
MADISON COUNTY, NEBRASKA ZONING & SUBDIVISION REGULATIONS



*Zoning and Subdivision Regulations for Madison County,
Nebraska*

*The Zoning and Subdivision Regulations were prepared by the
Madison County Joint Planning Department
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MADISON COUNTY, NEBRASKA

ZONING RESOLUTION

A resolution, consistent with the Comprehensive Development Plan, Adopted for the purpose of promoting health, safety, morals, convenience, order, prosperity, and welfare of the present and future inhabitants of Madison County, Nebraska, to regulate and restrict the location, height, bulk, number of stories, size of buildings and other structures, including tents, cabins, house trailers, and automobile trailers; the percentage of lot areas which may be occupied, building setback lines; size of yards, courts, and other open spaces; the density of population; the uses of buildings; and the uses of the land for agriculture, forestry, recreation, residence, industry, and trade, after considering factors relating to soil conservation, water supply conservation, surface water drainage and removal, or other uses; to divide the County into districts of such number, shape, and area as may be best suited to carry out the purposes of this resolution to regulate, restrict, or prohibit the erection, construction, reconstruction, alteration or use of non-farm buildings or structures, and the use, conditions of use or occupancy of land in the unincorporated areas of the County; to provide for the adoption of a zoning map; to provide for a board of adjustment, its members, powers, and duties; to provide for off-street parking and loading area requirements; to provide for conditional uses by conditional use permit; to provide for the proper subdivision and development of land, as provided in the Subdivision Regulations; to provide for non-conforming uses, to provide for the administration and the enforcement of these provisions, and for the violations of its provisions and the prescribed penalties, and including among others such specific purposes as:

1. Developing both urban and rural areas;
2. Lessening congestion in the streets or roads;
3. Reducing the waste of excessive amounts of roads;
4. Securing safety from fire and other dangers;
5. Lessening or avoiding the hazards to persons and damage to property resulting from the accumulation or run-off of storm or flood waters;
6. Providing adequate light and air;
7. Preventing excessive concentration of population and excessive and wasteful scattering of population or settlement;
8. Promoting such distribution of population, such classification of land uses, and such distribution of land development as will assure adequate provisions for transportation, water flowage, water supply, drainage, sanitation, recreation, soil fertility, food supply, and other public requirements;
9. Protecting the tax base;
10. Protecting property against blight and depreciation;
11. Securing economy in governmental expenditures;
12. Fostering the County's agriculture, recreation, and other industries;
13. Encouraging the most appropriate use of land in the County; and
14. Preserving, protecting, and enhancing historic buildings, places, and districts, all in accordance with the comprehensive plan.

WHEREAS Nebraska Revised Reissued Statutes, 1943, Sections 23-114 through 23-114.05 and 23-164 through 23-174.06 as amended, empowers the County to adopt a zoning and subdivision resolution and to provide for its administration, enforcement, and amendment; and

WHEREAS, the Madison County Board of Commissioners deem it in the interest of the public health, safety, morals, convenience, order, prosperity, and welfare of said County and its present and future residents; and

WHEREAS, the Madison County Board of Commissioners has adopted a Comprehensive Development Plan pursuant to Neb. R. R. S. 1943, Sections 23-114 through 23-114.03, as amended, and known as Madison County Comprehensive Development Plan, 1999, as amended; and

WHEREAS, the Madison County Joint Planning Commission has recommended the division of the unincorporated areas of the County into districts and recommended regulations pertaining to such districts consistent with the adopted Comprehensive Development Plan based on a future land use plan designed to lessen congestion on roads and highways, to secure safety from fire, panic and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to conserve agricultural land and values, to facilitate sewerage, schools, parks, and other public needs; and

WHEREAS, the County Planning Commission has given reasonable consideration, among other things, to the prevailing agricultural and rural characteristics now predominant in the County, to the character of the districts and their peculiar suitability for the particular permitted uses, with a reasonable understanding of the objective to conserve the value of lands and improvements while encouraging the development of the most appropriate uses of land throughout the County; and

WHEREAS, the County Joint Planning Commission has made a preliminary report, held public hearings, submitted its recommended final report to the County Board of Commissioners; and the County Board of Commissioners have given due public notice of hearings relating to the Comprehensive Development Plan, to the zoning districts, regulations, subdivision regulations, and restrictions, and has held such public hearing; and

WHEREAS, The County Board of Commissioners have deemed it necessary to adopt the Comprehensive Development Plan, the zoning districts, regulations, subdivision regulations, and restrictions for the purpose of the conservation of the existing rural agricultural developments and land uses, of providing for the harmonious development and orderly expansion of urban areas radiating outwardly from existing rural communities, for the orderly extension and planned arrangements of county roads, utilities, for adequate sanitary facilities, for safe and healthy drinking water, and for reducing flood damage potentials; and

WHEREAS, the requirements of Neb. R.R.S. 1943, Section s 23-114 through 23-124.05, Sections 23-164 through 23-174, and Section 23-174.02, as amended, with regard to the recommendations of the Planning Commission, the Comprehensive Development Plan, the zoning districts, regulations, subdivision regulations and restrictions and the subsequent action of the County Board of Commissioners have been met;

NOW THEREFORE BE IT RESOLVED BY THE COUNTY BOARD OF COMMISSIONERS OF MADISON COUNTY, NEBRASKA.

