BOARD OF COUNTY COMMISSIONERS
SARPY COUNTY, NEBRASKA

RESOLUTION ADOPTING AMENDED SARPY COUNTY ZONING REGULATIONS

WHEREAS, the County Board of Commissioners has the authority to adopt a zoning resolution, which shall have the force and effect of law pursuant to Neb. Rev. Stat. §23-114 (Reissue 2012); and,

WHEREAS, the County Board of Commissioners established the Sarpy County Planning Commission pursuant to Neb. Rev. Stat. §23-114 (Reissue 2012); and,

WHEREAS, pursuant to Neb. Rev. Stat. §23-164 (Reissue 2012), "no such [zoning] regulation, ... shall become effective until after public hearings are held by both the county planning commission and county board in relation thereto, when its parties in interest and citizens shall have an opportunity to be heard,"

NOW, THEREFORE, BE IT RESOLVED BY THE SARPY COUNTY BOARD OF COMMISSIONERS that this Board makes the following findings of fact:

I. A public hearing regarding the adoption of certain proposed amendments and revisions to the Sarpy County Zoning Regulations was held on November 19, 2013 and December 17, 2013 before the Sarpy County Planning Commission as required by Neb. Rev. Stat. §23-164 (Reissue 2012). The Planning Commission provided its recommendation of approval with specific changes to the County Board as noted in the Planning Department report.

II. A public hearing regarding the adoption of the proposed amendments and revisions to the Sarpy County Zoning Regulations, was held by this Board as required by Neb. Rev. Stat. §23-164 (Reissue 2012).

III. Notice of each of the Public Hearings described above was published at least ten (10) days immediately prior immediately to each respective public hearing as required by Neb. Rev. Stat. §23-164 (Reissue 2012), and the proof of publication has been filed in the Office of the Sarpy County Clerk.

IV. Notice of the time and place of each hearing was also given in writing to the clerks of the local governments which have jurisdiction over land within three (3) miles of the property affected by such action as required by Neb. Rev. Stat. § 23-164 (Reissue 2012).

V. The proposed amendments to be approved by this Resolution are within Section 23. Further the Planning Department report is attached hereto and includes a red-line version in legislative format which specifically shows the proposed changes, said Planning Department report for section 23, along with all attachments to same are attached hereto and known as Exhibit "A".

VI. The proposed amendments to the Sarpy County Zoning Regulations are consistent with the Sarpy County Comprehensive Development Plan and are designed to promote the health, safety and welfare of the present and future inhabitants of Sarpy County.

FURTHER BE IT RESOLVED THAT this Board in light of the above recited findings of fact, after due deliberation and consideration, upon the recommendation of the Planning Commission, adopts the proposed amendments to the Sarpy County Zoning Regulations, specifically approval of the text amendments as shown in the Attachment "B" of the Planning Department Report with the deletion of the word "storage" in section 23.3.2, as follows: "Fuel sales or distribution without Convenience Store".

FURTHER BE IT RESOLVED THAT this Board in light of the above recited findings of fact, after due deliberation and consideration, upon the recommendation of the Planning Commission, directs the Planning Department to amend the Sarpy County Zoning Regulations, which amended Zoning Regulations are attached hereto as Exhibit "B" and that the same have full force and effect of law, the effective date of the aforementioned Zoning Regulations shall be the 28th day of January, 2014.

BE IT RESOLVED, TOO, THAT, pursuant to Neb. Rev. Stat. §23-114.03 (Reissue 2012), the County Clerk is directed and instructed to, within fifteen (15) days of the date of this Resolution, publish these Regulations in book or pamphlet form or once in a legal newspaper published in and of general circulation in the county, and the County Clerk is further directed to spread these regulations in the minutes of the proceedings of the county board.

FINALLY, BE IT RESOLVED THAT the regulations enacted by this Resolution are intended to be a complete revision of the existing Zoning Regulations, and all previous Resolutions or parts of Resolutions of the Sarpy County Board of Commissioners on said subjects or in conflict with the provisions of this Resolution are hereby repealed.

The above Resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on the 28th day of January 2014.

Attest

SEAL

DEBRA J. HOUGHTALING, COUNTY CLERK
SEAL
SARPY COUNTY, NEBRASKA

Sarpy County Board Chairman

County Clerk

Office of the County Attorney

Hall of Justice % 1210 Golden Gate Drive % Suite 3147
Papillion, NE 68046-2889
(402) 593-2230 % FAX: (402) 593-4359

L. Kenneth Polikov
Sarpy County Attorney

MEMORANDUM

January 23, 2014

TO: Sarpy County Board of Commissioners & Sarpy County Clerk
FROM: Nicole O'Keefe, Deputy Sarpy County Attorney

RE: Proposed Text Amendments to the Sarpy County Zoning Regulations

There are proposed text amendments to the Sarpy County Zoning Regulations on the January 28, 2014 County Board agenda. The Resolution for the text amendments references an "Exhibit B". Should the County Board approve any text amendments to the Sarpy County Zoning Regulations, Exhibit B shall be the Sarpy County Zoning Regulations *as amended.* Thus Exhibit B is not currently attached to the Resolution, but will be the complete Sarpy County Zoning Regulations with any and all amendments made by the County Board at the January 28, 2014 meeting. Please contact me with any questions.

Sarpy County Board of Commissioners
Exhibit "A"
Planning Department Report
County Board Meeting Date: January 28, 2014

Subject	Type	By
FILE # MISC 13-0009: Request by Metropolitan Utilities District (MUD) for a Text Amendment to the Sarpy County Zoning Regulations Section 23.3 – Light Industrial District Permitted Special Uses – to add "Compressed Natural Gas (CNG) Fueling Station without Convenience Store" to list of Permitted Special Uses	Public Hearing & Resolution	Bruce Fountain, AICP, EDFP Director, Planning & Building Dept.

- **Background and Analysis:**

The Planning Commission held public hearings on November 19, 2013 and December 17, 2013 on a proposed text amendment to the Sarpy County Zoning Regulations requested by the Metropolitan Utilities District (MUD) related to Permitted Special Uses in the IL (Light Industrial) District. The specific request is to add "Compressed Natural Gas (CNG) Fueling Station without Convenience Store" to the list of Permitted Special Uses in the IL District. Should this text amendment be approved, MUD has also submitted an application for a Special Use Permit for such a facility to be located at the southwest corner of 132nd Street and Cornhusker Road in the Hilltop Industrial Park.

- **Staff Recommendation:**

The detailed staff report and recommendation that was presented to the Planning Commission is attached for your review. MUD's application for this text amendment is specific to allow a "CNG Fuel Station without Convenience Store" as a Permitted Special Use in the IL district. A redlined copy showing their proposed change of Section 23.3 the Zoning Regulations is included in the Planning Commission Recommendation Report as Attachment "A". However, staff believes the County should not necessarily limit this to only "CNG" fueling stations. We believe it would be acceptable to keep the language general to "fuel sales" as in the other districts but also keeping it as a Permitted Special Use without convenience stores in IL. This will allow the County to look at such uses on a case by case basis within IL zoned areas to regulate design and operational aspects as may be deemed necessary. A redlined version of staff's recommended text changes to Section 23.3 of the Zoning Regulations is also included in the Planning Commission Recommendation Report as Attachment "B" for your review.

Staff believes that allowing general fuel sales without convenience stores as a Permitted Special Use in the IL (Light Industrial) district is acceptable. We would not recommend limiting it to only CNG fuel sales. We feel limiting the use, by not allowing convenience stores, will still protect limited available IL ground from being utilized by smaller commercial uses and prevent conflicts due to higher traffic volumes associated with those uses. The IL areas are also protected by requiring a Special Use Permit so that each development will be looked at on a case by case basis. In addition, allowing fuel sales will be beneficial in some of these areas by providing the service in closer proximity so that trucks associated with light industrial businesses will be able to purchase fuel close to their operations and possibly avoid more highly congested commercial/retail areas.

Therefore, staff recommends **APPROVAL** of the text amendment to the Sarpy County Zoning Regulations as shown in Attachment "B" of the attached Planning Commission Recommendation Report but with the deletion of the word "storage" in Section 23.3.2 ("Fuel sales or distribution without Convenience Store") as it is consistent with the County's Comprehensive Plan as well as the rest of the overall Zoning Regulations.

- **Planning Commission Recommendation:**

On December 17, 2013, the Planning Commission voted 8-0 to recommend **APPROVAL** of this proposed text amendment to the Sarpy County Zoning Regulations as noted in their motion below.

MOTION: Malmquist moved, seconded by Lichter to recommend approval of the text amendment to the Sarpy County Zoning Regulations as shown in Attachment "B" but with the deletion of the word "storage" in Section 23.3.2, "Fuel sales or distribution without Convenience Store", as it is consistent with the County's Comprehensive Plan and overall Zoning Regulations. **Ballot:** *Ayes – Bliss, Lichter, Stuart, Davis, Mohr, Malmquist, Fenster and Torczon. Nays – none. Abstain – None. Absent – Ackley, Whitfield and Farrell.* **Motion carried.**

SARPY COUNTY PLANNING & BUILDING DEPARTMENT

RECOMMENDATION REPORT

TEXT AMENDMENT TO SARPY COUNTY ZONING REGULATIONS SECTION 23.3 – LIGHT INDUSTRIAL DISTRICT PERMITTED SPECIAL USES REQUEST TO ADD COMPRESSED NATURAL GAS FUELING STATION WITHOUT CONVENIENCE STORE TO PERMITTED SPECIAL USES

PLANNING COMMISSION HEARING: NOVEMBER 19, 2013
CONTINUED TO: DECEMBER 17, 2013

I. GENERAL INFORMATION

A. APPLICANT:

Metropolitan Utilities District (MUD)
c/o Stephanie Henn
1723 Harney Street
Omaha, NE 68102-1960

II. BACKGROUND INFORMATION

Staff has received an application from the Metropolitan Utility District (MUD) requesting a text amendment to Section 23.3 of the Sarpy County Zoning Regulations. MUD is requesting a change that would allow Compressed Natural Gas (CNG) fueling stations without convenience stores as a Permitted Special Use in the IL (Light Industrial) District. Should this text amendment be approved, MUD has also submitted an application for your consideration for a Special Use Permit for such a facility to be located at the southwest corner of 132nd Street and Cornhusker Road in the Hilltop Industrial Park.

The County's Zoning Regulations currently allow "convenience stores with fuel sales" as well as "service stations" in the commercial zoning districts of BG (General Business), BGH (Heavy General Business), and BHS (Highway Service Business). The Zoning Regulations also allow "fuel storage and distribution" as a Permitted Special Use in the IGM (General Manufacturing) District.

Staff has also researched the zoning regulations of the five cities within the County to determine how fuel related uses are handled in their jurisdictions. Attachment "C" contains the information for each community showing those fuel sales and storage type uses and the zoning districts in which they are allowed as either a permitted use or a special/conditional use requiring additional review and approval by the governing bodies.

CNG powered vehicles are a relatively new technology and therefore these specific types of fueling stations were not thought of when the County's Zoning Regulations were adopted. Staff would define or classify them as general "fuel sales" or "fuel storage and distribution" in the above mentioned districts and the use would be allowed. However, these uses are not currently allowed at all in the IL (Light

Industrial) District. Staff believes that this may have been done in order to protect valuable and scarce IL (Light Industrial) ground from being taken for high traffic commercial uses which could conflict with other uses in the areas.

MUD's application for this text amendment is specific to allow a "CNG Fuel Station without Convenience Store" as a Permitted Special Use in the IL district. A redlined copy showing their proposed change of Section 23.3 the Zoning Regulations is attached as Attachment "A". However, staff believes we should not necessarily limit this to only "CNG" fueling stations. We believe it would be acceptable to keep the language general to "fuel sales" as in the other districts but also keeping it as a Permitted Special Use without convenience stores in IL. This will allow the County to look at such uses on a case by case basis within IL zoned areas and regulate design and operational aspects as may be deemed necessary. A redlined version of staff's recommended text changes to Section 23.3 of the Zoning Regulations is attached as Attachment "B" for your review. Staff will provide a verbal overview of each version of the proposed changes at the Planning Commission's public hearing meeting.

III. PLANNING DEPARTMENT RECOMMENDATION

Staff believes that allowing general fuel sales without convenience stores as a Permitted Special Use in the IL (Light Industrial) district is acceptable. We would not recommend limiting it to only CNG fuel sales. We feel limiting the use by not allowing convenience stores will still protect limited available IL ground from being utilized by smaller commercial uses and prevent conflicts due to higher traffic volumes associated with those uses. The IL areas are also protected by requiring a Special Use Permit so that each development will be looked at on a case by case basis. In addition, allowing fuel sales will be beneficial in some of these areas by providing the service in closer proximity so that trucks associated with light industrial businesses will be able to purchase fuel close to their operations and possibly avoid more highly congested commercial/retail areas.

Therefore, staff recommends **APPROVAL** of the text amendment to the Sarpy County Zoning Regulations as shown in Attachment "B" as it is consistent with the County's Comprehensive Plan as well as the rest of the overall Zoning Regulations.

IV. PLANNING COMMISSION RECOMMENDATION:

MOTION: Malmquist moved, seconded by Lichter to recommend approval of the text amendment to the Sarpy County Zoning Regulations as shown in Attachment "B" but with the deletion of the word "storage" in Section 23.3.2, "Fuel sales or distribution without Convenience Store", as it is consistent with the County's Comprehensive Plan and overall Zoning Regulations. **Ballot:** *Ayes – Bliss, Lichter, Stuart, Davis, Mohr, Malmquist, Fenster and Torczon. Nays – none. Abstain – None. Absent – Ackley, Whitfield and Farrell.* **Motion carried.**

V. ATTACHMENTS TO REPORT:

A. Attachment "A" - Redlined copy of Section 23 of the Sarpy County Zoning Regulations showing the proposed text amendment as requested by Metropolitan Utilities District.

B. Attachment "B" - Redlined copy of Section 23 of the Sarpy County Zoning Regulations showing the proposed text amendment as recommended by the Sarpy County Planning and Building Department staff.
C. Attachment "C" – Community Zoning District Comparisons

VI. COPIES OF REPORT SENT TO:

A. Metropolitan Utilities District – Stephanie Henn (applicant)
B. JEO Consulting Group (applicant's consultant)
C. Bob Scharf – Sergeants Pet Care
D. Kelly Pleas – Sergeants Pet Care
E. Public Upon Request

Report prepared by: Bruce Fountain, Planning Director

ATTACHMENT "C"

COMMUNITY ZONING DISTRICT COMPARISONS

	BELLEVUE ZONING DISTRICTS							
Uses	**BN Neighborhood Business**	**BNH Heavy Neighborhood Business**	**BG General Business**	**BGM Metropolitan General Business**	**BGH Heavy General Business**	**FX Flex Space**	**ML Light Manufacturing**	**MH Heavy Manufacturing**
Convenience store **without** fuel sales	Permitted Use	Permitted Use	Permitted Use	Permitted Use	Permitted Use	Permitted Use		
Convenience store with limited fuel sales		Permitted Use	Permitted Use	Permitted Use	Permitted Use	Permitted Use		
Gasoline stations			Permitted Use	Permitted Use	Permitted Use	Permitted Use	Permitted Use	Permitted Use
Truck terminals containing 4 or less loading or transfer bays (often includes fuel storage & pumps for trucks)							Permitted Use	Permitted Use
Truck terminals containing in excess of 4 loading or transfer bays (often includes fuel storage & pumps for trucks).								Permitted Use

	PAPILLION ZONING DISTRICTS					
Uses	**LC Limited Commercial**	**CC Community Commercial**	**CBD Central Business District**	**GC General Commercial**	**LI Limited Industrial**	**GI General Industrial**
Auto services (includes service stations with fuel sales)	**Special** Use Permit	**Special** Use Permit	**Special** Use Permit	**Special** Use Permit	Permitted Use	Permitted Use
Food Sales (Convenience)		**Special** Use Permit	**Special** Use Permit	Permitted Use		
Travel centers (including fuel sales)				**Special** Use Permit	**Special** Use Permit	**Special** Use Permit
Truck stops (including fuel sales)				**Special** Use Permit		
Truck terminals (often includes fuel storage & pumps for trucks)					**Special** Use Permit	

	LA VISTA ZONING DISTRICTS				
Uses	**C-1 Shopping Center Commercial**	**C-2 General Commercial**	**C-3 Highway Commercial/ Office Park**	**I-1 Light Industrial**	**I-2 Heavy Industrial**
Convenience store with limited fuel sales	Permitted **Conditional** Use	Permitted **Conditional** Use	Permitted **Conditional** Use	Permitted **Conditional** Use	
Service station with minor auto repairs		Permitted **Conditional** Use			
Gasoline service stations				Permitted **Conditional** Use	Permitted **Conditional** Use

	GRETNA ZONING DISTRICTS					
Uses	**NC Neighborhood Commercial**	**GC General Commercial**	**HC Highway Commercial**	**MUC Mixed Use Commercial & Business Park**	**I-1 Light Industrial**	**I-2 Heavy Industrial**
Convenience store with limited fuel sales	Permitted **Conditional** Use	Permitted **Conditional** Use	Permitted **Conditional** Use	Permitted **Conditional** Use		
Truck terminal w/dock facilities (often includes fuel storage & pumps for trucks)					Permitted **Conditional** Use	Permitted **Conditional** Use

	SPRINGFIELD ZONING DISTRICTS			
Uses	**BG General Business**	**BH Highway Business**	**I Industrial**	**LI Light Industrial**
Retail gasoline service stations	Permitted **Conditional** Use	Permitted Use	Permitted **Conditional** Use	Permitted **Conditional** Use
Truck & freight businesses (often includes fuel storage & pumps for trucks)		Permitted **Conditional** Use		
Fuel storage				Permitted **Conditional** Use

ENGINEERING ■ ARCHITECTURE ■ SURVEYING ■ PLANNING

October 16, 2013

Bruce Fountain
Sarpy County Planning & Building Department
1210 Golden Gate Drive, #1240
Papillion, NE 68046

RE: CNG Permitted Special Use - Light Industrial District
Zoning Regulations Text Amendment Application
JEO Project No. 130993.00

Dear Mr. Fountain:

Please find the enclosed documents relative to the proposed CNG fuel station located at 132nd & Cornhusker.

- Zoning Regulations Text Amendment Application
- Application Fee ($150.00)

As discussed previously on October 3rd at a meeting with the planning and public works department Metropolitan Utilities District is seeking approval to construct a compressed natural gas (CNG) fuel station on a lot that is currently zoned IL – Light Industrial District. Under current zoning regulations a CNG fuel station is not a Permitted Special Use. Based on our conversations we are submitting a request to add "CNG Fueling Station without convenience store" as a Permitted Special Use in the Light Industrial Zoning District.

Please review and add this to the November Planning Commission agenda. If you have any questions, please contact me @ 402.392.9934.

Sincerely,

David A. Nielsen, PE
Project Engineer
JEO Consulting Group, Inc.

SARPY COUNTY PLANNING & BUILDING DEPT.

1210 GOLDEN GATE DRIVE, #1240
PAPILLION, NE 68046
PHONE: 402-593-1555 FAX: 402-593-1558
E-MAIL: PLANNING@SARPY.COM

ZONING REGULATIONS TEXT AMENDMENT APPLICATION

In order for your application to be considered **COMPLETE**, please answer all applicable questions and provide the following:

1. Completed Application
2. Non-Refundable Fee of **$150.00** made payable to Sarpy County
3. A detailed explanation of zoning text amendment being proposed and reason(s) for requested change
4. Other information as deemed necessary by Sarpy County Planning Department

PLANNING STAFF USE ONLY:

APPLICATION #: MISC 13-0009

DATE RECEIVED: 10-16-13 PROCESSED RCVD

PROPOSED SECTION(S) TO BE AMENDED: 23.3

APPLICATION FEE: $ 150 RECEIPT NO. 2007

RECEIVED BY: RF

NOTES:

APPLICANT INFORMATION:

NAME: Metropolitan Utilities District E-MAIL: stephanie_henn@mudnebr.com

MAILING ADDRESS: (IF DIFFERENT) 1723 Harney Street CITY/STATE/ZIP: Omaha, NE 68102-1960

PHONE: 402.504.7902 FAX: 402.504.5902

ENGINEERING/SURVEYING, LEGAL, OR OTHER CONSULTING PROFESSIONAL'S INFORMATION:

NAME: JEO Consulting Group, Inc. E-MAIL: dnielsen@jeo.com

MAILING ADDRESS: (IF DIFFERENT) 11717 Burt Street, Ste. 210 CITY/STATE/ZIP: Omaha, NE 68154

PHONE: 402.392.9934 FAX: 402.934.3681

SECTION(S) OF ZONING REGULATIONS PROPOSED TO BE AMENDED: Section 23.3: IL Light Industrial District - Permitted Special Uses

SUMMARY OF TEXT AMENDMENT(S) PROPOSED: *Please use this space to provide detailed information on the zoning text amendment(s) you are proposing, proposed language to be added and/or deleted and why you believe the changes are necessary. Attach extra sheets if necessary.*

Proposed Text: Compressed Natural Gas (CNG) Fuel Station without Convenience Store

Purpose: To permit a CNG fuel station to be a Permitted Special Use in the IL - Light Industrial District.

PLEASE NOTE THE FOLLOWING PROCEDURES:

1. **The Planning Department will review the application material along with other appropriate departments and/or agencies and provide a recommendation report to the Planning Commission and County Board.**
2. **The Planning Commission will hold a public hearing and make a recommendation to the County Board.**
3. **The County Board will hold a public hearing and make a final decision on the proposed zoning text amendment(s) application.**

The applicant (or authorized agent) has prepared this application and certifies that the facts stated herein and exhibits attached hereto are true and correct.

Stephanie A. Henn
Applicant Signature

10/16/13
Date

NOTICE OF PUBLIC HEARING
SARPY COUNTY PLANNING COMMISSION

Notice is hereby given that a regular meeting of the Sarpy County Planning Commission will be held on **Tuesday, November 19, 2013,** at 7:00 P.M. in the Sarpy County Board Room, Sarpy County Administration Bldg., 1210 Golden Gate Drive, Papillion, NE.

Richard & Donna Krambeck have submitted applications for consideration of a Change of Zone from AG to IL on property legally described as Tax Lot 8 in Section 35, Township 14N, Range 11E (29.55 AC) of the 6th P.M. Sarpy County, NE. Generally located Northeast of 156th Street and Schram Road.

Scott Kennedy has submitted applications for consideration of a Change of Zone from AG to RG-15 and Preliminary and Final Plats of a subdivision to be known as Springhill Ridge Replat 5 Lot 1 being a replatting of Lot 2, Springhill Ridge Replat 4, and part of Tax Lot 5B, situate in the Southeast ¼ of Section 15, Township 14N, Range 11E of the 6th P.M. Sarpy County, NE. Generally located Northwest of 156th Street and Giles Road.

Metropolitan Utilities District has submitted an application for consideration of a Text Amendment to Section 23.3 in Sarpy County Zoning Regulations to add Compressed Natural Gas (CNG) Fueling Station without convenience store as a Permitted Special Use in IL (Light Industrial District).

Metropolitan Utilities District has submitted an application for consideration of a Special Use Permit to allow a compressed natural gas fuel station that includes fuel pumps, storage equipment, fuel pump canopy, equipment enclosure, pavement and utility service improvements on property legally described as Lot 3, Hilltop Industrial Park Replat 13 (a proposed administrative replat of Lots 1 & 2, Hilltop Industrial Park Replat 1), Sarpy County, NE. Generally located southwest of 132nd Street & Cornhusker Road.

Harold & Susan Keefer have submitted an application for consideration of an extension of a previously approved Special Use Permit allowing open and enclosed storage of recreational vehicles and trailers on property at 10302 Platteview Road, and legally described as E ½ of SW ¼ all in Section 16, Township 13N, Range 12E of the 6th P.M. Sarpy County, NE.

Sarpy County Planning Department requests approval of text amendments to Section 40 of the Sarpy County Zoning Regulations concerning signage regulations to be more consistent with design standards and to correct clerical errors.

Sarpy County Planning Department requests approval of text amendments to several sections of the Sarpy County Zoning Regulations concerning sexually oriented businesses. The proposed amendments include adding Section 45 – Sexually Oriented Business Zoning Regulations and amending Section 9 – Agricultural Farming District, Section 23 – Light Industrial District, and Section 24 – General Manufacturing District to add Sexually Oriented Businesses as Permitted Special Uses. The proposed amendments will be available on the Sarpy County Planning Department website when the agenda and staff reports are posted.

An agenda for the meeting, kept continually current, is available for inspection at the Sarpy County Planning Department office.

11-6-13

THE DAILY RECORD OF OMAHA

LYNDA K. HENNINGSEN, Publisher

PROOF OF PUBLICATION

UNITED STATES OF AMERICA,
The State of Nebraska,
District of Nebraska,
County of Douglas,
City of Omaha, } ss.

J. BOYD

being duly sworn, deposes and says that she is

LEGAL EDITOR

of THE DAILY RECORD, of Omaha, a legal newspaper, printed and published daily in the English language, having a bona fide paid circulation in Douglas County in excess of 300 copies, printed in Omaha, in said County of Douglas, for more than fifty-two weeks last past; that the printed notice hereto attached was published in THE DAILY RECORD, of Omaha, on November 6, 2013

That said Newspaper during that time was regularly published and in general circulation in the County of Douglas, and State of Nebraska.

GENERAL NOTARY - State of Nebraska
CONNIE L. NOVACEK
My Comm. Exp. November 16, 2015

Subscribed in my presence and sworn to before me this 6th day of November 2013

Publisher's Fee $55.70

Additional Copies $

Total $55.70

Connie L Novacek

Notary Public in and for Douglas County, State of Nebraska

AFFIDAVIT OF PUBLICATION

STATE OF NEBRASKA }
} SS.
C y of Sarpy }

Being duly sworn, upon oath, Shon Barenklau deposes and says that he is the Publisher or Anne Lee deposes and says that he is the Business Manager of the **Bellevue Leader, Papillion Times, Gretna Breeze and Springfield Monitor**, legal newspapers of general circulation in Sarpy County, Nebraska, and published herein; that said newspaper has been established for more than one year last past; that it has a bona-fide paid subscription list of more than three hundred; that to this personal knowledge, the advertisement, a copy of which is hereto attached, was printed in the said newspaper once each week, the first insertion having been on:

Wednesday, November 6, 2013

Bellevue Leader
Gretna Breeze
Papillion Times
Springfield Monitor

And that said newspaper is a legal newspaper under the statutes of the State of Nebraska. The above facts are within my personal knowledge.

Shon Barenklau OR Anne Lee
Publisher Business Manager

Date 11-05-2013
Signed in my presence and sworn to before me:

Notary Public

GENERAL NOTARY - State of Nebraska
LAURA A ESTEP-BRONK
My Comm. Exp. October 21, 2017

Printer's Fee $ 37.84
Customer Number: 40638
Order Number: 0001696888

NOTICE OF PUBLIC HEARING
SARPY COUNTY PLANNING COMMISSION

Notice is hereby given that a regular meeting of the Sarpy County Planning Commission will be held on Tuesday, November 19, 2013, at 7:00 P.M. in the Sarpy County Board Room, Sarpy County Administration Bldg., 1210 Golden Gate Drive, Papillion, NE.

Richard & Donna Krambeck have submitted applications for consideration of a Change of Zone from AG to IL on property legally described as Tax Lot 8 in Section 35, Township 14N, Range 11E (29.55 AC) of the 6th P.M. Sarpy County, NE. Generally located Northeast of 156th Street and Schram Road.

Scott Kennedy has submitted applications for consideration of a Change of Zone from AG to RG-15 and Preliminary and Final Plats of a subdivision to be known as Springhill Ridge Replat 5 Lot 1 being a replatting of Lot 2, Springhill Ridge Replat 4, and part of Tax Lot 5B, situate in the Southeast ¼ of Section 15, Township 14N, Range 11E of the 6th P.M. Sarpy County, NE. Generally located Northwest of 156th Street and Giles Road.

Metropolitan Utilities District has submitted an application for consideration of a Text Amendment to Section 23.3 in Sarpy County Zoning Regulations to add Compressed Natural Gas (CNG) Fueling Station without convenience store as a Permitted Special Use in IL (Light Industrial District).

Metropolitan Utilities District has submitted an application for consideration of a Special Use Permit to allow a compressed natural gas fuel station that includes fuel pumps, storage equipment, fuel pump canopy, equipment enclosure, pavement and utility service improvements on property legally described as Lot 3, Hilltop Industrial Park Replat 13 (a proposed administrative replat of Lots 1 & 2, Hilltop Industrial Park Replat 1), Sarpy County, NE. Generally located southwest of 132nd Street & Cornhusker Road.

Harold & Susan Keefer have submitted an application for consideration of an extension of a previously approved Special Use Permit allowing open and enclosed storage of recreational vehicles and trailers on property at 10302 Platteview Road, and legally described as E ½ of SW ¼ all in Section 16, Township 13N, Range 12E of the 6th P.M. Sarpy County, NE.

Sarpy County Planning Department requests approval of text amendments to Section 40 of the Sarpy County Zoning Regulations concerning signage regulations to be more consistent with design standards and to correct clerical errors.

Sarpy County Planning Department requests approval of text amendments to several sections of the Sarpy County Zoning Regulations concerning sexually oriented businesses. The proposed amendments include adding Section 45 – Sexually Oriented Business Zoning Regulations and amending Section 9 – Agricultural Farming District, Section 23 – Light Industrial District, and Section 24 – General Manufacturing District to add Sexually Oriented Businesses as Permitted Special Uses. The proposed amendments will be available on the Sarpy County Planning Department website when the agenda and staff reports are posted.

An agenda for the meeting, kept continually current, is available for inspection at the Sarpy County Planning Department office.

1696888; 11/6

11-13-13 9:09 RCVD

NOTICE OF PUBLIC HEARING
SARPY COUNTY BOARD OF COMMISSIONERS

Notice is hereby given that a regular meeting of the Sarpy County Board of Commissioners will be held on **Tuesday, January 28, 2014,** at 3:00 P.M. in the Sarpy County Board Room, Sarpy County Administration Building, 1210 Golden Gate Drive, Papillion, NE.

Metropolitan Utilities District has submitted an application for consideration of a Text Amendment to Section 23.3 in Sarpy County Zoning Regulations to add Compressed Natural Gas (CNG) Fueling Station without convenience store as a Permitted Special Use in IL (Light Industrial District).

Metropolitan Utilities District has submitted an application for consideration of a Special Use Permit to allow a compressed natural gas fuel station that includes fuel pumps, storage equipment, fuel pump canopy, equipment enclosure, pavement and utility service improvements on property legally described as Lot 3, Hilltop Industrial Park Replat 13 (a proposed administrative replat of Lots 1 & 2, Hilltop Industrial Park Replat 1), Sarpy County, NE. Generally located southwest of 132nd Street & Cornhusker Road.

An agenda for the meeting, kept continually current, is available for inspection at the Sarpy County Planning Department, Sarpy County Administration Bldg., 1210 Golden Gate Drive, Papillion, NE.

1-15-14

THE DAILY RECORD OF OMAHA

LYNDA K. HENNINGSEN, Publisher

PROOF OF PUBLICATION

UNITED STATES OF AMERICA,
The State of Nebraska,
District of Nebraska,
County of Douglas,
City of Omaha, } ss.

J. BOYD

being duly sworn, deposes and says that she is

LEGAL EDITOR

of THE DAILY RECORD, of Omaha, a legal newspaper, printed and published daily in the English language, having a bona fide paid circulation in Douglas County in excess of 300 copies, printed in Omaha, in said County of Douglas, for more than fifty-two weeks last past; that the printed notice hereto attached was published in THE DAILY RECORD, of Omaha, on January 15, 2014

That said Newspaper during that time was regularly published and in general circulation in the County of Douglas, and State of Nebraska.

GENERAL NOTARY - State of Nebraska
ELLEN FREEMAN
My Comm. Exp. Dec. 11, 2017

Publisher's Fee $28.10

Additional Copies $

Total $28.10

Subscribed in my presence and sworn to before me this 15th day of January 2014

Notary Public in and for Douglas County, State of Nebraska

01-21-14 A11:39 RCVD

SARPY COUNTY
ZONING REGULATIONS

AS AMENDED AND APPROVED BY THE
SARPY COUNTY BOARD OF COMMISSIONERS
BY RESOLUTION #2014-44 ON JANUARY 28, 2014

SARPY COUNTY ZONING REGULATIONS

AS AMENDED AND APPROVED BY THE SARPY COUNTY BOARD OF COMMISSIONERS BY RESOLUTION #2014-44 ON JANUARY 28, 2014

TABLE OF CONTENTS

SECTION

1. General…… Page 2
2. Administration and Enforcement…… Page 4
3. General Requirements…… Page 7
4. Non-Conforming Uses…… Page 9
5. Interpretation…… Page 11
6. Zoning Map……Page 12
7. Boundaries of Zoning Districts……Page 13
8. Establishment of Districts……Page 14
9. Agricultural Farming District (AG)…… Page 17
10. Agricultural Development District (AGD)……Page 20
11. Agricultural Residential District (AGR)……Page 22
12. Residential Estates II District (RE2)…… Page 24
13. Residential Estates I District (RE1)…… Page 26
14. Single Family Residential District (RS-100)……Page 28
15. Single Family Residential District (RS-72)……Page 30
16. Two-Family Residential District (RD-50)……Page 31
17. General Residential District (RG-35)…… Page 33
18. General Residential District (RG-15)…… Page 35
19. Mobile Home Residential District (RMH)…… Page 37
20. General Business District (BG)…… Page 39
21. Heavy General Business District (BGH)…… Page 41
22. Highway Service Business District (BHS)…… Page 43
23. Light Industrial District (IL)…… Page 45
24. General Manufacturing District (IGM)…… Page 48
25. Mixed Use District (MU)…… Page 52
26. Airport District (AP)…… Page 54
27. Airport Approach Zone District (AA)…… Page 56
28. Planned Development District (PD)…… Page 57
29. Planned Townhouse Development (PTD)…… Page 61
30. Flood Plain District (FP)……Page 63
31. CD Conservation Development Overlay District…… Page 74
32. Highway Corridor Overlay District……Page 80
33. Build Through Acreages……Page 88
34. Nuisance Regulations……Page 90
35. Supplementary Regulations……Page 96
36. Wireless Tower Regulations……Page 103
37. Landscaping Regulations…… Page 122
38. Storm Water Management Regulations…… Page 125
39. Off Street Parking and Loading Requirements……Page 141
40. Signs……Page 144
41. Special Use Permits…… Page 152
41.9 Wind Energy Regulations…… Page 157
42. Board of Adjustment……Page 162
43. Amendments and Re-Zoning…… Page 165
44. Definitions…… Page 168
45. Sexually Oriented Business Zoning Regulations …… Page 193

SECTION 1 - GENERAL

1.1 SHORT TITLE

This resolution shall be known and may be cited and referred to as the Zoning Regulations of Sarpy County.

1.2 CONFLICTS REPEALED

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

1.3 PUBLICATION

This Resolution shall be published in book or pamphlet form or in legal newspaper published and in general circulation in Sarpy County, Nebraska and shall, in addition, be spread in the minutes of the proceedings of the County Board and, together with the map or maps being a part hereof, shall be filed with the County Clerk of Sarpy County, Nebraska.

1.4 WHEN EFFECTIVE

This Resolution shall be in full force and in effect from and after its adoption, publication, and filing as provided by law.

1.5 PURPOSE

These Zoning Regulations are consistent with a Comprehensive County Development Plan and designed for the purpose of promoting the health, safety, morals, convenience, order, prosperity, and welfare of the present and future inhabitants of Sarpy County, including, among others, such purposes as developing both urban and non-urban areas; lessening congestion in streets, roads, and highways; reducing the waste of excessive amounts of roads; securing safety from fire and other dangers; lessening or avoiding the hazards to persons and damage to property resulting from the accumulation or runoff of storm or flood waters; providing adequate light and air; preventing excessive concentration of population and excessive and wasteful scattering of population or settlement; promoting such distribution of population, such classification of land uses, and such distribution of land development as will assure adequate provisions for transportation, water flowage, water supply, drainage, sanitation, recreation, soil fertility, food supply, and other public requirements; protecting the tax base; protecting property against blight and depreciation; securing economy in governmental expenditures; fostering the state's agriculture, recreation, and other industries; encouraging the most appropriate use of land in the county; and preserving, protecting, and enhancing historic buildings, places, and districts.

1.6 SCOPE OF REGULATIONSS

Except as provided by these Regulations, and except after obtaining a permit from the Director of Planning of Sarpy County, Nebraska, it shall be unlawful in that portion of Sarpy County which is outside the zoning jurisdictional limits granted to cities and villages and over which such cities and villages are exercising such zonal jurisdiction:

1.6.1 To erect or place any building or structure or part thereof upon any real estate within said Zoning District.

1.6.2 To rebuild, structurally alter, add to, or relocate any existing building or structure or part thereof.

1.6.3 To change the type of use of any land, building, or other structure to a use not permitted in the Zoning District of which it is a part.

1.6.4 To establish, re-establish, or expand any non-conforming use.

1.6.5 To reduce any lot dimension or plot area, in conjunction with any building or structure, to have a dimension or area less than required by these regulations.

1.6.6 To provide or make connection with water supply or sewage disposal facilities or electrical facilities.

1.6.7 To erect or alter any building or other structure:

(A) To exceed the height limitations;

(B) To accommodate or house a greater number of families than permitted

(C) To allow a structure to occupy a greater percentage of lot area than is permitted;

(D) To have narrower or smaller rear yards, front yards, side yards, or other open spaces than as herein required, or in any other manner contrary to the provisions of these regulations.

1.6.8 To relocate any building or structure or part thereof, from another County in Nebraska, from another State or County into Sarpy County, and upon any Real Estate within said Zoning District.

1.6.9 To erect or place any building or structure as an obstruction in any public street or County road.

1.7 JURISDICTION AND APPLICATION OF DISTRICT REGULATIONS

1.7.1 The requirements set by these regulations shall be applicable to all areas outside the corporate limits and any zoning jurisdiction of any city or village.

1.7.2 Every building hereafter erected or structurally altered shall be located on a lot as defined in these regulations. More than one single family residence may be erected on any one lot, provided that the lot is capable of being subdivided into separate lots each containing only one single family residence which would fully conform to the provisions of these regulations.

SECTION 2 - ADMINISTRATION AND ENFORCEMENT

2.1 DIRECTOR OF PLANNING

The Director of Planning designated by the County Board of Commissioners shall administer and enforce these regulations. He/she may be provided with the assistance of such other persons as the County Board of Commissioners may direct.

2.2 BUILDING PERMIT REQUIRED

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

2.2.1 Farm buildings utilized for agricultural purposes on a farmstead of twenty acres or more which produces one thousand dollars or more of farm products each year are exempt from building permit requirements; however, farm buildings and structures must conform to all applicable provisions of these regulations. Dwellings shall require a building permit.

2.2.2 The Building Department may issue a temporary building permit for uses in any district for the purpose of uses and buildings incidental to and required in the construction of a principal permitted use in the district in which it is located, for highway construction, and in the event of an emergency as determined by the County Board of Commissioners, provided that such use be of a temporary nature, involve the use of a house trailer or similar transportable structure, and does not involve the erection of substantial buildings. Such permit shall be granted in the form of a temporary and revocable permit for not more than 12 months subject to such conditions as will safeguard the public health, safety, and general welfare.

2.3 ZONING COMPLIANCE APPROVAL

Prior to the application for a building permit or permits on a tract of land, the Owner shall submit to the Director of Planning the following to show that his/her plans conform to the requirements of these regulations as set forth herein:

2.3.1 A site plan and other drawings at a scale of not less than 1 inch equals 100 feet and calculations necessary to determine that the proposed development meets the requirements of the district in which the proposed development is located.

(A) The plans shall show the number and arrangement of buildings on the land, the building bulk and height, access drives, walks, parking areas, drainage, grading plan, utility distribution, recreation areas, open spaces, landscape development and, in general, the specific land use of the site.

2.3.2 The Director of Planning shall review the plans for compliance with these regulations and, if necessary, may require additional information such as typical building floor plans, building elevations, size and type of plant materials, pavement surfacing and other major site improvements.

2.3.3 After a review of the plans and necessary information, the Director of Planning shall, if he/she finds the proposal in conformity with these regulations, inform the owner that he/she may make application for a building permit.

2.3.4 Should the Director of Planning find the plans not conforming to these regulations, he/she shall so inform the owner, along with reasons for his/her decision.

2.4 APPLICATION FOR BUILDING PERMIT

Applications for permits shall; (1) be written on a form prescribed by the Building Department; (2) be filed with the Building Department; (3) be complete; (4) furnish the legal description of the property as of public record; (5) provide the name of the owner and the applicant; (6) describe the uses to be established or expanded; and, (7) furnish or provide such other information as may be required for the enforcement of these regulations. Each copy of the application shall be accompanied by a dimensional drawing or plan of the building plot, and a copy of a certified survey of the land showing the location of buildings and structures, lot areas to be used, grading plan, auto parking areas, service drives, roadways, and water supply and sewage disposal facilities. Such form shall provide for, and applicant shall furnish, brief plans and specifications and the estimated cost of any proposed construction, alteration, or repair. Such application shall be signed and acknowledged by the owner or by his/her agent in his/her behalf.

2.4.1 The Building Department shall issue a written permit or denial thereof, with reasons in writing, within 15 days from the date of the filing of the application. In the event the permit is not issued within 15 days, the applicant may appeal within the next 30 days directly to the Board of Adjustment which shall, after due notice and holding a public hearing, order the issuance of the permit or denial thereof with reasons in writing.

2.5 EXPIRATION OF PERMIT

Permits shall expire within 180 days if a substantial beginning has not been made in the construction or establishment of the newly permitted use. Permits shall expire if construction is not complete within one (1) year. An extension may be obtained from the Building Department by written application. A ninety (90) day extension may be obtained from the Building Department. Upon expiration of a permit, a new permit will be required.

2.6 ENFORCEMENT BY DIRECTOR OF PLANNING

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

2.6.1 The erection, construction, reconstruction, alteration, conversion, maintenance, or use of any building, structure, water or sewer facility, automobile trailer, mobile home, or land in violation of these regulations is hereby declared to be a misdemeanor. Any person, partnership, association, club, or corporation erecting, constructing, reconstructing, altering, converting, or maintaining any building, structure, water or sewer facility, automobile trailer, mobile home, or land in violation of said sections or of any regulations of the County Board of Commissioners, or erecting, constructing, reconstructing, altering, or converting any structure without first having obtained a permit therefore as by said sections provided, shall upon conviction be punishable as allowed by law. In addition to other remedies, the County Board of Commissioners may institute any appropriate action

or proceeding to prevent such unlawful construction, erection, reconstruction, alteration, repair, conversion, maintenance, or use to restrain, correct, or abate such violation, to prevent the illegal act, conduct, business, or use in or about such premises.

2.7 FEES FOR PERMIT

Each applicant for a Building Permit shall pay to the County Planning and Building Department upon the presentation of such applications a fee based upon the cost of the proposed construction, alteration, or repairs, Said Building Permit Fee Schedule is on file in the Planning and Building Department's office, Sarpy County Courthouse, Papillion, Nebraska. Receipt for such fee shall be issued by the Planning and Building Department and record thereof kept by him/her for this purpose, which shall be open to public inspection for a period as may be required by law. When a permit fee is refunded, a portion of the fee paid by the applicant shall be retained by the County and the balance of the fee shall be refunded to said applicant. The portion of the fee retained by the County shall be established in the "Master Fee Schedule for the Planning and Building Department" as adopted by the County Board. At the end of each month the Planning and Building Department shall pay to the County Treasurer, for deposit in the General Fund, all fees received for which permits have been granted plus the minimum fees retained as above provided and all special, conditional, and temporary permit fees, and shall receive the Treasurer's receipt therefore.

SECTION 3 - GENERAL REQUIREMENTS

3.1 PRINCIPAL PERMITTED USES

3.1.1 The principal permitted uses of lands, buildings, or structures as hereinafter listed in each zoning district shall be permitted in the districts indicated under the provisions of these regulations. No lands, buildings, or structures shall be devoted to a use other than the uses permitted in the zoning district in which the lands, buildings, or structures shall be located with the following exceptions:

3.1.2 Uses lawfully established on the effective date of these regulations and rendered non-conforming by the provisions thereof shall be subject to the provisions hereinafter set forth;

3.1.3 Special uses allowed in accordance with procedures or provisions set forth hereinafter; and,

3.1.4 Accessory uses incidental to the principal use and located on the same lot.

3.2 PERMITTED SPECIAL USES

3.2.1 It is recognized that there are certain uses which, because of their unique characteristics, cannot be properly classified in any particular zoning district, without consideration, in each case, of the impact or influence of those uses upon neighboring land. Such permitted Special Uses fall into two categories:

(A) Uses publicly operated or traditionally affected with a public interest; and,

(B) Uses entirely private in character, but of such an unusual nature that their operation may give rise to unique problems with respect to their influence or impact on neighboring property.

3.2.2 Permitted Special Uses of lands, buildings, or structures, as hereinafter listed in each zoning district, may be allowed only in the zoning district designated, subject to the issuance of a Special Use Permit in accordance with the procedures and provisions set forth herein.

3.2.3 Where a building or structure and the use thereof, or use of land, lawfully exists as a special use on the effective date of these regulations, then such use is classified by these Regulations as an allowable special use in the zoning district where it is located. The existing building or structure and its use thereof, or the use of land where no building or structure is involved comprising such a special use, shall be considered a lawful special use, except a special use permit shall be required for any expansion of physical development for such special use, including new building additions or enlargements to existing buildings, or extension of land improvements for expansion of such use of land where no buildings or structures are involved.

3.3 ACCESSORY BUILDINGS AND USES

3.3.1 Unless otherwise prohibited or restricted, a permitted use also allows uses, buildings, and structures incidental thereto if located on the same site or building lot. However, such accessory uses, buildings, and structures shall not be established or erected prior to the establishment or construction of the principal permitted use of the building, structure or land, and shall be compatible with the character of the principal permitted use.

3.3.2 Detached accessory buildings shall conform to all yard setbacks and height requirements as specified in each zoning district.

3.3.3 Detached accessory buildings or structures shall be located no closer than 6 feet to any other accessory or principal building as provided in the local building code.

3.3.4 No accessory building, in any zoning district except AG (Agricultural Farming District) and AGD (Agricultural Farming District) shall exceed one and one-half times the size of the principal structure's footprint.

3.3.5 Accessory buildings shall not be permitted in the front yard or in the required street side yard setback, and accessory buildings shall not be allowed within an existing easement.

3.3.6 In the RS-100, RS-72, RD-50, RG-35, RG-15, and RMH Residential Districts, a maximum of two accessory structures shall be allowed:

(A) Detached garages shall count as one accessory structure, with a maximum allowable size of 720 square feet.

(B) Garden sheds shall count as one accessory structure, with a maximum allowable size of 144 square feet.

3.3.7 Detached accessory structures in Residential Districts that are customary and appurtenant to the permitted uses shall be constructed of materials customarily used in residential construction and be consistent with materials and color of the principle structure. The roofs of said building shall have a minimum 3:12 pitch.

SECTION 4 - NON-CONFORMING USES

4.1 This requirement is to provide for the regulation of non-conforming uses of buildings, structures, or lands and to specify those circumstances and conditions under which those non-conforming uses or buildings, structures, or lands shall be allowed to remain as legal non-conforming uses or shall be terminated as a non-conforming use.

4.2 Any non-conforming use of buildings, structures, or lands which existed lawfully at the time of adoption of these regulations, and which remains non-conforming, and any such building, structure, or land which shall become non-conforming upon the adoption of these regulations, or of any subsequent amendment thereto, may be continued in accordance with the requirements set forth herein.

4.3 **NON-CONFORMING LOTS**

Any lot which is legally non-conforming in regard to area, shape, frontage, or access requirements shall be permitted to continue provided the owner of any such lot did not own sufficient adjoining land at the time such lot became non-conforming to comply with those regulations, and has not subsequently acquired such adjoining land, and no such lot may, however, be decreased or altered if the result of such action would be:

(A) To increase the degree to which said lot does not conform to any zoning regulation; or

(B) To create an additional non-conforming aspect of the lot.

