Uses</b>	<b>5<sup>1</sup></b>	<b>100</b>	<b>50</b>	<b>20</b>	<b>10</b>	<b>50%</b>	<b>50</b>
<b>Conditional Uses</b>	<b>5<sup>1</sup></b>	<b>100</b>	<b>50</b>	<b>20</b>	<b>10</b>	<b>50%</b>	<b>50</b>
<b>Accessory Uses</b>	<b>-</b>	<b>-</b>	<b>50</b>	<b>20</b>	<b>10</b>	<b>10</b>	<b>20</b>

<sup>1</sup> The minimum lot area may be reduced to 20,000 square feet if the use is connected to a municipal or community water system and a sanitary sewer system.

**4.10.06 Other Applicable Provisions**

1. No new building shall be hereafter erected or any existing building structurally altered with any portion of said building nearer than 120 feet from the R.O.W. line of a U. S. or State designated highway, and not nearer than 90 feet from the centerline of a County road.
2. Supplementary district regulations shall be complied with as defined herein. All uses within this district shall meet the minimum performance standards for light industry as defined herein.

**Section 4.11 Clustered/Mixed Use Development District (CMD)**

**4.11.01 Intent**

The Clustered / Mixed Use Development District (CMD) is to encourage the creative design of new living and retail areas, as distinguished from subdivisions of standard lot sizes, in order to permit such creative design in buildings, open space, while promoting the health, safety, and general welfare of existing and future residents of surrounding area. This shall not apply to the A-1 or TA-1 district.

When a CMD District is requested, it will require a change of zone with the CMD being attached to the underlying district. Acceptable underlying districts shall only include a Residential, Commercial, Industrial, or Flex District. Once the rezoning is approved, the allowed uses and standards herein shall modify the minimum requirements of the underlying district.

**4.11.02 Permitted Uses**

The following uses are permitted in the Clustered/Mixed Use Development District provided the requirements of this Article are met.

1. All uses allowed as permitted in the primary district
2. All other uses listed as a Permitted Use within the Land Use Matrix

**4.11.03 Conditional Uses**

The following uses may be allowed through the approval of a Conditional Use Permit, as established by this Resolution, provide all noted, as well as any special conditions required by the Planning Commission and/or the county Board of Commissioners.

1. All uses allowed as a conditional use in the primary district.
2. All other uses listed as a Conditional Use within the Land Use Matrix.

**4.11.05 Permitted Accessory Uses**

All accessory uses allowed within the primary district.

**4.11.06 Height and Lot Requirements**

The height and minimum lot requirements shall be as follows:

Uses	Lot Area (Sq. ft.)	Lot Width (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Maximum Height (feet)	Max. Lot Coverage (%)
Single Family	4,000	40	*	*	*	35	*
Multi-Family	1,500 per unit**	60	25	7 or 10 if over 30' in height	25	40	
Townhouses, Condominiums	2,500	18	*	*	*	*	*
Other Permitted Uses	*	*	*	*	*	40	*
Accessory Buildings	---	---	*	*	*	15	*

<sup>†</sup> lot and yard requirements are dependent upon the development and may vary depending upon areas being conserved or special amenities being used or established and will be reviewed upon submittal of the Development Plan

\*\* Minimum Lot size is 7,500 square feet.

**4.11.07 Supplemental Requirements**

1. The Planning Commission, in its minutes, shall set forth its reasons for recommendation of approval or denial of the application for a CMD plan approval, along with specific evidence and facts showing that the proposal meets or does not meet the following conditions.
  - a. Said CMD shall be in general conformity with the provisions of the Seward County Comprehensive Plan.
  - b. Said CMD shall not have a substantially adverse effect on the development of the neighboring area.
  - c. The minimum size allowed for a CMD District by type of use shall be as follows:
    - i. Residential (only), three acres;
    - ii. Residential - Commercial (combination), five acres.
  - d. Height, bulk, and yard requirements shall be reflected on the Development Plan and shall promote an efficient and creative use of land.

2. Use Limitations: In District CMD no building, structure, land, or premises shall be used, and no building shall be erected, constructed, or altered, except for any use permitted in this District. All uses must be approved as shown on the Development Plan as specified in this division.
3. Standards and conditions for development: A development proposed for land classified as the CMD district shall be consistent with the following general standards for use of land, and the use, type, bulk, and location of buildings, the density or intensity of use, open space, public facilities, and the Development Plan shall, where applicable, reflect compliance.
  - a. The applicant shall satisfy the Planning Commission and County Board of Commissioners that there is the ability to carry out the proposed plan, including financial assurances and the phasing of the project, and shall prepare and submit a schedule of construction, if necessary. The proposed construction shall begin within a period of 12 months following the approval of the final application by the County Board of Commissioners. A minimum of 50% of the total planned construction shown on the final plan shall be completed within a period of five years following such approval or the approval shall expire. If the approval expires under this section, the applicant shall show good cause to the Planning Commission to extend the plan approval.
  - b. The developer shall provide and record easements and covenants, shall make such other arrangements, and shall furnish such performance bonds, escrow deposit, or other financial guarantees for public improvements as may be determined by the County Board of Commissioners to be reasonably required to assure performance in accordance with the Development Plan and to protect the public interest in the event of abandonment of said plan before completion.
  - c. The site shall be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development. The streets and driveways on the site of the proposed development shall be adequate to serve the residents or occupants of the proposed development.
  - d. The development shall not impose an undue burden on public services and facilities, such as fire and police protection.
  - e. The entire tract or parcel of land to be occupied by the CMD development shall be held in single ownership or control, or if there are two or more owners, the application for such CMD development shall be filed jointly by all owners. This provision may be waived provided that the land contains existing improvements.
  - f. The location and arrangement of structures, parking areas, walks, lighting, and appurtenant facilities shall be compatible with the surrounding land uses, and any part of a CMD development not used for structures, parking and loading areas, or access ways shall be landscaped or otherwise improved as shown on the Development Plan.
  - g. Off-street parking and loading shall be provided in accordance with the parking and loading regulations of Seward County.
  - h. When a commercial use within a CMD District abuts a residential district, the Development Plan shall reflect screening consisting of landscaping and/or fencing provided adjacent to any adjoining residential district; except in the event the adjacent residential use and the commercial use are separated by a street right-of-way.
  - i. All residential and commercial buildings shall set back not less than 25 feet from the perimeter of the land zoned CMD. Additional setback from a heavily traveled thoroughfare may be required, when found reasonable by the planning commission for protection of health, safety, and general welfare.
  - j. Building coverage area shall not exceed the following percentages of the net developable area of each individual parcel of the total development:
    - i. Residential: 60 percent maximum;
    - ii. Commercial: 50 percent maximum.
4. Building coverage area, is the area covered by building(s) or structure(s) on each individual lot or parcel (not including such impervious improvements such as but not limited to walkways, driveways, patios etc). The net developable area shall be the area of each parcel and the net of any required yard required under the Development Plan. The Development Plan shall reflect the calculations used to demonstrate compliance with this requirement.
  - a. A minimum of 20 percent of the net area of that part of a CMD development reserved for residential use shall be provided for Common Areas as defined by these regulations under subsection (p) below. The term "net area" shall be the gross area, measured in square feet, of the Development Plan devoted to residential use less the area dedicated for public streets. Common Areas shall be defined as playgrounds, street medians, landscaped green space, or other similar areas designed to be used by the residents of the development in common with each other. Common Areas for the leisure and recreation of development residents shall be owned and maintained in common by them, through a homeowner's association.

- b. The CMD District shall include such provisions for the ownership and maintenance of the Common Areas as are reasonably necessary to insure its continuity, care, conservation, and maintenance, and to insure that remedial measures will be available to the County Board of Commissioners if the common open space is permitted to deteriorate, or is not maintained in a condition consistent with the best interests of the planned unit development or of the entire community. The applicant shall submit any protective covenants and organizational documents of the homeowner's association with the Development Plan.
- c. No residential use shall have direct access onto an arterial street unless approved by the County Board of Commissioners in the Development Plan.
- d. Any commercial use must reflect its traffic flow on the Development Plan. All commercial areas must have indirect access via a collector or arterial street; however, no individual commercial use may have direct access onto collector or arterial streets.
- e. Sidewalks shall be built to County specifications along all public and private streets; however, an alternative pedestrian and sidewalk plan may be developed which provides pedestrian access between each use in the CMD development.
- f. Common Areas as defined under this zoning district shall mean land area of the site not covered by buildings, parking, structures, community buildings, or accessory structures, except recreational structures. Common Areas shall include open space that is accessible and available to all owners or residents in common pursuant to an Owner's Association.

#### **4.11.08 Application for Approval of Clustered/Mixed Use Development**

1. An application for a CMD shall be handled in the same manner prescribed for amending this Resolution. The same requirements for notice, advertisement of public hearing, protests, and adoption shall be required as zoning changes.
2. The applicant shall prepare and submit 11 copies of the development plan (the "Development Plan") of the proposed development in the CMD District for review and approval by the Planning Commission. The Development Plan shall include:
  - a. A site plan showing:
    - i. Contours at intervals of two feet or spot elevations on a one hundred foot grid shall be required on flat land;
    - ii. Location, size, height, and use of all proposed structures and proposed yards on each lot;
    - iii. All points of ingress and egress, driveways, circulation aisles, parking lots, parking spaces, and service areas;
    - iv. All streets adjoining subject property and the width of the existing right-of-way;
    - v. Areas set aside for Common Areas with the type of use or recreational facilities planned for each;
    - vi. Designation of individual parcels if the proposed development is to be set up in separate construction phases;
    - vii. Designation of individual lots if such lots are proposed to be sold to individual owners;
    - viii. Location of required screening;
    - ix. Location of natural features such as ponds, tree clusters, and rock outcropping;
    - x. Existing development on adjacent properties within 200 feet.
  - b. The above-described site plan shall also include a section designated as "general provisions," and said section shall include the following when, said items are applicable:
    - i. Net area in square feet of the development. (*Note:* Net area shall be computed as the gross area less the land dedicated or necessary to be dedicated for public street right-of-way.
    - ii. Density of dwelling units per acre of the total dwelling units for the entire plan.
    - iii. Building coverage of the net area of the development by individual parcel or total development.
    - iv. The percentage of the Development Plan provided for common open space as defined by this regulation. (*Note:* 20 percent is the minimum).
    - v. If more than one parcel is proposed, a statement relating to the sequence of development shall be included.
    - vi. Required number of parking spaces and location.
    - vii. Gross floor area proposed for commercial buildings.
    - viii. All proposed land uses shall be listed by parcel.
  - c. A statement or adequate drawings shall be included describing the manner for the disposition of sanitary waste and storm water.
  - d. The full legal description of the boundaries of the property or properties to be included in the CMD development.

- e. A vicinity map showing the general arrangement of streets within an area of 1,000 feet from the boundaries of the proposed CMD development.
  - f. An elevation drawing of the general characteristics of the proposed buildings may be submitted if the applicant desires.
  - g. When a CMD development includes provisions for common space and/or recreational facilities, a statement describing how such open space and/or facility be owned and maintained when not under the ownership of a governmental entity. A homeowner association or other controlling entity shall provide Seward County with copies of the proposed articles of incorporation and bylaws of such entity.
3. The Planning Commission shall meet within 45 days of an application being filed. Plans shall be filed with the County at least four weeks prior to a scheduled Planning Commission meeting. After the application for a CMD development is filed, the Planning Commission shall hold a public hearing on said development after giving required notice for hearings in amendments. Said public hearing may be adjourned from time to time and, within a reasonable period of time after the conclusion of said public hearing, the planning commission shall prepare and transmit to the County Board of Commissioners and the applicant specific findings of fact with respect to the extent which the Development Plan complies with those regulations, together with its recommendations in respect to the action to be taken on the Development Plan and CMD requirements. The planning commission may recommend disapproval, approval, or approval with amendments, conditions or restrictions.
  4. The County Board of Commissioners shall or shall not approve the Development Plan and authorize the submitting of the final Development Plan.
  5. Substantial or significant changes in the preliminary plat and CMD design shall only be made after rehearing and reapproval unless the changes were otherwise required by the Planning Commission or the County Board of Commissioners.

#### **4.11.09 Final Approval**

1. After approval of a Development Plan and prior to the issuance of any building permit or zoning permit, the applicant shall submit an application for final approval with the CMD development compliance review committee. The CMD development compliance committee shall consist of members of the Planning Commission, County Board of Commissioners, the Zoning Administrator, the County Attorney, and/ or the County Engineer; this committee will be assembled only on an as needed basis. Said final application may include the entire CMD District or may be for a unit or section thereof as set forth in the approval of the preliminary plan. The application shall include 11 copies of such drawings, specifications, covenants, easements, conditions, and any other conditions including but not limited to performance bonds. As set forth in the approval of the Development Plan preliminary plan and in accordance with the conditions established in this chapter for a CMD District. The final plan shall include the same information, as the preliminary plan except the following shall also be provided:
  - a. A surveyor's certificate certifying to the accuracy of the boundary surveys shown.
  - b. Location, names, tangent lengths, centerline radius of each curve and its interior width and angle of all proposed public right-of-way;
  - c. All easements and appropriate building setback lines;
  - d. All lot lines, and lot dimensions including chord distances for curvilinear lot lines;
  - e. Lot and/or parcel numbers;
  - f. Location, size, height, and use of all proposed or present buildings;
  - g. Dedication of all streets, public highways, or other land intended for public use, signed by the owner and by all other parties who have a mortgage or lien interest in the property, together with any restrictions or covenants which apply to the property.
  - h. A waiver of claim by the applicant for damages occasioned by the establishment of grades or the alteration of the surface of any portion of streets and alleys to conform to grades established.
2. A plan submitted for final approval shall be deemed to be in substantial compliance with the plan previously given tentative approval, provided any modification of the Development Plan does not:
  - a. Vary the proposed gross residential density or intensity of use by more than five percent or involve a reduction in the area set aside for common open space, nor the substantial relocation of such area; nor
  - b. Increase by more than 10 percent the floor area proposed for non-residential use; nor
  - c. Increase by more than five percent the total ground area covered by buildings nor involve a substantial change in the height of buildings.
  - d. Substantially change the design of the plan so as to significantly alter:
    - i. Pedestrian or vehicular traffic flow.
    - ii. The juxtaposition of different land uses.
    - iii. The relation of open space to residential development.