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ARTICLE ONE

GENERAL PROVISIONS

101 Short Title.

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

102 Publication.

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

103 When Effective.

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

104 Conflicts.

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

105 Intent and Purpose.

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

105 Comprehensive Development Plan Relationship.

These zoning regulations are designed to implement various elements of the Comprehensive Development Plan as required by state statutes. Any amendment to the district regulations or map shall conform to the Comprehensive Development Plan adopted by the governing body.

106 Jurisdiction.

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

107 Highest Standard.

Whenever the regulations of this Resolution impose or require higher standards than are required in any other statute, local Regulations, or regulation, the provisions of the regulations made under authority of this Resolution as provided by the cited Nebraska R. R. S., 1943 sections shall govern.

108 Farm Building Exemption.

The regulations provided for under this Resolution regulate, restrict, or prohibit the erection, construction, reconstruction, and/or alteration of non-farm buildings or structures. Non-farm buildings are all buildings except those buildings utilized for agricultural purposes on a farmstead of twenty acres or more which produces one thousand dollars or more of farm products each year. Nothing in this exemption shall preclude farm buildings from meeting basic setbacks from a county road or highway, and/or state and/or federal highway.

109 General.

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

110 Interpretation.

In interpreting and applying the provisions of these regulations, they shall be held to be the minimum requirements for the promotion of public safety, health, convenience, comfort, moral, prosperity, and general welfare. It is not intended by these regulations to interfere with or abrogate or annul any easements, covenants or other agreements between the parties, except that if these regulations impose a greater restriction, these regulations shall control.

111 Scope of Regulations.

No building, structure, or land in the unincorporated areas, excluding the portion of unincorporated areas over which cities and village are granted and are exercising zoning jurisdiction in Madison County shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered, except in conformity with the provisions of this Resolution herein specified for the district in which it is located and except after receiving a zoning permit from the Madison County Zoning Administrator and:

1. Every building hereafter erected shall be located on a lot of record.
2. Only one principal building will be permitted on one lot of record, except in a Planned Development.
3. After a county road has been classified as a minimum maintenance road or as an unimproved road, no permits for residential dwellings, mobile homes, or manufactured homes shall be issued for construction on any property adjoining only such classified road.

112 Zoning Standards.

No building, structure, or part thereof shall hereafter be erected or altered, unless a variance is granted:

1. To reduce any required yard setbacks
2. To exceed the height or bulk
3. To occupy a greater percentage of lot area
4. To accommodate or house a greater number of families
5. No part of a yard or other open space required in connection with any building, occupancy, or use for the purpose of complying with these regulations shall be included in the calculations determining the area necessary to accommodate the off-street parking and loading space requirements.

113 Planning Commission Recommendations.

Pursuant to Section 23-114.01 et. seq., (Nebraska Reissue Revised Statutes, 1943), it shall be the purpose of the Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. The Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the County Board of Commissioners shall not hold its public hearings or take action until it has received the final report of the Commission.

114 District Regulations, Restrictions, Boundary Creation.

No such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearings shall be given by publication thereof in a paper of general circulation in the County at least ten (10) days prior to such hearing.

115 Fines and Penalties.

Violation of the provisions of these regulations or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 per offense, with each day resulting in a separate offense, and in addition, shall pay all costs and expenses involved in the case.

117 Fees.

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

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ARTICLE TWO

CONSTRUCTION AND DEFINITIONS

201 Construction and General Terminology.

For the purpose of carrying out the intent of this Resolution, words, phrases, and terms shall be deemed to have the meaning ascribed to them. When not inconsistent with the context, words used in the present tense include the future; words in the singular include the plural and those in the plural include the singular; "or" includes "and"; and the masculine gender shall include the feminine.

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

202 Definition of Terms.

A

- 1. Abandonment: To cease or discontinue a use or activity without demonstrated intent to resume as distinguished from short term interruptions such as during periods of remodeling, maintenance, or normal periods of vacation or seasonal closure.
- 2. Abutting: To border on, being contiguous with or have property or district lines in common, including properties separated by an alley, but not those separated by a roadway.
- 3. Access or Access Way: The place, means, or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by these regulations.
- 4. Accessory Building (see building, accessory)
- 5. Accessory Living Quarters: Living quarters within an accessory building located on the same premises with the main building, for use by temporary guests of the occupant of the premises, such quarters having no kitchen facilities and not rented or otherwise used as a separate dwelling unit.
- 6. Accessory Structure: A detached subordinate structure located on the same lot with the principal structure, the use of which is incidental and accessory to that of the principal structure.
- 7. Accessory Use: A use incidental, related, appropriate and clearly subordinate to the main use of the lot or building, which accessory use does not alter the principal use of the subject lot or affect other properties in the district.
- 8. Acre: A full acre containing 43,560 square feet of area within the property lines of a lot or parcel.
- 9. Acreage: Any tract or parcel of land that does not qualify as a farm or development.