4.4 Any lawfully existing building or structure all of which is designed or intended for a use not permitted in the district in which it is located shall be subject to the following provisions:

4.4.1 Repairs and Alterations. No structural alterations shall be made in or to such building or structure or alterations made to land except those required by law, or except to make the building, structure or land in use thereof to conform to the regulations of the district in which it is located. Routine or ordinary maintenance, repair, or alterations may be made, however.

4.4.2 Additions and Enlargements. Such building or structure shall not be added to or enlarged in any manner unless such building or structure in use thereof, including all additions and enlargements thereto, are made to conform to all the use regulations of the district in which it is located.

4.4.3 Destruction or Damage of a Non-Conforming Use. If any non-conforming use of a building or structure is destroyed or damaged by any means to the extent exceeding 50 percent of the building or structure, it shall not be reconstructed and shall be removed if the cost to reconstruct is more than 50 per cent of the market value of the structure before the damage occurred. 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 in the National Register of Historic Places or a State Inventory of Historic Places.

4.4.4 Non-Conforming Use May Be Changed. A non-conforming use may be changed to a use conforming to the provisions of the district in which the use is located. A non-conforming use of land or structure shall not be changed to any other non-conforming use.

4.4.5 Discontinuance. The lawful use of lands, buildings, or structures existing at the time of the passage of these regulations, although such does not conform to the provisions hereof,

may be continued, but if such non-conforming use is discontinued for a period of twelve months, any further use of said premises shall be in conformity with the provisions of these regulations.

4.4.6 Non-Conforming Uses of Less than $500.00 Assessed Valuation. The non-conforming principal permitted use of land where no buildings of more than five hundred dollars ($500.00) assessed valuation are in existence at the time of the passage of these regulations shall revert to a use conforming with these regulations within a period of five years after the passage of these regulations for residential use, and three years for other uses.

4.4.7 Non-Conforming Use Created by Approved Subdivision. Legally conforming yards made deficient in yard requirements, and legally non-conforming yards made more deficient, by the construction of a street in a subdivision pursuant to approval by the Planning Commission may be continued as legally non-conforming.

SECTION 5 - INTERPRETATION

5.1 These regulations shall not nullify the more restrictive provisions of covenants, agreements, resolutions, or regulations or laws. Such provisions which are less restrictive shall not hinder the enforcement of these regulations.

SECTION 6 - ZONING MAP

6.1 The boundaries of zoning districts are hereby established as shown on the Official Zoning Map which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of these regulations.

6.2 The Official Zoning Map shall be filed with the County Clerk's Office.

6.3 If, in accordance with the provisions of these regulations, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map promptly after the amendment has been approved and adopted by the County Board of Commissioners.

6.4 Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be filed in the office of the County Clerk shall be the final authority as to the current zoning status of land, water, areas, buildings, and other structures.

SECTION 7 - BOUNDARIES OF ZONING DISTRICTS

7.1 The boundary lines indicated as approximately following the center lines or right-of-way lines of streets, roads, highways, or alleys shall be construed to follow such lines unless otherwise noted.

7.2 Boundaries indicated as parallel or adjacent to a railroad, street, road, or highway right-of-way shall be construed to be measured from center lines and at right angles to such right-of-way lines. Distances not specifically indicated shall be determined by measuring distances by the scale of the map.

7.3 Boundaries indicated as approximately following platted lot lines, property lines, quarter-section lines, half-section lines, or section lines shall be construed as following such lot lines.

7.4 Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

7.5 Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of a change in the shore lines should be construed as moving with the actual shore line; boundaries indicated as approximately following the center of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.

7.6 Where physical or cultural features existing on the ground are at variance with those indicated on the official Zoning Map, and the County Surveyor cannot reasonably clarify the boundary lines, and in the cases of disagreement, the Board of Adjustment shall decide the location of the boundary lines.

7.7 Whenever a street, alley, road, highway, or other public thoroughfare between two zoning districts is officially vacated, the abutting zoning district boundaries shall be extended to the center line of such vacated public thoroughfare.

SECTION 8 - ESTABLISHMENT OF DISTRICTS

8.1 For the purpose of these Zoning Regulations, that portion of Sarpy County, Nebraska, which is outside the limits of any incorporated city or village, or is outside the zoning jurisdictional limits of any incorporated city or village, and over which such city or village is not exercising such jurisdiction, is hereby divided into the following districts:

8.1.1 **AG AGRICULTURAL FARMING DISTRICT**

Provides for use of land for general agricultural purposes such as farming and the usual buildings and structures; minimum area 20 acres; and, interim uses under special or conditional permits.

8.1.2 **AGD AGRICULTURAL DEVELOPMENT DISTRICT**

Provides for use of land for farming and agricultural-related activities such as elevators and storage, and terminals; minimum lot area of 10 acres; and, interim uses under special permits.

8.1.3 **AGR AGRICULTURAL RESIDENTIAL DISTRICT**

Provides for agricultural, low density, residential development; minimum lot area of 5 acres.

8.1.4 **RE2 RESIDENTIAL ESTATE II DISTRICT**

Provides for single family homes on a minimum of 2 acre lots.

8.1.5 **RE1 RESIDENTIAL ESTATE I DISTRICT**

Provides for single family homes on a minimum of 1 acre lots.

8.1.6 **RS-100 SINGLE FAMILY RESIDENTIAL DISTRICT**

Provides for single-family residential uses; minimum lot area of 10,000 square feet.

8.1.7 **RS-72 SINGLE FAMILY RESIDENTIAL DISTRICT**

Provides for single-family residential uses; minimum lot area of 7,200 square feet.

8.1.8 **RD-50 TWO-FAMILY RESIDENTIAL DISTRICT**

Provides for two-family residential uses; minimum lot area of 5,000 square feet per living unit.

8.1.9 **RG-35 GENERAL RESIDENTIAL DISTRICT**

Provides for multi-family residential uses; minimum lot area of 3,500 square feet per living unit.

8.1.10 **RG-15 GENERAL RESIDENTIAL DISTRICT**

Provides for multi-family residential uses; minimum lot area of 1,500 square feet per living unit.

8.1.11 **RMH MOBILE HOME RESIDENTIAL DISTRICT**

Provides mobile home parks placement of one or more mobile structures on a zoned lot.

8.1.12 **BG GENERAL BUSINESS DISTRICT**

Provides for a wide range of related business activities such as construction, repair, garages, building materials and similar establishments.

8.1.13 **BGH HEAVY GENERAL BUSINESS DISTRICT**

Provides for business establishments closely related to light industrial operation.

8.1.14 **BHS HIGHWAY SERVICE BUSINESS DISTRICT**

Provides for business and service establishments that require greater land area and highways or other arterials to do business.

8.1.15 **IL LIGHT INDUSTRIAL DISTRICT**

Provides for commercial and light industrial uses meeting comparatively rigid environmental specifications as to nuisance-free performance.

8.1.16 **IGM GENERAL MANUFACTURING DISTRICT**

Provides for the widest range of industrial and manufacturing activities which perform under environmental Protection Agency specification and are reasonably nuisance-free.

8.1.17 **MU MIXED USE DISTRICT**

Provides for accommodation of projects which combine several compatible land uses into an integrated development. The MU District may also be used to designate parts of the County which is appropriate for a mixture of residential, commercial, office, and accessory uses.

8.1.18 **AP AIRPORT DISTRICT**

Provides for airport facilities.

8.1.19 **AA AIRPORT APPROACH ZONE DISTRICT**

Provides an appending district for limited land uses and low density uses within the airport approach zones on either side of the centerline of the run-way extended.

8.1.20 **PD PLANNED DEVELOPMENT DISTRICT**

An appending or combining district designated to provide for an unusual or different arrangement of residential, business, or industrial uses in accordance with an approved development plan.

8.1.21 **PTD PLANNED TOWNHOUSE DEVELOPMENT**

An appending district designated to provide for innovative platting of lots and sublots of residential uses.

8.1.22 **FP FLOOD PLAIN DISTRICT**

An appending district designated to provide for restrictive land use and construction within a designated flood plain.

8.1.23 **CD CONSERVATION DEVELOPMENT OVERLAY DISTRICT**

Provides for the use of conservation techniques by which new residential developments permanently designate a portion of the total parcel to open space conservation areas.

8.1.24 **HC HIGHWAY CORRIDOR OVERLAY DISTRICT**

Provides for the basic guidelines that promote quality design along the most visible and heavily traveled road corridors in the Sarpy County zoning jurisdiction: Highway 370, Highway 50, Interstate 80, Platteview Road, Highway 31, and Highway 75.

8.1.25 **BTA BUILD THROUGH ACREAGES**

It provides for the eventual transition of the previously developed acreage subdivision to higher densities when the extension of urban services occurs.

SECTION 9 – AG - AGRICULTURAL FARMING DISTRICT (20 acres)

The intent and purpose of this district is for the conservation and preservation of the agriculture areas of the County and to retain its economic asset to the County.

9.1 **PRINCIPAL PERMITTED USES**

The following principal uses are permitted in the Agricultural District:

9.1.1 Agricultural, horticultural, viniculture, aquaculture, ranching and the usual agricultural buildings and structures associated with such uses.

9.1.2 Farm dwellings for the owners and their families, tenants, and employees.

9.1.3 Feeding and raising of livestock where a portion of the feed is raised and the feeding and raising is in the normal operation of an agricultural use.

9.1.4 Public utility main transmission lines or pipelines including substations, distribution centers, regulator stations, pumping stations storage, equipment buildings towers, or similar public service uses.

9.1.5 Public parks and recreation areas, playgrounds, forests and conservation areas. Private recreation areas and facilities, including lakes and ponds.

9.1.6 Personal use of Recreational Vehicles.

9.1.7 Religious facilities, including residences for religious leaders and teachers.

9.1.8 Roadside stands offering for sale agricultural products produced on the premises.

9.1.9 Single Family Dwellings

9.2 **PERMITTED SPECIAL USES**

The following special uses are permitted in the Agriculture Farming District with the issuance of a special use permit:

9.2.1 Automobile wrecking and junk yards provided the yards are at least 500 feet from a State or U.S. designated highway and screened by a wall at least 50 percent solid or uniformly painted solid fence not less than 6 feet in height with deciduous evergreen trees and large shrubs to provide a landscape screen at least 10 feet high.

9.2.2 Commercial feed lots for cattle, swine, poultry facilities, mink, fox, chinchilla, or similar farms.

9.2.3 Commercial recreational areas and camping areas including fishing lakes, gun clubs, rifle ranges, trap shoots, and similar uses.

9.2.4 Commercial fertilizer trailer tank farms.

9.2.5 Construction and demolition waste disposal sites.

9.2.6 Country clubs, golf courses, tennis clubs, and swimming clubs.

9.2.7 Extraction and processing of rock, gravel or sand, clay, and dirt.

9.2.8 Mobile homes with intermittent occupancy for recreational use only.

9.2.9 Nursing homes, cemeteries, and charitable institutions.

9.2.10 Open and enclosed storage of recreational vehicle and trailers; when recreational vehicles are stored in the open, the recreational vehicles must be operable.

9.2.11 Other agricultural wastes disposal and storage sites.

9.2.12 Private and commercial kennels and facilities for raising, breeding, and boarding of dogs and other small domestic animals, provided all buildings and facilities are at least 100 feet from any property line and 300 feet from any residential zoning districts.

9.2.13 Private small non-commercial air landing fields or strips.

9.2.14 Private schools, colleges and universities.

9.2.15 Publicly-owned and operated buildings and facilities such as community centers, auditoriums, libraries, museums, and privately owned non-commercial museums and historic areas.

9.2.16 Radio, television, and communication towers and transmitters

9.2.17 Sanitary sewage treatment facilities.

9.2.18 Sanitary landfills.

9.2.19 Seasonal dwellings.

9.2.20 Sexually Oriented Businesses (please refer to Section 45)

9.2.21 Sludge disposal and storage sites.

9.2.22 In-home Child Care Facility

9.2.23 Wind Energy Generation Systems

9.2.24 Use of recreational vehicles in a commercial recreational or camping area

9.2.25 Home Occupations I (Major).

9.3 **ACCESSORY USES**

The following accessory buildings and uses are permitted in the Agricultural Farming District:

9.3.1 Buildings and uses customarily incidental to the permitted uses.

9.3.2 Home Occupations II (Minor).

9.4 HEIGHT AND LOT REQUIREMENTS

9.4.1 The height and minimum lot requirements shall be as follows, except as provided in Section 35:

	Lot Area	Lot Width	Front	Side Yard	Rear	Maximum Height
Dwelling	20 acres	500’	100’	50’	25’	35’
Other Permitted Uses	20 acres	500’	100’	50’	25’	65’
Accessory Buildings	----------	---------	100’	15’	15’	25’

SECTION 10 - <u>AGD</u> AGRICULTURAL DEVELOPMENT DISTRICT (10 acres)

The intent of this district is to preserve areas presently suited for all agricultural uses by permitting only a limited infringement of other agriculturally-related land uses.

10.1 **PRINCIPAL PERMITTED USES**

The following principal uses are permitted in the Agricultural Development District:

10.1.1 Agricultural farms, truck gardens, greenhouses, plant nurseries, orchards, apiaries, mushroom barns, grain storage facilities, and the usual agricultural farm buildings and structures.

10.1.2 Farm dwellings for the owners and their families, tenants, and employees.

10.1.3 Feeding and raising of livestock where a portion of the feed is raised and the feeding and raising is in the normal operation of an agricultural use, when located more than one half-mile from the limits of a city or village, including stables.

10.1.4 Public utility main transmission lines or pipelines including substations, distribution centers, regulator stations, pumping stations storage, equipment buildings towers, or similar public service uses.

10.1.5 Public overhead and underground local distribution utilities.

10.1.6 Roadside stands offering for sale agricultural products produced on the premises.

10.1.7 Single family dwellings.

10.2 **PERMITTED SPECIAL USES**

The following special uses are permitted in the Agriculture Development District with the issuance of a special use permit:

10.2.1 Anhydrous ammonia storage.

10.2.2 Automobile wrecking or junk yards provided the yards are at least 500 feet from a State or U. S. designated highway and screened by a wall at least 6 feet in height, or in lieu thereof, a landscape buffer strip 50 feet in width with deciduous evergreen trees and large shrubs to provide a landscape screen at least 10 feet high.

10.2.3 Cemeteries, provided mausoleums, columbariums, cinerariums, crematories, and other similar structures shall be located at least 500 feet from all property lines.

10.2.4 Construction and demolition waste disposal sites.

10.2.5 Extraction and processing of rock, gravel or sand, clay, and dirt.

10.2.6 Farm implement and contractor equipment sales and service.

10.2.7 Grain elevators and other storage facilities for farm and agricultural products.

10.2.8 Private and commercial kennels and facilities for raising, breeding and boarding of dogs and other small domestic animals, provided all buildings and facilities are at least 100 feet from any property line and 300 feet from any residential zoning districts.

10.2.9 Radio, television, and communication towers and transmitters.

10.2.10 Seed, feed, and fertilizer, except anhydrous ammonia, establishments.

10.2.11 Sanitary sewage treatment facilities.

10.2.12 Sludge disposal and storage sites.

10.2.13 Truck establishments and terminals.

10.2.14 Sales and rental of Vacation and Travel Trailers.

10.2.15 In-Home Child Care Facility

10.2.16 Wind Energy Generation Systems

10.2.17 Home Occupations I (Major).

10.3 **ACCESSORY USES**

The following accessory uses are permitted in the Agricultural Development District:

10.3.1 Buildings and uses customarily incidental to the permitted uses.

10.3.2 Home Occupations II (Minor).

10.4 **HEIGHT AND LOT REQUIREMENTS**

10.4.1 The height and minimum lot requirements shall be as follows, except as provided in Section 35:

	Lot Area	**Lot Width**	**Front**	**Side Yard**	**Rear**	**Maximum Height**
Dwelling	10 acres	300’	70’	50’	50’	35’
Accessory Buildings	----------	200’	70’	15’	15’	25’

SECTION 11 – AGR AGRICULTURAL RESIDENTIAL DISTRICT (5 acres)

This district is intended to provide a transition from land used for agriculture to a low-density residential use with a limited infringement of other uses.

11.1 **PRINCIPAL PERMITTED USES**

The following principal uses are permitted in the Agricultural Residential District:

11.1.1 Agricultural, horticultural, viniculture, aquaculture, ranching and the usual agricultural buildings and structures associated with such uses.

11.1.2 Public utility main transmission lines or pipelines including substations, distribution centers, regulator stations, pumping stations, storage, equipment buildings towers, or similar public service uses.

11.1.3 Publicly-owned and operated buildings and facilities such as community centers, auditoriums, libraries, and museums.

11.1.4 Public parks and recreation areas, playgrounds, forests and conservation areas, including commercial uses and campgrounds under franchise of the County or State government agencies.

11.1.5 Private recreation areas and facilities, including lakes, ponds, country clubs, golf courses, and swimming pools.

11.1.6 Religious facilities, including residences for religious leaders and teachers.

11.1.7 Roadside stands offering for sale agricultural products produced on the premises.

11.1.8 Single family dwellings.

11.2 **PERMITTED SPECIAL USES**

The following special uses are permitted in the Agricultural Residential District with the issuance of a special use permit:

11.2.1 Cemeteries, provided mausoleums, columbariums, cinerariums, crematories, and other similar structures shall be located at least 500 feet from all property lines.

11.2.2 Commercial recreational areas and camping areas including fishing lakes, gun clubs, rifle ranges, trap shoots, and similar uses.

11.2.3 Hospitals, nursing homes, and charitable institutions.

11.2.4 Private and commercials kennels and facilities for raising, breeding, and boarding of dogs and other small animals, provided all buildings and facilities are at least 100 feet from any property line and 300 feet from any residential zoning districts.

11.2.5 Private schools, colleges, and universities.

11.2.6 Radio, television, and communication towers and transmitters.

11.2.7 Sanitary sewage treatment facilities.

11.2.8 In-Home Child Care Facility

11.2.9 Wind Energy Generation Systems

11.2.10 Home Occupations I (Major).

11.3 ACCESSORY USES

The following accessory uses are permitted in the Agricultural Residential District:

11.3.1 Buildings and uses customarily incidental to the permitted uses.

11.3.2 Home Occupations II (Minor).

11.3.3 Private barns for not more than one animal unit for the first acre of land and one additional animal unit for every two additional acres of land.

11.4 HEIGHT AND LOT REQUIREMENTS

11.4.1 The height and minimum lot requirements shall be as follows, except as provided in Section 35:

	Lot Area	**Lot Width**	**Front**	**Side Yard**	**Rear**	**Maximum Height**
Dwelling	5 acres	200’	70’	25’	50’	35’
Other Permitted Use	5 acres	200’	100’	25’	50’	65’
Accessory Buildings	----------	----------	100’	15’	15’	35’

SECTION 12 - RE2 RESIDENTIAL ESTATE II DISTRICT (2 acres)

The purpose of this district is to prevent the excessive concentration of population in areas where a low population density is desirable due to limited community facilities and other factors which may have an economic effect on the county.

12.1 PRINCIPAL PERMITTED USES

The following principal uses are permitted in the Residential Estate II District:

12.1.1 Agricultural and horticultural uses such as crop farming, nurseries, greenhouses, and the usual agricultural buildings, except that those activities or operations involving intensive animal or poultry feeding and production shall be excluded.

12.1.2 Charitable institutions, hospitals, and nursing homes.

12.1.3 Community water works.

12.1.4 Golf courses, swimming pools, tennis clubs, and country clubs.

12.1.5 Public utility main transmission lines or pipelines including substations, distribution centers, regulator stations, pumping stations storage, equipment buildings towers, or similar public service uses.

12.1.6 Publicly-owned and operated parks, forest preserves, playgrounds, fire stations, community centers, libraries, auditoriums, and recreation areas.

12.1.7 Religious facilities, including residences for teachers and religious leaders.

12.1.8 Single family dwellings.

12.2 PERMITTED SPECIAL USES

The following special uses are permitted in the Residential Estate II District with the issuance of a special use permit:

12.2.1 Commercial recreational areas and camping areas.

12.2.2 Cemeteries, provided mausoleums, columbariums, cinerariums, crematories and other similar structures shall be located at least 100 feet from all property lines.

12.2.3 Private schools, colleges, and universities.

12.2.4 Radio, television and communication towers and transmitters.

12.2.5 Woodworking and cabinet shops. Private clubs operated for non-profit purposes

12.2.6 In-Home Child Care Facility

12.2.7 Wind Energy Generation Systems

12.2.8 Home Occupations I (Major).

12.2.9 Private barns for not more than one animal unit for the first acre of land and one additional animal unit for every two additional acres of land when the use of the private barn is associated with a primary permitted use.

12.3 **ACCESSORY USES**

The following accessory uses are permitted in the Residential Estate II District:

12.3.1 Buildings and uses customarily incidental to the permitted uses.

12.3.2 Home Occupations II (Minor).

12.4 **HEIGHT AND LOT REQUIREMENTS**

12.4.1 The height and minimum lot requirements shall be as follows, except as provided in Section 35:

	Lot Area	**Lot Width**	**Front**	**Side Yard**	**Street Side**	**Rear**	**Maximum Height**
Dwelling	2 acres	100’	35’	10’	25’	25’	35’
Other Permitted Use	2 acres	200’	35’	10’	25’	25’	65’
Accessory Buildings	----------	----------	70’	5’	25’	8’	35’

SECTION 13 - RE1 RESIDENTIAL ESTATE I DISTRICT (1 acre)

The purpose of this district is to prevent the excessive concentration of population in areas where a low population density is desirable due to limited community facilities and other factors which may have an economic effect on the county.

13.1 **PRINCIPAL PERMITTED USES**

The following principal uses are permitted in the Residential Estate I District:

13.1.1 Agricultural and horticultural uses such as crop farming, nurseries, greenhouses, and the usual agricultural buildings, except that those activities or operations involving intensive animal or poultry feeding and production shall be excluded.

13.1.2 Charitable institutions, hospitals, and nursing homes.

13.1.3 Community water works.

13.1.4 Golf courses, swimming pools, tennis clubs, and country clubs.

13.1.5 Public utility main transmission lines or pipelines including substations, distribution centers, regulator stations, pumping stations storage, equipment buildings, towers, or similar public service uses.

13.1.6 Publicly-owned and operated parks, forest preserves, playgrounds, fire stations, community centers, libraries, auditoriums, and recreation areas.

13.1.7 Religious facilities, including residences for teachers and religious leaders.

13.1.8 Single family dwellings.

13.2 **PERMITTED SPECIAL USES**

The following special uses are permitted in the Residential Estate I District with the issuance of a special use permit:

13.2.1 Commercial recreational areas and camping areas.

13.2.2 Cemeteries, provided mausoleums, columbariums, cinerariums, crematories and other similar structures shall be located at least 100 feet from all property lines.

13.2.3 Private schools, colleges, and universities.

13.2.4 Radio, television and communication towers and transmitters.

13.2.5 Woodworking and cabinet shops.

13.2.6 Private clubs operated for non-profit purposes

13.2.7 In-Home Child Care Facility

13.2.8 Wind Energy Generation Systems

13.2.9 Home Occupations I (Major).

13.3 **ACCESSORY USES**

The following accessory uses are permitted in the Residential Estate I District:

13.3.1 Buildings and uses customarily incidental to the permitted uses.

13.3.2 Home Occupations II (Minor).

13.4 **HEIGHT AND LOT REQUIREMENTS**

13.4.1 The height and minimum lot requirements shall be as follows, except as provided in Section 35:

	Lot Area	**Lot Width**	**Front**	**Side Yard**	**Street Side**	**Rear**	**Maximum Height**
Dwelling	1 acre	100’	35’	10’	25’	25’	35’
Other Permitted Use	1 acre	200’	35’	10’	25’	25’	65’
Accessory Buildings	----------	----------	70’	5’	25’	8’	35’

SECTION 14 - RS-100 SINGLE FAMILY RESIDENTIAL DISTRICT (10,000 sq. ft.)

This district is designed to permit a low density of population within areas where it may be served with a limited amount of community facilities necessary for the welfare of the inhabitants within the area.

14.1 PRINCIPAL PERMITTED USES

The following principal uses are permitted in the Single Family Residential District (RS-100):

14.1.1 Publicly-owned and operated parks, forest preserves, playgrounds, fire stations, community centers, libraries, and auditoriums; golf courses, tennis clubs, country clubs, and swimming clubs;

14.1.2 Public utility main transmission lines or pipelines including substations, distribution centers, regulator stations, pumping stations, storage, equipment buildings, towers, or similar public service uses.

14.1.3 Religious facilities, including residences for teachers and religious leaders.

14.1.4 Single family dwellings.

14.2 PERMITTED SPECIAL USES

The following special uses are permitted in the Single Family Residential District (RS-100) with the issuance of a special use permit:

14.2.1 Cemeteries, provided mausoleums, columbariums, cinerariums, crematories, and other similar structures shall be located at least 100 feet from all property lines.

14.2.2 Private schools, colleges, and universities and colleges, hospitals, and charitable institutions.

14.2.3 Private clubs operated by non-profit organizations.

14.2.4 Radio, television and communication towers and transmitters.

14.2.5 In-Home Child Care Facility

14.2.6 Wind Energy Generation Systems

17.2.7 Home Occupations I (Major).

14.3 ACCESSORY USES

The following accessory uses are permitted in the Single Family Residential District (RS-100):

14.3.1 Buildings and uses customarily incidental to the permitted uses.

14.3.2 Home Occupations II (Minor).

14.4 HEIGHT AND LOT REQUIREMENTS

14.4.1 The height and minimum lot requirements shall be as follows, except as provided in Section 35:

	Lot Area	Lot Width	Front	Side Yard	Street Side	Rear	Maximum Height
Dwelling	10,000 sq ft	80’	25’	10’	15’	25’	35’
Other Permitted Use	10,000 sq ft	80’	25’	10’	25’	25’	65’
Accessory Buildings	----------	----------	50’	5’	25’	8’	17’

SECTION 15 - RS-72 SINGLE FAMILY RESIDENTIAL DISTRICT (7, 200 sq. ft.)

This district is created to permit a medium density concentration of population in areas near supporting uses and with adequate community facilities to promote a desirable county growth pattern.

15.1 **PRINCIPAL PERMITTED USES**

The following principal uses are permitted in the Single Family Residential District (RS-72):

15.1.1 Golf courses, tennis clubs, and swimming clubs.

15.1.2 Publicly-owned and operated parks, forest preserves, playgrounds, fire stations, community centers, libraries, and auditoriums.

15.1.3 Public utility main transmission lines or pipelines including substations, distribution centers, regulator stations, pumping stations, storage, equipment buildings, towers, or similar public service uses.

15.1.4 Religious facilities, including residences for teachers and religious leaders.

15.1.5 Single family dwellings.

15.2 **PERMITTED SPECIAL USES**

The following special uses are permitted in the Single Family Residential District (RS-72) with the issuance of a special use permit:

15.2.1 Nursing homes, rest homes, sanitariums, convalescent homes, or other similar uses.

15.2.2 Private schools, hospitals, colleges and universities, and charitable institutions.

15.2.3 Radio, television and communication towers and transmitters.

15.2.4 In-Home Child Care Facility

15.2.5 Wind Energy Generation Systems

15.2.6 Home Occupations I (Major).

15.3 **ACCESSORY USES**

The following accessory uses are permitted in the Single Family Residential District (RS-72):

15.3.1 Buildings and uses customarily incidental to the permitted uses.

15.3.2 Home Occupations II (Minor).

15.4 **HEIGHT AND LOT REQUIREMENTS**

15.4.1 The height and minimum lot requirements shall be as follows, except as provided in Section 35:

	Lot Area	Lot Width	Front	Side Yard	Street Side	Rear	Maximum Height
Dwelling	7,200 sq ft	60’	25’	5’	15’	25’	35’
Other Permitted Use	7,200 sq ft	60’	25’	10’	25’	25’	65’
Accessory Buildings	----------	----------	50’	5’	25’	8’	17’

SECTION 16 - RD-50 TWO FAMILY RESIDENTIAL DISTRICT (5,000 sq. ft. per family unit)

This district is intended to provide for single and two family residential developments in areas with adequate public facilities and supporting uses near population centers.

16.1 **PRINCIPAL PERMITTED USES**

The following principal uses are permitted in the Two-Family Residential District (RD-50):

16.1.1 Publicly-owned and operated parks, playgrounds, fire stations, community centers, libraries and auditoriums.

16.1.2 Public utility main transmission lines or pipelines including substations, distribution centers, regulator stations, pumping stations, storage, equipment buildings, towers, or similar public service uses.

16.1.3 Religious facilities, including residences for teachers and religious leaders.

16.1.4 Single family dwellings.

16.1.5 Two-family dwellings.

16.2 **PERMITTED SPECIAL USES**

The following special uses are permitted in the Two-Family Residential District (RD-50) with the issuance of a special use permit:

16.2.1 Private schools, hospitals, colleges and universities, and charitable institutions.

16.2.2 Radio, television and communication towers and transmitters.

16.2.3 Sanitariums, rest homes, nursing homes, convalescent homes, and other similar institutions.

16.2.4 In-Home Child Care Facility

16.2.5 Wind Energy Generation Systems

16.2.6 Home Occupations I (Major).

16.3 **ACCESSORY USES**

The following accessory uses are permitted in the Two-Family Residential District (RD-50):

16.3.1 Buildings and uses customarily incidental to the permitted uses.

16.3.2 Home Occupations II (Minor).

16.4 **HEIGHT AND LOT REQUIREMENTS**

16.4.1 The height and minimum lot requirements shall be as follows, except as provided in Section 35:

	Lot Area	**Lot Width**	**Front**	**Side Yard**	**Street Side**	**Rear**	**Maximum Height**
Dwelling Single Family	5,000 sq ft	50’	25’	5’	15’	25’	35’
Dwelling, Two Family	10,000 sq ft	90’	25’	5’	25’	25’	35’
Other Permitted Use	----------	70’	25’	5’	25’	25’	45’
Accessory Buildings	----------	----------	50’	5’	25’	8’	17’

SECTION 17 - RG-35 GENERAL RESIDENTIAL DISTRICT (3,500 sq. ft.)

The purpose of this district is to permit high density residential development in areas providing all public facilities and supporting facilities to maintain a sound and pleasant environment for the inhabitants.

17.1 PRINCIPAL PERMITTED USES

The following principal uses are permitted in the General Residential District (RG-35):

17.1.1 Publicly-owned and operated parks, playgrounds, fire stations, community centers, libraries, and auditoriums; golf courses, tennis clubs, and swimming clubs.

17.1.2 Public utility main transmission lines or pipelines including substations, distribution centers, regulator stations, pumping stations, storage, equipment buildings, towers, or similar public service uses.

17.1.3 Multiple family dwellings.

17.1.4 Religious facilities, including residences for teachers and religious leaders.

17.2 PERMITTED SPECIAL USES

The following special uses are permitted in the General Residential District (RG-35) with the issuance of a special use permit:

17.2.1 Private schools, hospitals, sanitariums, rest homes, nursing homes, convalescent homes and other similar institutions, or charitable institutions.

17.2.2 Radio, television and communication towers and transmitters.

17.2.3 Sanitariums, rest homes, nursing homes, convalescent homes, and other similar institutions.

17.2.4 Single family dwellings.

17.2.5 Two-family dwellings.

17.2.6 In-Home Child Care Facility

17.2.7 Wind Energy Generation Systems

17.2.8 Home Occupations I (Major).

17.3 ACCESSORY USES

The following accessory uses are permitted in the General Residential District (RG-35):

17.3.1 Buildings and uses customarily incidental to the permitted uses.

17.3.2 Home Occupations II (Minor).

17.4 **HEIGHT AND LOT REQUIREMENTS**

17.4.1 The height and minimum lot requirements shall be as follows, except as provided in Section 35:

	Lot Area	**Lot Width**	**Front**	**Side Yard**	**Street Side**	**Rear**	**Maximum Height**
Dwelling Single Family**	5,000 sq ft	60’	25’	5’	15’	25’	35’
Dwelling, Two Family **	10,000 sq ft	90’	25’	5’	25’	25’	35’
Dwelling, Multi-Family	10,000 sq ft*	100’	25’	(***)	25’	25’	45’
Other Permitted Use	----------	70’	25’	10’	25’	25’	45’
Accessory Buildings	----------	----------	50’	5’	25’	8’	17’

* Plus 3,500 sq. ft. per family unit.

** By Special Use Permit.

*** For multi-family units the side yard shall be 10 feet if it is a 3-story structure, and 2 feet additional side yard on each side shall be provided for each story in excess of 3 stories.

SECTION 18 - RG-15 GENERAL RESIDENTIAL DISTRICT (1,500 sq. ft.)

The intent of this district is to provide a high density ratio of population in specific locations particularly designed to accommodate the population with adequate facilities and supporting uses all in accordance with an economical growth pattern in the County.

18.1 **PRINCIPAL PERMITTED USES**

The following principal uses are permitted in the General Residential District (RG-15):

18.1.1 Multiple family dwellings.

18.1.2 Publicly-owned and operated parks, playgrounds, fire stations, community centers, libraries, and auditoriums.

18.1.3 Public utility main transmission lines or pipelines including substations, distribution centers, regulator stations, pumping stations, storage, equipment buildings, towers, or similar public service uses.

18.1.4 Religious facilities, including residences for teachers and religious leaders.

18.2 **PERMITTED SPECIAL USES**

The following special uses are permitted in the General Residential District (RG-15) with the issuance of a special use permit:

18.2.1 Hospitals, sanitariums, rest homes, nursing homes, convalescent homes and other similar institutions, or charitable institutions.

18.2.2 Private schools, and Universities and colleges.

18.2.3 Radio, television and communication towers and transmitters.

18.2.4 Single family and two family dwellings as part of a planned district in conformance with Section 28.

18.2.5 In-Home Child Care Facility

18.2.6 Wind Energy Generation Systems

18.2.7 Home Occupations I (Major).

18.3 **ACCESSORY USES**

The following accessory uses are permitted in the General Residential District (RG-15):

18.3.1 Buildings and uses customarily incidental to the permitted uses.

18.3.2 Home Occupations II (Minor).

18.4 **HEIGHT AND LOT REQUIREMENTS**

18.4.1 The height and minimum lot requirements shall be as follows, except as provided in Section 35:

	Lot Area	**Lot Width**	**Front**	**Side Yard**	**Street Side**	**Rear**	**Maximum Height**
Dwelling Single Family**	5,000 sq ft	60’	25’	7’	15’	25’	35’
Dwelling, Two Family **	10,000 sq ft	90’	25’	10’	25’	25’	35’
Dwelling, Multi-Family	10,000 sq ft*	100’	25’	(***)	25’	25’	----------
Other Permitted Use	----------	70’	25’	25’	25’	25’	45’

* Plus 1,500 sq. ft. per family unit.

** By Special Use Permit.

*** For multi-family units the side yard shall be 10 feet if it is a 3-story structure, and 2 feet additional side yard on each side shall be provided for each story in excess of 3 stories.

SECTION 19 – RMH MOBILE HOME RESIDENTIAL DISTRICT

This zoning district is created to provide for the inclusion of transportable or mobile home parks as a use at locations which are suitable for mobile dwellings and to provide for the placement of more than one transportable structure on a zoned lot.

19.1 PRINCIPAL PERMITTED USES

The following principal uses are permitted in the Mobile Home Residential District (RMH):

19.1.1 Mobile homes; Manufactured homes.

19.1.2 Mobile home parks authorized and licensed by Sarpy County for the parking and occupancy of mobile dwellings.

19.1.3 Wind Energy Generation Systems

19.1.4 Home Occupations I (Major).

19.2 ACCESSORY USES

The following accessory uses are permitted in the Mobile Home Residential District (RMH):

19.2.1 Accessory uses which are necessary or required by other regulations of the County, such as service facilities for bathing, laundry, etc., as required by the State or County Health regulations.

19.2.2 Home Occupations II (Minor).

19.2.3 Radio, television and communication towers and transmitters.

19.3 HEIGHT AND LOT AREA REQUIREMENTS

19.3.1 The height and minimum lot requirements shall be as follows, except as provided in Section 35:

LAND AREA REQUIREMENTS FOR MOBILE HOME PARKS:

(A) Minimum Land Area . . . Five (5) Acres
(B) Minimum Front Buffer Area . . . 100 feet (Street line to individual trailer lot line)
(C) Minimum Side Buffer Area . . . 50 feet (Side property line to individual trailer lot line)
(D) Minimum Rear Buffer Area . . . 50 feet (Rear property line to individual trailer lot line)
(E) Minimum Access Road Pavement Width . . . 30 feet (dust free surfacing)
(F) Individual Trailer Lot Requirements:

Minimum Lot Area	5,000 feet
Minimum Lot Width	50 feet
Minimum Lot Depth	100 feet
Minimum Front Yard	25 feet
Minimum Side Yard	10 feet
Minimum Rear Yard	25 Feet

Each lot shall front on a hard-surfaced road.

19.3.2 Utilities: Each lot shall be serviced with water and sanitary sewer facilities. Service facilities for bathing, laundry, etc., as required by the State and County regulations are also required.

19.4 PROCEDURE FOR MOBILE HOME PARKS

19.4.1 A Site plan shall be filed with the application for rezoning as an amendment to the Zoning Map showing the buffer areas for landscape plantings, the layout of trailer lots, the access roads or drives, utilities distribution system, service facilities, earth grading plan, and such other information necessary to determine whether the proposed development conforms with the intent of the regulation; such development plans, diagrams, and calculations shall become a part of the amendment and shall be the basis for the issuance of a building permit in conformity therewith.

19.4.2 Site plan alterations which increase the number of dwelling units, the arrangement of trailer lots, or roadway or driveway alignment shall require a resubmission for approval of the application for rezoning. Any minor adjustments in the trailer lot lines, or decrease in the number of dwelling units may be approved by the County Board of Commissioners without resubmission of the application for rezoning.

19.5 OTHER APPLICABLE PROVISIONS

19.5.1 The entire Mobile Home Park shall be considered as one zoned lot.

19.5.2 Off-Street Parking shall be provided for all uses established in this zoning district and as provided in Section 39.

19.5.3 The following tie-down requirements must be met:

(A) Mobile homes 40' to 50' in length: Three sets of tie downs to six anchors.

(B) Mobile homes 51' to 70' in length: Four sets of tie downs to eight anchors.

(C) Mobile homes over 70' in length: Five sets of tie downs to ten anchors.

19.5.4 Tie down specifications required:

(A) Anchors imbedded in a permanent foundation if the foundation covers the entire area under the mobile home, or a soil screw auger.

(B) Screw augers shall be sunk to a depth of at least four feet.

(C) Woven wire cables of galvanized steel or stainless steel 3/8 inch in diameter or larger or 1/4 inch aircraft cable with turnbuckles may be attached either from frame to anchor or over the home to the anchor.

(D) All piers shall be placed on foundations of solid concrete with minimum dimensions of 16" X 16" X 4". Piers should be constructed of solid concrete blocks or the equivalent with the tie downs aligned with the piers.

(E) Overhead and frame ties only be attached to the same anchor if the frame extends the full length of the home.

(F) Overheads are placed at both ends of the home.

(G) Tie-downs must be no more than 10' apart and no further than 5' from the ends of the home.

(H) Other tie-down methods allowed employ cables instead of galvanized steel straps. The cables must be secured to closed eye anchor heads with turnbuckles which have thimbles, U-bolts or similar cable clamps. Turnbuckles with open hooks or eyes are unacceptable.

SECTION 20 - BG GENERAL BUSINESS DISTRICT

This zoning district is created to provide business and service establishments serving the common and recurring needs of the residents in the vicinity.

20.1 **PRINCIPAL PERMITTED USES**

The following principal uses are permitted in the General Business District (BG):

20.1.1 Assembly halls, auditoriums, and civic centers.

20.1.2 Business services.

20.1.3 Clothing services.

20.1.4 Cleaning establishments using nonflammable solvents.

20.1.5 Commercial parking structures or lots.

20.1.6 Commercial Sports and Recreation Facilities (Controlled Impact).

20.1.7 Convenience Stores with fuel sales.

20.1.8 Equipment sales and service.

20.1.9 Child Care Facility.

20.1.10 Garden and lawn centers.

20.1.11 Medical and dental clinics.

20.1.12 Mortuaries, funeral homes, and funeral chapels.

20.1.13 Motels and hotels.

20.1.14 Offices, Corporate

20.1.15 Offices, General.

20.1.16 Offices, Professional.

20.1.17 Personal services.

20.1.18 Retail Alcohol Sales

20.1.19 Retail stores.

20.1.20 Restaurants, (including drive-ins) with no outdoor alcohol sales areas.

20.1.21 Service stations.

20.1.22 Transportation depots.

20.1.23 Veterinary clinics, and hospitals, and animal daycare. (Outdoor runs and boarding are not permitted.

20.2 PERMITTED SPECIAL USES

The following special uses are permitted in the General Business District (BG) with the issuance of a special use permit:

20.2.1 Automotive sales, rental, and service. (Body and fender repair, major mechanical repair, and painting are not permitted).

20.2.2 Motorcycle and boat sales and service. (Body and fender repair, major mechanical repair and painting are not permitted).

20.2.3 Commercial Sports and Recreation Facilities (High Impact).

20.2.4 Drinking Establishments

20.2.5 Mini-Storage.

20.2.6 Residences in conjunction with the principal use.

20.2.7 Radio, television, and communication towers and transmitters.

20.2.8 Sidewalk cafes or restaurants with outdoor alcohol sales areas.

20.2.9 Veterinary clinics, and hospitals, and animal daycare. (With outdoor runs and boarding).

20.2.10 Wind Energy Generation Systems.

20.3 HEIGHT AND LOT REQUIREMENTS

20.3.1 The height and minimum lot requirements shall be as follows, except as provided in Section 35:

	Lot Area	**Front**	**Side Yard**	**Rear**	**Maximum Height**
Permitted Uses	7,200 sq ft	25’	10’	20’	45’

SECTION 21 – BGH HEAVY GENERAL BUSINESS DISTRICT

This zoning district was created to provide for business and service establishments as a transitional district between retail districts and industrial districts.

21.1 **PRINCIPAL PERMITTED USES**

The following principal uses are permitted in the Heavy General Business District (BGH):

21.1.1 Automotive sales, rental, and service, including the sales of new or used autos, trucks, boats, vacation trailers and equipment, mobile vacation homes, farm implements and supplies.

21.1.2 Automotive repair, body and fender, and painting establishments.

21.1.3 Building material storage and sales

21.1.4 Business services.

21.1.5 Commercial Sports and Recreation Facilities (Controlled Impact).

21.1.6 Convenience Stores with fuel sales.

21.1.7 Farm equipment, implements, supplies, and services.

21.1.8 Feed, seed, and fertilizer stores.

21.1.9 Frozen food lockers, but no abattoirs.

21.1.10 Newspaper sales and printing.

21.1.11 Offices, Corporate.

20.1.12 Offices, General.

20.1.13 Offices, Professional.

21.1.14 Restaurants and drinking establishments, including drive-ins.

21.1.15 Sales area, office, and workshop for electrical, plumbing, heating, and refrigeration equipment businesses.

21.1.16 Service stations.

21.1.17 Vacation trailers, campers, and cabin trailer sales and services.

21.1.18 Veterinary clinics, and hospitals, and animal daycare.

21.1.19 Woodworking and cabinet shops.

21.2 **PERMITTED SPECIAL USES**

The following special uses are permitted in the Heavy General Business District (BGH) with the issuance of a special use permit:

21.2.1 Commercial Sports and Recreation Facilities (High Impact).

21.2.2 Heavy truck repair, equipment work, and painting work.

21.2.3 Mobile, transportable or manufactured home sales.

21.2.4 Radio, television, and communication towers and transmitters.

21.2.5 Residences in conjunction with the principal use.

21.2.6 Wind Energy Generation Systems.

21.3 HEIGHT AND LOT REQUIREMENTS

21.3.1 The height and minimum lot requirements shall be as follows, except as provided in Section 35:

	Lot Area	**Lot Width**	**Front**	**Side Yard**	**Rear**	**Maximum Height**
Permitted Uses	7,200 sq ft	60’	25’	10’	15’	45’

SECTION 22 - BHS HIGHWAY SERVICE BUSINESS DISTRICT

This zoning district was created to provide for effective use of land situated in relationship to major highways so efficient grouping of activities can be developed to service the traveling public.

22.1 PRINCIPAL PERMITTED USES

The following principal uses are permitted in the Highway Service Business District (BHS):

22.1.1 Commercial Sports and Recreation Facilities (Controlled Impact).

22.1.2 Convenience Stores with fuel sales.

22.1.3 Drive-in theaters.

22.1.4 Motels and Hotels.

22.1.5 Restaurants and drinking establishments, including drive-ins.

22.1.6 Retail Alcohol Sales.

22.1.7 Retail shops.

22.1.8 Service Stations.

22.1.9 Truck stops including service and over-night parking.

22.2 PERMITTED SPECIAL USES

The following special uses are permitted in the Highway Service Business District (BHS) with the issuance of a special use permit:

22.2.1 Commercial Sports and Recreation Facilities (High Impact).

22.2.2 Radio, television, and communication towers and transmitters.

22.2.3 Residences in conjunction with the principal use.

22.2.4 Wind Energy Generation Systems.

22.3 HEIGHT AND LOT AREA REQUIREMENTS

22.3.1 The height and minimum lot requirements shall be as follows, except as provided in Section 35:

	Lot Area	Lot Width	Front	Side Yard	Street Side Yard	Rear	Maximum Height
Permitted Uses	10,000 sq ft	70’	35’	10’	50’	25’	45’

22.4 OTHER APPLICABLE PROVISIONS

22.4.1 When a property owner or his/her developer intends to develop a property already zoned or requiring re-zoning to the Highway Commercial District, they shall file, together with the building permit application or re-zoning application, a detailed Site plan and other drawings, data, 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 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 the 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 23 - IL LIGHT INDUSTRIAL DISTRICT

This zoning district provides for commercial and industrial uses which shall meet and conform with comparatively rigid environmental specifications as to pollution and nuisance-free performance.

23.1 PRINCIPAL PERMITTED USES

The following principal uses are permitted in the Light Industrial District (IL):

23.1.1 Automotive repair, body and fender, and painting establishments.

23.1.2 Agricultural farms, truck gardens, greenhouses, plant nurseries, orchards, grain storage facilities, and the usual agricultural farm buildings and structures.

23.1.3 Bakery products manufacture.

23.1.4 Building materials yards.

23.1.5 Contractor's offices and yards.

23.1.6 Commercial Sports and Recreation Facilities (Controlled Impact)

23.1.7 Dairy products manufacture.

23.1.8 Dyeing and cleaning establishments.

23.1.9 Fabrication, manufacture and treatment of lumber or wood products.

23.1.10 Farm and industrial equipment sales establishments.

23.1.11 Fixed plants for processing stone, gravel, or clay.

23.1.12 Highway maintenance yards or buildings.

23.1.13 Laboratories.

23.1.14 Manufacture and assembly of electrical and electronic appliances.

23.1.15 Manufacturing, compounding, processing, packaging, or treatment of articles or merchandise from previously prepared materials.

23.1.16 Manufacture of light sheet metal products including heating and ventilation equipment.

23.1.17 Machine shops or other metal working.

23.1.18 Mini Storage

23.1.19 Offices, Corporate

23.1.20 Printing and publishing business.

23.1.21 Public utility main transmission lines or pipelines including substations, distribution centers, regulator stations, pumping stations, storage, equipment buildings, towers, or similar public service uses.

23.1.22 Railroad yards

23.1.23 Stone and monument works.

23.1.24 Truck and freight terminals.

23.1.25 Warehouses and wholesale businesses.

23.2 PERFORMANCE STANDARDS

23.2.1 Physical Appearance: All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the 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 a 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.

23.2.2 Fire Hazard: No operation shall involve the use of highly flammable gases, acids, 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 regulations of Sarpy County.

