

ZONING ORDINANCES

FOR DAKOTA COUNTY, NEBRASKA

Prepared for: **Dakota County, Nebraska**

By: **Dakota County Joint Planning Commission
Dakota County Board of Commissioners**

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Sioux City, Iowa**

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DAKOTA COUNTY, NEBRASKA

ZONING REGULATIONS

RESOLUTION

INTRODUCTION

Section 101. Title. These regulations shall be known as the Dakota County Zoning Regulations. These regulations restrict the use of land, the use and location of buildings, height and bulk of buildings and structures, and area of surrounding yards and courts. These regulations divide the county into districts for these purposes. These regulations adopt a map of the county showing boundaries of districts and classification of such districts. These regulations define certain terms used herein. These regulations establish a Board of Adjustment. These regulations provide for changes and amendments to said regulations and prescribe penalties for the violation of its provisions.

Section 102. Jurisdiction. The provision of these regulations shall apply to the unincorporated territory of Dakota County, Nebraska, except for areas where Cities or Villages are exercising their extraterritorial jurisdiction.

Section 103. Purpose. These regulations have been made in accordance with a 1997 comprehensive plan and recording approved and adopted zoning change requests from 1978 through 2004. They are designed to lessen congestion on the streets and roads; to secure safety from fire, panic and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent overcrowding of land; and to avoid undue congestion of population. They are also designed to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public facilities. 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 prescribed unincorporated portions of Dakota County, Nebraska.

Section 104. Interpretation and Scope. In the interpretation and application, the provisions of these regulations shall be held to be the minimum requirement adopted for the promotion of the public health, safety, and welfare. Where these regulations impose a greater restriction upon land, buildings, or structures than is imposed or required by existing provisions of law, contract or deed, the provisions of these regulations shall control.

Section 105. Non-conforming Use. The use of a building, structure, or land existing and lawful at the time of the enactment of these regulations, or at the time of an amendment to these regulations, may, except as provided herein, be continued. Such use can continue although such use does not conform with the provisions of these regulations or amendment, and such use may be extended throughout the same building if no structural alteration of such building is proposed or made for the purpose of such extension. If such nonconforming use is in fact discontinued for a period of twelve months, such right to nonconforming use shall be forfeited and any future use of the building and premises shall conform to these regulations. The county board may provide in any zoning regulation for the restoration, reconstruction, extension, or substitution of nonconforming uses upon such terms and conditions as may be set forth in the zoning regulations. The county board may, in any zoning regulation, provide for the termination of non-conforming uses, either by specifying the period or periods in which non-conforming uses shall be required to cease, or by providing a formula whereby the compulsory termination of a non-conforming use may be so fixed as to allow for the recovery or amortization of the investment in the non-conformance.

RULES, DEFINITIONS

Section 201. Rules. For the purpose of these regulations, the following rules shall apply:

1. Words and numbers used singularly shall include the plural and the plural shall include the singular. Words used in the present tense shall include the future.
2. The word “persons” includes a corporation, members of a partnership or other business organization, a committee, board, trustee, receiver or other representative.
3. The word “shall” is mandatory.
4. The word “use,” “occupy,” or “occupied” as applied to any land or building shall be construed to include the works “intended,” “arranged,” or “designed” to be used or occupied.

Section 202. Definitions. For the purpose of these regulations, certain terms or words used herein shall be interpreted or defined as follows, unless the context clearly indicates otherwise.

Where terms are not defined, they shall have their ordinary accepted meanings within the context which they are used. Webster’s Third New International Dictionary of the English Language, Unabridged, copyright 1986, shall be considered as providing ordinarily accepted meanings.

1. **ABBUTTING:** Shall mean to border on, being contiguous with, or have property or district lines in common, including property separated by an alley.
2. **ACCESSORY USE, STRUCTURE OR BUILDING:** A subordinate building or use which customarily is incidental to and detached from the main or principal buildings or use of the premises. Customary accessory uses include, but are not limited to, tennis courts, swimming pools, detached garages, air conditioners, garden houses, children's play houses, barbecue ovens, fireplaces, patios and residential storage sheds.
3. **AGRICULTURAL OPERATIONS:** Farmsteads of forty (40) acres or more, which produce one thousand dollars (\$1,000) or more of farm products each year.
4. **AIRPORT (AIRFIELD):** Any area which is used or is intended to be used for 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.
5. **ALLEY:** A dedicated public right-of-way, other than a street, which provides only a secondary means of access to abutting property, the right-of-way of which is 20 feet or less in width.
6. **ALTERATION:** As applied to a building or structure, is a change or re-arrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing the height, or moving from one location or position to another, shall be considered an alteration.
7. **AMERICANS WITH DISABILITY ACT (ADA):** 1990 Federal law designed to provide disabled Americans with equal access to jobs, transportation, public facilities, and services.
8. **AMUSEMENT, CENTER:** An establishment offering five (5) or more amusement devices, including, but not limited to, coin-operated electronic games, shooting gallery, table games and similar recreational devices within an enclosed building.

9. **ANIMAL HOSPITAL OR CLINIC:** An establishment where animals are admitted for examination, treatment, board or care, by a doctor of Veterinary Medicine. (This does not include open kennels.)
10. **ANIMAL UNIT:** Shall mean the equivalency of 1 slaughter and feeder cow, 0.5 horse; 0.7 mature dairy cow; 2.5 swine weighing 55 lbs or more; 25 weaned pigs weighing less than 55 lbs.; 10 sheep; 100 chickens; 50 turkeys or 5 ducks.
11. **APARTMENT:** (See Dwelling, Multiple).
12. **ASSISTED LIVING FACILITIES:** Shall mean Residences for elderly that provide rooms, meals, personal care, and supervision of self-administered medication. These facilities may also provide other services such as recreational activities, financial services, and transportation.
13. **AUTOMOBILE REPAIR, MAJOR:** An establishment primarily engaged in the repair or maintenance of motor vehicles, trailers and similar large mechanical equipment, including paint, body and fender, and major engine and engine par overhaul, provided it is conducted within a completely enclosed building
14. **AUTOMOBILE REPAIR, MINOR:** An establishment primarily engaged in the repair or maintenance of motor vehicles, trailers, and similar mechanical equipment, including brake, muffler, upholstery, tire repair and change, lubrication, tune ups and transmission work, provided it is conducted within a completely enclosed building.
15. **AUTOMOBILE SELF-SERVICE STATION:** A portion of property where flammable or combustible liquids or gases used as fuel are stored and dispensed by the consumer from fixed equipment into the fuel tanks of motor vehicles. Such an establishment may offer for sale at retail other convenience items as a clearly secondary activity and may also include a freestanding car wash.
16. **AUTOMOBILE SERVICE STATION:** A portion of property where flammable or combustible liquids or gases used as fuel are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles. Accessory activities may include automobile repair and maintenance, car wash service, and food sales.
17. **AUTOMOBILE WRECKING YARD:** Shall mean the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot or parcel of land of two (2) or more vehicles, which, for the a period exceeding thirty (30) days, have not been capable of operating under their own power, and from which parts have been or are to be removed for reuse or sale, shall constitute prima facie evidence of an automobile wrecking yard. (See Junk or Salvage yard).
18. **BASEMENT:** Shall mean a story of a building having part but not less than one-half (1/2) of its lowest story below grade. A basement is counted as a story for the purpose of height regulations if subdivided and used for dwelling purposes
19. **BED AND BREAKFAST HOME:** Shall mean a single-family dwelling which provides overnight lodging for guests on a rental basis, in which the host or hostess resides and in which paying overnight guests may be served food. Also, if applicable, the premises must be licensed by the State of Nebraska.
20. **BED AND BREAKFAST INN(EXPANDED SERVICES):** Shall mean a single-family dwelling which provides lodging and meals for quests; and may provide facilities for group meetings, special occasion receptions or parties (either indoors or out-of-doors) and restaurant services for the general public as approved with conditions by the Board of Adjustments.

21. **BEDROOM:** Shall mean a room within a dwelling unit, planned and intended for sleeping, separable from other rooms by a door.
22. **BIKE/PEDESTRIAN PATHWAY:** A public way designated for public use, which excludes motorized vehicles.
23. **BILLBOARD:** Shall mean any structure or portion thereof, situated on private premises, on which lettered, figured or pictorial matter is displayed for advertising purposes, except the name and occupation of the user or the premises, the nature of the business conducted on the premises, or the products primarily sold or manufactured on the premises, and having an area of one hundred (100) square feet or more. Any signboard carrying a message accepted in this definition which also carries extraneous advertising of 100 square feet or more, shall be considered a billboard. This definition shall not include any board, sign, or surface used to display official notices issued by a court of public duty, or bulletin boards used to display announcements of meetings to be held on the premises on which such bulletin boards are located, nor shall it include a real estate sign advertising the sale or rent of the property upon which it stands when such sign does not exceed 50 square feet.
24. **BLOCK:** Shall mean a parcel of land platted into lots and bounded by public streets or by waterways, rights-of-way, unplatted land, Village or County boundaries, or adjoining property lines.
25. **BOARD OF ADJUSTMENTS:** Shall mean the board which has been created by the County Board of Commissioners and which has the authority to hear and determine appeals, interpretations of, exceptions and variances to these regulations.
26. **BOARDING HOUSE:** A building, other than a hotel or motel, where for compensation and by pre-arrangement for definite periods, meals, or lodging and meals, are provided for three or more persons. Individual cooking facilities are not provided.
27. **BUILDING:** Any structure designed or intended for the enclosure, shelter or protection of persons, animals, or property but shall not include temporary buildings as defined in "Structure, Temporary." Trailers, with or without wheels, shall not be considered buildings.
28. **BUILDING CODE, CODE, OR UNIFORM BUILDING CODE:** Shall mean the current Uniform Building Code (U.B.C.) adopted by Dakota County, Nebraska.
29. **BUILDING HEIGHT:** The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of the ceiling of the top story in the case of a flat roof; to the deck line of a mansard roof; and to the average height between the plate and ridge of a gable, hip or gambrel roof.
30. **BUILDING INSPECTOR:** The official appointed by the County Commissioners and charged with the responsibility of performing building inspections.
31. **BUSINESS USE:** Shall mean all uses of land, buildings, or structures other than agricultural, residential, public, semi-public, or industrial uses.
32. **CAMPGROUND:** Any parcel, tract, or plot of ground which provides space for transient occupancy and is used or intended to be used for the placement of tents, parking of one or more camping trailers, or other recreational vehicles. Under no circumstances shall any one camper occupy a campground for a period exceeding 15 consecutive days. The term campground does not include sales lots on which unoccupied camping trailers, whether new or used, are parked for the purpose of storage, inspection, or sale.

33. **CAMPING UNIT:** Any vehicle, tent, trailer, or other movable shelter used for camping purposes.
34. **CANOPY:** A roofed structure constructed of fabric or other materials supported by the building or by support extended to the ground directly under the canopy, so as to extend outward from the building providing a protective shield for doors, windows, and other openings.
35. **CARPORT:** A roofed structure open on at least two (2) sides and used for the storage of private or pleasure type vehicles.
36. **CEMETARY:** Shall mean a tract of land used or intended to be used for the burial of the dead, including columbarium's, and mausoleums when in conjunction with and located within the boundaries of the cemetery.
37. **CERTIFICATE OF OCCUPANCY:** A permit issued by Building Inspector indicating that the use of the building or land in question is in conformity with this resolution or that there has been a legal variance therefrom as provided by this resolution. Said certificate may be merged with the building permit.
38. **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 13 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 the requirements of the State of Nebraska.
39. **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.
40. **CLINIC, MEDICAL OR DENTAL:** Shall mean a building in which a group of physicians, dentists, or allied professional assistants are associated for the purpose or carrying out their profession. The clinic may include a medical or dental laboratory. It may not include in-patient care or operating rooms for major surgery.
41. **COLLEGE:** Shall mean an education institution offering advanced instruction in any academic field, beyond the secondary level, not including trade schools or business colleges.
42. **COMMERCE:** Shall mean the purchase, sale or other transaction involving the handling or disposition (other than that included in the term **INDUSTRY**, as defined herein) of any article, substance or commodity for profit or a livelihood, including in addition, operation of tourist courts, motels, public garages, office buildings, offices of doctors and other professionals, outdoor advertising signs and structures, public stables, recreational and amusement enterprises conducted for profit, shops for the sale of personal services, places where commodities or services are sold or are offered for sale, either by direct handling or by agreements to furnish them, but not including dumps and junk yards.
43. **COMMON SANITARY SYSTEM:** Shall mean an approved sanitary sewage system in public ownership which provides for collection and treatment of domestic effluent in a central sewage treatment plant which meets the minimum requirements of the Nebraska Department of Environmental Control for primary and secondary sewage treatment and which does not include individual septic tanks or portable sewer treatment facilities.
44. **COMMON WATER SYSTEM:** Shall mean a water system in public ownership, which provides for the supply, storage and distribution of potable water on an uninterrupted basis.

45. **COMMUNITY CENTER:** Shall mean a place, structure, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve various segments of the community.
46. **COMPREHENSIVE PLAN:** The plan or series of plans for the future development of the County recommended by the County Planning Commission and adopted by the County Board meeting the purposes and requirements set forth in Nebraska State Statutes Section 23-174.05, as the same may, from time to time, be amended.
47. **CONDITIONAL USE:** A use which is not allowed in the district as a matter of right, but which is permitted upon findings of the County Planning Commission that under the particular circumstances present, such use is in harmony with the Principal Permitted Uses of the District. Allowable conditional uses are specifically listed under the district regulations.
48. **CONDITIONAL USE PERMIT:** Shall mean a permit issued by the Planning Commission that authorizes the recipient to make conditional use of the property in accordance with the requirements of this ordinance as well as additional requirements imposed by the commission.
49. **CONDOMINIUM:** Shall be as defined in the Nebraska State Statutes, Chapter 76, Article 8, Section 76-801 through 76-894, with revisions, the Condominium Law. A condominium shall be a building containing four (4) or more dwelling units, which dwelling units are separated by a party wall, in which dwelling units are designed and intended to be separately owned in fee.
50. **CONSERVATION AREA:** 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, rivers or streams, and areas of significant biological productivity or uniqueness.
51. **CONTIGUOUS:** Shall mean the same as “abut”.
52. **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. It is dependent on, and is designed to attract and accommodate large volumes of stop-and-go traffic.
53. **DANCE HALL:** Shall mean an establishment intended primarily for dancing and entertainment within an enclosed building, using either live or electronically produced music, either open to the public or operated as a private club open only to members.
54. **DAY CARE, ADULT DAY CARE:** Shall mean the keeping for part-time care and/or instruction, whether or not for compensation, of six (6) or less individuals at any one time within a dwelling, not including members of the family residing on the premises.
55. **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.
56. **DEVELOPMENT:** Any man-made 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.
57. **DEVELOPMENT REVIEW:** Shall mean the review, by the county of subdivision plats, site plans, rezoning requests or permit review.
58. **DISTRICT:** A section or sections of the zoning area for which these regulations governing the use of land, the height of buildings, the size of yards, and the intensity of use are uniform.

59. DRIVEWAY: Shall mean any vehicular access to an off-street parking or loading facility.
60. DWELLING: Any building or portion thereof which is designed and used exclusively for residential purposes, excluding mobile homes and cabin trailers.
61. DWELLING, FARM: A single-family dwelling located on a farmstead.
62. DWELLING, MOBILE HOME: For purposes of this zoning resolution, a mobile home is a detached residential dwelling unit designed for transportation after fabrication, on streets or highways on its own wheels, or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities and the like.
63. DWELLING, MODULAR: 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 and is to be considered a conventional type single-family dwelling. To be a modular home it shall meet or be equivalent to the construction criteria as defined by the Nebraska State Department of Health under the authority granted by Section 71-1555 through 71-15667 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.
64. DWELLING, MULTIPLE: A building having accommodations for, and occupied exclusively by, more than two families, independently, excluding mobile homes and cabin trailers.
65. DWELLING, SINGLE-FAMILY: A building having accommodations for, and occupied exclusively by, one family, excluding mobile homes and cabin trailers but including modular/manufactured homes which meet all the standards set forth in Revised Statutes of Nebraska 23-114.
66. DWELLING, TWO-FAMILY: A building having accommodations for, and occupied exclusively by, two families, independently, excluding mobile homes and cabin trailers.
67. DWELLING, TOWNHOUSE OR TOWNHOME: Shall mean one (1) single-family residential unit which may be joined together with at least one (1) additional single-family townhouse/townhome residence by a common wall or walls, and/or roof, and/or foundation; provided, however, that in any even, the term townhouse/townhome shall not mean condominium.
68. EASEMENT: A grant by the property owner to the public, a corporation, or any persons for the use of a tract of land for a specific purpose or purposes.
69. EXCEPTION: An exception is a use that would not be appropriate generally or without restriction throughout the zoning district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such exceptions should be based upon circumstances unique to the specific situation in question. Such uses may be permitted in such zoning districts as exceptions, if specific provision for such exceptions is made in this regulation.
70. EXTRATERRITORIAL JURISDICTION: Shall mean the area beyond 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.

71. **FAMILY:** Shall mean one (1) or more persons related by blood, marriage, or adoption, living together as a single dwelling unit; or a group of not more than four (4) unrelated persons living together as a single dwelling unit; plus in either case, usual domestic servants. A family shall under no circumstances be construed as the occupants of a boarding house, fraternity or sorority house, club, lodging house, hotel or motel.
72. **FARM OPERATION:** See AGRICULTURAL OPERATIONS.
73. **FARMSTEAD:** An area of twenty (20) acres or more on which is located at least one (1) dwelling unit and on which farm products of a value of one thousand dollars (\$1,000) or more are normally produced each year
74. **FEEDLOT:** The confined feeding of food, fur or pleasure animals in buildings, lots, pens, pools or ponds, which normally are not used for the raising of crops or for the grazing of animals. The area of the confined feeding operation 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. Further, such operations shall provide an operation and maintenance plan including a site plan and other such information as required by the county. For the purpose of these regulations, the term feedlot shall include the confined feeding of one-hundred-fifty (150) or more feeder or fat cattle, one hundred (100) or more beef cows, one-hundred (100) or more dairy cattle, five-hundred (500) or more swine, two-thousand (2,000) or more sheep, three-thousand (3,000) or more turkeys, or ten-thousand (10,000) or more chickens, ducks or geese.
75. **FLOOD HAZARD AREA:** The land within the county subject to a one-percent or greater chance of flooding in any given year.
76. **FLOOD, ONE HUNDRED (100) YEAR:** The condition of flooding having a one- percent chance of annual occurrence.
77. **FLOODPLAIN:** Shall mean that area of land adjoining a watercourse or other body of water which has been or may be hereafter covered by floodwater, and which has been designated by the Nebraska Natural Resources Commission, Nebraska Department of Water Resources, or the federal Emergency Management Agency.
78. **FLOODPROOFING:** Any combination of structural and non-structural additions, changes, or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of floodwater. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.
79. **FLOOD, REGULATORY ELEVATION:** The water surface elevation of the 100-year flood.
80. **FLOODWAY-COMMISSION:** A floodway whose limits have been designated and established by order of the Nebraska Natural Resources Commission.
81. **FLOODWAY-SELECTED:** A floodway within the limits of a Commission Floodway which is recognized by the Nebraska Natural Resources Commission as being subjected to a high degree of flood hazard.
82. **FLOOR AREA:** (a) For computing off-street parking requirements, shall mean the gross floor area of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings and shall include one-half (1/2) the basement floor area and the area of each other floor of the structure. (b) For determining floor area ratios, shall mean the sum of the following areas:

- a. The gross horizontal areas of the buildings measured from the exterior faces of exterior walls or the centerline of walls separating two buildings which shall include floor area utilized for stairwells or elevator shafts and floor space used for mechanical equipment (except on roof, open areas, or enclosed).
 - b. Interior balconies and mezzanines.
 - c. Penthouses.
 - d. One-half (1/2) the basement floor area.
 - e. Enclosed porches.
 - f. Floor area devoted to accessory uses.
 - g. Interior malls.
 - h. Attic space having a minimum height of seven (7) feet.
83. **FLOOR AREA RATIO:** The maximum percentage of allowable floor area of a building or complex (including principal and accessory buildings) computed by dividing the floor area of said complex or buildings by the area of the building site.
84. **FRONTAGE:** The length of the property abutting a street measured along the dividing line between the property and the street.
85. **FUNERAL HOME/FUNERAL CHAPEL:** Shall mean a building used for the preparation of the deceased for burial and the display of deceased, and rituals connected therewith before burial and cremation.
86. **GARAGE, PRIVATE:** An attached or detached accessory building for the storage of private passenger vehicles or recreational equipment with a capacity of not more than three (3) single stalls per dwelling unit and where no repair facilities are maintained.
87. **GROUND COVERAGE:** The area of a zoning lot occupied by all buildings expressed as a percentage of the gross area of the zoning lot.
88. **GOLF COURSE:** Shall mean a lot or portion of a lot used for the playing of golf, including pitch and putt courses, but shall not include driving ranges, miniature golf courses or other similar commercial enterprises.
89. **GROUP 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 (24) hour care for children and youth in a residential setting, as per Chapter 71 Article 19 of the Code of Nebraska.
90. **HABITABLE SPACE:** Shall mean space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.
91. **HANDICAPPED IDENTIFICATION DEVICE:** Shall mean an identification device bearing the international symbol of accessibility issued by the Department of Transportation, and including a handicapped registration plate issued to, or for a handicapped person, under Chapter 18, Articles 1736 through 1742, of the Code of Nebraska.
92. **HANDICAPPED PARKING SIGN:** Shall mean a sign which bears the international symbol of accessibility that meets the requirements of Chapter 18, Articles 1736 through 1742, of the Code of Nebraska.
93. **HANDICAPPED PARKING SPACE:** Shall mean a parking space designated for use by only motor vehicles displaying a handicapped identification device that meets the requirements of Chapter 18, Articles 1736 through 1742, of the Code of Nebraska.