10. Adjacent: Near, close, or abutting; for example, an industrial district across the street or highway from a residential district shall be considered as "adjacent".
11. Adult Cabaret: Cabaret that features go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.
12. Adult Companionship Establishment: An establishment which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
13. Adult Establishment: Any business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas," including, but without limitation, adult bookstores, adult motion picture theaters, saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, and adult body painting studios.
14. Adult Hotel or Motel: A hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."
15. Adult Massage Parlor, Health Club: A massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
16. Adult Mini-Motion Picture Theater: A business premises within an enclosed building with a capacity for less than 50 persons used for presenting visual-media material if such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
17. Adult Motion Picture Arcade: Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."
18. Adult Motion Picture Theaters: A business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
19. Adult Novelty Business: A business which has as a principal activity the sale of devices which simulate human genitals, or devices which are designed for sexual stimulation.
20. Adult Sauna: A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
21. Advertising Structure: Any notice or advertisement, pictorial or otherwise, and all such structures used as an outdoor display, regardless of size and shape, for the purposes of making anything known, the origin or place of sale of which is not on the property with such advertising structure.
22. Agricultural and Farm Buildings and Structures: Any building or structure which is necessary or incidental to the normal conduct of a farm including but not limited to residence of the operator, residence of hired men,

barns, buildings and sheds for housing livestock, poultry and farm machinery, buildings for the storage or shelter of grain, hay and other crops, silos, windmills and water storage tanks.

23. Agriculture: The use of land for production of plants, animals, or their products. Does not include commercial or industrial development..
24. Airport: Any area which is used or is intended to be used for the taking off and landing of aircraft, including helicopters, and any appurtenant areas which are used or are intended to be used for airport buildings or facilities, including open spaces, taxiways, and tie-down areas.
25. Airport Hazard Zone: Consists of operation zones, approach zones, turning zones and transition zones. The outer boundary of the hazard zone is composed of a series of connected tangents and simple curves that also constitute the outer boundaries of the approach and turning zones.
26. Alley: A minor public service street or public thoroughfare 20 feet or less in width, through a block of lots, primarily for vehicular service access to the rear or side of properties otherwise abutting on another street. Buildings facing an alley shall not be construed as satisfying the requirements of these regulations related to frontage on a dedicated street.
27. Alteration: Any change, addition or modification in construction or occupancy of an existing structure.
28. Alteration, Structural (see structural alteration)
29. Amendment: A change in the wording, context, or substance of these regulations, an addition or deletion or a change in the district boundaries or classifications on the zoning map. Does not include correction of typographical errors.
30. Animal Confinement Building: Walled facilities where animals have been, are, or will be stabled or confined, fed and maintained.
31. Animal Feeding Operation (AFO): Any farming operation exceeding the per acre Head Equivalent (H.E.) ratio as defined under "farming" or the feeding, farrowing, or raising cattle, swine, sheep, poultry, or other livestock, in a confined area where grazing is not possible, and where the confined area is for more forty-five consecutive days in an area not used to grow crops or considered pasture, and where the number of animals so maintained exceeds three hundred (300) Head Equivalent as defined below. The confined area of the AFO shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds, and related facilities. Such facilities shall be constructed and operated in conformance with applicable county, state, and federal regulations. Two (2) or more AFO's under common ownership are deemed to be a single AFO if they are adjacent to each other or if they utilize a common area of system for the disposal of livestock wastes. Head Equivalent (H.E.) is based on feeder cattle and is defined as follows:

One (1) H.E. = One (1) Cow/Calf combination
One (1) H.E. = One (1) Slaughter, Feeder Cattle;
One (1) H.E. = One-half (1/2) Horse;
One (1) H.E. = Seven Tenths (.7) Mature Dairy Cattle;
One (1) H.E. = Two and One-half (2.5) Swine (55 pounds or more);
One (1) H.E. = Twenty Five (25) Weaned Pigs (less than 55 pounds);
One (1) H.E. = Ten (10) Sheep;
One (1) H.E. = Fifty Five (55) Turkeys;
One (1) H.E. = 30 Laying Hens or Broilers if a liquid manure handling system;
One (1) H.E. = 125 Chickens other than Laying Hens if other than a liquid manure handling system;
One (1) H.E. = 82 Laying Hens if other than a liquid manure handling system;
One (1) H.E. = Five (5) Ducks if a liquid manure handling system;
One (1) H.E. = 30 Ducks if other than a liquid manure handling system.
32. Animal Hospital (see hospital, animal)

~~32. Animal Unit (see livestock feeding operation)~~

33. Animals, Domestic (see household pet)

34. Animals, Farm: Livestock commonly kept or raised as a part of an agricultural operation including but not limited to horses, cattle, sheep, swine, goats, chickens and turkeys.