23.2.3 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 break-downs 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 limits prescribed under the Nebraska Environmental Standards administered by the Nebraska Department of Environmental Control.

23.2.4 Sewage and Liquid Wastes: No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, liquid waste of any radioactive or poisonous nature or chemical wastes 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 Control indicating that the proposed use meets the Nebraska Environmental Standards will be required before a building permit is issued.

23.2.5 Air contaminants: The final approval and the permit issued by the Nebraska Department of Environmental Control indicating that the proposed use meets the Nebraska Environmental Standards will be required before a building permit is issued.

(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 4 minute period in each one-half 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 of 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 500 degrees Fahrenheit, except for a period of 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 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.

23.2.6 Odor: The emissions of odors that are generally agreed to be obnoxious 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 those odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this regulation.

23.2.7 Gases: The gases sulphur dioxide and hydrogen sulphide shall not exceed 5 parts per million and carbon monoxide shall not exceed 5 parts per million. All measurements shall be taken at the zoning lot line.

23.2.8 Vibration: All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousands of an inch measured at the zoning lot line. The use of steam or broad hammers shall not be permitted in this zone.

23.2.9 Glare and heat: All glare, such as welding areas and open furnaces shall be shielded so that they shall not be sensed 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 5 degrees Fahrenheit.

23.3 PERMITTED SPECIAL USES

The following special uses are permitted in the Light Industrial District (IL):

23.3.1 Commercial Sports and Recreation Facilities (High Impact)

23.3.2 Fuel sales or distribution without Convenience Store

23.3.3 Outdoor Storage

23.3.4 Radio, television, and communication towers and transmitters.

23.3.5 Wind Energy Generation Systems

23.4 HEIGHT AND LOT REQUIREMENTS

23.4.1 The height and minimum lot requirements shall be as follows, except as provided in Section 35:

	Lot Area	Front	Side Yard	Street Side Yard	Rear	Maximum Height
Permitted Uses	10,000 sq ft	25’	10’	25’	15’	45’

SECTION 24 – IGM GENERAL MANUFACTURING DISTRICT

This zoning district provides for the widest range of industrial operations for those industries which conform to reasonable environmental specifications for pollution and nuisance-free performance, and meet the minimum requirements specified by the Environmental Protection Agency, Nebraska Department of Environmental Quality and other State Agencies concerned with health and environment.

24.1 PERMITTED SPECIAL USES

The following special uses are permitted in the General Manufacturing District IGM, except those which by reason of the emission of odor, dust, fumes, smoke, noise, and other obnoxious characteristics would be injurious to the public health, safety, and general welfare. The permitted uses shall include uses such as:

24.1.1 Abattoirs.

24.1.2 Acetylene gas manufacturing or storage.

24.1.3 Alfalfa dehydrating plants.

24.1.4 Ammonia, bleaching powder or chlorine manufacture.

24.1.5 Asphalt manufacture or refining.

24.1.6 Assembly of metal products.

24.1.7 Bakery products manufacture.

24.1.8 Boiler works.

24.1.9 Burlap manufacture.

24.1.10 Cement, lime, gypsum, or plaster-of-paris manufacture.

24.1.11 Coal and coke yards.

24.1.12 Coal tar products manufacture.

24.1.13 Coke ovens.

24.1.14 Concrete products manufacture.

24.1.15 Construction and demolition waste disposal sites.

24.1.16 Creosote treatment or manufacture.

24.1.17 Dairy products manufacture.

24.1.18 Dyeing and cleaning establishments.

24.1.19 Fabrication, manufacture and treatment of lumber or wood products.

24.1.20 Farm and industrial equipment manufacture.

24.1.21 Fat rendering.

24.1.22 Feed and forage plants.

24.1.23 Fertilizer storage or processing.

24.1.24 Fireworks or explosives manufacture.

24.1.25 Fuel storage and distribution.

24.1.26 Glue, size, or gelatin manufacture.

24.1.27 Grain mill products manufacture.

24.1.28 Gunpowder manufacture or storage.

24.1.29 Incineration or reduction of garbage, dead animals, offal, or refuse.

24.1.30 Iron, steel, brass, or copper foundries.

24.1.31 Laboratories.

24.1.32 Manufacture, fabrication, or treatment of sheet or shaped metal products including such industries as farm machinery, farm equipment, construction materials and machinery, heating, ventilating, and plumbing equipment, and household appliances.

24.1.33 Manufacturing, compounding, processing, packaging, or treatment of articles or merchandise from previously prepared materials, such as bone, cloth, aluminum, cork, fiber, leather, glass, plastic, stones, tin, rubber, and paint.

24.1.34 Manufacture of light sheet metal products including heating and ventilation equipment.

24.1.35 Machine shops or other metal working.

24.1.36 Meat products manufacture.

24.1.37 Oiled, rubber, or leather goods manufacture.

24.1.38 Public local distribution and main transmission utilities.

24.1.39 Radio, television, and communication towers and transmitters.

24.1.40 Sanitary Landfills.

24.1.41 Sexually Oriented Businesses (please refer to Section 45)

24.1.42 Sludge disposal and storage sites.

24.1.43 Smelter.

24.1.44 Solid Waste Composite Site.

24.1.45 Solid Waste Disposal Area.

24.1.46 Solid Waste Management Facility.

24.1.47 Solid Waste Processing Facilities.

24.1.48 Solid Waste Transfer Station.

24.1.49 Stone, rock, gravel, and sand stationary plants.

24.1.50 Storage of farm and agricultural products.

24.1.51 Sulphuric, nitric, or hydrochloric acid manufacture.

24.1.52 Tanning, curing, or storage of rawhides or skins.

24.1.53 Transmission lines, including substations, distribution centers, regulator stations, pumping stations, treatment facilities, storage equipment buildings, garages, towers, or similar public service uses.

24.1.54 Vinegar manufacture.

24.1.55 Yeast plants.

24.1.56 Warehouses and Wholesale businesses

24.1.57 Watchmen's residences in conjunction with the principal use.

24.1.58 Wind Energy Generation Systems

24.2 PERFORMANCE STANDARDS

24.2.1 Appearance: Junk, salvage, auto wrecking, and similar operations shall be shielded from view from streets and from adjacent properties in another zoning classification by means of a sturdy, sight-obscuring fence in good repair.

24.2.2 Fire Hazard: All flammable substances involved in any activity established in this zone shall be handled in conformance with the standards of the National Board of Fire Underwriters and any additional regulations of Sarpy County.

24.2.3 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 zoned residential. 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 Control.

24.2.4 Sewage and Liquid Wastes: No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, of liquid waste of any radioactive or poisonous nature or chemical waste which is detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations. The final approval and permit issued by the Nebraska Department of Environmental Control indicating that the proposed use meets the Nebraska Environmental Standards will be required before a building permit is issued.

24.2.5 Air Contaminants: The final approval and permit issued by the Nebraska Department of Environmental Control indicating that the proposed use meets the Nebraska Environmental Standards will be required before a building permit is issued.

(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 4 minute period in each one-half 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 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 500 degrees Fahrenheit.

(C) Due to the fact that the possibilities of air contamination 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 natural tendency to cause injury or damage to business, vegetation, or property.

24.2.6 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.

24.2.7 Gases: All noxious gases shall be controlled to the extent that they will not be injurious to life and property. The gases sulphur dioxide and hydrogen sulphide shall not exceed 5 parts per million, carbon monoxide shall not exceed 25 parts per million, and nitrous fumes shall not exceed 5 parts per million. All measurements shall be made at the zoning lot line.

24.2.8 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.

24.3 HEIGHT AND LOT REQUIREMENTS

24.3.1 The height and minimum lot requirements shall be as follows, except as provided in Section 35:

	Lot Area	**Front**	**Side Yard**	**Street Side Yard**	**Rear**	**Maximum Height**
Permitted Uses	10,000 sq ft	25’	15’	25’	25’	45’

SECTION 25 - MU MIXED USE DISTRICT

Purpose: The MU Mixed Use District is intended to accommodate projects which combine several compatible land uses into an integrated development. The MU District may also be used to designate parts of the County which is appropriate for a mixture of residential, commercial, office, and accessory uses. The district permits mixing residential areas with workplaces and services. Developments within the MU District must accommodate transportation systems, pedestrian, and bicycle movements, and surrounding environments. All developments in the MU District are subject to the special permit process. Each action creating an MU District shall establish the use types and amounts permitted within its boundaries

25.1 **PERMITTED SPECIAL USES**

The following uses are permitted in the Mixed Use District (MU)

25.1.1 Retail/Commercial Business

25.1.2 Office Uses

25.1.3 Residential Uses

25.1.4 Public Uses

25.1.5 Religious Facilities

25.1.6 Private schools, and Universities and Colleges

25.1.7 Buildings and uses customarily incidental to the permitted uses

25.1.8 Home Occupations

25.1.9 Wind Energy Generation Systems

25.2 **SITE DEVELOPMENT REGULATIONS**

25.2.1 The minimum area for any MU District is five acres.

25.2.2 Perimeter Setback – 25 feet along any public street. Other setbacks to be determined through the special use permit process.

25.2.3 Height Limitation – 45 feet.

25.2.4 25% of the site shall be utilized as open space. The perimeter setback area may be counted toward the minimum open space requirement.

25.2.5 Prior to the issuance of any building permits or other authorization, all projects in the MU District shall receive approval by the County Board, after recommendation by the Planning Commission, according to the special permit procedures set forth in Section 41. This approval may be granted for a specific plan for the development of an MU District in lieu of a plan for individual projects, provided that any subsequent developments are consistent with the specific plan.

25.3 **APPLICATIONS FOR APPROVAL MUST CONTAIN, AT A MINIMUM, THE FOLLOWING INFORMATION:**

25.3.1 A general site plan, which shall also include:

1. A boundary survey,
2. Site dimensions.
3. Contour lines at no greater than five-foot intervals.
4. Adjacent public rights-of-way, transportation routes and pedestrian or bicycle systems.
5. Description of adjacent land uses.
6. Utility services to the site and easements through the site.
7. Description of other features, including drainage, soils, or other considerations that may affect development.
8. A detailed plan which shall include:
9. A site plan layout, including the location of proposed buildings, parking, open space, and other facilities.
10. Location, capacity, and conceptual design of parking facilities.
11. Description of the use of individual buildings.
12. Description of all use types to be included in the project and maximum floor area devoted to each general use.
13. Maximum height of the buildings.
14. Schematic location and design of open space on the site, including a landscaping plan.
15. Vehicular and pedestrian circulation plan, including relationship to external transportation systems.
16. Schematic building elevations and sections if required to described the project.
17. Grading and drainage plan.
18. Proposed sewer and utility improvements.
19. Location, size, and type of all proposed signage.
20. Specific proposed development regulations for the project, including:
21. The specific use types permitted within the proposed district.
22. Maximum floor area ratios
23. Front, side, and rear yard setbacks.
24. Maximum heights.
25. Maximum building and impervious coverage.
26. A traffic impact analysis, if required by the County.

SECTION 26 - AP AIRPORT DISTRICT

This zoning district provides for airports, heliports, landing areas, mooring areas or launching areas for other types of air-borne vehicles.

26.1 PRINCIPAL PERMITTED USES

The following principal uses are permitted in the Airport District (AP):

26.1.1 Military airfields.

26.1.2 Private and public landing fields for aircrafts, including airplanes, helicopters and other types of air-borne vehicles.

26.1.3 Public local distribution and main transmission utilities.

26.2 PERMITTED SPECIAL USES

Permitted special uses shall be evaluated as to their design, sound attenuation, human density, compatibility to aircraft noise, and compatibility to surrounding land uses.

26.2.1 Construction and demolition waste disposal sites.

26.2.2 Sludge disposal and storage sites.

26.2.3 Uses that include the following shall be prohibited:

(A) Release into the air of any substance which would impair visibility, such as steam, dust, and smoke – except smoke from existing heating plants, incinerators, and fireplaces.

(B) Light emissions which might interfere with or impair pilot vision.

(C) Electrical emissions that interfere with aircraft communications systems or navigational equipment.

(D) Dumping of garbage, maintenance of feeding stations, or facilities attractive to birds.

(E) The erection of permanent structures unless they comply with the clearance, smoke, light, and electronic emission requirements and are for uses compatible with airfield operations.

26.3 ACCESSORY USES PERMITTED

The following special uses are permitted in the Airport District (AP) with the issuance of a special use permit:

26.3.1 Any accessory uses customarily incidental to an airport.

26.4 PROCEDURE

26.4.1 When a property owner or developer intends to develop a tract of land for a private or public landing field for aircraft, including airplanes, helicopters, and other types of air-borne vehicles, he/she shall file with the re-zoning application a detailed Site plan and such other drawings, data calculations, sketches, or diagrams that provide reasonable and adequate information showing that the proposed facility meets the most recently enacted standards, regulations, and statutes governing the aircraft industry.

26.4.2 The property owner shall also submit plans and documents providing adequate information on the amount of land to be zoned as Airport Approach District (AA). The property owners may further be asked to furnish other data on the environmental impact the proposed aircraft facility may have on the surrounding areas.

SECTION 27 - AA AIRPORT APPROACH ZONE DISTRICT

27.1 This zoning district is created to be appended to a primary zoning district and provides for restrictive land uses occurring under all heliports, airports, or airfield flight approach zones extended out along either side of the runways.

27.2 ZONING DISTRICT BOUNDARIES

Zoning district boundaries shall meet the requirements of the federal and state regulations and statutes governing airport approach areas.

27.3 HEIGHT LIMIT

Except as otherwise provided in this regulation, height requirements shall meet the latest federal and state regulations and statutes governing airport approach areas.

27.4 PRINCIPAL PERMITTED USES

The following principal uses are permitted In the Airport Approach District (AA):

27.4.1 Agricultural and public underground utilities.

27.4.2 Public utility main transmission lines or pipelines, including substations, distribution centers, regulator stations, pumping stations, storage, equipment buildings, towers, or similar public service uses.

27.4.3 No use of land will be allowed which the Director of Planning finds will:

(A) Promote the gathering of people for assembly, occupancy, business occupancy, educational occupancy, institutional occupancy, mercantile occupancy, and residential occupancy classifications as defined by the Uniform Building Code involving civic, political, travel, religious, social, recreational, business, professional, educational instruction, medical care, and living or habitable accommodations; including, but not limited to, assembly halls, auditoriums, churches, club rooms, lodges, gymnasiums, theaters, museums, institutional buildings, educational buildings, hospitals, nursing homes, apartments, motels, and outdoor areas.

(B) Create large public assemblies.

(C) Release into the air any substance which would impair visibility, such as steam, dust, and smoke -- except smoke from existing heating plants, incinerators, and fireplaces.

(D) Light emissions which might interfere with or impair pilot vision.

(E) Electrical emissions that interfere with aircraft communications systems or navigational equipment.

(F) Dumping of garbage, maintenance of feeding stations, or facilities attractive to birds.

(G) The erection of permanent structures unless they comply with the clearance, smoke, light, and electronic emission requirements and are for uses compatible with airfield operations.

27.5 PERMITTED SPECIAL USES

Permitted special uses shall be evaluated as to their design, sound attenuation, human density, compatibility to aircraft noise, and compatibility to surrounding land uses. The following special uses are permitted in the Airport Approach District (AA) with the issuance of a special use permit:

27.5.1 Auto and machinery repair.

27.5.2 Construction and demolition waste disposal sites.

27.5.3 Light Manufacturing.

27.5.4 Outside Storage.

27.5.5 Public parks and recreation areas.

27.5.6 Public overhead and local distribution utilities.

27.5.7 Sludge disposal and storage sites.

27.5.8 Truck Terminals.

27.5.9 Warehouses.

27.5.10 Wholesale merchandising.

27.6 **PERFORMANCE STANDARDS**

No use of land or the erection of permanent structures will be allowed which the Director of Planning finds will:

27.6.1 Create large public assemblies.

27.6.2 Release into the air any substance which would impair visibility, such as steam, dust and smoke -- except smoke from existing heating plants, incinerators, and fireplaces.

27.6.3 Create light emissions which might interfere with or impair pilot vision.

27.6.4 Create electrical emissions that interfere with aircraft communications systems or navigational equipment.

27.6.5 Allow the dumping of garbage or maintenance of feeding stations or facilities which are attractive to birds.

27.6.6 Not comply with the clearance, smoke, light and electronic emission requirements and are for uses not compatible with airfield operations.

SECTION 28 - PD PLANNED DEVELOPMENT DISTRICT

This zoning district is created to be appended to a residential, commercial, or industrial district to provide for the placement and location of more than one building on a lot in an arrangement to permit more feasible, original and better siting of buildings.

28.1 PRINCIPAL PERMITTED USES

The following principal uses are permitted in the Planned Development District (PD) with the issuance of a special use permit:

28.1.1 Any principal uses permitted in the primary zoning district to which the Planned Development (PD) classification is appended.

28.2 PERMITTED SPECIAL USES

The following special uses are permitted in the Planned Development District (PD) with the issuance of a special use permit:

28.2.1 Any special uses permitted in the primary zoning district to which the Planned Development (PD) classification is appended.

28.3 ACCESSORY USES

The following accessory uses are permitted in the Planned Development District (PD):

28.3.1 Any accessory uses permitted in the primary zoning district to which the Planned Development (PD) classification is appended.

28.4 HEIGHT AND LOT AREA REQUIREMENTS

Lot area requirements, height requirements, building setbacks, size of buildings, and density of dwelling units of the primary zoning district to which the Planned Development classification is appended may be amended or reduced provided:

28.4.1 Other conditions, requirements, or amenities are greater than the minimum provided for in these regulations.

28.4.2 The changes in requirements are granted after considering the reasonable intent and purpose of the Sarpy County Zoning Regulations plan as listed in Section 1.5, including, among others, specific purposes such as:

(A) developing both urban and non-urban areas;

(B) lessening congestion in the streets or roads;

(C) reducing the waste of excessive amounts of roads;

(D) securing safety from fire and similar dangers;

(E) lessening or avoiding the hazards to persons or damage to property resulting from the accumulation or runoff of storm flood waters;

(F) providing adequate light and air;

(G) preventing excessive concentration of population, and excessive scattering of population or settlement;

(H) promoting such distribution of population, such classification of land uses, and such distribution of land development as will assure adequate provisions for transportation, water flowage, water supply, drainage, sanitation, recreation, soil fertility, food supply, and other public requirements;

(I) protecting the tax base;

(J) protecting property against blight and depreciation;

(K) securing economy in governmental expenditures;

(L) fostering the state's agriculture, recreation, and other industries;

(M) encourage the most appropriate use of land in the County; and;

(N) preserving, protecting and enhancing historic buildings, places, and districts.

28.4.3 The changes or reductions are granted by the County Board of Commissioners after receiving the recommendations of the Planning Commission and the changes substantially meet the following:

(A) Twenty percent of the total number of lots may be reduced to a minimum lot width of 55 feet.

(B) Ten percent of the total number of lots may be reduced to a minimum lot width of 50 feet.

(C) Front yards may be reduced to a minimum of 20 feet where double-car width driveways are provided;

(D) Side yards, other than street side yards, may be reduced to zero lot line, provided the opposite side yard is increased by the same distance;

(E) Rear yards may be reduced to a minimum of 15 feet;

28.5 LAND USE INTENSITY OR DENSITY COMPUTATIONS

28.5.1 In an appended residential district, the number of dwelling units that may be permissible on the proposed tract to be developed as a Planned Development District (PD) shall be determined by using the lot area per dwelling unit requirements of the primary zoning district, provided however, that the total lot area of the proposed tract shall be reduced by the areas covered or occupied by existing or proposed buildings, streets, roadways, drives, parking areas, and unusable land areas such as streams, drainage ways, and creeks.

28.6 AREA OF TRACT

28.6.1 The minimum area of a tract of land to be zoned as an appended Planned Development District (PD) shall be five (5) acres.

28.7 GENERAL PROVISIONS

Within the Planned Development District (PD) variations and departures from normal practice may be permitted. Each building need not face a public street and more than one building may be located on a lot.

Buildings may be constructed on platted tracts which are smaller than the minimum lot size requirements where other adjacent permanent open space is provided. Buildings may be served by private roads in lieu of public streets. Buildings may be located closer to lot lines than otherwise permitted, provided such buildings are architecturally suitable for such a relationship to

adjoining buildings and property. Any building or portion thereof may be owned as a condominium under applicable state laws governing same. An approved percentage of buildings may be smaller in size than those required in the primary zoning district where their locations on specific lots are designated on the plans.

28.8 PROCEDURE

28.8.1 When a property owner or developer intends to develop a tract of land containing at least the minimum area for that primary zoning district and involving more than one establishment, or in the case of a residentially zoned area, more than one dwelling unit, he/she may apply in accordance with Section 43 for re-zoning the property to a Planned Development District (PD). The re-zoning change shall be an amendment to the zoning map as an appendage to the existing primary zoning district. The re-zoning change may also be a request to change the existing primary zoning district to another primary zoning district with the Planned Development District as an appendage.

28.8.2 The property owner shall file, together with the re-zoning application, a Site plan and such other drawings or calculations necessary to determine whether the proposed development conforms to the provisions of the primary zoning district to which the Planned Development District is to be appended.

28.8.3 The plans and other drawings and calculations shall provide adequate information to show the arrangement of buildings, the number of dwelling units or establishments, building bulk and height, access drives, walks, parking areas, drainage, grading plan, utilities distribution, recreation areas, open spaces, and the general landscape development.

28.8.4 The property owners may further be asked to furnish other information, such as typical building floor plans, building elevations to show the general architectural character of the buildings, some indications as to size and type of landscape plant materials, pavements, and other major site improvements.

28.8.5 The property owner may be asked to submit the tentative construction time schedule; the tentative financial plan and a description of the intended means of financing any proposed common areas of common improvements; and statements covering ownership and maintenance of common easements or other common areas, such as open space or recreational facilities.

28.8.6 These plans and documents, the site plans, drawings, calculations, and other documents shall form the basis for issuance of a building permit in conformity therewith.

28.8.7 Any major change in the development plan which may increase the number of dwelling units or establishments, the number of parking stalls, the size or number of structures, and which is a substantial change from the plans and documents approved by the County Board of Commissioners, in the opinion of the Director of Planning, may require a re-submission for approval of the application for re-zoning. Any minor changes or adjustments or decreasing the number of dwelling units, common facilities and recreation facilities may be approved by the Director of Planning without re-submission.

28.9 OTHER APPLICABLE PROVISIONS

28.9.1 Off-street parking shall be provided for all uses established in this zoning District.

28.9.2 The entire planned development may be considered as one zoned lot.

SECTION 29 - PTD PLANNED TOWNHOUSE DEVELOPMENT

This zoning district is created to be appended to a residential zone so as to provide for innovations in the platting of lots and sublots, and in the siting of buildings.

29.1 PRINCIPAL PERMITTED USES

The following principal uses are permitted in Planned Townhouse Development District (PTD) with the issuance of a special use permit:

29.1.1 Any principal use permitted in the primary zoning district to which the Planned Townhouse Development (PTD) classification is appended.

29.2 PERMITTED SPECIAL USES

The following special uses are permitted in the Planned Townhouse Development District (PTD) with the issuance of a special use permit:

29.2.1 Any special uses permitted in the primary zoning district to which the Planned Townhouse Development (PTD) classification is appended.

29.3 ACCESSORY USES

The following accessory uses are permitted in the Planned Townhouse Development District (PTD).

29.3.1 Any permitted accessory use allowed in the primary zoning district to Townhouse Development (PTD) classification is appended.

29.4 SPACE LIMITS

29.4.1 All space limits shall meet the provisions of the primary zone to which the Planned Townhouse Development District (PTD) is appended when taken as an entire zoning lot, except as modified by plans filed in accordance with the provisions of this zone. Since the individual townhouse units are to be deeded together with the appropriate platted sublot, individual space limits may be established as required for the sublots.

(A) Minimum lot area: As required by the primary zone.

(B) Right-of-way for dedicated streets shall not be included in the minimum lot area computation.

(C) Minimum sublot area:

(D) Not less than the ground coverage area of the individual townhouse unit.

(E) Maximum gross floor area ratio: Same as primary zone.

(F) Maximum ground coverage including accessory buildings: Same as primary zone.

(G) Maximum height of building: 35 feet.

29.5 OPEN SPACE

29.5.1 All land not platted into sublots shall be held by a condominium association, home owner's association, or other entity responsible for care and maintenance.

29.6 PROCEDURE

29.6.1 When a property owner wishes to develop a parcel of property for a townhouse project, he may apply for a zoning change to a Planned Townhouse Development District (PTD). Said zoning change shall be an amendment to the zoning map and shall follow all procedural requirements for such changes set forth herein. As an exhibit accompanying the application for amendment to the zoning map, the owner shall provide a detailed site plan with such other sketches, diagrams, and calculations necessary to determine compliance with the provisions of this zone and the primary zone to which it is appended. The exhibits shall be prepared in accordance with Section 6, Preliminary Plat and Supplemental Data, of the Subdivision Regulations. Such exhibits shall become a part of the amendment and shall form the basis for issuance of building permits in conformity therewith.

29.6.2 Before approving a Planned Townhouse Development (PTD) classification, the Planning Commission and County Board of Commissioners shall find the following: That the proposed Modification of the primary zone regulations as to siting of buildings and platting of sublots will be in the public interest, in harmony with the purposes of this regulation, and will not adversely affect nearby properties. That no building will be closer to any boundary lot line than permitted in the primary zone, and that the overall density of development does not exceed that permitted in the primary zone. That an amount of open space equivalent to that specified in the primary zone will be provided. Upon County Board of Commissioners approval of the Planned Townhouse Development (PTD), the applicant shall prepare a final plat in accordance with Sections 7 and 8 of the Subdivision Regulations.

29.7 OTHER APPLICABLE PROVISIONS

29.7.1 Off-street parking shall be provided for all uses established in this zoning district.

SECTION 30- FP FLOOD PLAIN DISTRICT

This zoning 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 health, safety, and the general welfare of the County; and to secure safety from floods.

30.1 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 (as amended), 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, Sarpy County Board of Commissioners, Nebraska, ordains as follows:

30.2 FINDINGS OF FACT

30.2.1 Flood Losses Resulting From Periodic Inundation. The flood hazard areas of the County 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.

30.2.2 General Causes Of These Flood Losses. These flood losses are caused by: (1) The cumulative effect of obstruction of floodways causing increases in flood heights and velocities: and (2) the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others which are inadequately elevated or otherwise protected from flood damages.

30.2.3 Methods Used To Analyze Flood Hazards. This section 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 selected for this regulation 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 regulation in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study and illustrative materials dated on or before May 3, 2010 as amended.

(B) Calculation of water surface profiles based upon a hydraulic engineering analysis of the capacity of the stream channel and over bank areas to convey the base flood.

(C) Computation of the floodway required to convey this flood without increasing flood heights more than 1 foot at any point.

(D) Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any increase in flood height.

(E) Delineation of flood fringe, i.e., that area outside the floodway encroachment lines but which is still subject to inundation by the base flood.

30.3 STATEMENT OF PURPOSE

It is the purpose of this section to promote the public health, safety, and general welfare and to minimize those losses described in 30.2.1 by applying the provisions of this section to:

30.3.1 Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or which cause undue increases in flood heights or velocities.

30.3.2 Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.

30.3.3 Protect individuals from buying lands which are unsuited for the intended purposes because of flood hazard.

30.3.4 Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

30.4 GENERAL PROVISIONS

Flood zones shall be those as designated by the Federal Insurance Administration's Insurance Study, the Federal Emergency Management Agency, or such other federal or state agency which may be responsible for designating flood-prone areas. Any such reference shall refer to the most-recently issued of said maps or materials, as the same may be amended from time to time. Reference to an "A zone" shall consist of flood zones **A, AE, AH, AO, A99, B**, and **NVE**. Other references to flood zones or flood zoning districts shall be to materials as mentioned in this paragraph.

30.4.1 Lands To Which Regulation Applies: This regulation shall apply to all lands within the jurisdiction of the County of Sarpy that are subject to a 1% or greater chance of flooding in any given year, or based on best available data, as identified as numbered and unnumbered A Zones (including AE, AO and AH Zones) on the effective Flood Insurance Rate Map (effective FIRM) dated May 3, 2010, or best available data as determined by more recent hydrologic and hydraulic studies completed or approved by the County or other government agency. Requirements established in Section 30.7 of this regulation shall apply to the Zoning Districts FW and FF. In all areas covered by this section no development shall be permitted except upon a permit to develop granted by the County Board of Commissioners or their duly designated representative under such safeguards and restrictions as the Commissioners or their designated representative may reasonably impose for the promotion and maintenance of the general welfare and health of the inhabitants of the County.

30.4.2 Enforcement Officer: The Sarpy County Planning Director is hereby designated as Sarpy County's duly designated Enforcement Officer under this regulation.

30.4.3 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, the Flood Insurance Rate Map or Floodway Map, or on the Digital Flood Insurance Rate Map. Where interpretation is needed as 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 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 location of the floodway overlay district boundary may be based on a map completed or approved by the County or other government agency, provided the boundary is not less restrictive than that shown on the effective FIRM. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his/her case to the Board of Adjustment and to submit his/her own technical evidence, if he/she so desires.

30.4.4 Compliance: Within identified special flood hazard areas of this community, 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.

30.4.5 Abrogation and Greater Restrictions: It is not intended by this regulation to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this regulation imposes greater restrictions, the provisions of this regulation shall prevail. All other resolutions inconsistent with this regulation are hereby repealed to the extent of the inconsistency only.

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

30.4.7 Non-Conforming uses/structures value of reconstruction: For purposes of reconstruction of non-conforming uses and/or structures, construction values shall be cumulative over time.

30.4.8 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 regulation 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 damages. This section shall not create liability on the part of the County or any officer or employee thereof for any flood damages that may result from reliance on this regulation or any administrative decision lawfully made there under.

30.4.9 Severability: If any section, clause, provision or portion of this regulation is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Regulation shall not be affected thereby.

30.4.10 Appeal: Where a request for a permit to develop is denied by the County Board, the applicant may appeal directly to the District Court .

30.5 DEVELOPMENT PERMIT

30.5.1 Permit Required: No person, firm or corporation shall initiate any development or substantial improvement as defined in Section 44 of this regulation or cause the same to be done without first obtaining a separate permit for development.

30.5.2 Administration: The Director of Planning is hereby appointed to administer and implement the provisions of this regulation.

Duties of the Director of Planning shall include, but not be limited to:

(A) Review all development permits to assure that sites are reasonably safe from flooding and that the permit requirements of this section 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) Review all subdivision proposals and other proposed new development, including mobile/manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding.

(D) Notify adjacent communities, the U.S. Army Corps of Engineers, and the Nebraska Department of Natural Resources prior to any alteration or relocation of a watercourse,, and submit evidence of such notification to the Federal Emergency Management Agency.

(E) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(F) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially-improved structures.

(G) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially-improved structures have been flood-proofed.

(H) Maintain records of all floodplain development permits and or building permits within the floodway or flood fringe overlay district to ensure that structures are not substantially improved over time. Permits within the flood plain shall be cumulatively calculated over time to determine whether or not they become a substantial improvement.

(I) Filling of the flood fringe associated with new development within the Papillion Creek System shall be limited to 25% of the flood fringe in the floodplain development application project area, unless approved mitigation measures are implemented. The remaining 75% of flood fringe within the project area shall be designated as a restricted fill zone. For redevelopment, these provisions may be modified or waived in whole or in part by the local jurisdiction.

(J) Submit all permits to County Board of Commissioners for its approval. Said approval shall be shown on each flood plain permit.

(K) Facilitate the approval of new Flood Insurance Rate Maps or best available data as necessary.

30.6 APPLICATION FOR PERMIT

To obtain a permit, the applicant shall first file an application in writing, along with a non-refundable fee as established in the "Master Fee Schedule for the Planning and Building Department" as adopted by the County Board, on a form furnished for that purpose. Every such application shall:

30.6.1 Identify and describe the development to be covered by the flood plain development permit.

30.6.2 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 definitively locate the proposed building or development.

30.6.3 Indicate the use or occupancy for which the proposed development is intended.

30.6.4 Be accompanied by plans and specifications for proposed construction, including but not limited to the following information: 1) existing (natural) grades, 2) proposed grades as a result of proposed development, 3) the proposed lowest floor elevation and any higher floor elevations, including attached garage, of any proposed structures, 4) the lowest and highest adjacent grades next to any proposed structures, 5) the most restrictive base flood elevation nearest the proposed development.

30.6.5 Be signed by the permittee or his/her authorized agent who may be required to submit evidence to indicate such authority.

30.6.6 Give such other information as reasonably may be required by the Sarpy County Director of Planning.

30.6.7 Comments from the Papio-Missouri River Natural Resources District shall be solicited by the Sarpy County Planning Department concerning each application for a flood plain development permit.

30.6.8 When flood-proofing is utilized and/or when elevation one foot above regulatory flood level is achieved by piling for a particular structure, the Director of Planning shall be presented with a construction and elevation certification from a registered professional engineer or architect.

30.7 ESTABLISHMENT OF ZONING DISTRICTS

Along watercourses where a floodway has been established, the mapped flood plain areas within the jurisdiction of this section are hereby divided into the two following districts: a floodway overlay district (FW) and a flood fringe overlay district (FF), identified in the Flood Insurance Study, effective FIRM, or best available data. The zoning districts created by this regulation overlie other zoning districts and place additional restrictions upon the manner in which lands in such underlying district may be used. Within the FF and FW districts all uses not meeting the standards of this regulation and those standards of the underlying zoning district shall be prohibited.

30.8 STANDARDS FOR FLOOD PLAIN DEVELOPMENT

The standards within this section are applicable within both the FF and FW districts and shall be used in coordination with the FF and FW overlay district regulations which follow this section.

30.8.1 No permit for development shall be granted for new construction, substantial improvements and other development(s) including the placement of mobile/manufactured homes within all numbered and unnumbered A zones (including AE, AO, and AH zones) unless the conditions of this section are satisfied.

30.8.2 All areas identified as the “A Zones” on the FIRM or best available data are subject to inundation of the base flood; however, the water surface elevation is not provided. The unnumbered A zones shall be subject to all development provisions of the flood fringe and floodway overlay district regulations. If Flood Insurance Study data is not available, the community shall utilize any base flood data currently available from Federal, State or other sources.

30.8.3 Until a floodway has been designated, no development or substantial improvement may be permitted within special flood hazard areas unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one (1) foot at any location as shown on the effective FIRM or best available data.

30.8.4 New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of mobile/manufactured homes and other developments shall require:

(A) Design or anchorage to prevent floatation, 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 designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and onsite waste disposal systems 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 electrical equipment and sanitary facilities, including circuits, installed electric appliances, toilets, sinks, and drains, in new developments and substantial improvements shall be located so as to not be subject to flooding or shall be flood-proofed to prevent damage resulting from flood levels exceeding the base flood elevation by one foot. Backflow valves should be installed on all septic lines leading from the structure.

(E) Storage of Material and Equipment:

1. 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.
2. Storage of other material or equipment may be allowed if not subject to damage by floods and firmly anchored to prevent floatation, or if readily removable from the area within the time available after flood warning.
3. Subdivision proposals and other proposed new development are required to assure that

   a) all such proposals are consistent with the need to minimize flood damage;

   b) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage;

   c) adequate drainage is provided so as to reduce exposure to flood hazards, and

d) proposals for development (including proposals for mobile/manufactured home parks and subdivision) of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals the base flood elevation.

30.9 FLOOD FRINGE OVERLAY DISTRICT - (Including AO and AH Zones):

30.9.1 PERMITTED USES

Any use permitted in section 30.10 and permitted in the underlying zoning district shall be permitted in the Flood Fringe Overlay District, but no use shall be permitted in the district unless the standards of Section 30.8 are met.

30.9.2 STANDARDS FOR THE FLOOD FRINGE OVERLAY DISTRICT

(A) Require new construction or substantial improvements of residential structures to have the lowest floor, including basement, elevated to one foot above the base flood elevation, based on best available data.

(B) Require new construction or substantial improvements of non-residential structures to have the lowest floor, including basement, elevated to one foot above the base flood elevation, based on the best available data or, together with attendant utility and sanitary facilities, to be flood-proofed so that below the base flood elevation 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 Sarpy County Planning Director.

(C) Require for all new construction and substantial improvements that fully enclosed areas below the lowest floor are usable solely for parking of vehicles, building access or storage. The area below lowest floor subject to flooding shall be a maximum of four (4) feet in height measured from the bottom of the floor joists, unless used for parking of vehicles. When the area below the lowest floor is used for the parking of vehicles, the County may require the owner to sign a non-conversion agreement and file it with the County Register of Deeds. A non-conversion agreement may only be used for attached garages or parking areas below elevated buildings at the discretion of the County. Areas 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 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.

(D) All electrical equipment and sanitary facilities, including circuits, installed electric appliances, toilets, sinks, drains, in new developments and substantial improvements shall be located so as to not be subject to flooding or shall be flood-proofed to prevent damage resulting from flood levels exceeding the highest base flood elevation available, or based on best available data, by one foot. Backflow valves should be installed on all septic lines leading from the structure.

(E) Within AH zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

(F) All mobile/manufactured homes shall be anchored to resist floatation, collapse, or lateral movement. Mobile/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 mobile/manufactured home with two additional ties per side at the intermediate locations and mobile/manufactured homes less than 50 feet long requiring one additional tie per side.
2. Frame ties are provided at each corner of the home with five additional ties per side at intermediate points and mobile/manufactured homes less than 50 feet long requiring four additional ties per side.
3. All components of the anchoring system are capable of carrying a force of 4800 pounds.
4. Any additions to mobile/manufactured homes are similarly anchored.

(G). Require that all mobile/manufactured homes to be placed or substantially improved within special flood hazard areas on the community's FIRM on sites:

1. outside of a mobile/manufactured home park or subdivision,
2. in a new mobile/manufactured home park or subdivision,
3. in an expansion to an existing mobile/manufactured home park or subdivision, or
4. in an existing mobile/manufactured home park or subdivision on which a mobile/manufactured home has incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the mobile/manufactured home is at or above **one (1) foot** above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provision of Section 30.9.2(F).

(H.) Require that mobile/manufactured homes to be placed or substantially improved on sites in an existing mobile/manufactured home park or subdivision within special flood hazard areas on the community's FIRM that are not subject to the provisions of Section 30.9.2(G) be elevated so that either:

1. The lowest floor of the mobile/manufactured home is at or above **one (1) foot** above the base flood elevation, or
2. The mobile/manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 30.9.2(F).

30.9.3 Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall either (i) be on the site for fewer than 180 consecutive days between April 1 and October 31 and be fully licensed and ready for highway use, or (ii) meet the permit requirements and the elevation and anchoring requirements for "mobile/manufactured homes" of this regulation. 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. Recreational Vehicles which do not meet the elevation and/or the anchoring requirements shall not be allowed on any site between November 1 through March 31.

30.9.4 Located within the areas of special flood hazard established in Section 30.4.1 are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones:

(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 community's FIRM (at least two feet if no depth number is specified).

(B.) All new construction and substantial improvements of non-residential structures

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 community'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 the base flood 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 30.6.8.

(C.) Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

30.10 FLOODWAY OVERLAY DISTRICT

30.10.1 PERMITTED USES

Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other regulation. The following are possible uses in the Floodway District:

(A) Open space uses not requiring a closed building, such as agricultural cropland, livestock feeding and grazing, or open public and private recreation areas.

(B) Wire fences or other appurtenances may be constructed which would not constitute an obstruction or debris-catching obstacle to the passage of flood waters.

(C) Railroads, streets, bridges, public utility wire and pipelines for transmission and local distribution.

(D) Commercial excavation of materials from pits, strips, or pools; provided, that no stockpiling of materials, products or overburden shall be such as to create a potential restriction to the passage of flood waters.

(E) Non-restrictive improvements in stream channel alignment, cross section, and capacity in the normal maintenance thereof.

(F) Uses of a type not appreciably damaged by flood waters; provided, no structures for human habitation shall be permitted, except recreational vehicles under the conditions provided below.

1. *For the Flood Plain District Regulations only*, a "structure for human habitation" shall mean any room or enclosed floor space, constructed or built which may wholly or partially be used or intended to be used for living, sleeping, or cooking; specifically excludes camping tents which may be readily and easily moved.

(G) Recreational vehicles may be placed on sites within the special flood hazard areas on the community's official map and shall be on the site for fewer than 180 consecutive days between April 1 and October 31 and be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions. In all cases, the recreational vehicle must comply with the requirements of Section 30.9. Recreational Vehicles shall not be allowed on any site between November 1 through March 31.

30.11 STANDARDS FOR THE FLOODWAY OVERLAY DISTRICT

The uses enumerated above shall only be permitted if certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during occurrence of the base flood discharge. These uses are subject to the standards of Section 30.8 and 30.9. In Zone A unnumbered, obtain, review and reasonably utilize any flood elevation and floodway data available through Federal, State or other sources or of this regulation, in meeting the standards of this section.

30.12 APPEAL

30.12.1 An applicant may appeal the County Board of Commissioner's decision on a Flood Plain Development Permit to the District Court .

30.13 NONCONFORMING USE IN A FLOOD FRINGE (FF) OR FLOODWAY (FW) DISTRICT

30.13.1 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 structure or use shall be expanded, changed, enlarged or altered in a way which increases its nonconformity.

(B.) If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this regulation. The applicable utilities shall be contacted by the Sarpy County Planning Director to verify instances of nonconforming uses where utility services have been discontinued for a period of 12 months.

(C.) Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

(D.) When any nonconforming use or structure is destroyed, by any means, including flood, it shall not be reconstructed when the cost of reconstruction exceeds 50 percent of the market value of the structure before the damage occurred (except that if the structure 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.

30.14 PENALTIES FOR VIOLATION

Violation of the provisions of this section 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 according to Nebraska Revised Statutes Section 23-114.05 (Reissue 2007). Nothing herein contained shall prevent the County Board of Commissioners or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy the violation. Each day such violation continues shall be considered a separate offense.

30.15 AMENDMENTS

The regulations, restrictions, and boundaries set forth in this regulation may from time to time be amended, supplemented, changed, or appealed 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 Sarpy County. At least 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.

The regulations of this section 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.

SECTION 31 - CD CONSERVATION DEVELOPMENT OVERLAY DISTRICT

31.1 PURPOSE AND APPLICATION

The CD Conservation Development Overlay District allows the use of conservation techniques by which new residential developments permanently designate a portion of the total parcel to open space conservation areas. Conservation development standards are encouraged to be used in any development district to preserve significant environmental features on specific sites, and encourage innovative development design. However, within the Policy Tier 8A on Figure 4.5 Policy Tiers, as described in the Sarpy County Comprehensive Plan, compliance with these Conservation Development requirements is mandatory for all subdivisions.

Master Planned Developments are excluded from this requirement, but are encouraged to follow the Conservation Development techniques. Master Planned Developments are generally defined as developments that exceed 160 acres, have hard surfaced roads, and have community water systems and/or community wastewater systems.

31.2 PROCESS

Conservation developments follow the subdivision approval procedures outlined in the Subdivision Regulations, establishing the process for preliminary and final plat approval.

31.3 PERMITTED DENSITY YIELD

The gross density of conservation developments is set forth by their underlying zoning districts. For the purposes of making any computations under Section 31.3, the result of all equations which are not whole numbers shall be rounded down to the nearest whole number.

Permitted yield in housing units (Y) is calculated by the formula:

$$Y=\frac{(TA)}{SA}$$

Where:

TA = Total parcel area

SA = Minimum site area per unit for conservation development permitted by the underlying zoning district.

31.4 MINIMUM AMOUNT OF OPEN SPACE CONSERVATION AREA

31.4.1 Conservation Areas as Open Space: The minimum amount of open space for the Conservation Development Overlay District is 40%.

31.4.1 Open space areas shall be in the form of outlots.

31.4.2 The location of open space shall be consistent with the policies contained in Sarpy County's Comprehensive Development Plan, and with the recommendations contained in this section. Examples of conservation areas that should be considered for preservation include:

(A) A 100-foot deep greenway buffer along all water bodies and watercourses, and a 50-foot greenway buffer alongside wetlands soils classified as "very poorly drained" in the medium intensity county soil survey of the USDA Natural Resources Conservation Service.

(B) Wetlands not included in the National Wetlands Inventory.

(C) 100-year floodplains.

(D) Tree canopy, individual specimen trees, or small stands of significant trees.

(E) Aquifer recharge areas and areas with highly permeable ("excessively drained") soil.

(F) Significant wildlife habitat areas.

(G) Class I and Class II farmlands.

(H) Historic, archaeological or cultural features listed (or eligible to be listed) on the National Register of Historic Places, or on inventories developed by the Nebraska State Historical Society.

(I) Slopes of a gradient that significantly complicate construction or development of a site.

(J) Land with soils that do not support residential development.

(K) Native or original growth prairie.

31.5 LOCATION STANDARDS FOR OPEN SPACE

31.5.1 ACCESS TO RESIDENTIAL LOTS

Open space shall abut the largest practicable number of lots within a conservation subdivision. To achieve this, the subdivision should be designed so that a maximum number of house lots abut undivided open space in order to provide direct views.

31.5.2 INTERCONNECTION OF OPEN SPACES

Protected open spaces in each new subdivision are encouraged to adjoin each other when feasible, ultimately forming an interconnected network of Conservation Areas across the county.

31.6 SPECIAL PROCESSES FOR CONSERVATION DEVELOPMENTS

The review and approval process for conservation developments is the same as that for conventional subdivisions, as set forth by Sarpy County's Subdivision Regulations. Additional provisions and approval processes are set forth in this section.

31.6.1 EXISTING FEATURES PLAN

Each subdivision shall submit an Existing Features Plan, analyzing each site's special features are required for all proposed conservation developments.

The Existing Features Plan shall form the basis for the Conceptual Preliminary Plat, which shall show the tentative location of houses, streets, lot lines, and greenway lands in the new subdivision, according to the four-step process described in the following.

31.6.2 CONCEPTUAL PRELIMINARY PLAN

A sketch plan or a Conceptual Preliminary Plan shall be submitted for all proposed subdivisions to the Planning Director before submission of a formal preliminary plat

application. A Conceptual Preliminary Plan presents a conceptual layout for greenway and open lands, house sites, and street alignments. Each Conceptual Preliminary Plan shall follow a four-step design process, as described below. Applicants shall be prepared to demonstrate to the Planning Director that these four design steps were followed in the preparation of the plan.

(A) *Step One: Designating the Open Space.* During the first step, all potential conservation areas are identified, using the Existing Features Plan, as referenced in Section 31.6.1.

(B) *Step Two: Location of House Sites.* During the second step, potential building envelopes are located. Subdivision applicants shall identify building envelopes on the Conceptual Preliminary Plan and on preliminary and final plats. On lots where there are Conservation Easements, the building setbacks shall be measured from the Conservation Easement encroachment lines.

(C) *Step Three: Street and Lot Layout.* The third step consists of aligning proposed streets to provide vehicular access to each house in the most reasonable and economical way. When lots and access streets are laid out, they shall be located in a way that avoids or at least minimizes adverse impacts on the Conservation Areas.

(D) *Step Four: Lot Lines*. The fourth step is to draw in the lot line (where applicable). These are generally drawn midway between house locations and may include L-shaped "flag lots" meeting the County's minimum standards for the same.

(E) *Review and Comments.* The Planning Director shall return written comments on the Conceptual Preliminary Plan to the applicant within 30 days of submittal. These comments should recommend changes to be made prior to submittal of a Preliminary Plat application.

31.7 OWNERSHIP AND MAINTENANCE OF COMMON OPEN SPACE

Section 31.7 provides for both the mandatory and voluntary preservation of common open space. When provided, such common open space within a development shall be owned, administered, and maintained by any of the following methods, either individually or in combination, and subject to approval by the County.