- iv. The proposed phasing of construction.
  - v. Proposed use of one or more buildings to a more intensive use category as delineated in this chapter.
3. A public hearing need not be held for the approval of a final plan if it is in substantial compliance with the approved preliminary plan. The planning commission shall, within thirty 30 business days of the time of filing, review the final plan for compliance with the approved preliminary plan. Upon review approval, said final plan shall be filed with the County Board of Commissioners for final approval and acceptance.
  4. In the event that the final plan submitted contains changes in excess of those permitted under Subparagraph (2) above, applicant shall resubmit the original plan. The Development Plan shall be modified in the same manner prescribed in this division as for original approval.

#### **4.11.10 Enforcement and Modification of Plan**

To further the mutual interest of the residents and owners of the CMD development and of the public in the preservation of the integrity of the CMD plan, as finally approved, and to insure that modifications, if any, in the plan shall not impair the reasonable reliance of the said residents and owners upon the provisions of the plan, nor result in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the plan as finally approved, whether recorded by plan, covenant, easement or otherwise, shall be subject to the following provisions:

1. The use of land and the use, bulk, and location of buildings and structures; and
2. The quality and location of common space; and
3. The intensity of use or the density of residential units shall run in favor of the County and
4. Shall be enforceable in law or in equity, by the County, without limitation on any powers or regulation otherwise granted by law. The development of any land pursuant to an approved Development Plan shall be constructed in accordance with the requirements of this Resolution and the Subdivision Regulations and the approved Development Plan.

#### **4.11.11 Amendments**

The CMD District agreement or an approved Development Plan may be amended in the same manner prescribed in this division for approval of a preliminary or final plan. Application for amendment may be made by the homeowner's association or 51 percent of the owners of the property within the CMD District.

#### **4.11.12 Platting**

For unplatted tracts or tracts being replatted, the approval of the Development Plan shall be considered as the approval of a preliminary plan. To complete the platting process, the applicant need only submit a final plat. Said final plat shall be in accordance with the subdivision regulations, except the scale shall be 100 feet, 50 feet, or 20 feet to the inch.

#### **4.11.13 Fees**

For the following applications, fees shall be paid to the County:

1. Development Plan , filing fee shall be set by the County Board of Commissioners by separate Resolution;
2. Final plan, filing fee shall be set by the County Board of Commissioners by separate Resolution.
3. These fees are separate and do not include any Preliminary and Final Plat Fees and/or any Change of Zone Fees required by Seward County.

**Section 4.12 (Reserved)**

**Section 4.13 GWC Groundwater Conservation District****4.13.01 Intent**

The intent of this overlay district is to protect the environmentally sensitive lands and the limited supply of groundwater found within the approximate eastern 1/3 of Seward County. The overlay is not intended to eliminate specific uses from this portion of Seward County but to limit uses, especially those that are water intensive. Water intensive uses shall include but are not limited to residential development(s) and confined feeding operations.

**4.13.02 Purpose**

The purpose of this overlay district is to provide additional criteria in the eastern 1/3 of Seward County. This overlay district does not limit specific uses; these shall be controlled by the underlying districts. This overlay only works to prescribe certain conditions in regard to groundwater availability, drawdown, and usage. Applicants are required to demonstrate specific conditions prior to approval of any requested use including any uses that are considered as permitted and/or as conditional uses.

The requirements of this overlay district include a number of mechanical testing and monitoring techniques as well as common sense practical conservation methods. The combination of these two approaches is intended to create an area of Seward County where a mixture of desirable uses can be established and/or expanded, while maintaining and conserving a current depleting natural resource of the area, groundwater.

**4.13.03 Specific Conditions Required**

The following are specific requirements and guidelines for placing any water intensive use within this overlay district.

1. Subdivisions for purposes of this district shall mean anytime a rezoning is approved for the purpose of increasing the density in a "A-1" Agricultural Preservation District or the "TA-1" Transitional Agricultural District for purposes of platted or establishing four or more lots within the same or adjoining ¼ sections.
2. No new subdivisions shall be platted within this overlay unless developments of four or more lots per ¼ section are supplied by a regional system or rural water district and are required to construct a central distribution system to supply water to the individual lots of the development.
  - a. The central water system shall meet all county, state, and federal guidelines.
  - b. The developer shall demonstrate that the proposed central water system will not create an impact upon existing properties and wells surrounding the development.
  - c. The central water system shall be designed to provide fire protection flows to the development.
3. Subdivision developments will be required to maintain a minimum of 15% of the development in green space or crop ground, as defined in 4.13.03 (1) above.
  - a. Subdivisions shall meet all requirements in the Subdivision Regulations and the items within this Section.
  - b. A subdivision may clear 15% of all tree cover and/or natural ground cover such as prairie grasses for individual lots that are constructing a structure or structures. The necessary ground cover may be disturbed for constructing streets and infrastructure.
  - c. The developer shall provide the County with a site plan and construction plan for such developments.
  - d. All required green space will be required to be held in a conservation easement and made part of a homeowner's association agreement, the developer, or another authorized organization or agency.
4. Parcels with residential dwellings shall maintain a maximum of 50% of their property in drought sensitive grass and landscaping materials unless it is maintained in cropland and/or rangeland. The remaining portion of the property shall be in drought tolerant grasses and landscaping including xeriscaping.
  - a. The drought sensitive portion of the property shall not exceed ¼ acre of ground immediately surrounding the dwelling unit and any nearby accessory structures.
  - b. Underground sprinklers shall not be allowed within this overlay district.
5. Parcel where 15% or more of the land area is in tree cover and/or natural ground cover such as prairie grasses, only 15% of the sites tree cover and/or ground cover may be disturbed for purposes of constructing a structure or structures.
6. All other uses including commercial and industrial developments shall be required to meet the requirements of this Section.
7. No construction on slopes of 15% or more shall be allowed in this overlay district.
8. Wetlands within this area shall not be disturbed or mitigated and shall be maintained and conserved as part of any construction project.

9. Only small CAFOS shall be allowed within the overlay district, but all confined pens and shelters shall be for purposes of short term confinement including back grounding and calving. The open grazing of livestock within this overlay is highly encouraged.
10. No new wells shall be drilled within this overlay for purposes of filling existing or new ponds or swimming pools.
11. New residences shall be required to implement all forms of water conservation procedures including sinks, water closets, showers and other interior water uses.
12. Replacement wells for existing residences shall meet all regulations of the Nebraska Department of Natural Resources, subsequent agencies.
13. All new or replacement wells for residential purposes, within this overlay shall not exceed a pumping capacity of 15 to 20 gallons per minute.
14. All ground source heat pump systems shall be a closed loop system.
15. All rural water districts shall be required to construct all wells outside of this overlay district.

**4.13.04 Approval**

Approval of an application within this overlay district shall only occur upon the applicant complying with and meeting the requirements of this Section. Failure to meet the requirements and conditions of this Section shall result in an application being denied.

**4.13.05 Fines and Penalties**

Violation of the section, once an application is approved, or no application was given by Seward County shall be considered a violation of this regulation and shall constitute a misdemeanor. Any person who violates this regulation or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 per offense, with each day resulting in a separate offense, and in addition, shall pay all costs and expenses involved in the case.

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**Section 4.14 FW and FF Flood Hazard Districts**
**4.14.01 Intent**

The intent of this district is to limit the use of land within the established flood plain areas described and delineated as Zone A or as the 100 year Flood Designation on the Flood Insurance Rate Map of Seward County as prepared by the Federal Insurance Administration of the U.S. Department of Housing and Urban Development and as adopted by Seward County. Further, Section 31-1001 through 31-1022 (NE RRS, 1943) provides the County with the responsibility to manage floodplains.

It is the purpose of this resolution to promote the public health, safety, and general welfare and to minimize those potential flood losses by applying the provisions of this resolution to:

1. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
2. Require that uses vulnerable to floods, including public facilities, which serve such uses, be provided with flood protection at the time of initial construction.
3. Protect individuals from buying lands, which are unsuited for intended purposes because of flood hazard.
4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

**4.14.02 General Provisions**

1. *Lands to Which Resolution Applies* This resolution shall apply to all lands within the jurisdiction of Seward County identified on the Flood Insurance Rate Map (FIRM) as numbered and unnumbered A Zones (including AE, AO and AH Zones) and within the Zoning Districts FW and FF established in Paragraph 3 of this resolution. In all areas covered by this resolution no development shall be permitted except upon the issuance of a floodplain development permit, granted by the Board of Commissioners or its duly designated representative under such safeguards and restrictions as the Board or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the county and where specifically noted in Paragraphs 4, 5, and 6 of this Section.
2. *The Enforcement Officer:* The Zoning Administrator is hereby designated as the duly designated Enforcement Officer under this Resolution.
3. *Rules for Interpretation of District Boundaries:* The boundaries of the floodway and flood fringe overlay districts shall be determined by scaling distances on the official zoning map or on the Flood Insurance Rate Map or Floodway Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Zoning Administrator shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of Adjustment will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit their own technical evidence, if they so desire.
4. *Compliance:* Within identified special flood hazard areas, no development shall be located, extended, converted or structurally altered without full compliance with the terms of this resolution and other applicable regulations.
5. *Abrogation and Greater Restrictions:* It is not intended by this resolution to repeal, abrogate or impair any existent easements, covenants, or deed restrictions. However, where this resolution imposes greater restrictions, the provision of this resolution shall prevail. All other resolutions inconsistent with this resolution are hereby repealed to the extent of the inconsistency only.
6. *Interpretation:* In their interpretation and application, the provisions of this resolution 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.
7. *Warning and Disclaimer of Liability:* The degree of flood protection required by this resolution is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This resolution does not imply that areas outside floodway and flood fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This resolution shall not create liability on the part of the county or any officer or employee thereof for any flood damages that may result from reliance on this resolution or any administrative decision lawfully made hereunder.

8. *Severability:* If any section, clause, provision or portion of this resolution is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this resolution shall not be affected thereby.
9. *Appeal:* Where a permit to develop or a variance is denied by the Zoning Administrator, the applicant may apply for such variance to the Board of Adjustment.

#### 4.14.03 Development Permit

1. *Permit Required:* No person, firm or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in Section 2.
2. *Administration.*
  - a. The Zoning Administrator is hereby appointed to administer and implement the provisions of this resolution.
  - b. Duties of the Zoning Administrator shall include, but not be limited to:
    - i. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this resolution have been satisfied.
    - ii. Review applications for proposed development to assure that all necessary permits have been obtained from those Federal, state or local governmental agencies from which prior approval is required.
    - iii. Notify adjacent communities and the Nebraska Natural Resources Commission prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
    - iv. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
    - v. Verify, record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
    - vi. Verify, record and maintain the actual elevation (in relation to mean sea level) to which new or substantially improved structures have been flood proofed.
    - vii. When flood proofing is utilized for a particular structure the Zoning Administrator shall be presented certification from a registered professional engineer or architect.
3. *Application for Permit:* To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:
  - a. Identify and describe the development to be covered by the floodplain development permit.
  - b. Describe the land on which the proposed development is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or development.
  - c. Indicate the use or occupancy for which the proposed development is intended.
  - d. Be accompanied by plans and specifications for proposed construction.
  - e. Be signed by the permitted or his authorized agent who may be required to submit evidence to indicate such authority.
  - f. Give such other information as reasonably may be required by the Zoning Administrator.

#### 4.14.04 Establishment Of Zoning Districts

Along watercourses where a floodway has been established, the mapped floodplain areas are hereby divided into the two following districts: A floodway overlay district (FW) as designated by Flood Plain studies prepared by the Nebraska Natural Resources Commission and a flood fringe overlay district (FF) as identified in the FEMA Flood Insurance Rate Maps and accompanying studies. Within these districts all uses not meeting the standards of this resolution and those standards of the underlying zoning district shall be prohibited.

#### 4.14.05 Standards for Floodplain Development

1. No permit for development shall be granted for new construction, substantial improvements and other developments(s) within all numbered and unnumbered A zones (including AE, AO, and AH zones) unless the conditions of this Section are satisfied.
2. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the base flood; however, the water surface elevation was not provided. The unnumbered "A" zones shall be subject to all development provisions of Paragraph 4.14.06. If Flood Insurance Study data is not available, the county shall utilize any base flood elevation or floodway data currently available from Federal, State or other sources.
3. Until a floodway has been designated, no development or substantial improvement may be permitted within special flood hazard areas unless the applicant has demonstrated that the proposed development or

- substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one foot at any location.
4. New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:
    - a. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
    - b. New or replacement water supply systems and/or sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.
    - c. Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other services facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
    - d. All utility and sanitary facilities be elevated or flood proofed up to the regulatory flood protection elevation.
  5. Storage of Material and Equipment
    - a. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
    - b. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
  6. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, are required to assure that
    - a. all such proposals are consistent with the need to minimize flood damage,
    - b. all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage,
    - c. adequate drainage is provided so as to reduce exposure to flood hazards, and
    - d. proposals for development (including proposals for manufactured home parks and subdivision) include within such proposals the base flood elevation.

