

## **ARTICLE 1**

### **GENERAL PROVISIONS**

#### **1.1 TITLE**

This Resolution shall be known, referred to, and cited as the Zoning Resolution of Buffalo County in the State of Nebraska.

#### **1.2 JURISDICTION**

The provisions of this Resolution shall apply within the planning jurisdiction of Buffalo County as established on the map entitled "The Official Zoning Map of Buffalo County, Nebraska." The jurisdiction includes the rural and unincorporated areas of Buffalo County.

#### **1.3 PURPOSE**

In pursuance of the authority conferred by Sections 23-114.03 to 114.05 and 23-164 to 174.10 of Nebraska Revised Statutes as amended, and other applicable laws, this resolution is enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of Buffalo County and for implementing the Comprehensive Plan of the County.

## **ARTICLE 2**

### **APPLICATION OF REGULATIONS**

#### **2.1 GENERAL**

The zoning regulations set forth by this resolution within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

#### **2.2 ZONING AFFECTS EVERY BUILDING AND USE**

Excepting non-conforming lot sizes, structures, and usages, as set forth in Sec. 2.5, 2.51, 2.52, and 2.53 of these regulations, after effective date of this Regulation or any amendments thereto, no building, construction, or land shall be used or occupied, and no building or structure or part thereof shall be erected, constructed, moved or structurally altered except in conformity with all of the zoning regulations herein specified for the district in which it is located.

#### **2.3 YARD AND LOT REDUCTION PROHIBITED**

No yard or lot existing at the time of passage of this resolution shall be reduced by private action in dimension or area below the minimum requirements set herein.

Yards or lots created after the effective date of this resolution shall meet the minimum requirements established by this resolution.

## **2.4 MINIMUM REQUIREMENTS**

In their interpretation and application, the provisions of this resolution shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals or general welfare. Where applicable, Municipal, State or Federal standards, which are more restrictive than those contained herein, shall apply.

### **2.41 FLOODPLAIN STRUCTURAL REQUIREMENTS**

All changes in use allowed by zoning permits shall be in compliance with floodplain regulations adopted by Buffalo County. Floodplain administration is the duty of the Buffalo County Floodplain Administrator and not the duty of the zoning administrator. The zoning permit form shall include a provision for review of such permit by the floodplain administrator. (Resolution 11-08-05)

## **2.5 NONCONFORMITIES**

Nonconformities; Intent: Nonconformities are of three types: nonconforming lots of record, nonconforming structures, and nonconforming uses.

**2.51 NONCONFORMING LOTS OF RECORD:** The Zoning Administrator may issue a Zoning Permit for any nonconforming lot of record provided that:

Said lot is shown by a recorded plat or deed recorded with the Buffalo County Register of Deeds to have been owned separately and individually from adjoining tracts of land, at a time when the creation of a lot of such size and width at such location would not have been prohibited, and

Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the zoning regulation, and

Said lot can meet all yard regulations for the district in which it is located.

**2.52 NONCONFORMING STRUCTURES**

**Authority to Continue:** Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the use regulations and/or the applicable yard and height regulations may be continued, so long as it remains otherwise lawful.

**Enlargement, Repair, Alterations:** Any nonconforming structure may be enlarged, maintained, repaired, remodeled or rebuilt; provided, however, that no such enlargement, maintenance, repair or remodeling shall either

create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure.

Damage of Destruction: In the event any nonconforming nonresidential structure is damaged or destroyed, by any means, to the extent of more than 60 percent of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of 60 percent or less, no repairs or restoration shall be made unless a zoning permit is obtained within six months, and restoration is actually begun one year after the date of such partial destruction and is diligently pursued to completion.

Moving: No nonconforming structure shall be moved in whole or in part of any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

2.53 NONCONFORMING USES

Authority to Continue: Any lawfully existing nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use or land, may be continued, so long as otherwise lawful.

Ordinary Repair and Maintenance:

1. Normal maintenance and incidental repair, or replacement, installation or relocation or nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, water and/or waste disposal systems, may be performed on any structure or system that is devoted in whole or in part to a nonconforming use.
2. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety who declares such structure to be unsafe and orders its restorations to a safe condition.

Extension: A nonconforming use shall not be extended, enlarged, or increased in intensity. Any nonconforming use may be extended throughout any parts of a building which was manifestly arranged or designed for such use at the time of adoption or amendment of these Regulations, but no use shall be extended to occupy any land outside such building.

Enlargement: No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.

**Damage or Destruction:** In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged to the extent of more than sixty (60) percent of its reasonable replacement value, the property shall conform to the zone in which it is located.

**Moving:** No structure that is devoted in whole or in part to a nonconforming use and nonconforming use of land shall be moved in whole or in part for any distance whatsoever, to any location on the same or any other lot, unless the entire structure and the use thereof or the use of land shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.

**Change in use:** If no external structural alterations are made which will expand the area or change the dimensions of the existing structure, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the governing body after receiving a recommendation from the Planning Commission, by making findings in the specific case, shall find that the proposed use is more appropriate to the district than the existing nonconforming use. More appropriate shall mean creating less traffic, noise, glare, odor or other characteristics of the proposed use. In permitting such change, the governing body may require appropriate conditions and safeguards to protect surrounding areas and properties. Once such use has changed, it may no longer be returned to the original use or any other less appropriate use.

**Abandonment or Discontinuance:** When a nonconforming use is discontinued or abandoned, for a period of twelve (12) consecutive months, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.

**Nonconforming Accessory Uses:** No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.

## ARTICLE 3

### GENERAL DEFINITIONS

#### 3.1 GENERAL PROVISIONS

The following rules of construction shall apply unless inconsistent with the plain meaning of the context of this resolution.

3.11 TENSE: Words used in the present tense include the future tense.

3.12 NUMBER: Words used in the singular include the plural, and words used in the plural include the singular.

3.13 SHALL AND MAY: The word “shall” is mandatory; the word “may” is permissive.

3.14 HEADINGS: In the event that there is any conflict or inconsistency between the heading of an article, section or paragraph of this Resolution and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.

#### 3.2 GENERAL TERMINOLOGY

The word “County” shall mean the County of Buffalo, Nebraska. The words “County Board” shall mean the Buffalo County Board of Supervisors. The words “Planning Commission” shall mean the Buffalo County Zoning and Planning Commission duly appointed by the governing body of Buffalo County.

Words or terms not herein defined shall have their ordinary meaning in relation to the context.

#### 3.3 DEFINITION

For the purpose of this resolution certain words and terms used herein are defined as follows:

3.3100 ACCESSORY USE OF BUILDING: A subordinate building or use which customarily is incidental to that of the main or principal building or use of the premises. Customary accessory uses include, but are not limited to, tennis courts, swimming pools, detached garages, garden houses, antenna/satellite dishes, and residential, agricultural and recreation storage sheds. Garages or other accessory uses attached to the principal structure shall be considered a part thereof and meet the requirements of the principal structure.

3.3101 ADULT ENTERTAINMENT ESTABLISHMENT is:

1. A commercial establishment or use open to the public which:
  - a. Displays, distributes, issues, gives, provides, lends, delivers, transfers, transmits, circulates, disseminates, presents, exhibits, advertises,

- sells, rents or leases a substantial or significant portion, as herein defined, of its stock in trade, any material defined by the Neb. Rev. Stat. Sec. 28-808 or characterized by the depiction of "specified anatomical areas" or "specified sexual activities", as such are herein defined; or
  - b. Utilizes a substantial or significant portion, as herein defined, of its display areas, including but not limited to, floor, shelf, rack, table, stand or case display areas, boxes, cabinet drawers, cartons, or any other storage area or apparatus, for any material defined by the Neb.Rev.Stat. Sec. 28-807, et. seq., or characterized by the depiction of "specified anatomical areas" or "specified sexual activities", as such are herein defined; or
  - c. Exhibits for a substantial or significant portion, as herein defined, of the total presentation time any material defined by Neb.Rev.Stat. Sec. 28-808, et seq, or characterized by the depiction of "specified anatomical areas" or "specified sexual activities", as such are herein defined.
- 2. A commercial establishment or use open to the general public which involves employees or customers who engage in conduct which is distinguished or characterized by "specified sexual activities" or "specified anatomical areas", as herein defined.
- 3. .Adult Entertainment Establishments shall include, but are not necessarily limited to:
  - a. Adult arcades;
  - b. Adult bookstores;
  - c. Adult cabarets;
  - d. Adult motion picture theaters;
  - e. Adult theaters;
  - f. Escort agencies;
  - g. Massage parlors;
  - h. Nude modeling studios;
  - i. Sexual encounter centers (Resolution 03-11-14)

3.3102 ADULT ARCADE: Any place to which the public is permitted or invited wherein coin-operated, slug- or token-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 anatomical areas" or "specified sexual activities," as herein defined. (Resolution 03-11-14)

3.3103 ADULT BOOKSTORE: A commercial establishment which has devoted a substantial or significant portion of its business to the sale, rental or any form of consideration, of any one or more of the following:

- a. Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, video tapes, or other video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or

b. Instruments, devices, or paraphernalia which depict "specified anatomical areas" or are designed for use in connection with "specified sexual activities". (Resolution 03-11-14)

3.3104 ADULT CABARET: A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- a. Person or persons who appear by the exposure of his, her, and/or their "specified anatomical areas", or
- b. Live performances which are characterized by the exposure of "specified areas", or by "specified sexual activities", including topless or bottomless dancers, exotic dancers, or strippers; or
- c. Films, motion pictures, video cassettes or tapes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas". (Resolution 03-11-14)

3.3105 ADULT MOTION PICTURE THEATER: A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes or tapes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas". (Resolution 03-11-14)

3.3106 ADULT THEATER: A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of exposure of "specified anatomical areas", or live performances that are characterized by the depiction or description of "specified sexual activities" or the exposure of "specified anatomical areas". (Resolution 03-11-14)

3.3107 AGRICULTURAL FARM OR OPERATION: Farm or farm operation shall mean any tract of land over 20 acres in area used for or devoted to the commercial production of farm products.

