

## **SECTION 34 - SUPPLEMENTARY REGULATIONS**

### **34.1 GENERAL YARD REGULATIONS**

- 34.1.1 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.
- 34.1.2 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.
- 34.1.3 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.
- 34.1.4 Accessibility improvements, such as ramps, elevators and lifts, may project a maximum of ten feet into any required setback, but not closer than three feet from any property line per the following requirements:
- (A) The exception is necessary to meet the special accessibility needs of a person with a physical handicap that impairs his or her ability to access the property in a situation where accessibility improvements cannot be addressed through the standard setback adjustments.
  - (B) Visual impacts of the accessibility improvements located within a required setback have been minimized.
  - (C) The accessibility improvements will not impair visibility within a required vision-clearance zone.

### **34.2 FRONT YARD**

- 34.2.1 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.
- 34.2.2 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.
- 34.2.3 On through lots, running from street to street, both streets shall be considered front streets.

### **34.3 REAR YARD**

- 34.3.1 Rear yard exceptions for residential uses. For the purpose of determining compliance with the rear yard requirements on irregular lots used for residential purposes, the rear yard is measured as the distance between the building line and the rear property line. However, the shortest distance between the primary building and any rear property line shall be no less than 80% of the rear yard required for the district.

#### 34.4 YARD REQUIREMENTS ON CORNER LOTS

34.4.1 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.

#### 34.5 YARD REQUIREMENTS ALONG ZONE BOUNDARY LINES

34.5.1 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.

#### 34.6 HEIGHT ADJUSTMENTS:

These provisions allow exceptions to the height restrictions in any zoning district in certain situations.

34.6.1 Vertical Projections. Church spires, belfries, monuments, farm buildings, flag poles, tanks, cooling towers, building mechanical equipment, elevator bulkheads, grain storage bins, elevator legs, silos, water and fire towers, and stage towers or scenery lofts may be built to any height in accordance with existing regulations.

34.6.2 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.

34.6.3 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 40 of the Zoning Regulations.

## **34.7 BUILDING AREA; LOT COVERAGE**

34.7.1 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.

## **34.8 GENERAL PROVISIONS**

34.8.1 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.

34.8.2 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.

34.8.3 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.

## **34.9 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:

34.9.1 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.

- 34.9.2 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.
- 34.9.3 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.
- 34.9.4 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 34.8.3.
- 34.9.5 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.
- 34.9.6 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.
- 34.9.7 All fences shall be maintained in good repair.
- 34.9.8 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.

#### 34.10 CREEK SETBACK REQUIREMENTS

- 34.10.1 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.

### 34.11 PUBLIC SAFETY RADIO AMPLIFICATION SYSTEMS (TOWERS)

#### 34.11.1 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.

#### 34.11.2 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 34.12.1 (General) and 34.12.2 (Initial Tests) above.

### 34.11.3 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.

### 34.11.4 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.

### 34.11.5 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.

## 34.12 HOME OCCUPATIONS

The following are the minimum standards required for a home occupation:

### 34.12.1 EXTENT OF USE

No more than 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.

### 34.12.2 EXTERNAL EFFECTS

- (A) There shall be no external evidence of the home occupation with the exception of vehicles as allowed under Section 34.12.3 and signage as allowed under Section 34.12.4.
- (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 34.12.2 (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.

#### 34.12.3 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.

#### 34.12.4 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 devices 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

#### 34.12.5 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.