31.7.1 OFFER OF DEDICATION

Sarpy County or the Papio-Missouri River Natural Resources District shall have the first and last offer of dedication of undivided open space in the event said land is to be conveyed. Dedication shall take the form of a fee simple ownership. The County or other public agency may, but shall not be required to accept undivided open space provided: (1) such land is accessible to the residents of the county; (2) there is no cost of acquisition other than any costs incidental to the transfer of ownership such as title insurance; and (3) the county agrees to and has access to maintain such lands. Alternatively, a public agency may accept an easement, subject to the above conditions.

31.7.2 HOMEOWNERS ASSOCIATION

The undivided open space and associated facilities may be held in common ownership by a homeowners' association. The association shall be formed and operated under the following provisions:

(A) The developer shall provide a description of the association, including its bylaws and methods for maintaining the open space.

(B) The association shall be organized by the developer and shall be operated with financial assistance from the developer, before the sale of any lots within the development.

(C) Membership in the association is mandatory for all owners of lots therein and their successors.

(D) The association shall be responsible for maintenance of insurance and taxes on undivided open space, enforceable by liens placed by the county on the association. The association may place liens on the homes or house lots of its members who fail to pay their association dues in a timely manner. Such liens may require the imposition of penalty interest charges.

(E) The members of the association shall share equitably the costs of maintaining and developing such undivided open space. Shares shall be defined within the association bylaws.

(F) In the event of a proposed transfer, within the methods here permitted, of undivided open space land by the homeowners' association, or of the assumption of maintenance of undivided open space land by a public agency, notice of such action shall be given to all property owners within the development.

(G) The homeowners' association may lease open space lands to any other qualified person, or corporation, for operation and maintenance of open space lands.

31.7.3 CONDOMINIUMS

The undivided open space and associated facilities may be controlled through the use of condominium agreements. Such agreements shall be in conformance with the state statute. All undivided open space land shall be held as a "common element."

31.7.4 TRANSFER OF EASEMENTS TO A PRIVATE CONSERVATION ORGANIZATION

An owner may transfer easements to a private, nonprofit organization, among whose purposes it is to conserve open space and /or natural resources, provided that:

(A) The organization is acceptable to the County, and is a bona fide conservation organization with perpetual existence;

(B) The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions; and

(C) A maintenance agreement acceptable to the County is entered into by the developer and the organization.

31.7.5 PRIVATE OWNERSHIP

Some open land may be maintained in private ownership, subject to deed restrictions and/or easements acceptable to the Sarpy County Attorney that maintain land in an open, undisturbed state. Such agreements shall provide a mechanism for the management of these permanent open spaces.

31.8 MAINTENANCE STANDARDS

31.8.1 FINANCIAL RESPONSIBILITY

The ultimate owner of the open space (typically a homeowners' association) shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space through annual dues, special assessments, or other methods. The homeowners' association shall be authorized under its bylaws to place liens on the property of residents who fall delinquent in payment of such dues or assessments.

31.8.2 MAINTENANCE ENFORCEMENT

In the event that the association or any successor organization shall, at any time after establishment of a development containing undivided open space, fail to maintain the undivided open space in reasonable order and condition in accordance with the development plan, the County shall serve written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the undivided open space in reasonable condition.

(A) Failure to adequately maintain the undivided open space in reasonable order and condition constitutes a violation of these regulations.

(B) Should any bill or bills for maintenance of undivided open space by the County is unpaid, a late fee of fifteen percent shall be added to such bills and a lien shall be filed against the property in the same manner as other county jurisdictional claims.

31.9 EVALUATION CRITERIA

In evaluating the layout of lots and open space, the following criteria will be considered by the Planning Commission and County Board as indicating design appropriate to the site's natural, historic, and cultural features, and meeting the purpose of these regulations:

(A) Protection of floodplains, wetlands, and steep slopes from clearing, grading, filling, or construction except as may be approved for essential infrastructure or active or passive recreation amenities.

(B) Preservation and maintenance of tree canopy, native prairie, and significant wildlife habitat areas and sufficient buffer areas to minimize conflicts between residential and agricultural uses.

(C) Maintenance of buffers adjacent to wetlands and surface waters, including creeks, streams, springs, lakes and ponds.

(D) Design around existing tree lines between fields or meadows, and minimal impacts on large woodlands (greater than five acres), especially those containing many mature trees or a significant wildlife habitat.

(E) Design around and preserves sites of historic, archaeological, or cultural value, including stone walls, barn foundations, cellar holes, earthworks, and burial grounds as determined by the National Register of Historic Places, or on inventories developed the Nebraska State Historical Society.

(F) Protection of rural character and improvement of public safety and vehicular carrying capacity by avoiding development fronting directly onto existing public roads.

(G) Landscaping of common areas if appropriate.

(H) Provision of active or passive recreational areas in suitable locations that offer convenient access by residents and adequate screening from nearby house lots.

(I) Inclusion of a pedestrian circulation system providing access between properties, activities, or special features within the neighborhood open space system. All roadside footpaths should connect with off-road trails.

(J) Provision of open space that is reasonably contiguous, avoiding fragmented open spaces.

SECTION 32 – HC HIGHWAY CORRIDOR OVERLAY DISTRICT

32.1 PURPOSE

The HC Highway Corridor Overlay District provides basic guidelines that promote quality design along the most visible and heavily traveled road corridors in the Sarpy County zoning jurisdiction: Highway 370, Highway 50, Interstate 80, Platteview Road, Highway 31, and Highway 75. The HC Highway Corridor Overlay District is intended to: Encourage development design that strengthens the physical character and image of Sarpy County; Support the value of property and quality of development and major highway corridors; set basic requirements for good site design and development, building design, landscaping, and signage without discouraging creativity and flexibility in design; permit safe and convenient transportation access and circulation for motorized and non-motorized vehicles, and for pedestrians; manage the impact of commercial and industrial development on adjacent residential neighborhoods.

The uses permitted in the HC (Highway Corridor Overlay District) shall be the same as those permitted by the underlying base zoning district except as provided by this section. The following uses shall be prohibited within the HC (Highway Corridor Overlay District):

1. Self-Service car wash operations that constitute the primary use;
2. Hazardous waste storage, as primary use;
3. Industrial uses as defined by Section 24, except by a special use permit,
4. Mobile home, modular home, and manufactured home sales, but not including the sales of recreational vehicles, except by special permit,
5. Mobile home parks;
6. Pawn shops;
7. Salvage or junk yard operations and transfer stations, as a primary use;
8. Tow lots, as a primary use;

32.2 HC HIGHWAY CORRIDOR OVERLAY DISTRICT BOUNDARIES

The HC Highway Corridor Overlay District applies to the following areas:

32.2.1 Land within one-quarter (1/4) mile of the centerline of Highway 370 within the planning jurisdiction of Sarpy County;

32.2.2 Land within one-quarter (1/4) mile of the centerline of Highway 50 from the northern extra-territorial planning jurisdiction boundary of the City of Springfield north to one-quarter (1/4) mile north of Highway 370;

32.2.3 Land within one-quarter (1/4) mile of the right-of-way lines of Interstate 80 from the Platte River boundary line of Sarpy county to one-half (1/2) mile north of Highway 370;

32.2.4 Land within one-quarter (1/4) mile of the center line of Platteview Road within the planning jurisdiction of Sarpy County;

32.2.5 Land within one-quarter (1/4) mile of the center line of Highway 31 within the planning jurisdiction of Sarpy County;

32.2.6 Land within one-quarter (1/4) mile of the center line Highway 75 within the planning jurisdiction of Sarpy County.

32.3 PROJECT APPLICATION AND EXCEPTIONS

The HC Highway Corridor Overlay District, its development guidelines, and other provisions, apply to the following:

Any new development requiring a building permit built on land within the boundaries of the HC Highway Corridor Overlay District after the effective date of this Regulation, except any land that was platted prior to March 9, 2004; provided however, that land within the boundaries of the HC Highway Corridor Overlay District that was zoned other than agricultural prior to March 9, 2004, that was part of a Phased Development shall also be excepted. Replats, lot line adjustments, and lot consolidations of such platted properties shall remain excepted. Phased Developments shall mean property that was, at a minimum, preliminary platted and at least a part of the property within the preliminary plat was final platted.

The requirements of the HC Highway Corridor Overlay District do not apply to any rehabilitation, repair, addition(s) or enlargement(s) of a building in place or under construction on a site as of the effective date of this Regulation, provided that the cumulative gross floor area of any addition(s) does not exceed 50% of the gross floor area of the pre-existing building(s). The requirements of the HC Overlay District do not apply to replacement of building in place or under construction on a site as of the effective date of this regulation necessitated by casualty loss.

32.4 DESIGN GUIDELINES FOR COMMERCIAL AND OFFICE USES

32.4.1 Site Design Guidelines

(A) BUILDING LOCATION AND ORIENTATION

1. Facades with principal entrances shall be oriented to the project's primary street or to an active pedestrian or public zone within the site. For multi-tenant buildings, at least 50% of the entrances shall be oriented to the primary street or pedestrian or public zone. Facades with principal customer entrances may be turned perpendicular to the primary street if they provide a direct pedestrian connection from a public sidewalk to the major customer entrance without interruption by vehicular traffic. The primary street for a development is Highway 370, Highway 50, Interstate 80, Platteview Road, Highway 31, or Highway 75 or a collector street that fronts the development. When the development has two primary streets, the site plan shall determine orientation.
2. Developments at intersections shall identify or emphasize their corners with significant landscaping or similar public feature.
3. A clearly delineated pathway or route should connect all principal building or business entrances to any sidewalks or trails on streets adjacent to the project.

(B) PEDESTRIAN ACCESS

1. Developments shall provide a continuous walkway connection at least 5 feet in width from the public sidewalk to the customer entrances of all principal buildings on the site. Developments adjacent to multi-use trails shall provide a direct connection from the trail to the development's internal pedestrian circulation system. For trails that are proposed in the county's comprehensive plan, trail master plan, or other adopted county document but are not yet constructed, the development plan shall make provisions for a connection to the trail, and shall be responsible for constructing the connection when the trail becomes available.

2. Multi-building developments shall provide clear and safe walkways at least 5 feet in width that connect all buildings on the site. Buildings not intended for routine customer access or intended solely for drive-up services are excluded from this requirement.
3. Where the required walkways specified in this section cross drives, parking aisles, or other vehicular ways, the crosswalks shall be distinguished from driving surfaces by the use of durable, low-maintenance surface materials such as concrete or brick pavers; scored, colored concrete; or painted concrete.
4. Pedestrian connections to adjacent developments should be provided.

(C) VEHICULAR ACCESS

1. Developments should make maximum use of internal cross-easements and shared access points when possible.
2. Main driveways and drive aisles shall provide a continuous system that connects to the main site entrance.
3. Commercial developments are encouraged to provide means of access to residential areas that avoid requiring residents to use arterial streets for short-distance trips. Such connections must be designed to avoid channeling commercial traffic onto residential streets outside of comprehensively planned, mixed use projects.
4. When possible, shared service and delivery access should be provided between adjacent parcels and buildings.

(D) PARKING

1. Parking shall be grouped into parking blocks that are divided by pedestrian paths, landscaping, or buildings.
2. A maximum of 400 parking stalls may be located in any one parking block.

(E) SIGNS

1. Attached signs shall be located above the building entrance, storefront opening, or at other locations that are compatible with the architectural features of the building.
2. All lots abutting the designated highways shall use monument or ground signs, except that commercial uses within 660 feet of the Interstate 80 right-of-way shall be permitted one pole sign per premises. These pole signs where permitted shall have a maximum height of 80 feet. Lots not abutting the designated highway are allowed pole signs as regulated by Section 40 of the Sarpy County Zoning Regulation.
3. A landscaped base area shall be provided for monument or ground signs appropriate to the mass and height of the sign. All areas within 5 feet of the base of any sign shall be landscaped. The landscaped area may include trees, shrubs, flowering perennials, ornamental tall grass, fountains, water features, decorative stonework, planters, sculpture, decorative paving, turf grass, loose stone, and mulch.

(F) SCREENING

1. Developments shall provide year-round screening of outdoor storage, utility meters, HVAC equipment, trash collection and processing. Utility meters, HVAC, and Trash collection and processing shall be screened to its full vertical height. Outdoor storage shall provide 75% of the vertical plane of this feature up to a height of 8 feet. Trash enclosure gates shall furnish a steel frame with decorative steel or wood covering, or another design acceptable to the Planning Director. Chain-link fencing with inlaid wood or metal slats shall not be considered acceptable. Screening shall be integrated into the overall design of buildings and landscaping and fully contain the visual impact of these service functions from adjacent public streets and neighboring properties.

(G) LIGHTING

1. All lighting used to illuminate an off-street parking area, sign or other structure shall be arranged so as to deflect light away from any adjoining residential property through fixture type and location. When lighting is mounted to the underside of canopies, these lights shall be recessed so that the visible light source is no lower than the plane of the underside of the canopy.
2. The maximum height of lighting standards shall be 45 feet, unless the County grants a specific exception as part of the application approval process.
3. Exterior lighting of buildings shall be limited to low-level incandescent spotlights, floodlights, and similar illuminating devices hooded in such a manner that the direct beam of any light sources will not glare upon adjacent property or public streets. The County may approve exceptions to these requirements for sports and athletic field lighting, flagpole lighting, public street lighting, temporary lighting for seasonal/holiday or special events, and lighting used for public safety.

32.5. ARCHITECTURAL GUIDELINES

32.5.1 Site Design Guidelines

(A) MASS AND SCALE FOR BUILDINGS OVER 40,000 SQUARE FEET

1. Variations in the vertical plane of the building shall be incorporated into the mass of the building at significant entrances or along walls that front plazas or other significant pedestrian features. Methods of variation may include towers, pediments, or façade articulations or variations; changes in the horizontal plane; or enhancements in color and materials, consistent with the overall design of the building.
2. Primary building facades shall meet one of the following guidelines:
   a) Facades greater than 100 feet shall incorporate projections or recesses in the wall plane.
   b) Facades greater than 100 feet shall display a pattern of color change, texture change, material change, or expression of structural bays with an offset of at least 12 inches from the ruling plane of the facade.
3. The Sarpy County Board of Commissioners may waive these guidelines if the applicant demonstrates an alternative building design that in the Board's opinion provides visual interest and scale to the building. An Architectural Review Committee shall review and provide recommendations concerning application to

waive these guidelines. The Architectural Review Committee shall consist of the Planning Director, a Planning Commission Member, an architect/engineer, and a commercial real estate developer along with an alternative for each position all to be selected by the Planning Director and appointed by the County Board of Commissioners.

(B) ARCHITECTURAL ELEMENTS

1. Front facades facing a primary street shall have visible, clearly defined customer entrances that include at least three of the following elements: canopies or porticos, overhangs, recesses or projections, arcades, raised cornice parapets over the entrance door, distinctive roof forms, arches, outdoor patios or plazas, display windows, or integral planters.
2. Front facades shall utilize variations in color, horizontal planes, materials, patterns, height, or other techniques to provide visual interest and scale to buildings.
3. All rear and side facades abutting an arterial or collector shall use a simplified expression of the materials and design used on the front facade.

(C) BUILDING MATERIALS

1. Permitted exterior building materials shall be high quality, durable materials that include, but are not limited to, brick; native or manufactured stone (Renaissance stone or similar masonry materials); integrally colored, burnished, split faced, rock faced, textured, or glazed concrete masonry units; pre-finished architectural metal panel systems; quality metals such as copper; high quality pre-stressed concrete systems; and drainable (water managed) Exterior Insulated Form System (EIFS).
2. Materials on all sides of the building shall be compatible with materials on the front façade.
3. These guidelines are not intended to inhibit creativity and innovation in building design. The Architectural Review Committee may permit the use of other materials, if the applicant demonstrates that the use of such materials will result in a building that gives a sense of quality and permanence.

(D) ROOF FORMS

1. Buildings with flat or slightly sloped roofs to drain shall incorporate parapets on all facades that face a public street or residential district. Variations in parapet height and articulation of cornice lines may be used to add interest.
2. Roof forms shall be designed to express various building functions or features, such as entrances.
3. Visible roof materials shall include clay or concrete tile, split shakes, tern metal, architectural grade asphalt shingles, architectural metals, copper, natural or synthetic slate, or similar durable materials.

32.6 DESIGN GUIDELINES FOR INDUSTRIAL USES

32.6.1 Site Design Guidelines

(A) BUILDING LOCATION AND ORIENTATION

1. To the maximum degree possible, the arrangement of buildings on a site shall screen operational and loading areas from view abutting highway corridor streets.
2. Buildings with customer entrances shall orient such entrances toward the primary access street.
3. Accessory structures shall not front a primary access street and shall be oriented away from public streets, open space, or residential areas.
4. Buildings shall be arranged and oriented so that loading docks, outdoor storage, trash collection and processing, HVAC equipment, truck parking and servicing areas and other service functions are not visible from Highway 50, Highway 370, or Interstate 80, Platteview Road, Highway 31, and Highway 75 except where surrounding topographic features prevents concealment. Site designs shall maximize the amount of landscaping in street yards along these highways. This standard may be met by building and site orientation, site design, and/or landscaped screening that blocks the view of such areas from the highway corridors. Customer and employee parking areas are permitted in these street yards, subject to other provisions of this regulation.

(B) VEHICULAR ACCESS

1. To the maximum degree possible, access routes for automobiles and trucks shall be distinguished from one another.
2. Drives and access points shall be directed away from residential areas.

(C) PARKING

1. Signage and site design shall distinguish employee and visitor parking areas from truck loading and servicing areas when the project is sufficiently large to make such separation functionally necessary.
2. Landscaping shall be used to direct vehicles through the site, distinguish between automobile and truck service areas, manage storm water, and break up the size of large impervious automobile parking areas.

(D) SIGNS

1. Attached signs shall be integrated into the design of the building elevation.
2. All new industrial development lots abutting the designated highways shall use monument or ground signs, except that industrial development directly adjacent to or within 660 feet of the Interstate 80 right-of-way shall be permitted one pole sign per premises. These pole signs where permitted shall have a maximum height of 80 feet. Lots not abutting the designated highway are allowed pole signs as regulated by Section 39 of the Sarpy County Zoning Regulation.

(E) SCREENING

1. Developments shall provide year-round screening of outdoor storage, utility meters, HVAC equipment, trash collection and processing. Utility meters, HVAC,

and Trash collection and processing shall be screened to its full vertical height. Outdoor storage shall provide 75% of the vertical plane of this feature to a height of 8 feet. Trash enclosure gates shall furnish a steel frame with decorative steel or wood covering, or another design acceptable to the Planning Director. Chain-link fencing with inlaid wood or metal slats shall not be considered acceptable. Screening shall be integrated into the overall design of buildings and landscaping and fully contain the visual impact of these service functions from adjacent public streets and neighboring properties.

2. All rooftop mechanical equipment shall be screened. Acceptable methods of screening include parapet walls or a free-standing screen of a material and color consistent with the building. Screens shall be at least the same height as the equipment they conceal.

(F) LIGHTING

1. All lighting used to illuminate off-street parking areas, signs or other structures shall be arranged so as to deflect light away from any adjoining residential property through fixture type and location.
2. The maximum height of lighting standards shall be 45 feet, unless the County grants a specific exception as part of the application approval process.
3. Exterior lighting of buildings shall be limited to low-level incandescent spotlights, floodlights, and similar illuminating devices hooded in such a manner that the direct beam of any light sources will not glare upon adjacent property or public streets. The County may approve exceptions to these requirements for sports and athletic field lighting, flagpole lighting, public street lighting, temporary lighting for seasonal/holiday or special events, and lighting used for public safety.

32.6.2 Architectural Guidelines

(A) MASS AND SCALE

1. For buildings with office areas that exceed 3,000 square feet, the mass of the office portion of a building shall be distinguished from the mass of the industrial operations portion of the building. Office and/or public entrances shall be distinguished by elements that provide both identification and scale to the development. Techniques include but are not limited to the use of canopies or porticos, overhangs, changes in horizontal plane, variations in façade height and design, arches, peaked or special roof forms, and changes in materials.

(B) BUILDING MATERIALS

1. Permitted exterior building materials on primary exposure facades shall be high quality, durable materials that include, but are not limited to, brick; native or manufactured stone (Renaissance stone or similar masonry materials); integrally colored, burnished, split faced, rock faced, textured, or glazed concrete masonry units; pre-finished architectural metal panel systems; quality metals such as copper; high quality pre-stressed concrete systems; architecturally treated tilt-up concrete panels; and drainable (water managed) EIFS. Primary exposure facades shall include any façade that is oriented to Highway 370, Highway 50, or Interstate 80, Platteview Road, Highway 31, and Highway 75 and all building facades that intersect a façade oriented to these highway corridors for a distance of 200 feet back from such intersection; and any façade oriented to a public open space, or residential area.

2. Smooth-faced concrete block, tilt-up concrete, pre-engineered metal buildings, and standard single- and double-tee concrete systems shall be permitted only on facades that are not primary exposure facades as defined above.
3. These guidelines are not intended to inhibit creativity and innovation in building design. The County Board of Commissioners may permit the use of other materials if the applicant demonstrates that the use of such materials will result in a building that gives a sense of quality and permanence. Before permitting other materials, the County Board shall first receive the recommendation of the Architectural Review Committee, in the same manner as described in 32.5.2(3) herein.

(C) ROOF FORMS

1. Visible roof materials shall include clay or concrete tile, split shakes, pre-finished metal, architectural grade asphalt shingles, architectural metals, copper, natural or synthetic slate, or similar durable materials.

SECTION 33 – BTA BUILD-THROUGH ACREAGE OVERLAY DISTRICT

33.1 PURPOSE

The purpose of this chapter is to provide a mechanism that permits short-term acreage development in portions of the Sarpy County planning jurisdiction that will receive urban services within a relatively long-term future. It is intended to allow property owners the opportunity to realize a reasonable return on their property and to accommodate a continuing demand for acreage development in Sarpy County, without obstructing future urban development. It also provides for the eventual transition of the previously developed acreage subdivision to higher densities when the extension of urban services occurs.

The BTA District is intended to be a zoning overlay district, and will generally be used in combination with the AGR Agricultural Residential, RE2 Residential Estates II, or RE1 Residential Estates I zoning districts.

33.2 APPLICATION

All property designated as BT per the Sarpy County Comprehensive Development Plan Matrix Table #4.11 shall be required to develop under this overlay district. The Build Through Acreage development plan should incorporate Fig. 5.2 (Trails) and Fig. 6.3 (Transportation) into the plan.

33.3 DEVELOPMENT AS BUILD THROUGH ACREAGES

All new subdivisions developed under this chapter shall be developed as BTA Build Through Acreages, in accordance with the provisions and requirements of this Section and the Subdivision Regulations.

33.4 PERMITTED USES

Uses permitted in a BTA Overlay District are those permitted in the underlying zoning district.

33.5 ACREAGE DEVELOPMENT

A BTA Development must be a minimum of 40 acres to qualify.

Landowners developing a BTA Development shall set aside sixty percent (60%) of the property for future urban development.

The 60% set aside shall have a deed restriction disallowing any further subdivision of the parcel until community water and sewer is provided to the property. Additionally new construction of any structure on the set aside is prohibited until community water and sewer is provided to the property. However, additions may be allowed onto existing structures within the set aside provided any addition meets the zoning regulation and building code requirements. The 40% to be developed into acreages shall be allowed the density permitted in Matrix Table #4.11 of the Sarpy County Comprehensive Development Plan.

A subdivision within the Build Through designation shall provide future sanitary sewer trunk line easements and construction easements for the sewer as designated using the most recent final report of the *Study Report on Water Quality Related to Water and Wastewater Systems*. If the study does not indicate any trunk line easements, the engineers for the project shall determine the future locations of any sanitary sewer trunk lines or out-fall sewers and provide easements along with the necessary construction easements for them.

33.6 FORMS AND ELEMENTS OF THE DEVELOPMENT PLAN WITHIN THE BTA OVERLAY

All new residential developments in the BTA Overlay District must be approved as a legally binding development plan. All applications for preliminary and final plats shall also follow the requirements and procedures set forth by the Sarpy County Subdivision Regulations.

SECTION 34 - NUISANCE REGULATIONS

34.1 DUTIES OF THE DIRECTOR OF PLANNING

The Director of Planning and his/her duly-authorized assistants shall be authorized and directed to enforce the provisions of these regulations and of the County's duly-adopted building code.

The Director of Planning shall be in immediate charge of the work of the staff of the Building and Inspection Department, he shall supervise the approval of all applications and plans submitted for the purpose of obtaining permits therefore, and shall direct all inspection work. He shall have full power to pass upon any questions arising upon the provisions or out of any provision of the zoning regulations of the County, and any building code which may be adopted by the County under its jurisdiction, subject to the conditions, modifications and limitations contained therein.

The Director of Planning or his/her assistants shall inspect any building upon which complaints are filed by any citizen, or representative of law enforcement, alleging a violation of the provisions of the zoning regulations or the International Building Code, or if said violation seems apparent upon casual observation from a public right-of-way or area generally open to the public. Where it appears the erection or alteration of any building, structure, or part thereof does not meet the intent of this code, he or she shall take steps to cause the building owner to modify the building to meet this code.

Upon presentation of proper credentials, the Director of Planning and/or his/her assistants may enter at reasonable times any building, structure or premises within the jurisdictional area of the County’s zoning regulations and perform any duty imposed upon him or her by this chapter, or the County's building or zoning regulations.

The actions described in Chapter 1 of the International Building Code, as the same may be adopted by the County and as may be amended from time to time, are hereby authorized for all sections of these regulations and the County's zoning regulations. In the event of any conflict between the County Zoning Regulations and the duly adopted International Building Code, the County Zoning Regulations shall supersede.

34.2 DEFINITION OF NUISANCE

For the purposes of this chapter, a nuisance exists when a person fails to perform a duty or permits any condition or thing to exist, which act, omission, condition or thing either:

(A) Injures or endangers the comfort, repose, health or safety of others; or

(B) Causes any building or structure to be found unsafe or unfit for occupancy, use, or any building or structure which is liable to fall or collapse from inherent structural weakness, or as the result of fire, decay, or otherwise, in which the owner refuses to repair in accordance with the provisions of this chapter and the County's building code, or any structure which has deteriorated from any cause to the extent of 50% of the cost of a similar new building above the foundations; or

(C) Is offensive to the senses; or

(D) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, alley, highway, sidewalk, stream, ditch or drainage; or

(E) In any way renders other persons insecure in life or the use of property; or

(F) Essentially interferes with the quiet enjoyment of life and property, or tends to depreciate the value of the property of others; or

(G) The maintaining, using, placing, depositing, leaving or permitting to be or remain on the public or private property of any of the following items, conditions or actions is hereby declared to be and to constitute a nuisance; however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

1. Any condition which provides harborage for rats, mice, snakes and other vermin.
2. Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a fire hazard in the vicinity where it is located.
3. All unnecessary or unauthorized noises and annoying vibrations, including, but not limited to, non-agricultural animal noises.
4. Disagreeable or obnoxious gases, odors and/or fumes, as well as the conditions, substances or other causes which give rise to the emission or generation of such gases, odors and/or fumes, except for agricultural uses.
5. The dressed or undressed carcasses of fish, animals, or fowl, wild game or domestic, not disposed of, processed, or removed from the general public view.
6. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
7. Any building, structure or location wherein or upon which any activity which is in violation of local, state of federal law is conducted, performed or maintained.
8. Any accumulation of stagnant water permitted or maintained on any lot or property.
9. Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.
10. Any method of human excretion disposal which does not conform to the provisions of this chapter, state law or city regulation, rule or regulation.
11. Leaking or defective water pipes, sewer pipes, hydrants, cisterns, wells, gutters, drains, rain spouts or seepage in or about any structure used for human occupancy or the surrounding earth.
12. Any abandoned or open wells, cisterns or cellars.
13. The discharge of any filthy or offensive water, swill, liquid or waste from any commercial establishment into or on any street, alley, sidewalk, gutter, vacant lot, stream or river.
14. The parking or storage of any vehicle or machine or parts thereof in violation of any zoning code, state statute or federal law.
15. Every other act or thing done, made, permitted, allowed or continued on any property, whether public or private, detrimental to the health or likely to injure any of the inhabitants of the County or its extraterritorial jurisdiction.

34.3 CITIZENS COMPLAINT

All complaints shall be submitted to the Director of Planning in writing. Such written complaints shall be kept on file as a matter of public record.

34.4 DANGEROUS STRUCTURES

It shall be unlawful for any person to continue the use or occupancy of any building or structure in which violations of the provisions of these regulations are found to exist to such an extent as would make the building or structure dangerous for occupancy and use until changes, alterations or repairs ordered by the Director of Planning or his/her assistants shall have been made.

Whenever the occupancy or use of a building or portion thereof becomes dangerous to life or limb by reason of imminent or actual failure or collapse, the Director of Planning or his/her assistants may order the immediate vacation of such building, or part of the building, or adjacent building found to be unsafe until such dangerous condition is corrected.

Any building or other structure, or other pertinent apparatus in, upon, or about the building or structure, found, either in whole or in part, to be structurally unsafe or dangerous in case of or as a result of fire, panic, tornado, wind, lightening, deterioration, flood or other cause, or which is insufficient in any way for the purpose for which it is intended to be used, shall be made safe and secure by the owner, agent, lessee or occupant of such building or other structure within the time set forth in the written notice from the Director of Planning.

If the owner, agent, lessee or occupant of any building or structure found to be unsafe for occupancy or use or otherwise in violation of the provisions of this code shall fail to make such changes, alterations or repairs in the time set forth in the notice of the violation, and no extension of time has been procured, the Director of Planning shall report such violations to the County Attorney's Office for proper legal action.

Where immediate action is deemed necessary to protect life or limb, the Director of Planning or his/her assistants may cause an unsafe or dangerous building or structure, appurtenance, appliance or apparatus, or any portion thereof, to be taken down or repaired. The cost of taking down or repairing the building or structure under the provisions of this section, in an amount of a certified bill of all expenses incurred by the Director of Planning or his/her assistants, shall be collected in the same manner provided for in Section 31.6.

The Director of Planning shall placard every building or structure found to be unsafe or unfit for occupancy or use under the provisions of these Regulations. Such placard shall be placed on the exterior near the building entrance and shall set forth that such building or structure is unsafe or unfit for occupancy.

34.5 CREATION OF A NUISANCE

It shall be unlawful for any person to cause, permit, maintain or allow the creation of a nuisance.

34.6 PENALTIES FOR VIOLATIONS

Any violations to provisions of these Regulations shall be a misdemeanor pursuant to Nebraska Revised Statutes §23-114.05 (Reissue 1997), as the same may be amended, and subject to a penalty of up to three (3) month's imprisonment and a $500 fine or both. Each day any violation continues after notice of the violation has been given may be considered a separate offense.

34.7 NOTICE TO ABATE NUISANCE

Whenever a nuisance is found to exist within the County, the Director of Planning shall give written notice to those interested persons for the property upon which such nuisance exists or upon the person causing or maintaining the nuisance. For the purpose of this regulation, interested persons are: 1) the owner of record of the property, as determined by the records of the Sarpy County Assessor; 2) any occupant or lessee of the property found on the property; 3) any person who files a written claim of interest in the property with the Director of Planning.

The notice to abate a nuisance issued under the provisions of these Regulations, unless otherwise specifically provided in a subsequent article, shall contain:

(A) An order to abate the nuisance.

(B) A procedure available to the interested persons for the purpose of convening a hearing on the sufficiency of the notice and/or the requirement to abate the alleged nuisance.

(C) The location of the nuisance, if the same is stationary.

(D) A description of what constitutes the nuisance.

(E) A statement of acts necessary to abate the nuisance.

(F) A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the County shall abate such nuisance and assess the cost thereof against such interested person or the property.

The notice to abate a nuisance shall be served in the manner as a summons in a civil case may be served pursuant to law.

Upon receipt of a request for hearing or upon the failure to obey the order to abate or remedy the nuisance, the Director of Planning shall set a hearing date and shall fix the time and place at which interested persons of the building may appear and show cause as to why such building, structure, condition or use shall not be condemned as a nuisance.

The Director of Planning or his/her assistants shall immediately notify or cause to be notified, the interested persons of any building or structure or property declared to be a nuisance under the provisions of these regulations, in writing, wherein the hearing has been set, setting therein the date, time and place that the interested persons may appear and show cause why the County should not condemn such building, structure or property as a nuisance.

The notice of hearing provided for by this section shall be given not less than fifteen (15) days prior to the time of the hearing; provided that whenever the person or entity required to be given notice cannot be found, then the Director of Planning shall publish in the official legal newspaper such notice for two consecutive weeks, the last publication being at least one week prior to the date of the hearing. Hearings may be continued for up to twenty-one (21) days in order for adequate service to be properly given.

Upon the date fixed for hearing as provided by this subsection, and for which proper notice has been given, the Director of Planning or his/her assistants shall hear all objections made by the interested persons of the building, structure, property or use declared to be a nuisance, as well as evidence submitted by the Director of Planning or other person interested.

If, after consideration of all of the evidence produced, the Director of Planning or his/her duly-authorized assistant shall find that the building or structure is a nuisance under the provisions of

these Regulations, he/she shall make an order directing the interested person to abate the nuisance or cause the building to be torn down and removed. The order shall state that the interested person has fifteen (15) days to appeal to the County Board of Commissioners, and that if no appeal is taken by the time, the order shall become effective at that time and will be final.

In the event that the interested person does not appear at the hearing, then the Director of Planning or his/her duly-authorized assistant shall order such nuisance abated or the building or structure to be torn down and removed, and shall notify the interested persons, in writing, of this order and advising that if an appeal is not made the County Board of Commissioners within fifteen (15) days, such order shall become effective at that time and will be final.

After a building or structure has been declared a nuisance under the provisions of these Regulations and ordered torn down by the Director of Planning or his/her duly-authorized assistant, it shall be unlawful for any person to begin to use and/or occupy or to continue to use and/or occupy such building or structure. The Director of Planning or his/her duly-authorized assistant shall place upon such building or structure a placard setting forth that such building or structure has been condemned and declared unsafe for use and/or occupancy.

Should the interested persons refuse or neglect to promptly comply with the order to tear down and remove a building or structure condemned as a nuisance under the provisions of these Regulations, or place the premises in a safe condition, the Director of Planning or his/her duly-authorized assistant shall proceed with the tearing down and removal of such building or structure, and/or removal from the premises of the remaining debris, and shall place the premises in a safe condition.

34.8 ABATEMENT OF NUISANCE

Upon the failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of these Regulations to abate the same, the Director of Planning shall proceed to abate such nuisance and shall prepare a statement of the actual costs incurred in the abatement thereof and shall deliver same for payment upon said person.

Any and all costs incurred by the County in the abatement of a nuisance under the provisions of these Regulations shall constitute a lien against the property upon which such nuisance existed. In the event a vehicle or parts thereof create the nuisance, said costs may also create a lien upon the vehicle or parts thereof, which lien or liens shall be filed, proven and collected as provided for by law. Such lien(s) shall be notice to all persons from the time of its recording, and shall bear interest at the legal rate thereafter until satisfied.

The Director of Planning or his/her duly-authorized assistant shall sell, dispose of, and remove from the premises of a building or structure declared to be a nuisance under the provisions of these Regulations all materials, rubbish and debris resulting from the abatement and removal of such nuisance. The money so obtained shall be applied to the cost of such work. Any balance remaining after payment of all costs shall be applied on payment of any taxes and special assessments due and unpaid against such property. Any balance remaining thereafter shall be paid to the owner.

Any unpaid balance of the cost of abating and removing a building or structure declared to be a nuisance shall be provided for by resolution of the County Board of Commissioners from whatever fund is available or seems advisable, setting aside a sum specified by the Director of Planning or his/her duly-authorized assistant as required to pay such balance of cost. This cost, together with all expenses incurred in determining and levying the lien, shall be levied against the lot or tract of land upon which the building or structure is situated in the manner as provided by law for the

assessment and levy of other special taxes. The lien so levied shall become due and payable immediately, then delinquent fifty (50) days thereafter, and shall bear interest at the same rate provided by state law for interest on delinquent special assessments.

34.9 **APPEAL**

Whenever the Director of Planning or his/her duly-authorized assistant makes a written determination and order as provided in Section 34.7, the owner, lessee, occupant or mortgagee of record may appeal from such determination and order to the County Board of Commissioners by filing with the County Clerk written objections to said determination and order, within fifteen (15) days from the date of the determination and order. The written objections shall set forth the location of the property and all grounds for the objections.

Upon receipt of such written objections to the determination and order, the County Board of Commissioners shall set a hearing date and shall immediately notify the Director of Planning or his/her duly-authorized assistant and the objectors in writing that the hearing has been set before the County Board of Commissioners, stating therein the date, time and place of the hearing and that the parties are to appear before the County Board of Commissioners to be heard on such matter. The County Board of Commissioners shall hear the testimony of the objectors and the Director of Planning and other interested parties; and after such hearing, the County Board of Commissioners may affirm, modify, or reverse the determination of the Director of Planning or his/her duly-authorized assistant.

SECTION 35 - SUPPLEMENTARY REGULATIONS

35.1 GENERAL YARD REGULATIONS

35.1.1 The ordinary projections from buildings including eaves, sills, cornices, or other similar architectural features may project or extend not more than 2 feet into a required yard.

35.1.2 Every part of a required yard or court shall be opened from its lowest point to the sky, unobstructed, except for ordinary projection of sills, belt courses, cornices, ornamental features, and eaves; provided, that none of the above projections shall project into a court more than six inches nor into a side yard more than twenty-four inches.

35.1.3 Open or enclosed fire escapes, fireproof outside stairways, or balconies shall not project into a yard more than five feet or into a court more than three and one-half feet, and the ordinary projection of chimneys and flues may be permitted by the Director of Planning where the same are so placed as not to obstruct the light and ventilation.

35.2 FRONT YARD

35.2.1 Where 30 percent or more of the block front is improved with buildings, then no part of any new building shall project beyond a line joining the two adjacent corners of the existing buildings on either side thereof, except that no building shall be required to provide a front yard greater than 40 feet, in any event. Where an official line has been established for future widening or opening of a street upon which lots abut, then the depth of a front or side yard shall be measured from such official line.

35.2.2 In any case where the block front improved with buildings amounts to less than 30 percent of the total number of lots, including vacant lots, on one side of the street between two intersecting streets, the required minimum front yard of the district shall be observed.

35.2.3 On through lots, running from street to street, both streets shall be considered front streets.

35.3 YARD REQUIREMENTS ON CORNER LOTS

35.3.1 In the case of a corner lot, the owner shall, for the purpose of these regulations, have the privilege of electing any street line as the front lot line, as long as, in the opinion of the Director of Planning, that choice will not be injurious to the development of adjoining properties.

(A) On any corner lot in a residence zone, the least width of any side yard along the street lot line shall not be less than one half (1 /2) of the sum of the minimum side and front yards required.

(B) On any corner lot in a business zone, the minimum width of the side yard on the street side shall be ten (10) feet.

35.4 YARD REQUIREMENTS ALONG ZONE BOUNDARY LINES

35.4.1 Where a lot adjoins a lot in a more restricted zone, any adjoining side yard of such lot shall have a width at least equal to the required minimum side yard in the more restricted zone. Any adjoining front yard shall have a depth at least equal to the minimum required depth of the front yard in the more restricted zone.

35.5 BUILDING HEIGHT

35.5.1 The height regulations shall not apply to, church spires, belfries, monuments, farm buildings, flag poles, tanks, grain storage bins, elevator legs, silos, water and fire towers, stage towers, or scenery lofts.

35.5.2 Amateur radio towers:

(A) Radio towers, antennas and other appurtenances operated by licensed amateur radio operators, here permitted and when, may not exceed 75 feet in height. This height has been determined by the County to reasonably accommodate amateur service communications, and further represents the minimum practicable regulation to accomplish legitimate land use regulation purpose, as recognized under published guidelines of the Federal Communications Commission.

(B) Special instances may require that amateur radio tower heights exceed 75 feet to achieve effective and reliable communications. In such cases, the County may grant a special use permit to a licensed amateur radio operator for a specific tower height that exceeds 75 feet. In determining whether to grant such permission, the County shall consider the federal guidelines contained in PRB-1 (Amateur Radio Preemption), 101 FCC 2d (1985); codified at CFR Section 97.15(e).

(C) Such radio towers shall not be located within any front yard of the primary use.

35.5.3 Certain uses may require additional height on a case by case basis. A special use permit may be granted to increase the height of hotels/motels, recreational facilities, hospitals, wind energy generation systems, and civic uses. Recognizing that the increase in height may be appropriate in some areas and not in others the County Board of Commissioners may review a request for increased height when an applicant for any of the aforementioned uses utilizes the special use permit process outlined in Chapter 41 of the Zoning Regulations.

35.6 BUILDING AREA; LOT COVERAGE

35.6.1 All buildings, including accessory buildings on any lot, shall not cover more than forty percent of the area of such lot, outlot, or parcel if in a Residential District, nor more than seventy-five percent if in any other district.

35.7 GENERAL PROVISIONS

35.7.1 Every building hereafter erected or structurally altered for commercial or industrial purposes in the Commercial Districts or in the Industrial Districts shall provide adequate facilities for the loading and unloading of merchandise and goods in compliance with all of the district regulations established by these Regulations for the district in which the building or land is located.

35.7.2 No building or premises in any part of the County shall be used for any trade, industry, or purpose that is noxious or offensive by reasons of the emission of odor, dust, smoke, gas, fumes, or noise that is detrimental to the public health, safety, and welfare.

35.7.3 No unsightly buildings shall be erected of old materials nor shall buildings or houses be allowed to remain in an unfinished condition in any District, except an Agricultural District, for a period of more than 180 days. It shall be unlawful to allow building materials or brick

to be stored on any lot or lots in said residential districts except for building on said lot or to permit or allow any debris to be stored upon any lot in said districts.

35.8 FENCES AND RETAINING WALLS

No fence or retaining wall (three feet in height or more) shall be constructed within the zoning jurisdiction of the County unless a permit therefore is approved and issued by the building inspector and is constructed in conformance with the following requirements:

35.8.1 The height limitation for fences and retaining walls in residential zoning districts shall be six feet above ground level except as provided herein:

(A) A fence or retaining wall constructed within a sight triangle or front yard of a residential lot or vegetation used as a barrier, screen, or fence shall be open (at least 50% of the surface area in open spaces), shall not exceed 36 inches in height.

(B) If the property is a corner lot, as defined in Section 44 of these regulations, a fence constructed within a side yard along the side lot line which is adjacent to a street shall not exceed four feet in height. However, a fence with a maximum height of six feet may be constructed in this area provided it is set back a minimum of 5 feet from the property line adjacent to the street.

(C) Fences constructed along and parallel to lot lines separating a residential lot from property located in a Commercial or Industrial District shall be a minimum of six feet and shall not exceed eight feet in height.

(D) Fences constructed along and parallel to rear and side lot lines adjoining major streets, as designated by the Nebraska Department of Roads, shall not exceed eight feet in height.

(E) Fences or retaining walls in a Commercial or Industrial District shall have a maximum height of 8 feet. However, a greater height may be approved by Special Use Permit where it is demonstrated that for security purposes or due to particular site characteristics it is warranted.

35.8.2 No fence, wall, vegetation or obstruction to vision considered in the judgment of the Director of Planning or certified by the Sheriff's Department to be hazardous to vehicular safety shall be placed or maintained within the sight triangle.

35.8.3 Fences Surrounding Pools: Every outdoor pool shall be completely surrounded by a fence or wall not less than 60 inches in height, which shall be so constructed as not to have openings, holes, or gaps larger than 4 inches in any dimension except for doors and gates; and if a picket fence is erected or maintained, the horizontal dimension shall not exceed 4 inches. A dwelling or accessory building may be used as part of such enclosure.
All gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching device located at least 45 inches above grade level for keeping the gate or door securely closed at all times, except that the door of any dwelling which forms a part of the enclosure need not be so equipped. The provisions of this section shall be applicable to all outdoor pools which have a depth of 24 inches as regulated under the International Plumbing Code. No person either as owner, purchaser, lessee, tenant or licensee, in control of the property having such pool shall fail to provide and maintain such fence or wall as herein provided.

35.8.4 Hot tub/Spa Enclosure: Every outdoor spa shall be equipped with a rigid cover and be covered at all times when not in use or an enclosure shall be provided that complies with Section 35.8.3.

35.8.5 Electric Fences. No above ground electric fence shall be constructed or maintained within the County zoning jurisdiction except in the Agricultural Farming District (AG), Agricultural Development District (AGD), and Agricultural Residential District (AGR) provided they are not adjacent to a residential zoning district (RE, RS, RD, RG, or RMH). An owner or lessee of such property may, upon application to the County and approval by the Building Inspector, maintain electrified fencing provided same shall not be energized to the extent that it is capable of causing bodily harm to persons, be they children or adults, or to animals.

35.8.6 The finished surfaces of any fence shall face toward adjacent properties and street frontage. Fence posts and supporting structure, when visible on one side and not the other or more visible on one side than the other, should face inward. The Planning Director may make a determination as to which side of a fence is the finished surface.

35.8.7 All fences shall be maintained in good repair.

35.8.8 Any existing fence constructed pursuant to a permit issued and approved by the County which was in conformity with the prior provisions of this Section, may remain without change in accordance with this section notwithstanding same may be in conflict with one or more provisions of this section as amended; provided, however, any replacement or change of said existing fence or addition of a new fence, must hereby meet the requirements of this section as amended hereby.

35.9 CREEK SETBACK REQUIREMENTS

35.9.1 No person shall be granted a permit for the construction of any structure, exclusive of bank stabilization structures, poles or sign structures adjacent to any creek or stream unless such structure is located so that no portion thereof is any closer to the stream than will allow a maximum three-to-one slope plus 50 feet between the water's edge of the stream and the closet point on the structure at grade. As used here, the edge of water of the stream shall be that point constituting the edge of the water during normal flow conditions.

A property shall be exempt from the provision of the above requirement upon a showing by a registered professional engineer that adequate bank stabilization structures or slope protection will be installed in the construction of said structure, having an estimated useful life equal to that of the structure, which will provide adequate erosion control conditions coupled with adequate lateral support so that no portion of said structure adjacent to the stream will be endangered by erosion or lack of lateral support. In the event that the structure is adjacent to any stream which has been channelized or otherwise improved by any agency of government, then such certification providing an exception to the above requirement may take the form of a certification as to the adequacy and protection of the improvements installed by such governmental agency.

35.10 PUBLIC SAFETY RADIO AMPLIFICATION SYSTEMS (TOWERS)

35.10.1 GENERAL

Except as otherwise provided, no person shall maintain, own, erect, construct, remodel, renovate, or provide an addition of more than twenty (20) percent to, any building or structure or any part thereof or cause the same to be done which fails to support adequate radio coverage for the Sarpy County Radio Communications System (SCRCS), including but not limited to emergency service workers, firefighters and police officers. Descriptively, adequate coverage means the ability for SCRCS users to transmit into the building an intelligible voice signal that may be heard; the ability to receive an intelligible voice signal transmitted and originating from within the building; and, the ability to transmit and receive intelligible voice signals among users who are within the building. For purposes of this section, adequate radio coverage shall include all of the following:

(A) A minimum received signal strength in the building of one (1) micro volts (-107 dBm) available in ninety (90) percent of the area of each floor when transmitted from the SCRCS;

(B) A minimum signal strength of one (1) micro volts (-107 dBm) received by the SCRCS when transmitted from ninety (90) percent of the area of each floor of the building;

(C) The frequency range that must be supported shall be 806 MHz to 869 MHz; and,

(D) A ninety (90) percent reliability factor shall be required.

35.10.2 TESTING PROCEDURES

Initial Tests: It will be the building owner's responsibility to have the building tested to ensure that two-way coverage on each floor of the building is a minimum of ninety (90) percent. At a minimum, the test shall be conducted using a Motorola MTS 2000, or equivalent portable radio, talking through the SCRCS. Radios may be obtained for conduct of the tests from the Sarpy County Communications Department (SCCD). The gain values of all amplifiers shall be measured and the test measurement results shall be provided to the SCCD and kept on file so that the measurements can be verified each year during the annual tests. The SCCD will be informed of the schedule for such testing, and, at its discretion may participate as an observer. A Certificate of Occupancy shall not be issued to any structure if the building fails to comply with this section. **Annual Tests**: The building owner shall be responsible to conduct annual tests. Such tests shall follow the guidance outlined in paragraph 35.12.1 (General) and 35.12.2 (Initial Tests) above.