#### **4.14.06 FF - Flood Fringe Overlay District - (Including AO and AH Zones)**

1. *Permitted Uses:* Any use permitted in Section F shall be permitted in the Flood Fringe Overlay District. No use allowed in the underlying district shall be permitted in this overlay district unless the standards of Paragraph 4.14.04 are met.
2. *Standards for the Flood Fringe Overlay District:*
  - a. Require new construction or substantial improvements of residential structures to have the lowest floor, including basement, elevated to or above one foot above the base flood elevation.
  - b. Require new construction or substantial improvements of non-residential structures to have the lowest floor, including basement, elevated to or above one foot above the base flood elevation or, together with attendant utility and sanitary facilities, to be flood proofed so that below that level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Zoning Administrator.
  - c. Require for all new construction and substantial improvements that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which 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 architect or meet or exceed the following minimum criteria:
    - i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
    - ii. The bottom of all openings shall be not higher than one foot above grade.
    - iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
  - d. Within AH zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
  - e. Manufactured Homes

- i. All manufactured homes shall be anchored to resist, flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
    - 1) Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;
    - 2) Frame ties are provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side;
    - 3) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
    - 4) Any additions to the manufactured home are similarly anchored.
  - ii. Require that all manufactured homes to be placed or substantially improved within special flood hazard areas on the community's FIRM on sites:
    - 1) Outside of a manufactured home park or subdivision,
    - 2) In a new manufactured home park or subdivision
    - 3) In an expansion to an existing manufactured home park or subdivision, or
    - 4) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above one foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of this Section.
  - iii. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's FIRM that are not subject to the provisions of this Section.
    - 1) The lowest floor of the manufactured home is at or above one foot above the base flood elevation, or
    - 2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that is no less than 36 inches in height above grade; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of this Section.
  - f. Recreational vehicles placed on sites within the special flood hazard areas on the official map shall either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of this resolution. A recreational vehicle is ready for highway use if it is on its wheels or jacking system is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently-attached additions.
  - g. Located within the areas of special flood hazard are the designated area of AO Zones. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones:
    - i. All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
    - ii. All new construction and substantial improvements of non-residential structures shall:
      - 1) Have the lowest floor elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the firm (at least two feet if no depth number is specified), or
      - 2) Together with attendant utility and sanitary facilities be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the official as set forth in this Section.
3. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

**4.14.07 FW - Floodway Overlay District**

1. *Permitted Uses:* Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other resolution. The following are recommended uses for the Floodway District:
  - a. Agricultural uses such as general farming, pasture, nurseries, forestry.
  - b. Residential accessory uses such as lawns, gardens, parking and play areas.
  - c. Non-residential areas such as loading areas, parking and airport landing strips.
  - d. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves subject to the requirements of the underlying district.
2. *Standards for the Floodway Overlay District:* New structures for human habitation are prohibited. All encroachments, including fill, new construction, substantial improvements and other development must be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during occurrence of the base flood discharge. These uses are subject to the standards of Section D and E. In Zone A unnumbered, obtain, review and reasonably utilize any flood elevation and floodway data available through Federal, State or other sources or of this resolution, in meeting the standards of this section.

**4.14.08 Variance Procedures For Floodplain**

1. The Board of Adjustment shall hear and decide appeals and requests for variances from the requirements of this resolution.
2. 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 resolution.
3. Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the District Court as provided in Section 23-168, R.R.S. 1943 (for Counties).
4. In passing upon such application, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this resolution, and:
  - a. The danger that materials may be swept onto other lands to the injury of others;
  - b. The danger to life and property due to flooding or erosion damage;
  - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - d. The importance of the services provided by the proposed facility to the community;
  - e. The necessity to the facility of a waterfront location, where applicable;
  - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - g. The compatibility of the proposed use with existing and anticipated development;
  - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
  - k. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
5. Conditions for Variances
  - a. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (b-f below) have been fully considered.
  - b. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
  - c. Variances shall not be issued within any designated floodway if any increase in flood levels along the floodway profile during the base flood discharge would result.
  - d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - e. Variance shall only be issued 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 a 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 laws or resolutions.

- f. Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

#### **4.14.09 Non-Conforming Use**

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of the resolution, but which is not in conformity with the provisions of this resolution may be continued subject to the following conditions:
  - a. If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this resolution. The entities providing utilities shall make an effort to notify the Zoning Administrator in writing of instances of non-conforming uses where utility services have been discontinued for a period of 12 months.
  - b. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as non-conforming uses.
2. If any non-conforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this resolution. 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 or a State Inventory of Historic Places, provided that the alteration shall not preclude its continued designation.

#### **4.14.10 Penalties For Violation**

Violation of the provisions of this resolution or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting variances or special exceptions) shall constitute a Class III misdemeanor. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the county from taking such other lawful action as is necessary to prevent or remedy any violation.

#### **4.14.11 Amendments**

The regulations, restrictions, and boundaries set forth in this resolution may from time to time be amended, supplemented, changed, or repealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published. A copy of such amendments will be provided to the Federal Emergency Management Agency. The regulations of this resolution are in compliance with the National Flood Insurance Regulations as published in Title 44 of the Code of Federal Regulations and the 1983 Nebraska Flood Plain Management Act.

**Section 4.15 WP Wellhead Protection District (Overlay)****4.15.01 Intent**

The intent of this district is to assist municipalities that maintain and operate public water wells in the county serving municipalities within or adjoining the county. In addition, the district assists rural water districts maintaining and operating semi-public water wells in the county that serve rural areas and municipalities within Seward County, as well as neighboring counties. In order to provide protection for such wells, the regulation of land uses having the potential for contamination of the groundwater source(s) is necessary near and adjacent to said wells.

**4.15.02 Prerequisite Requirements for Application of this District**

Prior to the application of this district to any lands in Seward County, the municipality or rural water district which maintains and operates water supply wells within the County shall make application to the county seeking application of this district to specified lands within the county. Prior to making such application and approval of any application of this district to any lands within the county by the County Board of Commissioners, the municipality or rural water district making such application shall have first complied with all other requirements of the Wellhead Protection Act (Neb. Rev. Stat. 46-1501 through 46-1509). These requirements include, but are not limited to the following:

1. Delineation of the Wellhead Protection Area based upon a 20 year time of travel recharge zone,
2. Approval of such Wellhead Protection Area by the Nebraska Department of Environmental Quality,
3. Completion and mapping of an inventory of potential contamination sources within the Wellhead Protection Area,
4. Formulation of emergency / contingency / long-range plans in the event of disruption of supply of water from the wells in the Wellhead Protection Area,
5. Formulation of and ability to implement an on-going Public Involvement / Education Program to permit public comment in the establishment of the Wellhead Protection Program and to provide information to the public regarding the program and voluntary cooperation with said program,
6. Development of a program to install and maintain Wellhead Protection Area signs on roadways around the Wellhead Protection Area,
7. Willingness to execute an inter-local agreement with Seward County for the administration and enforcement of the regulations of this Wellhead Protection District, willingness to accept the regulations set forth in this District, willingness to pay any administrative fees to the County which the parties involved agree, willingness to provide legal council to address any legal question or legal challenge to the Wellhead Protection District regulations, together with other terms and conditions which are acceptable to the parties involved in such agreement.

**4.15.03 Limitation on Application of This District**

This district may be applied only to Wellhead Protection Areas officially approved by the Nebraska Department of Environmental Quality. In the event the boundaries of any such officially approved Wellhead Protection Areas do not follow easily identifiable boundaries such as roads, rivers, creeks, section, quarter section or quarter-quarter section lines, the boundaries of such area shall be expanded to the nearest such lines to avoid confusion and added administrative costs associated with in-the-field determination of such boundaries.

**4.15.04 Prohibited Uses and Structures**

1. All other uses and structures which are not permitted in the underlying district either as a permitted use, accessory use or conditional use is prohibited. These shall include both new and expanding uses. Furthermore the following uses and/or structures shall be specifically prohibited:
2. All classes of open lot or environmentally controlled housing facilities as defined in Article 2 of this Resolution.
3. All waste handling facilities as defined in Article 2 of this Resolution.
4. All commercial or industrial uses that utilize or generate any materials determined by the United States Department of Environmental Protection, as hazardous materials, which store petroleum products or anhydrous ammonia or other fertilizers in excess of 50 gallons, shall be prohibited.
5. Domestic, irrigation and any other water wells closer than 1,000 feet to the water wells being protected in this Wellhead Protection Agricultural District.
  - a. Sanitary Landfills
  - b. Storage of Hazardous Waste

**ARTICLE 5: CONDITIONAL USES PERMITS, PROCEDURES, AND STANDARDS****Section 5.01 General Provisions**

The County Board of Commissioners may, by conditional use permit after a Public Hearing and referral to and recommendation from the Planning Commission (with specific findings of fact), authorize and permit conditional uses as designated in the district use regulations. Approval shall be based on findings that the location and characteristics of the use will not be detrimental to the health, safety, morals, and general welfare of the area.

Allowable uses may be permitted, enlarged, or altered upon application for a conditional use permit in accordance with the rules and procedures of this resolution. The County Board of Commissioners may grant or deny a conditional use permit in accordance with the intent and purpose of this resolution. In granting a conditional use permit, the County Board of Commissioners will authorize the issuance of a conditional use permit and shall prescribe and impose appropriate conditions, safeguards, and a specified time limit for the performance of the conditional use permit.

A request for a conditional use permit or modification of a conditional use permit may be initiated by a property owner or his or her authorized agent by filing an application with the County. The application shall be accompanied by any necessary drawing(s) or site plan and other such plans and data showing the dimensions, arrangements, descriptions data, and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in relation to the provisions set forth herein. A plan as to the operation and maintenance of the proposed use shall also be submitted.

Any approval or denial of a conditional use permit shall be accompanied by specific findings of fact.

**Section 5.02 Public Hearing**

Before issuance of any conditional use permit, the County Board of Commissioners will consider the application for the conditional use permit together with the recommendations of the Planning Commission at a public hearing after prior notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in Seward County, one time at least 10 days prior to such hearing.

Any notification and signing of property shall be per State Statutes and by specific procedures established by Seward County.

**Section 5.03 Decisions**

A majority vote of the County Board of Commissioners shall be necessary to grant a conditional use permit. In the case of no action on the permit, the County Board of Commissioners, unless a longer period was specifically granted, the conditional use permit shall become invalid after a period of 12 months from the date of such order,

**Section 5.04 Standards**

No conditional use permit shall be granted unless the Planning Commission and County Board of Commissioners has found:

1. The use shall in all other respects conform to the applicable regulations of the district in which it is located, unless specifically authorized by the Board.
2. The use shall have adequate water, sewer, and drainage facilities.
3. The use shall be in harmony with the character of the area and the most appropriate use of the land.
4. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the county.
5. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
6. That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.
7. That adequate utilities, access roads, and drainage facilities have been or are being provided.
8. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
9. The use shall not include noise, which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.

10. The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.
11. The use shall not involve any malodorous gas or matter, which is discernible on any adjoining lot or property.
12. The use shall not involve any direct or reflected glare, which is visible from any adjoining property or from any Public Street, road, or highway.
13. The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
14. The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

**Section 5.05 Conditions**

In addition to the Standards listed in Section 5.04, the Planning Commission may recommend, and the County Board of Commissioners may adopt such other conditions as may be necessary or desirable to address such concerns as the most appropriate use of the land, the conservation and stabilization of the value of property, the provision of adequate open space for light and air, concentration of populations, congestion of public streets, and the promotion of the general health, safety, welfare, convenience, and comfort of the public. The County Board of Commissioners may require such conditions and restrictions upon the Conditional Use Permit as may be deemed necessary for the protection of the public interest and to secure compliance with this resolution.

**Section 5.06 Protests**

In case of protest against such conditional use permit, signed by the owners of 20 percent or more of either of the area of the lots included in such proposed change, or of those immediately adjacent, such conditional use permit shall not become effective except by the favorable vote of 4/5 of all the members of the County Board.

**Section 5.07 Annual Renewal/Review, where required**

Where annual review of a conditional use permit is required, the applicant shall file with the zoning administrator an application and fee as may be prescribed. The zoning administrator shall review the application for compliance with conditions set in the original approval. The administrator shall renew such permit unless there is a request by the applicant to modify provisions of the original permit or the administrator finds that the use is not in conformance with the original provisions. Where such modification or noncompliance exists, the administrator shall forward the application to the Planning Commission for hearing and action. A public hearing shall be held by the planning Commission and County Board prior to issuance of the permit. An application for and approval of a renewal certificate shall be required of each owner on a yearly basis. Each applicant shall provide a site plan which shows where structures, boundaries, etc. will be located.

**ARTICLE 6: OFF-STREET PARKING**

These regulations are intended to apply to all zoning districts. However, these regulations may not be pertinent to all uses and situations.

**Section 6.01 Off-Street Automobile Storage**

1. Off-street automobile storage or standing space shall be provided on any lot on which any of the following uses are hereafter established; such space shall be provided with vehicular access to a street or an alley. For purposes of computing the number of parking spaces available in a given area, the ratio of 250 square feet per parking space shall be used.
2. In all districts except residential districts, if vehicle storage space or standing space required in section 6.02 cannot be reasonably provided on the same lot on which the principal use is conducted in the opinion of the Planning Commission and County Board, the Planning Commission and County Board may permit such space to be provided on other off-street property, provided such property lies within the same zoning district and lies within 400 feet of an entrance to such principal use. Such vehicle standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner. In Districts residential districts, required off-street parking for residential use shall be provided on the lot on which is located the use to which the parking pertains.
3. Where off-street parking is located on a lot other than the lot occupied by the use, which requires it, site plan approval for both lots is required.
4. All parking spaces for Single-family, Rooming houses, convalescent homes, Apartments, Townhouses, and two or more unit multi-family dwellings within an R-2 district and Mobile Home Parks shall be paved with asphalt or concrete. However, no lot shall be paved more than 25 percent of the Front Yard or the designated Front Yard setbacks on a corner lot.
5. Where calculations in accordance with the foregoing list results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.
6. Some uses may require two different use types to be calculated together in order to determine the total parking requirement (Example: Primary schools may require tabulation for classrooms and assembly areas).
7. Commercial establishments providing drive-in or drive-through services shall provide minimum on-site stacking distances as provided below:

**TYPES OF OPERATION**

Financial Institution – Electronic Teller  
 Financial Institution – Personal Teller  
 Car Wash – Self Service

Car Wash – Automatic / Conveyor

Drive-through Restaurant

Coffee Kiosk

- Drive side service
- Passenger side service

Drive-through Pharmacy

Service Stations

- Service Islands
- Service bay
- Quick lube / Oil change “starting gate design”
- (4 or more pump islands side by side, 18 feet apart

Gated parking lot entrance

Garage Unit or Overhead door (Major streets only)

Other uses

**MINIMUM STACKING SPACE**

Two vehicles per lane\*  
 Three vehicles per window or kiosk\*  
 Two vehicles per bay at entrance\*  
 One vehicle per bay at exit  
 200 feet per bay at entrance\*  
 One vehicle per bay at exit  
 Four vehicles per window\*

Four vehicles per lane\*  
 Two vehicles per lane\*  
 Two vehicles per lane\*

Two vehicles per pump lane\*  
 One vehicle per bay\*  
 Two vehicles per bay\*  
 One vehicle per lane\*

One vehicle per gate  
 One vehicle per door

Two vehicles per lane being serviced

\* Stacking requirements are in addition to vehicle being served.