35. Antenna: Any attached or external system of wires, poles, rods, reflecting disks or similar devices used for the transmission or reception of electromagnetic waves. (See satellite dish antenna and tower.)

36. Apartment: A room or a suite of rooms within an apartment house or multiple family dwelling arranged, intended or designed for a place of residence of a single family or group of individuals living together as a single housekeeping unit. (See dwelling unit.)

37. Apartment Hotel: A multiple family dwelling under resident supervision which maintains an inner lobby through which all tenants must pass to gain access to the apartments and which may furnish services ordinarily furnished by hotels, such as drug store, barber shop, beauty parlor, shoeshine shop, cosmetologists shop, cigar stand or newsstand, when such uses are located entirely within the building with no entrance from the street nor visible from any public sidewalk, and having no sign or display visible from the outside of the building indicating the existence of such use.

38. Apartment House (see dwelling, multiple family)

39. Approved Lot (see lot)

40. Aquifer: A geological unit in which porous and permeable conditions exist and thus are capable of bearing and producing usable amounts of water.

41. Aquifer Recharge Area: An area that has soils and geological features that are conducive to allowing significant amounts of surface water to percolate into groundwater.

42. Architectural Canopy Sign (see sign, architectural canopy)

43. Attached Permanently: Attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent foundation or structural change in such structure in order to relocate it to another site.

44. Automobile Wrecking Yard: Any lot, or the use of any portion of a lot, for the dismantling or wrecking of automobiles, tractors, farm machinery, or other motor vehicles, or for the storage or keeping for sale of parts and equipment resulting from such dismantling or wrecking.

B

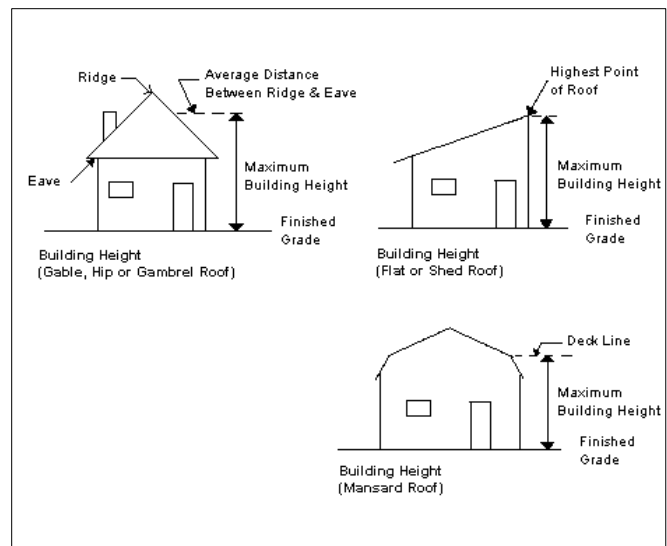
1. Ballroom: A place or hall used for dancing, other than those listed under the definition of "adult cabaret". Ballrooms may also be used for reunions, weddings or receptions.

2. Bar: Any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises. (see Nightclub)

3. Basement: A building space partly underground, and having at least one-half (½) of its height, measuring from its floor to its ceiling, above the average adjoining finished ground grade line.

4. Bed and Breakfast Inn: A house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises.

5. Bedroom: A room within a dwelling unit planned and intended for sleeping, separable from other rooms by a door.
6. Berm: A mound or embankment of earth, usually two to six feet in height.
7. Best Interests of Community: Interests of the community at large and not interest of the immediate neighborhood.
8. Best Possible Management Practices: Livestock management techniques and practices as set forth by various agencies, including the Nebraska Department of Environmental Quality, which encourage and protect the environment and public.
9. Billboard: The same as "advertising structure".
10. Block: A parcel of land platted into lots and bounded by public streets or by waterways, right-of-ways, unplatted land, city-county boundaries, or adjoining property lines.
11. Block Frontage: That section of a block fronting on a street between two intersecting streets or other block boundary.
12. Board of Adjustment: That board that has been created by the county and which has the statutory authority to hear and determine appeals, interpretations of, and variances to the zoning regulations.
13. Boarding or Rooming House: A building containing a single dwelling unit and provisions for not more than five (5) guests, where lodging is provided with or without meals for compensation.
14. Borrow Pit: Any place or premises where dirt, soil, sand, gravel or other material is removed below the grade of surrounding land for any purpose other than that necessary and incidental to site grading or building construction.
15. Broadcasting Tower: A structure for the transmission or broadcast of radio, television, radar, microwaves or other electromagnetic frequencies which exceeds the maximum height permitted in the district in which it is located; provided, however, that noncommercial towers not exceeding fifty (50) feet in height shall not be considered broadcast towers.
16. Buffer: A strip of land established to protect one type of land use from another incompatible land use or to intervene between a land use and a private or public road. (See screening)
17. Building: Any structure built and maintained for the support, shelter or enclosure of persons, animals, chattels, or property of any kind, but shall not include temporary buildings as defined in "structure, temporary". Trailers, with or without wheels, shall not be considered as buildings.
18. Building, Accessory: Any detached subordinate building that serves a function customarily incidental to that of the main building or main use of the premises. Customary accessory buildings include farm buildings, garages, carports, and small storage sheds.
19. Building, Area of: The sum in square feet of the ground areas occupied by all buildings and structures on a lot.



