

# Burt County, Nebraska Zoning Regulations

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## **Article I. GENERAL PROVISIONS**

### **Section 1.01 Short Title.**

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

### **Section 1.02 Publication.**

This Resolution shall be published in book or pamphlet form together with the zoning district map or maps being a part hereof, and copies shall be filed with the County Clerk of Burt County.

### **Section 1.03 When Effective.**

This Resolution shall be in full force and effect from and after its public hearings, adoption, publications, and filing as provided by the Nebraska R. R. S., 1943, Sections 23-114.03 to 23-114.05 and 23-164 to 23-174.06.

### **Section 1.04 Conflicts.**

All Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

### **Section 1.05 Intent and Purpose.**

This Resolution is a new regulation for Burt County and is consistent with the Burt 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 Burt County, including, among others, such purposes as developing both urban and non-urban areas; lessening congestion in streets, roads, and highways; reducing the waste of excessive amounts of roads; securing safety from fire and other dangers; lessening or avoiding the hazards to persons and damage to property resulting from the accumulation or runoff of storm or flood waters; providing adequate light and air; preventing excessive concentration of population and excessive and wasteful scattering of population or settlement; 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; protecting the tax base; protecting property against blight and depreciation; securing economy in governmental expenditures; fostering the state's agriculture, recreation, and other industries; 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 Burt County, Nebraska.

#### **Section 1.06 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 1.07 Jurisdiction.**

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

#### **Section 1.08 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 1.09 General.**

The zoning regulations set forth by this Resolution within each district shall be minimum regulations applicable uniformly to each class or kind of building, structure, or land, except as may hereinafter be provided.

#### **Section 1.10 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 1.11 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 Burt 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 Burt County Zoning Administrator and:

- A. Every building hereafter erected shall be located on a lot of record.
- B. Only one principal building will be permitted on one lot of record, except in a Planned Development.
- C. In a Planned Development, before a zoning permit can be granted, an application for a Zoning Compliance Certificate shall be submitted for approval.
- D. After a county road has been classified as a minimum maintenance road, no permits for residential dwellings, Mobile home, or manufactured home shall be issued for construction on any property adjoining such classified road; unless the road is improved and maintained as per approval of a Conditional Permit per Section 4.03. B. (3)

### **Section 1.12 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 1.13 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 Supervisors shall not hold its public hearings or take action until it has received the final report of the Commission.

### **Section 1.14 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 (1) time ten (10) days prior to such hearing.

### **Section 1.15 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.

### **Section 1.16 Fees**

All fees for any zoning and subdivision action shall be adopted by the County Board of Supervisors by separate Resolution.

## **Article II. 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.

- A. The word "Assessor" shall mean the County Assessor of the County of Burt.
- B. The words "Board" or "Board of Supervisors" shall mean the Board of Supervisors of the County of Burt.
- C. The word "Building" includes the word "Structure," but shall not include "Temporary Structures".
- D. The word "Commission" shall mean the Planning Commission of the County of Burt.
- E. The word "County" shall mean the County of Burt.
- F. The words "County Registrar" shall mean the County Registrar of Deeds of the County of Burt.
- G. The word "Federal" shall mean the Government of the United States of America.
- H. The word "Shall" is mandatory; and the word "may" is permissive.
- I. The word "State" shall mean the State of Nebraska.
- J. The word "used" includes the words "arranged for, designed for, occupied or intended to be occupied for."
- K. The words "Zoning Map" shall mean the Official Zoning Map of Burt County.
- L. The word "Administrator" shall mean the Zoning Administrator of Burt County.
- M. The word "Resolution" shall mean the Zoning Regulation of Burt County.
- N. The word "Comprehensive Plan" shall mean the Burt County Comprehensive Development Plan.

### **Section 2.02 Definition of Terms.**

**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.

**ABUTTING** shall mean to border on, being contiguous with or have property or district lines in common, including property separated by an alley.

**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.

**ACCESS BUILDING** (see Building, accessory)

**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.

**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.

**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.

**ACRE** shall mean a full acre containing 43,560 square feet of area within the property lines of a lot or parcel.

**ACREAGE** shall mean any tract or parcel of land that does not qualify as a farm or development.

**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".

**ADULT CABARET** shall mean cabaret that features go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.

**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."

**ADULT ESTABLISHMENT** shall mean any business which offers 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, 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.

**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."

**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."

**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.

**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."

**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.

**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.

**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."

**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.

**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.

**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.

**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.

**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 which also constitute the outer boundaries of the Approach and Turning Zones.

**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.

**ALTERATION** shall mean any change, addition or modification in construction or occupancy of an existing structure.

**ALTERATION, STRUCTURAL** (see Structural alteration)

**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.

**ANIMAL HOSPITAL** (see Hospital, animal)

**ANIMAL UNIT** (see Livestock Feeding Operation)

**ANIMALS, DOMESTIC** (see Household pet)

**ANIMALS, FARM** shall mean livestock associated with agricultural operation, commonly kept or raised as a part of an agricultural operation including but not limited to horses, cattle, sheep, swine, goats, chickens and turkeys.

**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.)

**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.)

**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.

**APARTMENT HOUSE** (see Dwelling, multiple family)

**APPROVED LOT** (see Lot, approved)

**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.

**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.

**ARCHITECTURAL CANOPY SIGN** (see Sign, architectural canopy)

**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.

**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.

**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.

**BAR** shall mean any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises. (Also, see Nightclub.)

**BASEMENT** shall mean a building space partly underground and having at least one-half (2) of its height, measuring from its floor to its ceiling, above the average adjoining finished ground grade line.

**BATTERY BACK-UP** shall mean a battery system that stores electrical energy from a solar energy conversion system for use in the future.

**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.

**BEDROOM** shall mean a room within a dwelling unit planned and intended for sleeping, separable from other rooms by a door.

**BEST INTERESTS OF COMMUNITY** shall mean interests of the community at large and not interest of the immediate neighborhood.

**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.

**BILLBOARD** shall mean the same as "Advertising Structure".

**BLOCK** shall mean a parcel of land platted into lots and bounded by public streets or by waterways, right-of-way's, unplotted land, City-County boundaries, or adjoining property lines.

**BLOCK FRONTAGE** shall mean that section of a block fronting on a street between two intersecting streets or another block boundary.

**BOARD OF ADJUSTMENT** shall mean that board that has been created by the county and which has the statutory authority to hear and determine appeals, interpretations of, and variances to the zoning regulations.

**BOARDING OR ROOMING HOUSE** shall mean a building containing a single dwelling unit and provisions for not more than five (5) guests, where lodging is provided with or without meals for compensation.

**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 to site grading or building construction.

**BROADCASTING TOWER** shall mean a structure for the transmission or broadcast of radio, television, radar, or microwaves which exceeds the maximum height permitted in the district in which it is located; provided, however, that noncommercial radio towers not exceeding fifty (50) feet in height shall not be considered broadcast towers.

**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.)

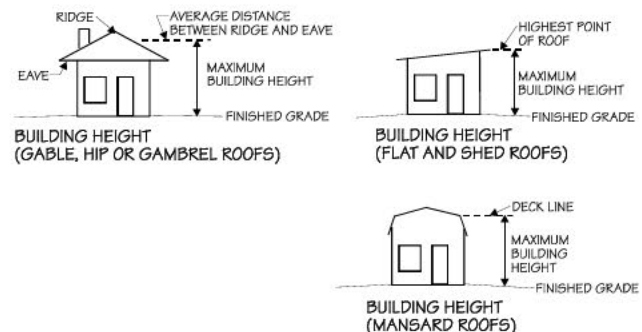
**BUILDING** shall mean any structure built and maintained for the support, shelter or enclosure of persons, animals, chattels, or property of any kind, but shall not include temporary buildings as defined in "Structure, Temporary". Trailers, with or without wheels, shall not be considered as buildings.

**BUILDING ACCESSORY** shall mean any detached subordinate building which 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.

**BUILDING AREA OF** shall mean the sum in square feet of the ground areas occupied by all buildings and structures on a lot.

**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 (5) foot horizontal distance at the exterior wall of the building. (Also, see Height.)



**BUILDING PRINCIPAL** shall mean a building within which the main or primary use of the lot or premises is located.

**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.

**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.

**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.

**CARPORT** shall mean a permanent roofed structure with not more than two (2) enclosed sides used or intended to be used for automobile shelter and storage.

**CELLAR** shall mean a building space having more than one-half (2) of its height below the average adjoining grade lines.

**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.

**CENTERLINE** shall have the same meaning as "Street or Road Center Line".

**CHANNEL** shall mean the geographical area within either the natural or artificial banks of a watercourse or drain way.

**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.

**CHILD CARE CENTER** shall mean an establishment other than a public or parochial school, which provides day care, play groups, nursery schools or education for nine (9) or more children under age 13, at any one time, from families other than that of the provider. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.

**CHILD CARE HOME** shall mean an operation in the provider's place of residence which serves at least four (4), but not more than eight (8) children at any one time, from families other than that of the provider. A Family Child Care Home I provider may be approved to serve no more than two (2) additional school-age children during non-school hours. In addition to these regulations, Child Care Homes shall meet all requirements of the State of Nebraska.

**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.

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

**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.

**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.

**COMBINER** shall mean a device that combines the electrical flows from multiple strings of solar panels into a single – source output circuit.

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

**COMMISSION** shall mean the Burt County Planning Commission.

**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 Planned Development or condominium development.

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

**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.

**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.

**COMPATIBLE USES** shall mean a land use which 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.

**COMPREHENSIVE PLAN** shall mean the Comprehensive Plan of Burt County, Nebraska as adopted by the County Board of Supervisors, 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, R.R.S. 1943, as the same may, from time-to-time, be amended.

**CONDITIONAL USE** shall mean a use where it is allowed by the district regulations, that would not be appropriate generally throughout the zoning district without restrictions, but which, 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.

**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 6 and any additional conditions placed upon, or required by said permit.

**CONDOMINIUM** shall be as defined in the Nebraska State Statutes Section 76-824 - 76-894, the Condominium Law, whereby four or more apartments are separately offered for sale.

**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.

**CONFLICTING LAND USE** shall mean the use of property which 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.

**CONGREGATE HOUSING** shall mean a residential facility for or more persons fifty-five (55) years or over, their spouses, or surviving spouses, providing living and sleeping facilities including 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.)

**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.

**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.

**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.)

**CONTIGUOUS** shall mean the same as "Abut".

**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.

**COUNTY** shall mean Burt County, Nebraska.

**COUNTY BOARD** shall mean the County Board of Supervisors of Burt County, Nebraska.

**COURT** shall mean an open, unoccupied space, other than a yard, on the same lot with a building or buildings and abounded on two (2) or more sides by such buildings.

**COURT, INNER** shall mean a court enclosed on all sides by the exterior walls of a building or buildings.

**COURT, OUTER** shall mean a court enclosed on all but one (1) side by exterior walls of building or buildings or lot lines on which fences, hedges, or walls are permitted.

**CUL-DE-SAC** shall mean a short public way that has only one outlet for vehicular traffic and terminates in a vehicular turn-around.

**CURB LEVEL** shall mean the mean level of the curb in front of the lot, or in case of a corner lot, along that abutting street where the mean curb level is the highest.

**CURRENT** shall mean the number of charges that move through a wire per second, measured in amperes (amps).

**CURVE LOT** see "Lot, Curve".

**DAIRY FARM** shall mean any place or premises upon which milk is produced for sale or other distribution.

**DANCE HALL** see Ballroom

**DENSITY** shall mean the number of dwelling units per gross acre of land.

**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.

**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.

**DEVELOPMENT AREA** shall mean an area of land which may or may not have been subdivided that contains three or more homes per nine (9) acres.

**DEVELOPMENT CONCEPT PLAN** (See Site Plan.)

**DEVELOPMENT REVIEW** shall mean the review, by the county of subdivision plats, site plans, rezoning requests, or permit review.

**DOG KENNEL** (See Kennel, commercial; and Kennel, private.)

**DOMESTIC ANIMALS** (See Household Pet.)

**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.

**DRAINAGEWAY** 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; provided, that in the event of doubt as to whether a depression is a watercourse or drain way, it shall be presumed to be a watercourse.

**DRIVE-IN FACILITY** shall mean an establishment where customers can be served without leaving the confinement of their vehicle.

**DRIVEWAY** shall mean any vehicular access to an off-street parking or loading facility.

**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.

**DUPLEX** shall mean the same as "Dwelling, two (2) Family".

**DWELLING** Any building or portion thereof which is designed and used exclusively for single family residential purposes, excluding mobile homes.

**DWELLING, MANUFACTURED HOME** 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.

**DWELLING, MOBILE HOME** Any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially 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.

- 1) Permanently Attached: Attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent continuous foundation or structural change in such mobile home in order to relocate it on another site in accordance to manufacturers recommendations.
- 2) Permanent Foundation: Based 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" below the final ground level.

**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 Statutes of Nebraska 1943, in addition to any amendments thereto, those that do not meet the above criteria shall be considered a mobile home.

**DWELLING, MULTIPLE** shall mean a building or buildings designed and used for occupancy by three (3) or more families, all living independently of each other and having separate kitchen and toilet facilities for each family.

**DWELLING, OCCUPIED** shall mean any building that is currently being used on a regular or temporary basis for human habitation.

**DWELLING, SEASONAL** shall mean a dwelling designed and used as a temporary residence and occupied less than six months in each year.

**DWELLING, SINGLE FAMILY** a building having accommodations for or occupied exclusively by one family which meet all the following standards:

- A. The home shall have no less than nine hundred (900) square feet of floor area, above grade, for single story construction;
- B. The home shall have no less than an eighteen (18) foot exterior width;
- C. The roof shall be pitched with a minimum vertical rise of two and one-half (2 1/2) inches for each twelve (12) inches of horizontal run;
- D. The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single-family construction;
- E. The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, or rock;
- F. The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed, and
- G. The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.
- H. 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 forty-two (42) inches below the final ground level.

**DWELLING, TWO (2) FAMILY** shall mean a building designed or used exclusively for the occupancy of two (2) families living independently of each other and having separate kitchen and toilet facilities for each family.

**DWELLING UNIT** 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.

**EASEMENT** shall mean a space or a lot or parcel of land reserved for or used for public utilities or public or private uses.

**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.

**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.

**ELECTRIC DISTRIBUTION SUBSTATION** shall mean an electric substation with a primary voltage of less than 161 KV, with distribution circuits served therefrom.

**ELECTRIC TRANSMISSION SUBSTATION** shall mean an electric transformation or switching station with a primary voltage of more than 161 KV without distribution circuits served therefrom.

**ELECTRICITY GENERATION** shall mean the amount of electric energy produced by transforming other forms of energy, commonly expressed in kilo-watt hours (kWh) or mega-watt hours (MWh).

**ELEEMOSYNARY INSTITUTIONS** shall mean an institution supported by charity and designed to assist persons such as those recovering from mental or emotional illness.

**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.

**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.

**ERECTED** shall mean constructed upon or moved onto a site.

**ENVIRONMENTALLY CONTROLLED HOUSING** shall mean any livestock operation meeting the definition of a Livestock Feeding Operation (LFO) and is contained within a building which 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.

**EXPRESSWAY** shall mean a street or road which provides fast and efficient movement of large volumes of vehicular traffic between areas and does not provide direct access to property.

**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.

**FACADE** shall mean the exterior wall of a building exposed to public view from the building's exterior.

**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.

**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.

**FARM** an area containing at least twenty (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. In contrast to a commercial feed lot hereafter defined, any person operating within the following categories is conducting a farming operation and is not considered as operating a commercial feed lot.

**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. In contrast to a Livestock Feeding Operation (LFO), as hereinafter defined, any person or entity operating within the

following categories shall be considered to be a farming operation and shall not be considered as operating a LFO unless the operation exceeds the following:

- A. Two (2) Animal Units, as defined in the definition for Livestock Feeding Operation herein, for the first acre and an overall density of One (1) Animal Unit (A.U.) per acre for a parcel less than forty (40) acres in size;
- B. One and one-half (1 1/2) A.U. per acre for a parcel of land greater than forty (40) acres, but less than eighty (80) acres; or
- C. Two (2) A.U. per acre for parcels over eighty (80) acres.
- D. Exception: When a temporary permit is issued for animals used strictly for educational purposes in conjunction with a non-profit sponsor, school district or other political subdivision to a maximum of four (4) A.U.'s. Said Temporary Permit shall be valid for a period of twelve (12) months and is validated by the program sponsor/instructor.

Notwithstanding the provisions of A-C above, anytime the number or combination of Animal Units (A.U.) exceeds three hundred (300), regardless of the size of the parcel of land, and where the confined area is for more than six (6) months in any one calendar year, the operation shall be considered a LFO and the owner/operator shall be required to obtain a Conditional Use Permit, in these Regulations.

**FARMSTEAD** In contrast to a farmstead dwelling, a tract of land of not less than 1 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.

**FEED LOT.** 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. (Nebr. Dept. Environmental Quality)

**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.

**FLOOD PLAIN** shall mean the area adjoining a watercourse which has been or may be covered by flood waters.

**FLOODWAY** shall mean the channel of a watercourse or drain 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 drain way.