8. Required vehicle stacking shall not block driveways or required parking stalls and shall not be located in side, front, or rear yards where parking stalls are prohibited. Each vehicle stacking unit shall be 22 feet long. Required stacking may be reduced by approval of the County Board following site plan review by the Planning Commission. Site plan review must demonstrate that circulation and loading patterns accommodate adequate space for queuing and temporary parking by users during peak hours of operation.
9. Requirements for types of buildings and uses not specifically listed herein shall be determined by the County Board, after receiving a report and recommendation from the Planning Commission, based upon comparable uses listed.
10. Unless otherwise provided, required parking and loading spaces shall not be located in a required front yard but may be located within a required side yard or rear yard.

**Section 6.02 Schedule of Minimum Off-Street Parking and Loading Requirements**

Uses	Parking Requirements	Loading Requirements
<b>Adult Entertainment Establishments</b>	1 space per 2 persons of licensed capacity	None required
<b>Bowling Alleys</b>	5 spaces per alley plus 1 space per employee	1 space per establishment
<b>Churches, Synagogues, and Temples</b>	1 space per 2 seats in main worship area Where individual seats are not provided, each 20 inches of bench or similar facility shall constitute 1 seating space	None required
<b>Clubs, including fraternal organizations</b>	1 space per 200 s.f. of floor space	1 space per establishment
<b>College/University</b>	1 spaces per every 2 students of occupancy plus 1 per employee.	2 spaces per structure
<b>Commercial Uses</b>		
<b>Agricultural Sales / Service</b>	1 space per 500 s.f. of gross floor area	1 per establishment
<b>Automotive Rental / Sales</b>	1 space per 500 s.f. of gross floor area	1 per establishment
<b>Automotive Servicing</b>	3 spaces per repair stall	None required
<b>Bars, Taverns, Nightclubs</b>	2 spaces per 5 seating places plus 1 space per 2 employees	2 spaces per establishment
<b>Body Repair</b>	4 spaces per repair stall	None required
<b>Equipment Rental / Sales</b>	1 space per 500 s.f. of gross floor area	1 Space
<b>Campground</b>	1 space per camping unit	None required
<b>Commercial Recreation</b>	1 space per 4 persons of licensed capacity	1 per establishment
<b>Communication Services</b>	1 space per 500 s.f. of gross floor area	1 per establishment
<b>Construction Sales / Service</b>	1 space per 500 s.f. of gross floor area	1 per establishment
<b>Food Sales (limited)</b>	1 space per 300 s.f. of gross floor area	1 per establishment
<b>Food Sales (general)</b>	1 space per 200 s.f. of gross floor area	2 per establishment
<b>General Retail Sales establishments</b>	1 space per 200 s.f. of gross floor area	1 per establishment
<b>Laundry Services</b>	1 space per 200 s.f. of gross floor area	None required
<b>Restaurants w/ drive-thru</b>	2 spaces per 5 seating places plus 1 space per 2 employees	2 spaces per establishment
<b>Restaurants (General)</b>	2 spaces per 5 seating places plus 1 space per 2 employees	2 spaces per establishment
<b>Convalescent and Nursing Home Services</b>	1 space per 3 beds plus 1 per employee on the largest shift	1 space per structure
<b>Daycare</b>	1 space per employee plus 1 space or loading stall per each 10 persons of licensed capacity	None required
<b>Educational Uses, Primary Facilities</b>	20% of the student capacity	2 spaces per structure
<b>Educational Uses, Secondary Facilities</b>	40% of the student capacity	2 spaces per structure
<b>Funeral Homes and Chapels</b>	8 spaces per reposeing room	2 spaces per establishment
<b>Group Care Facility</b>	1 space per 3 beds; plus, 1 space per employee	1 space per structure
<b>Group Home</b>	1 space per 3 beds; plus, 1 space per employee	1 space per structure
<b>Guidance Services</b>	1 space per 300 s.f. of gross floor area	None required
<b>Hospitals</b>	1 space per 2 licensed beds; plus, .75 times the maximum number of employees during the largest shift.	3 spaces per structure
<b>Hotels and Motels</b>	1 space per rental unit plus 1 space per employee	1 space per establishment
<b>Housing (Congregate)</b>		
<b>Assisted-Living Facilities</b>	1 space per dwelling unit plus 1 space per employee on the largest shift	1 per structure
<b>Duplex</b>	2 spaces per dwelling unit	None required
<b>Dormitories, Sororities, and Fraternities</b>	1 space per 2 beds plus 1 space per 2 employees	None required
<b>Multi-family/Apartments</b>	1 space per sleeping unit – spaces to be sited in the general proximity of where the sleeping units are located, plus, 1 additional space per apartment (for 1- and 2-sleeping units), and 1 ½ spaces per apartment (for 3-sleeping units) to accommodate guest parking.	None required
<b>Industrial Uses</b>	.75 times the maximum number of employees during the largest shift	2 spaces per establishment
<b>Libraries</b>	1 space 500 s.f. of gross floor area	1 per structure
<b>Boarding Houses/Bed and Breakfasts</b>	2 per 3 guest beds and 1 for the managing resident	None required
<b>Medical Clinics</b>	5 spaces per staff doctor, dentist, chiropractor	None required
<b>Mobile Home Park</b>	2 per dwelling unit	None required
<b>Offices and Office Buildings</b>	1 space per 200 s.f. of gross floor area	None required
<b>Residential (Single-family, attached and detached)</b>	2 spaces per dwelling unit	None required
<b>Roadside Stands</b>	4 spaces per establishment	None required
<b>Service Oriented Establishments</b>	1 space per 200 s.f. of gross floor area	1 per establishment
<b>Theaters, Auditoriums, and Places of Assembly</b>	1 space per 2 seats, or 1 space per 2 people in designed capacity, whichever is greater.	1 space per establishment
<b>Veterinary Establishments</b>	3 spaces per staff doctor	None required
<b>Wholesaling / Distribution Operations</b>	1 space per employees on the largest shift	1 spaces per establishment

**Section 6.03 Off-Street Parking: Shared Parking Requirements**

Notwithstanding the provisions of Section 6.02, in cases where parking and building patterns are such that overlapping uses of a majority of the total number of parking spaces in the center of the development pattern is likely to occur, compliance with the standard parking ratios may be decreased by the Planning Commission and County Board.

**Section 6.04 Off-Street Parking: Parking for Individuals with Disabilities**

1. In conformance with the Americans with Disabilities Act (ADA) and the Nebraska Accessibility Guidelines, if parking spaces are provided for self-parking by employees or visitors, or both, then handicapped accessible spaces shall be provided in each parking area in conformance with the table in this section. Spaces required by the table need not be provided in the particular lot. They may be provided in a different lot, if accessibility is at least equivalent, in terms of distance from an accessible entrance.

Total Parking Spaces	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of the total
1,001 and over	20 plus 1 for each 100 over 1,000

2. Access aisles adjacent to accessible spaces shall be 60 inches wide minimum. However, one in every eight accessible spaces (1:8), but not less than one, shall be served by an access aisle 96 inches wide minimum and shall be designated "van accessible" as required by Section 6.04.09 of this Resolution. The vertical clearance at such spaces shall comply with 6.04.10 of this Resolution. All such spaces may be grouped on one level of a parking structure.
3. Parking access aisles shall be part of an accessible route to the building or facility entrance. Two accessible parking spaces may share a common access aisle.
4. Parked vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces and access aisles shall be level with slopes not exceeding 1:50 (2 percent) in all directions.
5. If passenger-loading zones are provided, then at least one passenger loading zone shall comply with 6.04.11 of this Resolution.
6. At facilities providing medical care and other services for persons with mobility impairments, parking spaces complying with 6.04 of this Resolution shall be provided in accordance with 6.04.01 of this Resolution; except as follows:
  - a. Outpatient units and facilities: 10 percent of total number of parking spaces provided serving each such outpatient unit or facility;
  - b. Units and facilities that specialize in treatment or services for persons with mobility impairments: 20 percent of the total number of parking spaces provided serving each such unit or facility.
7. Valet parking facilities shall provide a passenger loading zone complying with 6.04.11 of this Resolution located on an accessible route to the entrance of the facility. Sections 6.04.01 and 6.04.03, of this Resolution do not apply to valet parking.
8. Location of accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance.
  - a. In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.
  - b. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closet to the accessible entrances.
9. Signage of accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Spaces complying 6.04.02 shall have an additional sign with the words "Van Accessible" mounted below the symbol of accessibility. Such signs shall be located so they cannot be obscured by a vehicle parked in the space.
10. Minimum vertical clearance of 114 inches shall be provided at accessible passenger loading zones and along at least one vehicle access route to such areas from site entrance(s) and exit(s). At parking spaces

complying with 6.04.02, minimum vertical clearance of 98 inches shall be provided at the parking space and along at least one vehicle access route to such spaces from site entrance(s) and exit(s).

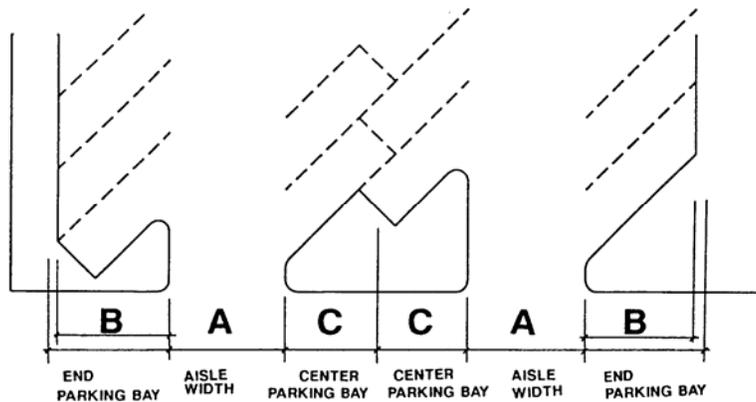
11. Passenger Loading Zones shall provide an access aisle at least 60 inches wide and 20 feet long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with accessibility standards shall be provided. Passenger loading zones and access aisles shall be level with surface slopes not exceeding 1:50 (2 percent) in all directions.

**Section 6.05 Off-Street Parking Design Criteria**

1. Standard parking stall dimensions shall not be less than nine feet by 18 feet, plus the necessary space for maneuvering into and out of the space. Where the end of the parking space abuts a curbed area at least five feet in width (with landscaping or sidewalk), an overhang may be permitted which would reduce the length of the parking space by two feet. Such overhang shall be measured from the face of the curb. For standard parking lots, minimum dimensions shall be as follows:

**Parking Configuration**

	90-degree	60-degree	45-degree
<b><u>Aisle Width (A)</u></b>			
One-way traffic	-----	18 feet	14 feet
Two-way traffic	24 feet	20 feet	20 feet
<b><u>End Parking Bay Width (B)</u></b>			
Without overhang	18 feet	20 feet	19 feet
With overhang	16 feet	18 feet	17 feet
<b><u>Center Parking Bay Width (C)</u></b>			
	18 feet	18 feet	16 feet



2. Minimum dimensions for a parallel parking space shall be nine feet by 23 feet.
3. Minimum parking dimensions for other configurations or for parking lots with compact car spaces shall be determined by the Planning Commission and County Board upon recommendation of the County Engineer.
4. A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be fulfilled shall accompany an application for a building permit. The plan shall show all elements necessary to indicate that the requirement is being fulfilled, including the following:
  - a. Delineation of individual parking and loading spaces.
  - b. Circulation area necessary to serve spaces.
  - c. Access to streets and property to be served.
  - d. Curb cuts.
  - e. Dimensions, continuity, and substance screening.
  - f. Grading, drainage, surfacing and subgrade details.
  - g. Delineation of obstacles to parking and circulation in finished parking area.
  - h. Specifications as to signs and bumper guards.
  - i. Other pertinent details.
5. Design Requirements for parking lots
  - a. Areas used for standing and maneuvering of vehicles shall be composed of a suitable surface material, to be reviewed and approved by the Planning Commission and County Board.
  - b. Said surfacing shall be maintained adequately for all weather use and drained in a manner to avoid the flow of water across sidewalks.
  - c. The structural load capacity of the surfacing should be analyzed and designed accordingly. In some instances, thicker or reinforced sections may be desirable.

- d. Artificial lighting, when provided, shall be deflected so the light does not create a shine or glare in any residential district or adjacent residential use.
- e. Access aisles shall be a sufficient width for all vehicles to turn and maneuver.
- f. Except for dwelling units, parking spaces shall be located and served by a driveway that will not require any backing movements or other maneuvering within a street right-of-way other than an alley.
- g. Drainage of all parking lots shall be designed to develop proper site drainage. Proper site drainage is required to dispose of all storm water that is accumulated on the site.
- h. The completion schedule for constructing the parking lot shall be provided to the County as part of the application. The schedule must be reviewed and agreed to by the County prior to construction. Said schedule shall be reasonable for all parties and the completion time shall be followed by the applicant. Variations to the schedule may be granted only in the case of inclement weather delays.