94. **HANDICAPPED PERSON:** Shall mean a person who, according to Chapter 18, Article 1738 and its subsections, of the Code of Nebraska, because of a disability or impairment, meets either of the following:
- a. Unable to reasonably walk in excess of 200 feet, unassisted,
 - b. Cannot walk without causing serious detriment or injury to the person's health.
95. **HEALTH HAZARD:** Shall mean a classification of chemical for which there is statistically significant evidence based on at least one (1) study conducted in accordance with established scientific principals that acute or chronic health effects may occur in exposed persons. The term health hazard includes chemicals that are carcinogens, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents that act on the hematopoietic system, and agents that damage the lungs, skin, eyes mucous membranes.
96. **HIGHWAY, INTER-REGIONAL:** Shall mean a U.S. designated highway with a 100 foot right-of-way, or more, on which partial control of access, geometric design, and traffic control measures are used to expedite the safe movement of through vehicular traffic.
97. **HIGHWAY, REGIONAL:** Shall mean a state designated highway with a 100 foot right-of-way, or more, on which partial control of access, geometric design, and traffic control measures are used to expedite the safe movement of through vehicular traffic.
98. **HIGHWAY SUPERINTENDENT:** The term Highway Superintendent shall refer to the employee designated by the County Commissioners to supervise the county road system.
99. **HISTORIC DISTRICT:** Shall mean an area containing buildings are places in which historic events occurred or that have special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.
100. **HISTORIC STRUCTURE:** Shall mean any structure that is, (a) Listed individually in the National register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on the local inventory of historic places in communities with historic preservation programs that have been certified either: (I) By an approved state program as determined by the Secretary of the Interior, or (ii) Directly by the Secretary of the Interior in states without approved programs.
101. **HOME OCCUPATION:** A business, occupation or profession carried on within a residential dwelling by the resident thereof, and which shall have the following characteristics:
- a. There shall be no external evidence of the occupation with the exception of one unlighted nameplate of not more than one square foot in area attached flat against the building. Advertising displays and advertising devices displayed through a window of the building shall not be permitted.
 - b. There shall be no emission of smoke, dust, odor, fumes, glare, noise, vibration, and electrical or electronic disturbance detectable at the zoning lot line.
 - c. The activity shall employ only members of the immediate family of the resident of the dwelling.
 - d. There shall not be a stock of goods on the premises in excess of thirty (30) cubic feet in volume, none of which shall be of a flammable nature.

- e. There shall be no signs, radio, television, newspaper, handbill or similar types of advertising linking the address of the premises with the home occupation.
- f. Said home occupation shall not involve continual visits by the general public except that music lessons may be given to one (1) pupil at a time; dance and art lessons may be given to four (4) pupils at a time; a dressmaker may have two (2) customers at a time; a beauty operator may have two (2) customers at a time; and a professional person may have one (1) client or patient at a time.
- g. The above listed characteristics of a home occupation shall not be construed to restrict the sale of garden produce grown on the premises, provided this exception shall not extend to allow the operation of a commercial greenhouse or nursery, or the existence of stands or booths for the display of produce grown on the premises.
- h. Said occupation may include the caring for not more than eight (8) children at one time for hire.
- i. Rooms or board for hire, but not for more than two (2) persons.

Any business, occupation or profession, the operation of which does not meet the aforesaid characteristics, shall not be interpreted to be a home operation despite the fact that it may attempt to operate in a residential building.

- 102. **HOSPICE:** Shall mean an alternative way of caring for terminally ill individuals that stresses palliative care as opposed to curative or restorative care. Hospice care is not limited to medical aspects, but addresses all physical, psychological and spiritual needs of the patient, and the emotional needs of the patient's family. The emphasis of the hospice program is on keeping the hospice patient at home with his or her family and friends as much as possible
- 103. **HOSPITAL:** Shall mean any building , or portion thereof, used for the accommodation and medical care of sick, injured, or infirm persons; and including sanitariums, alcoholic sanitariums, institutions for the cure of chronic drug addicts and mental patients.
- 104. **HOUSEHOLD PETS:** Shall mean dogs, cats, rabbits, birds, or family use only (noncommercial) with cages, pens, etc. and shall not include pigeons or dangerous animals as defined by the municipal code.
- 105. **HOTEL:** A building, portion of building, or buildings used as transient housing which may or may not serve meals. The use of buildings in this manner includes motel, inn, automobile court, motor inn, tourist court, or similar designation.
- 106. **INDUSTRIAL PARK:** Shall mean a planned coordinated development of a tract of land with two (2) 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 onsite vehicular circulation, parking, utility needs, building design and orientation, and open spaces.
- 107. **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 yards, buildings, elevators or in structures, warehouses, wholesale storage and other similar types of enterprises.
- 108. **INSTITUTION:** A building occupied by a non-profit corporation or a non-profit establishment for public use.
- 109. **JUNK OR SALVAGE YARD:** A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, and other used materials are bought, sold, exchanged, stored, baled or cleaned, and places or yards for the storage of salvaged metal, materials and equipment; but not including pawn shops and establishments for the sale,

purchase or storage of used cars or trucks in operable condition, and used furniture and household equipment in usable condition and not including the processing of used, discarded or salvaged materials as part of manufacturing operations.

110. KENNEL: Any place, area, building, or structure where dogs are boarded, housed, cared for, fed, bred, or trained by other than the owner.
111. LANDFILL OR SANITARY 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.
112. LANDSCAPING: Shall mean the changing, rearranging, or adding to a piece of land to produce an aesthetic effect appropriate for the use to which the land is put. This may include the reshaping of land, adding vegetation, sculptures, decorative lighting, structures, and decorative surfacing or other enhancement for esthetical, ecological, and environmental reasons.
113. LIVESTOCK WASTE: 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 material polluted by livestock or their direct products.
114. LOT: For purpose of these regulations, a lot is a parcel of land of at least sufficient size to meet minimum zoning and subdivision requirements for use, coverage, and area and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street. A lot may consist of a single lot of record; a portion of a lot of record; a combination of complete lots of record and portions of lots of record, or of portions of lots of records; or a parcel of land described by metes and bounds. In no case shall any residual lot or parcel be created which does not meet these requirements.
115. LOT AREA: Shall mean the total area within the lot lines of a designated lot either in square feet or acres.
116. LOT, CORNER: A lot situated at the intersection of two streets, or founded on two or more adjacent sides by street right-of-way lines or in the case of curved right-of-way lines, the extension of tangents at the side lot lines, does not exceed one hundred thirty-five (1.35) degrees.
117. LOT, DEPTH: The mean horizontal distance between the front and rear lot lines.
118. LOT, DOUBLE FRONTAGE: A lot, other than a corner lot, fronting on two (2) intersecting streets.
119. LOT FRONTAGE: The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "yards" in this article.
120. LOT LINE: Shall be the property line bounding a lot or separating one (1) lot from another.
121. LOT OF RECORD: A lot which is part of a subdivision recorded in the office of the Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.
122. LOT WIDTH: The mean horizontal distance between the side lot lines.

123. LOT, ZONING: A parcel or tract of land used, developed, or built upon as a unit under single ownership or control. Said parcel or tract may consist of one or more lots of record, one or more portions of a lot or lots of record, or any combination thereof.
124. 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. Such home shall bear a label certifying that it was built in compliance with standards set by the U.S. Department of Housing and Urban Development, and was constructed after June 15, 1976.
125. 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. Also included is the blending of materials such as lubricating oils, plastics, resins or liquors.
126. MOBILE HOME: See Dwelling, Mobile Home.
127. MOBILE HOME PARK: Any area of land upon which two (2) or more mobile homes are parked, connected to utilities and used by one (1) or more persons for living or sleeping purposes. A mobile home parked in this area can either be placed on a permanent foundation or supported only by its wheels, jacks, blocks, or skirtings or a combination of these devices. A mobile home park includes any premises set apart for supplying to the public parking space, either free of charge or for revenue purposes for two (2) or more mobile homes, connected to utilities and used by one (1) or more persons; for living or sleeping purposes and shall include any building, structure, tent, vehicle or enclosure used or intended for use as a part of the equipment of such mobile home park; and shall include any building, structure, tent, vehicle, or enclosure used or intended for use or intended wholly or in part for the accommodation of automobile transients.
128. MODULAR HOME: A structure which is to be used as a place for human habitation which consists entirely of, or the major portions of its construction consist of a unit or units not fabricated on the final site for use. Such structure is movable or portable until placed on a permanent foundation and connected to utilities. Modular homes shall display a seal issued by the Nebraska Department of Health.
129. NON-CONFORMING BUILDING: A building or structure or portion thereof, lawfully existing at the time these regulations or an Amendment thereto become effective, which does not meet the bulk, height, yard, parking, loading or other requirements of these regulations or any Amendment thereto.
130. NON-CONFORMING LOT OF RECORD: A lot which was platted and duly recorded with the County Clerk prior to the adoption of these regulations and which does not meet the area requirements of the district it is in.
131. NON-CONFORMING USE: A use which lawfully occupies a building or land at the time these regulations or an Amendment thereto become effective but does not meet the requirements of these regulations or any Amendment thereto.
132. NURSING OR CONVALESCENT HOME: Shall mean a building or structure having accommodations and where care is provided for invalid, infirm, aged, convalescent or physically disabled persons, not including insane and other mental cases, inebriate or contagious cases.

133. OCCUPANCY: Shall mean the purposes that a building, or part thereof, is used or intended to be used.
134. OCCUPANT: Shall mean the person or entity lawfully in custody or control of any premises or parcel, or portion, thereof, whether pursuant to contract, lease, license, or other legally cognizable interest therein.
135. OPEN SPACE: Shall mean an area that is intended to provide light and air, and is designed for either environmental, scenic, or recreational purposes including but not limited to lawns, decorative or natural plantings, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, ponds, wooded areas, and water courses. Right-of-ways, driveways, parking lots, or other surfaces designed or intended for vehicular use shall not be included as open space.
136. OWNER: Shall mean any person, agent, individual, firm, association, partnership, corporation, or any other legal entity in whom is vested the title to real estate or an undivided interest therein, except that, where there is both a legal owner and an equitable owner as to the same real estate, then owner means both the equitable owner and the legal owner; where there is a life estate with vested remaindermen, then owner means both the life tenant and the vest remainderman. The term shall not include any option holder, lessee, mortgagee, or assignee for security purposes.
137. PARK: Shall mean any public or private land available for recreational, educational, cultural, or aesthetic use.
138. PARKING SPACE, AUTOMOBILE: Shall mean a space within a building or private/public parking lot, exclusive or driveways, ramps, columns, office and work areas, for the parking of an automobile.
139. PERMANENT FOUNDATION: The masonry or concrete substructure of a structure which directly supports the structure around its entire perimeter and at points within its perimeter where needed.
140. PERMITTED USE: Shall mean any building, structure or land lawfully occupied by a use at the time of the passage of this Ordinance, or amendment thereto, which does not conform after the passage of the Ordinance, or amendment thereto, with the use regulations of the district in which it is situated, is authorized to be occupied or maintained.
141. PERSON: Shall mean a natural person, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.
142. PRIVATE CLUB: A non-profit association of persons who are bona fide members paying annual dues, which owns, hires or leases a building or premises, or portion thereof, the use of such building or premises being restricted to members and their guests. The affairs and management of such private clubs are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting. It shall be permissible to serve food and meals on such premises providing adequate dining room space and kitchen facilities are available. The sale of alcoholic beverages to members and their guests shall be allowed provided it is secondary and incidental to the promotion of some other common objective by the organization.
143. PUBLIC SERVICES: Are uses operated by a unit of government to serve public needs, such as police (with or without jail), fire services ambulance, judicial court, or government offices, but not including public utility stations or maintenance facilities.

144. PUBLIC SEWER SYSTEM: See Common Sanitary System.
145. PUBLIC WATER SYSTEM: See Common Water System.
146. QUORUM: A majority of the authorized members of a board or commission.
147. RECREATION, INDOOR: An establishment providing completely enclosed recreation activities. Accessory uses may include the preparation and serving of food and/or sale of equipment related to the enclosed uses. Included in this definition shall be bowling, roller-skating or ice-skating, billiards, pool, motion picture theaters, and related amusements.
148. RECREATION, OUTDOOR: An area free of buildings except restrooms, dressing rooms, equipment storage, maintenance buildings, open-air pavilions, and similar structures, used primarily for recreational activities.
149. RECREATIONAL CAMPS: An area where activities such as angling, boating, horseback riding, meditation, or similar activities are offered. Areas where activities such as educational classes, shooting or skeet ranges, or similar activities are offered shall not be construed to constitute such camps.
150. RECREATIONAL VEHICLE: A vehicular unit, other than a mobile home, whose gross floor area is less than 320 square feet, which is designed as a temporary dwelling for travel, recreational and vacation use, and which is either self-propelled, mounted on or pulled by another vehicle. Examples include, but are not limited to, a travel trailer, camping trailer, truck camper, motor home, fifth-wheel trailer or van.
151. RECREATIONAL VEHICLE PARK: Any property where one or more lots are rented or leased to users of recreational vehicles and which are occupied for temporary purposes. The term Private Outdoor Recreational Area does not include sales lots on which unoccupied camping trailers, whether new or used, are parked for the purpose of storage, inspection, or sale.
152. RECYCLING CENTER: Shall mean any location whose primary use is where waste or scrap materials are stored, bought, sold, accumulated, exchanged, packaged, disassembled or handled, including but not limited to, scrap metal, paper, rags, tires, bottles and other such materials.
153. RESTAURANT: An establishment, which provides food for on-premises consumption.
154. 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 and shall be approved by the Nebraska Department of Health and Welfare as meeting their health and welfare standards.
155. SCHOOL, ELEMENTARY, JUNIOR HIGH, OR HIGH: Shall mean public or non-profit institutions conducting regular academic instruction at kindergarten, elementary, and/or secondary levels. Such institutions shall offer general academic instruction equivalent to the standards prescribed by the State Board of Education.
156. SCHOOL, PRIVATE: Shall mean an institution conducting regular academic instruction at kindergarten, elementary, and/or secondary levels operated by a non-governmental organization in conformance with Section 79-1701 through 79-1707 of Revised Nebraska State Statutes.
157. SELF-STORAGE UNIT: Shall mean a building, or group of buildings, that contains varying sizes of individual, compartmentalized and controlled-access cubicles, stalls, bays, or lockers for the dead storage of a customers goods and wares.

158. **SETBACK:** Shall mean the minimum horizontal distance between the property line and the building line.

- a. **Front Yard:** Determined from the front façade of the building, excluding steps and eave overhang;
- b. **Rear Yard:** Determined from the rear façade of the building, excluding steps and eave overhang;
- c. **Side Yard:** Determined from the side façade of the building, excluding steps and eave overhang.

159. **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, or to advertise, to inform, or to promote any business, product activity, service, or any interest, except the following:

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

160. **STREET:** A right-of-way dedicated to the public use, which provides vehicular and pedestrian access to adjacent properties.

161. **STREET LINE:** A dividing line between a lot, tract, or parcel of land and the continuous street. The right-of-way line of a street.

162. **STREET NETWORK:**

- a. **EXPRESSWAY:** A street, which provides fast and efficient movement of large volumes of traffic between areas and does not provide a land service function.
- b. **ARTERIAL:** A street which provides for through traffic movement between and around areas with direct access to abutting property, subject to necessary control of entrances, exists and curb use.
- c. **COLLECTOR:** A street which provides for traffic movement between arterials and local streets, with direct access to abutting property.
- d. **LOCAL:** A street which provides direct access to abutting land, and local traffic movement whether in business, industrial or residential land.

163. **STRUCTURE:** A building constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences, driveways, and surfacing or public items such as utility poles, street lights, and street signs.

164. **STRUCTURAL ALTERATIONS:** Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any complete rebuilding of the roof or the exterior walls. For the purpose of this regulation, the following shall not be considered as structural alterations:

- a. Attachment of a new front where structural supports are not changed.
- b. Addition of fire escapes where structural supports are not changed.

- c. New windows where lintels and support walls are not materially changed.
 - d. Repair or replacement of non-structural members.
165. **SUBDIVISION:** Shall mean the division of land, lot, tract, or parcel into two (2) or more lots, parcels, plats, 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 descriptions lease, map, plat, or other instrument.
166. **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.
167. **TEMPORARY USE:** Shall mean a use intended for limited duration to be located in a zoning district not permitting such use.
168. **USE:** The purpose or purposes for which land or a building is designed, arranged, or intended, or to which said land or building is occupied, maintained or leased.
169. **USE, ACCESSORY:** A use customarily incidental to a principal permitted use of building and located on the same zoning lot with such principal use or building.
170. **UTILITIES:** Shall mean the local service distribution circuit or lines and related appurtenances served from a substation, town border station, reservoir, or terminal facility which is served from a main supply line, main transmission line, or main feeder line as may be applicable to electric, communications, gas, fuel, petroleum, fertilizer, or other chemical utilities.
171. **WAREHOUSE, WHOLESALE OR STORAGE:** A building or premises in which goods, merchandise or equipment are stored for eventual distribution.
172. **WASTEWATER LAGOON:** Shall mean a shallow body of water in which organic wastes are decomposed by bacteria in the presence of free oxygen.
173. **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.
174. **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 soil conditions, commonly known as hydrophytic vegetation.
175. **VARIANCE:** A variance is a relaxation of the terms of the Zoning Resolution where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Resolution would result in unnecessary and undue hardship. As used in these regulations, a variance is authorized only for height, area, and size of a structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district or because of conditions created by the landowner.

176. **YARD, FRONT:** An open space extending the full width of the zoning lot, between the main building and the front lot line, unoccupied and unobstructed by buildings or structures in excess of thirty (30) inches in height, except as provided herein, the depth of which shall be measured as the least distance between the front lot line and the front of such main building.
177. **YARD, SIDE:** An open space extending from the front yard to the rear yard, between the main building and the side lot line, unoccupied and unobstructed by buildings or structures in excess of thirty (30) inches in height, except as provided herein, the depth of which shall be measured as the least distance between the side lot line and the side of such main building.
178. **ZONE:** The word Zone shall refer to a zoning district and may be synonymous with the word District.
179. **ZONING ADMINISTRATOR:** The individual appointed by the County Commissioners and charged with the responsibility of enforcing these regulations.
180. **ZONING LOT:** See Lot, Zoning.