**FLOOR AREA** whenever the term "floor area" is used in this Regulation 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.

**FRONTAGE** shall mean that portion of a parcel of property which abuts a dedicated public street or highway.

**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.

**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.

**GARAGE, PUBLIC** shall mean any garage other than a private garage.

**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.)

**GARBAGE** shall mean any waste food material of an animal or vegetable nature, including that which may be used for the fattening of livestock.

**GRADE** shall mean the average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.

**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.

**GROUND-MOUNT SYSTEM** shall mean a solar energy system that is attached to an anchor in the ground and wired to connect to the meter of a home or building.

**GROUND WATER** 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.

**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.

**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

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

**GUEST ROOM** shall mean a room which is designed to be occupied by one (1) or more guest for sleeping purposes, having no kitchen facilities, not including dormitories.

**HALF-STORY** shall mean a story under a gable, hip or gambrel roof, plates of which are not more than three (3) feet above the floor of such story.

**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.

**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.

**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. Except as herein provided, health care facilities do not include doctors, or dentist professional offices and private clinics.

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

**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.

**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 5-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.

**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.

**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.

**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.

**HOME OCCUPATIONS**: home occupations shall mean an occupation, profession, activity, or use that is a: clearly an incidental and secondary use of a residence, carried on by a member or members of the family who occupy the residence, which does not alter or effect the residential character of the neighborhood, or b: the primary source of income, but employs no more than four (4) full-time employees other than family members and causes limited change in traffic to and from the property.

**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.

**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.

**HOSPITAL, ANIMAL** 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.

**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.

**HOUSE TRAILER** (see Dwelling: Mobile Home)

**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.

**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 fifty-five (55) years of age or more. This does not include developments containing convalescent or nursing facilities. (Also, see Congregate Housing.)

**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.

**INCIDENTAL USE** shall mean a use that is subordinate to the main use of a premise.

**INDIVIDUAL SEPTIC SYSTEM** shall mean a wastewater treatment system for a dwelling that has a septic tank and absorption system.

**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.

**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.

**INOPERABLE MOTOR VEHICLE** shall mean any motor vehicle which: (1) Does not have a current state license plate; or, (2) Which 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. A vehicle which is wholly or partially dismantled shall not be considered inoperable when said vehicle is inside a completely enclosed building.

**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.

**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.

**JUICE BAR** (See Adult Establishment.)

**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.

**KENNEL, BOARDING AND TRAINING** shall mean any lot or premises on which four (4) or more dogs or cats or any combination thereof, at least four (4) months of age, are boarded, bred, or trained for a fee.

**KENNEL, COMMERCIAL** shall mean an establishment where four (4) or more dogs or cats, or any combination thereof, other household pets, or non-farm/non-domestic animals at least four (4) months of age are groomed, bred, boarded, trained, or sold as a business.

**KENNEL, PRIVATE** shall mean any premises used for the keeping of four (4) 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.

**KILOWATT (Kw)** shall mean a measure of the use of electrical power; equal to 1,000 watts.

**KILOWATT- HOUR (kWh)** shall mean a unit of energy equivalent to one (1) kilowatt (1kW) of power expended for one (1) hour of time.

**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.

**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.

**LANDSCAPING** shall include the original planting of suitable vegetation in conformity with the requirements of this Regulation and the continued maintenance thereof.

**LAUNDRY, SELF SERVICE** shall mean an establishment that provides home-type washing, drying, and/or ironing facilities for customers on the premises.

**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 resulting in inadequate or 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.

**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 Congregate Housing and Housing for the Elderly.)

**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; provided, however, only liquid manure collected in lagoons may be applied through the use of a center pivot or tow-line irrigation systems. (See definition of Lagoon.)

**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. In no event shall liquid manure that is stored or collected in a Liquid Manure

Storage Pit be applied through the use of a center pivot or tow-line irrigation system. (See definition of Liquid Manure and Lagoon.)

**LIVESTOCK** (See Animals, Farm.)

**LIVESTOCK FEEDING OPERATION (LFO)** shall mean any farming operation exceeding the per acre Animal Unit (A.U.) ratio as defined under “farming” or the feeding, farrowing, or raising cattle, swine, sheep, poultry, or other livestock, in a confined area where grazing is not possible, and where the confined area is for more than six (6) months in any one calendar year, and where the number of animals so maintained exceeds three hundred (300) 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 (2) or more LFO's under common ownership are deemed to be a single LFO if they are adjacent to each other or if they utilize a common area of system for the disposal of livestock wastes. Animal Units (A.U.) are defined as follows:

One (1) A.U.=One (1) Cow/Calf combination

One (1) A.U.=One (1) Slaughter, Feeder Cattle;

One (1) A.U.=One-half (1/2) Horse;

One (1) A.U.=Seven Tenths (.7) Mature Dairy Cattle;

One (1) A.U.=Two and One Half (2.5) Swine (55 pounds or more);

One (1) A.U.=Twenty-Five (25) Weaned Pigs (less than 55 pounds);

One (1) A.U.=Two (2) Sows with Litters;

One (1) A.U.=Ten (10) Sheep;

One (1) A.U.=One Hundred (100) Chickens;

One (1) A.U.=Fifty (50) Turkeys;

One (1) A.U.=Five (5) Ducks.

**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.

**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.

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

**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 County Recorder and abutting at least one (1) public street or right-of-way, two (2) thoroughfare easements, or one (1) private road.

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

**LOT, CORNER** shall mean a lot located at the intersection of two (2) or more streets at an angle of not more than one hundred thirty-five (135) degrees. If the angle is greater than one hundred thirty-five (135) degrees, the lot shall be considered an "Interior Lot". The setbacks for a front yard shall be met on all abutting streets.

**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.

**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 three hundred (300) feet or less.

**LOT DEPTH** shall mean the horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

**LOT, DOUBLE FRONTAGE** shall mean a lot having a frontage on two non-intersecting streets as distinguished from a corner lot.

**LOT, FLAG** shall mean a lot with frontage and access provided to the bulk of the lot by means of a narrow corridor.

**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.

**LOT, INTERIOR** shall mean a lot other than a corner lot.

**LOT LINE** shall mean the property line bounding a lot.

**LOT LINE, FRONT** shall mean the property line abutting a street.

**LOT LINE, REAR** shall mean a lot line not abutting a street which is opposite and most distant from the front lot line.

**LOT LINE, SIDE** shall mean any lot line not a front lot line or rear lot line.

**LOT, NONCONFORMING** shall mean a lot having less area or dimension than that required in the district in which it is located and which was lawfully created prior to the zoning thereof 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 Registrar 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.

**LOT THROUGH** shall mean a lot having frontage on two (2) dedicated streets, not including a corner lot.

**LOT OF RECORD** shall mean a lot held in separate ownership as shown on the records of the County Registrar of Deeds at the time of the passage of a regulation or regulation establishing the zoning district in which the lot is located.

**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.

**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.)

**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.

**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.

**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.

**MANURE, DRY** shall mean manure that is spreadable with fertilizer or manure spreader, usually 70% or less in actual moisture content and primarily from an open lot facility.

**MANURE, WET** shall mean manure that is spreadable with slurry or honey wagon usually 70% or more in actual moisture content and primarily from confinement pit or lagoon.

**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 Burt County Board of Supervisors' zoning regulations for Burt County, Nebraska.

**MASSAGE PARLOR** (See Adult Uses.)

**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.

**MEGAWATT (Mw)** shall mean a measure of the use of electrical power; equal to 1,000 Kilowatts.

**MEGAWATT-HOUR (MWh)** shall mean a unit of energy equivalent to one Megawatt (1MW) of power expended for one hour of time.

**MINI-STORAGE OR MINI-WAREHOUSE** (See Self-Service Storage Facility.)

**MOBILE HOME** (See Dwelling, Mobile Home)

**MOBILE HOME PARK** (See Manufactured Home Park.)

**MOBILE HOME SUBDIVISION** (See Manufactured Home Subdivision.)

**MOTEL** (See Hotel.)

**MOTOR VEHICLE** shall mean every self-propelled land vehicle, not operated upon rails, except mopeds and self-propelled invalid chairs.

**NEBRASKA REVISED REISSUED STATUTES**, 1943 and the abbreviated term Nebr. R. R. S., 1943 are one and the same.

**NET METERING** shall mean a billing arrangement that allows customers with grid-connected solar electricity systems to receive credit for any excess electricity generated on-site and provided to the utility grid.

**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.)

**NONCOMMUNITY WATER SUPPLY SYSTEM** shall mean any public water supply system that is not a community water supply system.

**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.

**NON-CONFORMING USE** shall mean a use lawful when established but which does not conform to subsequently established zoning or zoning regulation.

**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.

**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.

**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.

**NURSING HOME** shall mean a facility used or occupied by persons recovering from illness or suffering from infirmities of old age required skilled nursing care and related medical services and licensed by the appropriate state or federal agency or agencies.

**OFFICIAL MAP** (See Map, Official Zoning District.)

**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.

**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.

**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.

**OPEN SPACE, COMMON** shall mean a separate and distinct area set aside as open space within or related to a development, and not on individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of the development. Rights-of-way, private streets, driveways, parking lots or other surfaces designed or intended for vehicular use or required yards shall not be included as common open space.

**OUTDOOR ADVERTISING** shall include the definitions of "Advertising Structure" and "Sign".

**OVERLAY DISTRICT** shall mean a district in which additional requirements act in conjunction with the underlying zoning district. The original zoning district designation does not change.

**OWNER** shall mean one or more persons, including corporations, who have title to the property, building or structure in question.

**PARCEL** shall mean a lot or a contiguous group of lots in single ownership or under single control which may be considered as a unit for purposes of development.

**PARK** shall mean any public or private land available for recreational, educational, cultural, or aesthetic use.

**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.

**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.

**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 (82) feet by twenty (20) feet, plus such additional area as is necessary to afford adequate ingress and egress.

**PARKWAY** shall mean an arterial highway with full or partial control of access, and located within a park or ribbon of park like development.

**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.)

**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.

**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.

**PERMITTED USE** shall mean any land use allowed without condition within a zoning district.

**PERSON** shall mean any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

**PHOTOVOLTAIC (PV) SYSTEM** shall mean an energy producing system that utilizes semiconductor devices, called photovoltaic cells, which generate electricity when exposed to sunlight.

**PLANNED DEVELOPMENT** shall mean a development designed to provide for an unusual or different arrangement of residential, business, or industrial uses in accordance with an approved development plan.

**PLANNING COMMISSION** shall mean the Planning Commission of Burt County, Nebraska.

**PLAT** shall mean a map showing the location, boundaries, and legal description of individual properties.

**POLE-MOUNT SYSTEMS** shall mean a solar energy system that is directly installed on specialized pole-attached systems, anchored to a concrete foundation in the ground, and wired underground to the meter.

**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.

**POULTRY, COMMERCIAL FEEDING** shall mean a poultry commercial feed lot, whether the confined feeding operations are enclosed or outdoors.

**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.

**PRIVATE WELL** shall mean a well which provides water supply to less than fifteen (15) service connections and regularly serves less than twenty-five (25) individuals.

**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.

**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.

**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.

**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 fifteen (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.

**PV-DIRECT SYSTEMS** shall mean a Solar Energy Conversion System designed to only provide electricity during sunlight.

**QUARRY** shall mean any premises from which rock, sand, gravel and similar resources are being removed or are intended for removal.

**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.

**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.

**RECREATIONAL VEHICLE (RV)** shall mean a vehicular unit less than forty (40) feet in overall length, eight (8) feet in width, or twelve (12) feet in overall height, primarily designed as a temporary living quarter 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.

**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.

**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.

**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.

**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.

**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.

**RESIDENCE** shall mean a building used, designed, or intended to be used as a home or dwelling place for one (1) or more families.

**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.

**RESTAURANT, DRIVE-IN** shall mean an establishment which has the facilities to serve prepared food and/or beverages to customers seated within motor vehicles for consumption either on or off the premises.

**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.

**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.

**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.

**REZONING** shall mean an amendment to or change in the zoning regulations either to the text or map or both.

**REZONING, PIECEMEAL** shall mean the zoning reclassification of individual lots resulting in uncertainty in the future compatible development of the area.

**RIGHT-OF-WAY** shall mean an area or strip of land, either public or private, on which an irrevocable rite of passage has been dedicated, recorded, or otherwise legally established for the use of vehicles or pedestrians or both.

**ROAD** shall mean the same as "Street".

**ROAD CENTERLINE** shall mean center of traveled road.

**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.)

**ROAD, PUBLIC** shall mean all public right-of-way reserved or dedicated for street or road traffic. (Also, see Right-of-Way and Street.)

**ROADSIDE STAND** shall mean a temporary structure or vehicle used solely for the sale of farm products produced on the premises or adjoining premises.

**ROOF- MOUNT SYSTEM** shall mean a Solar Energy Conversion System consisting of solar panel installed directly on the roof of a primary or accessory structure.

**ROOM** shall mean an un-subdivided portion of the interior of a dwelling unit, excluding bathroom, kitchen, closets, hallways, and service porches.

**SALVAGE 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".

**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.

**SCHOOL, DAY** shall mean a preschool or nursery school for children.

**SCHOOL, DAY, PRE-, OR NURSERY** shall mean a school or center for children under school age, whether licensed as a day care 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.

**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.

**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 Nebraska R. R. S., 1943, Section 79-1701 through 79-1707.

**SCHOOL, TRADE** shall mean an institution offering extensive instruction in the technical, commercial, or trade skills and operated by a non-governmental organization.

**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.)

**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.

**SELF-SERVICE STORAGE FACILITY** shall mean a building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage.

**SEMI CONDUCTOR** shall mean a solid substance that has conductivity between that of an insulator and that of most metals, due to the addition of an impurity or temperature effects.

**SEPARATE OWNERSHIP** shall mean ownership of a parcel of land by a person who does not own any of the land abutting such parcel.

**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.

**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.

**SETBACK LINE, HIGHWAY** shall mean the same as "Highway Setback Line".

**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.

**SHOPPING CENTER** shall mean a grouping of retail business and service uses on a single site with common parking facilities.

**SIGHT TRIANGLE** shall mean an area at a street or road intersection in which nothing shall be erected, placed, painted, or allowed to grow in such a manner as to materially impede vision of traffic at an intersection as established within these regulations.

**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, except the following:

- A. A name plate or sign designating location, direction, information, or identification, providing the surface area or face of such sign does not exceed 10 square feet.
- B. Sign less than 25 square feet in surface area advertising activities conducted on the premise, products grown, made, or produced on the premise.
- C. Signs less than 50 square feet in area and less than 25 feet in height of a public or quasi-public nature or other official notices that are authorized by the State of Nebraska, Burt County, or a Federal Government Agency, directional, informational, or other official signs or notices authorized by law.

**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.

**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.

**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.

**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.

**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.

**SIGN, BUILDING** shall mean any sign supported by, painted on or otherwise attached to any building or structure.

**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.

**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.

**SIGN, FLASHING** shall mean a sign designed to give an electrical light flash intermittently or a revolving beacon light.

**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.

**SIGN, GROUND (LOW PROFILE)** shall mean a sign mounted directly to the ground with a maximum height not to exceed six (6) feet.

**SIGN, ILLUMINATED** shall mean a sign illuminated in any manner by an artificial light source.

**SIGN, ON-PREMISE** shall mean a sign, display, or device advertising activity conducted on the property on which such sign is located.

**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.

**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.

**SIGN, PROJECTING** shall mean a projecting sign attached to a building.

**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.

**SIGN, SETBACK** shall mean the horizontal distance from the property line to the nearest projection of the existing or proposed sign.

**SIGN, SUBDIVISION** identification shall mean a sign erected on a subdivision identification lot which identifies the platted subdivision where the sign is located.

**SIGN, SURFACE** shall mean the entire area of a sign.

**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.

**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 eighteen (18) inches from the face of the building wall.

**SIGN, WINDOW** shall mean a sign painted, stenciled, or affixed on a window, which is visible from a right-of-way.

**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.

**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.

**SITE, SEPTIC** shall mean the area bounded by the dimensions required for the proper location of the septic tank system.

**SLUDGE** shall mean solids removed from sewage during wastewater treatment and then disposed of by incineration, dumping, burial, or land application.

**SOLAR ACCESS** shall mean the ability to receive sunlight across property lines without obstruction from another's property.

**SOLAR ARRAY** shall mean multiple solar panels combined together to create one (1) system.

**SOLAR COLLECTOR** shall mean a Solar Photovoltaic (PV) cell, panel, or array, or solar thermal collector device, that relies upon solar radiation as an energy source for the generation and transfer of electricity.

**SOLAR ENERGY CONVERSION SYSTEMS** shall mean a system capable of collecting and converting solar radiation into heat or mechanical or electrical energy, which is then transferred to a point of use, including but not limited to, water heating, space heating, or cooling, electric energy generation, or mechanical energy generation.

**SOLAR FARM** shall mean an area of land designated use for the sole purpose of deploying photovoltaic (PV) power and generating electric energy.