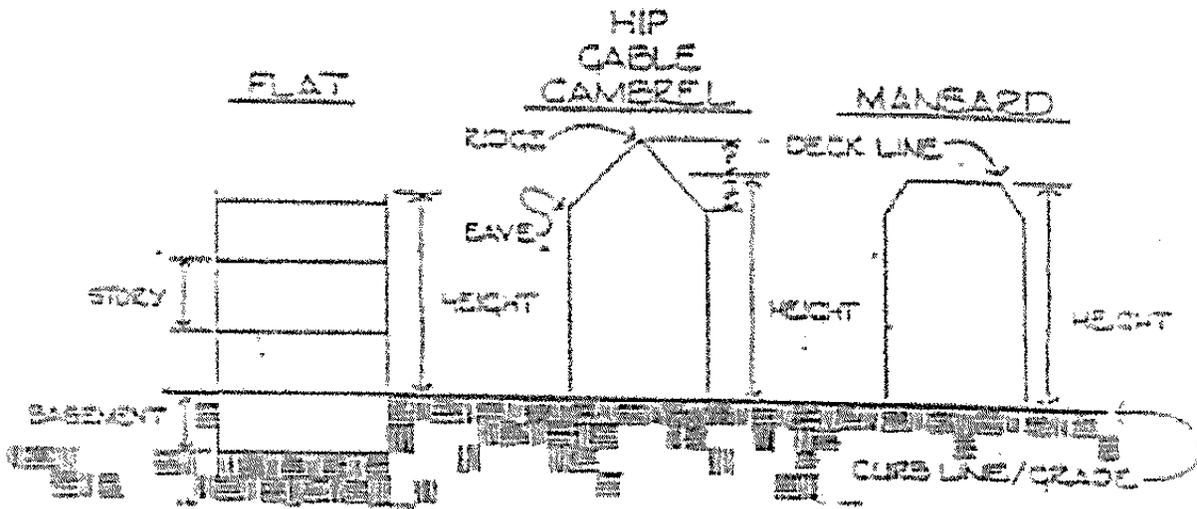
3.3108 ANIMAL HOSPITAL: A place where animals or pets are given medical or surgical treatment and are cared for during the time of treatment. Use as a kennel shall be limited to short-time boarding and shall be only incidental to such hospital use. (Resolution 10-11-11)

3.3109 BUILDABLE AREA: The portion of a lot remaining after required yards have been provided.

3.3110 BUILDING: An enclosed structure, anchored to permanent foundation, and having exterior or party walls and a roof, designed for the shelter or persons, animals or property. When divided by other than common or contiguous walls, each portion or section of such building shall be regarded as a separate building, except that two buildings connected by a breezeway shall be deemed one building. "Building" includes "structure."

3.3111 BUILDING HEIGHT: The vertical distance to the highest point of the roofs; to the deck line of mansard roofs; and to the average height between eaves and

the ridge for gable, hip and gambrel roofs, measured from the curb level if the building is not more than 10 feet from the front line or from grade in all other cases: (see illustration below)\*



Source: A Survey of Zoning Definitions, (American Planning Association, 1989).

\*The height limitations contained in the permissible heights for the various District Regulations shall not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy and agricultural structures.

3.3112 CAMP GROUNDS: Any premises where two (2) or more camping units are parked/placed for camping purposes, or any premises used or set apart for supplying to the public, camping space for two (2) or more camping units for camping purposes, which include any buildings, structures, vehicles or enclosures used or intended for use or intended wholly or in part for the accommodation of transient campers.

3.3113 COMMERCIAL USE: An occupation, employment or enterprise that is carried on for profit by the owner, lessee or licensee.

3.3114 DAY CARE CENTER: All classifications of day care facilities regulated by the State of Nebraska that operate providing care for more than six (6) persons. This term includes nursery schools, preschools, day care centers for children or adults, and similar uses but excludes public and private primary and secondary educational facilities. (Resolution 3-11-08)

3.3115 DAY CARE HOMES: All classifications of day care facilities regulated by the State of Nebraska that operate providing care for not more than six (6) persons. This term includes nursery schools, preschools, day care centers for children or adults, and similar uses but excludes public and private primary and secondary educational facilities. (Resolution 3-11-08)

3.3116 DWELLING: Any building or portion thereof which is designed and used exclusively for residential purposes including mobile homes, manufactured homes, and modular homes.

3.3117 DWELLING, MULTIFAMILY: A building or portion thereof used for occupancy by two or more families living independently of each other and containing two or more dwelling units.

3.3118 DWELLING, SINGLE FAMILY: A dwelling having accommodations for an occupied by one family.

3.3119 EASEMENT: A grant by the property owner to the public, a corporation or persons for the use of a tract of land for a specific purpose or purposes.

3.3120 ESCORT: A person who, for 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 strip tease for another person. (Resolution 03-11-14)

3.3121 ESCORT AGENCY: A person or business association which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or other consideration. (Resolution 03-11-14)

3.3122 FARM RESIDENCE: Residential dwellings located on a farm including mobile homes appurtenant to agricultural operations including the living quarters for persons employed on the premises.

3.3123 FLOOD PLAIN: Those lands within the zoning jurisdiction of Buffalo County which are subject to a one percent (1%) or greater chance of flooding in any given year. The regulatory flood plain for this Resolution shall be based on the official Flood Hazard Boundary Map or Flood Insurance administration, U.S. Department of Housing and Urban Development and any revision thereto. Copies of said map shall be on file in the Office of the County Assessor or other County Official.

3.3124 GENERATOR HOUSING: The mechanical housing, usually enclosed from the weather, that is minimally comprised of an armature shaft, magnets, and electrical wiring that generates direct or alternating electrical current by rotation of the armature within a magnetic field. (Resolution 4-13-10)

3.3125 HOME OCCUPATION: An occupation or activity carried on within the dwelling or accessory building by a member of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character nor infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes.

3.3126 LANDFILL: A disposal site employing an engineering method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material overall exposed waste at the end of each operating day.

3.3127 LIVESTOCK, CONFINEMENT FACILITIES/ OPERATIONS: Shall mean any building(s), lot(s), pen(s), pool(s) or pond(s) or other confined spaces, which normally are not used for raising crops or grazing animals, which are designed and/or used for on-going confined raising, feeding or management of animals for more than 180 consecutive days. Size classification of such facilities/operations shall be determined in Sec. 6.4.

3.3128 LIVESTOCK PROCESSING WASTE: Byproducts of the animal slaughter processing consisting of but not limited to: blood, animal parts, and floor wash but not consisting of Paunch or Paunch Manure. (Resolution 6-12-07)

3.3129 LOT: A parcel of land occupied or intended for occupation by a use permitted in this resolution and fronting upon a street or road.

3.3130 LOT, CORNER: A lot abutting two or more streets or roads at their intersection.

3.3131 LOT DEPTH: The average horizontal distance between the front and rear lot lines.

3.3132 LOT FRONTAGE: The front of a lot shall be construed to be the portion nearest the street or road.

3.3133 LOT OF RECORD: A lot of which is part of a sub-division recorded in the Office of the Register of Deeds, or a lot or parcel described by metes and bounds the description of which has been recorded.

3.3134 LOT WIDTH: The distance on a horizontal plane between the side lot lines of a lot, measured at right angles to the line establishing the lot depth at the established building setback line.

3.3135 MANUFACTURED HOME: A factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built to compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or a modular housing unit as defined in Section 71-1557 of the Nebraska Revised Statutes bearing the seal of the Department of Health and Human Service System.

3.3136 MANURE: any liquid or solid animal excreta or any bedding, litter, or water run-off contaminated with animal excreta. Exempted from this definition is packaged or bagged manure sold at retail. (Resolution 6-12-07)

3.3137 MANURING: the spreading of manure upon land. (Resolution 6-12-07)

3.3138 MASSAGE PARLOR: Any place where, for any form of consideration, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body occurs as part of or in connection with any "specified sexual activity", or where any person providing such treatment, manipulation or service related thereto exposes any "specified anatomical area."

This term shall not apply to a place wherein registered physical therapists or a certified massage therapist treats only patients recommended by a licensed physician and operate only under such physician's direction.

This term shall not apply to Massage Therapy). (Resolution 03-11-14)

3.3139 MASSAGE THERAPY:

As defined by the North American Industry Classification System (NAICS), 2007 edition, with the additional description that any establishment and/or person providing massage therapy services shall be appropriately licensed by the Nebraska Department of Health and Human Services.

This term shall not apply to a Massage Parlor. (Resolution 03-11-14)

3.3140 MOBILE HOME: A year-round, transportable structures which is a single family dwelling unit suitable for permanent, more than thirty (30) days of living quarters, more than eight (8) feet wide and forty (40) feet in length and built to be towed on its own chassis with or without a permanent foundation when connected to the required utilities. This portable dwelling may consist of one (1) or more units that can be telescoped when towed and expanded later for additional capacity, or

two (2) or more units, separately towable but designed to be joined as one (1) integral unit. Nothing in this definition shall be construed so as to include prefabricated, modular, precut dwelling units or those manufactured in sections or parts away from the site and transported thereto for assembly.

3.3141 MOBILE HOME PARK: Any area of land which one (1) or more mobile homes are parked, connected to utilities and used by one (1) or more persons for living or sleeping purposes. A mobile home parked in this area can either be placed on permanent foundation or supported only by its wheels, jacks, blocks, or skirtings or a combination of these devices. A mobile home park includes any premises set apart for supplying to the public parking space, either free of charge or for revenue purposes for one (1) or more mobile homes, connected to utilities and used by one (1) or more persons living, or sleeping purposes and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park.

3.3142 MODULAR HOME: Any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units not fabricated on the final site for the dwelling units, which units are movable or portable until placed on a permanent foundation and connected to utilities. All modular homes shall bear a label certifying that it was built to compliance with the Nebraska Department of Health and Human Services System as established in Section 71-1557 of the Nebraska Revised Statutes.

3.3143 NONCONFORMING LOT OF RECORD: A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to, and neither said lot nor parcel complies with the lot width or area requirements for any permitted uses in the district in which it is located.

3.3144 NONCONFORMING STRUCTURE: An existing structure which does not comply with the lot coverage, height or yard requirements which are applicable to new structures in the zoning district in which it is located.

3.3145 NONCONFORMING USE: An existing use of a structure or of land which does not comply with the use regulation applicable to new uses in the zoning district in which it is located.

3.3146 NUDE MODELING STUDIO: Any place where a person who displays any "specified anatomical area" that is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. This shall not include uses where instruction is given for human lactation, breastfeeding support groups and human breastfeeding education groups. (Resolution 03-11-14)

3.3147 PARCEL: A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.

3.3148 PARKING SPACE, OFF-STREET: An area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the

parking space with a street or road and permitting ingress and egress of an automobile.