35.10.3 AMPLIFICATION SYSTEMS ALLOWED

Buildings and structures that cannot support the required level of radio coverage shall be equipped with any of the following in order to achieve the required adequate radio coverage: a radiating cable system or an internal multiple antenna system with or without FCC accepted bi-directional amplifiers as needed. If used, bi-directional amplifiers shall include filters to reduce adjacent frequency interference at least 35 dB below the National Public Safety Planning Advisory Committee (NPSPAC) band. The filters shall be tuned to 825 MHz and to 870 MHz so that they will be 35 dB below the NPSPAC frequencies of 824 MHz and 869 MHZ respectively. Other settings may be used provided that they do not attenuate the NPSPAC frequencies and further provided that they are not more than one

(1) MHz from the NPSPAC frequencies. If any part of the installed system or systems contains an electrically powered component, the system shall be capable of operating on an independent battery and/or generator system for a period of at least twelve (12) hours without external power input. The battery system shall automatically charge in the presence of an external power input.

35.10.4 FIELD TESTING

SCCD personnel, after providing reasonable notice to the owner or his representative, shall have the right to enter onto the property to conduct field testing to be certain the required level of radio coverage is present.

35.10.5 EXEMPTIONS

This section shall not apply to: buildings permitted in residential districts; any building constructed of wood frame; any building thirty five (35) feet high or less; as long as none of the aforementioned buildings make use of any metal construction or any underground storage or parking areas. For purposes of this section, parking structures and stairwells are included in the definition of "building" and stair shafts are included in the definition of "all parts of a building", but elevators may be excluded.

35.11 HOME OCCUPATIONS

The following are the minimum standards required for a home occupation:

35.11.1 EXTENT OF USE

No more that 30% of the home may be used for the home occupation, except for a Child Care Facility. This percentage is inclusive of any detached accessory buildings used for the home occupation as well.

35.11.2 EXTERNAL EFFECTS

(A) There shall be no external evidence of the home occupation with the exception of vehicles as allowed under Section 35.11.3 and signage as allowed under Section 35.11.4.

(B) No noise, vibration, smoke, odor, heat, glare, or bright lights shall be noticeable at or beyond the property line.

(C) Any on-site operations of the home occupation shall be carried on entirely within the principal residential structure and/or within a detached accessory structure built in compliance with these zoning regulations. All external effects criteria in Subsection 35.11.2 (A), (B), (C), (D), (E), and (F) of this section are applicable for the detached structure as well.

(D) Mechanical or electrical equipment supporting the home occupation shall be limited to that which is self-contained within the structure and normally used for office, domestic or household purposes.

(E) No exterior storage of materials, equipment or other inventory is permitted.

(F) No home occupation shall discharge into any sewer, drainage way or the ground any material which is radioactive, poisonous, detrimental to normal sewer plant operation or corrosive to sewer pipes and installations.

35.11.3 EMPLOYEES, VEHICLES AND EQUIPMENT

(A) In Residential Districts, including the AGR Agricultural Residential District, a home occupation shall employ no more than one full-time or one part-time employee traveling to or from the premises other than the residents of the dwelling unit. One off-street parking space in addition to those otherwise required by the residential use must be made available and used by that non-resident employee.

(B) In Residential Districts, including the AGR Agricultural Residential District, not more than two (2) business vehicles or one (1) employee vehicle may be parked outside or adjacent to the home occupation property at any one time; provided only one said vehicle may be allowed to park on street right-of-way. Personal vehicles of occupants of the residential dwelling shall not be included in the count of number of business or employee vehicles.

(C) Construction or maintenance equipment shall not be stored on the property other than in an enclosed garage or accessory building.

(D) Deliveries or service by commercial vehicles or trucks over 10 tons gross empty weight is prohibited for any home occupation located on a minor street.

(E) Additional off-street parking may be required for the home occupation.

35.11.4 SIGNAGE/ADVERTISING

(A) No signage advertising the home occupation may be allowed except for the following:

1. one unlighted nameplate of not more than two (2) square feet in area may be attached flat against the building if located on a local or collector street.
2. one unlighted nameplate of not more than four (4) square feet in area may be attached flat against the building if located on an arterial street.

(B) Advertising displays and advertising devises displayed through a window of the building shall not be permitted.

(C) There shall be no radio, television, newspaper, handbills, internet or similar types of advertising linking the address of the dwelling premises with the home occupation

35.11.5 OTHER REQUIREMENTS

(A) All contact by the public with the home occupation business shall be by appointment only.

(B) A Special Use Permit is required, except for Home Occupation II (see definitions) uses.

(C) Child Care Facilities shall require a certificate (CRED 9911) signed by the State of Nebraska Fire Marshall.

SECTION 36 - WIRELESS TOWER REGULATIONS

36.1 PURPOSE AND LEGISLATIVE INTENT

The Telecommunications Act of 1996 affirmed Sarpy County's authority concerning the placement, construction and modification of Wireless Telecommunications Facilities. Sarpy County finds that Wireless Telecommunications Facilities may pose significant concerns to the health, safety, public welfare, character and environment of the County and its inhabitants. The County also recognizes that facilitating the development of wireless service technology can be an economic development asset to the County and of significant benefit to the County and its residents. In order to insure that the placement, construction or modification of Wireless Telecommunications Facilities is consistent with the County's land use policies, the County is adopting a single, comprehensive, Wireless Telecommunications Facilities application and permit process. The intent of this Local Regulation is to minimize impact of Wireless Telecommunication Facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of Sarpy County.

36.2 TITLE

This regulation shall be known and cited as the Sarpy County Wireless Telecommunications Facilities Siting Regulation.

36.3 SEVERABILITY

(A) If any word, phrase, sentence, part, section, subsection, or other portion of this Regulation or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such work, phrase, sentence, part section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this Regulation, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

(B) Any Special Use Permit issued under this Regulation shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the Permit shall be void in total, upon determination by the County Board.

36.4 DEFINITIONS

For purposes of this Regulation, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number the plural number. The word "shall" is always mandatory, and not merely directory.

Accessory Facility or **Structure** means an accessory facility or structure serving or being used in conjunction with Wireless Telecommunications Facilities, and located on the same property or lot as the Wireless Telecommunications Facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.

Applicant means any Wireless service provider submitting an Application for a Special Use Permit for Wireless Telecommunications Facilities.

Application means all necessary and appropriate documentation that an Applicant submits in order to receive a Special Use Permit for Wireless Telecommunications Facilities.

Antenna means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.

County Board means the Sarpy County Board of Commissioners.

Co-location means the use of an existing Tower or structure to support Antennae for the provision of wireless services. A replacement tower that is constructed on the same site as an existing tower will be considered a co-location as long as the new tower is no taller than the old tower and that the old tower is removed in a reasonable short time frame after the new tower is constructed.

Commercial Impracticability or **Commercially Impracticable** means the inability to perform an act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be "commercially impracticable" and shall not render an act or the terms of an agreement "commercially impracticable".

Completed Application means an Application that contains all information and/or data necessary to enable an informed decision to be made with respect to an Application.

County means the local political subdivision described as Sarpy County as set forth in State Statutes. When the term County is used to refer to a geographic area, it shall denote any areas within the County boundaries excluding areas within the extra territorial zoning jurisdiction of any City or Village within the County.

Director of Planning means the Sarpy County Director of Planning.

FAA means the Federal Aviation Administration, or its duly designated and authorized successor agency.

FCC means the Federal Communications Commission, or its duly designated and authorized successor agency.

Height means, when referring to a Tower or structure, the distance measured from the pre-existing grade level to the highest point on the Tower or structure, even if said highest point is an Antenna or lightening protection device.

Modification or Modify means, the addition, removal or change of any of the physical and visually discernible components or aspects of a wireless facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernible components, vehicular access, parking and/or an upgrade or change out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a Telecommunications Tower or Telecommunications Site as a co-location is a modification. A Modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.

NIER means Non-Ionizing Electromagnetic Radiation

Person means any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.

Personal Wireless Services or **PWS** or **Personal Telecommunications Service or PCS** shall have the same meaning as defined and used in the 1996 Telecommunications Act.

Planning Commission means the Sarpy County Planning Commission.

Repairs and Maintenance means the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without the addition, removal or change of any of the physical or visually discernible components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted.

Special Use Permit means the official document or permit by which an Applicant is allowed to file for a building permit to construct and use Wireless Telecommunications Facilities as granted or issued by the County Board.

State means the State of Nebraska.

Stealth or Stealth Technology means to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

Telecommunications means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems

Telecommunication Site See definition for Wireless Telecommunications Facilities

Telecommunications Structure means a structure used in the provision of services described in the definition of 'Wireless Telecommunications Facilities'

Temporary means, temporary in relation to all aspects and components of this Regulation, something intended to, or that does not exist for more than ninety (90) days.

Tower means any structure designed primarily to support an antenna for receiving and/or transmitting a wireless signal.

Wireless Telecommunications Facilities means and includes a **Telecommunications Site** and **Personal Wireless Facility.** It means a structure, facility or location designed, or intended to be used as, or used to support Antennas or other transmitting or receiving devices. This includes without limit, Towers of all types and kinds and structures, including, but not limited to buildings, church steeples, silos, water towers, signs or other structures that can be used as a support structure for Antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, Personal Communications Services (PCS), commercial satellite services, microwave services and any commercial wireless telecommunication service not licensed by the FCC.

36.5 OVERALL POLICY AND DESIRED GOALS FOR SPECIAL USE PERMITS FOR WIRELESS TELECOMMUNICATIONS FACILITIES

In order to ensure that the placement, construction, and modification of Wireless Telecommunications Facilities protects the County's health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in the Regulation, the County Board hereby adopts an overall policy with respect to a Special use Permit for Wireless Telecommunications Facilities for the express purpose of achieving the following goals:

36.5.1 Requiring a Special Use Permit for any new, co-location or modification of a Wireless Telecommunications Facility.

36.5.2 Implementing an Application process for person(s) seeking a Special Use Permit for Wireless Telecommunications Facilities.

36.5.3 Establishing a policy for examining an application for and issuing a Special Use Permit for Wireless Telecommunications Facilities that is both fair and consistent.

36.5.4 Promoting and encouraging, wherever possible, the sharing and/or co-location of Wireless Telecommunications Facilities among service providers.

36.5.5 Promoting and encouraging, wherever possible, the placement, height and quantity of Wireless Telecommunications Facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

36.5.6 That in granting a Special Use Permit, the County Board has found that the facility shall be the most appropriate site as regards to being the least visually intrusive among those available in the County.

36.6 EXCEPTIONS FROM A SPECIAL USE PERMIT FOR WIRELESS TELECOMMUNICATION FACILITIES

36.6.1 No person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of, Wireless Telecommunications Facilities as of the effective date of this Regulation without having first obtained a Special Use Permit for Wireless Telecommunications Facilities. Notwithstanding anything to the contrary in this section, no Special use Permit shall be required for those non-commercial exceptions noted in Section 36.7.

36.6.2 All legally permitted Wireless Telecommunications Facilities, constructed as permitted, existing on or before the effective date of this Regulation shall be allowed to continue as the presently exist, provided however, that any visible modification of an existing Wireless Telecommunications Facility will require the complete facility and any new installation to comply with this Regulation.

36.6.3 Any repair and maintenance of a Wireless Facility does not require an Application for a Special Use Permit.

36.7 EXCLUSIONS

The following shall be exempt from this Regulation:

36.7.1 The Sarpy County Sheriff's Department, Communications Department and other public service facilities owned and operated by the local government.

36.7.2 Any facilities expressly exempt from the County's siting, building and permitting authority.

36.7.3 Over-the-Air reception devices including the reception antennas for direct broadcast satellites (DBS), multichannel multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception.

36.7.4 Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial Telecommunications.

36.7.5 Facilities exclusively for providing unlicensed spread spectrum technologies (such as IEEE 802.11a, b, g (Wi-Fi) and Bluetooth) where the facility does not require a new tower.

36.8 SPECIAL USE PERMIT APPLICATION AND OTHER REQUIREMENTS

36.8.1 All applicants for a Special use Permit for Wireless Telecommunications Facilities or any modification of such facility shall comply with the requirements set forth in this Regulation. The County Board is the officially designated agency or body of the County that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting or revoking Special Use Permits for Wireless Telecommunications Facilities. The County Board has decided that the Planning Commission shall review, analyze, evaluate and make recommendations to the County Board with respect to the granting or not granting or revoking Special use Permits for Wireless Telecommunications Facilities.

36.8.2 All applications for a Special use Permit for Wireless Telecommunications Facilities or any modification of such facility shall be filed with the Director of Planning.

36.8.3 The Director of Planning, Planning Commission and County Board may reject applications not meeting the requirements stated herein or which are otherwise incomplete.

36.8.4 No Wireless Telecommunications Facilities shall be installed, constructed or modified until the Application is reviewed and approved by the Planning Commission and the County Board, and the Special Use Permit has been issued.

36.8.5 Any and all representations made by the Applicant to the Director of Planning, Planning Commission and the Count Board on the record during the Application process, whether written or verbal, shall be deemed a part of the Application and may be relied upon in good faith by the County Board.

36.8.6 An Application for a Special Use Permit for Wireless Telecommunications Facilities shall be signed on behalf of the Applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information.

36.8.7 The Applicant must provide documentation to verify it has the right to proceed as proposed on the Site. This would require an executed copy of the lease with the landowner or landlord or a signed letter acknowledging authorization. If the applicant owns the site, a copy of the ownership record is required.

36.8.8 The Applicant shall include a statement in writing:

(A) That the applicant's proposed Wireless Telecommunications Facilities shall be maintained in a safe manner, and in compliance with all the conditions of the Special Use Permit, without exception, unless specifically granted relief by the County Board in writing, as well as all applicable and permissible local codes, and regulations, including any and all applicable County, State and Federal Laws, rules, and regulations.

(B) That the construction for the Wireless Telecommunications Facilities is legally permissible, including, but not limited to the fact that the Applicant is authorized to do business in the State.

36.8.9 Where a certification is called for in the Regulation, such certification shall bear the signature and seal of a Registered Professional Engineer licensed this the State.

36.8.10 In addition to all other required information as stated in the Regulation, all applications for the construction or installation of new Wireless Telecommunications Facilities or modification of an existing facility shall contain the information hereinafter set forth

(A) A descriptive statement of the objective(s) for the new facility or modification including and expanding on a need such as coverage and/or capacity requirements;

(B) Documentation that demonstrates and proves the need for the Wireless Telecommunications Facility to provide service primarily and essentially within the County. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites that demonstrate a significant gap in coverage and/or if a capacity need, including an analysis of current and projected usage;

(C) The name, address and phone number of the person preparing the report;

(D) The name, address, and phone number of the property owner and Applicant, and to include the legal name of the Applicant. If the site is a tower and the owner is different that the applicant, provide name and address of the tower owner;

(E) The postal address and tax map parcel number of the property;

(F) The Zoning District or designation in which the property is situated;

(G) Size of the property stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines;

(H) The location of nearest residential structure;

(I) The location, size and height of all existing and proposed structures on the property which is the subject of the Application;

(J) The type, locations and dimensions of all proposed and existing landscaping, and fencing;

(K) The azimuth, size and center-line height location of all proposed and existing antennae on the supporting structure;

(L) The number, type and model of the Antenna(s) proposed with a copy of the specification sheet;

(M) The make, model, type and manufacturer of the Tower and design plan stating the Tower's capacity to accommodate multiple users;

(N) A site plan describing the proposed Tower and Antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;

(O) The frequency, modulation and class of service of radio or other transmitting equipment;

(P) The actual intended transmission power stated as the maximum effective radiated power (ERP) in watts;

(Q) Signed documentation such as the "Checklist to Determine Whether a Facility is Categorically Excluded" to verify that the Wireless Telecommunication Facility with the proposed installation will be in full compliance with the current FCC RF Emissions guidelines (NIER). If not categorically excluded, a complete RF Emissions study is required to provide verification;

(R) A signed statement that the proposed installation will not cause physical or RF interference with other telecommunications devices;

(S) A copy of the FCC license applicable for the intended use of the Wireless Telecommunications Facilities;

(T) A copy of the geotechnical sub-surface soils investigation, evaluation report and foundation recommendation for a proposed or existing Tower site and if existing Tower or water tank site, a copy of the installed foundation design.

36.8.11 The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the proposed new Tower or existing structure intended to support wireless facilities is in compliance with Federal Aviation Administration Regulation Part 77 and if it requires lighting. This requirement shall also be for any existing structure or building where the application increases the height of the structure or building. If this analysis determines, that an FAA determination is required, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided with the application.

36.8.12 Application for a new tower

(A) In the case of a new Tower, the Applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing Tower(s) or the use of alternative buildings or other structures within the County. Copies of written requests and responses for shared use shall be provided to the County in the Application, along with any letters of rejection stating the reason for rejection.

(B) The Applicant shall examine the feasibility of designing the proposed Tower to accommodate future demand for at least four (4) additional commercial applications, for example, future co-locations. The Tower shall be structurally designed to accommodate at least four (4) additional Antenna Arrays equal to those of the Applicant, and located as close to the Applicant's Antenna as possible without causing interference. This requirement may be waived, provided that the Applicant, in writing, demonstrates that the provisions of future shared usage of the Tower is not

technologically feasible, is commercially impracticable or creates an unnecessary and unreasonable burden, based upon:

1. The foreseeable number of FCC licenses available for the area;
2. The kind of Wireless Telecommunications Facilities site and structure proposed
3. The number of existing and potential licenses without Wireless Telecommunications Facilities spaces/sites;
4. Available space on existing and approved Towers.

(C) The owner of a proposed new Tower, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed Tower by other Wireless service providers in the future, and shall:

1. Respond within 60 days to a request for information from a potential shared-use Applicant;
2. Negotiate in good faith concerning future requests for shared use of the new Tower by other Telecommunications providers;
3. Allow shared use of the new Tower if another Telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the Tower or equipment to accommodate a shared user without causing electromagnetic interference.
4. Failure to abide by the conditions outlined above may be grounds for revocation of the Special Use Permit.

36.8.13 The Applicant shall provide certification with documentation (structural analysis) including calculations that the Telecommunication Facility Tower and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, County, State and Federal structural requirements for loads, including wind and ice loads.

36.8.14 If proposal is for a co-location or modification on an existing Tower, the applicant is to provide signed documentation of the Tower condition such as an ANSI report as per Annex E, Tower Maintenance and Inspection Procedures, ANSI/TIA/EIA-222F or most recent version. The inspection report must be performed every three (3) years for guyed tower and five (5) years for monopoles and self-supporting towers.

36.8.15 All proposed Wireless Telecommunications Facilities shall contain a demonstration that the Facility be sited so as to be the least visually intrusive as reasonable possible, given the facts and circumstances involved and thereby have the least adverse visual effect on the environment and its character, on existing vegetation, and on the residences in the area of the Wireless Telecommunications Facility.

36.8.16 If a new Tower, proposal for a new Antenna attachment to an existing structure, or modification adding to a visual impact, the Applicant shall furnish a Visual Impact Assessment, which shall include:

(A) If a new Tower or increasing the height of an existing structure is proposed, a computer generated “Zone of Visibility Map” at a minimum of one mile radius from

the proposed structure, with and without foliage shall be provided to illustrate locations from which the proposed installation may be seen.

(B) Pictorial representations of "before and after" (photo simulations) views from key viewpoints as may be appropriate, including but not limited to State highways and other major roads; State and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided, concerning the appropriate key sites at the pre-application meeting. Provide a map showing the locations of where the pictures were taken and distance from the proposed structure.

(C) A written description of the visual impact of the proposed facility including; and as applicable the Tower base, guy wires, fencing and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.

36.8.17 The Applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the base and all related equipment and structures of the proposed Wireless Telecommunications Facility.

36.8.18 The Wireless Telecommunications Facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings, this shall include the utilization of stealth or concealment technology as may be required by the County Board.

36.8.19 All utilities at a Wireless Telecommunications Facilities site shall be installed underground and in compliance with all Laws, rules and regulations of the County, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.

36.8.20 At a Telecommunications Site, and access road, turn-around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.

36.8.21 All Wireless Telecommunications Facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the County, State, or United States, including but not limited to the most recent editions of the ANSI Code, National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.

36.8.22 A holder of a Special Use Permit granted under this Regulation shall obtain, at its own expense, all permits and licenses required by applicable Law, rule, regulation or code, and

must maintain the same, in full force and effect, for as long as required by the County or other governmental entity or agency having jurisdiction over the applicant.

36.8.23 There shall be a pre-application meeting. The purpose of the pre-application meeting will be to address issues that will help to expedite the review and permitting process. A pre-application meeting shall also include a site visit if there has not been a prior site visit for the requested site. Costs of the County's consultants to prepare for and attend the pre-application meeting will be borne by the Applicant.

36.8.24 An Applicant shall submit to the Director of Planning the number of completed Applications determined to be needed at the pre-application meeting. Written notification of the Application shall be provided to the legislative body of all municipalities within 3 miles of wireless facility by the Applicant.

36.8.25 The holder of a Special Use Permit shall notify the County of any intended modification of a Wireless Telecommunication Facility and shall apply to the County to modify, relocate or rebuild a Wireless Telecommunications Facility.

36.9 LOCATION OF WIRELESS TELECOMMMUNICATION FACILITIES

36.9.1 Applicants for Wireless Telecommunications Facilities shall locate, site and erect said Wireless Telecommunications Facilities in accordance with the following priorities, one (1) being the highest priority and nine (9) being the lowest priority:

(A) On existing Towers or other structures on County owned properties,

(B) On existing Towers or other structures on other public properties,

(C) On existing Towers or other structures on other property in the County,

(D) A new Tower on County-owned properties,

(E) A new Tower on other public properties,

(F) A new Tower on properties in areas zoned for Industrial use or designated in the Comprehensive Plan Development Structure Plan as Mixed Use or Business Park,

(G) A new Tower on properties in areas zoned for Agricultural use,

(H) A new Tower on properties in areas zoned for Residential use.

36.9.2 If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the Applicant if the permit were not granted for the proposed site.

36.9.3 An Applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. An Application shall address co-location as an option. If such option is not proposed, the Applicant must explain to the reasonable satisfaction of the Count Board why co-location is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of Commercial Impracticability or hardship.

36.9.4 Notwithstanding the above, the County Board may approve any site located within an area in the above list of priorities, provided that the Count Board finds that the proposed site is in the best interest of the health, safety and welfare of the Count and its inhabitants

and will not have a deleterious effect on the nature and character of the community and neighborhood.

36.9.5 The Applicant shall submit a written report demonstrating the Applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the Application.

36.9.6 Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the County may disapprove and Application for any of the following reasons:

(A) Conflict with safety and safety-related codes and requirements;

(B) Conflict with the historic nature or character of a neighborhood or historical district;

(C) The use or construction of Wireless Telecommunications Facilities which is contrary to an already stated purpose of a specific zoning or land use designation;

(D) The placement and location of Wireless Telecommunications Facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the County, or employees of the service provider or other service providers;

(E) Conflicts with the provisions of this Regulation.

36.10 SHARED USE OF WIRELESS TELECOMMUNICATION FACILITIES AND OTHER STRUCTURES

36.10.1 The County, as opposed to the construction of a new Tower, shall prefer locating on existing Towers or others structures without increasing the height. The Applicant shall submit a comprehensive report inventorying existing Towers and other suitable structures within two (2) miles of the location of any proposed new Tower, unless the Applicant can show that some other distance is more reasonable and demonstrate conclusively why an existing Tower or other suitable structure cannot be used.

36.10.2 An Applicant intending to locate on an existing Tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the Applicant.

36.10.3 Such shared use shall consist only of the minimum Antenna Array technologically required to provide service primarily and essentially within the County, to the extent practicable, unless good cause is shown.

36.11 HEIGHT OF TELECOMMUNCATIONS TOWERS

36.11.1 The Applicant shall submit documentation justifying the total height of any Tower, Facility and/or Antenna requested and the basis therefore. Documentation in the form of propagation studies must include all backup data used to perform at requested height and a minimum of ten (10') feet lower height to allow verification of this height need. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the County, to the extent practicable, unless good cause is shown.

36.11.2 No Tower constructed after the effective date of this Regulation, including allowing for all attachments, shall exceed that height which shall permit operation without required

artificial lighting of any kind in accordance with County, State, and/or any Federal statute, law, local law, County Regulation, code, rule or regulation.

36.12 **VISIBILITY OF WIRELESS TELECOMMUNICATION FACILITIES**

36.12.1 Wireless Telecommunications Facilities shall not be artificially lighted or marked, except as required by Law.

36.12.2 Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Regulation.

36.12.3 If lighting is required, Applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations.

36.13 **SECURITY OF WIRELESS TELECOMMUNCATION FACILITIES**

All Wireless Telecommunications Facilities and Antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

36.13.1 All Antennas, Towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and

36.13.2 Transmitters and Telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

36.14 **SIGNAGE**

Wireless Telecommunications Facilities shall contain a sign no larger than four (4) square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the Antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the Applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration site as applicable is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.

36.15 **LOT SIZE AND SETBACKS**

All proposed Towers and any other proposed Wireless Telecommunications Facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: A distance equal to the manufacturers designed fall distance rate of the proposed Tower or Wireless Telecommunications Facility structure plus ten percent (10%) of the manufacturers designed fall distance rate of the Tower or structure, or the existing setback requirement of the underlying Zoning District, whichever is greater. Any Accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

36.16 **RETENTION OF EXPERT ASSISTANCE AND REIMBURSEMENT BY THE APPLICANT**

36.16.1 The County Board may hire any consultant and/or expert necessary to assist the Director of Planning, Planning Commission and County Board in reviewing and evaluating the Application, including the construction and modification of the site, once permitted, and any site inspections.

36.16.2 An Applicant shall deposit with the County funds sufficient to reimburse the County Board for all reasonable costs of consultant and expert evaluation and consultation to the County in connection with the review of any Application including where applicable, the lease negotiation, the pre-approval evaluation, and the construction and modification of the site, once permitted. The initial deposit shall be as established in the "Master Fee Schedule for the Planning and Building Department" adopted by the County Board. The placement of the escrow funds with the County shall precede the pre-application meeting. The County will maintain a separate escrow account for all such funds. The County's consultants/experts shall invoice the County for its services related to the Application. If at any time during the process this escrow account has a balance of less than 30 percent of the initial deposit amount, the Applicant shall immediately, upon notification by the County, replenish said escrow account so that it has a balance of at least 60 percent of the initial deposit amount. Such additional escrow funds shall be deposited with the County before any further action or consideration is taken on the Application. In the event that the amount held in escrow by the County is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall, upon request of the Applicant, be promptly refunded to the Applicant.

36.16.3 The total amount of the funds needed as set forth in subsection (B) of this section may vary with the scope (lease negotiations and/or review) and complexity of the project, the completeness of the Application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.

36.17 **PUBLIC HEARING AND NOTIFICATION REQUIREMENTS**

36.17.1 Prior to the approval of any Special Use Permit for Wireless Telecommunications Facilities, Public Hearings shall be held by both the Planning Commission and the County Board, notice of which shall be published in the newspaper general circulation in of the County no less than ten (10) calendar days prior to the scheduled date of the Public Hearings and the sign posted on or near the property no less than ten (10) calendar days prior to the scheduled dates of the Public Hearings**.**

36.17.2 In order that the Planning Department shall notify all abutting landowners and landowners within 500 feet of the proposed new Wireless Telecommunications Facilities of the Planning Commission Public Hearings only, the Application shall contain the names and address of all abutting landowners whose property is abutting the lot or parcel on which the new Wireless Telecommunications Facilities are proposed to be located in addition to all landowners within 500 feet of the of the proposed new Wireless Telecommunications Facilities. Notification shall be by first class, postage pre-paid US Mail. Applicants shall also be required to pay a Mailing Fee as established in the "Master Fee Schedule for the Planning and Building Department" adopted by the County Board for this notification process.

36.17.3 Notwithstanding any other provisions of this section and all subparts thereof, the collocation and/or shared use of antennas on existing telecommunication towers or other tall structures or compatible use structures, such as utility poles, water towers, and other

towers, where there is no increase in the height of the existing structure, or for a temporary facility, not to exceed ninety (90) days: shall be exempt from the Public Hearing, Planning Commission and County Board review requirements otherwise required for a new tower or where there is a height increase proposed for the existing structure, and shall be subject only to an administrative review process by the County, its designee and wireless consultant.

36.17.4 The Director of Planning shall schedule the Public Hearings referred to in Subsection (A) of this section once the Director finds the Application is complete, the County Board, at any stage prior to issuing a Special Use Permit, may require such additional information as it deems necessary.

36.18 ACTION ON AN APPLICATION FOR A SPECIAL USE PERMIT FOR WIRELESS TELECOMMUNICATION FACILITIES

36.18.1 The Director of Planning, Planning Commission and County Board will undertake a review of an Application pursuant to this Article in a timely fashion, consistent with its responsibilities, and shall act within a reasonable period of time given the relative complexity of the Application and the circumstances, with due regard for the public's interest and need to be involved, and the Applicant's desire for a timely resolution.

36.18.2 The County Board may refer any Application or part thereof to any advisory, other committee or commission for a non-binding recommendation.

36.18.3 After the Public Hearings, upon recommendation from the Planning Commission, and after formally considering the Application, the County Board may approve, approve with conditions, or deny a Special Use Permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the granting of the Permit shall always be upon the Applicant.

36.18.4 If the County Board approves the Special Use Permit for Wireless Telecommunications Facilities, then the Applicant shall be notified of such approval in writing within ten (10) calendar days of the County Board's action, and the Special Use Permit shall be issued within thirty (30) days after such approval. Except for necessary building permits, and subsequent Certificates of Compliance, once a Special Use Permit has been granted hereunder, no additional permits or approvals from the County Board, such as site plan or zoning approvals, shall be required by the County Board for the Wireless Telecommunications Facilities covered by the Special Use Permit.

36.18.5 If the County Board denies the Special Use Permit for Wireless Telecommunications Facilities, then the Applicant shall be notified of such denial in writing within ten (10) calendar days of the County Board's action.

36.19 EXTENT AND PARAMETERS OF SPECIAL USE PERMIT FOR WIRELESS TELECOMMUNICATION FACILITIES

The extent and parameters of a Special Use Permit for Wireless Telecommunications Facilities shall be as follows:

36.19.1 Such Special Use Permit shall not be assigned, transferred or conveyed without the express prior written notification to the County Board.

36.19.2 Such Special Use Permit may, following a hearing upon due prior notice to the Applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the Special Use Permit, or for a material violation of this Regulation after prior written notice to the holder of the Special Use Permit.

36.20 APPLICATION FEE

At the time that a Person submits an Application for a Special Use Permit for a new Tower or for co-locating on an existing Tower or structure, where no increase in height of the Tower or structure is required, such Person shall pay a non-refundable application fee as established in the "Master Fee Schedule for the Planning and Building Department" adopted by the County Board.

36.21 PERFORMANCE SECURITY

The Applicant and the owner of record of any proposed Wireless Telecommunications Facilities property site shall, at its cost and expense, be jointly required to execute and file with the County Board a bond, or other form of security acceptable to the County Board as to type of security and the form and manner of execution, in an amount of at least $75,000.00 for a Tower facility and $25,000 for a co-location on an existing tower or other structure and with such sureties as are deemed sufficient by the County Board to assure the faithful performance of the terms and conditions of this Regulation and conditions of any Special Use Permit issued pursuant to this Regulation. The full amount of the bond or security shall remain in full force and effect throughout the term of the Special Use Permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that, which existed prior to the issuance of the original Special Use Permit.

36.22 RESERVATION OF AUTHORITY TO INSPECT WIRELESS TELECOMMUNICATION FACILITIES

In order to verify that the holder of a Special Use Permit for Wireless Telecommunications Facilities and any and all lessees, renters, and/or licensees of Wireless Telecommunications Facilities, place and construct such facilities, including Towers and Antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, Laws, and regulations and other applicable requirements, the Director of Planning, Planning Commission and County Board may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, Towers, Antennas and buildings or other structures constructed or located on the permitted site.

36.23 LIABILITY INSURANCE

36.23.1 A holder of a Special Use Permit for Wireless Telecommunications Facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Special Use Permit in amounts as set forth below

(A) Commercial General Liability covering personal injuries, death and property damage: $1,000,000 per occurrence/$2,000,000 aggregate;

(B) Automobile Coverage: $1,000,000 per occurrence/ $2,000,000 aggregate;

(C) Workers Compensation and Disability: Statutory amounts

36.23.2 For a Wireless Telecommunications Facility on County property, the Commercial General Liability insurance policy shall specifically include the County and its officers, Boards,

employees, committee members, attorneys, agents and consultants as additional insured's.

36.23.3 The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best's rating of at least A.

36.23.4 The insurance policies shall contain an endorsement obligating the insurance company to furnish the County with at least thirty-(30) days prior written notice in advance of the cancellation of the insurance.

36.23.5 Renewal or replacement policies or certificates shall be delivered to the County at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.

36.23.6 Before construction of a permitted Wireless Telecommunications Facilities is initiated, but in no case later than fifteen (15) days after the granting of the Special Use Permit, the holder of the Special Use Permit shall deliver to the County a copy of each of the policies or certificates representing the insurance in the required amounts.

36.24 **INDEMNIFICATION**

36.24.1 Any application for Wireless Telecommunication Facilities that is proposed for County property, pursuant to this Regulation, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the Law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the County, and its officers, Boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising there from, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said Facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the County, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the County.

36.24.2 Notwithstanding the requirements noted in subsection (A) of this section, an indemnification provision will not be required in those instances where the County itself applies for and secures a Special Use Permit for Wireless Telecommunications Facilities.

36.25 **FINES**

36.25.1 In the event of a violation of this Regulation or any Special Use Permit issued pursuant to this Regulation, the County may impose and collect, and the holder of the Special Use Permit for Wireless Telecommunications Facilities shall pay to the County, fines or penalties as set forth below.

36.25.2 The holder of a Special Use Permits failure to comply with provisions of this Regulation shall constitute a violation of this Regulation and shall subject the Applicant to the code enforcement provisions and procedures as provided in Section 2 of the County of Sarpy Zoning Regulations and Section 86 of the Revised state Statutes of the Sate of Nebraska.

36.25.3 Notwithstanding anything in this Regulation, the holder of the Special Use Permit for Wireless Telecommunications Facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this Regulation or any section of this Regulation. An attempt to do so shall subject the holder of the Special Use Permit to termination and revocation of the Special Use Permit. The County may also seek injunctive relief to prevent the continued violation of this Regulation, without limiting other remedies available to the County.

36.26 DEFAULT AND/OR REVOCATION

If a Wireless Telecommunications Facility is repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Regulation or of the Special Use Permit, then the County shall notify the holder of the Special Use Permit in writing of such violation. A Permit holder in violation may be considered in default and subject to fines as in Section 2 and if a violation is not corrected to the satisfaction of the County in a reasonable period of time the Special Use Permit is subject to revocation.

36.27 REMOVAL OF WIRELESS TELECOMMUNICATION FACILITIES

36.27.1 Under the following circumstances, the County Board may determine that the health, safety, and welfare interests of the County warrant and require the removal of Wireless Telecommunications Facilities.

(A) Wireless Telecommunications Facilities with a permit have been abandoned (i.e. not used as Wireless Telecommunications Facilities) for a period exceeding ninety consecutive (90) days or a total of one hundred-eighty (180) days in any three hundred-sixty five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days;

(B) Permitted Wireless Telecommunications Facilities fall into such a state of disrepair that it creates a health or safety hazard;

(C) Wireless Telecommunications Facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required Special Use Permit, or any other necessary authorization and the Special Permit may be revoked.

36.27.2 If the County Board makes such a determination as noted in subsection (A) of this section, then the County Board shall notify the holder of the Special Use Permit for the Wireless Telecommunications Facilities within forty-eight (48) hours that said Wireless Telecommunications Facilities are to be removed, the County Board may approve an interim temporary use agreement/permit, such as to enable the sale of the Wireless Telecommunications Facilities.

36.27.3 The holder of the Special Use Permit, or its successors or assigns, shall dismantle and remove such Wireless Telecommunications Facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or Commercial Impracticability, within ninety (90) days of receipt of written notice from the County Board. However, if the owner of the property upon which the Wireless Telecommunications Facilities are located wishes to retain any access roadway to the Wireless Telecommunications Facilities, the owner may do so with the approval of the County Board.

36.27.4 If Wireless Telecommunications Facilities are not removed or substantial progress has not been made to remove the Wireless Telecommunications Facilities within ninety (90) days

after the Permit holder has received notice, then the County Board may order officials or representatives of the County to remove the Wireless Telecommunications Facilities at the sole expense of the owner or Special Use Permit holder.

36.27.5 If, the County removes, or causes to be removed, Wireless Telecommunications Facilities, and the owner of the Wireless Telecommunications Facilities does not claim and remove it from the site to a lawful location within ten (10) days, then the County may take steps to declare the Wireless Telecommunications Facilities abandoned, and sell them and their components.

36.27.6 Notwithstanding anything in this Section to the contrary, the County Board may approve a temporary use permit/agreement for the Wireless Telecommunications Facilities, for no more ninety (90) days, during which time a suitable plan for removal, conversion, or re-location of the affected Wireless Telecommunications Facilities shall be developed by the holder of the Special Use Permit, subject to the approval of the County Board, and an agreement to such plan shall be executed by the holder of the Special Use Permit and the County. If such a plan is not developed, approved and executed within the ninety (90) day time period, then the County may take possession of and dispose of the affected Wireless Telecommunications Facilities in the manner provided in this Section.

36.28 **RELIEF**

Any Applicant desiring relief, waiver or exemption from any aspect or requirement of this Regulation may request such at the pre-application meeting, provided that the relief or exemption is contained in the submitted Application for either a Special Use Permit, or in the case of an existing or previously granted Special Use Permit a request for modification of its Tower and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the Applicant to prove. The Applicant shall bear all costs of the County in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the Applicant demonstrates by clear and convincing evidence that, if granted the relief, waiver or exemption will have no significant effect on the health, safety and welfare of the County, its residents and other service providers.

36.29 **PERIODIC REGLATORY REVIEW BY THE COUNTY**

36.29.1 The County may at any time conduct a review and examination of this entire Regulation.

36.29.2 If after such a periodic review and examination of this Regulation, the County determines that one or more provisions of this Regulation should be amended, repealed, revised, clarified, or deleted, then the County may take whatever measures are necessary in accordance with applicable Law in order to accomplish the same. It is noted that where warranted, and in the best interests of the County, the County may repeal this entire Regulation at any time.

36.29.3 Notwithstanding the provisions of subsections (A) and (B) of this Section, the County may at any time and in any manner (to the extent permitted by Federal, State, or local law), amend, add, repeal, and/or delete one or more provisions of this Regulation.

36.30 **ADHERENCE TO STATE AND/OR FEDERAL RULES AND REGULATIONS**

36.30.1 To the extent that the holder of a Special Use Permit for Wireless Telecommunications Facilities has not received relief, or is otherwise exempt, from appropriate State and/or

Federal agency rules or regulations, then the holder of such a Special Use Permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.

36.30.2 To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a Special Use Permit for Wireless Telecommunications Facilities, then the holder of such a Special Use Permit shall conform the permitted Wireless Telecommunications Facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

36.31 **CONFLICT WITH OTHER LAWS**

Where this Regulation differs or conflicts with other Laws, rules and regulations, unless the right to do so is preempted or prohibited by the County, State or Federal government, this Regulation shall apply.

36.32 **EFFECTIVE DATE**

This Regulation shall be effective immediately upon passage, pursuant to applicable legal and procedural requirements.

36.33 **AUTHORITY**

This local Regulation is enacted pursuant to applicable authority granted by the State and federal government.

SECTION 37 - LANDSCAPING REGULATIONS

37.1 GENERAL PROVISIONS

All plans submitted in support of a plat application, rezoning application, site plan review, building permit or other development proposal shall include a landscape and screening plan, demonstrating compliance with the provisions of this section. The landscape and screening plan shall include the following information:

37.1.1 A planting schedule indicating symbols, quantities, common and botanical names, sizes of plant material at installation, and special planting instructions.

37.1.2 Location, type and size of all existing trees (12 inch caliper or larger, measured at six (6) feet above ground level) to be removed or preserved.

37.1.3 Planting detail, showing all species to scale at normal mature crown diameter or spread for local hardiness zone.

37.1.4 Note indicating how disturbed soil areas will be restored though the use of seeding, sodding or other techniques.

37.1.5 Existing or proposed conditions that could potentially affect landscaping and screening of the site.

37.2 LANDSCAPE DESIGN CRITERIA

Landscape design shall serve to provide visually interesting open space, to reduce the potential negative impact of development on adjacent land uses, and to facilitate the preservation and reestablishment of plants native to the region. The following design criteria should be considered as part of the landscape plan submittal.

37.2.1 Earthen berms and existing topographic features should, whenever practical, be incorporated into the landscape treatment of a site.

37.2.2 A variety of tree and shrub species shall be utilized to provide visual, four-season interest. Not more than one-third of the required number of trees or shrubs may be comprised of any one species and at least one-third of the plants must be a coniferous species.

37.2.3 Final slopes greater than a three to one ratio will not be permitted without special approval by the Planning Department.

37.3 STREET YARD REQUIREMENTS AND LANDSCAPING

37.3.1 Residential Developments adjacent to arterial streets, and/or major arterial streets shall provide, a 20' landscaped buffer along the perimeter of the development.

(A) Plant materials shall include a combination of deciduous and coniferous trees with a minimum placement of one tree every thirty feet.

(B) A landscaped earth berm not exceeding six feet in height may be used in combination with the plant materials.

(C) The landscaped buffer shall contain only approved landscaped materials.

(D) No fence shall be placed within the 20' landscaped buffer.

37.3.2 Commercial/Industrial, Office, and Business Developments shall provide a 20' landscaped buffer adjacent to any street or highway and along the entire perimeter of the development.

(A) Plant materials shall include at least one deciduous shade or one ornamental deciduous tree and three shrubs for every forty linear feet of adjacent area.

(B) A landscaped earth berm not exceeding six feet in height may be used in combination with the plant materials but shall not substitute for trees adjacent to any street or highway.

37.4 SEPARTION OF DISSIMILAR LAND USES

A landscaped side yard and rear yard buffer shall be provided when a more intensive land use is established adjacent to a less intensive land use. The owner, developer or operator of the more intensive land uses shall install and maintain a landscaped side yard and rear yard buffer on a lot or site of not less than 20 feet.

37.4.1 Where a street separates adjacent land uses requiring side/rear yard buffers, the size of the yard may be reduced by one-half of the requirement set forth in these guidelines.

37.4.2 Each required side/rear yard buffer shall be entirely landscaped and free of paved areas, access ways, storage or other disturbances.

37.4.3 Landscaping shall include a planting screen or a random or informal screen of plant materials substantially blocking the views and attaining a minimum height of six feet within four years.

37.4.4 Plant materials shall include one deciduous shade or coniferous tree, or one ornamental deciduous tree and three shrubs for every 40' of adjacent area.

37.4.5 A landscaped earth berm not exceeding six feet (6') in height may be used in combination with the plant materials.

37.5 PARKING AND VEHICULAR USE AREAS

Except in areas designated for industrial use and multiple level parking structures, all parking areas shall include the following requirements in order to break up the large expanses of pavement, to provide relief from reflected glare and heat, and to guide vehicular and pedestrian traffic:

37.5.1 Not less than six percent of the interior of a public parking lot shall be landscaped. Plantings required along the perimeter of a parking area should not be considered as part of the interior landscaping requirement.

37.5.2 Landscaping and planting areas are to be reasonably dispersed throughout the parking lot. Large expanses of asphalt and concrete shall be reduced by breaking up parking lots into a series of smaller sections, through the use of landscape strips, peninsulas and grade separations, where appropriate.

37.5.3 The interior dimensions of any planting area shall be large enough to support trees which provide shade or are capable of providing shade at maturity. Shrubbery, hedges and other planting materials may be used to complement the tree landscaping, but shall not be the sole means of landscaping. Effective use of earth berms and existing topography is encouraged as a component of the landscaping plan.

37.6 SCREENING REQUIREMENTS

Site plans or landscaping plans shall include details regarding enclosure and screening methods, as required below. The phrase screened from public view means not visible to the extent possible, at any distance, from adjoining properties or any street right-of-way.

37.6.1 All waste and recycling receptacles shall be stored within the principal structure or within an accessory enclosure area subject to the following:

(A) The enclosure shall be located adjacent to the structure whenever possible.

37.6.2 The display area design shall be entirely integrated into the appearance of the building. The display area walls and/or columns shall be constructed of the same materials as the primary building facade.

37.6.3 Screening fences or walls, when utilized, shall be constructed of attractive, permanent-finished materials.

37.7 SELECTION, INSTALLATION AND MAINTENANCE REQUIREMENTS

37.7.1 All landscaping materials and screening methods depicted on development plans approved by the governing body should be considered as required elements of the project. All plant materials must meet the standards set by the American Association of Nurserymen and be a variety that is indigenous to the hardiness zone in which Sarpy County is located, except that the following trees are expressly prohibited from being planted:

Box Elder – *Acer Negundo*
Silver Maple – *Acer Saccharinum*
Northern Catalph – *Catalph Speciosa*
Mulberry – *Morus Alba*
Cottonwood – *Populus Deltiods* (Seedless varieties are acceptable)
Willow – *Salax Species*

37.7.2 All required plant materials shall meet the minimum size standards identified below at time of installation. For the purposes of determining tree trunk size, the caliper shall be measured six feet above ground level.

(A) Deciduous Shade Tree: 2" caliper Deciduous Ornamental Tree: 1.5" caliper or clumped type plant, depending on species Coniferous/Evergreen Tree: 5' - 6' in height Shrubs: 3 gallon containers

37.7.3 The developer, its successor, sanitary improvement district and/or subsequent owners shall be responsible for the continued maintenance of landscape materials on a continuing basis for the life of the development. Plant material that exhibits evidence of insect pests, disease, or damage shall be appropriately treated and dead plants promptly removed and replaced within the next planting season.

37.7.4 All landscaping shall be subject to periodic inspection by the Planning Department. Landscaping that is not installed, maintained, or replaced as needed to comply with the approved landscape plan shall be considered in violation of the terms of the site plan or building permit. The landowner will receive notice of such violation in accordance with code enforcement requirements contained within these zoning regulations.

SECTION 38 - STORMWATER MANAGEMENT REGULATIONS

All development, construction, and rehabilitation shall comply with the Sarpy County Stormwater Management Regulations and the Omaha Regional Stormwater Management Design.

38.1 **PURPOSE AND AUTHORITY**

The purpose of this regulation is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with increased Stormwater runoff. Proper management of Stormwater runoff will minimize damage to public and private property, reduce the harmful effects of development on land, control stream channel erosion, reduce local flooding, and maintain after development, as nearly as possible, the pre-development runoff characteristics.

The application of this regulation and provisions expressed herein shall be the minimum storm water management requirements and shall not be deemed a limitation on such management practices. Sarpy County shall be responsible for the coordination and enforcement of the provisions of this regulation.

38.2 **JURISDICTION**

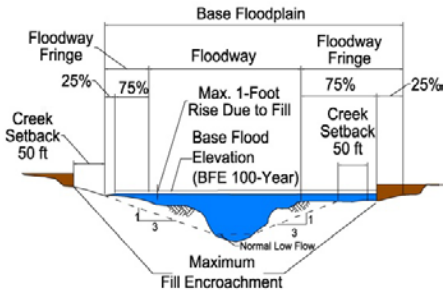
The provisions of this chapter shall be applicable to all that property within the planning and zoning jurisdiction of Sarpy County.