**SOLAR PANEL/MODULE** shall mean a device for the direct conversion of sunlight into useable solar energy (including electricity or heat.)

**SOLID WASTE** shall mean waste materials consisting of garbage, trash, refuse, rubble, sewage, offal, dead animals, or paunch manure.

**SPECIFIED ANATOMICAL AREAS** shall mean anatomical areas consisting of:

- A. Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and,
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES** shall mean activities consisting of the following:

- A. 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, zooerasty; or
- B. Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence; or
- C. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
- D. Fondling or touching of nude human genitals, pubic region, buttocks, or female breast(s); or
- E. 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
- F. Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or
- G. Human excretion, urination, menstruation, vaginal, or anal irrigation.

**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 unzoning to a more intensive use classification.

**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.

**STABLE, RIDING** shall mean a structure in which horses or ponies, used exclusively for pleasure riding or driving, are housed, boarded, or kept for remuneration, hire, or sale.

**STATE** shall mean the State of Nebraska.

**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 (1) year.

**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 thirty (30) days.

**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.

**STORY, ONE-HALF** shall mean the same as "Half-Story".

**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.

**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.

**STREET, COLLECTOR** shall mean a street or high way which is intended to carry traffic from minor street to major streets. Collector streets are usually the principal entrance streets to residential developments and the streets for circulation within the development.

**STREET, CURVILINEAR** shall mean local streets which deviate from straight alignment and change direction without sharp corners or bends.

**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.

**STREET, LOCAL** shall mean a street designed for local traffic which provides direct access to abutting residential, commercial, or industrial properties.

**STREET, LOOPED** shall mean a continuous local street without intersecting streets and having its two (2) outlets connected to the same street.

**STREETS, MAJOR** shall mean a street or highway used primarily for fast or high-volume traffic, including expressways, freeways, boulevards, and arterial streets.

**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."

**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.

**STREET CENTERLINE** shall mean the center line of a street right-of-way as established by official surveys.

**STREET LINE** shall mean a dividing line between a lot, tract, or parcel of land and the contiguous street.

**STRUCTURE** shall mean anything constructed or built, any edifice or building of any kind, 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.

**STRUCTURE, ADVERTISING** shall mean the same as "advertising structure".

**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.

**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 another instrument.

**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.

**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.

**TAVERN** (See Bar.)

**TELECOMMUNICATIONS FACILITIES** shall mean any cables, wires, lines, wave guides, antennas, or 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, telecommunication facilities shall not include:

- A. Any Conforming Commercial Earth Station antenna two (2) meters or less in diameter which is located on real estate zoned A-1, A-2, R-1, C-1, I-1, or I-2.
- B. Any earth station antenna or satellite dish antenna of one (1) meter or less in diameter, regardless of zoning applicable to the location of the antenna.

**TEMPORARY USE** shall mean a use intended for limited duration to be located in a zoning district not permitting such use.

**TILT** shall mean the angle of the solar panels and/or solar collectors.

**TOWER** shall mean a structure situated on a site that is intended for transmitting or receiving television, radio, or telephone communications. (Also, see Antenna.)

**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.

**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.

**TRANSIENT** shall mean a person who is receiving accommodations for a price, with or without meals, for a period of not more than one hundred eighty (180) continuous days in any one (1) year.

**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.

**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.

**URBAN AREA** shall mean a municipality not exercising its zoning powers and unincorporated village within the county.

**USE, BEST** shall mean the recommended use or uses of land confined in an adopted comprehensive plan. Such uses represent the best use of public facilities, and promotes health, safety and general welfare.

**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.

**USE, PRINCIPAL** shall mean the main use of land or structure, as distinguished from an accessory use. (Also, see Building, Principal.)

**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 Yards" or "Automobile Wrecking Yards".

**UTILITY EASEMENT** shall mean the same as "Easement".

**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.

**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.

**VEHICLE, MOTOR** (See Motor Vehicle.)

**VISUAL OBSTRUCTION** shall mean any fence, hedge, tree, shrub, wall or structure exceeding two (2) 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 (8) feet.

**VOLTAGE (V)** shall mean an electromotive force or potential difference expressed in volts (V).

**WAREHOUSE** shall mean a building used primarily for the storage of goods and materials.

**WAREHOUSE AND DISTRIBUTION** shall mean a use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment.

**WASTEWATER LAGOON** (See Lagoon.)

**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.

**WATTS (W)** shall mean a measure of the use of electrical power [power (Watts)= voltage (Volts)X current (Amps)].

**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.

**WHOLESALE ESTABLISHMENT** shall mean an establishment for the on-premises sales of goods primarily to customers engaged in the business of reselling the goods.

**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.

**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.

**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.

**YARD, REAR** shall mean a space between the rear yard setback line and the rear lot line, extending the full width of the lot.

**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.

**ZONING ADMINISTRATOR** shall mean the person or persons authorized and empowered by the county to administer and enforce the requirements of this chapter.

**ZONING DISTRICT** shall mean the same as "District".

**ZONING DISTRICT, CHANGE OF** shall mean the legislative act of removing one (1) or more parcels of land from one (1) zoning district and placing them in another zoning district on the zone map of the County.

## **Article III. GENERAL REGULATIONS**

### **Section 3.01 Nonconforming, General Intent.**

It is the intent of this regulation to permit lawful non-conformities to continue until they are removed, but not encourage their survival. Such uses are declared by this regulation to be incompatible with permitted uses in the districts involved. It is further the intent of this regulation 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.**

In any district in which single-family dwellings are permitted, or *conditionally permitted*, notwithstanding limitations imposed by other provision of this regulation, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this regulation. This provision shall apply even though such lot fails to meet the requirements for area or width, or density that are generally applicable in the district provided that the yard dimensions and other requirements not involving area or width, or density, of the lot shall conform to the regulations for the district in which such lot is located; that 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 has remained in separate and individual ownership from adjoining lots or tracts of land continuously during the entire period in which this or previous regulation would have prohibited creation of such lot. Variance of area, width and yard requirements shall be obtained only through action of the Board of Adjustment.

Any single-family dwelling sought to be erected under this section in a district when it would be conditionally permitted must be approved by the same process as any other conditionally permitted use for that district.

### **Section 3.03 Nonconforming Structures.**

- A. 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.
- B. Enlargement, Repair, Alterations: Any such structure described in Section 3.03. A. 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. For structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be in conformance with these regulations or otherwise permitted by a conditional use permit. Other setbacks shall meet the required setbacks unless allowed to vary by another section of this regulation.

- C. Damage or Destruction: In the event that any structure described in Section 3.03A is damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; 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 (5) feet. When a structure is damaged to the extent of fifty percent (50%) or less, no repairs or restoration shall be made unless a zoning permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.
- D. 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.**

- A. Nonconforming Uses of Land: Where at the effective date of adoption or amendment of this regulation, lawful use of land exists that is made no longer permissible under the terms of this regulation 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 Regulation;
  - 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 Regulation.
  - 3) If any such nonconforming use of land ceases for any reason for a period of more than twelve (12) months, any subsequent use of such land shall conform to the regulations specified by this regulation for the district in which such land is located.

- B. 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 regulation, that would not be allowed in the district under the terms of this regulation, 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 regulation 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 regulation 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 regulation;
  - 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 twelve (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 statutes of the land.

### **Section 3.05 Lot.**

- A. 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 (1) principal building on a lot unless otherwise provided.
- B. 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.
- Institutional buildings
  - Public or semi-public buildings
  - Multiple-family dwellings
  - Commercial or industrial buildings
  - Home for the aged
  - Agricultural buildings

### **Section 3.06 Reductions in Lot Area Prohibited.**

No lot, even though it may consist of one (1) 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 3.07 Yard Requirements.**

- A. 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.
- B. All accessory buildings which are attached to principal buildings (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.
- C. Any side or rear yard in a residential district which is adjacent to any existing industrial or commercial use shall be no less than twenty-five (25) feet and shall contain landscaping and planting suitable to provide effective screening.
- D. Any yard for a commercial or industrial use which is adjacent to any residential use or district shall be increased to forty (40) feet and shall contain landscaping and planting suitable to provide effective screening.

### **Section 3.08 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 3.09 Permitted Obstructions in Required Yards.**

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

- A. All Yards. Steps and accessibility ramps used for wheelchair and other assisting devices which are four (4) 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; chimneys projecting twenty-four (24) inches or less into the yard; recreational and laundry-drying equipment; approved freestanding signs; arbors and trellises; flag poles; window unit air conditioners projecting not more than eighteen (18) inches into the required yard; and fences or walls subject to applicable height restrictions are permitted in all yards.
- B. Front Yards. Bay windows projecting three (3) feet or less into the yard are permitted. Open or screened porches, platforms or terraces not over three (3) feet above the average level of the adjoining ground, including a permanently roofed-over terrace or porch; awnings and canopies provided they do not extend or project into the yard more than six (6) feet and has no more than forty-eight (48) square feet of area.
- C. Rear and Side Yards. Open off-street parking spaces, balconies or outside elements of central air conditioning systems.
- D. Double Frontage Lots. The required front yard shall be provided on each street.
- E. 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 (1) building occupying one (1) lot.

### **Section 3.10 Accessory Building and Uses.**

- A. No accessory building shall be constructed upon a lot for more than eighteen (18) months prior to beginning construction of the principal building. No accessory building shall be used for more than twelve (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.
- B. No detached accessory building or structure shall exceed the maximum permitted height of the principal building or structure.
- C. 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.
- D. Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than ten (10) feet.
- E. 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 eighteen (18) feet in height.
- F. Regulation of accessory uses shall be as follows:
  - 1) Except as herein provided, no accessory building shall project beyond a required yard line along any street.
  - 2) Service station pumps and pump island may occupy the required yards, provided, however, that they are not less than fifteen (15) feet from street lines.

### **Section 3.11 Permitted Modifications of Height Regulations.**

- A. 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 125 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

- B. When permitted in district, public or semi-public service buildings, hospitals, institutions, or schools may be erected to a height not exceeding seventy-five (75) feet when each required yard line is increased by at least one (1) foot for each one (1) foot of additional building height above the height regulations for the district in which the building is located.

### **Section 3.12 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 3.13 Repairs and Maintenance.**

- A. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing provided that the cubic content of the building as it existed at the time of passage of amendment of this regulation shall not be increased.
- B. Nothing in this regulation 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 3.14 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 (3 ½) feet and where the same are so placed as not to obstruct lights and ventilation.

### **Section 3.15 Side Yards**

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

### **Section 3.16 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 (2 ½) and eight (8) feet above the grades of the centerline of the intersecting street or road, from the point of intersection one-hundred and twenty (120) feet in each direction measured along the centerline of the streets or roads.

### **Section 3.17 Recreation Equipment, Storage**

Major recreational equipment such as boats, boat trailers, travel trailers, pick-up campers or coaches, camping buses or converted trucks, and tent trailers shall not be stored or parked within the required front yard of a residential district and no such recreational equipment shall be utilized for living, sleeping or housekeeping purposes when parked on a residential lot or in any location not approved for such use.

### **Section 3.18 Building Setback**

- A. 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.
- B. All new non-farm residences shall locate no less than at the corresponding distances provided in Section 4.03; subsection E, from an Existing Agricultural Operation or LFO with more than one hundred (100) animal units located in any affected adjacent Zoning District.
- C. All uses permitted in each district locating two thousand six hundred forty (2,640) feet or less from a public park, recreation area, church, cemetery, religious area, school, historical site, R-1 residential district, or R-M mobile home residential district shall require a conditional use permit, unless otherwise specified in these Regulations.

### **Section 3.19 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 3.20 Caretaker's Quarters**

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

### **Section 3.21 Reserved**

### **Section 3.22 Front yards.**

The front yards heretofore established shall be adjusted in the following cases:

- A. Where forty percent (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 one hundred (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 (2) sides, or
  - 2) Where a building is to be erected on a parcel of land that is within one hundred (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 3.23 Screening**

- A. Junkyards (salvage or wrecking yards) shall be screened with an eight (8) foot high opaque, solid fence or earth berm so as to provide visual and aural separation between such use and adjacent areas.
- B. All extractive industries shall be screened by means of plant materials, earth mounding, or solid fencing at least six (6) feet in height to provide visual and aural separation between such use and adjacent areas.
- C. All holding or incineration areas of dead livestock shall be screened by means of plant materials, earth mounding, or solid fencing at least six (6) 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 3.24 Reserved**

### **Section 3.25 Lighting**

The lighting standard shall apply to all Industrial Zones located within the Burt County Zoning Jurisdiction.

- A. Glare Control: The Luminaries shall meet and shall be installed to operate as Illumination Engineering Society of North America Cutoff Type Luminaries Designation. The luminaries shall be designed to eliminate glare. The cutoff shall be mounted on a horizontal axis.
- B. As an alternative, shields may be installed on the luminaries to achieve the cutoff requirements, or a non-cutoff luminaire having a light source that emits no more than 10,000 lumens at each pole location installed.

## **Article IV. DISTRICTS & 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:

- A. 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.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as following city/village limits shall be construed as following city/village limits.
- D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- E. 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.
- F. 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.
- G. 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 Classification of Unlisted Uses, Matrix:**

The many uses of land are too numerous to list within the text of each zoning district. Only the most common uses are listed. Additional land uses and the zoning district within which they are allowed either as a permitted use or conditional use are shown within a land use matrix which is a part of these regulations and have the same force and effect as if these uses were listed within the zoning district. Uses not listed may be located within a zoning district where similar or related uses are allowed. This determination shall be made by the Zoning Administrator.

## **Section 4.03 A-1 Agricultural – Primary District**

The A-1 Agricultural District regulations are intended to provide 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; 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; to provide for the location and govern the establishment and operation of land uses which are compatible with agriculture and are of such nature that their location away from residential, commercial and industrial areas is most desirable; to provide for the location and govern the establishment of residential uses which are accessory to and necessary for the conduct of agriculture and to provide for the location and 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 which 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 District and the uses allowed outright or by conditional use 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 District regulations afford such services, amenities and protection to residential uses located therein.

### **A. Permitted Principal Uses.**

The following principal uses are permitted in the Agriculture A-1 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. All use of farm chemicals, including application of pesticides and herbicides, shall be governed by State Agencies 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. Agricultural operations having up to three hundred (300) animal units are considered a farm and are permitted by right, provided other requirements in this district are met and submission of a no-fee livestock registration permit to the Zoning Administrator.
  - d. Mobile homes are permitted only when the land is used or intended to be used only for agricultural operations. All mobile homes require a special one (1) year permit which must be renewed annually and which shall be subject to the conditions of the permit.

- 2) New single-family dwellings, provided the Intensity of Use and all other requirements of this district are met. In no case are single-family dwellings permitted on tracts without legal access to an improved road. Such tracts include those that have frontage on a minimum maintenance or undeveloped primitive road, in which case, the Conditional Use shall include the cost of improving and maintaining the road as a condition of the permit. Soil must be tested a proposed septic field for proper percolation and state regulations must be followed.
- 3) Utility substation, pumping station, water reservoir and telephone exchange.
- 4) Fire Station.
- 5) Private kennels and facilities, provided that all buildings and facilities be at least one hundred (100) feet from the property line and three hundred (300) feet from any neighboring residence.
- 6) Roadside stands offering agricultural products for sale on the premises.
- 7) Public and private riding academies provided that no stable, building or structure in which horses or other animals are kept are no closer than 100 feet from the property line.

**B. Permitted Conditional Uses**

- 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 (2) off-street parking spaces shall be provided for each dwelling unit plus one (1) 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 (1) identification sign on not more than four (4) square feet of sign area shall be permitted.

- 2) Publicly and privately owned parks, playgrounds, golf courses, dude ranches, forest and conservation areas, country clubs, swimming pool and golf courses, golf driving ranges, motorized cart tracks, or other outdoor recreational areas such as campgrounds, youth camps, gun clubs, and archery, trap and skeet ranges.
- 3) Single-family dwellings on less than twenty (20) acres, provided that the following minimum conditions are met (not including additional conditions which may be placed upon the application at the time of the hearing as provided in Article 5 of this Resolution):
  - a. The minimum buildable lot is three (3) acres;
  - b. The lot takes access from an improved county road or highway;
  - c. If not on an improved county road or highway, the applicant agrees to improve and maintain said road to county standards;
  - d. Soil must be tested at proposed septic field for proper percolation and state regulations must be followed.
  - e. Said lot and dwelling shall meet all density requirements of the district.
- 4) Privately owned cabins and seasonal dwellings subject to the subdivision regulations.
- 5) 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.
- 6) Publicly owned and operated buildings and facilities such as community centers, auditoriums, libraries, museums
- 7) Radio, cellular and television towers and transmitters and subject to the requirements of Section 6.01 of the Supplementary Regulations.
- 8) Airports.
- 9) Farm and industrial equipment sales
- 10) Manufacture of light sheet metal products including heating and ventilation equipment.
- 11) Truck and freight terminals
- 12) Cemetery.
- 13) Community sewage disposal facilities.
- 14) Church, seminary and convent.