20. Building, Height: The vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched, hipped, or shed roof, measured from the highest adjoining sidewalk or ground surface within a five (5) foot horizontal distance at the exterior wall of the building. (See Height)
21. Building, Principal: A building within which the main or primary use of the lot or premises is located.
22. Building Setback Line: The minimum distance as prescribed by these regulations between any property line and the closest point of the building line or face of any building or structure related thereto. (See illustration in Yard.)

C

1. Campground: ~~A~~ Any piece, parcel, tract or plot of ground which provides space for transient occupancy and is used or intended to be used for the placement of tents, parking of one or more camping trailers, or similar recreational vehicles. Under no circumstances shall any one camper occupy a campground for a period exceeding 15 consecutive days. The term campgrounds does not include sales lots on which unoccupied camping trailers, whether new or used, are parked for the purpose of storage, inspection, or sale.
2. Car Wash: A building or structure or an area of land with machine or hand operated facilities for the cleaning, washing, polishing, or waxing of motor vehicles.
3. Carport: A permanent roofed structure with not more than two (2) enclosed sides used or intended to be used for automobile shelter and storage.
4. Cellar: A building space having more than one-half ($\frac{1}{2}$) of its height below the average adjoining grade lines.
5. Cemetery: Land used or intended to be used for the burial of the dead and dedicated for such purposes, including columbariums, crematoriums, and mausoleums.
6. Centerline: The same meaning as "street or road center line".
7. Centralized Sewer: Shall be a sewer system established by an individual(s), sanitary improvement district or developer for the purpose of serving two or more buildings, structures, and/or uses. Said system shall have a central point of sanitary waste collection and processing.
8. Centralized Water: Shall mean a water supply system established by an individual(s), sanitary improvement district or developer for the purpose of serving two or more buildings, structures, and/or uses. Said system shall have a central point(s) of supply with pressurized distribution from said supply points.
9. Channel: The geographical area within either the natural or artificial banks of a watercourse or surface drain.
10. Charitable: A public or semi-public institutional use of a philanthropic, charitable, benevolent, religious, or eleemosynary character, but not including sheltering or caring of animals.
11. Child Care Center: An establishment other than a public or parochial school, which provides day care, play groups, nursery schools or education for nine (9) or more children under age 13, at any one time, from families other than that of the provider. In addition to these regulations, child care centers shall meet all requirements of the state of Nebraska.
12. Child Care Home: An operation in the provider's place of residence which serves at least four (4), but not more than eight (8) children at any one time, from families other than that of the provider. A Family Child Care Home I provider may be approved to serve no more than two (2) additional school-age children during non-school hours. In addition to these regulations, child care homes shall meet all requirements of the state of Nebraska.

13. Church: A permanently located building commonly used for religious worship fully enclosed with walls (including windows and doors) and having a roof and conforming to applicable legal requirements.
14. Clear View Zone: The area of a corner lot closest to the intersection that is kept free of visual impairment to allow full view of both pedestrian and vehicular traffic. (See Sight Triangle)
15. Club: An association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not including groups which are organized primarily to render a service carried on as a business for profit.
16. Cluster Development: A development designed to concentrate buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and the preservation of environmentally sensitive areas.
17. Commercial Feeding Operation (see livestock feeding operation)
18. Commercial Uses: Shall mean a business use or activity at a scale greater than a home business involving retail or wholesale marketing of goods and services. Examples of commercial uses include offices and retail shops.
19. Commission: The Madison County Joint Planning Commission.
20. Common Area or Property: A parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners of the individual building sites in a planned development or condominium development.
21. Common Open Space: An area of land or water or combination thereof planned for passive or active recreation, but does not include areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas. However, the area, of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open space.
22. Community Center: A place, structure, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve various segments of the community.
23. Community Sanitary Sewer System: An approved central sewer collecting system, meeting state and county requirements, available to each platted lot and discharging into a treatment facility. This does not include individual septic systems.
24. Community Water Supply System: A public water supply system which serves at least fifteen service connections used by year round residents or uses, or regularly serves 25 or more year round residents or uses.
25. Compatible Uses: A land use that is congruous with, tolerant of, and has no adverse effects on existing neighboring uses. Incompatibility may be affected by pedestrian or vehicular traffic generation, volume of goods handled and environmental elements such as noise, dust, odor, air pollution, glare, lighting, debris generated, contamination of surface or ground water, aesthetics, vibration, electrical interference, and radiation.
26. Comprehensive Development Plan: The Comprehensive Development Plan of Madison County, Nebraska, as adopted by the County Board of Commissioners, setting forth policies for the present and foreseeable future community welfare as a whole, and meeting the purposes and requirements set forth in section 23-174.05, R.R.S.1943, as the same, from time-to-time, may be amended.
27. Concentrated Animal Feeding Operation: ~~Any animal feeding operation with 300 or more animal units.~~ Means an animal feeding operation because of size:
 - a. Defined as a large concentrated animal feeding operation because of size;