**ARTICLE 7: SIGN REGULATIONS**

These regulations are intended to apply to all zoning districts. However, these regulations may not be pertinent to all uses and situations.

**Section 7.01 Signs, General**

1. All signs and sign structures shall be kept in good repair and in proper state of presentation. Signs which are abandoned shall be removed within 30 days following abandonment and restored to a condition free from refuse and rubbish.
2. Flashing, animated and neon signs shall be prohibited, except for time, date, temperature, or weather signs. However, they may be allowed only upon approval of the County Board, provided it is first determined that the sign will in no way create a traffic hazard or confusion with traffic lights or with lights on emergency vehicles.
3. If any non-conforming sign is damaged and the damage exceeds two-thirds of its replacement value, it shall not be rebuilt; provided, however, that nothing herein contained shall prevent maintenance of nonconforming signs.
4. Any Commercial or Industrial District may be allowed on-premise and advertising structures related to the activity conducted on the premises, but no sign area shall exceed 12 feet in the vertical direction or 50 feet in the horizontal direction and not exceed 30 feet in height and not be spaced closer than 1,000 feet.

**Section 7.02 Signs, Standard of Measurement**

1. The total area of all signs permitted on a lot shall include:
  - a. The total area of the faces of all permanent exterior signs visible from a public way, plus
  - b. The area of permanent signs placed upon the surface of windows and doors, plus
  - c. The area within the outline enclosing the lettering, modeling or insignia of signs integral with the wall and not designed as a panel.
2. A building or use having frontage on a second street may include 20% of the length of the lot facing the second street.

**Section 7.03 Signs, Type**

1. Real Estate: Not more than two signs per lot may be used as a temporary sign no larger than six square feet (except, "A-1" or "TA-1" may be up to 32 square feet and setback a minimum of five feet from the R.O.W.) and set back 20 feet from the road right of way or road easement boundary. In no case shall these signs obstruct the visibility at any intersection or driveway.
2. Business: Small announcement or professional signs, not over six square feet in area, except that an announcement sign or bulletin board not over 18 square feet in area, set back at least 20 feet from any highway, street, road, or roadway easement may be erected in connection with any of the permitted principal uses of a nonresidential nature.
3. Wall: A sign or sign flat against a building wall when appertaining to a nonconforming use on the premises, not exceeding in the aggregate 50 square feet in area except as may be authorized by the Board of Adjustment.
4. Name plate: One nameplate not exceeding two square feet for each dwelling.
5. Billboard: Billboards, signboards, and other similar advertising signs subject to the same height and location requirements as other structures in the district and also subject to the following conditions and restrictions.
  - a. No billboard, signboard, or similar advertising signs shall be located at intersections so as to obstruct vision, hearing, or interfere with pedestrian or vehicular safety.
  - b. No billboard, signboard, or similar advertising signs shall be located within 100 feet of any lot in a residential district.
  - c. No billboard, signboard, or similar advertising signs shall exceed 500 square feet in area.
  - d. No billboard, signboard, or similar advertising signs shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property and not within 1,000 feet to another billboard.
6. Low Profile or Ground: Ground signs at least five feet from any lot line with a maximum height of six feet.
7. Projecting or Pole: One free standing or projecting sign for each enterprise on the premises of not more than 100 square feet per sign face, at no point closer to the front line or a side line than one-half of the required building setback distance, and not exceed the maximum height from the established grade level for said Zoning District. The lowest horizontal projecting feature of any post or pole mounted sign shall be eight feet above the established grade level.

8. Subdivision: Not more than one sign per entrance into the subdivision. No sign shall be greater than 50 square feet in size and shall not be higher than 42 inches in height. All signs shall have a six foot height maximum.
9. Signs hung from canopies and awnings shall be no closer than 80 inches from the bottom edge of the sign to grade below.

**Section 7.04 Sign Schedule**

Signs shall be permitted in the various districts according to the following schedule:

Zoning District	A-1	TA-1	R-1	R-2	RM	C-1	C-2	I-1	CMD	GWC	FW/FF	WHP
<b>Sign Type</b>												
<b>Real Estate</b>	+	+	+	+	+	+	+	+	(1)	(1)	(1)	(1)
<b>Business</b>	+	+	+	-	-	+	+	+	(1)	(1)	(1)	(1)
<b>Wall</b>	+	+	+	-	-	+	+	+	(1)	(1)	(1)	(1)
<b>Name Plate</b>	+	+	+	+	+	+	+	+	(1)	(1)	(1)	(1)
<b>Billboard</b>	-	-	-	-	-	+	+	+	(1)	(1)	(1)	(1)
<b>Subdivision</b>	-	-	C	C	C	C	-	+	(1)	(1)	(1)	(1)
<b>Projecting</b>	-	-	-	-	-	+	+	+	(1)	(1)	(1)	(1)
<b>Pole</b>	-	-	-	-	-	+	+	+	(1)	(1)	(1)	(1)
<b>Ground or Low Profile</b>	-	-	-	+	+	+	+	+	(1)	(1)	(1)	(1)
+ Permitted - Prohibited C Conditional Use Permit required (1) Follows the requirements of the primary or underlying district requirements												

**Section 7.05 Sign Permits**

All signs, except Real Estate signs advertising the sale of property where the sign is located and up to one business sign for the authorized business being conducted on the property where the sign is located, shall require a building permit from the Zoning Administrator prior to installing any new sign. Election signs shall be exempt so long as they do not interfere with the safety and well being of the public.

**ARTICLE 8: SUPPLEMENTAL REGULATIONS**

These regulations are intended to apply to all zoning districts. However, these regulations may not be pertinent to all uses and situations.

**Section 8.01 Radio, Television and Wireless Communication Towers****8.01.01 Intent**

Based upon the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act) grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunication services. This section is intended to regulate towers, telecommunications facilities and antennas in the County in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunication service. Telecommunication facilities, towers and antennas in the County, to protect residential areas and land uses from potential adverse impact of installation of towers and antennas through careful design, siting, and camouflaging, to promote and encourage shared use / collocation of towers and other antenna support structures rather than the construction of additional single use towers, to avoid potential damage to property caused by towers, telecommunications facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed when no longer used or are determined to be structurally unsound and to ensure that towers and antennas are compatible with surrounding land uses.

**8.01.02 Definitions**

All terms in this Section which are not specifically defined herein shall be construed in accordance with the Communications Act of 1934, the Telecommunications Act of 1996 and the Rules and Regulations of the Federal Communications Commission (FCC). As used in this Section, the following terms shall have the following meanings:

1. **ANTENNA** shall mean a device, designed and intended for transmitting or receiving television, radio, or microwave signals, direct satellite service (including direct-to-home satellite service), and/or video programming services via multi-point distribution services.
2. **ANTENNA SUPPORT STRUCTURE** shall mean any building or structure other than a tower which can be used for location of telecommunications facilities.
3. **APPLICANT** shall mean any person that applies for a Tower Development Permit.
4. **APPLICATION** shall mean a process by which the owner of a tract of land within the zoning jurisdiction of the County submits a request to develop, construct, modify, or operate a tower upon such tract of land. The term application includes all written documentation, verbal statements, and representations, in whatever, formal forum, made by an applicant to the County concerning such request.
5. **CONFORMING COMMERCIAL EARTH STATION** shall mean a satellite dish which is two meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this regulation.
6. **ENGINEER** shall mean any engineer qualified and licensed by any state or territory of the United States of America.
7. **OWNER** shall mean any person with a fee simple title or a leasehold exceeding 10 years in duration to any tract of land within the zoning jurisdiction of the County who desires to develop, construct, modify, or operate a tower upon such tract of land.
8. **PERSON** shall mean any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
9. **SATELLITE DISH ANTENNA** shall mean an antenna consisting of a radiation element intended for transmitting or receiving television, radio, microwave, or radiation signals and supported by a structure with or without a reflective component to the radiating dish, usually circular in shape.
10. **STEALTH** shall mean any telecommunications facility, tower, or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than a tower, such as light poles, power poles and trees.
11. **TELECOMMUNICATIONS FACILITIES** shall mean any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:
  - a. Any Conforming Commercial Earth Station antenna two meters or less in diameter which is located on real estate zoned **A-1, TA-1, R-1, C-1, HC or I-1**.
  - b. Any earth station antenna or satellite dish antenna of one meter or less in diameter, regardless of zoning applicable to the location of the antenna.

12. **TOWER** shall mean a self-supporting lattice, guyed, or monopole structure that supports Telecommunications Facilities. The term Tower shall not include non-commercial amateur radio operators equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively.
13. **TOWER DEVELOPMENT PERMIT** shall mean a permit issued by the County upon approval by the County Board of an application to develop a tower within the zoning jurisdiction of the County; which permit shall continue in full force and effect for so long as the tower to which it applies conforms to this Section. Upon issuance, a Tower Development Permit shall be deemed to run with the land during the permits duration and may be transferred, conveyed, and assigned by the applicant to assigns and successors-in-interest.
14. **TOWER OWNER** shall mean any person with an ownership interest of any nature in a proposed or existing tower following the issuance of a Tower Development Permit.

#### **8.01.03 Location of Towers and Construction Standards**

1. Towers shall be permitted conditional uses of land in only those zoning districts where specifically listed and authorized in this regulation.
2. No proposed tower shall be located within five miles of any existing tower, without approval of the Seward County Board of Commissioners.
3. No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the County prior to approval of its application for a Tower Development Permit by the County Board and issuance of the permit by the County. Applicants shall submit their application for a Tower Development Permit to the Zoning Administrator and shall pay a filing fee in accordance with the County's fee schedule.
4. All towers, telecommunications facilities and antennas on which construction has commenced within the zoning jurisdiction of the County after the effective date of this regulation shall conform to the Building Codes and all other construction standards set forth by the County, federal, and state law and applicable American National Standards Institute (ANSI). Upon completion of construction of a tower and prior to the commencement of use, an engineer's certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed with the Zoning Administrator.

#### **8.01.04 Application to develop a Tower**

Prior to commencement of development or construction of a tower, an application shall be submitted to the Zoning Administrator for a Tower Development Permit and shall include the following:

1. Name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. The application shall be executed by all applicants.
2. The legal description and address of the tract of land on which the tower is to be located.
3. The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one mile radius of the proposed tower, including publicly and privately owned towers and structures.
4. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicants telecommunications facilities on a tower or useable antenna support or written technical evidence from an engineer that the applicants telecommunications facilities cannot be installed or collocated on another tower or useable antenna support structure.
5. Written technical evidence from an engineer that the proposed tower will meet the established Building Code, and all other applicable construction standards set forth by the County Board and federal and state and ANSI standards.
6. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residentially used and / or zoned property and nearest roadway, street or highway.
7. Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufacturers literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.
8. Seward County shall require an appropriate space for its operational and emergency services communication equipment at no cost to the County as negotiated between the tower owner and the County.

**8.01.05 Tower Development Permit: Procedure**

After receipt of an application for a Tower Development Permit, the Zoning Administrator shall schedule a public hearing before the Planning Commission, following all statutory requirements for publication and notice, to consider such application. The Planning Commission shall receive testimony on the Tower Development Permit and shall make a recommendation to the County Board. Upon the completion of the Planning Commission Public Hearing the Zoning Administrator shall schedule a public hearing before the County Board, following all statutory requirements for publication and notice, to consider such application and the recommendation of the County Planning Commission. Notice, for each Public Hearing, shall be made at least one time and at least 10 days prior to such hearing. In addition, the Zoning Administrator shall cause a notice to be posted in a conspicuous place on the property on which action is pending. Such notice shall conform to the notice requirements in Section 5.01 of this regulation. The Planning Commission and County Board may approve the Tower Development Permit as requested in the pending application with any conditions or safeguards it deems reasonable and appropriate based upon the application and / or input received at the public hearings or deny the application. In all zoning districts in which towers are a permitted conditional use of land, the Tower Development Permit shall be deemed a conditional use permit for said tract of land.

**8.01.06 Setbacks and Separation or Buffer Requirements**

1. All towers up to 50 feet in height shall be setback on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of 50 feet in height shall be set back one additional foot for each foot of tower height in excess of 50 feet. The height of the tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.
2. Towers exceeding 100 feet in height may not be located in any residentially zoned district and must be separated from all residentially zoned districts and occupied structures other than those utilized by the tower owner, by a minimum of 200 feet or 100% of the height of the proposed tower, whichever is greater.
3. Towers of 100 feet or less in height may be located in residentially zoned districts provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the tower owner, by a minimum of 100% of the height of the tower.
4. Towers must meet the following minimum separation requirements from other towers:
  - a. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed by a minimum of 750 feet.
  - b. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of 1,500 feet.

**8.01.07 Structural Standards for Towers Adopted**

The *Structural Standards for Steel Antenna Towers and Antenna Supporting Structures*, 1991 Edition (ANSI/EIA/TIA 222-E-1991) is hereby adopted, together with any amendments thereto as may be made from time to time, except such portions as are hereinafter deleted, modified, or amended by regulation and set forth in this Article of the Zoning Regulation.

**8.01.08 Illumination and Security Fences**

1. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA).
  - a. No day running lights and shall be painted per FAA requirements.
  - b. In no case shall said tower be allowed to operate a strobe lighting system after sunset and before dawn.
2. All self-supporting lattice or guyed towers shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which will preclude to the extent practical, unauthorized climbing of said structure.

**8.01.09 Exterior Finish**

Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, subject to review and approval by the Planning Commission and County Board as part of the application approval process. All towers that must be approved as a conditional use shall be stealth design unless stealth features are impractical or the cost of such features represents an undue burden on the applicant.

**8.01.10 Landscaping**

All tracts of land on which towers, antenna support structures, telecommunications facilities and/or antennas are located shall be subject to the landscaping requirements of the County.