3.3149 PAUNCH OR PAUNCH MANURE: the undigested food contained in slaughtered animal stomach(s). It does not include floor wash, animal blood, and other by-products or waste generated from the slaughter and processing of meat products. (Resolution 6-12-07)

3.3150 RECYCLING CENTER: A facility which accepts salvage material limited to paper, aluminum foil, containers made of glass, plastic, metal, aluminum and paper, and similar household wastes; no hazardous material as defined by State and Federal law is accepted; there is not wrecking or dismantling of salvage material and no salvage material is held outside a building.

3.3151 RECYCLING COLLECTION POINT: A collection point for small refuse items, such as bottles, cans and newspapers, located either in a container or small structure.

3.3152 SALVAGE OR JUNK YARD: A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, abandoned or inoperable motor vehicles or parts thereof, and other used materials are bought, sold, exchanged, stored, baled or cleaned; and places or yards for the storage of salvaged metal, materials and equipment; but not including pawn shops and establishments for the sale, purchase or storage of used cars or trucks presently in operable condition, boats or trailers presently in operable condition, and used furniture and household equipment in usable condition and not including the processing of used, discarded or salvaged material as part of manufacturing operations.

3.3153 SCHOOL, PRIVATE: shall mean an institution conducting regular academic instruction at kindergarten, elementary, junior high, or secondary levels operated by a non-governmental organization in conformance with the Section 79-1701 through 79-1707, Nebraska R. R. S., 1943. (Resolution 3-11-08)

3.3154 SCHOOL, PUBLIC: shall mean public institutions that have the power to condemn and are conducting regular academic instruction at kindergarten, elementary, junior high, and secondary levels. Such institutions shall offer general academic instruction equivalent to the standards prescribed by the State Board of Education. (Resolution 3-11-08)

3.3155 SCHOOLS OF SPECIAL INSTRUCTION: A school giving instruction in business, cultural or dramatic subjects. (Resolution 3-11-08)

3.3156 SEXUAL ENCOUNTER CENTER: A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration, activities between male and female persons and/or persons of the same sex when one or more of the persons displays or exposes "specified anatomical areas" and/or engages in "specified sexual activity or activities". (Resolution 03-11-14)

3.3157 SPECIAL USE PERMIT: A written permit issued with authorization of the County Board. The special permit provides permission under specific conditions to make certain special uses of land in certain zoning districts as stipulated under permitted special uses in each of the district zoning regulations.

3.3158 SPECIFIED ANATOMICAL AREA: or AREAS is defined as:

- a. Less than opaquely covered human genitals, pubic region or pubic hair; or
- b. Less than opaquely covered perineum, buttock, or anus; or
- c. Less than opaquely covered female breast below a point immediately above the top of the areola; or
- d. Human male genitals in a discernibly erect or turgid state, even if completely and opaquely covered (Resolution 03-11-14)

3.3159 SPECIFIED SEXUAL ACTIVITY or ACTIVITIES is defined as:

- a. Human genitals in a discernible state of sexual stimulation or arousal; or
- b. Acts or representations of human masturbation, sexual intercourse, sodomy, , excretory functions, sadism, masochism, lewd exhibition of genitals; or
- c. Fondling or other erotic touching of human genitals, pubic region or pubic hair, perineum, buttock or anus, or female breast. (Resolution 03-11-14)

3.3160 STREET OR ROAD: A thoroughfare, highway, street, avenue, or boulevard, not necessarily formally dedicated or acquired by the public, which affords principal means of access to or by abutting property, with the terms "street" or "road" being interchangeable. (Resolution 5-9-06)

3.3161 STREET, CENTER LINE: A line midway between street lines.

3.3162 STREET LINE: A dividing line between a lot, tract, or parcel of line and the contiguous street. The right-of-way line of a street.

3.3163 STRUCTURE: Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures and street signs.

3.3164 STRUCTURAL ALTERATIONS: Any change to the supporting members of a structure including foundations, bearing walls, or partitions, columns, beams, girders or any structural change in the roof.

3.3165 SUBSTANTIAL, SIGNIFICANT OR PRIMARY, regardless of whether these words are used singly or in combination means a use of over fifty (50) percent of stock in trade, display area, or presentation time, whichever may be applicable to the nature of the establishment. Stock in trade and material shall be measured in terms of titles or objects. Items with the same title or name shall be considered as separate titles or objects. (Resolution 03-11-14)

3.3166 TOWNHOUSE: One of a group or row of not less than three (3) nor more than twelve (12) attached, single family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately. For the purpose of the side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

3.3167 TRUCK WASH SERVICES: A facility to wash and clean interior and exterior of semi-truck tractors, large trucks and small vehicles, together with trailers. (Resolution 2-12-08)

3.3168 VARIANCE: A variance is a relaxation of the terms of the zoning resolution where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property, and not the result of the actions of the applicant, a literal enforcement of the resolution would result in unnecessary and undue hardship.

3.3169 WIND FARM: One or more wind powered generators that create and transmit power principally for connection to publicly used power grid. Wind farms shall include, but shall not necessarily be limited to the following structures and uses: wind powered generators, operations and/or maintenance buildings, meteorological towers, electrical wiring, collector grids, roads and substations. Any wind powered generator or generators that create over 25 kW, singly and/or wholly, is a wind farm. (Resolution 4-13-10)

3.3170 WIND POWERED GENERATOR (WPG): A turbine or rotary type generator designed to extract kinetic energy from the wind and convert this energy to electrical energy. It is comprised of a base where it attaches to the ground, supporting member of the generator housing usually referred to as a tower, wiring at or within the tower, generator housing, and a means to propel the armature shaft in the generator housing by use of the power of the wind accomplished through use of airfoils or similar devices connected to the armature shaft. (Resolution 4-13-10)

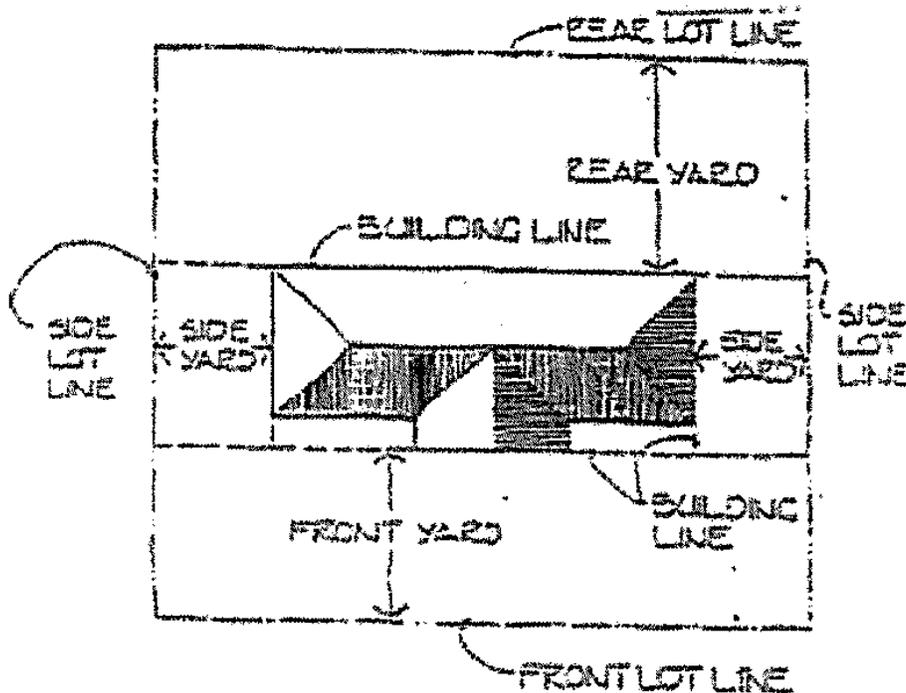
3.3171 YARD: A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure, provided, however, that fences, walls, poles, posts, and other customary yards accessories, ornaments, and furniture may be permitted in any yard subject to the district regulations.

3.3172 YARD, FRONT: A yard extending from the front lot line adjoining a public street to the front of the building. A lot that abuts two or more streets or roads shall be considered to have two or more front yards for any yard that adjoin a public street. (Resolution 5-9-06)

3.3173 YARD, REAR: A yard extending between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot to the nearest point of the main building.

3.3174 YARD, REQUIRED: The required minimum open space between the property line and the building line. The required yard shall contain no building or structure other than the projection of the usual steps, or open porches, or as otherwise provided in this resolution.

3.3175 YARD, SIDE: A yard between a building and the side lot line measured horizontally at right angles to the side lot line from the side lot line to the nearest point of the main building.\*



Source: A Survey of Zoning Definitions, (American Planning Association, 1989).

\*The ordinary projections of chimneys and flues, buttresses, eaves, overhangs, open-unenclosed steps or stoops up to 5' in height may extend into required yards for a distance of not more than two (2) feet in the required side yard and not more than five (5) feet in the required front yard.

3.3176 ZONING ADMINISTRATOR: The person duly designated by the County governing body to enforce these regulations.

3.3177 ZONING DISTRICT: The term "zoning map" means a map or maps officially enacted by the County Board, as part of this chapter showing the boundaries of a zoning district or districts, a copy or copies of which, certified to have been enacted as provided by law, is filed in the office of the County Clerk, as an official record of the County.

## ARTICLE 4

### ESTABLISHMENT AND DESIGNATION OF DISTRICTS

#### 4.1 ZONING AND PLANNING COMMISSION RECOMMENDATIONS

It shall be a purpose of the Zoning and Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. The Zoning and Planning Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the County Board shall not hold its public hearings or take action until it has received the final report of the Zoning and Planning Commission.

#### 4.2 DISTRICTS CREATED

For the purpose of this resolution, there are hereby created zoning districts for Buffalo County, as named and described in Article 5 of this Resolution.

1. AG- Agriculture District
2. RC - Rural Conservation District
3. AGR - Agricultural Residential District
4. R-1 - Single Family
5. C - Commercial District
6. I - Industrial District

#### 4.3 OFFICIAL ZONING MAP

1. The boundaries of the district are shown upon maps, which is made a part hereof by reference, which map(s) are designated as the Buffalo County Zoning Map, dated September 10, 2002 and signed by the Chairperson of the County Board and attested by the County Clerk and hereinafter referred to as the "Official Zoning Map."
2. The signed copy of the Zoning Map(s) containing the zoning districts designated at the time of adoption of this resolution shall be maintained in the offices of the County Clerk for the use and benefit of the public.
3. If in accordance with the provisions of this resolution, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map(s), such changes shall be entered on the appropriate part of the Official Zoning Map(s) promptly after the amendment has been approved by the governing body with an entry on the Official Zoning Map(s) as follows:

"On (date), by official action of the County, the following change was made in the Official Zoning Map(s) (brief description of the nature of the change), "which entry shall be signed by the Chairperson of the County and attested by the County Clerk."