38.3 **INCORPORATION BY REFERENCE**

For the purpose of the Regulation, the Omaha Regional Storm Water Management Design Manual, in its most current form, is incorporated by reference.

38.4 **DEFINITIONS**

The following words, phrases and terms as used in this chapter shall have the meanings ascribed to them in this chapter. The following diagram may be referred to for illustration of several definitions.



Baseline Land Use Conditions. That which existed for Year 2001 for Big and Little Papillion Creeks and its tributaries (excluding West Papillion Creek) and for Year 2004 for West Papillion Creek and its tributaries. That which existed in 2007 for all areas not within the Papillion Creek Watershed.

Best Management Practices (BMP) shall mean pollution control practices designed and carried out to reduce the pollutants contained in discharges, including Low Impact Development techniques.

Building Drain shall mean that part of the lowest horizontal piping of a wastewater drainage system that receives the discharge from soil and waste pipes inside the walls of the building and conveys it to the building sewer, beginning two feet outside the inner face of the building wall.

Clean Water Act shall mean the Federal Water Pollution Control Act, which was enacted in the 1972 to prohibit the discharge of pollutants to receiving waters of the United States and later amended in 1987, to establish a framework for regulating municipal, industrial, and construction stormwater discharges under the NPDES Program.

Combined Sewer shall mean a sewer receiving, by designation of the director, both runoff water and sanitary sewage.

Commercial Activity shall mean any public or private activity not defined as an industrial activity in 40 Code of Federal Regulations (CFR) 122.26 (b)(14), as of the date of this regulation, involved in the storage, transportation, distribution, exchange or sale of goods, and/or commodities or providing professional and/or non-professional services.

Construction Activity shall mean any clearing, grading, or excavation that results in soil disturbance. Construction activity also includes, but is not limited to, construction, repairs, dewatering, remodeling, building, and emergency construction activities required to immediately protect public health and safety.

County Board shall mean the Sarpy County, Nebraska Board of Commissioners.

Creek Setback. A setback area equal to three (3) times the channel depth plus fifty (50) feet (3:1 plus 50 feet) from the edge of low water on both sides of channel.

Director shall mean the Director of Planning for Sarpy County or his/her authorized agent, or representative.

Discharge shall mean any release, spill, leak, pump, flow, escape, dumping, or disposal of any liquid, semi-liquid, or solid substance to the municipal storm sewer system.

Erosion Control. Land and stormwater management practices that minimize soil loss caused by surface water movement.

Full Build-Out Land Use Conditions. Fully platted developable land use conditions for the combined portions of the Papillion Creek Watershed that lie in Douglas and Sarpy Counties that are assumed to occur by the Year 2040, plus the projected 2040 land uses within the Watershed in Washington County; or as may be redefined through periodic updates to the respective County comprehensive plans.

Hazardous Substance shall mean any substance designated under 40 CFR Part 116 pursuant to section 311 of the Clean Water Act.

Illicit Connection shall mean any human made conveyance that is directly or indirectly connected to the municipal storm sewer system and allows for an illicit discharge.

Illicit Discharge shall mean any discharge to the municipal storm sewer system that is prohibited under local, state, or federal statutes, ordinances, regulations, codes, or regulations. Illicit discharges include all non-Stormwater discharges except discharges pursuant to a NPDES permit or conditionally exempted by Regulation and include those prohibited in Sections 38.4 and 38.5 below. Check reference

Industrial Activity shall mean any public or private activity which is associated with any other of the 11 categories of activities defined in 40 CFR 122.26 (b)(14).

Industrial/Commercial Facility shall mean any public or private facility involved and/or used in the production, manufacture, storage, transportation, distribution, exchange or sale of goods and/or commodities, or any facility involved and/or used in providing professional services. This category of facility includes but is not limited to, any facility defined by a Standard Industrial Code (SIC).

Low Chord Elevation. The bottom-most face elevation of horizontal support girders or similar superstructure that supports a bridge deck.

Low-Impact Development (LID). A land development and management approach whereby stormwater runoff is managed using design techniques that promote infiltration, filtration, storage, evaporation, and temporary detention close to its source. Management of such stormwater runoff sources may include open space, rooftops, streetscapes, parking lots, sidewalks, medians, etc.

Maximum LID. A level of LID using strategies, including water quality LID and on-site detention, designed not to exceed peak discharge rates of more than 0.2 cfs/acre during the 2-year storm event or 0.5 cfs/acre during the 100-year storm event based on the contributing drainage from each site, measured at every drainage (stormwater discharge) outlet from the new development or significant redevelopment.

Maximum Extent Practicable shall mean a standard for implementation of Stormwater management programs to reduce pollutants in Stormwater. It is the maximum extent possible taking into account equitable consideration of competing facts, including, but not limited to, the seriousness of the problem, public health risk, environmental benefits, pollutant removal effectiveness, regulatory compliance, ability to implement, cost and technical feasibility.

New Development shall mean as that which is undertaken to any undeveloped parcel that existed at the time of implementation of this policy.

NPDES shall mean National Pollutant Discharge Elimination System and is implemented and enforced by a permit issued by the U.S. Environmental Protection Agency, or the Nebraska Department of Environmental Quality (NDEQ) pursuant to the Clean Water Act that authorizes discharges to waters of the United States and requires the reduction of pollutants in the discharge.

Non-Stormwater Runoff shall mean any discharge to the storm sewer system that is not composed entirely from Stormwater.

Nuisance shall mean Public Nuisance as provided by the Sarpy County Nuisance regulation and also as defined in this regulation.

Pollutant shall mean the same as defined in section 502(6) of the Clean Water Act or as Pollutants include, but are not limited to the following:

a) Materials (including but not limited to fuels, solvents, chemical, detergents, plastic, pellets, hazardous substances, radioactive wastes, fertilizers, pesticides, paints, soot, slag, ash, sludge);

b) Metals and non-metals both soluble and insoluble (including but not limited to cadmium, lead, zinc, copper, silver, nickel, chromium, chlorine, phosphorous, and arsenic);

c) Petroleum Hydrocarbons (including but not limited to fuels, oils, lubricants, surfactants, waste oils, solvents, coolants, and grease);

d) Eroded soils, sediment, and particulate materials in amounts, which may adversely affect the beneficial use of the receiving waters, flora, or fauna or the state;

e) Animal wastes (including but not limited to discharge from confinement facilities, kennels, pens, recreational facilities, and stables);

f) Substances having acidic or corrosive characteristics, unusual coloration or turbidity;

g) Any domestic or industrial wastewater;

h) Any hazardous substance.

Pollutant does not include uncontaminated Stormwater, potable water, groundwater, or reclaimed water by a lawfully permitted water treatment facility.

Peak Discharge or Peak Flow. The maximum instantaneous surface water discharge rate resulting from a design storm frequency event for a particular hydrologic and hydraulic analysis, as defined in the Omaha Regional Stormwater Design Manual. The measurement of the peak discharge shall be at the lower-most drainage outlet(s) from a new development or significant redevelopment.

Private Stormwater Conveyance System shall mean a Stormwater conveyance system that is not owned or maintained by the County including any instrumentality that drains or conveys water from a building or from/through one or more properties to the environment or the County's Stormwater system.

Public Nuisance shall mean any discharge in violation of the provisions of this chapter, the County's Nuisance regulation, a wastewater discharge permit, or an order of the Sarpy County Board.

Receiving Waters shall mean all surface water bodies, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations or water,

natural or artificial, public or private, situated wholly or partly within or bordering upon the jurisdiction of Sarpy County.

Regional Stormwater Detention Facilities. Those facilities generally serving a drainage catchment area of 500 acres or more in size.

Runoff shall mean any Stormwater or non-Stormwater discharges from a drainage area that reaches the municipal storm sewer system. The term runoff in interchangeable with the term urban runoff.

Sanitary Sewage shall mean liquid and water carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions.

Sediment Control. Land and stormwater management practices that minimize the transport and deposition of sediment onto adjacent properties and into receiving streams and surface water impoundments.

Separate Storm Sewer shall mean pipe or conduit, which by designation of the Director, carries only Stormwater runoff, discharges pursuant to a NPDES permit or discharges conditionally exempted by regulation.

Significant Redevelopment shall mean land disturbing activity that results in the creation, addition or replacement of at least five thousand (5,000) square feet of impervious surface area on an already developed site. Significant redevelopment includes, but is not limited to, the following activities that meet the minimum standards set forth in this definition:

a) The expansion of a building footprint;

b) Addition or replacement of a structure;

c) Replacement of impervious surface that is not part of a routine maintenance activity; and,

d) Land disturbing activities related to structural or impervious surfaces.

Significant redevelopment does not include activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety.

Standard Industrial Classification (SIC) shall mean a classification pursuant to the current edition of the Standard Industrial Classification Manual issued by the Executive Office of the President of the United States, Office of Management and Budget.

Storm Sewer System shall mean any pipe, ditch or gully, or system or pipes, ditches, or gullies that is owned or operated by the county and used for collecting and conveying Stormwater.

Stormwater Management Plan shall mean the adopted Partnership NPDES Phase II Stormwater Management Plan.

Stormwater Management Policies. Stormwater management policies developed by the Technical Workgroup and Policy Workgroup that were commissioned by the Papillion Creek Watershed Partnership (PCWP) subsequent to the "Green, Clean, and Safe" initiatives developed through the "Watershed by Design" public forums conducted in 2004 and 2005 and subsequently revised by the PCWP in 2009. The following policy groups contain "root" policies and sub-policies for stormwater management that have been developed in addition to the Stormwater Management Financing Policy Group herein:

- Policy Group #1 – Water Quality Improvement
- Policy Group #2 – Peak Flow Reduction
- Policy Group #3 – Landscape Preservation, Restoration, and Conservation
- Policy Group #4 – Erosion and Sediment Control and Other BMPs
- Policy Group #5 – Floodplain Management

Stormwater Pollution Prevention Plan (SWPPP) shall mean a plan required by the State of Nebraska General Permit for Stormwater Discharges associated with either industrial or construction activities. The purpose of the plan is to help identify the sources of pollution that affect the quality of Stormwater discharges from a site and to describe and ensure the implementation of practices to reduce pollutants in Stormwater discharges.

Stormwater Runoff shall mean that part of precipitation (rainfall or snowmelt, including that of any frozen precipitation), which travels via flow across any surface to the storm sewer system.

Street Wash Water shall mean the water and the debris associated with it from the washing of streets and/or sidewalks.

Total Maximum Daily Load (TMDL). A calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. Water quality standards are set by States, Territories, and Tribes. They identify the uses for each waterbody, for example, drinking water supply, contact recreation (swimming), and aquatic life support (fishing), and the scientific criteria to support that use. A TMDL is the sum of the allowable loads of a single pollutant from all contributing point and non-point sources. The calculation must include a margin of safety to ensure that the waterbody can be used for the purposes the State has designated. The calculation must also account for seasonal variation in water quality. The Clean Water Act, Section 303, establishes the water quality standards and TMDL programs, and for Nebraska such standards and programs are administered by the Nebraska Department of Environmental Quality. *[Source: EPA and Nebraska Surface Water Quality Standards, Title 117].*

Updated Flood Hazard Maps. The remapping of flooding sources within the Papillion Creek Watershed where Digital Flood Insurance Rate Maps (DFIRMs) are based on 2004 or more recent conditions hydrology and full-build out conditions hydrology.

Urban Runoff shall mean any Stormwater and non-Stormwater runoff from developed land in, or adjacent to, any municipality.

U.S. EPA shall mean the United State Environmental Protection Agency.

Watercourse. Any depression two feet or more below the surrounding land which serves to give direction to a current of water at least nine months of the year and which has a bed and well-defined banks. *[Adapted from Chapter 31 of Nebraska Statutes]*

Water Quality LID. A level of LID using strategies designed to provide for water quality control of the first ½ inch of stormwater runoff generated from each new development or significant redevelopment and to maintain the peak discharge rates during the 2-year storm event to baseline land use conditions, measured at every drainage (stormwater discharge) outlet from the new development or significant redevelopment.

38.5 WATERSHED FEES

Pursuant to the amended Papillion Creek Watershed Partnership interlocal agreement, Sarpy County shall collect watershed fees.

All new development and significant redevelopment will be required to fund the planning, implementation, and operation and maintenance of water quality LID.

Such Watershed Management Fee shall only apply to new development or significant redevelopment within the Papillion Creek Watershed and the initial framework shall consist of the following provisions.

Collection of fees and public funding shall be earmarked specifically for the construction of projects called for in the Papillion Creek Watershed Management Plan, including Maximum LID costs such as on site detention, regional detention basins, and water quality basins.

Multiple fee classifications are established which fairly and equitably distribute the cost of these projects among all undeveloped areas within the Papillion Creek Watershed. Those fees are provided within the "Master Fee Schedule for the Planning and Building Department" as adopted by the County Board.

Each subdivision or other agreements with developers for new developments or significant redevelopments, shall include the right to collect Watershed Fees at the time of building permit issuance pursuant to, and consistent with, the provisions of this regulation. The Watershed Fee specified in a subdivision agreement shall not be changed after such subdivision agreement has been approved by the Sarpy County Planning Commission, notwithstanding that the Watershed Fee framework or rates possibly may be changed before all building construction has been completed in such subdivision.

Watershed Fees shall be collected at the time of application for a building permit. The Watershed Fees shall be earmarked specifically for construction of regional detention structures and water quality basins and collected as listed below. Further, Sarpy County shall transfer the collected Watershed Fees according to the Amended Interlocal Cooperation Act Agreement for the Continuance of the Papillion Creek Watershed Partnership.

38.6 ILLICIT DISCHARGES PROHIBITED

(A) No person shall cause the discharge of non-Stormwater runoff to enter the municipal storm sewer system unless the discharge is one of the following:

1. Authorized by a NPDES permit issued by EPA, or NDEQ
2. Caused by or resulting from one of the following:

    a) Firefighting activities, where such discharges or flows contain no significant sources of pollutants;

    b) Landscape Irrigation;

    c) Diverted stream flows;

    d) Rising ground waters;

    e) Uncontaminated ground water infiltration, as defined at 40 CFR 35.2005(20);

    f) Uncontaminated pumped ground water;

    g) Discharges from potable water sources;

    h) Foundation Drains;

    i) Air Conditioning condensation;

    j) Irrigation water;

    k) Springs;

    l) Water from crawl space pumps;

    m) Footing Drains;

    n) Lawn Watering;

    o) Individual residential car washing;

    p) Flows from riparian habitats and wetlands;

    q) Dechlorinated swimming pool discharges;

    r) Street wash water;

3. Authorized by Sarpy County.

(B) All exempt discharges, as listed above, must be in conformance with all other provisions of this code.

38.7 **PROHIBITION OF ILLICIT CONNECTIONS**

No person shall install, maintain, or use any connection to the municipal storm sewer system that may result in the illicit discharge to the municipal storm sewer system. All connection to the municipal storm sewer system that provide for an illicit discharge from inside a building are prohibited.

This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

38.8 REMOVAL OF ILLICIT CONNECTIONS

If any person fails to disconnect an illicit connection upon 30-day prior notification by the Director, the Director may cause the removal of such connection from the municipal storm sewer system. The owner(s) of the facility shall be assessed the cost of the work and any lawful penalties.

38.9 PRIVATE STORMWATER CONVEYANCE SYSTEMS

The owner of a property where a private Stormwater conveyance system is located shall be responsible for the maintenance and repair, and proper operation of the private Stormwater conveyance system, regardless of whether the private Stormwater conveyance system is completely located on the private property or partially within the public right-of-way. The County shall have no responsibility or obligation for the maintenance, repair, or proper operation of a private Stormwater conveyance system.

If the Director determines that a private Stormwater conveyance system is not operating properly and causes improper discharge of Stormwater to the street, sidewalk, or storm sewer system, the Director may declare this condition to constitute a public nuisance and proceed to abate that nuisance in accordance with Regulatory Actions specified in this regulation in concurrence with the Sarpy County Nuisance Regulation.

38.10 DISCHARGE OF SANITARY SEWAGE PROHIBITED

No person shall cause discharge of sanitary sewage to the storm sewer system. In addition, if the Director determines that a building drain or building sewer is not operating properly and causes discharge of sewage to the street, sidewalk, or municipal separate storm sewer system, the Director may declare this condition to constitute a public nuisance and proceed to abate that nuisance in accordance with section 38.25.

38.11 DAMAGE TO THE STORM SEWER SYSTEM

It is unlawful for any person to maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the storm sewer system.

38.12 WASTE DISPOSAL PROHIBITIONS

No person shall throw, deposit, place, leave, maintain, litter, keep, or permit to be thrown, deposited, left, maintained, or kept any pollutant, refuse, rubbish, food waste, yard waste, garbage, or any other discarded or abandoned objects in or upon any public or private property, driveway, parking area, street, alley, sidewalk, or other location that may result in an illicit discharge to the storm sewer system. Wastes placed in containers protected from urban runoff such as bags, cans, or recycling bins, and County-approved wastes from construction on public right-of-way are exempted from this prohibition.

38.13 PROHIBITED DISCHARGES FROM INDUSTRIAL/COMMERCIAL ACTIVITIES

The following list of discharges from industrial/commercial activities shall be considered prohibited unless permitted under a separate NPDES permit or approved by the Sarpy County Planning Department. This list is based on Section 38.5 (Illicit Discharges Prohibited), but is not an exhaustive list of prohibited discharges to the storm sewer system:

1. Water from the cleaning of gasoline station, vehicle service garages, or other types of vehicle service facilities.
2. Water, cleansers, or solvents from the cleaning of vehicles, machinery or equipment, and other such commercial and industrial operations.
3. Water from the washing or rising of vehicles containing soap, detergents, solvents, or other cleaners.
4. Water from the cleaning or rinsing of vehicle engine, undercarriage, or auto parts cleaning.
5. Vehicle fluids.
6. Mat wash water from food service facilities.
7. Food and kitchen cleaning water from food service facilities.
8. Leakage from dumpsters or trash containers.
9. Water from the cleaning or rinsing of garbage dumpster areas and areas where garbage is stored or contained.
10. Water from pressure washing, steam cleaning, and hand scrubbing of sidewalks, gutters, plazas, alleyways, outdoor eating areas, steps, building exteriors, walls, driveways, and other outdoor surfaces.
11. Wastewater or cleaning fluids from carpet cleaning.
12. Swimming pool and spa water.
13. Wash out from concrete trucks.
14. Runoff from areas where hazardous substances, including diesel fuel, gasoline and motor oil are stored.
15. Super-chlorinated, i.e., greater than 4mg/l chlorine, water normally associated with the disinfection of potable water systems.

38.14 NOTIFICATION OF PROHIBITED DISCHARGES REQUIRED

In the event of discovery of a discharge to the storm sewer system that is prohibited by this code, the discharger or permittee shall immediately notify the Director of the incident by telephone, facsimile or e-mail. The notification shall include the discharge location, type of materials discharged, estimated concentration and volume of discharge, and corrective actions taken to contain or minimize the effects of the discharge.

In addition, a written report, facsimile or e-mail, addressed to the Director detailing the date, time and cause of the discharge, the quantity and characteristics of the discharge, corrective actions taken to contain or minimize the effects of the discharge, and corrective actions taken to prevent future discharges shall be filed by the responsible person within five days of the occurrence of the non-complying discharge.

38.15 **GRADING PERMIT REQUIRED**

It shall be unlawful for any person to engage in or cause any grading, clearing, or excavation activities that result in the disturbance of any land areas sufficiently large to require a general NPDES construction site Stormwater permit, and larger than one (1) acre, without the property owner or easement holder, or their agent, first obtaining a grading permit from Sarpy County. This section shall not apply to grading performed solely for agricultural purposes.

38.16 **APPLICATION FOR GRADING PERMIT**

Any property owner or easement holder, or their agent, desiring a grading permit shall also submit to the permits and inspection division a completed NDEQ notice of intent/permit application for coverage under the general NPDES construction site Stormwater permit. Such permit application shall be made on forms provided by the NDEQ and distributed by Sarpy County. The County shall review all such completed applications and then forward the documents to the NDEQ for approval or denial.

38.17 **GRADING PERMIT FEE**

Before any grading permit application will be accepted by Sarpy County, the applicant shall pay to the County a fee of $500.00 for ten acres or less, or $1000.00 for more than ten acres.

38.18 **ISSUANCE OF GRADING PERMIT**

If, after, examination of the application for a grading permit, Sarpy County determines that the proposed plan will meet the requirements of this article and if the NDEQ approved the NPDES application for the project, or if the Permits and Inspection Division fails to review and approve or deny the application within seven days, then the grading permit shall be.

38.19 **EROSION CONTROL AT CONSTRUCTION AND DEVELOPMENT SITES**

The Director shall establish an erosion control manual governing erosion control at construction and development sites that require a general NPDES construction site Stormwater permit. When such an erosion control manual has been adopted by resolution of the County Board, a copy thereof shall be placed on file with the County Clerk, and the provisions thereof shall be controlling of all subjects contained therein within the County's jurisdiction in the event of any conflict between the provisions of the adopted erosion control manual, or any other regulation, and the provisions of the NPDES permit issued by the State of Nebraska, the provision that imposes the higher or highest standard or most specific practice shall prevail.

38.20 REQUIREMENT FOR ALL NEW DEVELOPMENT AND REDEVELOPMENT PROJECTS

Land development and significant redevelopment projects with the potential to add pollutants to Stormwater or to affect the flow rate or velocity of the Stormwater runoff after construction is completed must include provisions for the management of the increased post construction runoff in a Post-Construction Stormwater Management Plan.

38.21 POST-CONSTRUCTION STORMWATER MANAGEMENT PLAN (PCSWMP)

The Post-Construction Stormwater Management Plan shall be submitted to the Director, as part of any preliminary plat application, or grading permit application, or building permit application that created 5,000 square feet of more of impervious coverage, on a form or format specified by the Director, at the same time the application for a Sarpy County Grading Permit is submitted. For any significant redevelopment, a post construction Stormwater management plat shall be submitted with the building permit application.

For all development applications made after the adoption date of this ordinance, the post-construction Stormwater management plan, at a minimum, shall include Low Impact Development (LID) BMP's to provide for a water quality control of the first one-half inch of runoff from the site. The County may also require this minimum control level for significant redevelopment that increases the amount of impervious area in a previously platted parcel. For significant redevelopment projects that do not require a grading permit or that involve an increase of less than 5,000 square feet of impervious surface area, BMPs for water quality control of the first one-half inch of runoff from the site are encouraged. For significant redevelopment projects that are characterized as additions or expansions, the Planning Director may determine that the required BMPs only be applied to the area of new development.

The PCSWMP shall include the design, locations, schedules, and procedures for inspection and maintenance of selected BMPs. Temporary erosion and sediment control BMPs to be used during the construction process are to be addressed in the grading permit application. Refer to the Omaha Regional Stormwater Design Manual for information on BMPs.

38.22 EXEMPTIONS FROM THE POST-CONSTRUCTION STORMWATER MANAGEMENT PLAN

Systems designed to accommodate only one single family dwelling unit, duplex, triplex, or quadraplex, provided the single unit is not part of a larger common plan of development or sale, are exempt from the requirements in this Regulation to submit a Post-Construction Stormwater Management Plan.

38.23 MAINTENANCE OF POST-CONSTRUCTION BMPs

(A) The owners of lands on which structural post-construction BMPs have been installed to meet the requirements of this Regulation shall ensure the maintenance of these structural BMPs that should generally be installed in an outlot. Structural BMPs shall be inspected at least annually, and a written record of inspection results and any maintenance work shall be maintained and available for review by the County. Low Impact Development (LID) – type BMPs that are installed on a building lot shall be

maintained by the owner/occupant of such building lot. BMPs located on a single family or duplex residential building lots are exempt from the annual inspection and reporting requirements. Such BMPs shall however be subject to County inspection, at reasonable times.

(B) The responsibility to maintain a BMP may be transferred through a contract or other agreement. The person or entity accepting a maintenance obligation in such a contract or agreement will also be legally obliged to maintain that BMP pursuant to this Regulation. However, no contract or other agreement imposing an obligation to maintain a BMP can relieve a person or entity of any obligation to maintain a BMP imposed by this Regulation.

(C) The applicant or owner shall execute an inspection and maintenance agreement, to be filed of record, binding on all subsequent owners of land served by a private storm water management facility. Such agreement shall provide for access to the BMP, at reasonable, times, for inspections by the County or its authorized representative to ensure that the facility is maintained in proper working condition to meet design standards.

D) The applicant and/or owner shall record the maintenance agreement with the Register of Deeds.

E) The maintenance agreement shall also provide that if after notice by the County to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within a reasonable period of time (30 days maximum), the County may perform all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the cost of the work and any lawful penalties.

38.24 STORMWATER MANAGEMENT POLICIES

Pursuant to the amended Papillion Creek Watershed Partnership interlocal agreement, Sarpy County shall adopt a Watershed Plan and amend the watershed policies. The following policies shall apply to all new developments and significant redevelopments:

1. Water Quality LID shall be required on all new developments and significant redevelopments.
2. Impacted wetlands shall be mitigated at a 3:1 ratio.
3. Regional stormwater detention facilities and other structural and non-structural BMPs shall be located in general conformance with an adopted Papillion Creek Watershed Management Plan and shall be coordinated with other related master planning efforts for parks, streets, water, sewer, etc.
4. Maximum LID shall be required to reduce peak discharge rates on all new developments and significant redevelopments as identified in the Papillion Creek Watershed Management Plan.
5. All significant redevelopment shall maintain peak discharge rates during the 2, 10, and 100-year storm event under baseline land use conditions.

6. For new development or significant redevelopment, provide a creek setback of 3:1 plus 50 feet along all streams as identified in the Papillion Creek Watershed Management Plan and a creek setback of 3:1 plus 20 feet for all other watercourses.

   Grading, stockpiling, and other construction activities are not allowed within the setback area and the setback area must be protected with adequate erosion controls or other Best Management Practices, (BMPs). The outer 30 feet adjacent to the creek setback limits may be credited toward meeting the landscaping buffer and pervious coverage requirements.

   A property can be exempt from the creek setback requirement upon a showing by a licensed professional engineer or licensed landscape architect that adequate bank stabilization structures or slope protection will be installed in the construction of said structure, having an estimated useful life equal to that of the structure, which will provide adequate erosion control conditions coupled with adequate lateral support so that no portion of said structure adjacent to the stream will be endangered by erosion or lack of lateral support. In the event that the structure is adjacent to any stream which has been channelized or otherwise improved by any agency of government, then such certificate providing an exception to the creek setback requirement may take the form of a certification as to the adequacy and protection of the improvements installed by such governmental agency. If such exemption is granted, applicable rights-of-way must be provided and a minimum 20 foot corridor adjacent thereto.

7. Construction site stormwater management controls shall include both erosion and sediment control measures.

8. Sediment storage shall be incorporated with all regional detention facilities where technically feasible.

9. Encroachments for new developments or significant redevelopments within floodway fringes shall not cause any increase greater than one (1.00) foot in the height of the full build-out base flood elevation using best available data.

10. Filling of the floodway fringe associated with new development within the Papillion Creek System shall be limited to 25% of the floodway fringe in the floodplain development application project area, unless approved mitigation measures are implemented. The remaining 75% of floodway fringe within the project area shall be designated as a floodway overlay zone. For significant redevelopment, these provisions may be modified or waived in whole or in part by the County Board.

11. The low chord elevation for bridges crossing all watercourses within FEMA designated floodplains shall be a minimum of one (1) foot above the base flood elevation for full-build out conditions hydrology using best available data.

12. The lowest first floor elevation of buildings associated with new development or significant redevelopment that are upstream of and contiguous to regional dams within the Papillion Creek Watershed shall be a minimum of one (1) foot above the 500-year flood pool elevation.

38.25 **ADMISSION TO PROPERTY**

Consistent with the provisions of Section XXII of this regulation, whenever it shall be necessary for the purposes of these rules and regulations, the Director, upon the presentation of credentials, may enter upon any property or premises at reasonable times for the purpose of:

1. Copying any records required to be kept under the provisions of this article;
2. Inspecting any BMPs, and
3. Sampling any discharge to the municipal storm sewer system.

The Director may enter upon the property at any hour under emergency circumstances but such authority is limited only to those properties designated as outlots. The authority to inspect, sample and copy records, shall be limited to only those things, and only the extent, that it has a direct bearing on the kind and source of discharges into the municipal storm sewer system.

38.26 **REGULATORY ACTIONS**

If substances in violation of this regulation are discharged or proposed to be discharged into the municipal storm sewer system of the County or any tributary thereto, the County may take action necessary to:

1. Prohibit the discharge of such effluent.
2. Require a discharger to demonstrate that modifications to such discharger's facilities will reduce or eliminate the discharge of such substances in conformity with this article.
3. Require pretreatment, including storage, detention or retention facilities necessary to reduce or eliminate the objectionable characteristics or substances so that the discharge will not violate these prohibitions and limitations.
4. Require the person making, causing, or allowing the discharge to pay an additional cost or expense incurred by the County for taking remedial actions as may be deemed to be desirable or necessary to achieve the purpose of this chapter. Such additional cost or expense may be levied as a special assessment on the property.
5. Require any combination or all of the above.
6. Require compliance with the Sarpy County Nuisance Regulation.

38.27 **NOTICE OF VIOLATION; CORRECTION OF VIOLATIONS**

Whenever the Director finds that any person has violated or is violating this article or any prohibition, limitation or requirement contained herein, such person shall be notified in writing.

38.28 **PENALTY; RECOVERY OF DAMAGES**

Any person who is found to have violated an order provided for in this article, or who willfully or negligently failed to comply with any provisions of this article and the rules and regulations issued hereunder, shall be deemed guilty of a Class III misdemeanor. Each day any such violation or failure to perform such act shall continue, shall constitute a separate offense, unless otherwise

specifically provided. Except as prohibited by the State or Federal Constitutions, a prosecution under this Regulation, shall not be the exclusive penalty for such acts or omissions.

38.29 **ADDITIONAL RULES AND REGULATIONS**

The Director may make rules and regulations, which expand upon or add to the provisions of this article but are not inconsistent with them. Prior to taking effect, such rules and regulations, or any amendments thereto, shall be approved by resolution of the County Board. A copy of such rules and regulations, with any current amendments, shall be on file with the County Clerk.

38.30 **APPEALS**

Any person aggrieved by the issuance, denial, suspension, cancellation, or revocation of any permit provided for in this article or by any other order of the Director, may within ten days of the receipt of written notice of the entry of such order, appeal to the Sarpy County Zoning Board of Adjustment, consistent with the provisions of §23-168.02.

38.31 **CONFLICTS WITH OTHER CODE SECTIONS**

The provisions of this chapter shall control over any inconsistent of conflicting provision of this code.

38.32 **SEVERABILITY**

If any portion of this chapter or the applicant thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of such provisions to other persons or circumstances, shall not be affected thereby.

SECTION 39 - OFF-STREET PARKING AND LOADING REQUIREMENTS

39.1 GENERAL PROVISIONS

39.1.1 All buildings and structures erected and all uses of land in all districts established after the effective date of these regulations shall provide accessory parking and loading facilities as required under this section.

39.1.2 All off-street parking spaces required by these regulations shall be located on the same zone lot of the use it serves, and no access drives to or from a parking lot for a non-residential use shall traverse any areas in a residential-zoned district.

39.1.3 Owners of two or more uses or parcels of land may agree to jointly utilize the same parking spaces provided that satisfactory legal evidence is presented in the form of deeds, leases, or contract documents to establish such a joint area of use.

39.1.4 All yard areas including driveways, except the required front yard for residential uses may be used for off-street parking. Garages and driveways may be considered as off-street parking spaces.

39.1.5 A plan, drawn to scale, covering layout, landscape planting, surfacing, lighting, and other site improvements indicating how the off-street parking and loading requirements are to be met shall accompany an application for a building permit. The plan shall show all elements necessary to indicate that the requirements are being fulfilled.

39.1.6 Parking spaces, access drives, entrances, and exits as required by this section for business buildings, for multi-family dwellings and for dwelling groups shall be paved with an asphaltic or concrete surfacing except that a porous surface may be approved by the Planning Commission where it is deemed desirable to control water runoff problems.

39.1.7 Parking stalls, directional arrows and other traffic signs shall be adequately marked and maintained on the surface of the pavement with contrasting paint for night operation.

39.1.8 Curb cuts shall conform to County Regulations and regulations on County Roads and any State Regulations that may apply on State Highways and authorization from appropriate State Agencies shall be secured prior to the issuance of a building permit. Depressed curbs at access points shall be indicated. Access drives should cross sidewalks and enter public streets at right angles. Parking areas should be designed to prevent backing across sidewalk areas along streets.

39.1.9 Permanent bumper guards or wheel bumpers shall be required in those locations of the parking and loading area where a matter of safety is involved. Provision shall be made to prevent vehicles from overhanging any sidewalk area. Except for driveways and other entrances, parking and loading areas shall properly protect adjacent areas against headlight glare by means of a fence, wall or hedge having a maintained height of not less than two (2) feet nor more than three (3) feet; except that the fence, wall or hedge shall be maintained at a height of not less than six (6) feet on the side of the lot adjoining a residential zone and/or properties, and the area between the property line of the lot and such fence, wall or hedge shall be planted with lawn, shrubs, or flowers and continuously maintained in good condition.

39.1.10 Any lighting shall be so placed and oriented so that it will not be directed on adjacent residential properties.

39.1.11 Planting areas within the parking areas are to be encouraged.

39.2 OFF-STREET PARKING REQUIREMENTS

39.2.1 At the time of construction, alteration or enlargement of a structure or building, or change in the use of land, off-street parking spaces and loading areas shall be provided, constructed, and maintained for all uses as follows:

	Use	Minimum Number of Parking Spaces
39.2.2	Residential	Two spaces per dwelling unit
39.2.3	Mobile Trailer Park	Two spaces per trailer unit
39.2.4	Hotel and Motel	One per guest room in addition to parking space required by other uses in same building or use on same building or use on same lot
39.2.5	Hospitals, nursing homes, rest homes, or similar uses	One space for every two patient beds
39.2.6	Places of public assembly such as auditoriums, theaters, religious facilities, stadiums, community hall, etc.	One space for every six seats
39.2.7	Bowling Alley	Seven spaces for each alley
39.2.8	Farms selling home grown products	Six spaces for each stand
39.2.9	Retail sales department stores, grocery stores, etc.	One space per 200 square feet of gross floor area
39.2.10	Schools-elementary and junior high	Two spaces per classroom or one space for every six seats in the auditorium, whichever is greater
39.2.11	High Schools and Colleges	One space per five students or one space for every six seats in the largest assembly, whichever is greater
39.2.12	Manufacturing, wholesale warehouses and similar uses	One space for every two employees on the largest working shift
39.2.13	Home Occupation Resident professional person	One space plus residential two spaces plus residential requirement
39.2.14	Medical and Dental Offices	Five spaces per physician
39.2.15	Offices and banks,	One space per 200 square feet of usable floor area unless otherwise specified herein
39.2.16	Restaurants, night clubs, and taverns	One space per three-person (seated and standee) capacity
39.2.17	Commercial recreational facilities	One space per unit (table, tee, locker)
39.2.18	Drive-in establishments	One space per employee, plus five reserve spaces per operating window or stall
39.2.19	Funeral Parlors	Ten parking spaces plus one space for every two employees
39.2.20	Every other use not listed above	One space per 350 sq ft of usable floor area.

39.3 PARKING AREA REQUIREMENTS

39.3.1 Parking areas shall be designed with parking stalls meeting the following minimum standards:

(A) The dimension of a parking stall shall be at least 9' X 18' except that it may be reduced to 8'6" X 18' when, in the judgment of the Director of Planning, such parking stalls shall be used solely by apartment residents or business employees who use such stalls on a non-transient basis (car parked for at least 3 hours in same stall).

(B) Width of individual parking stall……..……9'

(C) Area of individual parking stall…….162 sq. ft.

(D) Driving aisle for perpendicular parking……..24'

(E) Driving lane for 60 degree angle parking…….20'

(F) Driving lane for 45 degree angle parking…….13'

(G) Driving lane for parallel parking…….……..10'

39.4 OFF-STREET LOADING REQUIREMENTS

39.4.1 Every building hereafter erected or structurally altered for commercial or Industrial purposes in the Commercial Districts or in the Industrial Districts shall provide adequate facilities for the loading and unloading of merchandise and goods in compliance with all of the district regulations in which the building or land is located, and at the time of construction, alteration, or enlargement of a structure or building having a gross floor area of 5,000 square feet or more, off-street loading areas shall be provided and maintained for all uses as follows:

Loading Area	Gross Floor Area
(one) 500 square feet	For every 5,000 to 20,000 square feet
(one) 500 square feet	For every 20,000 square feet or fraction thereof

SECTION 40 - SIGNS

40.1 INTENT

40.1.1 The intent of this section is to regulate signs as defined hereinafter, to protect the safety of users of the streets and highways, to assure compatibility with uses associated with signs, and to avoid adverse effects on adjacent property values and living conditions.

This section shall include, as part of its provisions, those portions of existing codes and laws relating to the erection and maintenance of signs and outdoor advertising structures which are not in conflict with these regulations. These regulations are in compliance with the Nebraska Revised Statute §39-1320 (Reissue 1995).

40.2 GENERAL REGULATIONS

40.2.1 All signs and sign structures shall be kept in good repair in a proper state of presentation. Signs which are abandoned and in a state of disrepair for a continuous period of six (6) months shall be removed within thirty (30) days after notice by registered mail. It shall be the responsibility of the property owner to remove or cause to be removed all business signs within three (3) months from the time the premises are vacated.

40.2.2 No sign or sign structure shall be erected at any location where it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device, where it is a hazard to traffic, or signs that create a safety hazard by obstructing the clear view of pedestrians or vehicles or which obscure official signs or signals.

40.2.3 Replacement of any signs on the premises of a non-conforming building or use shall not increase the aggregate area of sign surfaces on all signs in use and existing as of the date of the passage of these regulations. If any non-conforming sign is damaged exceeding two-thirds (2/3) of its replacement value, it shall not be rebuilt; provided, however, that nothing herein contained shall prevent maintenance, repainting, or posting of non-conforming signs.

40.2.4 Only one side of a sign structure shall be considered in computing the total allowable sign surface area except in the case of "V" type signs where the interior angle is more than 45 degrees, both sides shall be considered in computing the total allowable sign surface area. Advertising signs shall comply with building setback requirements in their respective Zoning Districts.

40.2.5 Sign structures shall not project beyond the height requirements of the subject Districts except that where the grade of the premises upon which such sign structure is erected is below the average grade level of the street or road to which such sign may be oriented, the height shall be measured from such average grade of such street or highway to the highest point of the sign structure.

40.2.6 Vision-clearance area. No sign may project into or be placed within the Sight Triangle as defined in Section 44, Definitions.

40.3 SIGNS ALONG HIGHWAYS

40.3.1 Signs along highways shall meet all of the requirements of the zoning districts in which they are located.

40.3.2 Along all roads which are part of the National System of Interstate and Defense Highways and all Federal Aid Primary Roads in the State of Nebraska, the Rules and Regulation of the Nebraska State Department of Roads will apply and are incorporated by this reference into the zoning regulations of the County.

40.3.3 Along roads and higways that are part of the Federal-Aid System and limited access highways, no two signs shall be spaced less than 1,000 feet apart. The minimum space of 1,000 feet between signs shall not prevent a business or service establishment, after obtaining a special permit therefore, from erecting one free-standing on-premise sign advertising the business or service carried on in a building or buildings within 1,000 feet of the center of an interchange.

40.3.4 Except as herein provided, no sign may be located within 1,000 feet of the center of an interchange, nor within 1,000 feet of the point where any interchange ramp intersects with a highway.

40.3.5 Not more than a total of ten sign structures shall be permitted on both sides of the affected highway per mile.

40.4 **PERMITS**

40.4.1 A permit shall be required for the erection, relocation or alteration of a sign.

40.4.2 A building permit fee shall accompany each application for a permit. The permit shall be obtained by the individual or firm erecting the sign.

40.4.3 After issuance of a permit for erection of a sign with removable panels or letters for advertising programs at a theater, no new permit shall be required for rearrangement of the approved panel or letters to indicate changes in programming.

40.4.4 All permits will expire by limitation at the end of one year from date of issuance, if not used, except that renewals by the Director of Planning may be granted without additional fee for one (1) additional year.

40.4.5 Exempt signs. The following signs are permitted in any zoning district and are exempt from other provisions of this section:

(A) Signs for religious assembly or school uses, provided that they have a maximum sign area of 32 square feet and are not located in a required sign setback. Religious assembly uses, secondary schools and high schools may apply for a special use permit for additional sign area.

(B) Real estate signs for sale, rental or lease of property on which the sign is located provided the signs are no more than 10 square feet in area.

(C) Official signs authorized by a government o governmental subdivision which give traffic, directional or warning information.

(D) Public Flags and religious symbols are not considered signs and are exempt provided they meet the required sign setback of the district.

(E) Seasonal decorations for display on private or public property

(F) Temporary signs for grand openings or special events, after first obtaining a sign permit for a temporary sign. The duration of the temporary sign must be included in the sign permit application and the proposed sign shall not obstruct the view of traffic or create a hazard or be placed on public right-of-way.

(G) Residential contractor signs during course of construction provided the sign is not more than 10 square feet in area.

(H) Works of graphic art painted or applied to building walls which contain no advertising or business identification messages.

(I) Residential signs, including home occupations, not more than two square feet in size and setback a minimum of 10 feet from the lot line or street right-of-way line.

(J) Street numbers. Street addresses shall be clearly visible from the right-of-way in order to allow emergency vehicles the opportunity to easily see the addresses.

(K) Signs which are not visible from a public right-of-way, private way or court or from a property other than that on which the sign in installed.

(L) Directional or informative signs provided they are part of an approved sign permit application.

(M) Temporary civic and non-profit organization signs on the premises (40 day limit) having a maximum of 10’ height and minimum of 15’setback from lot line or street right-of-way line.

(N) Signs pertaining to produce grown on premises having a maximum of 25 square foot in area and minimum setback of 10’ from the lot line or street right-of-way line.

40.5 **PROHIBITED SIGNS**

40.5.1 A sign which will in any manner obscure or otherwise physically interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or physically interfere with a driver's view of approaching, merging, or intersecting traffic.

40.5.2 A sign which contains or is an imitation of an official traffic sign or signal, or contains the words "stop," "go slow," "caution," "danger," "warning," or similar words.

40.5.3 A sign which is of a size, location, movement, content, coloring, or manner of illustration which may be confused with or construed as a traffic control device or which hides from view any traffic or street sign, or signal.

40.5.4 A sign which contains or consists of banners, posters, pennants, ribbons, streamers, strings of light bulbs, spinners, or other similarly- moving devices.

40.5.5 A sign which contains, includes, or is illuminated by any intermittent, revolving, rotating, or moving light or lights or moves, or has any animated or moving parts, with the exception of lighted, animated, or moving parts providing public service information such as time, date, temperature, weather, or similar information.

40.5.6 A sign which is not maintained in a neat, clean, and attractive condition and in good repair.

40.5.7 Any sign having a beacon light, or blinking, flashing, or fluttering lights or other illuminating device which has a changing light intensity, brightness or color.

40.5.8 Any lighted sign which is not so erected or maintained to effectively shield and prevent beams or rays of light from being directed at any portion of the traveled way or primary highway.

40.5.9 A sign which is of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle or to otherwise interfere with any driver's operation of a motor vehicle.

40.5.10 Any sign less than 660 feet from the nearest edge of the right-of-way of any road or highway which is a part of Federal-aid systems, as defined by Section 103 of Title 23 of the United States Code.

40.5.11 No billboard signs shall be permitted in Flood Plain and Planned Development Districts, other than the signs allowed under the Zoning District to which these districts are appended.

40.5.12 Signs painted on or attached to rocks, trees or other natural objects.

40.5.13 Signs on public property or public right-of-way, unless specifically authorized by the appropriate public agency.

40.6 **AGRICULTURAL DISTRICT AND AIRPORT DISTRICT SIGNS**

The following signs are permitted in the Agricultural and Airport Districts and all other signs are expressly prohibited:

		MAXIMUM SIZE	MAXIMUM NUMBER	LOCATION	PERMIT REQUIRED
40.6.1	Signs pertaining to other permitted uses and legally non-conforming uses on premises	8 sq. ft.	1 per each street frontage	10’ Back of lot line or street right-of-way line	Yes
40.6.2	Signs pertaining to uses authorized by the County Board of Commissioners as special permitted uses	15 sq. ft.	1 per each street frontage	10’ Back of lot line or street right- of-way line	Yes
40.6.3	Billboard sign structures	600 square feet	----------	10' From Back of Lot Line or street right-of-way line Min of 10 feet or ½ height of sign from back of lot line or street right-of-way Not to exceed 30 feet height above grade 500 feet from existing residence or residential district	Yes

40.7 **RESIDENTIAL DISTRICT SIGNS**

The following signs are permitted in the Residential Districts and all other signs are expressly prohibited:

		MAXIMUM SIZE	MAXIMUM NUMBER	LOCATION	PERMIT REQUIRED
40.7.1	All signs in 40.6.1 to 40.6.3 as permitted therein	----------	----------		
40.7.2	Subdivision Signs offering lots within the subdivision for sale within an approved subdivision on the premises	200 sq. ft. Maximum area 15 feet maximum height above grade	1 per each street frontage of the subdivision or development	15 feet back of lot line or street right-of-way line	Yes
40.7.3	Subdivision Identification Signs	50 sq ft area 10 ft maximum height above grade	1 per entrance	15 ft setback from lot line or street right-of-way line	Yes

40.8 **BUSINESS DISTRICT SIGNS**

The following signs are permitted in business zones and other signs are expressly prohibited.

		MAXIMUM SIZE	MAXIMUM NUMBER	LOCATION	PERMIT REQUIRED
40.8.1	Any sign advertising the use of the land and building upon which displayed, for the sale of goods or services on the same premises, or the name or location of the proprietor	500 square feet maximum of all detached signs on a lot not to exceed 20 feet above grade ***	1detached sign per lot or 1 per 1000 feet' of frontage. Area of wall signs to not exceed 25% of front of building facade area.	Min 10 feet back of lot line or street right-of-way line	Yes
40.8.2	Temporary identifying signs for a building project on the lot for which a building permit has been issued and in effect	24 sq ft	1 per each frontage	10' Back of lot line or street right-of-way line	Yes
40.8.3	Center Identification Signs A sign erected to provide direction to a development including multiple uses and / or structures within a Business or Industrial Development area. Center Identification signs shall include the name of said development and may include, when permitted, the names of major tenants of the development. Center Identification Signs shall typically be similar to Ground (Monument) signs.	150 sq ft Maximum Height 20 feet above grade	1 per 1000 feet of frontage	10 foot Back of lot line or street right-of-way line	Yes

40.9 **INDUSTRIAL AND MANUFACTURING DISTRICT SIGNS**

		MAXIMUM SIZE	MAXIMUM NUMBER	LOCATION	PERMIT REQUIRED
40.9.1	Any sign advertising the use of the land and building upon which displayed, for the sale of goods or services on the same premises, or the name or location of the proprietor	** ***	1 detached sign per frontage Area of wall signs to not exceed 25% of front of building façade area.	Zero setback from property line so long as the structure does not fall within the sight distance triangle (Definitions Section 44)	Yes
40.9.2	Center Identification Signs A sign erected to provide direction to a development including multiple uses and / or structures within a Business or Industrial Development area. Center Identification signs shall include the name of said development and may include, when permitted, the names of major tenants of the development. Center Identification Signs shall typically be similar to Ground (Monument) signs.	200 sq ft Maximum Height 20 feet above grade	1 per 1000 feet of frontage	Zero setback from property line so long as the structure does not fall within the sight distance triangle (Definitions Section 44)	Yes

**One square foot for each lineal foot of street frontage provided; in the case of a corner lot, 20% of the allowable sign surface area for one street frontage may be deducted there from and added to the other street frontage or, 40% of the area of the building facade of the principal building situated upon the premises or other elevation to which the sign is oriented, measured from grade level to 35 feet or the actual height of the building, whichever is lower, or 500 square feet in area, whichever is greater, 20 feet in height above natural grade, including foundation base and support.