**8.01.11 Maintenance, Repair or Modification of Existing Towers**

All towers constructed or under construction on the date of approval of this regulation may continue in existence as a non-conforming structure and may be maintained or repaired without complying with any of the requirements of this Section. Nonconforming structures or uses may not be enlarged or the degree of nonconformance increased without complying with this Section, including applying for and obtaining a Tower Development Permit. Any modification or reconstruction of a tower constructed or under construction on the date of approval of this regulation shall be required to comply with the requirements of this Section including applying for and obtaining a Tower Development Permit. Said application shall describe and specify all items which do not comply with this Section and may request subject to final review and approval of the County Board, an exemption from compliance as a condition of the Tower Development Permit.

**8.01.12 Inspections**

The County reserves the right to conduct inspection of towers, antenna support structures, telecommunications facilities and antenna upon reasonable notice to the tower owner or operator to determine compliance with this Section and to prevent structural and equipment failures and accidents which may cause damage, injuries or nuisances to the public. Inspections may be made to determine compliance with the County's Zoning Codes and any other construction standards set forth by the County, federal, and state law or applicable ANSI standards. Either an employee of the County's Zoning Office or a duly appointed independent representative of the County shall make inspections.

**8.01.13 Maintenance**

The towers, antenna support structures, telecommunications facilities and antennas shall at all times be kept and maintained in good condition, order and repair so that the same does not constitute a nuisance to or a danger to the life or property of any person or the public.

**8.01.14 Abandonment**

If any tower shall cease to be used for a period of one year, the Zoning Administrator shall notify the tower owner that the site will be subject to determination by the Zoning Administrator that the site has been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, the tower owner shall have 30 days to show preponderance of evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower has been in use or under repair during the relevant period, the Zoning Administrator shall issue a final determination of abandonment of the site and the tower owner shall have 75 days thereafter to dismantle and move the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Zoning Administrator, or his/her designee and a written request shall be directed to the County Attorney to proceed to abate said public nuisance pursuant to authority of the Revised Nebraska State Statutes and Seward County codes, and charge the costs thereof against the real estate on which the tower is located or the owner of record of the said real estate.

**8.01.15 Satellite Dish Antennas, Regulation**

Upon adoption of this regulation, installation of satellite dish antennas shall be permitted within the zoning jurisdiction of Seward County only upon compliance with the following criteria:

1. In residentially zoned districts, satellite dish antennas may not exceed a diameter of 10 feet.
2. Single family residences may not have more than one satellite dish antenna over three feet in diameter.
3. Multiple family residences with 10 or less dwelling units may have no more than one satellite dish antenna over three feet in diameter. Multiple family residences with more than 10 dwelling units may have no more than two satellite dish antennas over three feet in diameter.
4. In residential zoning districts, satellite dish antennas shall not be installed in the required front yard setback or side yard setback area.
5. All satellite dish antennas installed within the zoning jurisdiction of Seward County, upon adoption of this regulation, shall be of a neutral color such as black, gray, brown, or such color as will blend with the surrounding dominant color in order to camouflage the antenna.

**Section 8.02 Sand, Gravel, Mineral, Stone, Rock, Soil Extraction and Quarries**

1. The application shall include a grading map showing contours, proposed excavation contours, and proposed final grade contours.
2. The applicant shall identify the effect of the extraction on the groundwater table of the adjoining properties.
3. The application shall identify proposed vehicle and equipment storage areas.
4. Erosion controls, including retention and sediment basins shall be provided during extraction to prevent a change in the character of runoff onto adjacent land.

5. The surface shall be maintained in such a manner that surface waters do not collect or pond, unless specifically approved. Underground drainage may be supplied if it connects to an existing drainage facility.
6. Topsoil shall be collected and stored for redistribution on the site at the termination of the operation;
7. Excavation shall be conducted in such a way as not to constitute a hazard to any persons, nor to the adjoining property. All cuts shall be returned to a slope of less than three to one (3-1) as soon as possible. Safety screening shall be required at the outer boundary of the site; visual screening will also be required where said boundary is adjacent to residential or recreational land.
8. Within one year after completion of the excavation on any portion of the site, the topography and soils shall be stabilized, and the land shall be graded, seeded, and sodded so as to prevent erosion and siltation, and to protect the health, safety, and general welfare of the public.

### Section 8.03 Small Wind Energy Systems

- 8.03.01 *Purpose:* It is the purpose of this regulation to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity.
- 8.03.02 *Definitions:* The following are defined for the specific use of this section.
1. **Small Wind Energy System** shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.
  2. **Tower Height** shall mean the height above grade of the first fixed portion of the tower, excluding the wind turbine itself.
- 8.03.03 *Requirements:* Small wind energy systems shall be permitted as an Accessory Use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met:
1. Tower Height
    - a. For property sizes between ½ acre and one acre the tower height shall be limited to 80 feet.
    - b. For property sizes of one acre or more, there is no limitation on tower height, except as imposed by FAA regulations.
  2. Noise
    - a. Small wind energy systems shall not exceed 60 dBA, as measured at the closest neighboring inhabited dwelling unit.
    - b. The noise level may be exceeded during short term events such as utility outages and/or severe wind storms.
  3. Approved Wind Turbines
    - a. Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.
  4. Compliance with Building and Zoning Codes
    - a. Applications for small wind energy systems shall be accomplished by standard drawings of the wind turbine structure, including the tower base, and footings.
    - b. An engineering analysis of the tower showing compliance with official building code of the governing body and/or the State of Nebraska and certified by a licensed professional engineer shall also be submitted.
    - c. Wet stamps shall not be required.
  5. Compliance with FAA Regulations
    - a. Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
  6. Compliance with National Electrical Code
    - a. Permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
    - b. The manufacturer frequently supplies this analysis.
  7. Utility Notification
    - a. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.
    - b. Off-grid systems shall be exempt from this requirement.
  8. Setbacks
    - a. No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site.
  9. All towers shall adhere to the setbacks established in the following table:

	Wind Turbine – Non Commercial WECS	Meteorological Towers
Property Lines	One times the total height	One times the tower height.
Neighboring Dwelling Units*		One times the tower height.
Road Rights-of-Way**	One times the tower height.	One times the tower height.
Other Rights-of-Way	One times the tower height.	One times the tower height.
Wildlife Management Areas and State Recreational Areas	NA	600 feet
Wetlands, USFW Types III, IV, and V	NA	600 feet
Other structures adjacent to the applicant's sites	NA	One times the tower height.
Other existing WECS not owned by the applicant.	NA	
River Bluffs		

\* The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System.

\*\* The setback shall be measured from any future Rights-of-Way if a planned change or expanded right-of-Way is known.

**Section 8.04 Commercial/Utility Grade Wind Energy Systems**

8.04.01 Purpose: It is the purpose of this regulation to promote the safe, effective and efficient use of commercial/utility grade wind energy conversion systems within Boone County.

8.04.02 Definitions: The following are defined for the specific use of this section.

1. **AGGREGATE PROJECT** shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.
2. **COMMERCIAL WECS** shall mean a wind energy conversion system of equal to or greater than 100 kW in total name plate generating capacity.
3. **HUB HEIGHT** shall mean the distance from ground level as measured to the centerline of the rotor.
4. **FALL ZONE** shall mean the area, defined as the furthest distance from the tower base, in which a guyed or tubular tower will collapse in the event of a structural failure. This area may be less than the total height of the structure.
5. **FEEDER LINE** shall mean any power line that carries electrical power from one or more wind turbines to the point of interconnection with the project distribution system, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.
6. **METEOROLOGICAL TOWER** shall mean, for purposes of this regulation, a tower which is erected primarily to measure wind speed and directions plus other data relevant to siting a Wind Energy Conversion System. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Roads, or other applications to monitor weather conditions.
7. **PROPERTY LINE** shall mean the boundary line of the area over which the entity applying for a Wind Energy Conversion System permit has legal control for the purpose of installing, maintaining and operating a Wind Energy Conversion System.
8. **PUBLIC CONSERVATION LANDS** shall mean land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations, Public conservation lands will also include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.
9. **ROTOR DIAMETER** shall mean the diameter of the circle described by the moving rotor blades.
10. **SMALL WIND ENERGY SYSTEM** shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

11. **SUBSTATIONS** shall mean any electrical facility to convert electricity produced by wind turbines to a higher voltage for interconnection with high voltage transmission lines.
12. **TOTAL HEIGHT** shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.
13. **TOWER** shall mean the vertical structures, including the foundation, that support the electrical generator, rotor blades, or meteorological equipment.
14. **TOWER HEIGHT** shall mean the total height of the Wind Energy Conversion System exclusive of the rotor blades.
15. **TRANSMISSION LINE** shall mean the electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
16. **WIND ENERGY CONVERSION SYSTEM** shall mean an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.
17. **WIND TURBINES** shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture the wind.

8.04.03 *Requirements:* Commercial/Utility Grade wind energy systems shall be permitted as a Conditional Use within any district where the use is listed and allowed. The following requirements and information shall be met and supplied:

1. The name(s) of project applicant.
2. The name of the project owner.
3. The legal description and address of the project.
4. A description of the project including: Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.
5. Site layout, including the location of property lines, wind turbines, feeder lines, and all related accessory structures. This site layout shall include distances and be drawn to scale.
6. Certification by an Engineer competent in disciplines of WEC's.
7. Documentation of land ownership or legal control of the property.
8. The latitude and longitude of individual wind turbines; included with this shall be an area or zone in close proximity that meets all setbacks; where actual WEC will be considered.
9. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other Wind Energy Conversion System, within 10 rotor distances of the proposed Wind Energy Conversion System not owned by the applicant.
10. Location of wetlands, scenic, and natural areas (including bluffs) within 1,320 feet of the proposed Wind Energy Conversion System.
11. An Acoustical Analysis that certifies that the noise requirements within this regulation can be met
12. The applicant shall supply the emergency management agency and/or fire departments with a basic emergency response plan.
13. FAA and FCC permit, if necessary. Applicant shall submit permit or evidence that the permit has been filed with the appropriate agency.

8.04.04 *Aggregated Projects:*

1. Aggregated projects may jointly submit a single application and be reviewed under joint proceedings, including notices, public hearings, reviews and as appropriate approvals.
2. Permits may be issued and recorded separately.
3. Joint projects will be assessed fees as one project.

8.04.05 *Setbacks:*

All towers shall adhere to the setbacks established in the following table:

	Wind Turbine – Commercial/Utility WECS	Meteorological Towers
Property Lines	150 feet from property lines; however, the setback may be less when two adjoining property owners are within the aggregate project.	One times the tower height.
Neighboring Dwelling Units*	1,000 feet	One times the tower height.
Road Rights-of-Way**	One times the tower height.	One times the tower height.
Other Rights-of-	One times the tower height.	One times the tower height.

Way		
Wildlife Management Areas and State Recreational Areas	600 feet	600 feet
Wetlands, USFW Types III, IV, and V	600 feet	600 feet
Other structures and cemeteries adjacent to the applicant's sites	One times the tower height.	One times the tower height.
Other existing WECS not owned by the applicant.	6,000 lineal feet	
River Bluffs	1,320 feet	

\* The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System.

\*\* The setback shall be measured from any future Rights-of-Way if a planned change or expanded Right-of-Way is known.

**8.04.06 *Special Safety and Design Standards:*** All towers shall adhere to the following safety and design standards:

1. Clearance of rotor blades or airfoils must maintain a minimum of 12 feet of clearance between their lowest point and the ground.
2. All Commercial/Utility WECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information.
3. All wind turbines, which are a part of a commercial/utility WECS, shall be installed with a tubular, monopole type tower.
4. Consideration shall be given to painted aviation warnings on all towers less than 200 feet.
5. Color and finish: All wind turbines and towers that are part of a commercial/utility WECS shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matte or non-reflective.
6. Lighting: Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations. Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds. Red pulsating incandescent lights should be avoided.
7. Other signage: All other signage shall comply with the sign regulations found in these regulations.
8. Feeder Lines: All communications and feeder lines associated with the project distribution system installed as part of a WECS shall be buried, where physically feasible. Where obstacles to the buried lines create a need to go above ground, these lines may be placed above ground only to miss the obstacle. All distribution and/or transmission lines outside of the project distribution system may be above ground.
9. Waste Disposal: Solid and Hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.
10. Discontinuation and Decommissioning:
  - a. A WECS shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed to four feet below ground level within 180 days of the discontinuation of use. The 180 days may be extended if proof of weather delays is provided.
  - b. Each Commercial/Utility WECS shall have a Decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon being discontinued use. The cost estimates shall be made by a competent party; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for decommissioning and removal of the WECS and accessory facilities.
11. Noise: No Commercial/Utility WECS shall exceed 50 dBA at the nearest structure or use occupied by humans.
12. Interference: The applicant shall minimize or mitigate interference with any commercial or public safety electromagnetic communications, such as radio, telephone, microwaves, or television signals

caused by any WECS. The applicant shall notify all communication tower operators within five miles of the proposed WECS location upon application to the county for permits.

13. Roads: Applicants shall:
  - a. Identify all county, municipal or township roads to be used for the purpose of transporting WECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted jurisdictions prior to construction.
  - b. Conduct a pre-construction survey, in coordination with the appropriate jurisdictions to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public road.
  - c. Be responsible for restoring the road(s) and bridges to preconstruction conditions.
14. Drainage System: The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the WECS.

#### **Section 8.05 Waste Disposal Sites and Landfills**

A Conditional Use Permit may be granted for any waste material disposal, garbage disposal or land fill operations in the designated zoning district; provided the following special conditions shall be considered:

1. The effects on the adjacent property, traffic, and
2. The public necessity and advantage.
3. The maintenance of access routes related to all weather conditions and droppings of rubbish and litter
4. The effects on underground water quality.
5. The immediate and long term effects on the environment and the public.
6. The concerns for public safety.
7. The application shall include documents to indicate conformance to all applicable governmental regulations and standards.
8. The application shall include affidavits or permits from the Environmental Protection Agency and/or the Nebraska Department of Environmental Quality, in the event an approval is required by these agencies.