DISTRICTS, BOUNDARIES, APPLICABILITY, SPECIAL PERMITS

Section 301. Districts. In order to accomplish the purposes of these regulations, the following districts are described herein for application to land within the county, at the present or in the future. Said districts are identified by name or by designated symbol:

AG	Agricultural
AR	Agricultural-Residential
R-10	Residential, 10,000 Square Foot
R-5	Residential, 5,000 Square Foot Multi-Family
R-R	Residential-Recreation
B	Business
HSB	Highway Service Business
LM	Light Manufacturing
HM	Heavy Manufacturing
RC	Recreation Facility

Special districts to be used in addition to one of the above:

SFH	Special Flood Hazard
SMH	Special Mobile Home

Section 302. District Maps. The boundaries of the districts are shown on the maps which are attached hereto and made a part of these regulations or by description as an amendment thereto, which maps are designated Zoning District Maps. That part of the maps designating the different districts and their boundaries and that part of the legend designating the letter symbol for each district are a part of these regulations and have the same force and effect as if the district maps and that part of the legend referred to above were all fully set forth herein. Other notations and references are for information only. The Dakota County zoning map adopted by the Dakota County commissioners dated supersedes any or all previous zoning maps. Floodway boundaries and information must be obtained from the Dakota County Federal Emergency Management Agency (FEMA) flood map dated April 15, 1982 control panel number 310429 including an revisions.

Section 303. Interpretation of District Boundaries.

1. A district name or symbol shown on the district maps indicates that the regulations pertaining to the district designated by that name or letter symbol extend throughout the whole area in the unincorporated portions of the county bounded by the district boundary lines within which such name or letter symbol is shown or indicated, except as otherwise provided by this section.
2. Where uncertainty exists with respect to the boundaries of the various districts as shown on the maps accompanying and made a part of these regulations, the following shall apply:
 - a. In cases where a boundary line is given a position within a street, road or stream, it shall be deemed to be in the center of the street, road or stream, and if the actual location of such street, road or stream varies slightly from the location as shown on the district map, then the actual location shall control.
 - b. In cases where a boundary line is shown as being located a specific distance from a street, road line or other physical feature, this distance shall control.
 - c. In cases where a boundary line is shown adjoining or coincident with a railroad, it shall be deemed to be in the center of the railroad right-of-way and distances measured from the center of the designated mainline track.

- d. In subdivided property, unless otherwise indicated, the district boundary line on the Zoning District Maps shall be determined by the use of the scale contained on such maps and such measurement shall be construed to fall upon the nearest multiple of ten feet.
- e. In a situation where the land is located within the unincorporated jurisdiction and the extraterritorial jurisdiction of an incorporated jurisdiction, the proposed location of the structure will control which jurisdiction's zoning regulations' will apply if the structure is to exist exclusively within the unincorporated, then the county zoning regulations will apply.
- f. In a situation where the land is located within the extraterritorial incorporated jurisdiction and the unincorporated jurisdiction, the proposed location of the structure will control which jurisdiction's zoning regulations' will apply if the structure is to exist exclusively within the incorporated, then the village/city zoning regulations will apply.

Section 304. Acquisition of Jurisdiction. All territory which may hereafter become a part of the unincorporated area of Dakota County by the un-incorporation of any municipality or shall fall within such county jurisdiction through failure of any municipality to exercise its zoning jurisdiction beyond its corporate limits, or for any other reason may fall within the zoning jurisdiction of Dakota County, shall automatically be classified under the classification AR, Agriculture-Residential, until such time as it shall become classified otherwise by resolution enacted in accordance with the statutes.

Section 305. Applicability, General. No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

Section 306. Applicability, Open Space. No open space surrounding any building shall be encroached upon or reduced in any manner except in conformity with the yard, lot area and building location regulations herein designated for zoning district in which such building or open space is located, except to provide for the extension, establishment or widening of a public street, road or highway, or other public facility. No yard, off-street parking space, off-street loading space, or other open space surrounding any building for the purpose of complying with the provisions of these regulations, except as otherwise provided herein, shall be considered as the required open space on another platted lot unless both lots are in the occupancy, and provided no land so considered has previously been considered as part of a required building site or zoning lot in the application for a building permit for an existing building or as required by these regulations for any existing building.

Section 307. Interpretation, Priority of Contracts. It is not the intention of these regulations to defeat the purposes of any contract, deed restriction or protective covenant when such instrument is not inconsistent with these regulations or contains stricter requirements. In the event these regulations conflict with other resolutions, rules or regulations adopted pursuant to law, or state or federal law, then the more strict provisions shall apply.

Section 308. General Interpretation. Any use that is not specifically permitted in a district as a principle use, an accessory use, a conditional use, or an exception, is hereby specifically prohibited.

Section 309. Airport Approach and Turning Districts. Notwithstanding height restrictions or the lack thereof in these regulations, no building, structure, vegetation or other use of land shall be constructed or permitted to grow to a height exceeding the limits indicated on any present or future zoning district map which sets forth maximum heights allowed within an aircraft approach and turning district. Zoning regulations of the Federal Aviation Administration (FAA) and Nebraska

Department of Aeronautics' must be met. If there is a conflict between airport zoning and otherwise; the most stringent limitation or requirement is to control.

Section 310. Fences and Hedges, Corner Visibility. There shall be provided in any and all zoning districts, an unobstructed view across the triangle formed by points measured twenty (20) feet distant along the property line from the intersection of two roads or highways or streets or combination thereof. Within said triangle there shall be no sight obscuring or partly obscuring wall, fence or foliage higher than thirty (30) inches above grade or in the case of trees, foliage lower than five feet. Vertical measurement shall be made at the top of the curb on the street adjacent to the nearest side of the triangle or if no curb exists, from the edge of the nearest roadway.

NONCONFORMING USES AND LOTS

Section 401. Grandfather rights. The use of a building, structure, or land existing and lawful at the time of the enactment of these regulations or at the time of an amendment of these regulations, may, except as herein provided, be continued, although such use does not conform with the provisions of these regulations or amendment, and such use may be extended throughout the same building if no structural alteration of such building is proposed or made for the purpose of such extension

Section 402. Discontinuance of nonconforming use. If such nonconforming use is in fact discontinued for a period of twelve months, such rights to the nonconforming use shall be forfeited and any future use of the building and premises shall conform to the provisions of these regulations or amendment thereto.

Section 403. Structural alterations of nonconforming use. No structural alterations shall be made to any such nonconforming structure or building which will increase its degree of nonconformity except as may be ordered or required by law or resolution. This shall not be construed to prohibit maintenance and repair work necessary to keep a structure in sound condition.

Section 404. Changes to a different nonconforming use. If no structural alterations are made, a nonconforming use of a building may be changed to a different use of the same degree of nonconformity. However, when the use of a building has been changed to a more nearly conforming use, such building shall not again be used for a less restrictive use or a use with a greater degree of nonconformity. The principal permitted uses listed under a specific district shall be interpreted to have the same degree of nonconformity in applying this provision. The Board of Zoning Adjustment will determine the degree of nonconformity in changing uses under this provision.

Section 405. Amortization and discontinuance of certain uses. There are found to be certain uses of land, buildings and structures which have an adverse effect on the implementation of the comprehensive plan and which can reasonably be discontinued after a reasonable time irrespective of aforesaid rules as to non-conforming uses. The following uses shall be removed or made conforming within the specified amortization period. Said amortization period shall commence upon the effective date of these regulations:

1. Fences, walls and foliage which constitute a hazard by virtue of impairing sight distances at an intersection shall be made conforming within one calendar year.
2. Outdoor advertising signs and billboards shall conform within one calendar year.

3. All provisions in business and industrial districts of these regulations setting forth specifications for the operation of a business or industry involving fencing or shielding shall be complied with within one calendar year.
4. Non-conforming open storage operations, such as truck parking, automobile wrecking, salvage material storage and similar uses not involving substantial structures or buildings designed specifically for such use shall be made conforming within two calendar years.

Section 406. Nonconforming structures. Any nonconforming structure or building which has been damaged by fire, flood, explosion, wind, earthquake, war, riot or other calamity or act of God to an extent more than fifty (50) percent of the fair market value exclusive of land and foundations, at the time of such damage or destruction, shall not be reconstructed unless the building or structure and the use conform with these regulations. If less than fifty (50) percent is damaged above the foundations, it may be restored, reconstructed or used as before, provided that such restoration is commenced within six (6) calendar months. If construction is not commenced within six (6) calendar months, the use of said land or structure shall thereafter conform with the provisions of these regulations. Fair market value shall be determined by reference to current statutory provisions pertaining to real estate assessment and the records of the county assessor.

Section 407. Nonconforming lot. In any district in which single family dwellings or farm dwellings are permitted, 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 notwithstanding limitations imposed by other provisions of this regulation.

This provision shall apply even though such lot fails to meet the requirements for minimum site area.

The district requirements for side yards and setback shall still apply.

APPEALS, ENFORCEMENT, PERMITS, FEES

Section 501. Board of Adjustment. A Board of Zoning Adjustment is hereby created and shall be known as the County Board of Zoning Adjustment. The County Board of Zoning Adjustment shall consist of five (5) members and shall be appointed by the County Commissioners. One member only of the County Planning Commission shall be appointed to the County Board of Zoning Adjustment and loss of membership on the County Planning Commission shall also result in immediate loss of membership on the Board of Zoning Adjustment. The other four members will be selected from citizens of the County; however, no County Commissioners' members may also serve on the Board of Adjustment. Discuss separation of Commissioners, Planning Commission, Board of Zoning Adjustment.

The members appointed shall serve for terms of three (3) years and be removable for cause by the County Commissioners upon written charges and after public hearing. Vacancies shall be filled by appointment for the unexpired term.

The County Board of Zoning Adjustment shall annually elect one (1) of its members as Chairperson, another as Vice-Chairperson, who shall act as Chairperson in the Chairperson's absence, and appoint a secretary who may be an officer or an employee of the County. Each shall serve until his/ her successor has been selected.

The County Board of Zoning Adjustment shall adopt rules in accordance with the provisions of these regulations. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. The Board shall keep minutes of its proceedings, showing evidence presented, findings of fact by the Board, decisions of the Board and the vote upon each question.

Records of all official actions shall be kept in the office of the County Clerk and shall be open to public inspection during reasonable business hours. All meetings of the Board shall be open to the public.

Section 502. Procedures. Appeals to the Board of Zoning Adjustment may be taken by any person aggrieved by an official decision of the County Building Inspector. Said Building Inspector may bring appeals in his own name for the purpose of clarifying the intent of these regulations. Appeals shall be taken within a reasonable time by filing with the County Building Inspector a notice of appeal specifying the grounds thereof. The County Building Inspector shall forthwith transmit to the Board of Zoning Adjustment all papers constituting the record upon which the action being appealed is taken.

Section 503. Hearing. Upon receipt of the appeal by the Board of Zoning Adjustment, the Board shall set a reasonable time for hearing and shall give notice to the parties of interest.

Section 504. Vote. If any proposition put to a vote shall fail to receive the concurring vote of four-fifths of all of the members of the Board, said proposition shall be deemed to have received disapproval.

Section 505. Jurisdiction. The Board of Adjustment shall be limited to the following actions:

1. Powers relative to errors: To hear appeals where it is alleged there is an error in any order, decision, or determination made by the Zoning Administrator.
2. Map Interpretation: To decide the proper interpretation of the zoning district map in the event there is dispute or ambiguity.
3. Variances: To hear and decide on petitions for variances and to vary the strict application of area, yard or parking requirements to the extent necessary to permit the owners a reasonable use of land in those instances where there are peculiar, exceptional and unusual circumstances in connection with a specific parcel of land, which circumstances are not general to the zoning district or the locality concerned. Deviation from other provisions of these regulations shall be subject of amendment to these regulations. As a general rule, problems created by the present or recent owners of the subject property should not be subject to variance relief. Statutory standards for granting a variance shall apply.

Section 506. Record. In exercising the above mentioned jurisdiction, the Board may, in conformity with the provisions of these regulations, reverse or affirm, wholly or partially, or may modify the order, retirement, decision, or determination appealed from and may make such decision as ought to be made. In considering all appeals under these regulations the Board shall, before making any findings in a specific case, first determine that the proposed change will not constitute a change in the zoning district map and will not impair adequate supply of light and air to adjacent property, or increase the congestion in public or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals and welfare of Dakota County. Every change ordered by the Board shall be accompanied by a written finding of fact specifying the reason for granting or denying the variance. The Board may hold public hearings as it deems prudent, or as may be required by law.

Section 507. County Planning Commission, Special Powers. Upon appeal, the County Planning Commission is hereby authorized to approve or deny the following:

1. Conditional use permits, special permits and exceptions as are specifically authorized by these regulations.

2. To permit the extension of a district where the boundary line of a district divides an urban type building lot in single ownership as shown on record.
3. To permit the reconstruction of a nonconforming building which has been destroyed, or partially destroyed, by fire or act of God where the Board shall find a compelling public necessity requiring the continuance of the non-conforming use buildings which themselves are undamaged. This provision shall not apply to any use which is a nonconformity due to its location in a floodway, flood plain or flood hazard area.

The County Planning Commission may hold public hearings as it deems prudent or as may be required by state law in exercising the powers granted in this section. The approval or denial of a permit authorized under this section shall be accompanied by a written finding of fact stating why said action was taken.

Section 508. Amendments. The County Commissioners may, from time to time, on their own motion or on petition, amend, supplement, change, modify or repeal by resolution the boundaries of districts or regulations herein established. Any such amendment shall follow statutory procedures as pertain to county zoning.

Section 509. Enforcement. An administrative official, who shall be known as the Building Inspector and who shall be designated by the County Commissioners, shall administer and enforce these regulations. He may be provided with assistance of such other persons as the County Board may direct.

If the Building Inspector shall find that any of the provisions of these regulations are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings, structures or illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by these regulations to insure compliance with, or to prevent violation of its provisions.. He shall assist the County Attorney in documenting violations and in providing additional information which may be required before legal action can be taken.

Section 510. Administration. No building or other structure shall be erected, moved, added to, or structurally altered in an excess of one thousand (\$1,000) dollars without a permit therefore issued by the Building Inspector. No building or zoning compliance permit shall be issued by the Building Inspector except in conformity with the provisions of these regulations.

Section 511. Application for Building Permit. The construction and alteration of farm buildings will not require a zoning compliance permit and will not be subject to building codes adopted by the County Commissioners. The following are classified as farm buildings: buildings utilized for agricultural purposes on a farmstead of twenty (20) acres or more which produces one thousand (\$1,000) dollars or more of farm products each year; dwelling units or other structures intended for human occupation shall be considered non-farm buildings for the purpose of these regulations.

All applications for building permits shall be accompanied by plans to scale, showing the actual dimensions and shape of the lot to be built upon; the sizes and locations on the lot of buildings already existing, if any; and the location, dimensions, and use of the proposed building or alteration.

The application shall include such other information as lawfully may be required by the Building Inspector, including existing or proposed uses of the building and land; the number of families or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, these regulations.

One copy of the plans shall be returned to the applicant by the Building Inspector. This copy shall indicate that it was approved or disapproved and signed by the Building Inspector. If a building permit is disapproved, the Building Inspector shall state the reasons for such refusal in writing. The original and one copy of the plans, similarly marked, shall be retained by the Building Inspector. The issuance of a building permit shall in no case be construed as waiving any provisions of these regulations.

Section 512. Temporary Mobile Home Permit. A single building permit may be issued for both the temporary placement of a mobile home on a building site and the construction of a permanent residential unit on the same site.

The mobile home may remain on the site thirty (30) days after the residential unit is completed, or for two years, whichever time period is shorter. A single, one-year extension may be authorized by the County Planning Commission provided substantial progress has been made on construction of the dwelling unit. The permit fee shall include charges for inspection of placement of the mobile home and building inspection during the construction of the permanent dwelling unit. Mobile homes placed in this manner are subject to additional restrictions 2 and 3 under Section 800.2 of this regulation.

Temporary mobile home permits are subject to the provision of Section 515 regarding the cancellation of building permits. If the temporary mobile home permit is cancelled the owner has thirty (30) days to remove the mobile home from the construction site.

This permit does not provide for the placement of a mobile home other than for temporary living quarters while a permanent dwelling is being constructed. A mobile home located on a building site with the use of this permit does not have grandfather rights under the provisions of this regulation.

Section 513. Expiration of Building Permit. If the work for which a permit has been issued has not begun within ninety (90) days from the date of issuance thereof, said permit shall expire; it shall be cancelled by the Building Inspector and written notice thereof shall be given to the applicant.

If the work described in any building permit has not been substantially completed within two (2) years of the date of the issuance thereof, said permit shall expire and be cancelled by the Building Inspector, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained.

Section 514. Non-transferability of building permits. Building permits may not be transferred from one party to another. When property for which a permit has been issued changes ownership, a new permit is required before construction can continue. The cost of the new permit may be adjusted to reflect building inspections already performed.

Section 515. Zoning Change Forms. The county zoning administrator shall make forms available for individuals wishing to petition the County Commissioners for zoning changes. Said petitions shall only be valid after all fees have been paid and the form is completed and signed.

Section 516. Forms for Appeal to the Board of Zoning Adjustment. The Building Inspector shall make forms available for individuals wishing to make an appeal or request other action of the Board of Zoning Adjustment. Said appeal or actions will be considered to be formally submitted after all fees have been paid and the form is completed and signed.

Section 517. Fees. Fees shall be charged for services rendered by Dakota County and such fees shall be paid to the County Treasurer and placed in the general fund. Fees for building permits, zoning

compliance permits, appeals and requested zoning changes will be set by the County Board of Commissioners and may be changed as they deem necessary. Fee schedules will be posted in the office of the County Building Inspector.

Section 518. Violations, Penalty. If any person, firm or corporation, or agent thereof, shall violate any provision of these regulations, such person, firm or corporation, or agent thereof, shall be punished upon conviction as provided by the statutes of the State of Nebraska.

Section 519. Severability. If any section, subsection, sentence, clause or phrase of these regulations is, for any reason, held to be unconstitutional such shall not affect the validity of the remaining portion or portions of these regulations. The County Commissioners declares that it would have passed these regulations, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more parts hereof be declared unconstitutional.

ZONING DISTRICTS

Section 600. AG, AGRICULTURAL DISTRICT

Purpose

The AG, Agricultural District is 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 in 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 AG District and the uses allowed out right or by conditional uses precludes the provision of services, amenities and protection from land uses which are afforded to residential uses by the regulations of other districts, and it is not intended that the AG District regulations afford such services, amenities and protection to residential uses located therein.

Section 600.1. PRINCIPAL PERMITTED USES

The following uses are permitted as principal uses in the AG, Agricultural District:

1. Any form of agriculture including the raising of crops and horticultural uses.
 - 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.
2. New single family dwellings on lots of five (5) acres or more. Existing habitable dwellings on lots of no less than five (5) acres.
3. Farm dwellings and normal farm buildings.

4. Airports and heliports including crop dusting strips.
5. Public parks and recreation areas, playgrounds, swimming pools, community centers, and conservation areas.
6. Facilities necessary for the provision of transportation, communication, water, sewerage, electrical energy, and natural gas pipelines and their necessary appurtenances.

Provided, however, no residence or Livestock Feeding Operation (LFO) is permitted within 200 yards of any public hunting area in the AG District. Also, no residence, LFO, or water well is permitted within 1,000 feet of any existing public supply well.

Section 600.2. ACCESSORY USES

The following uses are permitted as accessory uses to the principle permitted uses in the AG, Agricultural District:

1. Facilities common to farm activities, including private swimming pools.
2. Single family residences including mobile homes for relatives of consanguinity and marriage provided that only one such dwelling is allowed per five (5) acres. Mobile homes placed in this manner are subject to the provisions of Section 800.2 of this regulation, are to be considered temporary only, and must be removed upon the death or departure of the relative.
3. Home occupations.
4. Roadside stands for the sale of products grown on the premises.
5. Signs identifying the property or the activity engaged in on the property, but not including billboards.
6. Mobile homes to be used as temporary residences for families waiting to move into a permanent dwelling on the same parcel of property, while the permanent dwelling is under construction or reconstruction. The mobile home and permanent dwelling may not be occupied at the same time. Mobile homes placed in this manner are subject to additional restrictions 2 and 3 of Section 800.2 of this regulation.

Accessory Uses 2 and 6 require the use of an annual consanguinity permit.