- b. Defined as a medium concentrated animal feeding operation because of size and because animals are in direct contact with waters of the State or waste is discharged to waters of the state through a man-made conduit; or*
 - c. Designated as a medium or small concentrated animal feeding operation by the Director.*
- 28. Conditional Use: A use allowed by the district regulations that would not be appropriate generally throughout the entire zoning district without special restrictions. However, said use if controlled as to number, size, area, location, relation to the neighborhood or other minimal protective characteristics would not be detrimental to the public health, safety, and general welfare.
- 29. Conditional Use Permit: A permit recommended by the planning commission and issued by county board, that authorizes the recipient to make conditional use of property in accordance with the provisions of article 6 and in accordance with any additional conditions stipulated in the issued permit.
- 30. Condominium: As defined in the Nebraska State Statutes Section 76-824 - 76-894, The Condominium Law, whereby four or more apartments are separately offered for sale.
- 31. Confinement: Totally roofed buildings, which may be open-sided (for ventilation purposes only) or completely enclosed on the sides,, wherein animals or poultry are housed over solid concrete or dirt floors, or slatted (partially open) floors over pits or manure collection areas in pens, stalls, cages, or alleys, with or without bedding materials and mechanical ventilation. The word "confinement" shall not mean the temporary confined feeding of livestock during seasonal adverse weather.
- 32. Congregate Housing: A residential facility for people fifty-five (55) years or over, their spouses, or surviving spouses, providing living and sleeping facilities. Said facilities might include meal preparation, dining areas, laundry services, room cleaning and common recreational, social, and service facilities for the exclusive use of all residents including resident staff personnel who occupy a room unit in the residential facility. (See Housing for the Elderly)
- 33. Conservation Areas: Environmentally sensitive and valuable lands (including but not limited to: wetlands, floodways, flood plains, drainage ways, river or stream banks, and areas of significant biological productivity or uniqueness) protected except for overriding public interest, from any activity that would significantly alter their ecological integrity, balance or character.
- 34. Conservation Easement: An easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded condition and retaining such areas as suitable habitat for fish, plants, or wildlife, or maintaining existing land uses.
- 35. Convenience Store: A one-story, retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket."), it is dependent on, and is designed to attract and accommodate large volumes of stop-and-go traffic. (See Self-Service Station)
- 36. Contiguous: Property adjoined at the property line and not separated by roads or alleys..
- 37. Country Club: Buildings and facilities owned and operated by a corporation or association of persons for social and recreational purposes, but not operated for a profit. The affairs and management, of such club, are conducted by a board of directors, executive committee, or similar body chosen by the members. It is designed to serve food and alcoholic beverages on such premises to members and their guests, provided that the serving of food and alcoholic beverages is secondary to some other principal purpose of the association or corporation. Customary country clubs include, but are not limited to: swimming, tennis, and golf course country clubs.
- 38. County: Madison County, Nebraska.
- 39. County Board: The County Board of Commissioners of Madison County, Nebraska.

40. Court: An open, unoccupied space, other than a yard, on the same lot with a building or buildings and bounded on two (2) or more sides by such buildings.
41. Court, Inner: A court enclosed on all sides by the exterior walls of a building or buildings.
42. Court, Outer: A court enclosed on all but one (1) side by exterior walls of a building or buildings or lot lines on which fences, hedges, or walls are permitted.
43. Cul-De-Sac: A short public way that has only one outlet for vehicular traffic and terminates in a vehicular turn-around.
44. Curb Level: The mean level of the curb in front of the lot, or in case of a corner lot, along that abutting street where the mean curb level is the higher.
45. Curve Lot: see "Lot, Curve".