- 15) Public and parochial school; college.
- 16) Hospital, sanitarium, nursing home, and retirement home.
- 17) Sanitary landfill siting or expansion conducted in a manner and method approved by the County Board of Supervisors, provided said landfill is not closer than one thousand (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 6.04 of the Supplemental Regulations.
- 18) Lawn and Garden Nurseries.
- 19) 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.
- 20) Home Occupations as defined in Section 2.02(Definitions of Terms).
- 21) 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 one hundred (100) feet from the property line and three hundred (300) feet from any neighboring residence.
- 22) Salvage yards for cars, trucks, farming equipment and other related items.
- 23) 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 outside of the County.
- 24) Any agricultural operation having less than 301 animal units, when located in proximity to another agricultural operation less than 301 animal units, that combined, would violate the setbacks of any LFO of 301- 1000 animal units.
- 25) Livestock Feeding Operations, subject to the license requirements, waste disposal requirements and recommendations of the State of Nebraska and the Land Use specifications in the Burt County Comprehensive Plan.

The following setbacks and design standards are the minimum sanitation and odor practices for Burt County. In addition, the Burt County Planning Commission and/or Burt County Board of Supervisors, when considering the health, safety, and general welfare of the public, may impose more restrictive requirements. These requirements should consider such things as property values, dust, lighting, waste disposal and dead livestock. The Conditional Use Permit shall be approved after public notice has been given and public hearing conducted as required by law.

NOTE: Agricultural Operations of 300 A.U. and under are considered a farm as defined in these Regulations and do not require a Conditional Use Permit, see Article 4, Section 4.03, subsection A, number 1.c, hereof AND Article 4, section 4.03, number 25.

- a) Livestock Feeding Operations (LFO) shall be classified in one of five levels according to total number of animal units (A.U.) in the operation at anyone (1) time. Levels will include 301-1,000 animal units; 1,001- 5,000 animal units; 5,001- 10,000 animal units; 10,001 – 17,500 animal units and 17,501 – 25,000 animal units.

All existing LFOs that have been granted a conditional use permit may expand within their designated level, as outlined in Table 1, without applying for another conditional use permit. All new LFOs and those expanding to the next level shall require a Conditional Use Permit and shall be located no less than (minimum) at a distance from non-farm residences or other residences not on an owner's property in any affected Zoning District as hereafter described:

- 1) LFO having 301 to 1,000 animal units shall locate at least 1,320 feet from any residence not on the owner's property.
- 2) LFO having 1,001 to 5,000 animal units shall locate at least 1,980 feet from any residence not on the owner's property.
- 3) LFO having 5,001 to 10,000 animal units shall locate at least 2,640 feet from any residence not on the owner's property.
- 4) LFO having 10,001 – 17,500 animal units shall locate at least 3,960 feet from any residence not on the owner's property.
- 5) LFO having 17,501- 25,000 animal units shall locate at least 5280 feet from any residence not on the owner's property.
- 6) The distance requirements for levels one (1) through five (5) may be decreased or waived by a conditional use permit and an easement signed by all of the property owner(s) residence(s) not on the owner's property within the distances specifies, as well as any other conditions deemed necessary and proper at the time of approval. The property owner(s) shall sign an easement on a form provided by the County Zoning Administrator which consent shall be acknowledged before a Notary Public. The easements shall accompany the application for a conditional use permit and upon receipt in the Zoning Administrator's office the easement shall be evidence of the property owner's consent to the decrease and/or waiver of the required spacing distances as described hereof. Upon final approval of the conditional use permit the zoning administrator shall cause the easement to be filed in the office of the Burt County Register of Deeds office.

- 7) LFOs having up to 1,000 animal units shall locate at least 2,640 feet away from a platted residential area, public park, recreational area, church, cemetery, religious area, school, historical site, A-2 District, PU District, R-1 District, and or R-M District. LFOs having more than 1,000 animal units shall locate at a distance as specified under Table 1 from a platted residential area, public park, recreational area, church, cemetery, religious area, school, historical site, A-2 District, PU District, R -1 District, and/or R-M District.
- b) Conditional Use Permits, for LFOs, shall require the following additional information and meet the additional requirements below, as part of the application process:
  - 1) 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 Environment and Energy (DEE) or any other applicable State Agency; the County defers to the recommendations of the DEE, or any other applicable State Agency, for any approved operation and waste disposal plan, maintenance plan, manure plan or any applicable DEE and State Agency plans and permits. Such plans and permits are not subject to additional review by the County;
  - 2) The applicant shall file a copy of the Operation and Maintenance Plan and Manure Management Plan as filed with the DEE with the Zoning Administrator;
  - 3) Shall also file a copy of all approved DEE plans and permits with the Zoning Administrator within thirty (30) days after they are issued by the DEE;
  - 4) An annual manure management plan shall be submitted to the Zoning Administrator which shall follow “best possible management practices” as specified by DEE in order to protect the environment, as well as the health, safety and general welfare of the public and their property values;
  - 5) If stockpiling of animal waste and/or composting of dead carcasses, in compliance with any and all State Statutes or regulations, is part of the manure management plan, the waste shall be maintained in an area at least one (1) mile from a platted residential area and at the respective distance from a neighbor’s dwelling as outlined in Table 1 of this Section. Said area shall also located on the proposed site plan indicated in number (1) above;
  - 6) All ground surfaces within outside livestock pens shall be maintained to ensure 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.

- 7) 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.
- 8) The setbacks from an LFO to any non-farm dwelling, other residence, or other LFO are as follows in Table 1:

**TABLE 1: LFO SPACING AND DISTANCE**

Size of Proposed LFO in Animal Units.	To Residence and Other LFOs
301-1,000	1320 ft = 1/4 mile
1,001-5,000	1980 ft = 3/8 mile
5,001-10,000	2640 ft = 1/2 mile
10,001-17,500	3960 ft = 3/4 mile
17,501-25,000	5280 ft = 1 mile

**C. 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.
- 3) Temporary buildings and uses incidental to construction work which shall be removed upon the completion or abandonment of the construction work.

**D. Lot Requirements and Intensity of Use.**

The minimum lot requirements shall be as follows:

- 1) Minimum Lot Area and density:
  - a) Single family dwellings - Twenty (20) acres excluding road R.O.W. and at a density of no more than two (2) dwellings, total, per ¼ Section, except as herein exempted or on non-conforming lots of record.
    - (1) The lot shall be, generally, in a square or rectangular shaped tract or naturally occurring boundary line. Should the lot be located within two (2) ¼ Sections, the plat or lot

split certificate shall designate from which  $\frac{1}{4}$  Section the lot is being removed.

- (2) The Maximum Density may be waived in one  $\frac{1}{4}$  section provided the current residences in the  $\frac{1}{4}$  section have agreed upon allowing more than 2 dwellings by signing a waiver of density in the said  $\frac{1}{4}$  section. This waiver must be filed with the Burt County Register of Deeds at the applicant's expense. This waiver runs with the land and is binding on any successor in title.

- b) Mobile homes shall not be permitted except on agricultural operations of twenty (20) acres or greater.
- c) Seasonal dwellings - Three (3) acres excluding road R.O.W.
- d) All other permitted and conditional uses - No minimum except for setbacks and sanitation requirements, or as designated in a Conditional Use Permit.

2) Exemptions:

- a) More than one (1) dwelling or mobile home may be permitted on an agricultural operation provided the residence is an accessory use to an agricultural operation and under the same ownership as the existing dwelling(s) or mobile home(s).
- b) Existing Farmsteads with single-family dwellings at the time of adoption of these Regulations may be located on lots of less than twenty (20) acres by conditional use provided that the lot is subdivided from a  $\frac{1}{4}$  Section, as defined within these Regulations, the lot is platted in accordance with the Subdivision Regulations, and that the lot complies with all of the following conditions:
  - (1) The lot created shall not be less than three (3) acres in area, excluding road R.O.W.
  - (2) The lot has legal access to an improved street or county road.
  - (3) The lot contains soil suitable for a septic system or sanitation requirements outlined in these regulations.
  - (4) The  $\frac{1}{4}$  Section shall be owned by all those requesting the subdivision.
  - (5) Should the lot be located within two  $\frac{1}{4}$  Sections, the plat or lot split certificate shall designate from which  $\frac{1}{4}$  Section the lot is being removed.

3) Minimum Lot Widths, Setbacks, Yards, and Height of Buildings.

a) Minimum lot widths shall be as follows:

Single Family Dwellings .....	200 feet
Seasonal Family Dwellings.....	100 feet
Other Permitted Uses.....	200 feet

b) Minimum front yards shall be as follows:

Single Family Dwellings .....	30 feet
Seasonal Family Dwellings.....	20 feet
Other Permitted Uses.....	30 feet

c) Minimum side and rear yards shall be as follows:

Single Family Dwellings .....	Side/15 feet, Rear/25 feet
Seasonal Family Dwellings.....	Side/15 feet, Rear/20 feet
Other Permitted Uses.....	Side/15 feet, Rear/25 feet

d) Minimum required front, side and rear yard setbacks for all uses or structures shall be no less than eighty-three (83) feet from the road centerline when such yards are contiguous to a county road or state highway.

e) Maximum height for structures intended for human occupancy shall be thirty-five (35) feet; all others are not restricted.

E. **Supplementary Regulations.**

1) All new and existing livestock feeding operations and farms with livestock of 300 animal units or less shall require a no-fee livestock registration permit. In addition, all new or expanded Livestock Feeding Operations of over 300 animal units shall require a Conditional Use Permit as subject to in Section 4.03, subsection B of this Article.

a) Agricultural Operations having 300 A.U. or less that exceed density levels as defined in these Regulations shall be classified as an LFO of 301-1,000 A.U. and shall require a Conditional Use Permit as subject to in Section 4.03, subsection B, of this Article.

b) New or expanded Agricultural Operations having 300 animal units or less shall locate no closer than 1,320 feet from any residence not on the owner's property.

c) 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 one hundred (100) and 300 animal units and an LFO based upon the size of operation.

- 2) New residences shall locate at least 1,320 feet from an agricultural operation having between 100 and 300 animal units, at least 1,320 feet from a LFO having 301-1,000 animal units, at least 1,980 feet from a LFO having 1,001-5,000 animal units, at least 2,640 feet from a LFO having 10,001-17,500 animal units, and at least 5,280 feet from a LFO having 17,501 – 25,000 animal units.

**TABLE 2: NON-FARM RESIDENCE SPACING AND DISTANCE**

(Distances given in miles)	SIZE OF EXISTING AGRICULTURAL OPERATION AND LFO IN A.U.					
	100-300	301-1,000	1,001-5,000	5,001-10,000	10,001 – 17,500	17,501 – 25,000
New Non-farm Residence	1/4	1/4	3/8	1/2	3/4	1

#### **Section 4.04 A-2 Agricultural - Transitional District**

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.

##### **A. Permitted Principal Uses.**

The following principal uses are permitted in the A-2 Agricultural - Transitional 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; provided that the operation is no more than three hundred (300) animal units and, that any building, structure or yard for the raising, confinement, housing or sale of livestock or poultry shall be located at least one thousand three hundred twenty (1,320) feet from a neighbors dwelling, and further provided, that there shall be no feeding, spreading, accumulation or disposal of garbage, rubbish or offal on any open surface of the 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. In no case are single-family dwellings permitted on tracts without legal access to an improved road.

Soil must be tested at proposed septic field for proper percolation and state regulations must be followed.

- 4) Fish hatcheries, apiaries, aviaries.
- 5) Forests and wildlife reservations, or similar conservation projects.
- 6) Fur farming for the raising of fur bearing animals.
- 7) Golf courses and clubhouses customarily accessory thereto, except miniature golf, driving ranges and other similar activities operated as a business.
- 8) Hospitals, sanitariums, homes for the aged and feeble minded.
- 9) Private Kennels, provided the buildings and pens shall be located at least one hundred (100) feet from the property line and three hundred (300) feet from any neighboring residence.
- 10) Mushroom barns and caves.
- 11) Nurseries, greenhouses and truck gardens.
- 12) Philanthropic or eleemosynary institutions.
- 13) Picnic groves.
- 14) Publicly owned parks and playgrounds, including public recreation or service building within such parks, public administrative building, police and fire stations, and public utility buildings and structures.
- 15) 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.
- 16) Railroad rights-of-way not including railroad yards.
- 17) Riding stables and riding tracks.
- 18) Cemeteries and mortuaries.

19) Accessory Uses.

- a) A hobby shop may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation; provided, that the articles produced or constructed are not sold for profit, and provided such use will not be obnoxious or offensive by reason of vibration, noise, odor, dust, smoke, fumes, or electrical interference.

B. **Permitted Conditional Uses.**

- 1) Airports and heliports.
- 2) Bed and breakfast residence subject to the following conditions in addition to those imposed by the 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 (2) off-street parking spaces shall be provided for each dwelling unit plus one (1) 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 (1) identification sign on not more than four (4) 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 one hundred (100) feet from the property line and three hundred (300) feet from any neighboring residence.
- 4) Farm and industrial equipment sales
- 5) Manufacture of light sheet metal products including heating and ventilation equipment.
- 6) Truck and freight terminals
- 7) Development of natural resources and the extraction of raw materials, such as rock, gravel, sand and soil and conditions referred to in Section 6.02 of the Supplemental Regulations.

- 8) The application of manure by any livestock feeding operation (LFO as defined in these Regulations) from outside the County shall require a Conditional Use Permit.
- 9) 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).
- 10) Privately owned cabins and seasonal dwellings subject to the subdivision regulations.
- 11) Radio, Cellular and television towers and transmitters and subject to the requirements of Section 6.01 of the Supplemental Regulations.
- 12) Home Occupations as defined in Section 2.02 (Definition of Terms)
- 13) The distance requirements for no more than three hundred (300) animal units may be decreased or waived by a conditional use permit and easement signed by all of the property owner(s) of residence(s) not on the owner's property within the distance specified, as well as any other condition deemed necessary and proper at the time of approval. The property owner(s) shall sign an easement on a form provide by the County Zoning Administrator which consent shall be acknowledged before a Notary Public. The easements shall accompany the application for a conditional use permit and upon receipt in the zoning Administrator's office the easement shall be evidence of the property owner's consent to the decrease and or waiver conditional use permit the zoning administrator shall cause the easement to be filed in the office of the Burt County Register of Deeds office.
- 14) Bar and Grill

C. **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.
- 3) Temporary buildings and uses incidental to construction work which shall be removed upon the completion or abandonment of the construction work.

D. **Area and Intensity Regulations.**

In the A-2 Agricultural-Transitional 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:

- 1) There shall be a front yard of no less than thirty (30) feet.
- 2) There shall be a side yard on each side of a building not less than fifteen (15) feet.
- 3) There shall be a rear yard of no less than twenty-five (25) feet.
- 4) The minimum width of a lot shall be two hundred (200) feet; provided, that where a lot in separate ownership at the time of adoption of these regulations, has less width than herein required, these regulations shall not prohibit the erection of a one-family dwelling provided that the side yards are not reduced more than 15% and all other requirements are met.
- 5) Single family dwellings shall be located on lots no less than three (3) acres excluding road R.O.W. except as herein exempted or on non-conforming lots of record.
- 6) Seasonal dwellings shall be located on lots no less than three (3) acres excluding road R.O.W. except as herein exempted, as provided in Section 6.05, or on non-conforming lots of record.
  - a) Minimum Lot Width and Yard Requirements:
    - Lot Width .....100 feet
    - Front yard .....20 feet
    - Side yard .....15 feet
    - Rear yard .....20 feet
- 7) Minimum required front, side and rear yard setbacks for all uses or structures shall be no less than eighty-three (83) feet from the road centerline when such yards are contiguous to a county road or state highway.
- 8) Height of Buildings.
  - a) Maximum height for structures intended for human occupancy shall be thirty-five (35) feet.
  - b) All other structures not restricted, except that when located within one hundred (100) feet of the R-1 or R-M Districts, buildings or structures shall not exceed thirty-five (35) feet in height.

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

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.

A. **Permitted Principal Uses.**

1) Single-family dwellings.

Soil must be tested at proposed septic field for proper percolation and state regulations must be followed.

2) Bed and breakfast residence subject to the following provisions:

- a) Guest rooms shall be within the principal residential building only and not within an accessory building.
- b) Each room that is designated for guest occupancy must be provided with a smoke detector which is kept in good working order.
- c) Two (2) off-street parking spaces shall be provided for each dwelling unit plus one (1) off-street parking space for each sleeping room designated for guests. Such parking areas shall not be within the required front or side yards.
- d) One (1) identification sign on not more than four (4) square feet of sign area shall be permitted.
- e) General agricultural operations, but this shall not include or permit:
- f) The confined feeding of livestock.
- g) The spreading, accumulation, feeding or use of garbage or animal waste in any manner on the open surface of the land.
- h) A use or activity engaged in within three hundred (300) feet of a residential or retail business structure, if such use or activity results in continuous odor, dust or noise.

3) Public parks and recreational areas and community buildings owned and operated by a public agency.

4) Churches, synagogues, and other similar places of worship.

5) Public and parochial schools.

6) Seasonal dwelling, including mobile home, provided that:

- a) Said seasonal dwelling meets the lot requirements for septic and water systems in section 6.05.
- b) Said seasonal dwelling meets state requirements for septic and water systems
- c) If said seasonal dwelling is a mobile home, said mobile home shall be removed upon termination of ownership or lease.