Section 600.3. CONDITIONAL USES

The following uses are permitted in the AG, Agricultural District after a finding by the County Planning Commission that their mode of conduct and location will not hinder the enjoyment and use of nearby properties and will not disrupt the appropriate use of land and resources of the County:

1. Livestock Feeding Operations (LFOs), subject to the license requirements, waste disposal requirements and recommendations of the State of Nebraska and the Land Use specifications in the Dakota County Comprehensive Plan. LFOs must comply with the standards established in Section 600.6 of these regulations.
2. Quarters for transient labor.
3. Cemeteries, crematories, mausoleums.
4. Commercial mines, quarries, and sand and gravel pits.

5. Automotive racetracks, driving tracks and motorcycle racetracks.
6. Manufacturing plants for the processing of crops, but not including meat packing, slaughtering, meat by-products manufacturing, rendering, or hide storage.
7. Riding academies, dude ranches and other farm and ranch type recreational enterprises, including hunting preserves, sporting clays courses, trap shooting ranges and other hunting enterprises.
8. Recreational camps owned or operated by government, private individuals, or by charitable or religious organizations.
9. Agricultural service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services on a fee or contract basis. These services include corn shelling, hay baling, thrashing, milling, processing, plant nurseries, landscaping, crop dusting, grain cleaning, land leveling, harvesting, plowing, farm equipment service and repair, veterinary services (animal hospitals or clinics), and commercial auctions. Other services include bulk storage of petroleum products, fertilizer and insecticide for distribution or direct sales to agricultural consumers, boarding and training of horses, and wood chip factories.
10. Radio, television, and transmission towers and commercial signs.
11. Bike or pedestrian pathways.
12. Bed and Breakfast inns and homes.
13. Campgrounds pursuant Section 640.5
14. Schools, including private, elementary, junior high, high, day, nursery and pre schools.
15. Community facilities and institutions including monasteries, convents and other religious institutions, hospitals, sanitariums, group homes, assisted living facilities and nursing or convalescent homes.
16. Recycling Centers.

Section 600.4. SPACE LIMITS

The following space limitations shall apply to structures and buildings associated with each principal permitted use and each accessory use, except fences and signs:

1. Minimum lot requirements: The minimum lot size for a principal permitted use is five (5) acres. Each lot must have legal access to an existing full service County gravel road, as defined in the authorized Dakota County 1989 Road and Bridge Inventory. Driveways or access points to gravel or hard surfaced roads will be allowed at no more than ten (10) driveways or access points in a mile with driveways or access point being at least four hundred (400) feet apart. Building permits will not be issued for lots with driveways or access points to State or Federal roads until proper permits have been issued by the applicable regulating agency (Nebraska Department of Roads). Copies of permits must be filed with the County Zoning Administrator.
2. Minimum setback and front yard: Ninety (90) feet measured from the center line of each and every road or fifty (50) feet from the property line, whichever is greater.
3. Minimum setback and yard space, other yards: Ninety (90) feet measured from the center line of each and every road or fifty (50) feet from the property line, whichever is greater.

4. All uses established in this zoning district shall provide parking and loading space off the public right-of-way in sufficient quantity to accommodate the normal activities of such uses.
5. Distance from livestock feeding operation: Residential structures must follow the setback standards established in Section 600.6 of these regulations unless the structure is part of the farming operation of which the LFO is a part.
6. Minimum lot and setback requirements for conditional uses: The minimum requirement for conditional uses will be established by the County Planning Commission during their review of the application. The minimum lot required shall be five (5) or more acres.
7. Exceptions: A lot smaller than five (5) acres may be separate from the adjoining farming operation of five (5) acres or more and used for a residential lot under one of the following conditions:
 - a. If the parcel is an existing farm site not needed for the farming operation. For the purpose of these regulations an existing farm site is one which has been used in a farming operation for six (6) or more years and includes a farm dwelling.
 - b. If the parcel is not easily accessible to the adjoining farm in the same ownership due to natural features. These features are specifically limited to bluffs, rivers and streams.
 - c. If the parcel is separated from the farming operation by a County, State or Federal road.
 - d. If the parcel is a former school site and has not been reconverted to agricultural uses.

The above exceptions are for lot area only. All other provisions of the AG, Agricultural District apply. Only one exception in accordance with this section may be permitted on a single agricultural operation of five (5) acres or more. Exceptions require formal review and action by the County Planning Commission. The County Planning Commission will consider the best use of the land, the use of surrounding land, long term effects on county development, the impact on the school district and the specific criteria allowing the exception when making this determination.

Section 600.5. SPECIAL CONDITIONAL USES

Sanitary landfills and/or solid waste recycling plants are permitted as a special conditional use in the AG, Agricultural District after a finding by the County Commissioners that their location will not unduly hinder the enjoyment and use of nearby properties and will not disrupt the appropriate use of land and resources in the County. In making their determination the Board may consider pertinent information regarding the proposed site and the impact the facility will have on the county as a whole. As a minimum, the County Board shall consider the following:

1. The need for a sanitary landfill or solid waste recycling plant.
2. Uses of surrounding property including current and/or proposed uses.
3. The cost of public improvements necessitated by the site.
4. Long-term effects on county development.
5. Adverse effects on ground water.
6. Drainage problems.
7. Any specific conditions deemed necessary for approval.

Under no condition shall a sanitary landfill be permitted within:

1. One thousand (1,000) feet of an existing residential structure, the owner of which is opposed to the site.
2. One thousand (1,000) feet of a federal aid primary or secondary highway, unless provisions for screening the site from view have been made. The County Board shall determine what constitutes adequate screening.
3. One thousand (1,000) feet of an existing residential or recreational zone or district as identified on the official County, City or Village zoning map. In Dakota County's zoning jurisdiction, this provision shall apply to the Residential-Recreation District. When the site is within one thousand (1,000) feet of a City's or Village's zoning jurisdiction the appropriate regulation will be considered in making this determination.
4. Five thousand (5,000) feet of any runway used by piston type aircraft.
5. Ten thousand (10,000) feet of any runway used by turbo jet aircraft.
6. The conical surfaces of an existing airport until Federal Aeronautic Administration approval has been obtained.
7. Any area determined to be unfit for development as a sanitary landfill by the Nebraska Department of Environmental Control.

Section 600.6. PERFORMANCE STANDARDS

The following performance standards shall apply to the uses indicated. They shall be supplemental to and in addition to other provisions applying to the property. The following minimum sanitation and odor practices, and those imposed by the County Planning Commission and/or County Board of Commissioners in considering the health, safety, and general welfare of the public, including such items as property values, dust, lighting, disposal of waste and dead livestock. The Conditional Use Permit shall be approved after public notice has been given and a public hearing conducted, as required by law. All Conditional Use Permits are subject to conditions as deemed necessary by the County Planning Commission.

1. Livestock Feeding Operation (LFO) will be classified by type as either open air containment (OPEN) or as environmentally controlled housing (ECH) and by size according to the total number of animal units (AU) in the operation at one time. For definition of an animal unit refer to section 202, definition number 10. LFOs which have more than one type of feeding operation at one location shall be classified according to the operation which constitutes the majority of the total operation. All existing LFOs that expand within their designated level, as outlined below, shall not require a Conditional Use Permit. All new LFOs and those expanding to the next level shall require a Conditional Use Permit and shall be located as set out on the following grid:

Size of New or Expanded LFO in AU	Residence/ LFO
10 to 1,000 (ECH)	1/4 mile
10 to 1,000 (OPEN)	1/4 mile
1,001 to 5,000 (ECH)	3/8 mile
1,001 to 5,000 (OPEN)	3/8 mile
5,001 to 10,000 (ECH)	1/2 mile
5,001 to 10,000 (OPEN)	1/2 mile
10,001 + (ECH)	3/4 mile
10,001+ (OPEN)	3/4 mile

- a. The distance requirements may be decreased or waived by a waiver signed by all of the property owners of non-farm residences or other residences not on the owner's property within the distances specified. The property owners shall sign a waiver on a form provided by the County Zoning Administrator which consent shall be acknowledged before a Notary Public and filed in the office of the Dakota County Clerk. The waiver, when filed, shall be evidence of the property owner's consent to the decrease and/or waiver of the required setback distances as described in these regulations. Provided, however, waivers involving LFOs of 5,001 AU or more must also be approved by the County Planning Commission.
 - b. LFOs having up to 1,000 AUs shall locate 2,640 feet from a platted residential area and LFOs having more than 1,000 AUs shall locate at least one (1) mile from a platted residential area.
2. Conditional Use Permits shall be approved by the County Planning Commission and County Board of Commissioners based upon a proposed site plan and conditions or requirements pending approval of application for a proposed operation and waste disposal plan from the Nebraska Department of Environmental Quality (DEQ) or any other applicable State Agency. The applicant shall file a copy of his/her Operation and Maintenance Plan and Manure Management Plan as filed with the DEQ with the County Zoning Administrator, and shall also file a copy of all approved DEQ plans and permits with the County Zoning Administrator within thirty (30) days after they are issued by the DEQ.
3. LFOs shall maintain drainage so as to avoid excessive concentrations of contaminated water and such drainage shall be so arranged that contaminated water does not drain into water courses in a manner which reaches neighboring properties at a concentration noticeable to normal senses.
4. All dead animals shall be removed within three (3) days or within a reasonable amount of time.
5. In no event shall any manure storage unit or system be constructed in a Flood Plain, as delineated on the Federal Emergency Management Agency's Flood Plain map as adopted by Dakota County or where the bottom of the unit or system is either in contact or below the existing water table where the unit or system is to be constructed. Application of manure in designated Floodways and flooded areas of standing water shall be prohibited.
6. LFOs shall not be permitted within one thousand (1,000) feet of a federal aid primary or secondary highway, unless provisions for screening the site from view have been made. The County Planning Commission or County Board of Commissioners shall determine what constitutes adequate screening.
7. Parking and loading spaces sufficient to meet all reasonable demands for such space shall be provided off the public right-of-way.

Section 610. AR, AGRICULTURAL-RESIDENTIAL DISTRICT

Purpose

The AR, Agricultural-Residential District is designed to provide an environment in which agriculture can operate compatibly with a greater density of population than normally found in farming areas. These regulations are intended to encourage the continued use of land that is suitable for agriculture, but limit the land uses that may be a detriment to the efficient pursuit of agricultural production.

Section 610.1. PRINCIPAL PERMITTED USES

The following uses are permitted as the principal permitted use of any parcel of property in the AR, Agricultural-Residential District:

1. Agriculture, including the raising of crops and horticultural uses but excluding stock yards, feed yards and LFOs.
 - 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.
2. Ranch and farm dwellings and normal farm and ranch buildings.
3. Single family dwellings.
4. Public parks and recreation areas, playgrounds, swimming pools, community centers, and conservation areas.
5. Facilities necessary for the provision of transportation, communication, water, sewerage, electrical energy, and natural gas pipelines and their necessary appurtenances.
6. Feeding and raising of farm animals, including livestock, not to exceed a concentration of two (2) animal units per acre. Farm animals and livestock shall be located no closer than five hundred (500) feet from the lot line when adjoining property is used for residential, motel, hotel, or cabin resort purposes.

Section 610.2. ACCESSORY USES

The following uses are permitted as accessory uses to the principle permitted uses in the AR, Agricultural-Residential District:

1. Facilities common to farm and ranch activities.
2. Living quarters for persons regularly employed on the premises, but not including labor camps or dwellings for transient labor.
3. Private garages, private swimming pools and other recreational facilities in conjunction with a residence.
4. Home occupations.
5. Signs not over twelve (12) square feet in area identifying the occupants of the activity engaged in on the premises and provided there is not over two (2) square feet of extraneous advertising matter on any such sign.

Section 610.3. CONDITIONAL USES

The following uses are permitted in the AR, Agricultural Residential District after a finding by the County Planning Commission that their mode of conduct and location will not hinder the enjoyment and use of nearby properties and will not disrupt the appropriate use of land and resources of the County:

1. Riding academies, dude ranches and other farm and ranch type recreational enterprises, golf courses, country clubs, including hunting preserves, sporting clays courses, trap shooting ranges and other hunting enterprises, but not including automotive race tracks, golf driving ranges, outdoor theaters and similar commercial recreation enterprises.
2. Single family residences including mobile homes for relatives of consanguinity and marriage provided that only one such dwelling is allowed per five (5) acres. Mobile homes placed in this manner are subject to the provisions of Section 800.2 of this regulation, are to be considered temporary only, and must be removed upon the death or departure of the relative. This conditional use also requires filing an annual consanguinity permit with the County.
3. Mobile homes to be used as temporary residences for families waiting to move into a permanent dwelling on the same parcel of property, while the permanent dwelling is under construction or reconstruction. The mobile home and permanent dwelling may not be occupied at the same time. Mobile homes placed in this manner are subject to additional restrictions 2 and 3 of Section 800.2 of this regulation. This conditional use also requires filing an annual consanguinity permit with the County.
4. Recreational camps owned or operated by government, private individuals, or by charitable or religious organizations.
5. Agricultural service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services on a fee or contract basis. These services include corn shelling, hay baling, thrashing, milling, processing, plant nurseries, landscaping, crop dusting, grain cleaning, land leveling, harvesting, plowing, farm equipment service and repair, veterinary services (animal hospitals or clinics), and commercial auctions. Other services include bulk storage of petroleum products, fertilizer and insecticide for distribution or direct sales to agricultural consumers, boarding and training of horses, and wood chip factories.
6. Churches, schools, colleges and similar facilities.
7. Recycling centers
8. Public and private campgrounds pursuant Section 640.5.
9. Bike and pedestrian pathways.
10. Cemeteries, crematories, mausoleums, provided structures shall be located at least 500 feet from all property lines.
11. Radio, television, and transmission towers.
12. Kennels.

Section 610.4. SPACE LIMITS

The following space limitations shall apply to structures and buildings associated with each principle permitted use and each accessory use, except fences and signs:

1. Minimum site area for a dwelling: Five (5) acres for each dwelling unit if lots have legal access to an existing full service County gravel road, as defined in the authorized Dakota County 1989 Road and Bridge inventory.
2. Minimum setback and front yard: Ninety (90) feet measured from the center line of each and every road or fifty (50) feet from the property line, whichever is greater.
3. Minimum setback and yard space, other yards: Ninety (90) feet measured from the center line of each and every road or fifty (50) feet from the property line, whichever is greater.
4. Distance from livestock feeding operation: Residential structures must follow the setback standards established in Section 600.6 of these regulations unless the structure is part of the farming operation of which the LFO is a part.
5. Minimum lot and setback requirement for conditional uses: The minimum lot requirement for conditional uses will be established by the County Planning Commission during application review. The minimum lot required shall be five (5) or more acres.
6. Kennels containing more than three dogs over six months of age shall be placed no closer than two hundred (200) feet from the lot line when adjoining property is used for residential, motel, hotel or cabin resort purposes.
7. All uses established in this zoning district shall provide parking and loading space off the public right-of-way in sufficient quantity to accommodate the normal activities of such uses.

Section 640. R-R, RESIDENTIAL-RECREATION DISTRICT

Purpose

The R-R, Residential-Recreation District is designed to promote and protect the most desirable types of development bordering the Missouri River and other natural resources. This district is designed to protect water quality and natural or cultural resources while allowing residential development, limited agricultural uses, and recreational activities.

Section 640.1. PRINCIPALY PERMITTED USES

The following uses are permitted as the principal; permitted use of any parcel of property in the RC, Recreation Facility District:

1. Any principal permitted use enumerated in the AR, Agricultural-Residential District when established in accordance with all of the requirements set forth for that zone including performance standards, except that residential facilities shall be established in accordance with the provisions of this District.

Section 640.2. ACCESSORY USES

The following uses are permitted as accessory uses to the principal permitted uses in the R-R, Residential-Recreation District:

1. Private garages and parking areas serving a permitted principal use.
2. Private swimming pools.
3. Storage structures serving a permitted principal use.
4. Signs indicating the recreation area not exceeding sixty (60) square feet.

Section 640.3. CONDITIONAL USES

The following uses are permitted in the R-R, Residential-Recreation District after a finding by the County Planning Commission that their mode of conduct and location will not hinder the enjoyment and use of nearby properties and will not discount the appropriate use of land and resources of the County:

1. Public and quasi-public uses of an educational, recreational or religious type including public and parochial elementary schools, junior high schools, high schools, and colleges, churches, nursery schools, private non-profit schools and colleges, parsonages and other religious institutions, public parks and public playgrounds.
2. Marinas, including docks, launching facilities, boat storage sheds, boat and marina repair facilities, convenience goods stores, and restaurants.
3. Motels, hotels, or cabin resorts including restaurants and other facilities normally appurtenant thereto.
4. Public and private charitable institutions.

5. Public uses of an administrative, public service or cultural type including city, county, state or federal administrative centers and courts, libraries, museums, art galleries, police and fire stations and other public buildings, structures and facilities.
6. Riding academies, dude ranches and other farm and ranch type recreational enterprises, golf courses, country clubs, including hunting preserves, sporting clays courses, trap shooting ranges and other hunting enterprises, but not including automotive race tracks, golf driving ranges, outdoor theaters and similar commercial recreation enterprises.
7. Facilities necessary for the provision of transportation, communication, water, sewerage, electrical energy, and natural gas pipelines and their necessary appurtenances.
8. Home occupations.
9. Recreational vehicle parks pursuant to Section 640.5

Section 640.4. SPACE LIMITS

The following space limitations shall apply to structures and buildings comprising each principal permitted use and each accessory use, except fences and signs:

1. Minimum site area for a dwelling is ten thousand (10,000) square feet. All applicable on-site water and waste disposals regulations of the State of Nebraska shall be met.

Section 640.5. RECREATIONAL VEHICLE PARKS

The following guidelines shall apply to all recreational vehicle parks both public and privately owned. The County Planning Commission may require other conditions be met to ensure that the enjoyment and use of nearby properties is not disturbed or hindered and that the environment and aesthetics of the area is not threatened. The Commission must also make sure that the adverse impacts between a recreational vehicle park and surrounding land uses are minimized.

Privately owned and operated recreational vehicle parks, shall submit a plan of operation or park guidelines to the Commission for review. The plan of operation or guidelines shall be given to all park occupants and posted in a highly visible public area for all park occupants to view.

No person shall construct or expand any recreational vehicle park unless they hold a valid permit issued by the County Planning Commission in the name of such person for the specific purposed construction, alteration or extension. All applicable permits or documentation of meeting the guidelines mentioned in this section must be presented to the County Planning Commission before park operation or occupation will be allowed.

No person shall operate any recreational vehicle park unless they hold a valid license issued annually by the County Planning Commission in the name of such person for the specific recreational vehicle park.

Every person holding a license shall give notice in writing to the County Planning Commission within twenty-four (24) hours of having sold transferred, given away, or otherwise disposed of interest in or control of any recreational vehicle park. Such notice shall include the name and address of the person succeeding in ownership or control of such recreational vehicle park. Upon receiving written notice of transfer, the license shall be transferred if the recreational vehicle park complies with all applicable provisions of this ordinance.

Definitions

1. **Recreational Vehicle:** A motor home, travel trailer, truck camper, or camping trailer with or without motive power designed for human habitation for recreational or emergency occupancy. This shall not include mobile or modular homes. Vehicles shall not exceed forty-five (45) feet in length and shall not exceed one hundred two (102) inches in width.
2. **Recreational Vehicle Park:** Any property where one or more lots are rented or leased to users of recreational vehicles and which are occupied for temporary purposes.
3. **Camping Party:** A person or group of persons occupying any site within a park.
4. **Public:** Refers to a recreational vehicle park owned and operated by a government body located in the county.
5. **Private:** Refers to a recreational vehicle park owned and operated by an individual or group.

Site Plan Requirements

1. A site plan of the proposed park, prepared at a scale of not less than 1" = 100', shall be submitted with an application for a conditional use permit for review and consideration by the County Planning Commission.
2. All drainage and public utility facilities shall be shown and proposed methods of storm water removal; waste removal; and water distribution shall be stated on the plan.
3. All points of ingress and egress must clearly be shown.
4. All provisions of the Dakota County Zoning Ordinances not in conflict shall apply.