No amendment to this resolution which involves matter portrayed on the Official Zoning Map(s) shall become effective until after such change and entry have been made on said map(s).

4. No changes of any nature shall be made in the Official Zoning Map(s) or matter shown thereon except in conformity with the procedures set forth in this resolution.
5. In the event that the Official Zoning Map(s) become damaged, destroyed, lost or difficult to interpret, the County may, by resolution, adopt a new Official Zoning Map(s) which shall supersede the prior Official Zoning Map(s).

The new Official Zoning Map(s) may correct drafting or other errors or omissions in the prior Official Zoning Map(s), but no such correction shall have the effect of amending the original Official Zoning Map(s) or any subsequent amendment thereof.

#### **4.4 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES**

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

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following village limits shall be construed as following such village limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the railroad right-of-way;
5. Boundaries indicated as parallel to or extension of features indicated in subsections 1 through 4 above shall be so construed. Distances not specifically indicated on the Official Zoning Map(s) shall be determined by the scale of the map.
6. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map(s), or in other circumstances not covered by subsection 1 through 5 above, the Board of Zoning Adjustment shall interpret the district boundaries.
7. Where a district boundary line divides a lot which was in single ownership at the time of passage of this resolution the Board of Zoning Adjustment may permit, as an exception, the extension of the regulations for either portion of the lot not to exceed one hundred and fifty (150) feet beyond the district line into the remaining portion of the lot.

## ARTICLE 5

### ZONING DISTRICTS

#### 5.1 AG AGRICULTURE DISTRICT

5.11 INTENT: This district is designated for general agriculture use and is intended to preserve and protect agriculture production from encroachment by incompatible uses.

5.12 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right:

1. Animal hospitals (Resolution 10-11-11)
2. General farming and ranching activities, excluding any expansion of existing or development of Class IV or larger livestock confinement facilities/operations as defined in Article 3 and classified in Sec. 6.4. (Resolution 4-13-10) (Resolution 7-10-12)
3. Public Uses: Including fire stations, public schools, public utilities and utility distribution systems; (Resolution 3-11-08)
4. Bulk grain and produce storage, excluding commercial warehouses;
5. Irrigation, flood, erosion and sediment control projects;
6. Single family, ranch, and farm dwellings on an improved road, meaning a road above county minimum maintenance road classification or public street within approved subdivision, including ranch and farm dwellings; and one additional on farm/ranch single/two family dwellings for the purpose of housing relatives or permanent agriculture workers, in addition single family dwellings must be located minimum distances from a livestock confinement facility/operation in conformance with Section 6.4 not of the same property;
7. Greenhouses and garden centers;
8. Bed and breakfast; and
9. Churches, places of worship and cemeteries.

5.13 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses;
2. Home occupations in accordance with Article 8; and

3. Roadside stands for the temporary sale of produce.

5.14 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the "AG" Agriculture District if a special permit for such use has been obtained in accordance with Article 6 of these regulations: (Resolution 12-4-07 & Resolution 10-11-11)

1. Airports and heliports including crop dusting strips;
2. Sewage treatment plants for primary and secondary treatment; public and private sanitary landfills; gravel plants and asphalt or concrete batch plants;
3. Agriculture service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services on a fee or contract basis; agricultural grain product milling and processing; commercial grain warehouses, establishments engaged in performing services such as crop dusting, fruit picking, grain cleaning, harvesting and plowing; farm equipment services and repair.
4. Broadcast towers and stations, including but not limited to Amateur Radio or communication towers of more than 100 feet which in addition to any requirements of the special permit shall comply with all applicable Federal Aviation Administration rules and regulations. (Resolution 4-13-10)
5. Public and private recreational uses, including parks and playgrounds, campgrounds, golfcourses, and riding stables;
6. Auction/sale barns and yards;
7. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals;
8. Salvage or junk yards in accordance with Section 6.3;
9. Mineral extraction, which shall include the following: oil wells, sand, dirt and/or gravel extraction and quarries;
10. Private day-care centers, (Resolution 3-11-08)
11. Private schools, (Resolution 3-11-08)
12. Expansion of existing or development of new Class IV or larger livestock confinement facilities/operations as defined in Article 3 and in accordance with Section 6.4; (Resolution 4-13-10) (Resolution 7-10-12)
13. Dog breeding establishments and kennels;
14. Commercial and/or Industrial operations, excepting therefrom Adult

Entertainment Establishments; (Resolution 3-11-14)

15. Hospitals, penal institutions and sanitariums;
16. Nursing and care homes;
17. Recreational motel-lodging.
18. Wind powered generation of electrical power. (Resolution 4-13-10)
19. Wind Farms. (Resolution 4-13-10)

5.15 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specially permitted or nor permissible as special uses shall be prohibited from the AG Agriculture District.

#### 5.16 MINIMUM LOT REQUIREMENTS

1. The minimum lot area for AG uses shall be three (3) acres. By special permit this lot size may be reduced for Public Uses: Including fire stations, public elementary and high schools, public utilities and utility distribution systems. (Resolution 8-10-04) All improved uses, other than general farming, ranging, pasturing, etc, shall be adjacent to an improved county road (above minimum maintenance road).

2. Single Family Dwelling, Lot Size:

(A) 3 acres, with the placement of a maximum of four single family dwellings per U.S. Government surveyed quarter section, adjacent to an improved road (above minimum maintenance road), at a minimum distance of 1,000 feet between dwellings located in same quarter section. Such 1,000 feet between dwelling requirement and four single family dwelling per quarter section limitation may be relaxed by zoning administrator when such proposed single family dwelling meets all other zoning requirements, and said lot is shown by a recorded plat or deed recorded with the Buffalo County Register of Deeds to have been owned separately and individually from adjoining tracts of land prior to date of adoption of this ordinance.

B) Existing farmsteads of 3 acres or more not previously subdivided as of the date of adoption of the zoning ordinance as defined in the zoning regulations can be subdivided into two parcels, the minimum size of one of said parcels shall not be less than 3 acres. Legally existing parcels which are less than 3 acres, as of the effective date of the zoning regulations (January 1, 2003) without a residence may have a single family dwelling constructed, but must obtain a zoning permit.

## 5.17 MINIMUM YARD REQUIREMENTS

Front Yard: There shall be a minimum front yard of not less than a depth of fifty (50) feet measured from the right-of-way line of street.

Rear Yard: No limitations; unless abutting a R-1 Residential District then the minimum rear yard shall be fifteen (15) feet or unless abutting an improved county road, state or federal highway, then the minimum rear yard shall be fifty (50) feet.

Side Yard: No limitations; unless abutting a R-1 Residential District then the minimum side yard shall be ten (10) feet or unless abutting an improved county road, state or federal highway, then the minimum side yard shall be fifty (50) feet.

5.18 MAXIMUM HEIGHT: No limitation, unless regulated by state or federal authorities.

5.110 PARKING REQUIREMENTS: See Article 7.

## 5.2 RC RURAL CONSERVATION DISTRICT (RESOLUTION 7-10-12)

5.21 INTENT: This district is intended for those areas which, because of limiting environmental characteristics such as scenic status, excessive slope, soils conditions, high water table, or other factors, require the regulation of development in keeping with the conditions imposed by the natural environment.

5.22 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right:

1. General farming and ranching activities, excluding any expansion of existing or development of intensive livestock confinement facilities/operations as defined in Section 3.50 and
2. Single family, ranch, and farm dwellings on an improved road, meaning a road above county minimum maintenance road classification or public street within approved subdivision, including ranch and farm dwellings; and one additional on farm/ranch single/two family dwellings for the purpose of housing relatives or permanent agriculture workers, in addition single family dwellings must be located minimum distances from a livestock confinement facility/operation in conformance with Section 6.4 not of the same property.

5.23 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses.
2. Home occupations in accordance with Article 8; and
3. Roadside stands for temporary sale of produce.

5.24 PERMITTED SPECIAL USES: a building or premises may be used for the following purposes in the "RC" Rural Conservation District if a special permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Sewage disposal and water systems;
2. Flood, erosion and sediment control projects;
3. Bed and breakfast establishments;
4. Commercial and/or Industrial operations;
5. Wind powered generation of electrical power;
6. Wind Farms;
7. Mineral extraction, which shall include the following: oil wells, dirt, sand and gravel extraction and quarries;
8. Day care homes;
9. Parks and recreational areas owned and/or occupied by public agencies;
10. Community buildings and/or facilities owned and/or occupied by public agencies;
11. Public schools;
12. Parks and recreational areas owned and/or occupied by private agencies.

5.25 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specially permitted or not permissible as special uses shall be prohibited from the RC Rural Conservation District.

5.26 SPECIAL REGULATION: Provisions must be made for disposal of wastes in accordance with local and state regulations.

5.27 MINIMUM AREA REQUIREMENTS:

1. The minimum lot area for RC uses shall be eighty (80) acres. By special permit this lot size may be reduced for Public Uses: Including fire stations, public elementary and high schools, public utilities and utility distribution systems. All improved uses, other than general farming, ranching, pasturing, etc., shall be adjacent to an improved county road (above minimum maintenance road).

2. Single Family Dwelling, Lot Size:

(A) 3 acres, with the placement of a maximum of One (1) single family dwellings per U.S. Government surveyed quarter section, adjacent to an improved road (above minimum maintenance road), at a minimum distance of 1,000 feet between dwellings located in same quarter section. Such 1,000 feet between dwelling requirement and one single family dwelling per quarter section limitation may be relaxed by zoning administrator when such proposed single family dwelling meets all other zoning requirements, and said lot is shown by a recorded plat or deed recorded with the Buffalo County Register of Deeds to have been owned separately and individually from adjoining tracts of land prior to date of adoption of this ordinance.

B) Existing farmsteads of 3 acres or more not previously subdivided as of the date of adoption of the zoning ordinance as defined in the zoning regulations can be subdivided into two parcels, the minimum size of one of said parcels shall not

be less than 3 acres. Legally existing parcels which are less than 3 acres, as of the effective date of the zoning regulations (January 1, 2003) without a residence may have a single family dwelling constructed, but must obtain a zoning permit.

#### 5.28 MINIMUM YARD REQUIREMENTS:

Yard requirements are as follows:

Front Yard: There shall be a minimum front yard of not less than a depth of fifty (50) feet measured from the right-of-way line of street.