- d) Said seasonal dwelling shall have access to permanent power hook-ups.
- 7) Golf courses, pitch and putt golf courses and driving tees. Miniature golf is permitted if it is a part of the total golfing operation.
- 8) Accessory buildings and uses.

**B. Permitted Conditional Uses.**

- 1) Any public building erected on land used by any department of the City, County, State or Federal Government.
- 2) Telephone exchange, electric substations, communication towers and structures, regulatory stations or other public utilities.
- 3) Medical Clinic, hospitals, rest homes, and nursing homes.
- 4) Vocational, private and business schools.
- 5) Multi-unit dwellings, provided such use is part of a Planned Unit Development-Residential.
- 6) Home Occupations be defined in Section 2.02 (Definition of Terms)

**C. Lot Requirements.**

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 subject to the sanitary requirements, Section 6.05 of these Regulations:

- 1) There shall be a front yard of not less than twenty-five (25) feet.
- 2) There shall be a side yard on each side of a building not less than eight (8) feet, except on corner lots, the setback for all buildings shall be a minimum of twenty-five (25) feet on the side abutting a street/road.
- 3) There shall be a rear yard of no less than ten (10) feet.
- 4) The minimum width of a lot shall be one hundred (100) feet
- 5) Every dwelling or accessory building or structure hereafter erected, constructed, reconstructed, moved or altered, shall provide a lot area, excluding road R.O.W., of not less than three (3) acres or not less than one-quarter (1/4) acre per family subject to the sanitary requirements, Section 6.05 of these Regulations.
- 6) Minimum required front, side and rear yard setbacks for all uses or structures shall be no less than eighty-three (83) feet from the road centerline when such yards are contiguous to a county road or state highway.

- 7) Height of Buildings.
  - a) Maximum height for principal uses: thirty-five (35) feet.
  - b) Maximum height for accessory uses: twenty (20) feet.

#### **Section 4.06 R-M Mobile Home Residential - District**

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 Burt County.

##### **A. Permitted Principal Uses.**

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

- 1) Single family dwelling.
- 2) Public School.
- 3) Private and public park, playground and recreational facilities.
- 4) Church, educational facilities and parish house.
- 5) On-site sign.
- 6) Multi-unit dwellings, provided such use is part of a Planned Unit Development-Residential.

##### **B. Permitted Conditional Uses.**

- 1) Buildings and uses customarily incidental to the permitted uses.
- 2) Home Occupations as defined in Section 2.02(Definition of Terms.)
- 3) Off-street parking.
- 4) Mobile Home Park, subject to regulations in Section 6.14 of the Supplemental Regulations.
- 5) Nursery or day-care schools.
- 6) 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).
- 7) Sewage disposal and water supply and treatment facilities.

- 8) Campgrounds.
- 9) Public buildings.

C. **Area and Lot Requirements.**

- 1) A mobile home park shall have an area of not less than two (2) acres, nor more than five (5) acres. No mobile homes or other structures shall be located less than eighty-three (83) feet from the road centerline when contiguous to or having frontage to a county road or state highway. The setback on all other court property lines shall be twenty-five (25) feet. These areas shall be landscaped. The minimum lot width for a mobile home court shall be two hundred (200) feet.
- 2) Each lot provided for occupancy of a single mobile home shall have an area of not less than seven thousand five hundred (7,500) square feet, excluding road R.O.W., and a width of not less than seventy (70) feet for an interior lot, eighty (80) feet for a corner lot, or forty-five (45) feet when facing a cul-de-sac turnaround or curve on a minor loop street. Each individual lot shall have:
  - a) Side yards shall not be less than eight (8) feet on one side and not less than eight (8) feet on the other side, except that on corner lots, the setback for all buildings shall be a minimum of thirty (30) feet on the side abutting a street/road.
  - b) Front yard of not less than thirty (30) feet.
  - c) A rear yard of not less than twenty-five (25) feet.
- 3) There shall be a minimum livable floor area of five hundred (500) square feet in each mobile home.
- 4) Height of Buildings.
  - a) Maximum height for principal uses: thirty-five (35) feet.
  - b) Maximum height for accessory uses: twenty (20) feet.

D. **Community Facilities.**

- 1) Each lot shall have access to a hard surfaced drive not less than twenty-two (22) feet in width excluding parking.
- 2) Community water and community sewage disposal facilities shall be provided with connections to each lot, in accordance with Section 6.05 of these Regulations. 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.

E. **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.

**Section 4.07 C-1 Commercial - District**

The intent of the C-1 District shall be to provide for commercial businesses that principally support the buying needs for rural residents of Burt County.

A. **Permitted Principal Uses.**

- 1) Agricultural implement sales and services.
- 2) Animal hospitals when all facilities are within an enclosed building.
- 3) Automobile and truck sales and service.
- 4) Automotive accessory stores.
- 5) Boat sales, service and rental.
- 6) Bowling alleys.
- 7) Car washes.

- 8) Construction equipment rental and sales.
- 9) Convenience stores.
- 10) Electric and telephone substations and offices.
- 11) Gift and souvenir shops.
- 12) Hotels and motels including accessory service uses, such as newsstands, messenger stations, swimming pools (for motel guests only), flower and gift shops.
- 13) Indoor skating rinks.
- 14) Indoor theaters.
- 15) Lumber and building materials sales yards.
- 16) Mobile home sales and service.
- 17) Motorcycle sales, service and rental.
- 18) Nursery and garden stores.
- 19) Package liquor stores.
- 20) Parks, playgrounds and community buildings owned and operated by a public agency.
- 21) Restaurants and tea room, including drive-in and carry-out establishments.
- 22) Service stations or filling stations (light service work only).
- 23) Additional uses as delineated in the Land Use Matrix of these regulations.

**B. Permitted Conditional Uses.**

- 1) Signs and billboards.
- 2) Governmental buildings.
- 3) Dance halls and ballrooms.
- 4) Taverns.
- 5) Mortuary
- 6) Outdoor amusement establishments such as amusement parks, permanent carnival and kiddie parks, miniature golf pitch and putt courses, driving ranges and other similar establishments.

- 7) Drive-in theaters
- 8) Campgrounds
- 9) Radio, Cellular and television towers and transmitters and subject to the requirements of Section 6.01 of the Supplemental Regulations.

C. **Height and Area Regulations.**

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

- 1) Height of Buildings.
  - a) Maximum height for principal uses: sixty (60) feet, except that when located within one hundred (100) feet of the R-1 or R-M Districts buildings or structures shall not exceed thirty-five (35) feet in height.
  - b) Maximum height for accessory uses: twenty (20) feet.
- 2) The front yard requirements shall be not less than thirty-five (35) feet.
- 3) The side yard shall not be less than ten (10) feet.
- 4) The depth of the rear yard shall be at least twenty-five (25) feet. Where an alley of record exists, such rear yard may be measured from the centerline of said alley.
- 5) Minimum lot width shall be at least one hundred fifty (150) feet.
- 6) Minimum lot area shall be at least one (1) acre excluding road R.O.W.
- 7) The total coverage of all buildings shall not occupy more than forty (40) percent of the lot area.
- 8) Minimum required front, side and rear yard setbacks for all uses or structures shall be no less than eighty-three (83) feet from the road centerline when such yards are contiguous to a county road or state highway.

**Section 4.08 I-1 Light Industrial - District**

The intent of the I-1 Light Industrial District shall be to provide for businesses involved in the manufacturing or handling of light industrial materials.

A. **Permitted Principal Uses.**

The following principal uses are permitted in the I-1 District:

- 1) Light industrial uses except those specifically permitted in the I-1 District and except those which by reason of the emission of odor, dust, fumes, smoke, noise and other obnoxious characteristics would be injurious to the public health, safety and general welfare. Permitted uses shall include uses such as:
  - a) Assembly of metal products.
  - b) Building materials storage and sales yard
  - c) Concrete or cement products manufacture.
  - d) Dyeing and cleaning establishment.
  - e) Farm and industrial equipment sales.
  - f) Laboratory.
  - g) Manufacture and assembly of electrical and electronic appliances.
  - h) Manufacturing, compounding, processing, packaging or treatment of articles or merchandise from previously prepared materials such as bone, cloth, aluminum, cork, fiber, leather, glass, plastic, paper, stones, tin, rubber and paint.
  - i) Manufacture of light sheet metal products including heating and ventilation equipment.
  - j) Machine shop or other metal working excluding drop hammers and other noise producing tools.
  - k) Printing and publishing business.
  - l) Stone and monument works.
  - m) Storage of farm and agriculture products.
  - n) Truck and freight terminal.
  - o) Utility substation, pumping station and water reservoir.
  - p) Warehouse or storage houses used for the warehousing or storage of non-hazardous products and materials.
  - q) Living quarters used by watchmen or custodians of the industrially used property.
  - r) Additional uses as delineated in the Land Use Matrix of these regulations.
  - s) 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.

1. All use of farm chemicals, including application of pesticides and herbicides, shall be governed by State Agencies and applicants using restricted-use pesticides shall be required to be certified as required by law.
  2. The spreading of manure by a "Farming" Operation (as defined in Article 2 of the Resolution).
  3. Agricultural operations having up to three hundred (300) animal units are considered a farm and are permitted by right, provided other requirements in this district are met and submission of a no-fee livestock registration permit to the Zoning Administrator.
  4. Mobile homes are permitted only when the land is used or intended to be used only for agricultural operations. All mobile homes require a special one (1) year permit which must be renewed annually, and which shall be subject to the conditions of the permit.
- t) New single-family dwelling provided the intensity of use and all other requirements of this district are met. In no case are single-family dwellings permitted on tracts without legal access to an improved road. Such tracts include those that have frontage on the minimum maintenance or undeveloped primitive road, in which case, the conditional use shall include the cost of improving and maintaining the road as a condition of the permit.
  - u) Roadside stands offering agricultural products for sale on the premises.
  - v) Fire station.

**B. Permitted Conditional Uses.**

The Governing Body may, by conditional use permit, authorize the following exceptions subject to such conditions as the Governing Body deems necessary, to include, but not restricted to, proper setback, landscaping, screening, fencing, maintenance provisions and other similar requirements.

- 1) Warehouses or storage houses used for the warehousing or storage of hazardous products and materials.
- 2) Wholesale merchandise sales and storage houses including the commercial warehousing and storage of hazardous material either in mass or bulk.

- 3) 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.
- 4) Radio, cellular and television towers and transmitters are subject to all requirements of Section 6.01 of the Supplementary Regulations.
- 5) Airports.
- 6) Seed and feed sales, machine repair shop, livestock, equipment, construction and sales, as primary occupation in conjunction with an agricultural operation and be operated on the premises.
- 7) Home Occupations as defined in Section 2.02 (Definition of Terms).
- 8) 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 outside of the County.

**C. Accessory Use.**

The following accessory building and uses of permitted in the I-1 District.

- 1) Building and uses customarily incidental to the permitted and conditional use.
- 2) Home occupation.
- 3) Temporary buildings and uses incidental to construction work which shall be removed upon the completion or abandonment of the construction work.

**D. Lot Requirements and Intensity of Use.**

The minimum lot and density requirements shall be as follows in these regulations.

- 1) There shall be a front yard of not less than thirty-five (35) feet.
- 2) There shall be a side yard on each side of a building not less than ten (10) feet, except on corner lots, the setback for all buildings shall be a minimum of thirty-five (35) feet on the side abutting a street/road.
- 3) There shall be a rear yard of no less than twenty-five (25) feet.
- 4) All front yards, except for access drives and guest parking, shall be landscaped and maintained with trees, shrubs, flowers and lawns.
- 5) All other yards shall be landscaped and maintained with trees, shrubs, flowers and lawns when they abut or are located across any street from an A-1, A-2, R-1 or I-1 District.

- 6) Height of Buildings.
- a) Maximum height for principal uses: ninety (90) feet, anything over will require a conditional use permit, except that when located within one hundred (100) feet of the R-1 or R-M Districts buildings or structures shall not exceed thirty-five (35) feet in height.
  - b) Maximum height for accessory uses: twenty-five (25) feet.
- 7) Minimum lot width shall be at least one hundred fifty (150) feet.
- 8) Minimum lot area shall be at least one (1) acre excluding road R.O.W.
- 9) The total coverage of all buildings shall not occupy more than fifty (50) percent of the lot area.
- 10) Minimum required front, side and rear yard setbacks for all uses or structures shall be no less than eighty-three (83) feet from the road centerline when such yards are contiguous to a county road or state highway.
- 11) Single family dwelling- twenty (20) acres excluding road R.O.W. and at a density of no more than two (2) dwellings, total, per  $\frac{1}{4}$  section, except as herein exempted or on non-conforming lots or records.
- a) The lot shall be, generally, in a square or rectangular shaped tract or naturally occurring boundary line. Should the lot be located within two (2)  $\frac{1}{4}$  sections, the plat or lot split certificate shall designate from which  $\frac{1}{4}$  section the lot is being removed.
  - b) The Maximum Density may be waived in one  $\frac{1}{4}$  section provided the current residences in the  $\frac{1}{4}$  section have agreed upon allowing more than 2 dwellings by signing a waiver of density in the said  $\frac{1}{4}$  section. This waiver must be filed with the Burt County Register of Deeds at the applicant's expense. This waiver runs with the land and is binding on any successor in title.
- 12) Mobile homes shall not be permitted except on agricultural operations of twenty (20) acres or greater.
- 13) All other permitted and conditional uses – No minimum except for setbacks and sanitation requirements, or as designated in a Conditional Use Permit.
- 14) Exemptions:
- a) More than one (1) dwelling or mobile home may be permitted on an agricultural operation provided the residence is an accessory use to an agricultural operation and under the same ownership as the as the existing dwelling(s) or mobile home(s).

- b) Existing farmsteads with single- family dwelling at the time of adoption of these regulations may be located on lots of less than twenty (20) acres provided that the lot is subdivided from a ¼ sections, as defined within these regulations, the lot is platted in accordance with the subdivision regulations, and that the lot complies with the following conditions:
  - i. The lot created shall not be less than three (3) acres in area, excluding road R.O.W.
  - ii. The lot has legal access to an improved county road.
  - iii. The lot contains soil suitable for a septic system or sanitation requirements outlined in these regulations.
  - iv. The ¼ section shall be owned by all those requesting the subdivision.
  - v. Should the lot be located within two (2) ¼ sections, the plat or lot split certificate shall designate from which ¼ section the lot is being removed.

#### **Section 4.09 I-2 Heavy Industrial - District**

The intent of the I-2 Heavy Industrial District shall be to provide for businesses involved in the manufacturing or handling of any industrial materials.

##### **A. Permitted Principal Uses.**

The following uses are permitted in the I-2 Heavy Industrial District:

- 1) Any uses permitted in the I-1 District.
- 2) Any other industrial, manufacturing or commercial agricultural use, except those uses specially permitted as a conditional use in this district.
- 3) Living quarters used by watchmen or custodians of the industrially used property.
- 4) Warehouses or storage house used for the warehousing or storage of non-hazardous products and materials.
- 5) Wholesale merchandise sales and storage houses except for commercial warehousing and storage of hazardous material either in mass or bulk.
- 6) 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) All use of the chemicals, including application of pesticides and herbicides, shall be governed by State Agencies 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) Agricultural operations having up to three hundred (300) animals' units are considered a farm and are permitted by right, provided other requirements in the district are met and submission of a no-fee livestock registration permit to the Zoning Administrator.
  - d) Mobile homes are permitted only when the land is used or intended to be used only for agricultural operations. All mobile homes require a special one (1) year permit which must be renewed annually, and which shall be subject to conditions of the permit.
- 7) New single-family dwellings provided the intensity of use and all other requirements of this district are met. In no case are single-family permitted on tracts without legal access to an improved road. Such tracts include those that have frontage on a minimum maintenance or undeveloped primitive road, which case. The conditional use shall include the cost of improving and maintaining the road as a condition of the permit. Soil must be tested for proposed septic field with a percolation test and state regulations must be followed.
  - 8) Fire Station.
  - 9) Roadside stands offering agricultural products for sale on the premises.