Occupancy

Occupancy of each site is limited to one (1) recreational vehicle, two (2) automobiles or truck, and one (1) miscellaneous recreational vehicle including but not limited to boats and all-terrain vehicles, accommodating one camping party. Recreational vehicle parks shall be allowed to operate from April through October in a calendar year, being closed for the remainder of the year. Private recreational vehicle parks may establish their own times of operation, but they must fall between the months of April through October each year. Recreational vehicle parks must close and all vehicles must be removed from the grounds by October 31 of each year and shall open no earlier than April 1 of each year. No permanent or year around occupancy is allowed in recreational vehicle parks.

Tent camping shall be allowed in recreational vehicle parks. No more than two (2) tents shall be allowed on each lot. Tent camping shall be allowed under the same date guidelines stated above for recreational vehicles.

Portable storage sheds are permitted in recreational vehicle parks. All sheds shall be constructed of wood products, painted and have asphalt shingled roofs. Sheds shall not exceed one hundred twenty (120) total square feet. Sheds must be portable and removed under the same guidelines for removal as recreational vehicles.

Design Standards

1. **Park size:** Minimum shall be five (5) acres, maximum shall be twenty (20) acres.
2. **Minimum lot size:** Fifty (50) feet in width by one hundred (100) feet in length.

3. **Minimum setbacks:**
 - a. Interior road: Ten (10) feet.
 - b. Public street, road, or highway: Fifty (50) feet from right of way.
 - c. The distance from any residential area shall be five hundred (500) feet. This setback shall be an open space and is not to be used for any recreational activities. In addition, a five (5) foot strip of land adjacent to any residential area shall be planted with trees of a species, which will form a screen and act as a noise barrier:
 - d. Recreational vehicle parks shall be located at least one thousand (1,000) feet from one another to maintain the aesthetics of the area.

Parking

One visitor parking space shall be provided for every five (5) recreational vehicle sites or fraction thereof. No vehicle parking shall be allowed on any interior roads.

Facilities

1. **Recreation:** A recreation area of at least five thousand (5,000) square feet shall be allowed in a recreational vehicle camp. Recreation equipment such as a playground, picnic tables, and a service building including toilets, showers, and laundry can be located within the recreation area.
2. **Sanitation:** A minimum of one (1) toilet and one (1) lavatory for each sex shall be provided for the exclusive use of the park occupants. An additional toilet and lavatory for each sex shall be provided for each fifteen (15) sites or fraction thereof.
3. A minimum of one (1) shower for each sex is required.
4. Trailer sanitation stations designed to receive the discharge of sewage holding tanks for self-contained vehicles shall be installed in an accessible location in every recreational vehicle park in which individual sites are not provided with drain or sewage inlets that meet State of Nebraska regulations.
5. Trash containers shall be located within three hundred (300) feet of every recreational vehicle site and enclosed on three (3) sides with a solid wood or masonry fence six feet in height. Park owners must make the Commission aware of the arrangements made for trash pick up and removal from the area to help ensure the aesthetic beauty of the given area. Park owners are responsible for trash disposal.

Commercial activities: All proposed commercial activities for a recreational vehicle park shall be submitted to the County Planning Commission for approval. Laundry and vending machine services shall be allowed for park occupant and visitor use only. All other commercial activities must be approved by the Commission.

Recreational Vehicle Site Design Standards

Separation: Recreational vehicle parking pads shall be located to maintain a ten (10) foot separation between recreational vehicles.

Landscaping: At least twenty-five percent (25%) of each site shall be landscaped and shall include a non-deciduous tree of at least fifteen (15) gallon size and be indigenous to the area. The trees and other landscaping materials must be maintained by park owners.

Parking: Each site shall include a parking space for one (1) automobile.

Access: Each site shall have direct access to a main driveway.

Water supply: Any public or private supply of water for domestic purposes shall conform to Nebraska Department of Health standards for water quality. Private wells shall be located and designed in accordance with local and State requirements. Permits or documentation shall be presented to the Commission by park owners/operators.

Sewage disposal: All premises used for human occupancy shall be provided with an approved and adequate method of sanitary sewage disposal which shall be maintained in accordance with acceptable practices and applicable regulations. The requirements of this paragraph shall be administered and enforced in conjunction with other applicable County and State regulations. All sanitary sewer facilities and waste disposal practices shall be subject to the applicable state, county, and city standards, criteria, rules, and regulations. All private and on-site sewage and other sanitary waste disposal systems including septic tanks and soil absorption systems shall be subject to the following:

1. Systems shall conform to applicable standards, criteria, rules, and regulations of the State and County with respect to size, construction, use and maintenance.
2. The location and installation of septic tanks and soil absorption systems shall be such that, with reasonable maintain, they will function in a sanitary manner and will not create a nuisance, endanger the quality of any domestic water supply, or pollute or contaminate any public water. Consideration shall be given to the size and shape of the lot, slope of natural and finished grade, soil permeability, high ground water elevation, geology, proximity to existing or future water supplies, accessibility for maintenance, and possible expansion of the system in determining a suitable: location.

The County Planning Commission shall be provided with the necessary permits and paperwork from the appropriate agencies to show that the above conditions have been met. Park owners are responsible for sewage disposal and removal.

Vegetation: Clear cutting and intensive vegetation clearing shall be prohibited.

Fire: Fire pits or fire rings must be provided in accordance with State and County fire code regulations. Documentation shall be provided to the Commission that State and/or County codes would not be violated and that surrounding areas are not put into immediate or undue stress from fires.

Speed limits: Reasonable speed limits shall be posted by park owners.

Section 640.6. RC, RECREATION FACILITY ZONE, Purpose.

The RC, Recreation Facility Zone, is designed to promote and protect the most desirable type of development bordering reservoirs and other recreational facilities.

PRINCIPAL PERMITTED USES

Section 640.6.1. The following uses are permitted as the principal use of any parcel of property in the RC, Recreation Facility Zone:

1. Any principal permitted use enumerated in the AR, Agricultural-Residential Zone when established in accordance with all of the requirements set forth for that zone including performance standards, except that residential facilities may be established in accordance with the provisions of this zone.

ACCESSORY USES

Section 640.6.2. The following uses are permitted as accessory to the principal permitted uses in the RC, Recreation Facility Zone:

1. Any principal permitted use enumerated in the AR, Agricultural-Residential Zone.

CONDITIONAL USES

Section 640.6.3. The following uses are permitted in the RC, Recreation Facility Zone after a finding by the County Planning Commission their mode of operation and location will not hinder the enjoyment of nearby properties and will not disrupt the appropriate use of land and resources of the county:

2. Marinas, including docks, launching facilities, boat storage sheds, boat and marine motor repair facilities, convenience goods store, restaurant.
3. Motels, hotels or cabin resorts including restaurants and other facilities normally appurtenant thereto.
4. Recreational facilities, including riding academies, dude ranches, golf courses, miniature golf, golf driving ranges and similar recreational enterprises; but not including automotive race tracks or driving tracks, outdoor theaters, drive-in eating places and similar enterprises.

SPACE LIMITS Amended October 9, 1979 (Amendment underlined)

Section 640.6.4. The following space limitations shall apply to structures and buildings associated with each principal permitted use, each conditional use and each accessory use allowed in this zone except fences and signs meeting the requirements of the R-IO. Residential, 10,000 Square Foot Zone:

1. Minimum site area for a dwelling which is utilizing both a public water supply and a public sewer system: ten thousand (10,000) square feet.
2. Minimum lot width for a dwelling which is utilizing both a public water supply and a public sewer system: seventy (70) feet.
3. Residential lots not served with both public water and sewer systems shall meet the following area and width requirements:
 - a. Every lot served with a public water supply but not served with a public sewer system shall have a lot area of not less than one (1) acre and a minimum width of one hundred forty (140) feet.
 - b. Every lot served with a public sewer system but not served with a public water system shall have an area of not less than one (1) acre and a minimum width of one hundred forty (140) feet.
 - c. Every lot not served with either a public water system or a public sewer system shall have an area of not less than two (2) acres and a minimum lot width of two hundred (200) feet.
4. Minimum site area for marinas, motels, commercial recreation enterprises and other commercial activities: twenty thousand (20,000) square feet.
5. Minimum lot width for marinas, motels, commercial recreation enterprises and other commercial activities: one hundred forty (140) feet.

6. Minimum front yard: When land is not platted into urban type lots or when a platted lot adjoins a state highway or primary county road: ninety (90) feet measured from the center line of each and every such road or highway.

When land has been platted into urban type lots: thirty (30) feet from the lot line adjoining the fronting street and twenty (20) feet from any lot line adjoining a side street when such streets are not a state highway or primary county road.

7. Minimum yard space, other yards: One (1) feet removed from, the property line for each foot of height of the structure, but in no event: less than ten (10) feet.

Platters of water-front property are urged to record building lines on the waterfront side of each property as may be appropriate to the location.

8. For motels, hotels, cabin resorts and other similar facilities, the lot area per dwelling or sleeping unit shall be two thousand (2,000) square feet. When such dwelling units or sleeping units are constructed in a line parallel to the waterfront, then the minimum site for each unit shall be seventy (70) feet in width measured parallel to the waterfront.
9. Feed lots, corrals and winter quarters for animals shall follow the performance standards set forth for the AR, Agricultural-Residential Zone.
10. All uses established in this zoning district shall provide parking and loading space off the public right-of-way in sufficient quantity to accommodate the normal activities of such uses.

Section 650. B, BUSINESS DISTRICT

Purpose.

The B, Business District is designed to provide for the broad range of businesses and commercial uses needed in the county.

Section 650.1. PRINCIPAL PERMITTED USES

The following uses are permitted as the principal use of any parcel of property in the B, Business District:

1. Business services such as banks, insurance agencies, real estate offices, other offices, postal stations, printing, credit services, security brokers, dealers and exchanges, title abstracting, savings and loans, finances services and investment services.
2. Automotive, motorcycle, boat and marine sales, rental and service.
3. Personal services such as barber shops, beauty salons, reducing salons and photographic studios.
4. Food services, such as eating and drinking establishments.
5. Recreational enterprises such as bowling alleys, dance halls, skating rinks, theaters, drive-in theaters, assembly halls, miniature golf courses, golf courses, golf driving ranges and billboards and advertising signs.
6. Equipment sales and service such as radio and television shops, business machines, musical instrument shops, sewing machines, plumbing and heating and electrical fixtures.

7. Farm equipment, implement sale or repair, and service.
8. Hotels, motels, lodging houses, hospitals, or clinic for human or animals, funeral homes or mortuaries.
9. Cocktail lounges and taverns.
10. Garden and lawn centers.
11. Cleaning establishments such as laundromats, dry cleaning and laundries using nonflammable solvents.
12. Gasoline service stations.
13. Medical and dental clinics.
14. Public buildings, assembly halls, auditoriums and civic centers.
15. Retail stores such as food markets, delicatessens, bakeries, candy stores, fruit and vegetable stores; department stores, and drug stores; books and stationary shops, newspaper distribution facilities; hobby, floor, camera, sporting goods stores, dry goods, household appliance stores, home furnishing stores, and hardware stores; jewelry and variety stores; retail mail order stores, confectioneries, and retail dairy stores; radio, electronics and music stores; retail liquor, antiques, cigar and tobacco stores; and retail paint stores.
16. Self-storage and mini-storage units.
17. Facilities necessary for the provision of transportation, communication, water, sewage, electrical energy, and natural gas pipelines and their necessary appurtenances.
18. Other business establishments similar to, or included within, the general classifications listed above.

Section 650.2. PERMITTED ACCESSORY USES

The following uses are permitted as accessory to the principal permitted uses in the B, Business District:

1. Uses, buildings and structures normally appurtenant to the enumerated principal permitted uses.

Section 650.3. CONDITIONAL USES

The following uses are permitted in the B, Business District after a finding by the County Planning Commission that their mode of conduct and location will not hinder the enjoyment and use of nearby properties and will not discount the appropriate use of land and resources of the County:

1. Farm store or feed store including storage of liquid or solid fertilizer.
2. Radio, television and communications towers and transmitters.
3. Residences in conjunction with the principal use.

Section 650.4. SPACE LIMITS

The following space limitations shall apply to all structures and buildings associated with each principal permitted, accessory, and conditional use allowed in this district, except fences and signs:

1. Minimum site area: The minimum lot size shall be ten thousand (10,000) square feet.
2. Minimum site area for business: Twenty Thousand (20,000) square feet, provided that more than one enterprise may be located on one site.
3. Minimum front yard: When land is not platted into urban type lots or when a platted lot adjoins a state highway or primary county road: ninety (90) feet measured from the center line of each and every such road or highway or fifty (50) feet from the property line, whichever is greater.
4. When land has been platted into urban type lots: thirty (30) feet from the lot line adjoining the fronting street and twenty (20) feet from any lot line adjoining a side street when such streets are not a state highway or primary county road.
5. Minimum yard space, other yards: No minimum side yard is required unless abutting a zone requiring a side yard, then the minimum side yard shall be ten (10) feet. A minimum side yard of twenty (20) feet is required for any street side yards.
6. All uses established in this zoning district shall provide parking and loading space off the public right-of-way in sufficient quantity to accommodate the normal activities of such uses.

Section 660. HSB, HIGHWAY SERVICE BUSINESS DISTRICT

Purpose

The HSB, Highway Service Business District is designed to provide for the effective use of land situated in relationship to major highways and highway interchanges so efficient grouping of activities can develop to serve the traveling public.

Section 660.1. PRINCIPAL PERMITTED USES

The following uses are permitted as the principal use of any parcel of property in the HSB, Highway Service Business District:

1. Motels and motor hotels designed for accommodation of the traveling public, and including swimming pools, children's play yards, golf putting greens and similar uses when they are a part of said motel or motor hotel developments.
2. Restaurants and eating places, provided however, that no such establishment shall be operated as a restaurant or eating place in which more than half of the gross receipts are derived from the sale of liquor, mixed drinks, beer or other intoxicating beverages. Taverns, bars, cocktail lounges, and similar establishments which require licensing for the dispensing of alcoholic beverages shall be prohibited except as a part of and located in the same building as a restaurant or eating place specified above. A tavern, bar or cocktail lounge need not be located in the same building as a restaurant in the overall design of a motel or motor hotel when such tavern, bar or cocktail lounge is less than ten (10) percent of the floor area of said motel or motor hotel and is not located on the front or highway side of such motel or motor hotel complex.
3. Automobile service stations which do not conduct major automobile repairs, body and fender work, or automobile painting and at which all used and waste materials are kept within a solid enclosure so that the contents are not visible from a street, highway, interstate highway or other properties. Gasoline pumps and other facilities shall be considered as structures and shall not be located within a required yard space.
4. Self-operated vending devices, provided such devices shall be placed for operation and stored behind the building line specified herein for conventional structures.
5. Drive-in configurations of any business otherwise permitted in this district, provided, that any such establishment shall provide adequate off-street space for the maneuvering and storage of patrons' vehicles, and further provided that there be a sturdy, close woven or solid fence suitable for the retaining of any discarded paper or other material on all sides of the parking area except the front, and provided no music or loud speaker system shall be installed or operated that can be heard at neighboring residential, motel or motor hotel properties, and providing all lighting shall be directed and shielded so as to light only the property of such establishment.
6. Light retail establishments such as apparel, drug, variety, florist, gift, grocery, jewelry, small appliance, bakery, dairy.
7. Light service establishments such as tailor, dressmaker, barber, beauty shop, self-service laundry and dry cleaning.
8. Commercial recreation facilities such as billiards, putt-putt golf, children's play areas, swimming pools and amusement parks.

9. Facilities necessary for the provision of transportation, communication, water, sewage, electrical energy, and natural gas pipelines and their necessary appurtenances.
10. Other business establishments similar to, or included within, the general classifications listed above.
11. Signs and Billboards.

Section 660.2. ACCESSORY USES

The following uses are permitted as accessory to the principal permitted uses in the HSB, Highway Service Business District:

1. Uses normally appurtenant to the principal permitted uses enumerated in this district.

Section 660.3. CONDITIONAL USES

The following uses are permitted in the HSB, Highway Service Business District after a finding by the County Planning Commission that their mode of conduct and location will not hinder the enjoyment and use of nearby properties and will not discount the appropriate use of land and resources of the County:

1. Residences in conjunction with a principal use.
2. Radio, television and communications towers and transmitters.

Section 660.4. SPACE LIMITS

The following space limitations shall apply to structures and buildings associated with each principal permitted use and each accessory use allowed in this district except fences and signs:

1. Minimum site area: The minimum lot size shall be ten thousand (10,000) square feet.
2. Minimum site area for business: Twenty Thousand (20,000) square feet, provided that more than one enterprise may be located on one site.
3. Minimum front yard: When land is not platted into urban type lots or when a platted lot adjoins a state highway or primary county road: ninety (90) feet measured from the center line of each and every such road or highway. When land has been platted into urban type lots: thirty (30) feet from the lot line adjoining the fronting street and twenty (20) feet from any lot line adjoining a side street when such streets are not a state highway or primary county road.
4. Minimum yard space, other yards: One (1) foot removed from the property line for each foot of height of the structure, but in no event less than ten (10) feet.
5. All uses established in this zoning district shall provide parking and loading space off the public right-of-way in sufficient quantity to accommodate the normal activities of such uses.

Section 660.5. OTHER APPLICABLE PROVISIONS

When a property owner or his/her developer intends to develop a property already zoned or requiring re-zoning to the HSB, Highway Service Business District, they shall file, together with the building permit application or re-zoning application, a detailed Site Development Plan and such other drawings, calculations, sketches or diagrams that provide reasonable and adequate information on the location,

size and use of the buildings; and the location, size, arrangement and capacity of highway frontage roads, parking, loading and unloading areas. Vehicular access to existing streets and highways shall be clearly indicated. Vehicular and pedestrian traffic generated to and from the proposed development shall not create undue hazards to the normal traffic movement on the existing streets and highways. These plans and documents shall become a part of the application and shall form the basis for the issuance of a building permit and/or approval of the re-zoning. Plan changes that change the vehicular access drives, parking layout, building size or location, frontage roads, loading and unloading areas shall require a re-submission and shall make the existing re-zoning or building permit invalid.

Section 670. LM, LIGHT MANUFACTURING DISTRICT

Purpose

The LM, Light Manufacturing District is designed to provide for a wide range of commercial and industrial uses, all of which shall be able to meet comparatively rigid specifications as to nuisance free performance. The district specifically excludes residences on the theory that the mixture of residential use and public services and facilities for residences, with those of industry is contrary to the purposes of these regulations irrespective of whether the industry is encroaching on a living area or a living area is encroaching on an industrial area.

Section 670.1. PRINCIPAL PERMITTED USES

The following uses are permitted as the principal use of any parcel of property in the LM, Light Manufacturing District:

1. Any use allowed in the B, Business District, all dwellings and other types of living accommodations shall be prohibited save that one quarter for a watchman or caretaker shall be permitted as an accessory use for any permitted use occupying more than twenty thousand (20,000) square feet of lot area.
2. Any business, commercial or industrial use which can meet the performance standards set forth for this district but not specifically excluded or specifically mentioned as belonging in another less restrictive district.
3. Agriculture, including the raising of field crops, horticulture and animal husbandry. Livestock Feeding Operation's (LFO's), poultry farms, farms and kennels shall be allowed when such activities shall meet the performance standards set forth for this district. LFO's shall also meet the requirements established for them in Section 600.5.

Section 670.2. SPECIFICALLY EXCLUDED USES

The following uses are hereby declared incompatible with the purpose of the LM, Light Manufacturing District and are hereby expressly excluded:

1. Dwellings except caretaker and watchmen's quarters as set forth herein.
2. Public, parochial and private schools and colleges, except trade schools.
3. Hospitals, clinics, nursing or convalescent homes, group homes, and other institutions for the housing or care of human beings.
4. Motels, hotels and mobile home parks.
5. Any use not enumerated as permitted in this zone but which is specifically provided for in another district or districts.

Section 670.3. PERMITTED ACCESSORY USES

Any accessory use normally appurtenant to a use permitted in this district shall be allowed provided such use shall conform with all performance standards set forth for this district.

Section 670.4. CONDITIONAL USES

The following uses are permitted in the LM, Light Manufacturing District after a finding by the County Planning Commission that their mode of conduct and location will not hinder the enjoyment of nearby properties and will not disrupt the appropriate use of land and resources of the County:

1. Recreational uses which are temporary in nature and do not involve any appreciable amount of fixed construction and which will not interfere with the efficient functioning of the district for its primary purpose of providing for manufacturing and heavy commercial establishments.