Rear Yard: No limitations; unless abutting an improved county road, state or federal highway, then the minimum rear yard shall be fifty (50) feet.

Side Yard: No limitations, unless abutting an improved county road, state or federal highway, then the minimum side yard shall be fifty (50) feet.

5.29 MAXIMUM HEIGHT: No limitation, unless regulated by state or federal authorities.

5.291 PARKING REQUIREMENTS: See Article 7.

### 5.3 AGR AGRICULTURAL RESIDENTIAL DISTRICT

5.31 INTENT: This district is intended to provide for low-density, acreage residential development in selected areas in close proximity to the communities of Buffalo County, or in rural areas with reasonable access to major rural roads. Generally, these districts are located near urban and built-up areas within reasonable reach of fire protection and hard surfaced roads.

5.32 PERMITTED PRINCIPLES USES AND STRUCTURES: The following shall be permitted as uses by right:

1. General farming, including hobby farming or animal raising, excluding any expansion of existing or development of Class III or larger livestock confinement facilities/operations as defined in Article 3 and classified in Section 6.4. (Resolution 4-13-10)
2. Single family, ranch, and farm dwellings adjacent to improved road, meaning a road above county minimum maintenance road classification or public street within approved subdivision, including ranch and farm dwellings; (Resolution 8-10-04) in addition single family dwellings must be located minimum distances from a livestock confinement facility/operation in conformance with Section 6.4 not of the same property;
3. Irrigation and flood control projects;
4. Day care homes; (Resolution 3-11-08)
5. Parks and recreational areas owned and/or occupied by public agencies; (Resolution 10-10-03)
6. Community buildings and/or facilities owned and/or occupied by public agencies;
7. Public schools; (Resolution 3-11-08)

8. Churches, places of worship, and cemeteries; and
9. Bed and Breakfast.

5.33 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures;
2. Home occupations in conformance with Article 8.2; and
3. Roadside stands for sale of agricultural produce. (Resolution 10-10-03)

5.34 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the AGR Agricultural Residential District if a special permit for such use has been obtained in accordance with Article 6 of these regulations: (Resolution 12-4-07)

1. Agricultural service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services;
2. Cemeteries, crematories, mausoleums and columbarium;
3. Day care center; (Resolution 3-11-08)
4. Radio and television towers and transmitters;
5. Camp grounds;
6. Wind Powered Generation of electrical power; (Resolution 4-13-10)
7. Commercial kennels;
8. Greenhouses and nurseries;
9. Animal hospitals (Resolution 10-11-11)
10. Mobile home parks.
11. Mini storage facilities (Resolution 5-27-03) with all item(s) enclosed within a building or buildings. (Resolution 3-11-08)
12. Parks and recreational areas owned and/or occupied by private agencies. (Resolution 10-10-03)
13. Airports (Resolution 10-10-03)
14. Public utilities and utility distribution systems (Resolution 8-10-04)
15. Private schools. (Resolution 3-11-08)
16. Schools of special instruction in business, cultural, or dramatic subjects or schools of special instruction. (Resolution 3-11-08)
17. Private schools for instruction and training of the physically, mentally, and/or functionally impaired. (Resolution 3-11-08)
18. Mineral extraction, which shall include the following: oil wells, sand, dirt and/or gravel extraction and quarries accomplished through the use of water and aggregate pumping machinery. (Resolution 3-24-09)
19. Concrete batch and/or asphalt plant(s) that uses movable equipment utilized for area road or localized construction. (Resolution 3-24-09)
20. Temporary construction material crushing plant that uses movable equipment utilized for area road or localized construction. (Resolution 3-24-09 & 5-12-09)

5.35 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as exceptions shall be prohibited from AGR Agricultural Residential District.

5.36 MINIMUM AREA AND YARD REQUIREMENTS:

1. The minimum lot area for AGR uses shall be 3 acres\*. All improved uses, other than general farming, ranching, pasturing, etc, shall be adjacent to an improved county road (above minimum maintenance road).

2. Yard requirements are as follows:

Front Yard: There shall be a minimum front yard of not less than a depth of fifty (50) feet measured from the right-of-way line.

Rear Yard: There shall be a minimum rear yard of fifteen (15) feet or unless abutting an improved county road, state or federal highway, then the minimum rear yard shall be fifty (50) feet.

Side Yard: There shall be a minimum side yard of ten (10) feet or unless abutting an improved county road, state or federal highway, then the minimum wide yard shall be fifty (50) feet.

\*When a proposed subdivision utilizes a shared or "community" drinking water and sewage system the minimum lot area may be reduced to one (1) acre subject to review and compliance by the Nebraska Department of Health.

3 acre minimum in a proposed and approved subdivision may be reduced to 70,000 square feet subject to review and compliance by Nebraska Department of Health and approval of County Board.

By special permit this lot size may be reduced for Public Uses: Including fire stations, public elementary and high schools, public utilities and utility distribution systems. (Resolution 8-10-04)

5.37 MAXIMUM HEIGHT: No limitation, unless regulated by state or federal authorities.

5.38 PARKING REGULATIONS: Parking shall be in conformance with the provisions of Article 7 of these regulations.

**5.5 C COMMERCIAL DISTRICT**

5.51 INTENT: The C Commercial District is intended for the purpose of providing limited commercial services. Off-street parking is required in order to reduce adverse effects on adjacent properties.

5.52 PERMITTED PRINCIPLE USES AND STRUCTURES: The following shall be permitted as uses by right:

1. Automobile wash facilities;
2. Churches and other religious institutions;
3. Construction sales and services;
4. Convenience store or filling station;
5. Detached banking facilities (ATM);

6. Electric and telephone substations;
7. Farm implement sales and services;
8. Garden centers and nurseries;
9. Irrigation equipment sales and services;
10. Mini storage facilities;
11. Motels, including accessory service uses, such as swimming pools, liquor stores and restaurants;
12. Restaurants and cafes;
13. Service stations;
14. Stores or shops for sale of goods or services at retail;
15. Transportation warehousing;
16. Trucks and freight terminals;
17. Utilities, including shops and offices;
18. Medical clinics;
19. Bed and breakfast operations; and
20. Campgrounds
21. Animal Hospitals (Resolution 10-11-11)

5.53 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted: Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses.

5.54 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the C Commercial District if a special use permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Airports and Heliports;
2. Private clubs and lodges;
3. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agriculture chemicals;
4. Radio studios, transmitters and antenna;
5. Recycling centers;
6. Single Family Homes and
7. Recreational facilities or entertainment facilities and/or areas not owned or operated by public agencies (Resolution 10-10-03)
8. Truck wash services. (Resolution 2-12-08)
9. Wind powered generation of electrical power (Resolution 7-10-12)
10. Wind Farms (Resolution 7-10-12)
11. Adult Entertainment Establishment, specifically allowed only in the Commercial District and not as a special use in Agricultural District. (Resolution 3-11-14)

5.55 SCREENING REQUIREMENTS: Open storage of materials attendant to a permitted use or special permit use shall be permitted only within an area surrounded or screened by a solid wall or fence.

5.56 PROHIBITED USES: All other uses and structures which are not specifically permitted or permissible as special uses shall be prohibited from the C Commercial District.

5.57 HEIGHT AND AREAS REGULATIONS: The maximum height, maximum lot coverage and minimum area regulations shall be as follows: (Resolution 7-11-06 & Resolution 10-11-11)

1. General Requirements:

	Lot Area*** (Sq. Ft.)	Lot Width	Required Front Yard	Required Side Yard	Required Rear Yard	Height
Permitted Uses	40,000	100'	Greater of 50'* or 83'**	15'	15'	none

\* Measured from the abutting road or street right-of-way line.

\*\* Measured from center line of abutting road or street right-of-way.

\*\*\* Unless more regulated by state or federal authorities. Such minimum lot size is subject to restrictions imposed by Department of Environmental Quality or other agencies with 3 acres being exempt at time of adoption of these regulations (Resolution 10-10-03)

2. MAXIMUM LOT COVERAGE: In no event shall the area of a lot covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features exceed 55% of the lot area. (Resolution 10-10-03, Sec 5.59 & 7-11-06)

3. PUBLIC USE EXCEPTION: By special use permit this lot size may be reduced for Public Uses including, but not limited to; fire stations, elementary and high schools, utilities, whether publicly or privately owned, and utility distribution systems. (Resolution 7-11-06)

5.58 PARKING AND LOADING REGULATIONS: Parking and loading within the C Commercial District shall be in conformance with the provisions of Article 7 of these regulations. (Resolution 10-10-03)

**5.6 I INDUSTRIAL DISTRICT**

5.61 INTENT: This district is designed to provide for a wide range of industrial and related uses.

5.62 PERMITTED PRINCIPAL USES AND STRUCTURES: (Resolution 10-11-11)

1. Animal hospitals;
2. Automobile sales and services;
3. Automotive wash facilities;
4. Bottling works;
5. Building material sales and ready-mix concrete plants;
6. Carpenter, cabinet, plumbing or sheet metal shops;
7. Carpet and rug cleaning and repair services;
8. Disinfecting and exterminating services;
9. Dry cleaning, laundering and dyeing services;
10. Dyeing and finishing of textiles;

11. Educational and scientific research services;
12. Electrical sales and services;
13. Equipment rental and leasing services;
14. Farm machinery and equipment - retail;
15. Farm supplies - retail;
16. Feeds, grains and hay - retail;
17. Food lockers and storage services;
18. Freight forwarding services;
19. Furniture repair and reupholster services;
20. Fur trading services;
21. Garden centers and nurseries;
22. Gas utility maintenance yard;
23. Manufacturing operation;
24. Landscape sales and services;
25. Mobile and modular home sales and manufacturing;
26. Newspaper publishing plants and commercial printing;
27. Photoengraving;
28. Photo finishing services;
29. Public utility and public service uses;
30. Radios, televisions, phonographs, recorders, tape players and other similar devices repair services;
31. Service stations;
32. Stores or shops for the sale of industry goods at retail;
33. Telephone services;
34. Transportation warehousing;
35. Truck wash services;
36. Warehousing and storage except for products of a highly explosive, combustible or volatile nature;
37. Wholesale establishments except those which handle products of a highly explosive, combustible or volatile nature; and
38. Mini-warehouse

5.63 PERMITTED ACCESSORY USES: Accessory uses and structures normally appurtenant to permitted uses and structures.

5.64 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the I Industrial District if a special permit for such use has been obtained in accordance with Article 6 of this Resolution.