#### **Section 8.06 Sanitary Requirements**

1. It shall be unlawful to occupy a residential structure or any building for living purposes that does not have an approved waste system. For purposes of this Article, an approved system shall meet or be equivalent to criteria as defined by "Rules and Regulations for the Design, Operation and Maintenance of Septic Tank Systems in Nebraska," as published by the Nebraska Department of Environmental Quality (NDEQ).
2. Soil percolation tests shall be conducted in the area where the system will be located for those soils having severe limitations for such systems as identified by the Seward County Soil Survey and Seward County Comprehensive Plan.
3. A waste disposal system evaluation shall be required for septic systems serving all new residences. Evaluations shall be on forms furnished by the office of the Zoning Administrator.

#### **Section 8.07 Home Occupations and Home Based Businesses in Residential Districts**

8.07.01 *Intent:* A home occupation or home based business shall be permitted when said occupation or business is conducted on residentially used and/or zoned property and is considered customary, traditional, and incidental to the primary use of the premises as a residence, and shall not be construed as a business.

8.07.02 *Procedure:*

1. Home Occupations: An application for a home occupation, within residentially zoned areas shall be made to the Seward County Zoning Administrator on a form provided. Said application shall be approved, provided the performance criteria are met.
2. Home Based Businesses: An application for a home based business, within residentially zoned areas shall be made to the Seward County Zoning Administrator on a form provided. Said application shall be approved, provided the performance criteria are met.

8.07.03 *Permitted home occupations:*

1. Workrooms for dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, jewelry making, custom home furnishings work, carpentry work, and furniture repair.
2. Offices for professionals such as, but not limited to, attorneys, architects, engineers, planners, real estate agents, insurance, notary public, manufacturer's representative, clergy, journalists, painters, photographers, dentists, doctors, draftspersons, insurance agents, accountants, editors, publishers, psychologists, contract management, graphic design, construction contractors, landscape design, surveyors, cleaning services, salespersons, and travel agents.

3. Child Nurseries or Child Care
  4. Personal services, including Barber and Beauty Shops (limited to one chair), manicure and pedicure shops, pet grooming, catering, and chauffeuring services.
  5. Instructional services, including music, dance, art and craft classes and tutoring.
  6. Repair services, including watch and clock, small appliances, computers, electronic devices, lawnmowers including engines (limited to garage areas).
  7. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
  8. Offices for services provided outside the home such as lawn care, snow removal, and other similar uses.
- 8.07.04 *Prohibited home occupations:*
1. Kennels, stables, veterinarian clinics/hospitals.
  2. Medical and dental clinics, hospitals.
  3. Restaurants, clubs, drinking establishments.
  4. Motor vehicle / small engine repair.
  5. Undertaking and funeral parlors.
  6. Adult Entertainment Uses
- 8.07.05 *Performance Standards for Home Occupations:*
1. The primary use of the structure or dwelling unit shall remain residential and the operator of the home occupation shall remain a resident in the dwelling unit.
  2. The operator conducting the home occupation shall be the sole entrepreneur, and the operator shall not employ any other person other than a member of the immediate family residing on the premises.
  3. No structural additions, enlargements, or exterior alterations changing the residential appearance to a business appearance shall be permitted.
  4. No more than 25 percent of the floor area of any one story of the dwelling unit shall be devoted to such home occupation.
  5. Such home occupations shall be conducted entirely within the primary building or dwelling unit used as a residence.
  6. Additional and/or separate entrance(s) that do not match the residential structural design shall not be constructed for the purpose of conducting the home occupation or home based business.
  7. Additional off-street parking or loading facilities, including additional driveway construction, other than the requirements for the permitted residence, shall be permitted.
  8. The display of goods and/or external evidence of the home occupation shall not be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two sq. ft. in total surface area.
  9. No retail sales are permitted from the site other than incidental sales related to services provided.
  10. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
  11. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.
  12. All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Nebraska State Statutes.
- 8.07.06 *Permitted home based businesses:*
1. Workrooms for custom home furnishings work, carpentry work, and furniture repair.
  2. Offices for professionals such as, but not limited to, attorneys, architects, engineers, planners, real estate agents, insurance, notary public, manufacturer's representative, clergy, journalists, painters, photographers, draftspersons, insurance agents, accountants, editors, publishers, psychologists, contract management, graphic design, construction contractors, landscape design, surveyors, cleaning services, salespersons, and travel agents.
  3. Personal services, including Barber and Beauty Shops (limited to two chairs), manicure and pedicure shops, pet grooming, catering, and chauffeuring services.
  4. Repair services, including watch and clock, small appliances, computers, electronic devices, lawnmowers including engines (limited to garage areas).
  5. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
  6. Offices for services provided outside the home such as lawn care, snow removal, and other similar uses.

7. Child Nurseries or Child Care
- 8.07.07 *Prohibited home based businesses:*
1. Kennels, stables, veterinarian clinics/hospitals.
  2. Medical and dental clinics, hospitals.
  3. Restaurants, clubs, drinking establishments.
  4. Motor vehicle / small engine repair.
  5. Undertaking and funeral parlors.
  6. Adult Entertainment Uses
- 8.07.08 *Performance Standards for Home Based Businesses:*
1. The primary use of the structure or dwelling unit shall remain residential and the operator of the home based business shall remain a resident in the dwelling unit.
  2. The operator conducting the home based business shall be the sole entrepreneur. However, the operator may employ immediate family members residing on the premises, as well as, an additional two unrelated individuals for purposes of conducting business.
  3. Structural additions, enlargements, or exterior alterations may be completed in order to provide space for the home based business. Any alterations and additions are limited to a one time expansion and shall be limited to 25 percent of the floor area of the main floor at the time of application. All alterations and additions shall meet all building and zoning criteria of Seward County.
  4. No more than 25 percent of the floor area of any one story of the dwelling unit shall be devoted to such home based business.
  5. Such home based business shall be conducted entirely within the primary building or dwelling unit used as a residence. Home based businesses may also be located with an existing Accessory Building.
  6. Home based businesses conducted within an Accessory Building shall be confined to the structure of the said Accessory Building. In addition, the applicant must prove that the Accessory Building meets all Life Safety Codes including electrical compliance for a commercial business.
  7. All alterations and additions shall be completed in a manner that matches the existing structure and shall have a residential appearance to the exterior. All separate entrance(s) shall be discrete and match the residential design.
  8. Additional off-street parking or loading facilities, beyond the parking provided for the residence, shall be provided and shall meet the following standards:
    - a. Two additional spaces for the unrelated employees;
    - b. Two additional spaces to be used for client/visitor parking;
    - c. The additional parking required in items (a) and (b) shall not be provided in any required Front, Side or Rear Yard setback;
    - d. All additional parking and loading spaces shall be screened using landscaping materials and opaque privacy fencing not more than six feet in height;
    - e. Applicant shall not relocate parking for the residence into any Front, Side or Rear Yard Setback in order to provide the additional parking.
    - f. All new off-street parking is encouraged to be toward the rear yard portion of the property and screened from view from the street.
  9. The display of goods and/or external evidence of the home based business shall not be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two sq. ft. in total surface area.
  10. No retail sales are permitted from the site other than incidental sales related to services provided.
  11. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
  12. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.
  13. All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Nebraska State Statutes.
- 8.07.09 *Revocation:*
1. Conditions. A home occupation and home based business permit granted in accordance with the provisions of this section may be terminated if the Zoning Administrator makes any of the following findings:
    - a. That any condition of the home occupation or home based business permit has been violated;

- b. That the use has become detrimental to the public health or safety or is deemed to constitute a nuisance;
  - c. That the permit was obtained by misrepresentation or fraud;
  - d. That the use for which the permit was granted has ceased or has been suspended for six consecutive months or more; and
  - e. That the condition of the premises, or the district of which it is a part, has changed so that the use may no longer be justified under the purpose and intent of this section.
2. Appeal. Within five working days of a revocation, an appeal may be made to the Seward County Board of Adjustment. The Zoning Administrator within ten working days of the receipt of an appeal of his or her revocation actions, shall report his or her findings of fact and decision to the Seward County Board of Adjustment. The Seward County Board of Adjustment shall determine the facts and may revoke, modify or allow to remain unchanged the home occupation or home based business permit in accordance with the Board's final determination.
  3. Nontransferable. A home occupation or home based business permit granted in accordance with the provisions of this article shall not be transferred, assigned, nor used by any person other than the permittee, nor shall such permit authorize such home occupation at any location other than the one for which the permit is granted.

### Section 8.08 Home Occupations and Home Based Businesses within the A-1 and TA-1 Districts

- 8.08.01 *Intent:* A home occupation or home based business shall be permitted when said occupation or business is conducted on agriculturally used and/or zoned property and is considered customary, traditional, and incidental to the primary use of the premises as a residence, and shall not be construed as a business.
- 8.08.02 *Procedure:*
1. Home Occupations: An application for a home occupation, within agriculturally zoned areas shall be made to the Seward County Zoning Administrator on a form provided. Said application shall be approved, provided the performance criteria are met.
  2. Home Based Businesses: An application for a home based business, within agriculturally zoned areas shall be made to the Seward County Zoning Administrator on a form provided. Said application shall be approved, provided the performance criteria are met.
- 8.08.03 *Permitted home occupations:*
1. Workrooms for dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, jewelry making, custom home furnishings work, carpentry work, and furniture repair.
  2. Offices for professionals such as, but not limited to, attorneys, architects, engineers, planners, real estate agents, insurance, notary public, manufacturer's representative, clergy, journalists, painters, photographers, dentists, doctors, draftspersons, insurance agents, accountants, editors, publishers, psychologists, contract management, graphic design, construction contractor services, landscape design, surveyors, cleaning services, salespersons, and travel agents.
  3. Child Nurseries or Child Care.
  4. Personal services, including Barber and Beauty Shops (limited to one chair), manicure and pedicure shops, pet grooming, catering, and chauffeuring services.
  5. Instructional services, including music, dance, art and craft classes and tutoring.
  6. Repair services, including watch and clock, small appliances, computers, electronic devices, lawnmowers including engines, and motor vehicles (limited to no more than two at one time).
  7. Offices and shops in association to one another, including motorized and non-motorized racing vehicles, construction services with equipment storage and maintenance, monument sales and engraving, freight hauling with equipment storage and maintenance (not including warehousing of freight), aerial spraying with equipment storage and maintenance, welding, and excavating services with equipment storage and maintenance.
  8. Warehousing and storage of products associated with agri-businesses, including seed sales, fertilizer sales (as allowed by state and federal regulations), and herbicide and pesticide sales (as allowed by state and federal regulations).
  9. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
  10. Offices for services provided outside the home such as lawn care, snow removal, and other similar uses.
- 8.08.04 *Prohibited home occupations:*

1. Medical clinics and hospitals.
2. Restaurants, clubs, drinking establishments.
3. Undertaking and funeral parlors.
4. Adult Entertainment Uses

8.08.05 *Performance Standards for Home Occupations:*

1. The primary use of the structure or dwelling unit shall remain residential and the operator of the home occupation shall remain a resident in the dwelling unit.
2. The operator conducting the home occupation shall be the sole entrepreneur, and the operator shall not employ any other person other than a member of the immediate family residing on the premises.
3. No structural additions, enlargements, or exterior alterations changing the residential appearance to a business appearance shall be permitted.
4. No more than 25 percent of the floor area of any one story of the dwelling unit shall be devoted to such home occupation when contained within the principal structure.
5. Home occupations may be located within an accessory structure including machine sheds, barns, and garages. Said accessory structure shall be required to meet all pertinent State codes for Life Safety including electrical wiring depending upon the nature of the business.
6. When a home occupation is located in an accessory structure there shall not be any additional storage allowed in the open. All storage shall be contained within appropriate facilities and out of site.
7. Home occupations focused on repairs and maintenance of vehicles and motors shall not be allowed to storage damaged, unlicensed, salvaged, vehicles or parts on site and outside the structure where said home occupations are taking place.
8. When storage of chemicals associated with agricultural businesses are stored on site, the storage shall comply with all state and Federal regulations and shall be kept in a place that is secured, dry and locked from general access.
9. Additional and/or separate entrance(s) that do not match the residential structural design shall not be constructed for the purpose of conducting the home occupation or home based business.
10. Additional off-street parking or loading facilities, including additional driveway construction, other than the requirements for the permitted residence, shall be permitted.
11. The display of goods and/or external evidence of the home occupation shall not be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two sq. ft. in total surface area.
12. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
13. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.
14. All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Nebraska State Statutes.

8.08.06 *Permitted home based businesses:*

1. Workrooms for dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, jewelry making, custom home furnishings work, carpentry work, and furniture repair.
2. Offices for professionals such as, but not limited to, attorneys, architects, engineers, planners, real estate agents, insurance, notary public, manufacturer's representative, clergy, journalists, painters, photographers, dentists, doctors, draftspersons, insurance agents, accountants, editors, publishers, psychologists, contract management, graphic design, construction contractor services, landscape design, surveyors, cleaning services, salespersons, and travel agents.
3. Child Nurseries or Child Care.
4. Personal services, including Barber and Beauty Shops (limited to one chair), manicure and pedicure shops, pet grooming, catering, and chauffeuring services.
5. Instructional services, including music, dance, art and craft classes and tutoring.
6. Repair services, including watch and clock, small appliances, computers, electronic devices, lawnmowers including engines, and motor vehicles (limited to no more than two at one time).
7. Offices and shops in association to one another, including motorized and non-motorized racing vehicles, construction services with equipment storage and maintenance, monument sales and engraving, freight hauling with equipment storage and maintenance (not including warehousing of freight), aerial spraying with equipment storage and maintenance, welding, and excavating services with equipment storage and maintenance.