Section 670.5. PERFORMANCE STANDARDS

The following performance standards shall be met by each and every use established in this district:

1. Physical Appearance: All operation shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from the street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles for sale or the storage of vehicles, boats, farm machinery, trailers, mobile homes or similar equipment when in operable condition.
2. Fire Hazard: No operation shall involve the use of highly flammable gases, acid, liquids, grinding processes or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gases when handled in accordance with other resolutions of Dakota County or the Laws of the State of Nebraska.
3. Noise: No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise shall be measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges. All noises shall be muffled so as not to be objectionable due to intermittence, beat frequency, or shrillness. All noise or sound levels shall be within the levels prescribed under the Nebraska Environmental Standards administered by the Nebraska Department of Environmental Quality.
4. Sewage and Liquid Wastes: No operation shall be carried on which involves the discharge into a sewer, watercourse or the ground of liquid wastes of any radioactive nature, or liquid wastes of a chemical nature which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations. The final approval and the permit issued by the Nebraska Department of Environmental Quality indicating that the proposed use meets the Nebraska Environmental Standards will be required before construction will be allowed.
5. Air Contaminants: The final approval and permit issued by the Nebraska Department of Environmental Quality indicating the proposed use meets the Nebraska Environmental Standards will be required before construction will be allowed.
 - a. Air contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one four (4) minute period in each one-half hour. Light colored contaminants of such an opacity as to obscure an observers view to a degree equal to or greater than the aforesaid shall not be permitted.
 - b. Particulate matter or dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths grains per cubic foot

as corrected to a temperature of five hundred (500) degrees Fahrenheit except for a period of four (4) minutes in any one-half hour, at which time it may equal but not exceed six-tenths grains per cubic foot as corrected to a temperature of five hundred (500) degrees Fahrenheit.

- c. Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public in general or to endanger the comfort, repose, health or safety of any such considerable number of persons or to the public in general or to cause or have a natural tendency to cause injury or damage to business, vegetation or property.
6. Odor: The emission of odors that are generally agreed to be obnoxious to any considerable numbers of persons shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor, it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of these regulations.
7. Gases: The gases sulfur dioxide and hydrogen sulfide shall not exceed five (5) parts per million, and carbon monoxide shall not exceed five (5) parts per million. All measurements shall be taken at the zoning lot line.
8. Vibration: All machines, including punch presses and stamping machines, shall be mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three-thousandths of an inch measured at the zoning lot line. The use of steam or broad hammers shall not be permitted in this district.
9. Glare and Heat: All glares, such as welding arcs and open furnaces, shall be shielded so that they shall not be visible from the zoning lot line. No heat from furnaces or processing equipment shall be sensed at the zoning lot line to the extent of raising the temperature of air or materials more than five (5) degrees Fahrenheit.

Section 670.6. SPACE LIMITS

The following space limitations shall apply to structures and buildings associated with each principal permitted use and each accessory use allowed in this district, except fences and signs:

1. The space limits for this district shall be the same as those set forth herein for the B, Business District.

Section 680. HM, HEAVY MANUFACTURING DISTRICT

Purpose

The HM, Heavy Manufacturing District is intended to provide for the widest range of industrial operations permitted in the County. It is the district for location of those industries which have not reached a technical stage in processing which renders them free of nuisance factors or where economics precludes construction and operation in a nuisance free manner.

Section 680.1. PRINCIPAL PERMITTED USES

The following uses are permitted as the principal use of any parcel of property in the HM, Heavy Manufacturing District:

1. Any use permitted in the LM, Light Manufacturing District and any use which can meet the performance standards for this district, except as herein modified.
2. The following uses shall be allowed only in this district:
 - a. Trucking terminals containing in excess of four (4) loading or transfer bays.
 - b. The storage above ground of liquid petroleum products or chemicals of a flammable or noxious nature when more than one hundred fifty thousand (150,000) gallons are stored on one zoning lot of less than an acre in size or when more than twenty five thousand (25,000) gallons are stored in one tank.
 - c. The storage of flammable or noxious gases above or below ground in excess of five million (5,000,000) cubic feet on any one zoning lot of less than one acre or two million (2,000,000) cubic feet in any one tank.
 - d. Meat packing, slaughtering, eviscerating and skinning.
 - e. Poultry killing, plucking and dressing when such operations are of such size as to employ in excess of three (3) persons.
 - f. Rendering of by-products of slaughtering and killing of animals or poultry.
 - g. Yards for the sale, transfer and temporary holding of livestock.
 - h. Junk yards, auto parts salvage and auto wrecking yards when such operations are obscured from any street or from any adjacent property in another district by a sturdy, sight obscuring fence in good repair, and under the condition that any burning operations be carried on in an enclosed structure provided with such super-heating devices designed to assist complete combustion as may be approved by the Building Inspector.

Section 680.2. SPECIFICALLY EXCLUDED USES

The following uses are hereby declared incompatible with the purpose of the HM, Heavy Manufacturing District and are hereby expressly excluded:

1. Any use which cannot meet the performance standards set forth herein.

2. Dwellings, except caretaker and watchmen's quarters as set forth in the provisions of the LM, Light Manufacturing District.
3. Schools and colleges, except trade schools.
4. Hospitals, clinics, rest homes and other institutions for the housing or care of human beings, except that medical facilities accessory to any industrial operation shall be permitted.
5. Motels, hotels and mobile home parks.

Section 680.3. PERMITTED ACCESSORY USES

Any accessory use normally appurtenant to a use permitted in this district shall be allowed provided such use shall conform to all performance standards set forth for this district.

Section 680.4. CONDITIONAL USES

The following uses are permitted in the HM, Heavy Manufacturing District after a finding by the County Planning Commission that their mode of conduct and location will not hinder the enjoyment of nearby properties and will not disrupt the appropriate use of land and resources of the County:

1. Recreational uses which are temporary in nature and do not involve any appreciable amount of fixed construction and which will not interfere with the efficient functioning of the district for its primary purpose of providing for manufacturing and heavy commercial establishments.

Section 680.5. PERFORMANCE STANDARDS

The following performance standards shall be met by each and every use established in this district:

1. Appearance: Junk, salvage, auto wrecking and similar operations shall be shielded from view from streets and from adjacent properties in another district by means of a sturdy, sight-obscuring fence in good repair.
2. Fire Hazard: All flammable substances involved in any activity established in this district shall be handled in conformance with the standards of the National Board of Fire Underwriters and any additional regulations of Dakota County or the State of Nebraska.
3. Noise: All noises and noise causing activities shall be muffled so that they will not create a disturbance greater than normal peak hour traffic noise on a major street when observed from any area district. Major street noise for comparison purposes shall be measured on the primary State highway nearest the industry. All noise or sound levels shall be within the levels prescribed under the Nebraska Environmental Standards administered by the Nebraska Department of Environmental Quality.
4. Sewage and Liquid Wastes: No operation shall be carried on which involves the discharge into a sewer, watercourse or the ground of liquid wastes of any radioactive nature, or liquid waste of a chemical nature which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations. The final approval and the permit issued by the Nebraska Department of Environmental Quality indicating that the proposed use meets the Nebraska Environmental Standards will be required before construction will be allowed.
5. Air Contaminants:

- a. Air contaminants and smoke shall be less dark than designated number 2 on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as number 2 shall be permitted for one four (4) minute period in each one-half (1/2) hour. Light colored contaminants of such opacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted.
 - b. Particulate matter or dust measured at the point of emission by any generally accepted method shall not be emitted in excess of two-tenths grains per cubic foot as corrected to a temperature of five hundred (500) degrees Fahrenheit.
 - c. Due to the fact that the possibilities of air contaminants cannot be comprehensively covered in this section there shall be applied the general rule that there shall not be discharged from any source whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public in general or to endanger the comfort, repose, health or safety of any such considerable number of persons or the general public or to cause or have a natural tendency to cause injury or damage to business, vegetation or property.
6. Odor: Odor-causing operations shall be controlled so as to reduce escape of odors to the minimum practical within the limits of technology and economics.
 7. Gases: All noxious gases shall be controlled to the extent that they will not be injurious to life or property. The gases sulfur dioxide and hydrogen sulfide shall not exceed five (5) parts per million, carbon monoxide shall not exceed twenty-five (25) parts per million, and nitrous fumes shall not exceed five (5) parts per million. All measurements shall be made at the zoning lot line.
 8. Vibration: All machines including punch presses and stamping machines shall be mounted so as to minimize vibration. Vibration shall not be so excessive that it interferes with industrial operations on nearby zoning lots.

Section 680.6. SPACE LIMITS

The following space limitations shall apply to structures and buildings associated with each principal permitted use and each accessory use allowed in this district, except fences and signs:

1. The space limits for this district shall be the same as those set forth herein for the B, Business District.

Section 700. SFH, SPECIAL FLOOD HAZARD DISTRICT

Purpose

The SFH, Special Flood Hazard District is created to be appended to or overlaid on another primary zoning district for the purpose of meeting the needs of the watercourses and drain ways and the conveyance of flood waters in the County and to minimize the extent of floods and reduce the height and violence thereof; to promote the health safety and the general welfare of the County; and to secure safety from floods.

It is the purpose of this regulation to promote the public health, safety, and general welfare and to minimize those losses described in Section 700.2 by applying the provisions of this regulation to:

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

Section 700.1. STATUTORY AUTHORIZATION

The Legislature of the State of Nebraska has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety and general welfare. The Legislature, in Sections 31-1001 to 31-1022, R.R.S. 1943, has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the county, city or village with zoning jurisdiction over the flood-prone area. Therefore, the Dakota County Board of County Commissioners of Dakota County, Nebraska resolves as follows:

Section 700.2. FINDINGS OF FACT

1. **Flood Losses Resulting from Periodic Inundation:** The flood hazard areas of Dakota County, Nebraska, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
2. **General Causes of the Flood Losses:** These flood losses are caused by: (1) The cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, (2) The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.
3. **Methods Used to Analyze Flood Hazards:** This regulation uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps:

- a. Selection of a regulatory flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The regulatory flood is selected for this regulation. It is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this regulation. It is in the general order of a flood which could be expected to have a one percent (1%) chance of occurrence in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study, and illustrative materials dated () as amended, and any future revisions thereto.
- b. Calculation of water surface profiles based on a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
- c. Computation of the floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.
- d. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any water surface increase along the floodway profile.
- e. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but which still is subject to inundation by the regulatory flood.

The Dakota County Board of Commissioners hereby designated to current Flood Hazard Boundary Map/Flood Insurance Rate Map dated April 15, 1982, and any revisions thereto, as the official map to be used in determining those areas of special flood hazard.

Section 700.3. GENERAL PROVISIONS

1. **Lands to Which Regulation Applies:** This regulation shall apply to all lands within the jurisdiction of Dakota County, Nebraska identified on the Flood Insurance Rate Map (FIRM) dated April 15, 1982, and any revisions thereto, as numbered and unnumbered A Zones (including AE, AO and AH Zones) and within the Zoning Districts FW and FF established in Section (700.6). In all areas covered by this regulation no development shall be permitted except upon the issuance of a floodplain permit to develop, granted by the Dakota County Zoning Administrator or in his/her absence the Dakota County Board of County Commissioners under such safeguards and restrictions as the Administrator or Board of County Commissioners may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Sections 700.7, 700.8, 700.9.
2. **The Enforcement Officer:** The Zoning Administrator or in his/her absence the Dakota County Board of County Commissioners is designated as the Enforcement Officer under this regulation.
3. **Rules for Interpretation of District Boundaries:** The boundaries of the floodway and flood fringe overlay districts shall be determined by scaling distances on the official zoning map or on the Flood Insurance Rate Map or Floodway Map. Where

interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Enforcement Officer shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of Zoning Adjustment will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board of Zoning Adjustment and to submit his/her own technical evidence, if he/she so desires.

4. **Compliance:** No development located within known flood hazard areas of the County shall be located, extended, converted or structurally altered without full compliance with the terms of this regulation and other applicable regulations.
5. **Abrogation and Greater Restrictions:** It is not intended by this section to repeal, abrogate or impair any existent easements, covenants, or deed restrictions. However, where this section imposes greater restrictions, the provision of this section shall prevail. All other ordinances inconsistent with this regulation are hereby repealed to the extent of the inconsistency only.
6. **Interpretation:** In their interpretation and application, the provisions of this section shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by Nebraska state statutes.
7. **Warning and Disclaimer of Liability:** The degree of flood protection required by this regulation is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This section does not imply that areas outside floodway and flood fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This section shall not create liability on the part of Dakota County or any officer or employee thereof for any flood damages that may result from reliance on this regulation or any administrative decision lawfully made thereunder.
8. **Severability:** If any section, clause, provision or portion of this section is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this section shall not be affected thereby.
9. **Appeal:** Where a request for a permit to develop or a variance is denied by the Zoning Administrator or in his/her absence the Dakota County Board of County Commissioners the applicant may apply for such permit or variance directly to the Board of Zoning Adjustment. Applications for such appeals are to be kept on file with the office of the Dakota County Zoning Administrator. The Board of Zoning Adjustment may grant or deny such appeals by appropriate resolution adopted within thirty (30) days after the date of such applications to the Board of Zoning Adjustment.

Section 700.4. DEVELOPMENT PERMITS

1. **Permit Required:** No person, firm or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development.
2. **Administration:** The Dakota County Zoning Administrator or in his/her absence the Dakota County Board of County Commissioners is hereby appointed to administer and implement the provisions of this section. The duties of the Dakota County Zoning Administrator or in his/her absence the Dakota County Board of County Commissioners shall include, but not be limited to:
 - a. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this regulation have been satisfied.
 - b. Review applications for proposed development to assure that all necessary permits have been obtained from those Federal, state or local governmental agencies from which prior approval is required.
 - c. Notify adjacent communities and the Nebraska Natural Resources Commission prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - d. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
 - e. Verify, record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures in special flood hazard areas.
 - f. Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which new or substantially improved structures have been flood proofed.
 - g. When flood proofing is utilized for a particular structure the Dakota County Zoning Administrator or in his/her absence the Dakota County Board of County Commissioners shall be presented certification from a registered professional engineer or architect.

Section 700.5. APPLICATION FOR PERMIT

1. To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. All fees shall be paid prior to processing the application. Every such application shall:
 - a. Identify and describe the development to be covered by the floodplain development permit.
 - b. Describe the land on which the proposed development is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or development.
 - c. Indicate the use or occupancy for which the proposed development is intended.

- d. Be accompanied by plans and specifications for proposed construction.
- e. Be signed by the permittee or his/her authorized agent who may be required to submit evidence to indicate such authority.
- f. Give such other information as reasonably may be required by the County Zoning Administrator or in his/her absence the County Board of County Commissioners.
- g. When flood-proofing is utilized and/or when elevation one (1) foot above regulatory flood level is achieved by piling for a particular structure, the Zoning Administrator or in his/her absence the County Board of Commissioners shall be presented with a construction and elevation certification from a registered professional engineer or architect.

Section 700.6. ESTABLISHMENT OF ZONING DISTRICTS

Along watercourses where a floodway has been established, the mapped floodplain areas are hereby divided into the two following districts: A floodway overlay district (FW) and a flood fringe overlay district (FF) as identified in the Flood Insurance Study and accompanying map(s). Within these districts all uses not meeting the standards of this regulation and those standards of the underlying zoning district shall be prohibited. These zones shall be consistent with the numbered and unnumbered A Zones as identified on the official FIRM and identified in the Flood Insurance Study.

Section 700.7. STANDARDS FOR FLOODPLAIN DEVELOPMENT

1. No permit for development shall be granted for new construction, substantial improvements and other development(s) including the placement of manufactured homes within all numbered and unnumbered A zones (including AE, AO, and AH zones) unless the conditions of this Section are satisfied.
2. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the regulatory flood; however, the water surface elevation was not provided. The unnumbered A zones shall be subject to all development provisions of this section (700.8). If Flood Insurance Study data is not available, the County shall utilize any regulatory flood elevation or floodway data currently available from Federal, State or other sources. The applicant may be requested to supply engineering evidence of predicted flood heights and steps to be taken to meet compliance.
3. Until a floodway has been designated, no development or substantial improvement may be permitted within special flood hazard areas unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the regulatory flood more than one (1) foot at any location as shown on the Flood Plain Study incorporated by reference and described in Section 700.2.
4. New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:
 - a. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - b. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and

discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.

- c. Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - d. All utility and sanitary facilities be elevated or flood proofed up to the regulatory flood protection elevation.
5. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
 6. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
 7. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that (a) all such proposals are consistent with the need to minimize flood damage, (b) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage, (c) electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; (d) adequate drainage is provided so as to reduce exposure to flood hazards, and (e) proposals for development (including proposals for manufactured home parks and subdivision) of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals the regulatory flood elevation.

Section 700.8. FLOOD FRINGE OVERLAY DISTRICT – (Including AO and AH Zones)

Section 700.8.1 PRINCIPAL PERMITTED USES

Any use permitted in Section 700.9 shall be permitted in the Flood Fringe Overlay District. No use shall be permitted in the district unless the standards of Section 700.7 are met.

Section 700.8.2 STANDARDS FOR THE FLOOD FRINGE OVERLAY DISTRICT

1. Require new construction or substantial improvements of residential structures to have the lowest floor, including basement, elevated to or above one (1) foot above the regulatory flood elevation.
2. Require new construction or substantial improvements of non-residential structures to have the lowest floor, including basement, elevated to or above one (1) foot above the regulatory flood elevation or, together with attendant utility and sanitary facilities, to be flood proofed so that below that level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be

provided to the County Zoning Administrator or in his/her absence the County Board of County Commissioners as set forth in Section 700.4, 2(g).

3. Require for all new construction and substantial improvements with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be not higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
4. Within AH zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
5. For new manufactured home parks, or expansions of the same, and for new manufactured homes not in a manufactured home park, for and for existing manufactured homes (inside and outside of manufactured home parks or subdivisions) where the repair, reconstruction or improvements of streets, utilities, and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities, and pads before the repair, reconstruction or improvement has commenced, it is required that:
 - a. All manufactured homes shall be anchored to resist floatation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
 1. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;
 2. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side;
 3. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
 4. Any additions to the manufactured home be similarly anchored;
 5. Adequate surface drainage is provided;
 6. Stands or lots are elevated on compacted fill or piers so that the lowest floor of the structure will be at elevated to or above one (1) foot above the regulatory flood elevation;
 7. In the instance of elevation on piers, lots are large enough to permit steps, pier foundations are placed on stable soil not more than ten (10) feet apart, and steel reinforcement is provided for piers more than six (6) feet high.

6. Recreational vehicles placed on sites within the special flood hazard areas on the County's official map shall either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.
7. Located within the areas of special flood hazard established in Section 700.3 (1) are areas designated as AO Zones. These areas have special flood hazards associated with regulatory flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones:
 - a. All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the County's FIRM (at least two feet if no depth number is specified).
 - b. All new construction and substantial improvements of non-residential structures shall:
 1. Have the lowest floor elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the County's FIRM (at least two feet if no depth number is specified), or
 2. Together with attendant utility and sanitary facilities be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the official as set forth in Section 700.4 2(g).
 - c. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

SECTION 700.9. FLOODWAY OVERLAY DISTRICT

700.9.1 PRINCIPAL PERMITTED USES

Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other section or regulation provided they do not require structures, fill or storage of materials or equipment. No use shall increase the flood levels of the regulatory flood elevations and all shall be certified by a registered engineer or architect. These are also subject to the standards of sections 700.7 and 700.8.

1. Agricultural uses such as general farming, pasture, nurseries, and forestry.
2. Residential uses such as lawns, gardens, parking, and play areas.
3. Non-residential areas such as loading areas, parking and airport landing strips.
4. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.

700.9.2 STANDARDS FOR THE FLOODWAY OVERLAY DISTRICT

New structures for human habitation are prohibited. All encroachments, including fill, new construction, substantial improvements and other development must be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during occurrence of the regulatory flood discharge. These uses are subject to the standards of Section 700.7 and 700.8. In Zone A unnumbered, obtain, review and reasonably utilize any flood elevation and floodway data available through Federal, State or other sources or Section 700.7 7(d) of this regulation, in meeting the standards of this section.