**B. Permitted Conditional Uses.**

- 1) Abattoirs
- 2) Alfalfa dehydrating plant
- 3) Asphalt manufacture or refining
- 4) Blast furnace or electric furnace
- 5) Boiler works
- 6) Cement, lime, gypsum or plaster-of-paris manufacture
- 7) Fat rendering
- 8) Packing house
- 9) Plating works

- 10) Sausage manufacture
- 11) Slaughter house
- 12) Smelter
- 13) Stock yards
- 14) Storage or baling of scrap paper, iron, bottles, rages or junk
- 15) Tallow, grease or lard manufacture or refining from animal fat
- 16) Tar distillation or manufacture
- 17) Radio, Cellular and television towers and transmitters.
- 18) Warehouses or storage houses used for the warehousing or storage of hazardous products and materials.
- 19) Wholesale merchandise sales and storage houses including the commercial warehousing and storage of hazardous material either in mass or bulk.
- 20) Vehicle wrecking yards, junkyards, salvage yards, and scrap processing yards subject to the following:
  - a) The operation shall be located on a tract of land at least six hundred sixty (660) feet from a residential district zone.
  - b) The operation shall be conducted wholly within a non-combustible building or within an area completely surrounded on all sides by a solid fence or wall, of uniform height, ensure maximum safety to the public, obscure the junk from normal view of the public, and preserve the general welfare of the neighborhood. The fence or wall shall be installed in such a manner as to retain all scrap, junk, or other material within the yard.
  - c) No junk shall be loaded, unloaded or otherwise placed either temporarily or permanently outside the enclosed building, fence or wall, or within the public right-of-way.
  - d) Burning of paper, trash, junk, or waste materials shall be permitted only after approval of the Fire Department. The burning, when permitted, shall be done only during daylight hours.
  - e) No junk, salvage, scrap or other materials shall be piled or stacked higher than the top of the required fence or wall.
  - f) This use shall not be located on or visible from an arterial or major street or highway.

- 21) Other uses which may be noxious or offensive by reason of the emission of odor, dust, smoke, gas, noise or vibration or hazardous.
- 22) Development of natural resources and the extraction of raw materials such as rock, gravel, sand etc., including gas and oil extraction and exploitation, and subject to the requirements of the supplementary regulations.
- 23) Airport.
- 24) Seed and feed sales, machine repair shop, livestock equipment construction and sales, as a primary occupation with an agricultural operation and be operated on the premises.
- 25) Home occupations and defined in Section 2.02.
- 26) 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 outside the County.

C. **Accessory Uses:**

The following accessory building and uses of permitted in the I-2 District.

- 1) Building and uses customarily incidental to the permitted and conditional use.
- 2) Home occupation.
- 3) Temporary buildings and uses incidental to construction work which shall be removed upon the completion or abandonment of the construction work.

D. **Lot Requirements and Intensity of Use**

The minimum lot requirements shall be as follows in these regulations.

- 1) There shall be a front yard of not less than thirty-five (35) feet.
- 2) There shall be a side yard on each side of a building not less than ten (10) feet, except on corner lots, the setback for all buildings shall be a minimum of thirty-five (35) feet on the side abutting a street/road.
- 3) There shall be a rear yard of no less than twenty-five (25) feet.
- 4) Minimum required front, side and rear yard setbacks for all uses or structures shall be no less than eighty-three (83) feet from the road centerline when such yards are contiguous to a county road or state highway.
- 5) Height of Buildings.

- a. Maximum height for principal uses: ninety (90) feet anything over will require a conditional use permit, except that when located within one hundred (100) feet of the R-1 or R-M Districts buildings or structures shall not exceed thirty-five (35) feet in height.
  - b. Maximum height for accessory uses: twenty-five (25) feet.
- 6) Minimum lot width shall be at least one hundred fifty (150) feet.
- 7) Minimum lot area shall be at least one (1) acre excluding road R.O.W.
- 8) The total coverage of all buildings shall not occupy more than fifty (50) percent of the lot area.
- 9) Single-family dwellings- twenty (20) acres excluding road R.O.W. and at a density of no more than two (2) dwellings, total per  $\frac{1}{4}$  section, except as herein exempted or on non-conforming lots of records.
  - a. The lot shall be generally in a square or rectangular shaped tract or naturally occurring boundary line. Should the lot be located within two (2) sections the plat or plot spit certificate shall designate from which  $\frac{1}{4}$  section the lot is being removed.
  - b. The Maximum Density may be waived in one  $\frac{1}{4}$  section provided the current residences in the  $\frac{1}{4}$  section have agreed upon allowing more than 2 dwellings by signing a waiver of density in the said  $\frac{1}{4}$  section. This waiver must be filed with the Burt County Register of Deeds at the applicant's expense. This waiver runs with the land and is binding on any successor in title.
- 10) Mobile homes shall be permitted except on agricultural operations of twenty (20) acres or greater.
- 11) All other permitted and conditional uses no minimum except for setbacks and sanitation requirements or as designated in conditional use permit.
- 12) Exemptions:
  - a. More than one (1) dwelling or mobile home may be permitted on an agricultural operation provided the residence is an accessory use to an agricultural operation and under the same ownership as the existing dwelling(s) or mobile home(s).
  - b. Existing farmsteads with single-family dwelling at the time of adoption of these regulations may be located on lots less than twenty (20) acres provided that the lots are subdivided from a  $\frac{1}{4}$  section, as defined within

these regulations, the lot is platted in accordance with subdivision regulation, and that the lot complies with all of the following conditions:

1. The lot created shall not be less than three (3) in area, excluding road R.O.W.
2. The lot has legal access to an improved county road.
3. The lot contains soil suitable for a septic system or sanitation requirements outlined in these regulations.
4. The  $\frac{1}{4}$  section shall be owned by all those requesting the subdivision.
5. Should the lot be located within two (2)  $\frac{1}{4}$  sections, the plat or lot split certificate shall designate from which  $\frac{1}{4}$  section the lot is being removed.

#### **Section 4.10 PU Public/Semi-Public Use - District**

The intent of the PU District shall be to provide for public areas utilized and needed by residents of Burt County.

##### **A. Permitted Principal Uses.**

- 1) Public parks and recreation areas, picnic areas, playgrounds, community centers, forest and conservation areas, private non-commercial recreation areas including country clubs, swimming pool and golf courses but not including commercial miniature golf.
- 2) County Fairgrounds.
- 3) Indoor skating rinks.
- 4) Outdoor amusement establishments such as amusement parks, permanent carnival and kiddie parks, miniature golf pitch and putt courses, driving ranges and other similar establishments.
- 5) Additional uses as delineated in the Land Use Matrix of these regulations.
- 6) Airport, hangars, and other related buildings.

##### **B. Permitted Conditional Uses.**

- 1) Governmental buildings.
- 2) Campgrounds (subject to the Supplemental Regulations governing campgrounds).

- 3) Privately owned parks, playgrounds, golf courses, dude ranches, or other outdoor recreational areas such as campgrounds, youth camps, gun clubs, and archery, trap and skeet ranges. All uses requiring buildings or structures shall conform to the floodplain regulations.
- 4) Public and private riding academies provided that no stable, building or structure in which horses or other animals are kept are no closer than 100 feet from the property line.
- 5) Publicly owned and operated buildings and facilities such as community centers, auditoriums, libraries, museums.
- 6) Utility substation, pumping station, water reservoir and telephone exchange.
- 7) Fire Station.
- 8) Radio, cellular, phone and television towers and transmitters, subject to the regulations in Section 6.01 of the Supplemental Regulations.
- 9) Cemeteries.
- 10) Community sewage disposal facilities.
- 11) Church, seminary and convent.
- 12) Public and parochial school; college.
- 13) Hospital, sanitarium, nursing home, and retirement home.
- 14) Single-Family dwelling.
- 15) Mobile homes.
- 16) Home occupations as defined in Section 2.02 (Definition of Terms)

C. **Height, Area and Intensity Regulations.**

In this District the height of the buildings, the minimum dimensions of lots and yards and the minimum lot area permitted on any lot shall be as follows:

- 1) Height of Buildings.
  - a) Maximum height for principal uses: sixty (60) feet, except that when located within one hundred (100) feet of the R-1 or R-M Districts buildings or structures shall not exceed thirty-five (35) feet in height.
  - b) Maximum height for accessory uses: twenty (20) feet.
- 2) The front yard requirements shall be not less than thirty-five (35) feet.

- 3) The side yard shall not be less than ten (10) feet.
- 4) The depth of the rear yard shall be at least twenty-five (25) feet. Where an alley of record exists, such rear yard may be measured from the centerline of said alley.
- 5) Minimum lot width shall be at least one hundred fifty (150) feet.
- 6) Minimum lot area shall be at least one (1) acre excluding road R.O.W.
- 7) The total coverage of all buildings shall not occupy more than forty (40) percent of the lot area.
- 8) Minimum required front, side and rear yard setbacks for all uses or structures shall be no less than eighty-three (83) feet from the road centerline when such yards are contiguous to a county road or state highway.

#### **Section 4.11 PUD-1 Planned Unit Development – District**

A. **Intent.**

The intent of the PUD-1 District is to encourage the creative design of new living, retail, industrial, and recreational areas, as distinguished from subdivisions of standard lot sizes, in order to permit such creative design in buildings, open space, and their inter-relationship while protecting the health, safety, and general welfare of existing and future residents of surrounding neighborhoods.

The PUD-1 District is a floating zone. Although the specific conditions within this district are predetermined, the location of a proposed district must be carefully reviewed to assure that these conditions can be met.

B. **Requirements.**

The Planning Commission shall make a report to the County Board setting forth its reasons for recommendation of approval or denial of the application for a PUD-1 District, along with specific evidence and facts showing that the proposal meets or does not meet the following conditions.

- A. Said planned unit development shall be in general conformity with the provisions of the Burt County Comprehensive Plan.
- B. Said planned unit development shall not have a substantially adverse effect on the development of the neighboring area.
- C. The minimum size allowed for a PUD-1 District shall be as follows:  
Residential, one acre;

Mobile Home Parks, two (2) acres;  
Commercial, three (3) acres;  
Residential-commercial, four (4) acres;  
Recreational, five (5) acres;  
Industrial, five (5) acres;  
Industrial - commercial, ten (10) acres;  
Agricultural. Five (5) acres;  
Transitional Agriculture. Five (5) acres.

- D. Height, bulk, and setback requirements may be varied so as to promote an efficient and creative PUD-1 District.

C. **Use regulations.**

In District PUD-1 no building, structure, land, or premises shall be used, and no building shall be erected, constructed, or altered, except for any use permitted in the primary underlying Zoning District. All uses must be approved as shown on the development plan as specified in this division.

D. **Standards and conditions for development.**

A planned unit development shall not be inconsistent 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 by geographic division of the state:

- a) The applicant shall satisfy the planning commission that he has the ability to carry out the proposed plan and shall prepare and submit a schedule of construction. The proposed construction shall begin within a period of twelve (12) months following the approval of the final application by the County Board. A minimum of fifty (50) percent of the total planned construction shown on the final plan shall be completed within a period of five (5) years following such approval or the plan shall expire. The period of time established for the completion of the development may be modified from time to time by the planning commission upon the showing of good cause by the developer.
- 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 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 planned unit development shall be held in single ownership or control, or if there are two (2) or more owners, the application for such planned unit development shall be filed jointly by all owners.
- 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 planned unit development not used for structures, parking and loading areas, or access ways shall be landscaped or otherwise improved.
- g) Off-street parking and loading shall be provided in accordance with the parking and loading regulations, see Section 6.06 and 6.07 of this Regulation.
- h) When a commercial use within a PUD-1 District abuts a residential district, a solid or semi-solid fence or wall at least six (6) feet high, but not more than eight (8) feet high, and having a density of not less than eighty (80) percent per square foot, shall be provided adjacent to any adjoining residential district; except in the event the adjacent residential district and the commercial developer are separated by a street right-of-way.
- i) All residential and commercial buildings shall be set back not less than twenty-five (25) feet from the right-of-way of any street and ten (10) feet from any district boundary lines that do not abut a street right-of-way. 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 shall not exceed the following percentages of the net developable area of each individual parcel of the total development for each type of planned unit development:
  - a. Residential, forty (40) percent maximum;
  - b. Commercial, thirty-five (35) percent maximum.
- k) A minimum of thirty (30) percent of the net area of that part of a planned unit development reserved for residential use shall be provided for open space as defined by these regulations under subsection (P.) below. Common open space for

the leisure and recreation of PUD-1 residents only shall be owned and maintained in common by them, through a homeowner's association.

- l) The PUD-1 District shall include such provisions for the ownership and maintenance of the common open spaces as are reasonably necessary to ensure its continuity, care, conservation, and maintenance, and to ensure that remedial measures will be available to the County Board 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.
- m) No residential use shall have direct access onto an arterial street.
- n) All commercial areas must have access to a collector or arterial street; however, no individual commercial use may have direct access onto collector or arterial streets.
- o) 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 planned unit development.
- p) Open space as defined under this zoning district shall mean land area of the site not covered by buildings, parking, structures, or accessory structures, except recreational structures. Common open space as defined under this zoning district shall mean open space which is accessible and available to all occupants in common by a homeowner's condominium's or resident's association.
- q) The PUD-1 District may allow for Cluster Developments provided they meet the definition of this Regulation and/or the developer creates an open space area which also contains a centralized sanitary sewer system which meets all requirements of the Nebraska Department of Environmental Quality for design and proper design capacity, including all other required permits.

The developer shall submit plans for the development to the Burt County Zoning Office and to the Nebraska Department of Environmental Quality for review. The PUD-1 District shall not be approved until all criteria have been met for the district, including approval and sign off the sanitary septic system by the Nebraska Department of Environmental Quality. The developer or a Homeowners Association or Sanitary Improvement District shall be responsible for properly maintaining the system.

E. **Application for approval of Preliminary PUD-1.**

**A.** An application for a PUD-1 shall be handled in the same manner prescribed for amending this chapter. The same requirements for notice, advertisement of public hearing, protests, and adoption shall be required as zoning changes.

B. The applicant shall prepare and submit thirteen (13) copies of the preliminary development plan for review and approval by the planning commission. Said preliminary shall include:

(1) A site plan showing:

- a) Contours at intervals of five (5) feet or less or spot elevations on a one-hundred-foot grid shall be required on flat land;
- b) Location, size, height, and use of all proposed structures in conformance with the yard requirements;
- c) All points of ingress and egress, driveways, circulation aisles, parking lots, parking spaces, and service areas;
- d) All streets adjoining subject property and the width of the existing right-of-way;
- e) Area set-aside for public and private open space, with the type of recreational facilities planned for each and indicated;
- f) Designation of individual parcels if the proposed development is to be set up in separate construction phases;
- g) Designation of individual lots if such lots are proposed to be sold to individual owners;
- h) Location of required screening;
- i) Location of natural features such as ponds, tree clusters, and rock outcropping.
- j) Existing development on adjacent properties within two hundred (200) feet.

(2) 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:

- a) Net area in square feet or acres. (*Note: Net area does not include land dedicated or necessary to be dedicated for public street*

right-of-way. If more than one parcel is proposed, designate net area by parcel as well as total net area.)

- b) Density of dwelling units per acre of the total dwelling units for the entire plan.
  - c) Building coverage of the net area of the planned unit development by individual parcel or total development.
  - d) The percentage of the development plan provided for common open space as defined by this regulation. (*Note:* Normally, this figure should be approximately fifty (50) percent.)
  - e) If more than one parcel is proposed, a statement relating to the sequence of development shall be included.
  - f) Required number of off-street parking spaces.
  - g) Gross floor area proposed for commercial buildings.
  - h) All proposed land uses shall be listed by parcel.
- (3) A statement or adequate drawings shall be included describing the manner for the disposition of sanitary waste and storm water.
  - (4) The full legal description of the boundaries of the property or properties to be included in the planned unit development.
  - (5) A vicinity map showing the general arrangement of streets within an area of one thousand (1,000) feet from the boundaries of the proposed planned unit development.
  - (6) A description, rendering or drawing of the general characteristics of the proposed buildings may be submitted if the applicant desires.
  - (7) When a planned unit development includes provisions for common space, or recreational facilities, a statement describing the provision that is to be made for the care and maintenance for such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and bylaws of such entity shall be submitted.
  - (8) Copies of any restrictive covenants that are to be recorded with respect to property included in the planned development district.

- C. The planning commission shall, within thirty (30) days after a preliminary PUD-1 is filed, hold a public hearing on said development after giving notice as required by Statute 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 and the applicant specific findings of fact with respect to the extent which the preliminary plan complies with those regulations, together with its recommendations in respect to the action to be taken on the preliminary PUD-1. The planning commission may recommend disapproval, approval, or approval with amendments, conditions or restrictions.
- D. The County Board shall or shall not approve the preliminary development plan and authorize the submitting of the final development plan.
- E. Substantial or significant changes in the preliminary PUD-1 shall only be made after rehearing and reapproval.
- F. **Final approval.**
  - A. After approval of a preliminary plan and prior to the issuance of any building permit or zoning certificate, the applicant shall submit an application for final approval with the planned unit development compliance review committee. Said final application may include the entire PUD-1 District or may be for a unit or section thereof as set forth in the approval of the preliminary plan. The application shall include fifteen (15) copies of such drawings, specifications, covenants, easements, conditions, and form of performance bond as set forth in the approval of the preliminary plan and in accordance with the conditions established in this chapter for a PUD-1 District. The final plan shall include the same information as the preliminary plan except the following shall also be provided:
    - (1) A surveyor's certificate certifying to the accuracy of the boundary surveys shown.
    - (2) Location, names, tangent lengths, centerline radius of each curve and its interior width and angle of all proposed public right-of-way;
    - (3) All easements and appropriate building setback lines;
    - (4) All lot lines, and lot dimensions including chord distances for curvilinear lot lines;
    - (5) Lot and/or parcel numbers;

- (6) Location, size, height, and use of all proposed or present buildings;
  - (7) 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.
  - (8) 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.
- B. 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 plan by the landowner is tentatively approved does not:
- (1) Vary the proposed gross residential density or intensity of use by more than five (5) percent or involve a reduction in the area set aside for common open space, nor the substantial relocation of such area; nor
  - (2) Increase by more than ten (10) percent the floor area proposed for non-residential use; nor
  - (3) Increase by more than five (5) percent the total ground area covered by buildings nor involve a substantial change in the height of buildings.
  - (4) Substantially change the design of the plan so as to significantly alter:
    - a) Pedestrian or vehicular traffic flow.
    - b) The juxtaposition of different land uses.
    - c) The relation of open space to residential development.
    - d) The proposed phasing of construction.
    - e) Proposed use of one or more buildings to a more intensive use category as delineated in this chapter.
- C. 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 for final approval and acceptance.