8. Warehousing and storage of products associated with agri-businesses, including seed sales, fertilizer sales (as allowed by state and federal regulations), and herbicide and pesticide sales (as allowed by state and federal regulations).
  9. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
  10. Offices for services provided outside the home such as lawn care, snow removal, and other similar uses.
- 8.08.07 *Prohibited home based businesses:*
1. Medical clinics and hospitals.
  2. Restaurants, clubs, drinking establishments.
  3. Undertaking and funeral parlors.
  4. Adult Entertainment Uses
- 8.08.08 *Performance Standards for Home Based Businesses:*
1. The primary use of the structure or dwelling unit shall remain residential and the operator of the home based business shall remain a resident in the dwelling unit.
  2. The operator conducting the home based business shall be the sole entrepreneur. However, the operator may employ immediate family members residing on the premises, as well as, an additional two unrelated individuals for purposes of conducting business.
  3. Structural additions, enlargements, or exterior alterations may be completed in order to provide space for the home based business. Any alterations and additions are limited to a one time expansion and shall be limited to 25 percent of the floor area of the main floor at the time of application. All alterations and additions shall meet all building and zoning criteria of Seward County.
  4. No more than 25 percent of the floor area of any one story of the dwelling unit shall be devoted to such home based business when contained within the principal structure.
  5. Home based businesses may be located within an accessory structure including machine sheds, barns, and garages. Said accessory structure shall be required to meet all pertinent State codes for Life Safety including electrical wiring depending upon the nature of the business.
  6. When a home based business is located in an accessory structure there shall not be any additional storage allowed in the open. All storage shall be contained within appropriate facilities and out of site.
  7. Home based businesses focused on repairs and maintenance of vehicles and motors shall not be allowed to storage damaged, unlicensed, salvaged, vehicles or parts on site and outside the structure where said home based business is taking place.
  8. When storage of chemicals associated with agricultural businesses are stored on site, the storage shall comply with all state and Federal regulations and shall be kept in a place that is secured, dry and locked from general access.
  9. All alterations and additions shall be completed in a manner that matches the existing structure and shall have a residential appearance to the exterior. All separate entrance(s) shall be discrete and match the residential design.
  10. Additional off-street parking or loading facilities, beyond the parking provided for the residence, shall be provided and shall meet the following standards:
    - a. Two additional spaces for the unrelated employees;
    - b. Two additional spaces to be used for client/visitor parking;
    - c. The additional parking required in items (a) and (b) shall not be provided in any required Front, Side or Rear Yard setback;
    - d. All additional parking and loading spaces shall be screened using landscaping materials and opaque privacy fencing not more than six feet in height;
    - e. Applicant shall not relocate parking for the residence into any Front, Side or Rear Yard Setback in order to provide the additional parking.
    - f. All new off-street parking is encouraged to be toward the rear yard portion of the property and screened from view from the street.
  11. The display of goods and/or external evidence of the home based business shall not be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two sq. ft. in total surface area.
  12. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.

13. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.
14. All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Nebraska State Statutes.

8.08.09 *Revocation:*

1. Conditions. A home occupation and home based business permit granted in accordance with the provisions of this section may be terminated if the Zoning Administrator makes any of the following findings:
  - a. That any condition of the home occupation or home based business permit has been violated;
  - b. That the use has become detrimental to the public health or safety or is deemed to constitute a nuisance;
  - c. That the permit was obtained by misrepresentation or fraud;
  - d. That the use for which the permit was granted has ceased or has been suspended for six consecutive months or more; and
  - e. That the condition of the premises, or the district of which it is a part, has changed so that the use may no longer be justified under the purpose and intent of this section.
2. Appeal. Within five working days of a revocation, an appeal may be made to the Seward County Board of Adjustment. The Zoning Administrator within ten working days of the receipt of an appeal of his or her revocation actions, shall report his or her findings of fact and decision to the Seward County Board of Adjustment. The Seward County Board of Adjustment shall determine the facts and may revoke, modify or allow to remain unchanged the home occupation or home based business permit in accordance with the Board's final determination.
3. Nontransferable. A home occupation or home based business permit granted in accordance with the provisions of this article shall not be transferred, assigned, nor used by any person other than the permittee, nor shall such permit authorize such home occupation at any location other than the one for which the permit is granted.

**Section 8.09 Public Utility Facilities Lot Size Requirements**

Notwithstanding any other provision of these Regulations, none of the following public utility or public service uses shall be required to comply with the lot size requirements and bulk regulations of the zoning district in which they are located:

1. Electric and telephone substations and distribution systems.
2. Gas regulator stations.
3. Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves or other similar equipment for the transmission of electricity, gas or water.
4. Pumping stations.
5. Radio, television and microwave transmitting or relay stations and towers, except as may be required to meet setback requirements.
6. Transformer station.
7. Water tower or standpipes.

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**ARTICLE 9: ADMINISTRATION AND ENFORCEMENT****Section 9.01 Zoning Administrator**

The Director of the Seward County Regional Planning Department shall serve as the Zoning Administrator, as appointed by the County Board of Commissioners and shall administer and enforce these Regulations. The Zoning Administrator may be provided with the assistance of such other persons as the County Board of Commissioners may direct.

**Section 9.02 Zoning Permit Required**

It shall be unlawful to commence or do any excavating, erecting, constructing, reconstructing, enlarging, altering, or moving of any building or structure or to use or occupy or permit the use or occupancy of any building, land or premises, or construction or connection to water or sewer facilities or part thereof hereafter created, erected, change, converted, or wholly or partly altered or enlarged in its use or structure until a zoning permit shall have been issued therefore by the Zoning Administrator stating that the proposed use of the building or land conforms to these regulations.

The Zoning Administrator may issue a temporary zoning permit for uses in any district for the purpose of uses and buildings incidental and required in the construction of a principal permitted use in the district in which it is located and highway construction, provided that such use be of a temporary nature and does not involve the erection of substantial buildings. Such permit shall be granted in the form of a temporary and revocable permit for not more than six months subject to conditions as will safeguard the public health, safety, and general welfare.

**Section 9.03 Application for Zoning Permit**

Written application on forms prescribed and furnished by the Zoning Administrator stating such information as may be required for the enforcement of these regulations shall be submitted and shall be accompanied by plans in duplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon or to be changed in its use, in whole or in part, the exact location, existing and intended use of each building or structure or part thereof, the number of families or housekeeping units the building is designed to accommodate and when no buildings are involved, the location of the present use and proposed use to be made of the lot, existing and proposed water and sanitary sewer facilities, as may be necessary to determine and provide for the enforcement of these regulations. One copy of such plans shall be returned to the owner when such plans shall have been approved by the Zoning Administrator together with such zoning permits as may be granted. All dimensions shown on these plans relating to the location and size of the lot to be built upon shall be based on actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

The Zoning Administrator shall issue a written permit, or denial, thereof, with reasons in writing within 20 days from the date of the acceptance of the application. Those proposed uses requiring a zoning permit that are affected directly through these Regulations by another use currently in the conditional use process must yield until such use is permitted or denied.

Except where an extension has been obtained in writing from the Zoning Administrator, permits issued shall expire within 90 days if the work described in the permit has not begun or the use applied for has not been established and within one year should the work not have been completed.

**Section 9.04 Enforcement by the Zoning Administrator**

It shall be the duty of the Zoning Administrator to enforce these Regulations in accordance with its provisions. All departments, officials, and public employees of Seward County, which are vested with the duty or authority to issue permits or licenses, shall conform to the provisions of these regulations and shall issue no permit or license for any use, building or purpose, if the same would be in conflict with the provisions of these Regulations.

Any person, partnership, limited liability company, association, club, or corporation violating these regulations or of erecting, constructing, reconstructing, altering, or converting any structure without having first obtained a permit shall be guilty of a Class III misdemeanor. Each day such violation continues after notice of violation has been given to the offender may be considered a separate offense. In addition to other remedies, the County Board or the Zoning Administrator, as well as any owner or owners of real estate within the district affected by these regulations, may institute any appropriate action or proceedings to prevent such unlawful construction, erection, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such

violation, or to prevent the illegal act, conduct, business, or use in or about such premises. Any taxpayer or taxpayers in the county may institute proceedings or compel specific performance by the Zoning Administrator, County Board or any other responsible officials of the County.

**Section 9.05 Certification of Occupancy**

No structure or land shall be hereafter used or the use changed thereof until a Certificate of Occupancy shall have been issued by the Zoning Administrator. A Certificate of Occupancy for a new building or for the alteration of an existing structure shall be applied for coincident with the application for a zoning permit and shall be issued within 10 days after the erection or alteration of such building is completed in conformity with these regulations.

No Certificate of Occupancy shall be issued for residential purposes for a partially completed or portion of a building. No structure shall be used as a temporary residence.

Application for a change of use of land or existing structure shall be made on forms provided by the Zoning Administrator and shall state the proposed use is in conformity with these regulations.

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**ARTICLE 10: BOARD OF ZONING ADJUSTMENT****Section 10.01 Members, Terms, and Meetings**

The County Board of Commissioners shall appoint a Board of Zoning Adjustment which shall consist of five members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three years and to be removable for cause by the appointed authority upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Zoning Adjustment shall be appointed by the County Board from the county membership of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in immediate loss of membership on the Board of Zoning Adjustment, and the appointment of another County Planning Commissioner to the Board of Zoning Adjustment.

The Board of Zoning Adjustment shall adopt rules necessary for the conduct of its affairs and in keeping with the provisions of this Resolution. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. Such Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed with the County Clerk and shall be a public record.

Appeals to the Board of Zoning Adjustment concerning interpretation or administration of this Resolution may be taken by any person aggrieved or by any officer or bureau of the governing body of the county affected by any decision of the County Building Inspector. Such appeals shall be taken within ten days after decision of the County Building Inspector by filing with the County Building Inspector and with the Board of Zoning Adjustment a notice of appeal specifying the grounds thereof. The County Building Inspector shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

The Board of Zoning Adjustment shall fix a time for the hearing of appeal, give public notice thereof in a newspaper of general circulation within the county at least one time ten days prior to such hearing, as well as due notice to the parties in interest, and decide the same within 45 days of the date of filing of an appeal. At the hearing, any party may appear in person or by agent or attorney.

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

**Section 10.02 Board of Zoning Adjustment Powers**

The Board of Zoning Adjustment shall, subject to such appropriate conditions and safeguards as may be established by the County Board, have only the following powers:

1. To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of any zoning regulation, or on regulation relating to the location or soundness of structures;
2. Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of adoption of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this Resolution would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any zoning regulations, but no such variance shall be authorized unless the Board of Zoning Adjustment finds that:
  - a. the strict application of the Resolution would produce undue hardship;
  - b. such hardship is not shared generally by other properties in the same zoning district and same vicinity;

- c. the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
  - d. the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.
3. No variance shall be authorized unless the Board finds the condition or situation of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.
  4. In exercising the above-mentioned powers, the Board may, in conformity with the provisions of this Resolution, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as shall be proper, and to that end shall have the power of the officer or agency from whom the appeal is taken. The concurring votes of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.

**Section 10.03 Appeals from the Board of Zoning Adjustment**

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Zoning Adjustment or any officer, departments, board or bureau of the county may seek review of such decision by the district court for the county in the manner provided by the laws of the state and particularly by Chapter 23, Laws of Nebraska.

**Section 10.04 Duties of Board of Zoning Adjustment and Others**

1. It is the intent of this Resolution that all questions of interpretation and enforcement shall be first presented to the County Building Inspector, and that such questions shall be presented to the Board of Zoning Adjustment only on appeal from the decision of the County Building Inspector, and that recourse from the decision of the Board of Zoning Adjustment shall be to the courts as provided by law and particularly by Chapter 23, Laws of Nebraska.
2. It is further the intent of this Resolution that the duties of the County Board of Commissioners, as such, in connection with this Resolution shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this Resolution. Under this Resolution, the County Board of Commissioners shall have only the duties:
  - a. Of considering and adopting or rejecting proposed amendments of the repeal of this Resolution, as provided by law; and
  - b. Of establishing a schedule of fees and charges as adopted by separate resolution.

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**ARTICLE 11: AMENDMENTS****Section 11.01 Amendments**

1. The regulations, restrictions and boundaries set forth in this Resolution may from time to time be amended, supplemented, changed or repealed, provided however that no such action may be taken until after public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least ten days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the county.
2. An amendment may be initiated by the County Board of Commissioners, by a motion of the Planning Commission, or by written petition of any property owner addressed to the County Board of Commissioners. The County Board of Commissioners shall act on such petitions within 90 days of receipt. Having once considered a petition, the County Board of Commissioners will not consider substantially the same petition for one year.
3. All proposed amendments (except those initiated by the Planning Commission) shall be submitted to the Planning Commission for study and recommendation. The Planning Commission shall study the proposals to determine:
  - a. The need and justification for the change.
  - b. When pertaining to a change in the district classification of property, the effect of the change, if any, on the property and on surrounding properties.
  - c. When pertaining to a change in the district classification of property, the amount of undeveloped land in the general area and in the county having the same district classification as requested.
  - d. The relationship of the proposed amendment to the purposes of the general planning program, with appropriate consideration as to whether the proposed change will further the purpose of this Resolution and the Comprehensive Plan.
4. Within 45 days from the date that any proposed amendment is referred to it (unless a longer period shall have been established by mutual agreement between the County Board of Commissioners and the Planning Commission in the particular case), the Planning Commission shall submit its report and recommendation to the County Board of Commissioners. The recommendation of the Planning Commission shall be advisory only and shall not be binding on the County Board of Commissioners. If the Planning Commission does not submit its report within the prescribed time, the County Board of Commissioners may proceed to act on the amendment without further awaiting the recommendations of the Planning Commission.

**Section 11.02 Remedies**

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or land is used in violation of Sections 23-114 to 23-114.05, 23-168.01 to 23-168.04, 23-172, 23-174.02, 23-373, and 23-376, Reissue Revised Statutes of 1943 (in full), or this Regulation, or any regulation made pursuant to said sections, the appropriate authorities of the County may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

**Section 11.03 Fines and Penalties**

Violation of the provisions of this regulation or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this regulation or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 per offense, with each day resulting in a separate offense, and in addition, shall pay all costs and expenses involved in the case.