D

1. Dairy Farm: Any place or premises upon which milk is produced for sale or other distribution.
2. Dance Hall: see Ballroom.
3. Density: The number of dwelling units per gross acres of land.
4. Developer: Any person, corporation, partnership, or entity that is responsible for any undertaking that requires a building or zoning, conditional use, or sign permit.
5. Development: Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, or drilling operations for which necessary permits may be required.
6. Development Area: An area of land that may or may not have been subdivided that contains three or more homes per nine (9) acres.
7. Development Concept Plan: (See Site Plan.)
8. Development Review: The review, by the county of subdivision plats, site plans, rezoning requests, or permit review.
9. Discontinuance of Use and Discontinue the Use of or Abandonment: The situation where an animal feeding operation or concentrated animal feeding operation removes the animal units that were principally using the animal waste storage facility and empties the animal waste storage facility within 180 days.
10. Dog Kennel: (See Kennel, commercial; and Kennel, private.)
11. Domestic Animals: (See Household Pet.)
12. Downzoning: A change in zoning classification of land to a less intensive or more restrictive district such as from commercial district to residential district or from a multiple family residential district to single family residential district.
13. Drainage Way or Surface Drain: Any depression two feet or more below the surrounding land serving to give direction to a current of water less than nine months of the year, having a bed and well-defined banks. In the event of doubt as to whether a depression is a watercourse or drainage way, it shall be presumed to be a watercourse.

14. Drive-In Facility: An establishment where customers can be served without leaving the confinement of their vehicle.
15. Driveway: Any vehicular access to an off-street parking or loading facility.
16. Dump: A place used for the disposal, abandonment, discarding by burial, incineration, or by any other means for any garbage, sewage, trash, refuse, rubble, waste material, offal or dead animals. Such use shall not involve any industrial or commercial process.
17. Duplex: The same as "Dwelling, Two (2) Family".
18. Dwelling: Any building or portion thereof which is designed and used exclusively for single family residential purposes, excluding mobile homes.
19. Dwelling, Farm: A single-family dwelling that is located on and used in connection with a farm.
20. Dwelling, Manufactured Home: A factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with standards promulgated by the United States Department of Housing and Urban Development.
21. Dwelling, Mobile Home: Any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially a complete condition and mounted on wheels, skids or roller, jacks blocks, horses, skirting or a permanent or temporary foundation or any prefabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term mobile home shall include trailer home and camp car, but the definition shall not apply to any vehicle lawfully operated upon fixed rails.
 - a. Permanently Attached: Attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent continuous foundation or structural change in such mobile home in order to relocate it on another site in accordance to manufacturers recommendations.
 - b. Permanent Foundation: Base on which building rests; to be constructed from either poured concrete or laid masonry block or brick.
22. Dwelling, Modular: (Is considered a conventional type single-family dwelling). Any prefabricated structure, used for dwelling purposes, moved on to a site in an essentially complete constructed condition, in one or more parts, and when completed is a single family unit on a permanent foundation, attached to the foundation with permanent connections. To be a modular home it shall meet or be equivalent to the construction criteria as defined by the Nebraska State Department of Health and Human Services under the authority granted by Section 71-1555 through 71-1567 Revised Statutes of Nebraska 1943, in addition to any amendments thereto, any that do not meet the above criteria shall be considered a mobile home.
23. Dwelling, Multiple Family: A building or buildings designed and used for occupancy by three (3) or more families, all living independently of each other and having separate kitchen and toilet facilities for each family.
24. Dwelling, Seasonal: A dwelling designed and used as a temporary residence and occupied less than six months in each year.
25. Dwelling, Single Family: A building having accommodations for or occupied exclusively by one family that meets all the following standards:
 - a. The home shall have no less than nine hundred (900) square feet of floor area, above grade, for single story construction;

- b. The home shall have no less than an eighteen (18) foot exterior width;
 - c. The roof, unless covered by at least two feet (2') of earth, shall be pitched with a minimum vertical rise of two and one-half (22) inches for each twelve(12) inches of horizontal run;
 - d. The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single family construction;
 - e. The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, or rock;
 - f. The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed, and
 - g. The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.
 - h. Permanent foundation: Base on which building rests; to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of forty-two (42) inches below the final ground level.
26. Dwelling, Two (2) Family: A building designed or used exclusively for the occupancy of two (2) families living independently of each other and having separate kitchen and toilet facilities for each family.
27. Dwelling Unit: One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or lease on a weekly, monthly, or longer basis, and physically separate from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, toilet and sleeping facilities.