- D. In the event that the final plan submitted contains substantial changes from the approved preliminary development plan, the applicant shall resubmit the original plan. This preliminary development plan shall be modified in the same manner prescribed in this division as for original approval.

G. **Enforcement and modification of plan.**

To further the mutual interest of the residents and owners of the planned unit development and of the public in the preservation of the integrity of the PUD-1 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:

- A. The provisions of the plan relating to:
- (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 shall be enforceable in law or in equity, by the county, without limitation on any powers or regulation otherwise granted by law.
- B. All provisions of the plan shall run in favor of the residents and owners of the planned development, but only to the extent expressly provided in the plan and in accordance with the terms of the plan, and to the extent said provisions, whether recorded by plat, covenant, easement, or otherwise, may be enforced at law or equity by said residents and owners acting individually, jointly, or through an organization designated in the plan to act on their behalf; provided, however, that no provisions of the plan shall be implied to exist in favor of residents and owners of the planned unit development except as to those portions of the plan which have been finally approved and have been recorded.

H. **Amendments.**

The PUD-1 District regulation or an approved preliminary or final 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 fifty-one (51) percent of the owners of the property within the PUD-1 District.

I. **Platting.**

For unplatted tracts or tracts being replatted, the approval of the preliminary PUD-1 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 either two hundred (200) feet, one hundred (100) feet, fifty (50) feet, or twenty (20) feet to the inch.

**Section 4.12 Airport**

A. **Intent**

The Board of Supervisors of Burt County Nebraska approves of the Tekamah Municipal Airport, located in Section twenty-eight (28), Township twenty-one (21) North, Range eleven (11) East of the sixth (6<sup>th</sup>) P.M., Burt County, Nebraska, rules. Please see current rules under airport tab. Any further amendments or modification duly adopted by the Airport Joint Zoning Board will be found under the airport tab.

## **Article V.     CONDITIONAL USES, PROCEDURES AND STANDARDS**

For the purpose of providing the most appropriate use of land throughout a district and giving maximum consideration to the character of the district and its peculiar suitability for particular uses in the areas affected by these regulations, permitted uses and conditional uses are provided for in the various district regulations.

### **Section 5.01 Permitted.**

Permitted uses are those uses permitted outright in the district.

### **Section 5.02 Conditional Uses.**

Conditional uses are those that would not be appropriate generally throughout the zoning district without restrictions, but which, if controlled as to number, area, location, size or relation to the district and would protect the comfort, convenience, appearance, prosperity or general welfare of abutting properties, citizens and the county.

#### **A.     Procedure.**

- 1) After receiving an application and fee, the amount to be established by the governing body, and after a public hearing, the County Board of Supervisors after recommendation of the planning commission may authorize a conditional use permitted in a zoning district, provided it is found that the location and characteristics of the use will not be injurious to the health, safety, morals and general welfare of the area. An application for a conditional use permit shall include a site plan which shall denote the location of any hazardous materials. Notice for such hearings shall be given in the manner provided by these regulations.
  - a) Public Hearing on a Conditional Use. A proposed conditional use shall be considered by the Planning Commission at a public hearing held within forty-five (45) days after filing of the application. The County Clerk shall give notice of the hearing in the following manner:
    - i. By publication of a notice in a legal newspaper of general circulation in the County not less than ten (10) days prior to the date of the hearing.
    - ii. By sending notices by mail not less than ten (10) days prior to the date of hearing to the record title holders within the area enclosed by lines parallel to and three hundred (300) feet from the exterior boundaries of the operation, structure or use involved, using for this purpose the name and address of owners as shown upon the records of the County Assessor. Applicant shall present the Zoning Administrator with a property list certified to by a registered abstractor of the record title holders within said three hundred (300) feet. The notification area of property owners may be

increased based upon the application of use and the required distances in each district or otherwise specified in these Regulations. The Zoning Administrator reserves the right to give notice to any other person(s) or agency as deemed necessary. Failure to receive such notice shall not invalidate any proceedings in connection with the application for a conditional use.

- b) Recess of the Hearing by Planning Commission. The Planning Commission may recess a hearing on a request for a conditional use in order to obtain additional information or to serve further notices upon other property owners or persons whom it decides may be interested in the proposed conditional use. Upon recessing for this purpose, the Planning Commission shall announce the time and date when the hearing will be resumed.
- c) Action on a Conditional Use. The Planning Commission may recommend approval, approval with specified conditions or disapproval of a conditional use to the County Board of Supervisors. The County Board of Supervisors may then act upon the Conditional Use after considering the Planning Commission's recommendation. A file of all recommendations and actions pertaining to Conditional Uses will be maintained in a manner prescribed by the County Board of Supervisors.
- d) Notification of Action. The County Clerk shall notify the applicant for a conditional use in writing of the County Board of Supervisors action within seven (7) days after the decision has been rendered.

B. Standards.

The conditional uses shall conform to the intent and purpose of these regulations, the comprehensive plan and the following requirements:

- a) The use shall in all other respects conform to the applicable regulations of the district in which it is located.
- b) Ingress and egress shall be so designed as to minimize congestion in the public street, road, or highway.
- c) The use shall be in harmony with the character of the area and most appropriate use of the land. The planning commission considering an application for a conditional use may consider, among other things, the most appropriate use of land, the conservation and stabilization of the value of property, adequate open space for light and air, concentration of population, congestion of public streets, and the promotion of public safety, health, convenience, and comfort. The planning commission may stipulate and require such conditions and restrictions upon the conditional use and operation as is deemed necessary for the protection of the

public interest and to secure compliance with these regulations. All decisions of the planning commission may be appealed to the governing body, by any person aggrieved by the decision of the planning commission, or any taxpayer, officer, department, board, or bureau of the county. Such appeal must be presented to the Zoning Administrator with fifteen (15) days after the decision is made by the planning commission. In the event of an appeal, the governing body, after a public hearing, may reverse, affirm or modify the decision of the planning commission.

- d) Any utilities proposed to be located in County Right of Way shall be subject to the County Permit process related to utilities located in the County Right of Way. This permit may be obtained from the County Roads Department.
- C. If an approved conditional use is not begun within a period of twelve (12) months following approval, the conditional use permit shall become null and void.
- D. Failure to observe and maintain the conditions and restrictions of the conditional use permit shall be considered a violation of these regulations and subject to a penalty as provided herein and shall be grounds for a review of the conditional use permit. Review of a conditional use permit may be requested by the Zoning Administrator, the planning commission or by the governing body. In the event of the review of a conditional use permit as provided herein, a public hearing shall be held by the planning commission. Notices of public hearing shall be as provided within these regulations. Following the public hearing, the planning commission may leave the conditional use permit unaltered, revoke the permit, or alter the permit by adding, deleting or modifying the conditions or restrictions. Any decision of the planning commission regarding the review may be appealed to the governing body which, after a public hearing may reverse, affirm or modify the decision of the commission. Procedures for an appeal shall be as provided for within these Regulations.
  - a) Any operation or owner who has been granted a Conditional Use Permit (CUP) shall be subject to a review thereof upon a formal complaint being filed with the Zoning Administrator by any person who may be affected by the granting of a CUP. The formal complaint process shall follow the following procedures:
    - i. A complainant shall file a written complaint with the Zoning Administrator. The complaint shall be on a form provided by the Zoning Administrator and shall list the name and address of the complainant, the name and address of the holder of the CUP, the nature of the complaint, and the requested relief the complainant seeks. The complaint shall be accompanied by a filing fee as identified in the County Fee Schedule.

- ii. Within seven (7) days of the receipt of a complaint as set forth in subparagraph (1) above, the Zoning Administrator shall send a copy of the complaint to the holder of the CUP by certified mail, return receipt requested, and notify the holder of the CUP that he/she or it has seven (7) days to respond in writing to the Zoning Administrator concerning the allegations contained in the complaint
- iii. Upon receipt of the holder of the CUP's response to the complaint, the Zoning Administrator shall send a copy of the response to the complainant by certified mail, return receipt requested. In addition, the Zoning Administrator shall schedule an informal meeting with the complainant and the holder of the CUP within seven (7) days of the Zoning Administrator's receipt of the holder of the CUP's response. Notice of the informal meeting shall be sent to the complainant and the holder of the CUP by certified mail, return receipt requested. The time and date of the meeting may be changed by mutual agreement of the complainant, holder of the CUP, and the Zoning Administrator, but in no event shall the meeting be continued more than seven (7) days beyond the time originally set by the Zoning Administrator. Either time the complainant or the holder of the CUP may be represented at the informal meeting by his/her or it's attorney. The purpose of the meeting is for the complainant and holder of the CUP to attempt to resolve the nature of the complaint, with the assistance of the Zoning Administrator. If the matter of the complaint is resolved, the Zoning Administrator shall reduce the agreement to writing and the same shall be signed by the complainant and the holder of the CUP. The agreement shall be kept on file with the Zoning Administrator and shall become a part of the holder of the CUP's Conditional Use Permit.
- iv. If the complainant and the holder of the CUP are unable to resolve the nature of the complaint as set forth in subparagraph (3) above, or if the holder of the CUP fails or refuses to either respond in writing to the Zoning Administrator or to attend the informal meeting as provided in subparagraph (3) above, the complaint shall be referred to the Planning Commission for action. The Planning Commission shall give notice as required by law and conduct a public hearing on the complaint. The purpose of the hearing will be to identify and quantify the complaint and to impose solution(s) to the problem or add additional conditions to the holder of the CUP's Conditional Use Permit. If, after the public hearing and the approval and adoption of the solution(s) or additional conditions to the CUP by the Planning Commission, the holder of the CUP fails or refuses to comply with the same or fails or refuses to comply with any regulations set forth by the Nebraska Department of Environmental Quality (DEQ) or

appropriate agency, the holder's CUP may be revoked by the Planning Commission after the Planning Commission shall have given notice as required by law and conducted a second public hearing on the revocation of the CUP.

- v. If the complainant shall fail or refuse to attend the informal meeting with the holder of the CUP and the Zoning Administrator, the complaint shall be dismissed.
  - vi. The Zoning Administrator, Planning Commission, or Governing Body shall retain the right to file complaints on their own behalf as appointed or elected officials for any violation of a holder's CUP or a violation of any rules or regulations of the DEQ or any other state agency having jurisdiction over the subject matter of the CUP.
  - vii. All documentation concerning all complaints filed under this section, whether dismissed or otherwise, and all associated matters shall be kept on file in the office of the Zoning Administrator. In addition, all such documentation shall constitute a public record and subject to inspection and review by the public. The filing fee of said complaint shall be retained by the Zoning Administrator regardless of review outcome.
- E. Conditional use permits are issued for the use of the property according to the terms of the permit or until the use of the property is changed to a permitted use or another allowed conditional use in the district. To change to another conditional use allowed within the district, the same procedures of this section for establishing a conditional use shall be followed.
- F. The Zoning Administrator shall cause the conditional use permit, any amendments and all applicable instruments to be filed with the Register of Deeds for recording. The applicant shall pay the recording costs for the conditional use permit at the time the application is filed with the Zoning Administrator.

## **Article VI. SUPPLEMENTAL REGULATIONS**

The district regulations hereinafter set forth in this section qualify or supplemental, as the case may be, the district regulations appearing elsewhere in these Regulations.

### **Section 6.01 Radio, Television and Wireless Communication Towers.**

#### **A. 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.

#### **B. 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:

**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.

**ANTENNA SUPPORT STRUCTURE** shall mean any building or structure other than a tower which can be used for location of telecommunications facilities.

**APPLICANT** shall mean any person that applies for a Tower Development Permit.

**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.

**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.

**ENGINEER** shall mean any engineer qualified and licensed by any state or territory of the United States of America.

**OWNER** shall mean any person with a fee simple title or a leasehold exceeding ten (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.

**PERSON** shall mean any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

**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.

**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.

**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:

- 1) Any Conforming Commercial Earth Station antenna two (2) meters or less in diameter which is located on real estate zoned A-1, A-2, R-1, C-1, I-1 or I-2.
- 2) Any earth station antenna or satellite dish antenna of one (1) meter or less in diameter, regardless of zoning applicable to the location of the antenna.

**TOWER** shall mean a self-supporting lattice, guyed, or monopole structure which supports Telecommunications Facilities. The term Tower shall not include non-

commercial amateur radio operator's equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively.

**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. A condition use permit is used as this permit.

**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.

C. **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 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 Section 1.17.
- 3) 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.

D. **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 (1) 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 applicant's 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. Includes but not limited to economic hardship as a criteria in affidavit.
- 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.

E. **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 (1) time and at least ten (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. 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.

F. **Setbacks and Separation or Buffer Requirements**

- 1) All towers up to fifty (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 fifty (50) feet in height shall be set back one (1) additional foot for each foot of tower height in excess of fifty (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 one hundred (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 two hundred (200) feet or one hundred percent (100%) of the height of the proposed tower, whichever is greater.
- 3) Towers of one hundred (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 one hundred percent (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 seven hundred fifty (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 one thousand five hundred (1,500) feet.

G. **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.

H. **Illumination and Security Fences**

- 1) Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). In cases where there are residential uses / zoned properties within a distance of 300% of the height of the tower, any tower subject to this Section shall be equipped with dual mode lighting.
- 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.

I. **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 which 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.

J. **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.

K. **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.

L. **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. Inspections shall be made by either an employee of the County's Zoning Office, or a duly appointed independent representative of the County.

M. **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.

N. **Abandonment**

If any tower shall cease to be used for a period of one (1) 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 thirty (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 seventy-five (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 Burt 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.

O. **Satellite Dish Antennas, Regulation**

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

- 1) In residentially zoned districts, satellite dish antennas may not exceed a diameter of ten (10) feet.
- 2) Single family residences may not have more than one (1) satellite dish antenna over three (3) feet in diameter.
- 3) Multiple family residences with ten (10) or less dwelling units may have no more than one (1) satellite dish antenna over three (3) feet in diameter. Multiple family residences with more than ten (10) dwelling units may have no more than two (2) satellite dish antennas over three (3) 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 Burt 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.

P. **Severability**

If any clause, subsection, or any other part of this Section shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Section shall not be affected thereby, but shall remain in full force and effect.

**Section 6.02 Sand and Gravel Mineral, Stone, Rock, and Soil Extraction and Quarries.**

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

- E. 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;
- F. Topsoil shall be collected and stored for redistribution on the site at the termination of the operation;
- G. 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;
- H. 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 6.03 Wind Energy Installation.**

Please see Resolution 2024-19  
Section 6.03 Wind Energy under Links

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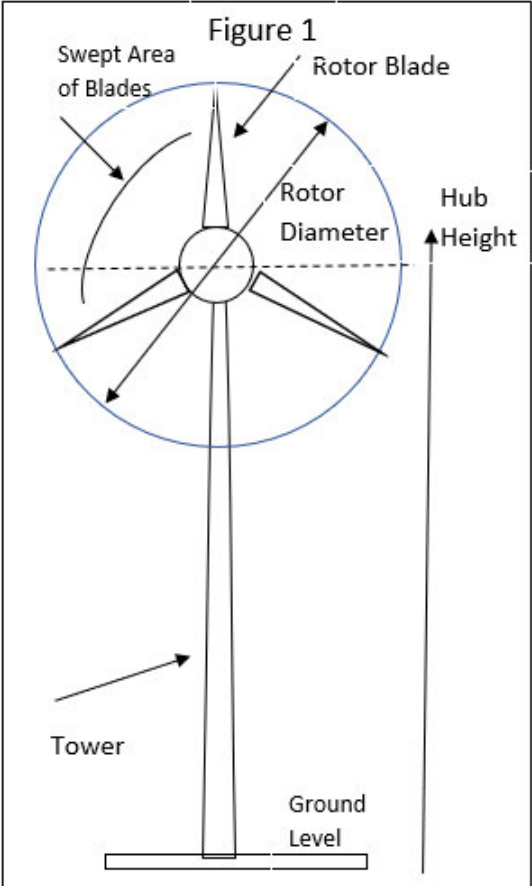
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#### **Section 6.04 Waste Disposal Sites and Landfills.**

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:

- A. The effects on the adjacent property, traffic, and
- B. The public necessity and advantage
- C. The maintenance of access routes related to all weather conditions and droppings or rubbish and liter
- D. The effects on underground water quality
- E. The immediate and long-term effects on the environment and the public
- F. The concerns for public safety
- G. The application shall include documents to indicate conformance to all applicable governmental regulations and standards
- H. 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 6.05 Sanitary Requirements.**

- A. 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 Onsite Wastewater Treatment Systems in Nebraska", as published by the Nebraska Department of Environmental and Energy (NDEE) Website [Nebraska DEE](#).
- B. No waste absorption field (septic tank, cesspools, etc.) shall be constructed any closer than twenty-five (25) feet from any adjacent property line.
- C. There shall be no waste absorption field located closer than fifty (50) feet from any other residential structure.
- D. There shall be no waste absorption field located closer than one hundred (100) feet from a water well provided, however, where geology and subsurface conditions and topography would indicate that seepage could reach the well supply, a greater distance would be required.
- E. A private sewage lagoon shall be located no closer than two hundred (200) feet of the house it serves and not less than five hundred (500) feet from any other house or residential boundary.
- F. The following minimum lot area are required in all residential districts and for all seasonal housing, where permitted:
  - a. With private water and private sewer: Same as the Intensity of Use Regulations for each District.
  - b. With public water and private sewer: Two and one-half (2 1/2) Acres.
  - c. With private water and public sewer: One (1) Acre.
  - d. With public water and public sewer: One-quarter (1/4) Acre (10,890 sq. ft.).
- G. 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 Burt County Soil Survey and Burt County Comprehensive Plan.
- H. A waste disposal system evaluation shall be required for septic systems serving all new residences. Evaluations shall be on forms furnished by the Nebraska Department of Environmental and Energy (NDEE) Website [Nebraska DEE](#).