1. Salvage or junk yard in accordance with Section 6.3;
2. Recycling center;
3. Mineral extraction, which shall include the following:  
oil wells, sand and gravel extraction and strip mine operations and quarries; and
4. Airport.
5. Wind powered generation of electrical power (Resolution 4-10-12)
6. Wind Farms (Resolution 4-10-12)

5.65 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the I Industrial District.

5.66 HEIGHT AND AREA REGULATIONS: The maximum height and minimum area regulations shall be as follows: (Resolution 10-11-11)

1. General Requirements:

	<u>Lot Area*</u> <u>(Sq. Ft.)</u>	<u>Lot</u> <u>Width</u>	<u>Required</u> <u>Front Yard</u>	<u>Required</u> <u>Side Yard</u>	<u>Required</u> <u>Rear Yard</u>	<u>Height</u>
Permitted Uses	None	100'	Greater of 50'* or 83'***	15'	15'	None

\* Measured from the abutting road or street right-of-way line.

\*\* Measured from center line of abutting road or street right-of-way.

\*\*\* Unless more regulated by state or federal authorities. Such minimum lot size is subject to restrictions imposed by Department of Environmental Quality or other agencies with 3 acres being exempt at time of adoption of these regulations (Resolution 10-10-03)

5.67 PARKING REGULATIONS: Parking within the I Industrial District shall be in conformance with the provisions of Article 7 of this Resolution.

## ARTICLE 6

### SPECIAL USE PERMIT

#### 6.1 GENERAL

The County may authorize by special permit after public hearing, any of the buildings or uses designated in this resolution as permitted special uses.

#### 6.2 PROCEDURES

Such application shall be in writing, filed in the Office of the County Clerk, state the proposed location and use of the property, and such other relevant matters as may be requested by the County. Upon receipt of such application, the Zoning Administrator shall forward the application to the Planning Commission for its recommendation. Upon hearing, the Planning Commission shall forward its recommendation to the County Board, within thirty (30) days. Upon hearing, the County Board may allow or deny the application in whole or in part, or prescribe conditions for such use of the property. In making any decision granting a special use permit, the County Board shall impose such restrictions, terms, time limitations, landscaping, improvement of off-street parking lots, and other appropriate safeguards as required protecting adjoining property. Unless otherwise specifically stated, construction requested on such special permit shall commence within 120 days after authorization and shall be substantially completed two years after commencement. No special use permit shall become effective until after separate

public hearings are held by both the Planning Commission and the County Board in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the purpose, time, and place of such hearing shall be given by publication thereof in a paper of general circulation in the County and in the local newspaper of any county/village/city which has territory within three miles of the property affected by such action of the County Board, one time at least ten days prior to such hearing. (Ref. 23-164 R.S. Neb.).

In addition to the publication of the notice herein prescribed, a notice, in sign form, of the hearing shall be posted in a conspicuous place on or near the property on which such action is pending. The sign shall be placed at least ten (10) days prior to date of each hearing. The sign shall state in conspicuous writing visible from the traveled surface of the nearest public road: the purpose, time, and place of hearing. A notice of the purpose, time, and place of the hearing shall be given in writing to the Chairperson of the County Board, or Planning Commission which has jurisdiction over land within three miles of the property affected by such action. In the absence of a Planning Commission, such notice shall be given to the clerks of units of local government having jurisdiction over land within three miles of the property affected by such action. A written notice of such hearing shall be distributed to record title owners of property located within three hundred (300) feet of the property line of the property requesting the special use permit.

Except as otherwise provided herein, no special use permit shall be granted by the County Board, without an affirmative vote of a majority of all members of the County Board and providing the proposed use is found to comply with the following guidelines:

1. Be compatible with and similar to the use permitted in the district, and
2. Not be a matter which should require re-zoning of the property, and
3. Not be detrimental to adjacent property, and
4. Not tend to depreciate the value of the surrounding structures or property, and
5. Be compatible with the stated intended use of the district, and
6. Not change the character of the district, and
7. Be in accordance with the Comprehensive Plan.

In case of protest against such special use permit, filed with County Clerk within seven (7) days following Planning Commission's public hearing considering such special use permit signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the side and in the rear thereof extending one hundred (100) feet, therefrom, and of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such special use permit shall not

become effective except by the favorable vote of two-thirds of all members of the County Board. (Resolution 10-10-03)

### **6.3 SALVAGE OR JUNK YARD**

Salvage or junkyard operations and related facilities shall only be allowed by special permit in the AG and I Zoning Districts under the following conditions: (Resolution 3-9-04)

1. A remediation fund or bond shall be posted for clean up of facility in the event of abandonment.
2. The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a visual obscuring fence, wall or hedge. The fence, wall or hedge shall be of uniform height (at least eight (8) feet high) and uniform texture and color shall be so maintained by the proprietor as to insure maximum safety to the public and preserve the general welfare of the neighborhood. The fence, wall or hedge shall be installed in such a manner as to retain all scrap, junk or other material within the yard and no scrap, junk or other material shall protrude above the fence.
3. No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge fence or wall, or within the public right-of-way.
4. Any other requirement deemed appropriate and necessary by the County Board for the protection of the general health and welfare.
5. Special use permits granted under this section shall be subject to annual review by the County Board with written notice of hearing of such review given to permit holder at last given address.

In making any decision granting a special use permit, the County Board shall impose such restrictions, terms, time limitations, landscaping, improvement of off-street parking lots, and other appropriate safeguards as required to protect adjoining property. (Resolution 3-9-04)

### **6.4 LIVESTOCK CONFINEMENT FACILITIES/OPERATIONS**

All livestock confinement facilities/operations are allowed under the following conditions: (Resolution 4-13-10) (Resolution 7-10-12)

1. Distance requirements:

Any new or expanding livestock confinement facilities/operations greater than Class I, shall either be: (1) a minimum distance from any dwelling, commercial or industrial facility, or church, school or any other facility operated and/or utilized by the general public other than the dwelling of the confinement facilities/operations owner and/or operator, or (2) have signed

letters of agreement from surface landowner(s) within below stated radius of the designated perimeter supporting the proposed expansion or development of new livestock confinement facilities/operations. (Resolution 7-10-12)

Expansion of an existing livestock confinement facility/operation is defined as such when capacity of the facility is increased to the point where the total animal units is defined as a larger class. See minimum distance requirements in the following table.

**MINIMUM DISTANCE REQUIREMENTS**

	<u>Class I</u>	<u>Class II</u>	<u>Class III</u>	<u>Class IV</u>	
Total Animal Units Allowed (Section 6.4(6))	1 to 300	301 to 2500	2501-10000	10,001 & above	
Minimum Distance Required	No Minimum Requirement	1 / 2 Mile	1 Mile	1Mile	Resolution 7-10-12

2. Facility with liquid waste management system lagoon shall have the closest edge of such lagoon no closer than distance stated in above paragraph for total animal units such lagoon system serves from any residence or commercial or industrial facility, or church or school, or any other facility operated and/or utilized by the general public other than the residence of the confinement facilities/operations owner and/or operator. However, the minimum distance may be increased or decreased as determined by the County Board.
3. A management plan for the facility, acceptable to the Nebraska Department of Environmental Quality and the County Board, which provides for the proper disposal of animal waste and dead animals in a manner as not to contaminate ground water or any stream, creek or river and minimizes odor.
4. Any other requirement deemed appropriate and necessary by the County Board for the protection of the general health and welfare.
5. Special use permits granted under this section shall be subject to review by the County Board if not in compliance with Department of Environmental Control.
6. For purposes of determining size of such livestock confinement facility/operation, the number of animal of all species situated in such facility/operation, shall be calculated in Animal Units Equivalents based upon the following:

Animal Units Equivalents:

1. (1.0 x \_\_\_\_ number of head) Slaughter and Feeder Cattle
2. (1.2 x \_\_\_\_ number of head) Cow/Calf Pairs
3. (1.4 x \_\_\_\_ number of head) Mature Dairy Cattle
4. (2.0 x \_\_\_\_ number of head) Swine, 55lbs. and over
5. (0.04x \_\_\_\_ number of head) Weaned Pigs, less than 55lbs.
6. (0.1 x \_\_\_\_ number of head) Sheep
7. (2.0 x \_\_\_\_ number of head) Horses
8. (0.01x \_\_\_\_ number of head) Chickens
9. (0.02x \_\_\_\_ number of head) Turkeys
10. (0.2 x \_\_\_\_ number of head) Ducks
11. For Immature Dairy Cattle, or those species not listed, number of animal units shall be calculated as the average weight of animals divided by 1,000 lbs., multiplied by the number of animals.

7. SPECIAL REGULATIONS CONCERNING DISPOSAL OF CONFINEMENT FACILITY, FEEDLOT WASTE, LIVESTOCK PROCESSING WASTE, AND/OR OTHER WASTE: (Resolution 6-12-07)

- A. Disposal and storage of any confinement facility or feedlot manure on land within Buffalo County other than on the property upon which the confinement facility or feedlot is located shall be subject to the license requirements and manure disposal requirements and recommendations of the State of Nebraska (Resolution 6-12-07)
- B. No manure disposal by spraying, injecting or spreading on land shall be closer than thirteen hundred and twenty (1,320) feet to an inhabited residence without written consent by the property owner of the residence. This restriction shall not apply to lands upon which the confinement or feedlot is located (Resolution 6-12-07).
- C. Disposal of paunch manure shall be allowed only in AG District with the same being subject to any applicable license and/or permit requirements of the State of Nebraska and/or Buffalo County. (Resolution 6-12-07)
- D. In no event shall there be storage of and/or disposal of livestock manure from a confinement or feedlot facility on, upon, or within 100 feet of land designated by the United States Department of Agriculture, or entity thereof, as delineated wetlands. (Resolution 6-12-07)
- E. Livestock processing waste shall not be allowed upon the lands of Buffalo County (Resolution 8-14-07)

**6.5 Special provisions regarding Adult Entertainment Establishments.**

Adult Entertainment Establishment, as previously defined, shall not be allowed in the Agricultural District (AG), and shall only be allowed as a special permit in the Commercial (C) District, under the following conditions:

1. LOCATION AND DISTANCE REQUIREMENTS:

- a. An Adult Entertainment Establishment, as herein defined:
  - i. Shall not be located or expanded within one thousand (1,000) feet of Agricultural Residential (AGR) zoned property;
  - ii. Shall not be located or expanded within one thousand (1,000) feet of any other Adult Entertainment Establishment;
  - iii. Shall not be located or expanded within one thousand (1,000) feet of any church, synagogue or temple, hospital, public school or public park, or any day care center or day care home.
- b. Measurements pursuant to the foregoing section shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises of an Adult Entertainment Establishment to:
  - i. The nearest property line of any real estate situated in the Agricultural Residential (AGR) use district by the Zoning Map of Buffalo County; and
  - ii. The nearest portion of the building or structure used as a part of the premises of any other Adult Entertainment Establishment; and
  - iii. The nearest property line of the premises of a church, synagogue, temple, hospital, public school, public park, day care center, and day care home.
- c. Distance certifications: An application for an Adult Entertainment Establishment shall be accompanied by a current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing Adult Entertainment Establishments within 1000 feet of the property to be certified; the property lines of any church, synagogue or temple, hospital, public school or public park, or any day care center or day care home within 1000 feet of the property to be certified; and the property lines of any property zoned Agricultural Residential (AGR) by the Zoning Map of Buffalo County, within 1000 feet of the property to be certified. For purposes of this sub-section, a use shall be considered existing if it is in existence at the time an application is submitted.