***For signs that are placed within 660 feet of an Interstate Right-of-Way, a maximum height limit would be 80 feet above natural grade.

(Section 40 amended 10-08-13 Resolution 2013-369)

SECTION 41 - SPECIAL USE PERMITS

41.1 GENERAL PROVISIONS

41.1.1 The County Board of Commissioners may by special permit, after referral to and recommendation from the Planning Commission, authorize and permit "special uses" that are designated in the district use regulations if it is found that the location and characteristics of the use will not be detrimental to the health, safety, morals, and general welfare of the area and the special use is in accordance with the intent and purpose of the district in which it is permitted, including, among other things, such specific purposes as:

1. developing both urban and non-urban areas;
2. lessening congestion in the streets or roads;
3. reducing the waste of excessive amounts of road;
4. securing safety from fire and other dangers;
5. lessening or avoiding the accumulation or runoff of storm or flood waters;
6. providing adequate light and air;
7. preventing excessive concentration of population and excessive and wasteful scattering of population or settlement;
8. promoting such distribution of population, such classification of land uses, and such distribution of land development as will assure adequate provisions for transportation, water flowage, water supply, drainage, sanitation, recreation, soil fertility, food supply, and other public requirements;
9. protecting the tax base;
10. protecting property against blight and depreciation;
11. securing economy in governmental expenditures;
12. fostering the state's agriculture, recreation, and other industries;
13. encouraging the most appropriate use of land in the County; and,
14. preserving, protecting, and enhancing historic buildings, places, and districts.

41.1.2 The County Board of Commissioners will grant or deny a special use permit in accordance with the standards set forth herein, the intent and purpose of this Regulation, and the recommendations of the Planning Commission. In reviewing a request for a special use permit, additional information may be requested by the County Board of Commissioners.

This additional information will be sent to the Planning Commission for its review and recommendation regarding the issuance of the special permit prior to the County Board of Commissioners consideration of the special permit.

In granting the special use permit, the County Board of Commissioners will authorize the issuance of the special use permit and may prescribe and improve appropriate conditions, including operational plans, safeguards, and a specified time limit for the use of the special use permit.

41.1.3 Routine or ordinary maintenance, repair or alterations may be made to such a building or structure. All structures shall comply with Sarpy County Building, Electrical, Plumbing, and

Heating Codes, and shall comply with applicable sections of the Sarpy County Utilities Regulations relative to water and sewer.

41.1.4 No structural alterations, repairs, additions or enlargements shall be made in or to such building or structure existing under a special use permit unless a new special use permit is granted for such alterations, repairs, additions, or enlargement, in accordance with the rules and procedures of the County Board of Commissioners.

41.2 APPLICATIONS FOR SPECIAL USE PERMITS AND PLANNING COMMISSION RECOMMENDATIONS

41.2.1 A request for a special use permit for a special use or modification of a special use may be initiated by a property owner or his/her authorized representative by filing an application with the Director of Planning upon forms prescribed for this purpose. The application shall be accompanied by a non-refundable fee as established in the "Master Fee Schedule for the Planning and Building Department" adopted by the County Board. Applicants shall also be required to pay a Mailing Fee as established in the "Master Fee Schedule for the Planning and Building Department" adopted by the County Board for written notices to be sent to property owners within 300 feet of the property which is the subject of the special use permit request. All fees are required to be paid in advance of scheduling the application with the Planning Commission or the County Board.41.2.2 Applicants shall submit the site plans and other such plans and data showing the dimensions, arrangements, description, data, and other materials shall constitute a record essential to the understanding of the proposed use or proposed modification.

41.2.3 The other information required shall be addressed in the application to identify for the Planning Commission and County Board of Commissioners that the proposed use or modification will conform to the required performance standards contained in these regulations.

41.2.4 The operational plans will be identified by the Director of Planning in consultation with other Sarpy County Officials and will be based on compliance with local rules and regulations and state and federal laws and regulations.

41.2.5 After filing a completed application for a special use permit or modification of a special use, the Planning Commission shall have 30 days to review the materials and make a recommendation to the County Board of Commissioners. This recommendation can include appropriate conditions and a specified time limit for the performance of the special use permit or modification of a special use.

41.3 PUBLIC HEARING

41.3.1 Before issuance of any special use permit, the County Board of Commissioners will consider the application for the special use permit together with the recommendations of the Planning Commission at a public hearing held at the call of the Chairman of the County Board of Commissioners within 30 days of the completion of the Planning Commission's review and after prior notice of the time, place and purpose of the hearing has been given by publication in a legal paper with general circulation in Sarpy County one time at least 10 days prior to such hearing.

41.3.2 The Planning Department will send written notice of the special use permit request to property owners within 300 feet of the property which is the subject of the special use permit. Such notice will also include the date and time of the Planning Commission public hearing and the estimated date of the County Board public hearing.

41.4 DECISIONS

40.4.1 The concurring vote of the majority of the members of the County Board of Commissioners shall be necessary to grant a special use permit.

41.5 PERFORMANCE STANDARDS

41.5.1 No special use permit shall be granted by the County Board of Commissioners unless such Board shall find:

(A) That the establishment, maintenance, or operation of the special use will not be detrimental to nor endanger the public health, safety, morals, comfort, or general welfare of the community.

(B) That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.

(C) That the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

(D) That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.

(E) That adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion in the public streets.

(F) The special use shall not include any activity involving the use or storage of flammable or explosive material unless protected by adequate fire-fighting suppression equipment and by such safety devices as are normally used in the handling of any such material.

(G) The special use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.

(H) The special use shall not include vibration which is discernible without instruments on any adjoining lot or property.

(I) The special use shall not involve any pollution of the air by fly-ash, dust, vapors or other substances which are harmful to health, animals, vegetation, or other property or which can cause soiling, discomfort, or irritation.

(J) The special use shall not involve any malodorous gas or matter which is discernible on any adjoining property or from any public street, road, or highway.

(K) The special use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.

(L) The special use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

41.5.2 The County Board of Commissioners may revoke a special use permit if the use has been abandoned for a period of at least one (1) year, or if the use is found to have substantially varied the use or structure for the originally-permitted intent, and thus is found in non-conformance with the special use permit as issued.

41.5.3 Special permitted use exceptions for trailers and mobile homes:

(A) A travel trailer, camping trailer, pick-up coach, auto camper, or motorized home belonging to a guest of the property owner may park and occupy for temporary lodging on the same lot but not for more than 14 days in a one-month period.

(B) A trailer or mobile home may be used as a temporary office incidental to the construction of a building development for the duration of the construction provided that the trailer is located on the same lot as the construction project and only after obtaining a temporary special construction permit and paying the County a fee of $75.00.

(C) No single-wide mobile home shall be permitted in any district as a permanent residence except for Mobile Home Residential District (RMH).

(D) Any single wide mobile home used for seasonal recreational purposes shall apply for and receive approval of a special permit for such single wide mobile home for a three year period.

(E) Any change in ownership of a single wide mobile home used for seasonal recreational purposes shall apply for and receive approval of the change of ownership for a single wide mobile home for a three year period.

41.5.4 Standards for Salvage Yard Special Permits:

(A) The application for a special use permit shall be accompanied with a proposed development plan together with other documents prescribing the general intent or covenant to meet the minimum requirements described herein:

1. Any salvage yard shall be at least 500 feet distant in all directions from any residential dwelling.
2. The out-of-doors yards shall be screened by a wall at least 50 percent solid or uniformly-painted solid fence not less than 6 feet in height, or in lieu thereof, a landscape buffer strip 5 feet in width with deciduous evergreen trees and large shrubs to provide a landscape screen at least 10 feet high.
3. Off-street parking or service area in connection with the yards may be located outside of the screened-in area.

41.6 PROCEDURE FOR A PLANNED DEVELOPMENT PLAN TO ACCOMODATE TRANSPORTABLE SEASONAL DWELLING UNITS

41.6.1 A Planned Development Plan shall be filed with the application for re-zoning as an amendment to the Zoning Map showing the buffer areas for landscape plantings, the layout of lots, the access roads or drives, utilities distribution system, service facilities, earth grading plan, and such other information deemed necessary; and, such Development Plans, diagrams, and calculations shall be the basis for the issuance of a building permit or special use permit in conformity therewith.

41.6.2 Development Plan alterations which increase the number of dwelling units, the arrangement of lots, or roadway or driveway alignment shall require a re-submission for approval of the application for re-zoning. Any minor changes or adjustments in the lot lines, or decrease in the number of dwelling units may be approved by the Director of Planning without re-submission.

41.7 ADMINISTRATIVE APPROVAL

The Director of Planning, shall have the right to approve and issue Administrative Special Use Permits under certain specified conditions as listed below.

Administrative Action: Application will be made on a form so designated by the Planning and Building Department. A non-refundable application fee as established in the "Master Fee Schedule for the Planning and Building Department" adopted by the County Board shall accompany the completed application and any additional documentation. The Planning and Building Department shall approve or disapprove the special use permit within fifteen (15) working days of receipt of the completed application and any required additional documentation. In the event of disapproval, the Planning and Building Department shall give the applicant a written statement showing the reason for the disapproval. If approval is given; a permit will be issued, signed by the Director of Planning and Building.

Appeal of Administrative Disapproval: The applicant has the privilege of requesting that the Planning Commission and the County Board of Commissioners review and consider the application after due notice and public hearing and order the issuance or denial of the permit with reasons in writing.

41.7.1 Permitted Special Uses Applicable for Administrative Approval:

Sludge Disposal and Storage in Agricultural Zones. Applicant must provide a copy of executed contract between the applicant and the City of Omaha's Public Works Department-Waste Water Residual Office, as well as a copy of the executed contract between the applicant and Environmental Control.

41.7.2 Special use permits eligible for administrative approval may be approved after a public notice for approval of the special use permit, which shall be published by the Director of Planning and Building in a legal paper of general circulation in Sarpy County, one time, at the first opportunity after receipt of the application. If no written objections to the special use permit are received within 30 days of public notice, the application can be approved by the Director of Planning. If written objections are received, the application will follow the same procedure as for other special use permits requiring public hearing and approval by the Planning Commission and County Board of Commissioners.

41.8 RENEWAL OF SPECIAL USE PERMITS

Special use permits may be renewed after a public notice for renewal of the special use permit which shall be published by the Director of Planning in a legal paper of general circulation in Sarpy County, one time at least 10 days prior to renewal. If no written objections to the renewal are received within 30 days of the public notice, the application will be heard by the Director of Planning. If written objections are received, the renewal will follow the same procedure as an application for a special use permit.

41.9 WIND ENERGY REGULATIONS

41.9.1 Purpose

The purpose of the Wind Energy Regulations is to provide for the construction and operation of Wind Energy Facilities in Sarpy County, subject to reasonable restrictions, which will preserve the environment, public health, safety and welfare. Sarpy County finds that there is a public interest in installing renewable and nonpolluting energy sources.

41.9.2 Title

This regulation shall be known and cited as the Sarpy County Wind Energy Regulation.

41.9.3 Definitions

For purposes of this regulations, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number the plural number. The word "shall" is always mandatory, and not merely directory.

Applicant means any person or entity submitting an Application for a permit for a Wind Energy Facility.

Application means all necessary and appropriate documentation that an Applicant submits in order to receive a permit for a Wind Energy Facility.

Capacity means the amount of electricity produced by the wind energy facility measured in kilowatts (kW).

Completed Application means an application that contains all information and/or data necessary to enable an informed decision to be made with respect to an application.

County means the local political subdivision described as Sarpy County as set forth in State Statutes. When the term County is used to refer to a geographic area, it shall denote any areas within the County boundaries excluding areas within the extra territorial zoning jurisdiction of any City or Village within the County.

County Board means the Sarpy County Board of Commissioners.

Director of Planning means the Sarpy County Director of Planning.

Environmental Review means a detailed examination of the applicant's proposal and its local environmental context with an emphasis on avoiding, minimizing, and mitigating adverse impacts.

FAA means the Federal Aviation Administration, or its duly designated and authorized successor agency.

Facility Operator means the entity responsible for the day-to-day operation and maintenance of the Wind Energy Facility.

Facility Owner means the entity or entities having controlling or majority equity interest in the Wind Energy Facility, including their respective successors and assigns.

Nacelle means the body/shell/casing of a propeller-type wind turbine that covers the gearbox, generator, blade hub, and other parts.

Nebraska Game & Parks Commission – means the commission responsible for the stewardship of the states' fish, wildlife, parks and other resources.

Non-Participating Landowner means any landowner not under agreement with the Facility Owner or Operator.

Occupied Building means a residence, school, hospital, church, public library, or other building used that is occupied or in use when the permit application is submitted.

OPPD means Omaha Public Power District.

Participating Landowner means a landowner under lease or other property agreements with the Facility Owner or Operator pertaining to the Wind Energy Facility.

Planning Commission means the Sarpy County Planning Commission.

Public Road means a full passage right-of-way.

Setback means the minimum distance, measured in feet, between the wind energy facility and the property line or access easements.

Special Use Permit means the official document or permit by which an Applicant is allowed to file for a building permit to construct and use a Wind Energy Facility as granted or issued by the County Board.

State means the State of Nebraska.

Tower Height means the height above grade of the fixed portion of the tower, excluding the wind turbine itself.

U.S. Fish and Wildlife Service means the bureau of the Department of the Interior that works to conserve, protect and enhance fish, wildlife and plants and their habitats.

Wind Energy Facility means an electric generating facility, whose main purpose is to supply electricity, consisting of one or more Wind Turbines and other accessory structures and buildings, electrical infrastructure, transmission lines and other appurtenant structures and facilities. For the purpose of this regulation, the term includes roof-mounted or building integrated roof mounting systems.

Wind Energy Facility, Small means a single system designed to supplement other electricity sources as an accessory use to existing buildings or facilities, wherein the power generated is used for on-site consumption. A small wind energy conversion system consists of a single wind turbine, a tower, and associated control or conversion electronics, which has a total rated capacity of 25 kW or less. Monopole facilities are encouraged.

Wind Power means the conversion of wind energy into another form of energy.

Wind Turbine or windmill is a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and may include a nacelle, rotor, tower, guy wires and pad transformer.

Wind Turbine Height means the distance measured from grade at the center of the tower to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

41.9.4 Overall Policy and Desired Goals for Permits for Wind Energy Facilities

In order to ensure that the placement, construction, and modification of Wind Energy Facilities protects the County's health, safety, public welfare, environment features, the

nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in the Regulation, a special use permit is required for all small wind energy systems.

41.9.5 Permit Application

The permit application shall contain the following:

(A) narrative describing the proposed Wind Energy Facility, including an overview of the proposed total rated capacity of the Wind Energy Facility;

(B) The proposed number, representative types and height or range of heights of wind turbines to be constructed; including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities;

(C) Identification and location of the properties on which the proposed Wind Energy Facility will be located;

(D) A site plan and construction drawings, including engineering stamp when applicable, showing the planned location of all wind turbines, property lines, setback lines, access roads and other site features;

(E) Certification of compliance with applicable local, state, and Federal regulations, such as FAA and FCC regulations.

(F) Other relevant information as may be reasonably requested by Sarpy County to ensure compliance with the requirements of the regulation.

(G) Decommissioning plans that describe the anticipated life of the wind power project, the estimated decommissioning costs in current dollars, the method for ensuring that funds will be available for decommissioning and restoration, and the anticipated manner in which the wind power project will be decommissioned and the site restored.

(H) Documentation of agreement between Participating Landowner(s) and the Facility Owner/Operator of the Wind Energy Facility; and

(I) Signature of the Applicant

(J) Elevations of the wind energy facility.

(K) Signed Interconnection agreement with local power company, OPPD if the applicant intends to interconnect to the power grid.

(L) Signed Development agreement that addresses decommissioning of the wind energy facility and proof of liability insurance.

41.9.6 Setbacks

The minimum setback requirement is calculated by multiplying the required setback number by the Wind Turbine Height and measured from the center of the wind turbine base to the property line, or road. The required setback number is as follow:

Wind Energy Facility Type	**Setback from Occupied Buildings on Property**	**Setback from Property Lines and Access Roads**
Small Wind Energy System	0.0	1.5 times the height of the system

41.9.7 Height

Tower height shall be permitted up to eighty (80) feet for freestanding small wind energy systems. Rooftop systems are limited to the existing district height for primary structures.

41.9.8 Noise

Audible sound from a Wind Energy Facility shall not exceed fifty-five (55) dBA, as measured at any property line.

41.9.9 Installation and Design

(A) The installation and design of Wind Energy Facilities shall conform to applicable industry standards, including those of the American National Standards Institute, and take into consideration local conditions.

(B) All Wind Energy Facilities shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over speed protection.

(C) All structural, electrical and mechanical components of the Wind Energy Facility shall conform to relevant and applicable local, state and national codes.

(D) Wind Energy Facilities shall be outside of any protected species habitat areas identified by the Nebraska Game and Parks Commission and U.S. Fish and Wildlife Service and at least 1,500 feet setback from wetlands unless the reviewing bodies find the system will not impact the habitat areas. These distances may be adjusted to be greater or lesser at the discretion of the reviewing body, based on topography, land cover, or land uses.

(E) The visual appearance of the Wind Energy Facilities shall at a minimum:

1. Be a non-obtrusive color such as white, off-white, or gray;
2. Not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety, and,
3. Not display advertising (including flags, streamers, or decorative items), except for identification of the turbine manufacturer, facility owner and operator and no larger than one square foot in area.
4. Not be installed at any location that would substantially detract from or block the view of the major portion of a recognized scenic area, as viewed from any public road right-of-way.
5. Encourage monopole towers.

41.9.10 Decommissioning

(A) The Wind Energy Facility Owner shall have six (6) months to complete decommissioning of the Facility if no electricity is generated for a continuous period of six (6) months.

(B) Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, and any other associated facilities down to thirty-six (36) inches below grade.

(C) Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

(D) A development agreement, prepared by the County, must be signed and part of the application to address decommissioning responsibilities and filed with the Register of Deeds.

SECTION 42 - BOARD OF ADJUSTMENT

42.1 GENERAL PROVISIONS

42.1.1 A Board of Adjustment is hereby established by the County Board of Commissioners.

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

42.1.3 Appeals to the Board of Adjustment may be petitioned by any persons aggrieved, or by any officer, department, board or bureau of the County affected by any decision of the Planning Director within 30 days of such decision. The appeal shall be filed with the County Clerk accompanied by a filing fee as established in the "Master Fee Schedule for the Planning and Building Department" adopted by the County Board.

42.2 AUTHORITY: THE BOARD OF ADJUSTMENT IS GRANTED THE FOLLOWING AUTHORITY:

42.2.1 To hear and decide appeals where any property owner is aggrieved by the action of any officer, department, board or bureau of the County in the adoption and provisions of this regulation.

42.2.2 To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by the Director of Planning in the enforcement of this Regulation. Except, the board of adjustment shall have no authority to hear and decide appeals regarding special use permits or special exceptions which may be granted by the County Board of Commissioners.

42.2.3 To authorize upon appeal in specific cases such variances or exceptions from the terms of the Regulation as will not be contrary or substantially detrimental to the public interest, general purpose, or intent of this regulation.

42.2.4 No variance shall allow the use of property for purposes not authorized within the applicable zoning district.

42.2.5 To hear and decide, in accordance with the provisions of any regulation, requests for the interpretation of any map, or for decisions upon other special questions upon which the Board of Adjustment is authorized to act by this regulation.

42.2.6 Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the adoption of the zoning regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted resolution under this resolution would result in peculiar and exceptional practical difficulties to, or exceptional

and undue hardships upon the owner of such property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any zoning regulations.

The board shall set out findings of fact based on evidence and testimony that the following conditions exist or would result:

1. The strict application of the zoning regulation would produce undue hardship;
2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
3. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and,
4. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations of the regulations for the purpose of convenience, profit or caprice.

No variance shall be authorized unless the Board Adjustment finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the regulations.

In exercising the above-mentioned powers, the Board of Adjustment may, in conformity with the provisions of said sections, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination as shall be proper and to that end shall have the power of the officer or agency from who the appeal is taken.

The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any resolution or to effect any variation in such resolution.

42.2.7 The Board of Adjustment will interpret the provisions of this regulation in such a way as to carry out its intents and purposes and to adopt from time to time such rules as it may deem necessary to carry out the provisions of said regulation. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. The Planning Department will send written notice of the variance or exception application request to property owners within 300 feet of the property which is the subject of the variance or exception. Applicants shall also be required to pay the cost of such written notices. At the time of application, the Planning Department will work with GIS and determine an estimated cost for the mailing, which said estimated cost will be collected at the time of application. Once the actual costs for the mailing are known, the Planning Department will refund money or collect additional money as appropriate. All mailing costs are required to be paid in advance of scheduling the application with the Board of Adjustment. No hearings shall be held by the Board of Adjustment on any appeal until notice thereof has been given by publication of notice of said hearing in a legal newspaper for at least 10 days prior to the date of said hearing.

42.3 **APPEAL**

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any officer, department, board, or bureau of the County, may present to the district court for the County a petition, duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be presented to the court within fifteen days after the filing of the decision in the office of the County Clerk.

SECTION 43 - AMENDMENTS AND RE-ZONING

43.1 GENERAL

43.1.1 The Zoning Regulations and the Zoning Map may be amended, supplemented, changed, modified, or repealed from time to time by resolution of the County Board of Commissioners, after a public hearing and after having been submitted to the Planning Commission for a public hearing and a recommendation. Any proposed amendments, modifications, changes or repeals may be initiated by:

(A) The Director of Planning, Planning Commission, County Board of Commissioners or any other County official which shall be exempt from Sections 43.2.1, 43.2.2, and 43.7.

(B) The owners of the property

(C) An interested party.

43.1.2 Amendments to the Zoning Regulations and maps will be made after the Planning Commission and the County Board of Commissioners amend the Comprehensive Plan, or when the re-zoning is contrary to or different than the guidelines and Future Land Use Plan adopted in the Comprehensive Plan.

(A) Intent and Purposes for Re-zoning: Before re-zoning changes are adopted, the Planning Commission and the County Board of Commissioners shall consider the reasonable application of the purpose and intent of the Comprehensive Plan, including, among other things, such specific purposes as the following:

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

43.2 APPLICATION AND FEES

43.2.1 An application for an amendment or change by the owner or by the duly Authorized agent of the owner shall be submitted to the Planning Commission on forms obtained from the Planning Department accompanied by a non-refundable filing fee payable to the County.

The filing fees shall be in accordance with the "Master Fee Schedule for the Planning and Building Department" adopted by the County Board.

Applicants shall also be required to pay a Mailing Fee as established in the "Master Fee Schedule for the Planning and Building Department" adopted by the County Board for written notices to be sent to property owners within 300 feet of the property which is the subject of the change of zone request. All fees are required to be paid in advance of scheduling the application with the Planning Commission or the County Board.

43.2.2 The application must be submitted to the Planning Department at least 45 days prior to the Planning Commission's regular meeting.

43.2.3 With each application the applicant shall submit a copy of the deed on file from the Register of Deeds indicating that the applicant is the owner of the property for which the amendment or change is requested.

43.3 PUBLIC HEARING

43.3.1 Upon receipt of a completed application, the Planning Commission will hold a public hearing and, within 60 days of the public hearing, prepare a report recommending its approval, disapproval, or changes to the proposed amendments. After receiving the Planning Commission's report, or in the absence of a report within sixty days of the date of the Planning Commission's hearing, the County Board of Commissioners shall hold a public hearing on the proposed amendment. The concurring vote of the major of the members of the County Board of Commissioners present at the meeting shall be necessary to approve any amendment.

43.4 NOTICE OF PUBLIC HEARING

43.4.1 Notice of the time and place of the public hearing before the Planning Commission and the County Board of Commissioners shall be given by the publication thereof in a legal newspaper of general circulation in the County one time at least ten days prior to such hearing, and in the local newspaper of any city which has territory within three miles of the property that may be affected by such action of the County Board of Commissioners. Notice of the public hearing shall also be given in writing to the chairperson of any municipal, County, or joint planning commission which has jurisdiction over land within three miles of the property that may be affected by such action and in the absence of a Planning Commission, such notice shall be given to the clerks of units of local government.

The Planning Department will send written notice of the change of zone request to property owners within 300 feet of the property which is the subject of the change of zone. Such notice will also include the date and time of the Planning Commission public hearing and the estimated date of the County Board public hearing.

43.4.2 Each application for a change in the Zoning Map or Special Use Permit shall be posted at least 10 days prior to the public hearing by the Director of Planning on the site adjacent to and visible along each street frontage.

43.5 The Planning Commission shall within a reasonable time from the date of the application, act on the proposed amendment as submitted or changed, or if approved or disapproved, shall reports its reasons or conditions to the County Board of Commissioners. If the Planning Commission fails to report its findings of recommendation within sixty days from the date of the hearing, the county Board of Commissioners may hold a public hearing and act on the proposed amendment without the Planning Commission's report.

43.6 In case, however, of a protest against such change signed by the owners of twenty percent or more of either the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred feet there from, or of those directly opposite thereto extending one hundred feet from the street frontage of such opposite lots, and such change or amendment is not in conformance with the Comprehensive Plan, such change or amendment shall not become effective except by the favorable vote of two-thirds of the majority of the members of the County Board of Commissioners.

43.7 Should any successful applicant for a rezoning fail to undertake substantial construction within two years after the County Board of Commissioners shall have approved such rezoning, the entire area shall revert to its former zoning classification by appropriate action of the County Board of Commissioners, provided that the County Board of Commissioners shall have the power to extend said period by twelve months in the event of special and unique hardship and circumstance, after receiving a fee equal to the original rezoning fee and a written request for an extension covering twelve months; provided, however, that after five successive extensions, or five years, the applicant shall be required to reapply completely.

43.8 The resolution adopting such proposed changes or amendments shall be recorded in the minutes of the proceedings of the County Board of Commissioners and shall be published in book or pamphlet form and filed with the County Clerk within fifteen days after passage and approval. The proof of publication of such resolution shall be filed for record with the County Clerk.

SECTION 44 - DEFINITIONS

44.1 For the purpose of this regulation, certain terms and words are hereby defined as follows. Words used in the present tense will include the future; the singular number shall include the plural, and the plural the singular; the word "building" shall include the word "structure"; the word "lot" shall include the words "plot" or "tract"; and the word "shall" is mandatory and not discretionary. Words or phrases used in this regulation shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this regulation its most reasonable application.

ABATTOIR shall mean a place where cattle, sheep, hogs or other animals are killed or butchered for market or for sale, provided, however, that this shall not to be taken to mean or to include poultry.

ABUT shall mean as follows: two adjoining parcels of property, with a common property line, are herein considered as one parcel abutting the other. Except where two or more lots adjoin only at a corner or corners, they shall not be considered as abutting unless the common property line between the two parcels measures not less than ten (10) feet in a single direction. Abut shall mean the same as adjoin; contiguous.

ACCESS OR ACCESS WAY shall mean the place, means, or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by this regulation.

ACCESSORY STRUCTURE shall mean a structure or part of a structure, detached from a principal building and located on the same lot which is subordinate to, and the use of which is incidental to that of the main building, structure or use.

ACCESSORY LIVING QUARTERS, GUEST HOUSE shall mean living quarters within an accessory building located on the same premises as the main building, for use by temporary guests of the occupant of the premises, such quarters having no kitchen facilities and not rented nor otherwise used as a separate dwelling unit. See "Accessory Structure" above.

ACCESSORY USE shall mean a use incidental, related, appropriate and clearly subordinate to the main use of the lot or building in a residential district, which accessory use does not alter the principal use of the subject lot or affect other properties in the district.

ACREAGE shall mean any parcel of land between 10 and 79 acres.

ACTUARIAL RATES - or "risk premium rates" shall mean those rates established by the Administrator, pursuant to individual community studies and investigations, which are undertaken to provide flood insurance in accordance with 42 U. S. C. §4014 and the accepted actuarial principles. Actuarial rates include provisions for operating costs and allowances.

ADJACENT shall mean near, close, or abutting; for example, an Industrial District across the street or highway from a Residential District shall be considered as "Adjacent."

AGRICULTURE shall mean the use of land for agricultural purposes including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry.

AIRCRAFT shall mean any contrivance, now known or hereafter invented, for use or designed for navigation of or flight in the air or outer space, including missiles.

AIRPORT shall mean any area which is used or is intended to be used for the taking off and landing of aircraft, including helicopters, and any appurtenant areas which are used or are intended to be used for airport buildings or facilities, including open spaces, taxiways and tie-down areas.

ALCOHOL SALES, RETAIL shall mean establishments or places of business engaged in retail sale for off-premise consumption of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales of liquor, beer or wine for off-site consumption.

ALLEY shall mean a minor public service street or public thoroughfare 20 feet or less in width, through a block of lots primarily for vehicular service access to the rear or sides of properties otherwise abutting on another street. Buildings facing an alley shall not be construed as satisfying the requirements of these regulations related to frontage on a dedicated street.

ANIMAL DAYCARE shall mean a facility for the caring of animals on a daily or weekly basis providing training, exercise, and socialization.

ANIMAL HOSPITAL shall mean a place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use as a kennel shall be limited to short-time boarding and shall be only incidental to such hospital use.

ANIMAL UNIT - shall mean the number of animal equivalent to one (1) unit.

2 feeder or calves under 500 lbs	= 1 AU
1 feeder or slaughter steer	= 1 AU
3 swine over 50 pounds	= 1 AU
10 swine under 50 pounds	= 1 AU
1 dairy cow	= 1 AU
10 sheep or goat	= 1 AU
100 layer or broiler	= 1 AU
50 turkeys	= 1 AU
1 horse	= 1 AU
1 non-traditional farm animal	= 1 AU
2 miniature animals	= 1 AU

Any amount of animal units 300 or less shall constitute a farm operation. Any amount over 300 shall be considered a commercial operation.

ANIMAL UNIT DENSITY LIMITATION - those portions of an Acreage devoted to livestock production shall be limited to 1 Animal Unit per acre without a special use permit. This definition shall apply to Agricultural Farming (AG) and Agricultural Development (AGD) zoning districts.

ARCHITECTURAL CONCRETE PANELS shall mean precast panels with etched or exposed aggregates, scored or inlaid patterns with definition; inlaid thin brick, inlaid architectural concrete block and stone texture and accents. Standard tooled or water/air blasted concrete finish does not meet this definition.

ARCHITECTURAL CONCRETE UNITS shall mean concrete masonry units of standard mix design and density with a modified face exposure of a scored patter, flute, or rock texture. Integral color, marbled color, solid high glaze color patterns and ground faces (exposing aggregate), are part of this definition.

ASSESSOR shall mean the County Assessor of Sarpy County, Nebraska.

AREA OF SHALLOW FLOODING means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AUTOMOTIVE/MOTORCYCLE SALES, RENTAL AND SERVICE shall mean establishments or places of business primarily engaged in sale and/or service of automobiles, motorcycles, trucks, or heavy equipment. The following are considered automotive and equipment use types:

1. Automobile Auction Lots: Sale of motor vehicles through a process of periodic auctions or bid procedures. Automobile auction lots usually include large on-site storage areas of motor vehicles and lack showrooms, auto repair facilities and other structures and facilities that are typical of new car dealerships.
2. Automotive Rental and Sales: Sale or rental of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles or boats, including incidental storage, maintenance, and servicing. Typical uses include new and used car dealerships; motorcycle dealerships; and boat, trailer, and recreational vehicle dealerships.
3. Auto Services: Provision of fuel, lubricants, parts and accessories, and incidental services to motor vehicles; and washing and cleaning and/or repair of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include service stations, car washes, muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, and similar repair and service activities but exclude dismantling, salvage, or body and fender repair services.
4. Body Repair: Repair, painting, or refinishing of the body, fender, or frame of automobiles, trucks, motorcycles, motor homes, recreational vehicles, boats, tractors, construction equipment, agricultural implements, and similar vehicles or equipment. Typical uses include body and fender shops, painting shops, and other similar repair or refinishing garages.
5. Equipment Rental and Sales: Sale or rental of trucks, tractors, construction equipment, agricultural implements, mobile homes, and similar heavy equipment, including incidental storage, maintenance, and servicing. Typical uses include truck dealerships, construction equipment dealerships, and mobile home sales establishments.
6. Equipment Repair Services: Repair of trucks, tractors, construction equipment, agricultural implements, and similar heavy equipment. Typical uses include truck repair garages, tractor and farm implement repair services, and machine shops, but exclude dismantling, salvage, or body and fender repair services.

AUTOMOBILE TRAILER see "Trailer, Automobile."

AUTOMOBILE WRECKING YARD shall mean any lot, or the use of any portion of a lot, for the dismantling or wrecking of automobiles, tractors, farm machinery, or other motor vehicles, or for the storage or keeping for sale of parts and equipment resulting from such dismantling or wrecking.

BASE FLOOD shall mean the flood having one percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION shall mean the elevation of the base flood having one percent chance of being equaled or exceeded in any given year.

BASEMENT shall mean any area of the building having its floor sub-grade (below ground) on all sides.

BEST AVAILABLE DATA shall mean any hydrologic and hydraulic studies which result in a base flood elevation that is higher than that shown on the Effective FIRM or Effective FIS. Such study must be in use by the applicable government agencies.

BILLBOARD SIGN A sign which directs attention to a business, activity, commodity, service entertainment or communication which is not conducted, sold, or offered at the premises on which the sign is located, or which does not pertain to the premises upon which the sign is located.

BLOCK shall mean a parcel of land platted into lots and bounded by public streets or by waterways, rights-of-way, unplatted land, City-County boundaries, or adjoining property lines.

BLOCK FRONTAGE shall mean all property fronting on one (1) side of a street between a street and right-of-way, waterway, or between intersecting or intercepting streets, the end of a dead-end street, or city or County boundary measured along a street line. An intercepting street shall determine only the boundary of the frontage on the side of the street that it intercepts.

BOARD shall mean the County Board of Commissioners of Sarpy County, Nebraska.

BOARD OF ADJUSTMENT shall mean the Board of Adjustment of Sarpy County, Nebraska.

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

BREEZEWAY shall mean a roofed passageway, open on at least two (2) sides, where the roof is structurally integrated with the structure of the main building.

BUFFER ZONE shall mean open spaces, landscaped areas, fences, walls, berm, or any combination thereof used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other nuisances.

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

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

BUILDING, HEIGHT OF shall mean the vertical distance from the established grade to the highest point of the coping of a flat roof, to the decline of a mansard roof or to the average height between eaves and the ridge for gable, hip, shed or gambrel roofs. For other cases, height shall be measured as the vertical distance from the established grade to the highest point of a structure as herein defined. Where a building or structure is located on a slope, height shall be measured from the average grade level adjacent to the building or structure.

BUILDING, MAIN shall mean a building within which is conducted the principal use permitted on the lot, as provided by these regulations.

BUILDING SETBACK LINE shall mean the minimum distance as prescribed by these regulations between any property line and the closest point of the building line or face of any building or structure related thereto.

BUILDING SITE shall mean the ground area of a building together with all of the open space required by these regulations.

BUSINESS SERVICES shall mean those offices that provide services to businesses and the general public including but not limited to attorneys' offices, architects and engineers offices, insurance offices, corporate offices, general offices, but not including medical and dental offices.

CAMP, PUBLIC shall mean any area or tract of land used or designed to accommodate two (2) or more camping parties including tents or other camping outfits but not including trailer parks. Such camp may be publicly or privately owned and operated.

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

CEMETERY shall mean land used or intended to be used for the burial of the dead and dedicated for such purposes, including columbariums, cinerariums, crematoriums and mausoleums.

CHANNEL shall mean a natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct flowing water continuously or periodically. Channel flow thus is that water which is flowing within the limits of a defined channel.

CHILD CARE FACILITY shall mean Day-care services for children that follow a facility classification system established by the State of Nebraska:

(A) Family Child Care Home I. A Program in the home of a provider, maximum capacity is eight children of mixed ages and two additional school age children during non-school hours for a maximum occupancy of 10 children.

(B) Family Child Care II. A program in the home of a provider, maximum capacity is twelve children with two providers.

(C) Child Care Center. A program in the home of the provider or in a dedicated facility, licensed for at least 13 children.

(D) Preschool. A program providing educational services where children do not nap and are not fed a meal. Preschools can be located in the residence of the licensee or in a dedicated facility. The State of Nebraska licenses preschools into two categories based on capacity:

1. Less than 30
2. More than 30

May also be known as Day Nursery, Nursery School, or Child Care Nursery.

CHURCH – See Religious Facility.

CLINIC shall mean a place for group medical services not involving overnight housing of patients.

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

COLLEGE AND UNIVERSITY shall mean an educational institution offering advanced instruction in any academic field beyond the secondary level, including trade schools or business colleges.

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, but not including dumps and junk yards.

COMMERCIAL COMPOSTING shall mean the controlled, biological decomposition of selected solid organic waste materials under aerobic conditions resulting in an innocuous final product.

COMMERCIAL DISTRICT shall mean designated areas for business and service establishments.

COMMERCIAL OFFICE shall mean any administrative or clerical office maintained as a business and any office established by a public service over which these regulations has jurisdiction.

COMMERCIAL SPORTS AND RECREATION FACILITIES (CONTROLLED IMPACT) shall mean a private business or other organization that may or may not be commercial by structure or by nature, primarily engaged in the provision or sponsorship of sports, entertainment, or recreation for participants or spectators. Controlled Impact Commercial Sports and Recreation uses typically take place entirely within enclosed buildings or, when outdoors, have limited effects related to lighting, hours of operation, or noise. Typical uses include indoor skating facilities, indoor gymnasiums, and other indoor sports and training facilities.

COMMERCIAL SPORTS AND RECREATION FACILITIES (HIGH IMPACT) shall mean a private business or other organization that may or may not be commercial by structure or by nature, primarily engaged in the provision or sponsorship of sports, entertainment, or recreation for participants or spectators. High Impact Commercial Recreation uses are typically located outdoors and have operating effects caused by lighting, noise, traffic, or hours of operation that create substantial environmental impacts. Typical uses include lighted driving ranges, go-kart tracks, race tracks, and other outdoor sports and training complexes.

COMMON AREA OR PROPERTY shall mean a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners of the individual building sites in a Planned Development, or condominium development.

COMMUNICATION EQUIPMENT BUILDINGS shall mean buildings housing electrical and mechanical equipment necessary for the conduct of a public communications business with or without necessary personnel.

COMPREHENSIVE PLAN shall mean the County Comprehensive Development Plan of Sarpy County, Nebraska, as adopted by the Planning Commission and the Board of County Commissioners in accordance with the laws of the State of Nebraska.

CONDOMINIUM shall mean the definition in the Nebraska Revised §76-801-76-823 (Reissue 1990 and Supp. 1994) (The Condominium Law), whereby four or more apartments are separately offered for sale.

CONSTRUCTION AND DEMOLITION WASTE shall mean waste building materials concrete, asphalt, wood, metals and rubble which result from the construction or demolition of structures. Such waste shall also include trees.

CONTRACTORS/TRADE OFFICES AND YARDS shall mean establishments or places of business primarily engaged in the provision of services that are not retail or primarily dedicated to walk-in clientele. These services often involve services to construction or building trades and may involve a small amount of screened, outdoor storage in appropriate zoning districts. Typical uses include shops or operating bases for plumbers, electricians, or HVAC (heating, ventilating, and air conditioning) contractors.

COUNTY shall mean Sarpy County, Nebraska.

COUNTY ATTORNEY'S OFFICE shall mean the County Attorney's Office of Sarpy County, Nebraska.

COUNTY CLERK shall mean the County Clerk of Sarpy County, Nebraska.

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

COURT, APARTMENT shall mean a group of dwellings arranged for two (2) or more sides of a court on a lot which opens into a dedicated street.

COURT, ENCLOSED shall mean a court surrounded on all sides by exterior walls of a building and lot lines on which fences, hedges or walls are permitted.

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

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

DAIRY FARM shall mean any place or premises upon which milk is produced for sale or other distribution and where more than two (2) cows or six (6) goats are in location.

DAY shall mean calendar day.

DEVELOPMENT shall mean 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 or storage of equipment or materials.

DIRECTOR OF PLANNING shall mean the Director of Planning of Sarpy County, Nebraska or his/her designated representative.

DISTRICT shall mean an area, region, or zone with specific permitted and special uses.

DORMITORY shall mean a building intended or used principally for sleeping accommodations, where such building is related to an educational or public institution, including religious institutions and fraternities and sororities.

DRAIN WAY shall mean any depression two feet or more below the surrounding land serving to give direction to a current of water less than nine months of the year, having a bed and well-defined banks; watercourse or drain way, it shall be presumed to be a watercourse.

DRINKING ESTABLISHMENT shall mean a use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, cocktail lounges, and similar uses other than a restaurant as that term is defined in this section.

DRIVE-IN MOVIE shall mean any lot or portion of a lot used for the parking of automobiles for the purpose of the occupants viewing a motion picture or other entertainments.

DRIVE-IN RESTAURANT shall mean any building or structure in which food and drink are prepared for service to customers within such structure or occupying vehicles outside of such structures, and including self-service restaurants for take-out food.

DWELLING shall mean a building or portion thereof designed and used exclusively for residential occupancy and permitted home occupations, including one (1) family, two (2) family and multiple family dwellings, but not including hotels, motels, boarding or lodging houses, or trailers (with or without wheels).

DWELLING, SINGLE FAMILY shall mean a detached building designed or used exclusively for the occupancy of one (1) family, and having kitchen and toilet facilities for only one (1) family; residence.

DWELLING, TWO (2) FAMILY, DUPLEX shall mean a building designed or used exclusively for the occupancy of two (2) families living independently of each other and having separate kitchen and toilet facilities for each family, being on a single lot and under the control of one owner.

DWELLING, GROUP DWELLING, MULTIPLE; APARTMENT HOUSE shall mean two (2) or more dwelling units located on a single lot and each having separate kitchen and toilet facilities.

DWELLING UNIT shall mean two (2) or more rooms in a dwelling or dwelling group designed for or occupied by one (1) family for living or sleeping purposes and having only one (1) kitchen but separate toilet facilities.

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

EDUCATIONAL INSTITUTIONS shall mean public and other non-profit institutions conducting regular academic instruction at pre-school, kindergarten, elementary, secondary and collegiate levels, and including graduate schools, universities, non-profit research institutions and religious institutions. Such institutions must either (1) offer general academic instructions equivalent to the standards prescribed by the State Board of Education; or (2) confer degrees as a college or university of undergraduate or graduate standing; or (3) conduct research; or (4) give religious instruction.

ELECTRIC DISTRIBUTION SUBSTATION shall mean an electric substation with a primary voltage of less than 161 KV (Kilovolts), with distribution circuits.

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

ENCROACHMENT shall mean advancement or intrusion beyond the lines or limits as designated and established by this regulation, and to infringe or trespass into or upon the possession or rights of others without permission.

ENFORCEMENT OFFICER shall mean the Director of Planning of Sarpy County, Nebraska or his/her designated representative.

EXISTING CONSTRUCTION (for the purposes of the flood plain regulations) shall mean structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. "Existing construction" may also be referred to as "existing structures."

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION shall mean the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FACTORY-BUILT HOUSE shall mean a housing unit wholly or partially fabricated off-site and to be assembled on-site but not to include mobile homes or cabin trailers.

FAMILY shall mean an individual or two (2) or more persons related by blood, marriage or adoption, with or without the addition of not more than three (3) persons, excluding servants, who are not related by blood marriage or adoption to the resident persons, living together in a single dwelling unit.

FARM shall mean any parcel of land utilized for agricultural purposes and containing a minimum of 80 acres which produces $1,000.00 or more of farm products each year.

FEEDLOT OR FEED YARD, COMMERCIAL shall mean a parcel of land with a minimum of 40 acres where the principal business is the feeding of livestock and such feeding is not done as a subordinate activity to the production of crops on the premises of which the feed lot is a part. They must be located at least one-half mile from another residence and shall require a Special Use Permit.

FENCE shall mean any structural device forming a physical barrier, enclosure or boundary.

FENCE, OPEN shall mean a fence, including gates, which has, for each one (1) foot wide segment extending over the entire length and height of the barrier, fifty percent (50%) or more of the surface area in open space to afford direct views through the fence.

FENCE, SOLID OR PRIVACY is any fence, including gates, which has insufficient surface area to affect a direct open view through the barrier.

FLOOD OR FLOODING means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters, or
(2) The usual and rapid accumulation of runoff of surface waters from any source.

FLOOD FRINGE is that area of the floodplain, outside of the floodway, that has a one percent chance of flood occurrence in any one year.

FLOOD INSURANCE RATE MAP (FIRM) or Effective FIRM shall mean an official map of a community, on which the Flood Insurance Study has delineated the Flood Hazard Boundaries and the zones establishing insurance rates applicable to the community.

FLOOD INSURANCE STUDY (FIS) or Effective FIS shall mean the official report provided by the Federal Insurance Administration. The report contains flood profiles, as well as the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

FLOODPLAIN means any land area susceptible to being inundated by water from any source (see definition of "flooding").

FLOODPLAIN MANAGEMENT shall mean the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plan, flood control works, and flood plain management regulations.

FLOOD PROTECTION SYSTEM shall mean those physical structural works constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard". Such a system typically includes levees or dikes. These specialized modifying works are those constructed in conformance with sound federal engineering standards.

FLOOD-PROOFING (DRY) shall mean any combination of structural and non-structural additions, changes or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

FLOOD-PROOFING (WET) shall mean any combination of structural and non-structural additions, changes or adjustments to structures, allowing flood waters to enter while having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

FLOODWAY or Regulatory Floodway shall mean the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FLOOR AREA shall mean whenever the term "floor area" is used in these regulations as a basis for requiring off-street parking for any structure, it shall be assumed that, unless otherwise stated, said floor area applies not only to the ground floor area but also to any additional stories of said structure. All horizontal dimensions shall be taken from the exterior faces of walls.

FREEBOARD means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.

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

FRONT WALL shall mean the wall of a building or structure nearest the street which the building fronts, but excluding certain architectural features such as cornices, canopies, eaves, or embellishments.

GARAGE, REPAIR shall mean a building other than a private garage used for the care, repair, or storage of equipment of automobiles, or where such vehicles are parked or stored for remuneration, hire, or sale.

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

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.

GROUP HOUSES shall mean two (2) or more separate buildings, each containing one (1) or more dwelling units.

GUEST shall mean any transient person who occupies a room for sleeping purposes.

GUEST RANCH shall mean a building or buildings housing guests, providing meals and rooms, and having recreational activities of one or more types for compensation.

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

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

HEALTH CARE FACILITY shall mean a facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an outpatient basis including emergency treatment, diagnostic services, training, administration and services to outpatients, employees, or visitors.

HIGHEST ADJACENT GRADE means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HIGHWAY SETBACK LINE shall mean the future right-of-way line or plan lines of any highway. A yard abutting such a highway shall be measured from the centerline of this future right-of-way line.

HISTORIC SHELTER means any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) 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 or a district preliminarily determined by the Secretary 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 a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

HOG FARM shall mean any premises where five (5) or more weaned hogs are maintained.

HOME FOR THE AGED shall mean the same as "Rest Home."

HOME OCCUPATION shall mean an “in-home” or “home based” business, industry or service operating from a residential dwelling, or within an accessory structure on the same property in a residential or agricultural zoning district. Home occupations shall be secondary and incidental in nature to the primary residential structure and/or property in all residential zoning districts. Occupations defined as Home Occupation I below require approval of a Special Use Permit. Occupations defined as Home Occupation II below are exempt from a Special Use Permit. Home Occupations I and II shall satisfy the standards set forth in Section 35.11 of these regulations.

1. **HOME OCCUPATION I (MAJOR):** shall include any business or use with a part time or full time employee not residing on the premises and/or any business which involves customer visits to the location. Examples may include art/craft making, seamstress services, professional offices (real estate/insurance/medical), multi-level marketing, vending services, service businesses (contracting/janitorial/mechanical), instruction (music), consulting, wholesale/catalogue sales, personal service (beauty/barber/massage/tattoo), renting of rooms for residential purposes, or other similar uses with on-site sales and services or employees traveling to and from the premises. Uses not allowed include welding, vehicle body repair, or dismantling and rebuilding of vehicles.