SECTION 710. VARIANCE PROCEDURES

1. The Board of Zoning Adjustment as established by Dakota County shall hear and decide appeals and requests for variances from the requirements of the Special Flood Hazard District.
2. The Board of Zoning Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the County Zoning Administrator in the enforcement or administration of this regulation.
3. Any person aggrieved by the decision of the Zoning Board of Adjustment or any taxpayer may appeal such decision to the District Court as provided in Nebraska Revised Statutes Section 23-168, R.R.S. 1943.
4. In passing upon such applications, the Zoning Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this regulation, and:
 - a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The danger to life and property due to flooding or erosion damage;
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity to the facility of a waterfront location, where applicable;
 - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - g. The compatibility of the proposed use with existing and anticipated development;
 - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and,

- k. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
5. No variance shall be authorized by the Zoning Board of Adjustment unless the Board finds the condition or situation of the property concerned or the intended use of the property is not so general or reoccurring in nature as to make reasonably practical the formation of a general regulation to be adopted as an amendment to the zoning regulations.

710.1 CONDITIONS FOR VARIANCES

1. A variance may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the regulatory flood level, providing items (2-7 below) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
3. Variances shall not be issued within any designated floodway if any increase in flood levels along the floodway profile during the regulatory flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or regulations.
6. The applicant shall be given a written notice over the signature of a community official that (1) the issuance of a variance to construct a structure below the regulatory flood level will result in increased premiums rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the regulatory flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this regulation.

Section 711. NONCONFORMING USE

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of the regulation, but which is not in conformity with the provisions of this regulation may be continued subject to the following conditions:
 - a. No such use or substantial improvement of that use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.
 - b. If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this regulation.

- c. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this regulation. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places, provided that the alteration shall not preclude its continued designation.

Section 712. PENALTIES FOR VIOLATION

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 \$250.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the Dakota County Board of County Commissioners or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 713. AMENDMENTS

The regulations, restrictions, and boundaries set forth in this section (700) may from time to time be amended, supplemented, changed, or repealed to reflect any and all changes in the National Flood Disaster Protection

Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in Dakota County. At least ten (10) days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Federal Emergency Management Agency. These regulations are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the 1983 Nebraska Flood Plain Management Act.

No Changes to this regulation shall be approved until the Dakota County Planning Commission has first considered proposed changes, held a public hearing and made its recommendation officially known to the Dakota County Board of County Commissioners.

Section 800. SMH, SPECIAL MOBILE HOME DISTRICT

Purpose

The SMH, Special Mobile Home District is designed to be appended to other districts in these regulations to allow for the placement of mobile homes in areas where they are compatible with other uses and to provide standards for their safety. This district is created to be appended to any district which includes single family dwellings as a permitted use. The district, to which this district is appended, is the parent district.

Section 800.1. PRINCIPAL PERMITTED USES

Mobile homes placed in accordance with the provisions of Section 800.2 are hereby added to the list of principal permitted uses of the parent district and are subject to the same provisions of the parent district as single family dwellings.

Section 800.2. RESTRICTIONS AND STANDARDS

With regards to accessory uses, conditional uses, space limitations and performance standards, the provisions of the parent district shall apply. The restrictions and standards of the SMH, Special Mobile Home District will apply in addition to, and in case of conflict supersede those of, the parent district.

The following are the additional restrictions of the Special Mobile Home District:

1. The mobile home shall be placed on a permanent foundation of concrete block or poured reinforced concrete or other comparable foundation. The permanent foundation shall be adequate for the placement and tie-down of the mobile home, thereby securing the super-structure against uplift, sliding, rotation, or overturning.
2. Anchors and tie-downs shall be placed at least at each corner of the mobile home or trailer unit and at intervals not to exceed ten (10) feet and shall be able to resist the design wind pressures and in any event shall be able to sustain a minimum tensile strength of two thousand eight hundred (2,800) pounds.
3. The mobile home shall be served by water and sewer facilities comparable to the water and sewer facilities required for conventional single-family dwelling units.

Section 900. 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 their Regulations.

Section 900.1. RADIO, COMMUNICATIONS AND TELECOMMUNICATIONS TOWERS

The district regulations hereinafter set forth in this section qualify or supplemental, as the case may be, the district regulations appearing elsewhere in their Regulations. Based on 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 telecommunications services. This section is intended to regulate towers, telecommunications facilities, satellite dishes, and antennas in the County in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunications services. Telecommunications 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 / collection 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.

Definitions

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

1. **Antenna:** A device, designed and intended for transmitting or receiving television, radio, or microwave signals, direct satellite service (including direct-to-home service), and/or video programming services via multi-point distribution services.
2. **Antenna Support Structure:** Any building or structure other than a tower which can be used for location of telecommunications facilities.
3. **Application:** 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.
4. **Conforming Commercial Earth Station:** A satellite dish which is two meters or less in the diameter and is located in an area where commercial or industrial uses are generally permitted under this regulation.
5. **Engineer:** Any engineer qualified and licensed by any state or territory of the United States of America.
6. **Owner:** 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.
7. **Person:** Any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or non-profit.
8. **Satellite Dish Antenna:** An antenna consisting of a radiation element intended for transmitting or receiving television, radio, microwave, or radiation signals and supported by structure with or without a reflective component to the radiating dish, usually circular in shape.
9. **Stealth:** 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.
10. **Telecommunication Facilities:** Any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:
 - a. Any Conforming Commercial Earth Station antenna two (2) meters or less in diameter which is located on real estate zoned AG, AR, RF, Recreational Facility or Recreational Facility – 10,000.
 - 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.
11. **Tower:** A self-supporting lattice, guyed, or monopole structure that supports Telecommunications Facilities. The term tower shall not include non-commercial amateur

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

12. Tower Owner: Any person with an ownership interest of any nature in a proposed or existing tower following the issuance of a Conditional Use Permit.

Location of Towers and Construction Standards

1. Towers shall be permitted conditional uses of land in only those zoning districts where specifically listed or 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 Conditional Use Permit by the County Board and issuance of the permit by the County. Applicants shall submit their application for a Conditional Use Permit to the Zoning Administrator.
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), Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Energy Information Administration (EIA) and Telecommunications Industry Association (TIA) and any other . Upon completion of construction of a tower prior to the commencement of use, and 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.

Application to develop a tower

Prior to the commencement of development or construction of a tower, an application shall be submitted to the Zoning Administrator for the Conditional Use 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 addresses of the tract of land on which the tower is located.
3. The application shall identify proposed vehicle and equipment storage areas.
4. The application shall include a map showing contours, proposed excavation and grading contours, and proposed final grad contours.
5. The names, addresses, and telephone numbers of all owners of other towers or useable antenna support structures within one (1) mile radius of the proposed tower, including publicly and privately owned towers and structures.
6. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicants telecommunications facilities on a tower or useable antenna support or written technical evidence from an engineer that the applicants telecommunications facilities cannot be installed or collocated on another tower or useable antenna support structure and reason why to be approved by the County Board.

7. Written technical evidence from an engineer that the proposed tower will meet established Building Codes, and all other applicable construction standards set forth by the County Board and federal and state and ANSI standards.
8. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed for the nearest residentially used and / or zoned property and nearest roadway, street or highway.
9. 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. Towers shall be designed to carry the antennas of at least three providers.
10. A copy of any lease between the applicant and the owner of the land where the tower is constructed must be delivered to the Dakota County Road Department Superintendent prior to constructing the tower. The land owner shall have the ability to enter into leases with other telecommunications carriers for co-location. A binding agreement of the landowner to lease space to other telecommunications providers shall be a fair market cost. The landowner shall be responsible for the removal of the tower structure or facility in the event the lessee fails to remove it upon abandonment.
11. Excavating and Grading requirements of land and soil must be completed according to:
 - a. The faces of cut and fill slopes shall be prepared and maintained to control soil erosion. Where necessary, vegetative plantings, check dams, cribbing, riprap or other devices or methods shall be employed to control erosion and provide safety.
 - b. All drainage provisions shall be designed to carry surface waters to the nearest natural water course approved by the County Planning and Zoning Committee.
 - c. Setbacks:
 1. Cut and fill slopes shall be set back from site boundaries in accordance with this section. Setback dimensions shall be horizontal distances measured perpendicular to the site boundary.
 2. The setback from a site boundary line for the top of a cut section or the toe of a fill section which does not involve a professionally designed retaining wall structure shall be determined as: $B = H (1 - S/4)$, where B is the setback required, H is the height of the cut or fill section and S is the horizontal element of the slope ration (e.g. S = 4 for a 4:1 slope). For a slope steeper than 3:1, the setback shall not be less than 5 feet.
 3. The setback for a retaining wall structure designed by a registered professional engineer, architect, or landscape architect shall be sufficient to contain any of the structure of the retaining wall and to assure the adjoining property owner will not be deprived of rights to build.
 4. The setback may be reduced to zero if a recorded easement of the adjoining property for construction and maintenance of the cut or fill section equal in width to the reduction of the setback required by the provisions of subsection b. or c. above is secured.
 5. The minimum setback may be increased as a result of a determination by the County Planning and Zoning Committee that it is necessary to support a load on adjacent properties or that special site conditions warrant increased setbacks.
 6. Where a cut or fill slope is to be located near the site boundary, special precautions shall be incorporated in the work as the city engineering division deems necessary to protect the adjoining property from damage. These precautions may include but are not limited to:

- i. Additional setbacks.
 - ii. Provisions for retaining walls or drainage channels.
 - iii. Mechanical or chemical treatment of the fill slope to minimize erosion.
 - iv. Other provisions for the control of surface waters.
- d. The County Planning and Zoning Committee may require or approve alternate setbacks, investigation, and recommendations by a registered professional engineer experienced in soil mechanics or an engineering geologist to demonstrate that the intent of this section has been satisfied.
- e. No grading shall allow earthen materials to be deposited upon, or to roll, flow, or wash upon or over the premises of another without the explicit written consent of the owner of such premises so affected, or upon or over any public street, walk, place, or way; not so close to the top of a bank of a channel as to create the possibility of bank failure and sliding.
- f. No cut or fill materials shall be transported to or from a site in such a manner as to permit it to be deposited upon any public street or road. In the event cut or fill materials are deposited or tracked upon the public streets, the land owner shall clean it up by the end of each working day, or the County may clean it up and assess the costs of the cleanup to the land owner. Costs for damage to the County roads or bridges used for access to the site which requires additional maintenance or repair for the normal County maintenance or repair as a result of additional traffic generated, shall be the responsibility of the owner of the property from which the soil is being removed. The determination of the costs and the method of repair and maintenance shall be prescribed by the Dakota County Road Department Superintendent. The property owner may appeal the Superintendent's decision to the Dakota County Board of Commissioners within thirty (30) days after receiving the Superintendent's decision.
- g. Fill material shall be obtained from approved sources which shall be free of vegetative matter and deleterious materials such as broken concrete, asphalt and large rocks unless prior approval is obtained from the County planning and zoning committee.
- h. Minimum standards of excavations and fills:
 - 1. In general, excavations and fills should have a finished slope of three horizontal to one vertical; however, steeper excavations and fills may be made subject to the following design certifications:
 - 2. An excavation or fill steeper than a 3:1 slope that is less than 20 feet in height must be based upon a design prepared and certified by an architect, landscape architect, or professional engineer, registered in the state of Iowa.
 - 3. An excavation or fill steeper than a 3:1 slope that is more than 20 feet in height must be based upon a design prepared and certified by a registered professional engineer experienced in soil mechanics with substantiation by a soils investigative report.
 - 4. The face of the cut or fill shall be stabilized by a vegetative land cover, retaining wall, or other means provided in the approved design.
 - 5. The top of the cut or fill or any terrace created shall be shaped in such a manner that no surface water is allowed to flow over the edge. The top surface shall be stabilized by vegetation or other non-erodible surface.
- i. Within one (1) year after completion of the excavation or grading 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.
- j. Timber, logs, trees, tree stumps, brush, vegetable matter, masonry and rubbish of any description shall be removed and disposed of so as to leave the disturbed area with a neat and finished appearance. Solid rock, shale or similar materials shall be removed

to a depth of 15 inches below sub grade for paved areas and 2 feet below finish grade for lawn areas except where it is impractical because of rock out-cropping.

- k. Ground cover shall be established within 30 days after a phase of grading work is completed or by April 1 of the next year if completion is after October 1 in order to prevent erosion of finished grading. Such ground cover must be maintained in such a manner as to assure the long-term stability of the grading.
 1. Appropriate measures shall be implemented to prevent fugitive dust from becoming a nuisance to surrounding occupied properties.

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 (50) fifty feet on height shall be set back (1) one additional foot of tower height in excess to 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, by a minimum of two hundred (200) feet or one hundred (100) 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 (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 (1500) feet.

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.

Illumination and Security Fences

1. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA) and Federal Communications Commission (FCC). 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. In no case shall said tower be allowed to operate a strobe lighting system after sunset and before dawn.
2. All self-supporting lattice or guyed towers shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Monopole towers shall be designed and

constructed in a manner which will preclude to extent practical, unauthorized climbing of said structure.

Exterior Finish

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

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 Conditional Use 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 Conditional Use 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, and exemption from compliance as a condition of the Conditional Use permit.

Inspections

Telecommunications towers shall be inspected by a qualified tower inspector once every 36 months by the owner, operator, or his representative to assess the structural condition of the tower and support equipment. An inspection report shall be delivered to the Dakota County Road Department Superintendent within 30 days of the inspection. Said report shall certify that the tower and support equipment continues to meet or exceed the current published Federal Communications Commission, Federal Aviation Association, Energy Information Association and Telecommunications Industry Association structural standards and is in sound and safe operating condition.

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.

Abandonment

1. The tower owner shall be required to notify the Zoning Administrator of any periods of nonuse or abandonment of the tower facility.
2. 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 had been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, the tower owner shall have thirty (30) days to show by a 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 shall have (75) days, thereafter to dismantled and remove the tower. In the event the tower is not dismantle and removed, the tower shall be declared a public nuisance by the Zoning Administrator, or his / her designee nuisance pursuant to authority of the Nebraska State Statues and County of Dakota

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.

Satellite Dish Antennas, Regulation

1. Upon adoption of this regulation, installation of satellite dish antennas shall be permitted within the zoning jurisdiction of Dakota County only upon compliance with the following criteria.
2. In residentially zoned districts, satellite dish antennas may not exceed a diameter of (10) feet.
3. Single family residences may not have more than one (1) satellite dish antenna over three (3) feet in diameter.
4. 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.
5. In residential zoning districts, satellite dish antennas shall not be installed in the required front yard setback or side yard set back area.
6. All satellite dish antennas installed within the zoning jurisdiction of Dakota County, upon adoption of this regulation, shall be of a neutral color such as black, gray, brown, or such color as will blend with the surrounding dominant color in order to camouflage the antenna.

Section 900.2. WIND ENERGY INSTALLATIONS

This section is intended to regulate wind energy conversion systems, including such devices as wind charger, windmill, or wind turbines in the County in conformance with the American Wind Energy Association (AWEA) and United States Department of Energy standards and requirements. Wind energy systems regulations in the County are adopted to protect residential areas and land uses from potential adverse impact of installation of wind energy systems through careful design, siting, and camouflaging and to avoid potential damage to property caused by wind energy systems 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 wind energy systems are compatible with surrounding land uses.

Definitions

All terms in this Section which are not specifically defined herein shall be constructed in accordance with the American Wind Energy Association (AWEA) and United States Department of Energy rules, regulations and standards. As used in this Section, the following terms shall have the following meanings:

1. Wind charger: Device for holding a charge of electricity.
2. Wind energy: Kinetic energy present in wind motion that can be converted to mechanical energy for driving pumps, mills, and electric power generators.
3. Wind energy conversion system: An apparatus for converting the energy available in the wind to mechanical energy that can be used to power machinery (grain mills, water pumps) and to operate an electrical generator.

4. Wind mill: A mill operated by wind to produce electric energy.
5. Wind turbine: Wind energy conversion device that produces electricity; typically three blades rotating about a horizontal axis and positioned up-wind of the supporting tower.

In any zoning district, a conditional use permit may be granted to allow a wind energy conversion system, including such devices as wind charger, windmill, or wind turbine; subject to the following conditions:

1. The setback distances from all lot lines to any lower support base shall be determined according to the following setback table:

SETBACK TABLE

Rotor Diameter	Setback Distance
5 feet	100 feet
10 feet	165 feet
15 feet	220 feet
20 feet	270 feet
25 feet	310 feet
30 feet	340 feet
35 feet	365 feet
40 feet	385 feet

2. The distance from any wind energy systems support base to any wind energy systems support base of another wind energy system under the ownership shall be a minimum of five (5) rotor distances figured by the size of the largest rotor.
3. The wind energy system operation shall not cause interference to the radio and television reception on adjoining property.
 1. To limit climbing access to the wind energy system, a fence six (6) feet high with a locking portal shall be placed round the wind energy system base or the wind energy system climbing apparatus shall be limited to no more that twelve (12) feet from the ground.
4. Data pertaining to the machine’s turbine safety and stability shall be filed with the application. Such data shall include turbine safety and acceptance results from tests conducted by a qualified individual or organization based upon standards set by the U.S. Department of Energy (DOE), Electric Power Research Institute (EPRI) Utility Wind Turbine Verification Program.
5. The application shall provide covenants, easements, or similar documentation from the abutting owners providing access to wind sufficient for its adequate operation, unless adequate accessibility to the wind is provided on the site.
6. Costs for damage to the County roads or bridges used for access to the site which requires additional maintenance or repair for the normal County maintenance or repair as a result of additional traffic generated, shall be the responsibility of the owner of the property from which the soil is being removed. The determination of the costs and the method of repair and maintenance shall be prescribed by the Dakota County Road Department Superintendent. The property owner may appeal the Superintendent’s decision to the Dakota County Board of Commissioners within thirty (30) days after receiving the Superintendent’s decision.

Location of Wind Energy Systems and Construction Standards

1. Wind energy systems shall be permitted conditional uses of land in only those zoning districts where specifically listed or authorized in this regulation.

2. No person shall develop, construct, modify, or operate a wind energy system upon any tract of land within the zoning jurisdiction of the County prior to approval of its application for a Conditional Use Permit by the County Board and issuance of the permit by the County. Applicants shall submit their application for a Conditional Use Permit to the Zoning Administrator.
3. All wind energy systems 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), Federal Aviation Administration (FAA), United State Department of Energy, Energy Information Administration (EIA) and American Wind Energy Association (AWEA) and any other. Upon completion of construction of a wind energy system prior to the commencement of use, and 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.

Application to develop a wind energy system

Prior to the commencement of development or construction of a wind energy/turbine, and application shall be submitted to the Zoning Administrator for the Conditional Use 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 addresses of the tract of land on which the wind energy system is located.
3. The application shall identify proposed vehicle and equipment storage areas.
4. The application shall include a map showing contours, proposed excavation and grading contours, and proposed final grad contours.
5. The names, addresses, and telephone numbers of all owners of other wind energy systems within one (1) mile radius of the proposed wind energy system, including publicly and privately owned wind energy systems and structures.
6. Written technical evidence from an engineer that the proposed wind energy systems will meet established Building Codes, and all other applicable construction standards set forth by the County Board and federal and state and AWEA standards.
7. Color photo simulations showing the proposed location of the wind energy system with a photo-realistic representation of the proposed wind energy system as it would appear viewed for the nearest residentially used and / or zoned property and nearest roadway, street, or highway.
8. Descriptions and diagrams of the proposed wind energy system, 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 an nature of the proposed facility.
9. A copy of any lease between the applicant and the owner of the land where the wind energy system is constructed must be delivered to the Dakota County Road Department Superintendent prior to constructing the wind energy system. The landowner shall be responsible for the

removal of the wind energy system or facility in the event the lessee fails to remove it upon abandonment.