**4. 2. SPECIAL REQUIREMENTS:**

- a. An Adult Entertainment Establishment shall be located in a freestanding building, one lot, containing no other uses or Adult Entertainment Establishments.
- b. All Adult Entertainment Establishment businesses, its owners, managers, entertainers, and any other employee thereof shall permit any governmental official acting in their official capacity to inspect the premises and activities on the premises as necessary to insure the business is complying with all applicable regulations and laws. (Resolution 03-11-14)

## **6.6 APPEALS SPECIAL USE PERMIT**

An appeal of a decision by the County Board of Supervisors regarding a special use shall be made to the District Court. (Resolution 11-8-05)

## **6.7 REVIEW AND CANCELLATION OF SPECIAL USE PERMIT**

Reviews and cancellations of special use permits shall be instigated by one of two methods:

1. If the Zoning Administrator finds at any time that the terms, conditions and requirements of a special permit have not been complied with, or that any phase thereof has not been completed within the time required under said special permit or any amendment thereto, the Zoning Administrator shall report this fact to the County Board.
2. County Board may take the matter up by any two members of the Board desiring hearing. Thereafter, a public hearing shall be held with notice to permittee and/or entity using such property and owners of properties subject to notice of the original permit. Following such public hearing, the County Board may take such action(s) as it deems necessary to obtain compliance, including, but not limited to, revocation of such special permit for failure to comply with such terms, conditions and requirements. (Resolution 5-9-06)

## **ARTICLE 7**

### **PARKING REGULATIONS**

#### **7.1 GENERAL PROVISIONS**

1. All buildings and structures erected and all uses of land in all districts established after the effective date of this Ordinance shall provide accessory parking and loading facilities as required under this section.
2. All off-street parking spaces required by this Ordinance shall be located on the same lots as the use it serves.
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.
4. All yard area 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.
5. A plan, drawn to scale, indicated how the off-street parking and loading requirements are to be met, shall accompany an application for a zoning permit. The plan shall show all elements necessary to indicate that the requirements are being fulfilled.

## 7.2 OFF-STREET PARKING REQUIREMENTS

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:

<u>Use</u>	<u>Minimum Number of Parking Spaces</u>
1. Residential Single family, two-family dwelling	1 per dwelling unit
2. Mobile Home Trailer Park	1 per trailer unit
3. Hotel and Motel	1 per rental unit plus 1 for every 4 employees
4. Hospitals, nursing homes, rest homes, Or similar uses	1 for every 2 ½ patient beds and 1 for each staff and employee on the largest shift
5. Places of public assembly such as auditoriums, theaters, stadiums, community halls, churches, etc.	1 per every four persons
6. Bowling Alley	2 for each alley
7. Retails sales department stores, restaurants, taverns, grocery stores, etc.	1 per 200 square feet of floor area as determined by exterior wall dimensions
8. Professional office establishments	1 per 500 square feet of floor area as determined by exterior wall dimensions
9. Manufacturing, wholesale warehouse and similar uses	1 for every 2 employees on the largest working shift

## 7.3 OFF-STREET LOADING REQUIREMENTS

At the time of construction, alteration or enlargement of any structure or building except residences and farms having an aggregate gross floor area of 500 square feet or more, off-street loading areas shall be provided and maintained for all uses as follows:

	<u>Number</u>	<u>Loading Area</u>	<u>Gross Floor Area</u>
1.	One	500 square feet	For every 5,000 to 20,000 square feet
2.	One	500 square feet	For every 20,000 square feet or fraction thereof

## ARTICLE 8

### ACCESSORY USES

#### 8.1 ACCESSORY BUILDING

Buildings and structures may be erected and land may be used for purposes, which are clearly incidental to, and customarily and commonly associated with the main permitted use of the premises. Such accessory buildings and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthful or disturbing to adjacent property, or the users thereof, and shall be on the premises of the main use.

Accessory buildings shall not occupy more than thirty percent of the required area for the rear yard. Any accessory building shall have a minimum setback of 3 feet and all garage entrances must have ten (10) feet from the access street or alley. Attached garages are considered part of principal building.

## **8.2 HOME OCCUPATIONS**

An occupation or activity carried on within the dwelling or accessory building by a member of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character nor infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes.

The following conditions and restrictions shall apply to such customary home occupations:

- a. The primary use of the building or structure in which the occupation is situated shall clearly be the dwelling used by the person as his private residence.
- b. No equipment or machinery shall be used in such activities that are perceptible off the premises by reason of noise, smoke, odor, dust, radiation, electrical interference, or vibration. Parking shall be handled in such a manner as to not impede or hinder traffic on any public right of way.

## **8.4 YARD REGULATIONS: (Resolution 3-11-08)**

8.41 FRONT YARDS: The front yards heretofore established shall be adjusted in the following cases: (Resolution 3-11-08)

Where forty percent (40%) or more of the frontage on one side of a street between two intersecting streets is developed and the buildings on this side of a block have observed a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the average front yard so established by the existing buildings provided that no building shall be required to have a front yard setback of more than fifty (50) feet.

Where forty percent (40%) or more of the frontage on one side of a street between two intersecting streets is developed with buildings that have a front yard less than the required, new buildings shall not be erected closer to the street than the nearest building on the block.

## **ARTICLE 9**

### **COUNTY BOARD OF ZONING ADJUSTMENT**

#### **9.1 CREATION, MEMBERSHIP**

The County Board of Zoning Adjustment is hereby created and shall be known as the County Board of Zoning Adjustment. The members of said board shall be appointed by the County Board.

One (1) member only of said board shall be appointed from membership of the Planning Commission and the loss of membership on the Planning Commission by such member shall also result in the immediate loss of membership on the County Board of Zoning Adjustment.

Said board shall consist of five regular members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three (3) years and removable for cause by the County Board upon written charges and after public hearings. Vacancies shall be filled for the unexpired terms of any member whose terms becomes vacant. (Ref. 23-168.01 RS. Neb)

#### **9.2 MEETINGS**

Meetings of the Board of Zoning Adjustment shall be held at the call of the chairperson and at such times as the Board may determine. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the county clerk and shall be a public record.

#### **9.3 INTERPRETATIONS AND VARIANCES**

9.31 The Board of Adjustment shall, subject to appropriate conditions and safeguards as specified in these regulations, have the following powers (Ref. 23-168.03 R.S. Neb.):

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or Planning Commission based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;
2. To hear and decide, in accordance with the provisions of any regulation, requests for interpretation of any maps, or for decisions upon other special

questions upon which the Board is authorized by any such regulation to pass; and

3. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of adoption of the Zoning Resolution, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize, upon appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardships, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of these zoning regulations, but no such variance shall be authorized unless the Board finds that:
  - a. The strict application of the regulation would produce undue hardship;
  - b. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
  - c. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
  - d. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.

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

9.33 In exercising the above-mentioned powers such Board 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 orders, determine time limitations for commencement and substantial completion of work, unless otherwise specifically stated, construction requested on such variance shall commence within 120 days after authorization and shall be substantially completed two years after commencement, requirements, decisions or determinations as shall be proper, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation. (Resolution 10-10-03)

#### **9.4 PROCEDURES FOR REQUESTING A VARIANCE**

The procedures to be followed by the Board of Zoning Adjustment shall be as follows.

9.41 Appeals to the Board may be taken by any person aggrieved or by any officer, department, governmental agency affected by any decision of the zoning administrator. Such appeal shall be made within ten (10) days from the date of decision by any county officer or department. The appeal filed in writing shall define the appeal being requested and the grounds therefore. The officer from whom the appeal is taken shall forthwith transmit to the Zoning Board of Adjustment all the paper constituting the record upon which the action appealed from was taken.

9.42 The Chairperson of the Board shall set a hearing within thirty (30) days of receipt of the appeal. The time, date, place of the hearing, and description of the request shall be published in a local newspaper of general circulation ten (10) days prior to the actual hearing. The Board shall also notify the interested parties in the case of the hearing date, time and place.

## **9.5 APPEALS FROM THE BOARD OF ZONING ADJUSTMENT**

Any person or persons, jointly or separately, aggrieved by any decision of the Board of Zoning Adjustment, or any officer, departments, board or bureau of the County, may seek review of such decision by the district court for the County in the manner provided by the laws of the State and particularly by Section 23-168.04.

## **ARTICLE 10**

### **ADMINISTRATIVE PROVISIONS, ENFORCEMENT AND FEES**

#### **10.1 ENFORCEMENT**

10.11 ZONING ADMINISTRATOR. This resolution shall be enforced and administered by a zoning administrator who shall be appointed by the County Board and who may be provided with the assistance of such other persons as the County Board may direct in order to carry out the following duties and responsibilities:

1. Approve and issue all zoning permits, zoning permits and occupancy certificates when compliance is made with this resolution.
2. Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of this resolution.
3. Receive, file and forward to the County Board of Zoning Adjustment the records in all appeals for variances.

4. Maintain permanent and current records of the Zoning Resolution including but not limited to, all zoning maps, amendments, special use permits, variances, appeals and applications thereof and records of hearings thereon.
5. Prepare and have available in book, pamphlet or map for each year.
  - a. The compiled text of the Zoning Resolution and amendments thereto, including all amendments adopted through the preceding twelve months; and
  - b. A zoning map or maps, showing the zoning districts, divisions and classifications in effect on the preceding twelve months.
6. Whenever the Zoning Administrator shall find that any of the provisions of this resolution have been or are being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He/she may order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings, structures or additions or alterations thereto; discontinuance of any illegal work being done; or take any other appropriate action authorized by this resolution to insure compliance with, or to prevent violation of, its provisions.