## **Section 6.06 Off-Street Automobile Storage.**

- A. 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 two hundred fifty (250) square feet per parking space shall be used.
- B. If vehicle storage space or standing space required above cannot be reasonably provided on the same lot on which the principal use is conducted in the opinion of the Board of Adjustment, the Board of Adjustment may permit such space to be provided on other off-street property, provided such space lies within four hundred (300) feet of an entrance to such principal use.
- C. 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.
- D. 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.

## **Section 6.07 Required Parking.**

### **SCHEDULE OF MINIMUM OFF-STREET PARKING AND LOADING REQUIREMENTS**

<b><u>Structures and Uses</u></b>	<b><u>Parking Requirements</u></b>	<b><u>Loading Requirements</u></b>
<b>Residential Units (including Apartment Buildings)</b>	2 Spaces for each dwelling unit	None Required
<b>Bowling Alleys</b>	4 Spaces per alley	1 Space per establishment
<b>Churches, Synagogues, and Temples</b>	1 Space per 4 seats in main unit of worship	None required
<b>Eating and Drinking Places</b>	Parking spaces equal to 30% of capacity in persons	2 Spaces per establishment
<b>Educational Uses, Nursery</b>	Parking spaces equal to 20% capacity in students	2 Spaces per structure
<b>Educational Uses, All Other</b>	Parking spaces equal to 40% of capacity of students	2 Spaces per structure
<b>Funeral Homes and Chapels</b>	8 Spaces per reposeing room	2 Spaces per establishment
<b>Hospitals</b>	1 Space per 2 beds	3 Spaces per structure

<b>Hotels and Motels</b>	1 Space per rental unit	1 Space per establishment
<b>Industrial Uses</b>	.75 times the maximum number of employees on the premises at any one time	2 Spaces per establishment
<b>Libraries</b>	1 Space per 500 square feet of floor area	1 Space per structure
<b>Lodging, Boarding Houses and Bed and Breakfasts</b>	1 Space per rental unit	None required
<b>Medical Clinics</b>	5 Spaces per staff doctor or dentist	None required
<b>Mobile Home Park</b>	2 Spaces per dwelling unit	None required
<b>Offices</b>	1 Space per 200 square feet of gross floor area	
<b>Other Commercial</b>	.75 times the maximum number of employees on the premises at any one time	2 Spaces per establishment
<b>Private Clubs and Lodges</b>	1 Space per 500 square feet of floor area	1 Space per establishment
<b>Retail Sales Establishments</b>	1 Space per 200 square feet of gross floor area	1 Space per establishment
<b>Roadside Stands</b>	4 Spaces per establishment	None required
<b>Sanitariums, Convalescent, and Rest Home Services</b>	1 Space per 3 beds plus 1 space per employee on the largest shift.	1 Space per establishment
<b>Service Establishments and Offices</b>	1 Space per 200 square feet of gross floor area	1 Space per establishment
<b>Theaters, Auditoriums, and Places of Assembly</b>	1 Space per 4 people in designed capacity	1 Space per establishment
<b>Veterinary Establishments</b>	3 Spaces per staff doctor	None required
<b>Wholesaling and Distribution Operations</b>	1 Space per 2 employees on largest shift	2 Spaces per establishment

### **Section 6.08 Signs: Standard of Measurement.**

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

### **Section 6.09 Signs, Type.**

- A. Real Estate: Not more than 2 signs per lot may be used as a temporary sign no larger than 6 square feet (except, AA-1@, or AA-2@ may be up to 32 square feet and setback a minimum of five (5) 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.
- B. Business: Small announcement or professional signs, not over 6 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.
- C. 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.
- D. Name plate: One nameplate not exceeding 2 square feet for each dwelling.
- E. 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.
  - 1) 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.
  - 2) No billboard, signboard, or similar advertising signs shall be located within 100 feet of any lot in a residential district.
  - 3) No billboard, signboard, or similar advertising signs shall exceed 500 square feet in area.

- 4) 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.
- F. Low Profile or Ground: Ground signs at least 5 feet from any lot line with a maximum height of 6 feet.
- G. 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.
- H. Subdivision: Not more than one (1) sign per entrance into the subdivision. No sign shall be greater than 32 square feet in size.
- I. Signs hung from canopies and awnings shall be no closer than 80 inches from the bottom edge of the sign to grade below.

### **Section 6.10 Sign Schedule.**

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

#### **Sign Schedule**

<u>Zoning District</u>	<u>A-1</u>	<u>A-2</u>	<u>R-1</u>	<u>R-M</u>	<u>C-1</u>	<u>I-1</u>	<u>I-2</u>	<u>PUD-1</u>
<u>*Sign Type</u>								
Real Estate	+	+	+	+	+	+	+	+
Business	+	+	+	+	+	+	+	+
Wall	-	-	-	-	+	+	+	+
Name Plate	+	+	+	+	+	+	+	+
Billboard	-	-	-	-	+	+	+	+
Subdivision	-	-	+	+	+	+	+	+
Projecting or								
Pole	-	-	-	-	+	+	+	+
Ground or Low								
Profile	+	+	+	+	+	+	+	+

+: permitted

-: not permitted

C: Conditional Use

### **Section 6.11 Sign Permits.**

All signs, except Real Estate signs advertising the sale of property where the sign is located and up to one (1) sign advertising 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.

### **Section 6.12 Special Height Regulations Adjacent to Airports.**

Within the area of an approach zone of a runway of an airport or landing field, no building, utility line, pole, smokestack, chimney, wires, tower or other structures or appurtenance thereto of any kind shall hereafter be erected, constructed, repaired, or established, nor shall any tree or other object of natural growth be allowed to grow to exceed a height that would interfere with the take-off or landing of a plane with a glide angle of one foot (1') vertical for every forty feet (40') horizontal, such glide to be computed as beginning two hundred feet (200') from the end of the runway. Beyond the glide path and within the approach zone no obstruction shall exceed a height of one hundred fifty feet (150').

An approach zone is located at each end of each runway, landing strip or other portion of the airfield used regularly for landing or taking-off of airplanes. Such approach zones are five hundred feet (500') in width at each end of each runway or landing strip, all approach zones expand uniformly to a width of fifteen hundred feet (1,500') at a distance of five thousand feet (5,000') from the ends of the respective runways or landing strips. The outer boundary line of each approach zone shall be a straight line perpendicular to, and bisected by the extended centerline of its respective runway or landing strip.

### **Section 6.13 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:

- A. Electric and telephone substations and distribution systems.
- B. Gas regulator stations.
- C. Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves, or other similar equipment for the transmission of electricity, gas, or water.
- D. Pumping stations.
- E. Radio, television, and microwave transmitting or relay stations and towers, except as may be required to meet setback requirements.

- F. Transformer station
- G. Water tower or standpipes.

#### **Section 6.14 Mobile Home Parks.**

A mobile home park may be established provided that the proposed mobile home park meets all of the following requirements:

- A. Certification of compliance with all ordinances and regulations regarding mobile home park licensing, zoning, health, plumbing, electrical, building, fire prevention and all other applicable ordinances and regulations.
- B. Individual mobile home lots shall have an area of not less than three thousand (3,000) square feet for single wide mobile homes and forty-five hundred (4,500) square feet for double wide mobile homes, and the total number of lots per gross acre shall not exceed seven (7).
- C. A minimum of twenty-five (25) feet measured from any entrance, lean-to or other extension from said mobile home shall be maintained between mobile homes.
- D. A mobile home park shall have an area of not less than two (2) acres, nor more than five (5) acres and no mobile home or office or service building shall be closer to a street right-of-way or other property line than twenty (20) feet.
- E. All mobile homes shall meet all applicable standards specified by Federal and State Regulations.
- F. Individually owned lots on which mobile homes are placed may be purchased within an approved mobile home park if the owner wishes to sell.
  - 1) The area of the mobile home shall be improved to provide an adequate and approved foundation for the placement and tie-down of the mobile home, thereby securing the superstructure against uplift, sliding, rotation, or overturning.
  - 2) The mobile home shall be provided with anchors and tie-downs such as cast-in-place concrete "dead men," eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors or other devices securing the stability of the mobile home. The tie-down devices shall be compatible with the foundation system provided for the mobile home such that the tie-downs are designed to resist the action of frost in the same manner as the foundation system.
  - 3) Anchors and tie-downs shall be placed at least to each corner of the mobile home and at intervals not to exceed ten (10) feet and shall be able to resist the design wind pressures. Wheels shall not be for bearing pressures.

- 4) Anchoring of a mobile home shall meet the manufacturers recommendations or the above as a minimum.
- 5) The skirting of all mobile homes is required. Such skirting shall not attach a mobile home permanently to the ground, but shall be sufficient to withstand wind load requirements and shall not provide a harborage for debris or rodents, nor create a fire hazard. Such skirting shall be provided with removable access panels sufficient to provide easy access to all utility connection points of the mobile home and its subsequent connection to the utility risers if they are located within the skirted area.

## **Section 6.15 Solar Energy Conversion Systems**

[See Section 6.15 for current under Links](#)

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## **Article VII. ADMINISTRATION AND ENFORCEMENT**

### **Section 7.01 Zoning Administrator.**

A Zoning Administrator shall be appointed by the County Board of Supervisors 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 Supervisors may direct.

### **Section 7.02 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. Provided however, that an exception of the requirement for a zoning permit will be given for the repair, maintenance and/or upkeep of a building due to ordinary wear and tear, providing that the repair, maintenance or upkeep does not alter or change the exterior dimensions or design of the building. This exception is conditioned on the provision that such repair, maintenance or upkeep shall not conflict with other provisions of the applicable zoning code.

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 7.03 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 (1) 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 fifteen (15) 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 one (1) year 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 7.04 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 Burt 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.

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.

## **Article VIII. BOARD OF ADJUSTMENT**

### **Section 8.01 Purpose.**

A Board of Adjustment is hereby created in accordance with Nebraska State Statutes governing such creation. The Board shall be an appeals body and may decide in any matter appropriately brought before it.

### **Section 8.02 Appointment.**

The Burt County Board of Supervisors shall appoint a Board of 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 be removable for cause by the appointing authority upon written charges and after public hearing. No member of the Board of Adjustment shall be a member of the County Board of Supervisors. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed by the County Board from the membership of the County Planning Commission, and the loss of membership on the Commission by such member shall also result in his immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment.

### **Section 8.03 Rules and Meetings.**

The Board of Adjustment shall adopt rules in accordance with the provisions of any resolution adopted pursuant to this act. 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.

An appeal to the Board of Adjustment may be taken by any person or persons aggrieved, or by any officer, department, board, or bureau of the County by any decision of an administrative officer, planning commission, and/or County Board, depending upon the nature of aggrievement. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board of Adjustment, by filing with the Board a notice of appeal specifying the grounds thereof. The officer or agency from whom the appeal is taken shall transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

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

#### **Section 8.04 Powers.**

The Board of Adjustment shall, subject to such appropriate conditions and safeguards as may be established by the County Board of Supervisors, 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 any regulation relating to the location or soundness of structures;
- 2) To hear and decide, in accordance with the provisions of any regulation, requests for interpretation of any map, or for decisions upon other special questions upon which the board is authorized by such regulation to pass; and
- 3) Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the 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 act would result in peculiar and exceptional practical difficulties to, or exceptional 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 substantially impairing the intent and purpose of any zoning regulations, but no such variance shall be authorized unless the Board of 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 the 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.

- 4) No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property concerned for the intended use of the property is not of so general or recurring a nature as to make reasonable formulation of a general regulation to be adopted as an amendment to the zoning regulations.

In exercising the above-mentioned powers, the Board may, in conformity with the provision of this act, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such 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 vote 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 affect any variation in such regulation.

### **Section 8.05 Appeal of Board of Adjustment Decisions.**

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any officer, department, board, or bureau of the county, may present to the district court for the County a petition, duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be presented to the court within fifteen days after the filing of the decision in the office of the Board of Adjustment. Upon the filing of such petition a summons shall be issued and be served upon the Board of Adjustment together with a copy of the petition, and return of service shall be made within four days after the issuance of the summons. Within ten days after the return day of the summons, the County Board shall file an answer to the petition which shall admit or deny the substantial averments of the petition and matters in dispute as disclosed by the petition. The answer shall be verified in like manner as required for the petition. At the expiration of the time for filing the answer, the court shall proceed to hear and determine the cause without delay and shall render judgement according to law. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusion of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought upon for review. Appeal to the district court shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board and on due cause shown, grant a restraining order. Any appeal from such judgement of the district court shall be prosecuted in accordance with the general laws of the state regulating appeals-in actions at law.

## **Article IX. AMENDMENTS**

### **Section 9.01 Amendments.**

This Zoning Regulation and Zoning Map, and the restrictions and boundaries may from time to time be amended, supplemented, changed, modified or repealed by the County Board of Supervisors. No such amendment, restriction or change of zoning shall become effective until after a public hearing and recommendation of the Planning Commission and a public hearing by the County Board of Supervisors. Notice of the time and place of such hearings in the local newspaper of any county which has territory within three miles of the property affected by such action of the county board, one time at least ten days prior to such hearing. Notice of the time and place of such hearing shall also be given in writing to the chairman of any Municipal, County, or joint Planning Commission which has jurisdiction over land within three miles of the property affected by such action. In the absence of a planning commission, such notice shall be given to the clerks of units of local government having jurisdiction over land within three miles of the property affected by such action.

In the case of a change of zoning request made by any party except the County, the joint Planning Commission shall give written notice by United States mail at least ten days prior to the Planning Commission hearing to those property owners within one thousand (1,000) feet of the property to be rezoned if said neighboring property is located in county zoning authority. If said neighboring property is located within municipal zoning authority, notice shall be sent to property owners within three hundred (300) feet of the property to be rezoned.

In case of a protest against a change of zoning signed by the owners of twenty percent of more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred feet therefrom, or of those directly opposite thereto extending one hundred feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of two-thirds majority of the County Board.

In order to provide for orderly school planning and development and to protect prospective home owners, their children, and the taxpayer from ill-conceived and poorly planned development of real estate, a Planning Commission considering the adoption or amendment of a zoning regulation or approval of the platting or replatting of any development of real estate, shall notify the board of education of each school district in which the real estate, or some part thereof, to be affected by such a proposal lies, of the next regular meeting of the planning commission at which such proposal is to be considered and shall submit a copy of the proposal to the board of education at least ten days prior to such meeting.

Upon adoption of an amendment to the Burt County Zoning Regulation, the following steps shall be undertaken in order to provide a clear understanding of said amendment:

- A. A copy of the adopted Resolution as approved by the County Board shall be placed in a section at the back of the Zoning Regulation;
- B. All deletions from the text shall be shown with a strikeout within the body of the regulation;
- C. All additions to the Zoning Regulation shall be shown as bold and in italics within the body of the regulation; and
- D. At the end of the amended section, in parenthesis, the date of passage and Resolution number shall be included within the body of the regulation.

### **Section 9.02 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.

## **Article X.   LEGAL STATUS PROVISIONS**

### **Section 10.01 Separability.**

Should any article, section or provision of this Resolution be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Resolution as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

### **Section 10.02 Purpose of Catch Heads.**

The catch heads appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this Resolution.

### **Section 10.03 Repeal of Conflicting Resolutions.**

All Resolutions or parts of Resolutions in conflict with this Resolution, or inconsistent with the provisions of this Resolution, are hereby repealed to the extent necessary to give this Resolution full force and effect.

### **Section 10.04 Effective Date.**

This Resolution shall take effect and be in force from and after its passage and publication according to law.

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BURT COUNTY LAND USE MATRIX

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