10. Excavating and Grading requirements of land and soil must be completed according to:
 - a. The faces of cut and fill slopes shall be prepared and maintained to control soil erosion. Where necessary, vegetative plantings, check dams, cribbing, riprap, or other devices or methods shall be employed to control erosion and provide safety.
 - b. All drainage provisions shall be designed to carry surface waters to the nearest natural water course approved by the County Planning and Zoning Committee.
 - c. Setbacks:
 1. Cut and fill slopes shall be set back from site boundaries in accordance with this section. Setback dimensions shall be horizontal distances measured perpendicular to the site boundary.
 2. The setback from a site boundary line for the top of a cut section or the toe of a fill section which does not involve a professionally designed retaining wall structure shall be determined as: $B = H (1 - S/4)$, where B is the setback required, H is the height of the cut or fill section and S is the horizontal element of the slope ration (e.g. S = 4 for a 4:1 slope). For a slope steeper than 3:1, the setback shall not be less than 5 feet.
 3. The setback for a retaining wall structure designed by a registered professional engineer, architect, or landscape architect shall be sufficient to contain any of the structure of the retaining wall and to assure the adjoining property owner will not be deprived of rights to build.
 4. The setback may be reduced to zero if a recorded easement of the adjoining property for construction and maintenance of the cut of fill section equal in width to the reduction of the setback required by the provisions of subsection b. or c. above is secured.
 5. The minimum setback may be increased as a result of a determination by the County Planning and Zoning Committee that it is necessary to support a load on adjacent properties or that special site conditions warrant increased setbacks.
 6. Where a cut or fill slope is to be located near the site boundary, special precautions shall be incorporated in the work as the city engineering division deems necessary to protect the adjoining property from damage. These precautions may include but are not limited to:
 - i. Additional setbacks.
 - ii. Provisions for retaining walls or drainage channels.
 - iii. Mechanical or chemical treatment of the fill slope to minimize erosion.
 - iv. Other provisions for the control of surface waters.
 - d. The County Planning and Zoning Committee may require or approve alternate setbacks, investigation, and recommendations by a registered professional engineer experienced in soil mechanics or an engineering geologist to demonstrate that the intent of this section has been satisfied.
 - e. No grading shall allow earthen materials to be deposited upon, or to roll, flow, or wash upon or over the premises of another without the explicit written consent of the owner of such premises so affected, or upon or over any public street, walk, place or way; not so close to the top of a bank of a channel as to create the possibility of bank failure and sliding.
 - f. No cut or fill materials shall be transported to or from a site in such a manner as to permit it to be deposited upon any public street or road. In the event cut or fill materials is deposited or tracked upon the public streets, the land owner shall clean it up by the end of each working day, or the County may clean it up and assess the costs of the cleanup to the land owner. Costs for damage to the County roads or bridges used for access to the site which requires additional maintenance or repair

for the normal County maintenance or repair as a result of additional traffic generated, shall be the responsibility of the owner of the property from which the soil is being removed. The determination of the costs and the method of repair and maintenance shall be prescribed by the Dakota County Road Department Superintendent. The property owner may appeal the Superintendent's decision to the Dakota County Board of Commissioners within thirty (30) days after receiving the Superintendent's decision.

- g. Fill material shall be obtained from approved sources which shall be free of vegetative matter and deleterious materials such as broken concrete, asphalt and large rocks unless prior approval is obtained from the County planning and zoning committee.
- h. Minimum standards of excavations and fills:
 - 1. In general, excavations and fills should have a finished slope of three horizontal to one vertical; however, steeper excavations and fills may be made subject to the following design certifications:
 - 2. An excavation or fill steeper than a 3:1 slope that is less than 20 feet in height must be based upon a design prepared and certified by an architect, landscape architect, or professional engineer, registered in the state of Iowa.
 - 3. An excavation or fill steeper than a 3:1 slope that is more than 20 feet in height must be based upon a design prepared and certified by a registered professional engineer experienced in soil mechanics with substantiation by a soils investigative report.
 - 4. The face of the cut or fill shall be stabilized by a vegetative land cover, retaining wall or other means provided in the approved design.
 - 5. The top of the cut or fill or any terrace created shall be shaped in such a manner that no surface water is allowed to flow over the edge. The top surface shall be stabilized by vegetation or other non-erodible surface.
- i. Within one (1) year after completion of the excavation or grading 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.
- j. Timber, logs, trees, tree stumps, brush, vegetable matter, masonry and rubbish of any description shall be removed and disposed of so as to leave the disturbed area with a neat and finished appearance. Solid rock, shale or similar materials shall be removed to a depth of 15 inches below sub grade for paved areas and 2 feet below finish grade for lawn areas except where it is impractical because of rock out-cropping.
- k. Ground cover shall be established within 30 days after a phase of grading work is completed or by April 1 of the next year if completion is after October 1 in order to prevent erosion of finished grading. Such ground cover must be maintained in such a manner as to assure the long-term stability of the grading.
- l. Appropriate measures shall be implemented to prevent fugitive dust from becoming a nuisance to surrounding occupied properties.

Structural Standards for wind energy systems and structures

The structural standards for wind energy systems and structures shall follow the American Wind Energy Association (AWEA) and United States Department of Energy standards and requirements.

Illumination and Security Fences

- 1. Wind energy systems shall not be artificially lighted except as required by the Federal Aviation Administration (FAA) and Federal Communications Commission (FCC). In cases where there are residential uses / zoned properties within a distance of 300% of the height of the wind energy system, any wind energy system subject to this Section shall be equipped with dual

mode lighting. In no case shall said wind energy system be allowed to operate a strobe lighting system after sunset and before dawn.

2. All self-supporting lattice or guyed wind energy systems shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Wind energy systems shall be designed and constructed in a manner which will preclude to extent practical, unauthorized climbing of said structure.

Exterior Finish

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

Maintenance, Repair or Modification of Existing Wind Energy Systems and Structures

All wind energy systems 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 Conditional Use Permit. Any modification or reconstruction of a wind energy system or structure 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 Conditional Use 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, and exemption from compliance as a condition of the Conditional Use permit.

Inspections

Wind energy systems shall be inspected by a qualified wind energy system inspector once every 36 months by the owner, operator, or his representative to assess the structural condition of the wind energy system or structure. An inspection report shall be delivered to the Dakota County Road Department Superintendent within 30 days of the inspection. Said report shall certify that the wind energy system or structure and support equipment continues to meet or exceed the current published American Wind Energy Association (AWEA) and United States Department of Energy standards and requirements and is in sound and in safe operating condition.

Maintenance

The wind energy system support structures 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.

Abandonment

1. The wind energy system owner shall be required to notify the Zoning Administrator of any periods of nonuse or abandonment of the wind energy system facility.
2. If any wind energy system shall cease to be used for a period of one (1) year, the Zoning Administrator shall notify the wind energy system owner that the site will be subject to determination by the Zoning Administrator that the site had been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, the wind energy system or structure been in use or under repair during the period of apparent abandonment. In the event the tower

owner fails to show that the wind energy system or structure shall have (75) days, thereafter to dismantled and remove the structure. In the event the wind energy system or structure is not dismantle and removed, the structure shall be declared a public nuisance by the Zoning Administrator, or his / her designee nuisance pursuant to authority of the Nebraska State Statues and County of Dakota codes, and charge the costs thereof against the real estate on which the wind energy system is located or the owner of record of the said real estate.

Section 900.3. SIGN INSTALLATIONS

It is the intent and purpose of these sign regulations to qualify, supplement or define the allowable uses of the several types of signs allowed in the district regulations appearing elsewhere in the Regulation.

Use Regulations

Any sign shall, by definition, be a structure. No land or building or structure shall be used for sign purposes except within the stipulated districts listed in Sign Use Regulations specified herein. All signs legally existing at the time of passage of these regulations may remain in use under the conditions of legal nonconformance. Signs in legal nonconformance shall not be enlarged, moved, lighted, or reconstructed; however, the change of the advertising display shall not be restricted except as previously stated. After the effective date of the Regulation, no sign shall be erected, enlarged, constructed or otherwise installed without first obtaining a sign permit, and a sign permit shall be legally issued only when in compliance with this sign regulation. All signs shall be constructed in compliance with the building codes and shall be constructed in such a manner and of such material that they shall be safe and substantial. Scale drawings of the sign and manner of supports shall be furnished to the Zoning Administrator in application for a sign permit for all signs.

Classification of Signs

Functional Types:

1. Advertising Signs: A sign which directs the attention of the public to any goods, merchandise, property, business, service, entertainment or amusement conducted or produced which is bought or sold, furnished, offered, or dealt in elsewhere than on the premises where such sign is located or to which it is affixed.
2. Bulletin Board Sign: A sign that indicates the name of an institution or organization on whose premises it is located and which contains the name of the institution or organization, the name or names of persons connected with it, and announcement or persons, events or activities occurring at the institution. Such sign may also present a greeting or similar message.
3. Business Signs: A sign which directs attention to a business or profession conducted, or to products, services or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed.
4. Construction Signs: A temporary sign indicating the names of the architects, engineers, landscape architects, contractors and similar artisans involved in the design and construction of a structure, complex or project only during the construction period and only on the premises on which the construction is taking place.
5. Identification Signs: A sign giving the name and address of a building, business, development or establishment. Such signs may be wholly or partly devoted to a readily recognized symbol.
6. Name Plate Signs: A sign giving the name and/or address or the owner or occupant of a building or premises on which it is located, and where applicable, a professional status.

7. Real Estate Signs: A sign pertaining to the sale or lease of a lot or tract of land on which the sign is located, or to the sale or lease of one or more structures, or a portion thereof on which the sign is located.

Structural Types:

1. Awning, Canopy or Marquee Sign: A sign that is mounted or painted on, or attached to an awning, canopy or marquee. No such signs shall project above, below or beyond the awning, canopy or marquee.
2. Ground Sign: Any sign placed upon, or supported by, the ground independently of the principal building or structure on the property, where the bottom edge of the sign is less than six feet.
3. Pole Sign: Any sign placed upon, or supported by, the ground independently of the principal building or structure on the property where the bottom edge of the sign is six feet or more above the ground level.
4. Projection Sign: Any sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building.
5. Wall Sign: A sign fastened to or painted on a wall of a building or structure in such a manner that the wall becomes merely the supporting structure or forms the background surface, and which does not project more than 12 inches from such building.
6. Roof Sign: A sign totally supported on the roof of a structure. Roof signs shall not project more than 12 inches beyond the face of the building.

General Standards

1. Gross Area of Sign: The entire area within a single continuous perimeter enclosing the extreme limits of the sign, exclusive of the base on which it is mounted or from which it is suspended. If more than one side of a sign is utilized as a sign, then it shall also be computed and shall be counted as a portion of the gross area. On lots where more than one sign is located, the total gross area of all the signs shall not exceed the maximum gross area permitted by this regulation. For computing the gross area of any wall sign which consists of letters mounted or painted on a wall, the area shall be deemed to be the area of the smallest rectangular figure which can encompass all of the letters.
2. Sign Height: Sign height shall be measured from the ground elevation at the base of the sign to the highest element of the sign.
3. Illuminated Signs: A sign designed to give forth artificial light or designed to reflect light derived from any source.
 - a. Illuminated signs shall be designed as to reflect or direct light away from any residential dwelling district and any illuminated sign located on a lot adjacent to, in front of or across the street from any residential district, which sign is visible from such residential district, shall not be illuminated between the hours of 11 p.m. and 7 a.m.
 - b. Lighted signs in direct vision of a traffic signal shall not be in red, amber or green illumination.
4. Flashing or Moving Signs: Any illuminated sign on which the artificial light is not constant in intensity and color at all times. For the purpose of this regulation, any revolving, rotating,

moving, animated, signs with moving lights or signs which create the illusion of movement shall be considered as a flashing sign and shall not be permitted except where:

- a. A sign giving public service information.
 - b. A sign whereon the current time, temperature, weather or news is indicated by intermittent lighting shall not be deemed as a flashing sign if the lighting changes are limited to the numerals or configurations of letters indicating such information.
5. Accessway or Window: No sign shall block any required accessway or window.
6. Advertising Sign Spacing on Highways.
- a. Advertising signs visible from a primary highway shall not be erected within the limits of an incorporated city less than one hundred (100) feet, and outside the limits of an incorporated city less than three hundred (300) feet, of another such sign on the same side of the highway.
 - b. Advertising signs visible from a freeway or interstate highway shall not be erected within five hundred (500) feet of another such sign on the same side of the highway, and outside the limits of an incorporated city, no such sign shall be located adjacent to or within five hundred (500) feet of an interchange, intersection at grade or a safety rest area, with such distance to be measured along the freeway or interstate highway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way.
 - c. The minimum distances between two signs prescribed by subsections a. and b. shall not apply where such signs are separated by a building, structure, roadway or other obstruction which prevents a view of both signs at the same time by traffic proceeding on any one highway.
 - d. The minimum distance between two signs as prescribed by subsections a. and b. shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway.
 - e. Nothing in this subsection shall be construed as preventing the erection of double faced, back-to-back or V-type signs with a maximum of two (2) signs per facing.
7. Signs on Trees or Utility Poles: No sign shall be attached to a tree or utility pole whether on public or private property.
8. Metal Signs: Signs constructed of metal and illuminated by any means requiring wiring or electrically wired accessory fixtures attached to a metal sign shall maintain a free clearance to grade of nine feet. Accessory lighting fixtures attached to a non-metal frame sign also maintain a clearance of nine feet to grade.
- a. No metal ground sign shall be located within eight feet vertically and four feet horizontally of electric wires or conductors in free air carrying more than 48 volts, whether or not such wires are insulated or otherwise protected.
9. Traffic Safety:
- a. No sign shall be maintained at any location where by reason of its position, size, shape or color, it may obstruct, impair, obscure, interfere with the view of, or be

confused with any traffic or railroad control sign, signal or device, or where it may interfere with, mislead, or confuse traffic.

- b. Any sign located within three feet of a driveway or within a parking area shall have its lowest elevation at least ten feet above the curb level; however, in no event shall any sign be placed so as to project over any public right-of-way.
 - c. Under no circumstances shall any sign be placed in the site triangle as defined by this regulation.
 - d. Signs shall not be erected or maintained which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of any street or highway and are of such brilliance as to cause glare or to impair the vision of, or otherwise interfere with, the driver of any motor vehicle.
10. Setbacks: No advertising sign shall project beyond the front, side or rear building setback lines for the district set forth in this zoning regulation.
11. Lineal Street Frontage: In those districts where gross sign area is allocated based on lineal street frontage and the tract or parcel is adjacent to more than one street, the lineal street frontage shall be computed as follows:
- a. For those tracts or parcels located on major streets as designed in the Circulation Plan of the Comprehensive Plan, the lineal street frontage shall be the distance on that property line abutting the major street.
 - b. For those tracts or parcels not located on a major street, the lineal street frontage shall be one-half of the sum of all the street frontages.

Exemptions.

1. The following signs shall be exempt from the requirements of this Article:
 - a. Flags or emblems of a governmental or of a political, civic, philanthropic, educational or religious organization displayed on private property.
 - b. Signs of a duly constituted governmental body, including traffic or similar regulatory signs, legal notices, warnings at railroad crossings and other instructional or regulatory signs having to do with health, hazards, parking, swimming, dumping, etc.
 - c. Memorial signs and tablets displayed on private property.
 - d. Small signs, not exceeding three square feet in area, displayed on private property for the convenience of the public, including signs to identify entrance and exit drives, parking areas, one-way drives, restrooms, freight entrances and other similar signs.
 - e. Score boards in athletic stadiums.
2. The following signs are exempt from the sign permit section of this Article, but shall comply with all of the other regulations imposed by this Article:
 - a. Name plate signs not exceeding two square feet in gross area accessory to a single-family or two-family dwelling.

- b. Bulletin board signs not exceeding 15 square feet in gross area accessory to a church, school or public or non-profit institution.

District Regulations.

1. Agricultural Districts:

- a. Functional Types Permitted:
 - i. Bulletin board signs.
 - ii. Business signs, pertaining only to the sale of agricultural products produced on the premises and home occupations.
 - iii. Construction signs.
 - iv. Identification signs.
 - v. Name plate signs.
 - vi. Real estate signs.
- b. Structural Types Permitted:
 - i. Ground signs.
 - ii. Wall signs.
- c. Number of Signs Permitted: One sign per zoning lot.
- d. Maximum Gross Area:
 - i. Bulletin board and identification signs: 24 square feet.
 - ii. Business signs - home occupations: two square feet; Agricultural - 20 square feet.
 - iii. Construction signs: 20 square feet.
 - iv. Name plate signs: 2 square feet.
 - v. Real estate signs: 12 square feet.
 - vi. Mobile home parks: 24 square feet on one face and not more than 40 square feet total.
- e. Maximum Height: 15 feet.
- f. Required Setbacks: None.
- g. Illumination: Bulletin board and identification signs that do not exceed 12 square feet on one face for churches, hospitals, police stations, fire stations and other similar public facilities.

2. Residential Districts:

- a. Functional Types Permitted:
 - i. Business signs pertaining to a home occupation and subject to the sign requirements of the home occupation section of this regulation.
 - ii. Bulletin board signs.
 - iii. Construction signs.
 - iv. Identification signs.
 - v. Name plate signs.
 - vi. Real estate signs.
- b. Structural Types Permitted:
 - i. Ground signs.
 - ii. Wall Signs.

- c. Number of Signs Permitted: One sign per zoning lot.
- d. Maximum Gross Area:
 - i. Business signs - Home occupation: 2 square feet.
 - ii. Bulletin board and identification signs: 24 square feet.
 - iii. Construction signs: 20 square feet.
 - iv. Name plate signs: 2 square feet.
 - v. Real estate signs: six square feet, provided that one sign not more than 100 feet in area announcing the sale of lots and/or houses in a subdivision may be located on said development. Said sign shall be removed at the end of three years or when 75 percent of the lots have been sold, whichever occurs sooner.
 - vi. Mobile home park: 24 square feet on one face and not more than 40 square feet total.
- e. Maximum Height: 15 feet.
- f. Required Setback: No sign shall be placed closer to the front property line than ½ the distance of the front yard.
- g. Illumination: Bulletin boards and identification signs may be indirectly illuminated with incandescent or fluorescent lighting.

3. Business District:

- a. Functional Types Permitted:
 - i. Advertising signs.
 - ii. Bulletin board signs.
 - iii. Business signs.
 - iv. Construction signs.
 - v. Identification signs.
 - vi. Name plate signs.
 - vii. Real estate signs.
- b. Structural Types Permitted:
 - i. Awning, canopy or marquee signs.
 - ii. Ground signs.
 - iii. Pole signs.
 - iv. Projecting signs.
 - v. Roof signs.
 - vi. Wall signs.
- c. Number of Signs Permitted:
 - i. Awning, canopy or marquee signs and wall signs: No limitations.
 - ii. Ground signs and pole signs: Two per zoning lot.
 - iii. Projecting signs: One per zoning lot.
 - iv. Roof signs: One per zoning lot.
- d. Maximum Gross Surface Area: Two square feet for each lineal foot of street frontage provided no single sign shall exceed a gross surface area of 400 square feet.
- e. Maximum Height: 30 feet.
- f. Required Setback: None except that advertising signs shall maintain the same setback that is required for principal structures.

g. Illumination: Illuminated signs shall be permitted.

4. All Other Industrial Districts:

a. Functional Types Permitted:

- i. Advertising signs.
- ii. Bulletin board signs.
- iii. Business signs.
- iv. Construction signs.
- v. Identification signs.
- vi. Name Plates.

b. Structural Types Permitted:

- i. Awning, canopy or marquee signs.
- ii. Ground signs.
- iii. Pole signs.
- iv. Projecting signs.
- v. Wall signs.
- vi. Roof signs.

c. Number of Signs Permitted: Two per zoning lot.

d. Maximum Gross Surface Area: Two square feet per lineal foot of street frontage, provided no single sign exceeds a gross area of 400 square feet.

e. Maximum Height:

- i. Roof and wall signs: 30 feet above the highest point of the structure on which the sign is located.
- ii. All other signs: 30 feet.

f. Required Setback: None, except that advertising signs shall maintain the same setback that is required for principal structures.

g. Illumination: Illuminated signs shall be permitted.

Public Utility Facilities Lot Size Requirements

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

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

7. Water tower or standpipes.

Mobile Home Parks

1. A mobile home park may be established provided that the proposed mobile home park meets all of the requirements of Section 4.06 and the additional requirements below:
2. Certification of compliance with all Regulations and regulations regarding mobile home park licensing, zoning, health, plumbing, electrical, building, fire prevention and all other applicable Regulations and regulations.