## **10.2 ZONING PERMITS**

10.21 GENERAL. No zoning or other structure shall be erected, moved, added to, or structurally altered without a zoning permit first having been issued by the Zoning Administrator. No zoning permit shall be issued unless the proposed construction or use is in conformance with all of the provisions of this resolution and with all other applicable codes, regulations and laws of Buffalo County and with all orders, and variances lawfully issued by the Board of Adjustment.

10.22 APPLICATION FOR ZONING PERMIT. All applications for a zoning permit shall be accompanied by a plot plan showing the location, ground area, height and bulk of all present and proposed structures, additions, parking areas and site improvements; the actual dimensions and shape of the lot lines; the uses to be built upon; the building lines in proposed structures or additions; and any other reasonable and pertinent information as may be required by the Zoning Administrator or the proper enforcement of this resolution.

10.23 APPROVAL OR DISAPPROVAL OF PERMIT. The Zoning Administrator shall examine all applications for zoning permits, including plans, specifications and documents filed therewith and shall either approve or disapprove such application within thirty (30) days of receipt of same with review of Floodplain Administrator to occur with same timeframe. Upon approval and receipt of required fees, the Zoning Administrator shall promptly issue the zoning permit and shall affix his/her signature to the permit and the plans and mark the plans "Approved." Upon disapproval of

the application, the Zoning Administrator shall refuse to issue the permit and shall state in writing on the plans the reasons for disapproval, affix his/her signature and mark the plans "Disapproved."

10.24 EXPIRATION OF ZONING OR OTHER GRANTED PERMIT: If the work described in any zoning permit, when issued by use of right has not commenced within 120 days from the date of issuance thereof, said permit shall expire, it shall be cancelled by the County Zoning Administrator with written notice thereof give to the person affected. (Resolution 10-10-03)

If the work described in any zoning permit, when issued by use of right, has not been completed within two years of the date of issuance thereof, said permit shall expire and be cancelled by the County Zoning Administrator, and written notice thereof shall be given to the persons affected together with notice that further work as described in the cancelled permit shall not proceed unless and until a new zoning permit has been obtained. (Resolution 10-10-03)

10.25 APPEAL FROM APPROVAL OR DISAPPROVAL. An appeal from approval or disapproval of any Application shall be made to the Board of Adjustment in writing within ten (10) days after the determination of the Zoning Administrator has been filed.

10.26 NOT REQUIRED. Zoning permits are not required for 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. For computation of twenty acres the land used as a farmstead need not be a contiguous singular parcel of real estate when such twenty acre farmstead is located in AG. (R.S. Neb. 23-114.03)

### **10.3 FORM OF PETITIONS, APPLICATIONS AND APPEALS**

10.31 A verbal decision by the Zoning Administrator except in the cases of building, occupancy shall be the primary instrument for administering compliance with this resolution.

### **10.4 SCHEDULE OF FEES**

10.41 The schedule of fees shall be established for this Zoning Resolution to cover costs of administration by the County Board.

The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the County Board. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

## **ARTICLE 11**

### **AMENDMENT**

#### **11.1 GENERAL**

The County Board may from time to time supplement, change or generally revise the boundaries or regulations contained in this resolution amendment. A proposal for such amendment may be initiated by the County Board, Planning Commission or upon application of the owner of the property affected. A filing fee established by the County Board is required for each application to be considered by the Planning Commission.

## **11.2 SUBMISSION TO PLANNING COMMISSION**

All such proposed amendments shall first be submitted to the Planning Commission for recommendation and report. Upon the development of tentative recommendations, the Planning Commission shall hold a public hearing thereon and shall cause an accurate written summary to be made of proceedings, and shall give notice in like manner as that required for the original zoning recommendations. Such notice shall fix the time and place for such hearing and contain a statement regarding the proposed changes in regulations or restrictions or in the boundary of any district.

If such proposed amendment is not a general revision of an existing provision of this resolution, and will affect specific property, it shall be designated by legal description and general street location and in addition to such publication notice, written notice of such proposed amendment shall be mailed to all owners of lands located within three hundred (300) feet of the area proposed to be altered and an opportunity granted to interested parties to be heard.

## **11.3 AMENDMENT CONSIDERATION AND ADOPTION**

The procedure for the consideration and adoption of any such proposed amendments shall be in like manner as that required for the consideration and adoption of the resolution except herein before or herein after modified. For action on zoning amendments, a quorum of the Planning Commission is more than one-half ( $\frac{1}{2}$ ) of all the members. A vote either for or against an amendment by a majority of all the Planning Commission members present constitutes a recommendation of the commission; whereas a vote either for or against an amendment by less than a majority of the Planning Commission present constitutes a failure to recommend. When amending zoning district boundaries, the Planning Commission and County Board where applicable and authorized may place conditions upon property sought to be re-zoned. (Resolution 9-14-04)

When the Planning Commission submits a recommendation of approval or disapproval of such amendment, the County Board, if it approves such recommendation, may either adopt such recommendation by resolution or take no further action thereof as appropriate. In the event the Planning Commission submits a failure to recommend, the County Board may take such action as it deems appropriate. Upon receipt of a recommendation of the Planning Commission which the County Board disapproves, the said governing body shall return such recommendation to the Planning Commission with a statement specifying the basis for disapproval, and such recommendation shall be considered in like manner as that required for the original recommendation returned to the

Planning Commission. If such amendment shall affect the boundaries of any district, the resolution shall define the change or the boundary as amended, shall order the Official Zoning Map(s) to be changed to reflect such amendment, and shall amend the section of the resolution incorporating the same and reincorporate such Map as amended.

#### **11.4 PROTEST**

Regardless of whether or not the Planning Commission approves or disapproves a proposed zoning amendment or fails to recommend, if a protest against such amendment be filed in the office of the County Clerk within seven (7) days after the date of the conclusion of the Planning Commission's public hearing pursuant to said publication notice, duly signed and acknowledged by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred (100) feet therefrom, or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of two-thirds (2/3) majority of the County Board. (Resolution 10-10-03)

### **ARTICLE 12**

#### **COMPLAINTS, PENALTIES, REMEDIES**

##### **12.1 COMPLAINTS REGARDING VIOLATIONS**

Whenever a violation of this resolution occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. He/she shall record properly such complaint, immediately investigate, and take action thereon as provided by this resolution.

##### **12.2 PENALTIES**

The owner or agent of a building or premises in or upon which a violation of any provisions of this resolution has been committed or shall exist or lessee or tenant of an entire building or entire premises in or upon which such violation shall exist, shall be guilty of a Class III misdemeanor. Each and every day that such violation continues after notification shall constitute a separate offense. (Resolution 11-8-05)

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

##### **12.3 REMEDIES**

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure or land is used in violation of this resolution the appropriate authorities of the County may institute any appropriate action or proceedings to prevent such unlawful erection,

construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

## ARTICLE 13

### LEGAL STATUS PROVISIONS

#### 13.1 SEPARABILITY

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

#### 13.2 PURPOSE OF CATCH HEADS

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

#### 13.3 PURPOSE OF LEGAL AUTHORITY CITED (Resolution 8-14-07)

The reference to a legal authority or annotation stated under any of the foregoing sections, if so stated, is inserted simply for convenience and to serve the purpose of referring to suggested statutory authority or other legal authority. In no event shall such reference or annotation be indicative of sole authority of such section or regulation.

#### 13.4 REPEAL OF CONFLICTING RESOLUTIONS

All other resolutions and regulations in conflict with this resolution are hereby repealed to the extent necessary to give this resolution full force and effect.

#### 13.5 EFFECT DATE

This resolution shall take effect at 12:01 o'clock a.m. January 1, 2003 and be in force from and after its passage on September 10, 2002 and publication according to law.

#### AMENDMENTS TO SEPTEMBER 10, 2002 ZONING RESOLUTION:

<u>Resolution Number</u>	<u>Resolution Date</u>	<u>Section Affected</u>
2003-16	5-27-03	5.34
Regular Motion	10-10-03	5.32
		5.33
		5.34

Resolution Number	Resolution Date	Section Affected
		5.54
		5.57
		5.58
		5.59
		6.2
		9.33
		10.24
		11.4
2004-06	3-9-04	6.3
2004-30	8-10-04	5.16
		5.34
		5.36
2004-31	8-10-04	5.32
2004-33	9-14-04	11.3
2005-37	11-8-05	12.2
2005-38	11-8-05	6.5
2005-39	11-8-05	2.41
2006-14	5-9-06	6.6
		3.66
		3.74
2006-29	7-11-06	5.57
		5.59
2007-20	6-12-07	3.47
		3.55
		3.56
		3.65
		6.4 #7
		6.4 #7A
		6.4 #7B
		6.4 #7C
		6.4 #7D
2007-32	8-14-07	6.4 #7E
2007-33	8-14-07	13.3
2007-54	12-4-07	5.14 #17
		5.34 #8
2008-09	2-12-08	5.54 #8
		3.76
2008-011	3-11-08	3.38
		3.39
		3.71
		3.72
		3.73
		5.12 #2
		5.14 #10
		5.14 #11
		5.32 #4
		5.32 #7

Resolution Number	Resolution Date	Section Affected
		5.34 #3
		5.34 #11
		5.34 #15
		5.34 #16
		5.34 #17
		8.4
		8.41
2009-19	3-24-09	5.34 #18
		5.34 #19
2009-20	3-24-09	5.34 #20
2009-34	5-12-09	5.34 #20
2010-23	4-13-10	5.12 #1
		5.14 #12
		5.32 #1
		6.4
2010-24	4-13-10	3.46
		3.84
2010-24	4-13-10	3.85
		5.14 #4
		5.14 #19
		5.14 #20
		5.34 #6
2011-58	10-11-11	5.57
		5.66
2011-59	10-11-11	3.32
		5.12 #1
		5.14 #13
		5.34 #9
		5.52 #21
		5.62 #36
2012-10	4-10-12	5.64 #5
		5.64 #6
2012-29	7-10-12	6.4
2012-30	7-10-12	5.12 #2
		5.14 #12
2012-31	7-10-12	5.2 – 5.291
2012-32	7-10-12	5.54 #9 & #10
2014-13	3-11-14	Added definitions
2014-13	3-11-14	5.14#14
2014-13	3-11-14	5.54 #11
2014-13	3-11-14	6.5