2. **HOME OCCUPATION II (MINOR):** shall include any business or use in which an office in the home, including such things as a home phone, computer, etc. are used for telecommuting and/or in deriving other income or sales. Such occupations shall have no customers or part-time or full-time non-resident employees coming to or from the residence as part of the business operation. This includes business offices for services such as construction, repair and cosmetic services/sales rendered at other locations, internet businesses, and other similar uses.

HOSPITAL shall mean any building or portion thereof used for the accommodation and medical care of sick, injured, or infirm persons and including nursing homes, sanitariums, alcoholic sanitariums, and institutions for the cure of chronic drug addicts and mental patients.

HOTEL shall mean any building or portion thereof designed, used, or containing six (6) or more guest rooms or suites of rooms, but not including any institutions in which human beings are housed or detained under legal restraint.

INDUSTRIAL DISTRICT shall mean a designated area for manufacturing, trade, and light industrial type businesses that meet rigid environmental specifications.

INDUSTRY shall mean the manufacture, fabrication, processing reduction or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof, and including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.

INTENT AND PURPOSE shall mean that the Planning Commission and County Board of Commissioners, by the adoption of these regulations, have made a finding that the health, safety, and welfare of the community will be served by the creation of the Districts and by the regulations and regulations prescribed therein.

JUNK shall mean any worn out, cast off, old, or discarded articles of scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material.

JUNK YARD shall mean any lot, or the use of any portion of a lot, for the dismantling of machinery, farm machinery, and including motor vehicles, or for the storage or keeping for sale of parts and equipment resulting from such dismantling or wrecking, for the storage or keeping of junk, including scrap metals or other scrap materials, with no burning permitted. For motor vehicles, see “Automobile Wrecking Yard."

KENNEL shall mean any lot or premises on which more than four (4) dogs or cats or any combinations thereof are kept.

LABOR CAMP, PERMANENT FARM shall mean living quarters, dwellings, boarding houses, bunkhouses, automobile trailers or other permanent housing accommodations maintained in connection with any farm work or place where farm work is being performed, provided for the housing of five (5) or more farm employees.

LIVESTOCK FARM shall mean any parcel of land utilized for the raising of livestock with 300 or less animal units. See definition.

LOADING shall mean the removal or placement of any commodity in, or from, a vehicle of any type.

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

LOT shall mean: A parcel or tract of land which is or may be occupied by a use herein permitted, together with yards and other open spaces herein required, that has frontage upon a street, and is a part of a recorded subdivision plat or has been recorded prior to the adoption of these regulations, or a parcel of real property delineated on an approved record of survey, lot-split, or sub-parceling map as filed in the office of the Register of Deeds and abutting or having access to at least one (1) public street or right-of-way.

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

LOT, CORNER shall mean a lot located at the intersection or intersections or two (2) or more streets at an angle of not more than one hundred thirty-five (135) degrees. If the angle is greater than one hundred thirty-five (135) degrees, the lot shall be considered an "Interior Lot."

LOT COVERAGE shall mean the portion of a lot or building site which is occupied by any building or structure, excepting paved areas, walks and swimming pools, regardless of whether said building or structure is intended for human occupancy or not.

LOT, CURVE shall mean a lot fronting on the outside curve of the right-of-way of a curved street, which street has a centerline radius of three hundred (300) feet or less.

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

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

LOT LINE shall mean the property line bounding a lot.

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

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

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

LOT, NONCONFORMING shall mean a lot having less area or dimension than that required in the district in which it is located and which was lawfully created prior to the zoning thereof, whereby the larger area or dimension requirements were established, or any lot, other than one shown on

a plat recorded in the office of the Register of Deeds, which does not abut a public road or public road right-of-way and which was lawfully created prior to the effective date of these regulations.

LOT, SUBLOT shall mean subordinate and integral part of a lot. The sublot shall be identified on the subdivision plat for the purpose of constructing a single townhouse unit.

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

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

LOT WIDTH shall mean the average horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

LOWEST FLOOR shall mean the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for the parking of vehicles, building-access or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this regulation.

MANUFACTURED HOME means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MOBILE HOME shall mean a transportable structure usually treated as a chattel, of one or more sections designed to be towed as a transportable unit on an undercarriage or chassis which is a permanent or an integral structural part of the floor or body of the unit and designed to be used with or without a permanent foundation to permit year-round occupancy and containing similar water supply, waste disposal, and electrical conveniences as permanent residential units. It does not include recreational vehicles or travel trailers.

MOBILE HOME PARK shall mean a parcel (or contiguous parcels) of land which has been divided into two or more lots for rent or sale and the placement of mobile homes.

MINI-STORAGE shall mean indoor storage primarily for personal effects and household goods within areas having individual access excluding workshops, hobby shops, manufacturing and commercial activity.

MONUMENT SIGN shall mean a sign which is completely or principally supported by a short wall typically constructed of masonry material which is a minimum of seventy-five percent (75%) of the width of the sign, and is not attached to the principal building on the property, and is anchored in or upon the ground.

MOTEL shall mean a building or group of buildings used for transient residential purposes containing guest rooms or dwelling units with automobile storage space provided in connection therewith, which building or group is designed, intended, or used primarily for the accommodation of transient automobile travelers, including groups designed as auto cabins, motor courts, motor hotels, tourist court and similar designations.

NEW CONSTRUCTION For floodplain management purposes, "new construction" shall mean those structures where the start of construction commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

OFFICES, CORPORATE shall mean a site for administrative, processing, or research offices, which generally does not provide service to clientele from Sarpy County and the surrounding region. Corporate offices are destinations for commuters drawn from a relatively wide region around Sarpy County, as well as from the community itself. Typical uses include corporate headquarters offices, telemarketing, or information processing offices.

OFFICES, GENERAL shall mean a site for business, professional, or administrative offices who may invite clients from both local and regional areas. Typical uses include real estate, insurance, management, travel, or other business offices; organization and association offices; or professional offices.

OFFICES, MEDICAL shall mean a site for facilities which provide diagnoses and outpatient care on a routine basis, but which does not provide prolonged, in-house medical or surgical care. Medical offices are operated by doctors, dentists, or similar medical practitioners licensed for practice in the State of Nebraska.

OFFICES, PROFESSIONAL shall mean any building or portion of a building used or intended to be used as an office for a lawyer, architect, engineer, land surveyor, optometrist, accountant and other similar professions, but shall not include, for the purposes of these regulations, the practice of any type of medicine or dentistry.

OPEN SPACE shall mean a parcel or parcels of land, together with the improvements thereon, primarily set aside for recreational use and enjoyment, exclusive of land areas used for streets, alleys, roads, driveways, parking areas, structures, and buildings.

OUTDOOR STORAGE shall mean keeping goods not intended for use by, or sale to, the public, outside of any building.

OUTLOT shall mean a parcel of real property having access to at least one public street or private roadway, but not presently designated for a primary structure or occupancy, but permitting an

accessory use as permitted by the zoning district, or reserved for open space and common facilities.

OVERLAY DISTRICT shall mean a district in which additional requirements act in conjunction with the underlying zoning district or districts.

PARKING AREA shall mean an area, other than a street, used for the parking of automotive vehicles capable of moving under their own power.

PARKING STALL shall mean the 9' x 18' asphalt or concrete hard surfaced area reserved for parking of uses on the associate lot. Other surfacing materials may be approved by the County Board or by the Planning Director if the material is found to meet the intent of the Regulations and Comprehensive Plan.

PARK shall mean publicly owned and operated parks, playgrounds, recreation facilities including publicly-owned community centers, and open spaces.

PERSON shall mean an individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, city, county, special district, or any other group or combination acting as an entity, except that it shall not include Sarpy County, Nebraska .

PERSONAL SERVICES shall mean those services for the public including but not limited to barber shops, beauty salons, shoe repair, nail salons, tanning salons, photographic studios, fitness centers, tailors and seamstress businesses, and other similar type uses.

PET STORES shall mean a retail establishment where animals and animal supplies are sold. It may include a veterinary clinic as a secondary use, but no boarding of animals is permitted, except those kept for sale, and no outdoor runs are allowed.

PETROLEUM BULK PLANT shall mean a local wholesale distribution facility designed to serve the needs of the immediate surrounding area.

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

PLANNING, DEPARTMENT OF, shall mean the Department of Planning in Sarpy County, which provides administrative support to the Planning Commission and serves as the office of the Planning Commission.

PLAZA shall mean an open area often featuring walkways and shops and usually located near urban buildings.

POLE SIGN shall mean a sign which is completely or principally supported by one or more posts or other support of which thirty percent (30%) is visually or physically attached to the ground, which is not attached to the principal building on the property, and is anchored in or upon the ground.

PRINCIPALLY ABOVE GROUND means that at least 51 percent of the actual cash value of the structure is above ground.

PUBLIC VIEW shall mean visible to the general public.

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

QUASI-PUBLIC ORGANIZATIONS shall mean any non-government organization that is devoted to public service and welfare.

RAILROAD shall mean the land use including the right of way (R.O.W.) abutting railroad properties occupied by uses pertinent to the railroad operation and maintenance, but not including properties owned by the railroad and leased for use by others.

RECREATIONAL VEHICLE shall mean a vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational, or sporting purposes. Recreational vehicles include, but are not limited to, travel trailers; campers; motor coach homes, converted buses and trucks, boats, and boat trailers. 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.

REGISTER OF DEEDS shall mean the Register of Deeds of Sarpy County, Nebraska.

REGULATION shall mean the Zoning Regulations, and subsections thereof, of Sarpy County, Nebraska.

RELIGIOUS FACILITY 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.

RESEARCH AND DEVELOPMENT shall mean an establishment or facility for carrying on investigation in the natural, physical, or social sciences, which may include engineering and product development.

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

RESTAURANT shall mean a use engaged in the preparation and retail sale of food and beverages; including the sale of alcoholic beverages when conducted as a secondary feature of the use. Typical uses include cafes, coffee shops, and restaurants.

REST HOME, CONVALESCENT HOME, OR HOME FOR THE AGED shall mean premises used for the housing of and caring for the ambulatory, aged or infirm, which premises require a license from the State or County.

RETAIL STORES shall mean a business selling goods, wares or merchandise directly to the ultimate consumer. Typical uses include department stores, apparel stores, furniture stores, or establishments providing the following products or services: Household cleaning and maintenance products; drugs, cards, stationery, notions, books, tobacco products, cosmetics, and

specialty items; flowers, plants, hobby materials, toys, and handcrafted items; apparel jewelry, fabrics and like items; cameras, photograph services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wallpaper, hardware, carpeting and floor covering; interior decorating services; office supplies; mail order or catalog sales; bicycles; and automotive parts and accessories (excluding service and installation).

RETAINING WALL shall mean a structure that is constructed between lands of different elevations to stabilize the surfaces, prevent erosion, and/or protect structures.

SANITARY LANDFILL shall mean a place used for the disposal, abandonment, discarding by burial, incineration, or by any other means, of any garbage, sewage, trash, refuse, rubble, waste material, offal or dead animals. Such use shall not involve any industrial or commercial processes.

SCHOOL, ELEMENTARY, JUNIOR HIGH, OR HIGH shall mean public and other non-profit institutions conducting regular academic instruction at kindergarten, elementary, and secondary levels. Such institutions shall offer general academic instruction equivalent to the standards prescribed by the State Board of Education.

SCHOOL, PRIVATE shall mean an institution conducting regular academic instruction at kindergarten, elementary, and secondary levels operated by a non-governmental organization.

SCHOOL, TRADE shall mean schools offering preponderant instruction in the technical, commercial, or trade skills, such as real estate schools, business colleges, electronic schools, automotive and aircraft technicians' schools, and similar commercial establishments operated by a non-governmental organization.

SCREEN/SCREENING shall mean to hide, shelter, or protect visually from the general public.

SEASONAL HOME shall mean a one (1) family dwelling occupied on a seasonal basis.

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

SERVANTS-QUARTERS (SEPARATE) shall mean complete living quarters either attached or detached from that of the main dwelling including kitchen facilities but not rented nor used for permanent or temporary living quarters by members of the family.

SERVICE STATION shall mean an occupancy which provides for the servicing of motor vehicles in retail sale of oil, tires, batteries, and new accessories; and operations including washing, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting automotive parts.

SETBACK LINE, FRONT YARD shall mean the line which defines the depth of the required front yard. Said setback line shall be parallel with the right-of-way line or highway setback line when one has been established.

SETBACK LINE, REAR YARD OR SIDE YARD shall mean the line which defines the width or depth of the required rear or side yard. Said setback line shall be parallel with the property line, removed there from by the perpendicular distance prescribed for the yard in the district.

SIGN shall mean and include any outdoor sign, display, declaration, device, figure, drawing, illustration, message, placard, poster, billboard, insignia, or other things which are designed, intended, or used for direction, information, identification, or to advertise, to inform, or to promote any business, product, activity, service, or any interest, except the following: Signs less than 50 square feet in area and less than 25 feet in height of a public or quasi-public nature or other official notices that are authorized by the State, the County, or a Federal Government Agency, directional, informational, or other official signs or notices authorized by law.

Flash Sign shall mean a sign designed to give an electrical light flash intermittently or with a revolving beacon light.

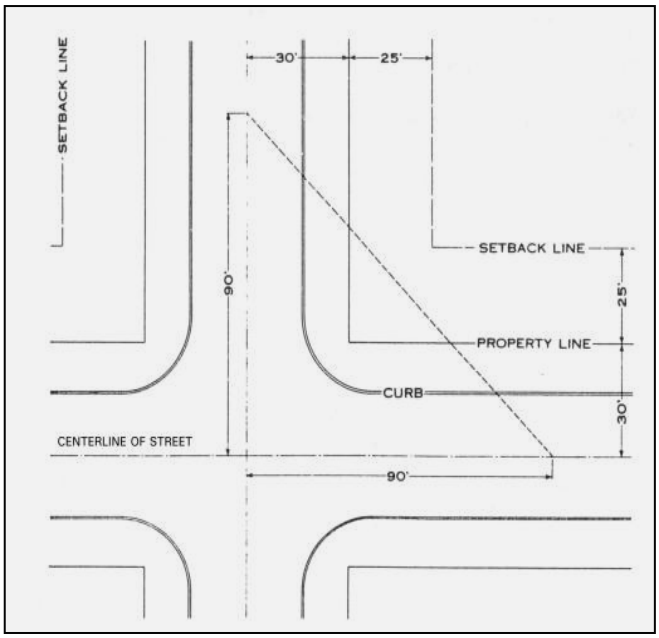
Projecting Sign shall mean a protruding sign attached to a building.

Roof Sign shall mean a sign identifying the name of a business, enterprise, or the product sold on the premises and erected on the roof of a building.

Sign Surface shall mean the entire area of a sign.

Wall Sign shall mean a sign attached to or erected against the wall of a building with the exposed face of the sign in a plane parallel to the wall of the building and not projecting more than eighteen (18) inches from the face of the building wall.

SIGHT TRIANGLE is an area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of three (3)feet and eight (8) feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets, sixty (60) feet in each direction along the centerline of the streets. At the intersection of major or other arterial streets, the sixty (60) foot distance shall be increased to ninety (90) feet for each arterial leg of the intersection. Trees in this area shall be trimmed up eight (8) feet above the curb and shrubs shall not exceed three (3) feet in height.



Example of 90' Sight Triangle

SITE PLAN shall mean a plan, prepared to scale, showing accurately and with complete dimensions, all of the uses proposed for a specific parcel of land.

SLUDGE shall mean any solid, semi-solid or liquid waste generated from a municipal, commercial, or industrial waste-water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effects.

SOLID WASTE shall mean any garbage, refuse, household waste, or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial and mining operations, and from community activities, but solid waste shall not include solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Federal Clean Water Act, as amended, 33U.S.C. 1251 et seq., or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 68 Stat. 923.

SOLID WASTE COMPOST SITE shall mean a tract of land, location, area or premises used for composting solid waste.

SOLID WASTE DISPOSAL shall mean the disposal of solid waste, including any household waste, commercial solid waste, fossil fuel combustion ash, nonhazardous sludge, industrial solid waste, or construction and demolition waste.

SOLID WASTE DISPOSAL AREA shall mean a discrete area of land or excavation which receives solid waste and includes all contiguous land and structures within the surveyed legal description of the permitted area, other appurtenances and improvements on the land used for the disposal of solid wastes or improvements necessary to carry out the disposal of solid wastes. Solid waste disposal areas shall include, but not be limited to the following disposal areas: municipal solid waste disposal areas, construction and demolition disposal areas, fossil fuel combustion ash disposal areas, industrial disposal areas, delisted hazardous waste disposal areas and land application units for repeated disposal or treatment of special wastes.

SOLID WASTE MANAGEMENT FACILITY shall mean a public or private site, location, tract of land installation or building which has been used for the collection, source separation, storage, transportation, transfer, processing, treatment, or disposal of solid waste, and shall include solid waste disposal areas and solid waste processing facilities.

SOLID WASTE PROCESSING shall mean the process by which solid wastes are physically or chemically changed, temporarily stored, or salvaged prior to being transferred to a solid waste disposal area or to a secondary materials recovery facility.

SOLID WASTE PROCESSING FACILITIES shall mean any facility where solid wastes are processed, and shall include, but not be limited to solid waste compost sites, materials recovery facilities, recycling centers and solid waste transfer stations.

SOLID WASTE TRANSFER STATION shall mean any site, location tract of land, installation, or building that is used or intended to be used primarily for the purpose of transferring solid wastes that are generated off of the premises of the facility from vehicles or containers, into other vehicles or containers for transportation to a solid waste disposal area or solid waste processing facility.

SPECIAL FLOOD HAZARD AREA shall mean the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.

STABLE, PRIVATE shall mean a detached accessory building for the keeping of horses owned by the occupants of the premises and not kept for enumeration, hire, or sale.

START OF CONSTRUCTION (for purposes of the flood plain regulations) includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was

within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

STORY shall mean a space in a building between the surface of any floor and the surface of the floor above, or, if there be not floor above, then the space between such floor and the ceiling or roof above.

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

STORMWATER MANAGEMENT REGULATIONS shall mean the Sarpy County Storm Water Management Regulations and the Omaha Regional Storm water Management Design Manual.

STREET shall mean a public thoroughfare or right-of-way dedicated, deeded or condemned for use as such, other than an alley, which affords the principal means of access to abutting property including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except as excluded in these regulations.

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

STREET, FRONTAGE ACCESS shall mean a street parallel and adjacent to a major street, major inter-regional highway, or major collection road and used primarily for service to the abutting properties, and being separated from the major street by a dividing strip.

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

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

STREET, SIDE shall mean that street bounding a corner or reversed corner lot and which extends in the same general direction as the line determining the depth of the lot.

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

STREET LINE shall mean the boundary line between street right-of-way and abutting property.

STRUCTURE shall mean anything constructed or built, a walled or roofed structure including a gas or liquid storage tank, any edifice or building of any kind, or any piece of work artificially built up

or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming and wading pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts, and similar recreation areas.

STRUCTURE, TEMPORARY shall mean a structure which is readily movable and used or intended to be used for a period not to exceed six (6) consecutive months.

STRUCTURAL ALTERATION shall mean any change in the supporting members of a building, such as a bearing wall, column, beam or girder, floor or ceiling joints, roof rafters, roof diaphragms, foundations, piles, or retaining walls or similar components.

SUBDIVISION REGULATIONS shall mean the Subdivision Regulations of Sarpy County, Nebraska.

SUBSTANTIAL DAMAGE shall mean damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT shall mean any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 per cent of the market value of the structure. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations (prior to damage) of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

SUPERMARKET shall mean any establishment, including groceries and grocery stores, having 10,000 or more square feet of floor area devoted principally to the sale of food.

SWIMMING POOL shall mean any structure intended for swimming or recreational bathing containing water over 24 inches in depth. This includes in-ground, above-ground and on-ground swimming pools, hot tubs, and spas.

SWIMMING (OR WADING) POOL (STORABLE) shall mean any pool that is constructed on or above ground and is capable of holding water with a maximum depth of 42 inches or a pool with nonmetallic, molded polymeric walls or inflatable fabric walls regardless of dimensions.

TOWNHOUSE shall mean a building that has single family dwelling units erected in a row as a single building on adjoining sublots, each unit having an outdoor entrance and being separated from the adjoining unit or units by a party wall or walls extending from the basement floor to the roof along the dividing sublot line, and each such building being separated from any other building by spaces on all sides.

TRADING AREA shall mean the area served by an existing commercial development or to be served by the proposed commercial development and from which said development draws its support.

TRAILER, AUTOMOBILE shall mean a vehicle without motive power, designed and constructed to travel on the public thoroughfares and to be used for human habitation or for carrying property, including a trailer coach.

TRAILER, CABIN shall mean any camp car, trailer or other vehicle, with or without motive power, designed and constructed to travel on the public thoroughfares and designed or used for human habitation. A dependent cabin trailer is one not equipped with a toilet for sewage disposal. An independent cabin trailer is one equipped with a toilet for sewage disposal.

TRAILER COURT, OR MOBILE HOME PARK, OR TRAILER PARK shall mean a space or area containing at least 5 acres designed, equipped, or maintained for the harboring, parking, or storing of cabin trailers, mobile homes, house trailers, or house cars which haul such trailers or house cars being used as living or sleeping quarters for humans .

TRAILER, RESIDENTIAL shall mean the same as "Mobile Home" and be used for human habitation only.

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

TRANSPORTABLE HOUSE shall mean a trailer house, mobile home, double-wide trailer house, or transportable factory-built house constructed to travel on wheels and to be used for human habitation.

TRUCK SERVICE STATION shall mean an occupancy which provides especially for the servicing of trucks, with incidental operations similar to those permitted for "Service Station".

TRUCK AND TRAILER SALES LOT shall mean an open area where trucks or trailers are sold, leased or rented and where no repairs, repainting or remodeling are done.

UTILITIES, OVERHEAD, OR UNDERGROUND "LOCAL DISTRIBUTION" SYSTEM 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. Local electric distribution systems shall be limited to include all lines and appurtenances carrying a primary voltage of less than 161 KV (Kilovolt) from an electric transformer substation to the consumer. The local telephone distribution system shall be limited to include the local exchange lines, the local tool lines, and the local communications equipment facilities structure.

UTILITIES, OVERHEAD, OR UNDERGROUND TRANSMISSION LINE, SUPPLY LINE, WHOLESALE CARRIER OR TRUNK LINE, MAIN FEEDER LINE, ETC. shall mean the main supply or feeder line serving a local distribution system of utilities, and shall include but is not limited to pumping stations, substations, regulating stations, generator facilities, reservoirs, tank farms, processing

facilities, terminal facilities, towers, relay stations, and treatment plants.

VARIANCES is a grant of relief to a person from the requirements of this regulation which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship as defined by the Nebraska Revised Statutes.

VETERINARY CLINIC shall mean a building or part of a building used for the care, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention. Such clinics may or may not also provide long-term lodging for ill or unwanted animals.

VIOLATION means a failure of a structure, use or other development to be fully compliant with the community's regulations.

WAREHOUSING shall mean a building or buildings used for the storage of goods, of any type, when such building or buildings contain more than two hundred (200) square feet of storage space, and where no retail operation is conducted.

WATER SUPPLY, COMMUNITY shall mean a water supply provided by a publicly-owned corporation or a private organization which has a permit to serve two (2) or more dwelling units on abutting properties.

WATER SUPPLY, PRIVATE shall mean a water supply provided by a source other than a Community Water Supply.

WHOLESALING shall mean the selling of any type of goods for the purpose of resale.

WIND ENERGY GENERATION SYSTEM shall mean any device which converts wind energy to a form of usable energy, including wind charges, windmills, or wind turbines.

YARD shall mean any open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed from the ground upward to the sky, except for the projections or accessory buildings or structures permitted by these regulations.

YARD, FRONT shall mean a space between the front yard setback line and the front lot line or highway setback line, and extending the full width of the lot.

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

YARD, SIDE shall mean a space extending from the front yard, or from the front lot line where no front yard is required by these regulations, to the rear yard, or rear lot line, between a side lot line and the side yard setback line.

100-YEAR FLOOD shall mean the base flood having a one percent chance of annual occurrence.

ZONE shall mean the same as "District."

ZONING DISTRICT shall mean the same as "District."

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

SECTION 45 – SEXUALLY ORIENTED BUSINESS ZONING REGULATIONS

45.1 PURPOSE AND INTENT

45.1.1 It is the purpose of these Sexually Oriented Business Zoning Regulations to regulate Sexually Oriented Businesses to promote the health, safety, and general welfare of the citizens of Sarpy County ("County"), and to establish reasonable and uniform regulations for Sexually Oriented Businesses within the County. The provisions of these Sexually Oriented Business Zoning Regulations have neither the purpose nor effect of: imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials; restricting or denying access by adults to sexually oriented materials protected by the First Amendment; denying access by the distributors and exhibitors of sexually oriented entertainment to their intended market; or imposing a limitation or restriction on exercises of free speech that are protected by the First Amendment.

45.1.2 The findings contained in the preamble of these Sexually Oriented Business Zoning Regulations are determined to be true and correct and are adopted as part of these Sexually Oriented Business Zoning Regulations.

45.2 TITLE

This Section of the Sarpy County Zoning Regulations shall be known and cited as the "Sarpy County Sexually Oriented Business Zoning Regulations."

45.3 SEVERABILITY

45.3.1 If any word, phrase, sentence, part, section, subsection, or other portion of these Sexually Oriented Business Zoning Regulations or any application thereof to any entity or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remainder of these Sexually Oriented Business Zoning Regulations, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

45.3.2 A Sexually Oriented Business Special Use Permit issued under these Sexually Oriented Business Zoning Regulations shall be comprehensive and not severable. If part of a Sexually Oriented Business Special Use Permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the Sexually Oriented Business Special Permit shall be void in total.

45.4 DEFINITIONS

For purposes of these Sexually Oriented Business Zoning Regulations, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in these Sexually Oriented Business Zoning Regulations. In addition, when not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include words in the plural number. The word "shall" is always mandatory, and not merely directory.

Adult arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

Adult cabaret means a nightclub, bar, restaurant, or similar commercial establishment which regularly features persons who appear in a state of nudity; or live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

Adult motel means a motel, hotel, or similar commercial establishment which: (i) offers public accommodations for any form of consideration, and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television, or (ii) offers a sleeping room for rent for a period of time less than ten (10) hours; or (iii) allows a tenant or occupant to sub-rent a sleeping room for a time period of less than ten (10) hours.

Adult motion picture theater means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas.”

Adult theater means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

Employee, Employ, and Employment describes and pertains to any person who performs any service on the premises of a Sexually Oriented Business on a full-time, part-time, or contract basis, regardless of whether the person is denominated as an employee, independent contractor, agent, or by another status. For purposes of these Sexually Oriented Business Zoning Regulations only, “employee” does not include a person exclusively on the premises for repair or maintenance of the premises, or for the delivery of goods to the premises.

Entity means a person, proprietorship, trust, partnership, corporation, company, association, or other legal entity.

Escort means a person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person or persons.

Escort agency means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or any other form of consideration.

Establish, Establishing, or Establishment means and includes any of the following: the operation of any Sexually Oriented Business as a new business; the conversion of any existing business, whether or not a Sexually Oriented Business, to any Sexually Oriented Business; the addition of any Sexually Oriented Business to any other existing Sexually Oriented Business; or the relocation of any Sexually Oriented Business.

Media, sexually oriented means magazines, books, videotapes, movies, slides, CD's, DVD's or other medium used to record images, or other media which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas."

Media store, sexually oriented means an establishment that rents and/or sells sexually oriented media, and that meets any of the following three tests: (i) more than 40% of the gross floor area is devoted to sexually oriented media; (ii) more than 40% of the stock in trade consists of sexually oriented media; or (iii) the business advertises or holds itself out in any forum as a "XXX," "adult" or "sex" business, or otherwise as a sexually oriented business, other than sexually oriented media outlet, sexually oriented motion picture theater, or sexually oriented cabaret.

Nude or Seminude Model(ing) Studio means a commercial establishment which regularly features a person who appears in a state of nudity or semi-nudity and is provided to be observed, sketched, drawn, painted, sculpted, or photographed by other persons who pay money or any other form of consideration. "Nude or Seminude Model(ing) Studio" shall not include a proprietary school licensed by the State of Nebraska; or a college or junior college or university supported entirely or in part by public taxation; or a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

Nudity or a state of nudity means the exposure, with less than a fully opaque covering, of the human male genital area, female genital area, buttocks, nipple of the female breast, or areola of the female breast.

Planning and Building Director means the Planning and Building Director of the County or his or her designated agent and/or deputy.

Planning Commission means the Sarpy County Planning Commission.

Public park means a tract of land maintained by or at the direction of federal, state, or a local government for the recreational use and enjoyment of the general public.

Public library means a nonprofit library maintained for public use.

Public place means all spaces owned by or open to the general public, whether or not an admission or cover charge is levied for entrance thereto; and public streets, sidewalks,

alleys, or other public thoroughfares, and areas in or such close proximity thereto, as to be observed by the public traveling on such street, sidewalk, or other thoroughfare.

Public right-of-way means a strip of land that is granted, through an easement, or other mechanism, for public transportation purposes, including (but not limited to) a trail, driveway, rail line, highway, or street.

Rent means to allow the occupation and use of property in exchange for any form of consideration.

Restricted Use Area means a school, public library, or public park; and areas of land zoned as Agricultural Residential District, Residential Estates I District, Residential Estates II District, Single Family Residential District, Two-Family Residential District, General Residential District, Mobile Home Residential District, Planned Development District, Planned Townhouse Development, Mixed Use District, Build Through Acreages, Agricultural Development District, or General Business District, whether located in the County's Zoning Jurisdiction or Zoning Jurisdictions of the cities of Bellevue, Papillion, La Vista, Springfield, or Gretna, so long as the areas within the Zoning Jurisdictions of the those cities are substantially similar to those mentioned in this definition.

School means any public or private preschool, learning center, elementary, middle, or secondary school.

Seminude means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

Sex shop means an establishment offering goods for sale or rent and that meet any of the following tests: 1) it offers for sale items from any two of the following categories -- sexually oriented media; lingerie; leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; and the combination of such items constitute more than 10% of its stock in trade or occupies more than 10% of its floor area; 2) more than 5% of its stock in trade consists of sexually oriented toys; or 3) more than 5% of its gross public floor area is devoted to the display of sexually oriented toys.

Sexual encounter center means a business which provides two or more persons, for pecuniary compensation, consideration, hire or reward, with a place to assemble for the purpose of engaging in "specified sexual activities" or displaying "specified anatomical areas."

Sexually Oriented Business is an inclusive term used to describe collectively the following businesses: adult arcade, sexually oriented media store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, sex shop, nude or seminude model studio, and/or sexual encounter center.

Sexually Oriented Business Special Use Permitee means an entity that has been issued a Sexually Oriented Business Special Use Permit.

Specified anatomical areas means the exposure, with less than a fully opaque covering, of the human male genital area, female genital area, buttocks, nipple of the female breast,

or areola of the female breast. "Specific anatomical areas" also means the human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means acts of human masturbation, sexual intercourse, or sodomy. These activities include, but are not limited to the following: bestiality, erotic or sexual stimulation with objects or mechanical devices, acts of human analingus, cunnilingus, fellatio, flagellation, masturbation, sadism, sadomasochism, sexual intercourse, sodomy, or any excretory functions as part of or in connection with any of the activities set forth above. This definition shall include apparent sexual stimulation of genitals whether clothed or unclothed.

Substantial enlargement of a Sexually Oriented Business means the increase in floor area occupied by the business by more than 20% as the floor area exists on the effective date of these Sexually Oriented Business Zoning Regulations.

Transfer of ownership or control of a Sexually Oriented Business means and includes any of the following: the sale, lease, or sublease of the business; the transfer of securities or other ownership interest which constitutes a direct, indirect, legal, equitable or beneficial controlling interest in the business, whether by sale, exchange, or similar means; or the establishment of a trust, gift, or other similar device which transfers the direct, indirect, legal, equitable or beneficial ownership or control of the business.

45.5 SEXUALLY ORIENTED BUSINESS SPECIAL USE PERMIT REQUIRED, EXEMPTIONS

45.5.1 A valid Sexually Oriented Business Special Use Permit is required prior to establishing or substantially enlarging a Sexually Oriented Business. If a Sexually Oriented Business is in operation on the date of the passage of these Sexually Oriented Business Zoning Regulations, then it will be subject to the Amortization Provision, found in Section 45.19.

45.5.2 The following are exempt from regulation under these Sexually Oriented Business Zoning Regulations:

(A) A bookstore, movie theater, or video store, unless that business is an adult bookstore, adult movie theater, or adult video store and the primary purpose of which is the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer;

(B) A business operated by or employing a licensed psychologist, licensed physical therapist, licensed massage therapist, licensed athletic trainer, licensed cosmetologist, or licensed barber, engaged in performing the functions authorized under the license held; or

(C) A business operated by or employing a licensed physician or licensed chiropractor engaged in practicing the healing arts.

45.6 APPLICATION FOR A SEXUALLY ORIENTED BUSINESS SPECIAL USE PERMIT

45.6.1 An application for a Sexually Oriented Business Special Use Permit must be made on a form provided by the Sarpy County Planning and Building Department and shall be

accompanied by a non-refundable fee as established in the "Master Fee Schedule" for the Planning and Building Department as adopted by the County Board.

45.6.2 All entities that intend to establish or substantially enlarge a Sexually Oriented Business must sign the Sexually Oriented Business Special Use Permit application as "applicant." If the entity that intends to establish or substantially enlarge a Sexually Oriented Business is other than a single individual, each individual who has a 20% or greater interest in the Sexually Oriented Business or the entity that owns the Sexually Oriented Business, must sign the application for the Sexually Oriented Business Special Use Permit as "applicant." Each applicant shall be considered a Sexually Oriented Business Special Use Permitee if the Sexually Oriented Business Special Use Permit is granted.

45.7 INSPECTION OF THE SEXUALLY ORIENTED BUSINESS PREMISES

The Sarpy County Planning and Building Director, upon receipt of the application outlined in Section 45.6 shall forward said application to the appropriate officials for their review. The Sexually Oriented Business premises must be inspected and found to be in compliance with any relevant codes, including the applicable building and fire codes. At any time after the application for the Sexually Oriented Business Special Use Permit has been submitted (including any point after the application for the Sexually Oriented Business Special Use Permit has been granted), in order to verify that the Sexually Oriented Business is operating in accordance with all applicable safety, fire, building, and zoning codes; laws and regulations; and other applicable requirements, a representative of the Planning Department, Planning Commission, and/or the County Board may inspect the premises of the Sexually Oriented Business at any time it is occupied by at least one person. The provisions of this Section do not apply to areas of an adult motel which are currently being rented by a customer. Furthermore, this Section shall not be construed as a limitation on any law enforcement authorized inspection or search of a Sexually Oriented Business premises.

45.8 POSTING AND NOTICE REQUIREMENTS

45.8.1 An applicant for a Sexually Oriented Business Special Use Permit, at least twenty-one (21) days prior to the public hearing by the Planning Commission (identified in Section 45.9), shall prominently post outdoor signage at the proposed location stating that a Sexually Oriented Business is intended to be located on the premises and must provide the name and business address of at least one applicant. The signage must be at least twenty-four (24) by thirty-six (36) inches in size and must be written in lettering at least three (3) inches in size; the background of the sign must be white in color and the lettering must be black in color. The County may require signage to be both in English and a language other than English if it is likely that a substantial number of the residents in the area speak a language other than English as their familiar language. The signage must be of sufficient quantities to be placed upon the property so as to identify it as being subject to a proposed Sexually Oriented Business Special Use Permit. It shall be the duty of each applicant as to each particular application to post said signage along the property so as to be clearly visible from the public right-of-way. One sign shall be posted for each three-hundred (300) hundred-feet increment of public right-of-way on said property. Said signage shall remain posted and appropriately maintained until the application for the Sexually Oriented Business Special Use Permit has been approved or denied by the County Board.

45.8.2 The Planning Department will send written notice of the Sexually Oriented Business Special Use Permit application to property owners within three-hundred (300) feet of the property which is the subject of said application. Such notice will also include the date and time of the Planning Commission public hearing and the estimated date of the County Board public hearing.

45.9 APPLICATION REVIEW AND PUBLIC HEARINGS

45.9.1 Upon receiving confirmation that the Sexually Oriented Business premises is in compliance with any relevant codes, pursuant to Section 45.7, the Planning and Building Director shall forward the application for the Sexually Oriented Business Special Use Permit, along with any other relevant documentation, to the Planning Commission. The Planning Commission shall then set a time and date for a public hearing regarding the application for the Sexually Oriented Business Special Use Permit, and give notice of the public hearing in a legal paper with general circulation in Sarpy County at least ten (10) days prior to said hearing. After the public hearing, the Planning Commission shall then make a recommendation to the County Board regarding approval or denial of the application for the Sexually Oriented Business Special Use Permit. In making its recommendation, the Planning Commission shall consider, in addition to the testimony from the public hearing, the "Causes for Denial" and "Performance Standards" identified below in sections 45.9.1(A) and (B), respectively. The Planning Commission shall not recommend approval of the application for the Sexually Oriented Business Special Use Permit if it finds one (1) of "Causes for Denial" to be true.

(A) Causes for Denial:

1. Any applicant is under 18 years of age.

2. Any applicant is overdue in his or her payment to the County of taxes, fees, fines, or penalties assessed against him or her or imposed upon him or her in relation to a Sexually Oriented Business.

3. Any applicant has failed to provide information reasonably necessary for issuance of the Sexually Oriented Business Special Use Permit, has provided false information on the application for the Sexually Oriented Business Special Use Permit, or has falsely answered a question or request for information from the Planning Department, Sheriff's Department, or County Attorney's Office, in relation to the application for the Sexually Oriented Business Special Use Permit.

4. Any applicant has been found to be in violation of any provision of these Sexually Oriented Business Zoning Regulations. The fact a violation of these Regulations is being appealed is irrelevant for purposes of this Section.

5. The premises to be used for the Sexually Oriented Business are not in compliance with applicable zoning laws or have not been approved by the fire department or the building inspection department as being in compliance with applicable laws and regulations.

6. The fee required by the Master Fee Schedule, as established by the Master Fee Schedule, adopted by the County Board.

7. The Sexually Oriented Business will be located within two thousand five hundred (2,500) feet of a Restricted Use Area, within one thousand (1,000) feet of the Highway Corridor District, or within five hundred (500) feet of another Sexually Oriented Business which does not have a common entrance with another Sexually Oriented Business. Measurement shall be made in a straight line, without regard to intervening political subdivision boundaries, buildings, and/or structures from the nearest portion of the building or structure used as a part of the premises where a Sexually Oriented Business is conducted, to the nearest property line or boundary of an affected Restricted Use Area, Highway Corridor District, or another Sexually Oriented Business

8. Any applicant is a registered sex offender.

9. Any applicant has been convicted, in any jurisdiction, of a crime involving any of the following offenses, including attempt, conspiracy, solicitation, or aiding and abetting:

    Admitting minor to obscene motion picture;

    Contributing to the delinquency of a child or minor;

    Debauching a minor;

    Distributing obscene literature;

    Harboring a runaway child;

    Indecency with an animal;

    Incest;

    Keeping a place of prostitution;

    Kidnapping;

    Obscenity;

    Pandering;

    Possession of a visual depiction of child, including child pornography and any related offenses, including but not limited to allowing a child to participate in child pornography, possession, distribution, or sale of child pornography;

    Prostitution and any related crimes, including but not limited to solicitation of prostitution;

Public indecency;

Public lewdness;

Public nudity;

Sale of obscene literature to a minor;

Sexual abuse;

Sexual assault; and

For which:

Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24)-month period.

The fact that conviction for the crimes identified above shall be irrelevant for purposes of the Sexually Oriented Business Special Use Permit application process. When considering an application for a Sexually Oriented Business Special Use Permit, the Planning Commission and County Board shall consider the convictions identified above until the time periods described above have elapsed.

(B) Performance Standards:

1. That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.

2. That adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion in the public streets.

3. The Sexually Oriented Business will not include any activity involving the use or storage of flammable or explosive material unless protected by adequate fire-fighting suppression equipment and by such safety devices as are normally used in the handling of any such material.

4. The Sexually Oriented Business will not produce noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.

5. The Sexually Oriented Business will not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.

6. The Sexually Oriented Business will not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

45.9.2 After receiving a recommendation for approval or denial of the Sexually Oriented Business Special Use Permit from the Planning Commission, the County Board shall set a time and date for a public hearing regarding the application for the Sexually Oriented Business Special Use Permit and give notice of the public hearing in a legal paper with general circulation in Sarpy County at least ten (10) days prior to said hearing. After the public hearing, the County Board shall, in determining whether to approve or deny the application for the Sexually Oriented Business Special Use Permit, consider the recommendation of the Planning Commission, testimony from the public hearing, and the "Causes for Denial" and "Performance Standards" identified in sections 45.9.1(A) and (B), respectively. The County Board shall not approve the application for the Sexually Oriented Business Special Use Permit if it finds one of the "Causes for Denial" to be true.

45.10 **PERMIT POSTING**

The Sexually Oriented Business Special Use Permit, if granted, shall state on its face the name of the entities to whom it is granted, the expiration date, and the address of the Sexually Oriented Business. It shall be posted in a conspicuous place at or near the entrance to the Sexually Oriented Business so that it may be easily read at any time.

45.11 **EXPIRATION**

Each Sexually Oriented Business Special Use Permit shall expire one (1) year from the date of issuance, unless revoked. At least three months prior to the expiration of the Sexually Oriented Business Special Use Permit, a new application and applicable fee shall be submitted.

45.12 **RESTRICTIONS**

45.12.1 No Sexually Oriented Business shall serve or sell alcohol, or permit the consumption of alcohol on the premises of the Sexually Oriented Business.

45.12.2 At no time shall a person under the age of eighteen (18) years old be allowed on the premises of a Sexually Oriented Business.

45.12.3 No Sexually Oriented Business shall operate between the hours of 1:00 a.m. and 10:00 a.m.

45.12.4 No part of the interior of the Sexually Oriented Business shall be visible from the exterior of the business.

45.12.5 No sign for a Sexually Oriented Business shall contain flashing lights, words, lettering, photographs, silhouettes, drawings, or pictorial representations that emphasize "specified

anatomical areas" or "specified sexual activities." Please see Section 40 of the Sarpy County Zoning Regulations for additional signage requirements.

45.12.6 No Sexually Oriented Business Special Use Permitee shall transfer its Sexually Oriented Business Special Use Permit or any part of its ownership or control of a Sexually Oriented Business to another entity or entities, nor shall a Sexually Oriented Business Special Use Permitee operate a Sexually Oriented Business under the authority of a Sexually Oriented Business Special Use Permit at any place other than the address designated in the application for the Sexually Oriented Business Special Use Permit.

45.13 **SUSPENSION**

The County Board may suspend a Sexually Oriented Business Special Use Permit for a period not to exceed thirty (30) days if it determines that:

(A) A Sexually Oriented Business Special Use Permitee, agent, employee, or other related individual has refused to allow an inspection of the Sexually Oriented Business premises as authorized by these Sexually Oriented Business Zoning Regulations;

(B) A Sexually Oriented Business Special Use Permitee, agent, employee, or other related individual has demonstrated an inability to operate or manage a Sexually Oriented Business in a peaceful and law-abiding manner thus necessitating action by law enforcement officers; or

(C) A Sexually Oriented Business Special Use Permitee, agent, employee, or other related individual has not complied with the restrictions identified in Section 45.12, above.

45.14 **REVOCATION**

45.14.1 The County Board may revoke a Sexually Oriented Business Special Use Permit if it determines that:

(A) A cause of suspension in Section 45.13 has occurred two (2) or more times, including simultaneous causes of suspension, within a twelve (12) month period of time.

(B) The use of the Sexually Oriented Business Special Use Permit or structure of the Sexually Oriented Business is substantially varied from the originally-permitted intent and thus found to be in non-compliance with the special use as issued.

(C) A Sexually Oriented Business Special Use Permitee has provided false information on the application for the Sexually Oriented Business Special Use Permit, or has falsely answered a question or request for information from the County or law enforcement, in relation to the application for the Sexually Oriented Business Special Use Permit;

(D) A Sexually Oriented Business Special Use Permitee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;

(E) One of the crimes listed in Section 45.9.1(A)(8) has occurred on the premises of the Sexually Oriented Business, thus resulting in a conviction for said crime(s);

(F) A Sexually Oriented Business Special Use Permitee or an employee operated the Sexually Oriented Business during a period of time when the Sexually Oriented Business Special Use Permit was suspended or revoked;

(G) A Sexually Oriented Business Special Use Permitee has been convicted of an offense listed in Section 45.9.1(A)(8) for which the time period required by that Section has not elapsed;

(H) A Sexually Oriented Business Special Use Permitee or an employee has knowingly allowed any specified sexual activity to occur in a public place on the Sexually Oriented Business premises; or

(I) A Sexually Oriented Business Special Use Permitee is delinquent in payment to the County for taxes related to the Sexually Oriented Business.

45.14.2 The fact that a conviction is being appealed shall be irrelevant for purposes of Sections 45.14.1(D), (E), and (G).

45.14.3 When the County Board revokes a Sexually Oriented Business Special Use Permit, the revocation shall continue for one (1) year and any Sexually Oriented Business Special Use Permitee will not be eligible for a Sexually Oriented Business Special Use Permit for one (1) year from the date the revocation became effective. If the Sexually Oriented Business Special Use Permit was revoked under Sections 45.14.1(G), an applicant may not be granted another such permit until the appropriate number of years required under Section 45.9.1(A)(8) has elapsed.

45.15 SUBSEQUENT DEVELOPMENTS

A Sexually Oriented Business lawfully operating under these Sexually Oriented Business Zoning Regulations is not rendered a non-conforming use by the subsequent location of a Restricted Use Area or Highway Corridor District. However, if a Sexually Oriented Business is not operating lawfully under these Sexually Oriented Business Zoning Regulations, then it will be rendered a non-conforming use by the subsequent location of a Restricted Use Area or Highway Corridor District,

45.16 INDEMNIFICATION

Any application for a Sexually Oriented Business Special Use Permit that is proposed for County property, pursuant to these Sexually Oriented Business Zoning Regulations, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the County, and its officers, Boards, employees, committee members, attorneys, and agents from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, intentional or negligent acts of persons on the premises of the Sexually Oriented Business, the placement, construction, modification, location, operation, maintenance, repair, removal, or restoration of

the Sexually Oriented Business, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the County, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, expert witness fees, and any other fees recoverable by law are included in those costs that are recoverable by the County.

45.17 **OTHER COMPLIANCE**

The fact that an entity possesses any other valid special use permit required by law does not exempt that entity from the requirement of obtaining a Sexually Oriented Business Special Use Permit. Furthermore, the possession of a Sexually Oriented Business Special Use Permit does not exempt an entity from having to comply with the other provisions of the Sarpy County Zoning Regulations and/or any other applicable city, county, state, or federal laws, including any public nudity and public indecency laws.

45.18 **ENFORCEMENT**

Any entity who violates any of these Regulations shall be guilty of a Class III misdemeanor, punishable by a maximum of three months imprisonment, a five hundred dollar fine, or both.

45.19 **AMORTIZATION PROVISION**

Any Sexually Oriented Business operating at the time these Sexually Oriented Business Zoning Regulations are enacted, shall be deemed a non-conforming use. The non-conforming use will be permitted to continue for a period not to exceed one (1) year, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such non-conforming uses shall be required to apply for a Sexually Oriented Business Special Use Permit within three (3) months prior to the one (1) year anniversary of the enactment of these Sexually Oriented Business Zoning Regulations.

45.20 **EFFECTIVE DATE**

These Sexually Oriented Business Zoning Regulations shall be effective immediately upon passage, pursuant to applicable and legal procedural requirements.