E

- 1. Earthen Home: A home built into a berm or hillside covered by earth on three sides and on the roof.
- 2. Easement: A space or a lot or parcel of land reserved for or used for public utilities or public or private uses.
- 3. Educational Institution: A public or nonprofit institution or facility which conducts regular academic instruction at preschool, kindergarten, elementary, secondary, or collegiate levels, including graduate schools, universities, junior colleges, trade schools, nonprofit research institutions and religious institutions. Such institutions must either: (1) Offer general academic instruction equivalent to the standards established by the State Board of Education; or (2) Confer degrees as a college or university or undergraduate or graduate standing; or (3) Conduct research; or (4) Give religious instruction. Private schools, academies, or institutes, incorporated or otherwise, which operate for a profit, and commercial or private trade schools are not included in this definition.
- 4. Effective Date: The date that this resolution shall have been adopted, amended, or the date land areas shall have become subject to the regulations contained in this resolution as a result of such adoption or amendment.
- 5. Electric Distribution Substation: An electric substation with a primary voltage of less than 161 KV, with distribution circuits served therefrom.
- 6. Electric Transmission Substation: An electric transformation or switching station with a primary voltage of more than 161 KV without distribution circuits served therefrom.
- 7. Eleemosynary Institution: An institution supported by charity and designed to assist persons, for example; those recovering from mental or emotional illness.
- 8. Encroachment: An advancement or intrusion beyond the lines or limits as designated and established by the Regulation, and to infringe or trespass into or upon the possession or right of others without permission.
- 9. Enlargement: The expansion of a building, structure, or use in volume, size, area, height, length, width, depth, capacity, ground coverage, or in number.
- 10. Erected: Constructed upon or moved onto a site.

11. Environmentally Controlled Housing: Any livestock operation meeting the definition of a Livestock Feeding Operation (LFO) and is contained within a building which is roofed, and may or may not have open sides and contains floors which are hard surfaced, earthen, slatted or other type of floor. The facility is capable of maintaining and regulating the environment in which the livestock are kept.
12. Expressway: A street or road that provides fast and efficient movement of large volumes of vehicular traffic between areas and does not provide direct access to property.
13. Extraterritorial Jurisdiction: The area beyond the corporate limits, in which a city or village has been granted the powers by the state to exercise zoning and building regulations and is exercising such powers.

F

1. Façade: The exterior wall of a building exposed to public view from the building's exterior.
2. Factory: A structure or plant within which something is made or manufactured from raw or partly wrought materials into forms suitable for use.
3. Family: A household head and one or more persons related to the head by blood, marriage or adoption living together in a single dwelling unit. As part of an animal feeding operation means: the animal feeding operation's owner, said operator's grandparents, stepparents, aunts, uncles, siblings, spouse, children or stepchildren, or grandchildren.
4. Farm: Twenty (20) or more acres of land or water producing at least \$1,000 in annual revenue of plants, animals or their products; which does not meet the criteria of a Livestock Feeding Operation.
5. Farming: The planting, cultivating, harvesting and storage of grains, hay or plants commonly grown in Nebraska with the necessary accessory uses for treating or storing the produce and the feeding of livestock as prescribed hereunder, provided such accessory uses do not include the feeding of garbage or offal to swine or other animals. In contrast to a ~~Livestock~~ Animal Feeding Operation (~~L~~AFO), as hereinafter defined, any person or entity operating within the following categories shall be considered to be a farming operation and shall not be considered as operating a ~~L~~AFO unless the operation exceeds the following:
 - a. ~~Two (2) Animal Units~~, *Two (2) Head Equivalent (HE)* as defined in the definition for ~~Livestock~~ Animal Feeding Operation herein, for the first acre and an overall density of One (1) ~~Animal Unit (A.U.)~~ *HE* per acre for a parcel less than forty (40) acres in size;
 - b. ~~One and one half (1 1/2) A.U.~~ *One (1) HE* per acre for a parcel of land greater than forty (40) acres, but less than eighty (80) acres; or
 - c. ~~Two (2) A.U.~~ *HE* per acre for parcels over eighty (80) acres.
 - d. Exception: When a temporary permit is issued for animals used strictly for educational purposes in conjunction with a non-profit sponsor, school district or other political subdivision to a maximum of four (4) ~~A.U.'s~~ *HE*. Said Temporary Permit shall be valid for a period of twelve (12) months and is validated by the program sponsor/instructor.

Notwithstanding the provisions of A-C above, anytime the number or combination of ~~Animal Units (A.U.)~~ *Head Equivalent (HE)* exceeds three hundred (300), regardless of the size of the parcel of land, and where the confined area is for more than ~~six (6) months~~ *forty-five consecutive days in an area not used to grow crops or considered pasture in any one calendar year*, the operation shall be considered a ~~L~~AFO and the owner/operator shall be required to obtain a Conditional Use Permit, in these Regulations.

6. Farmstead: That area of an agricultural operation containing the residence together with the accessory buildings and structures used in an agricultural operation that existed as of July 1, 1985.
7. Feed Lot. Feed lot shall mean the confinement of horses, sheep, pigs, and other food animals in buildings, lots, pens, pools or ponds which normally are not used for raising crops or for grazing animals. (Nebr. Dept. Environmental Quality)

8. Flood: The water of any watercourse or drainage way which is above the banks or outside the channel and banks of such watercourse or drainage way.
9. Flood Plain: The area adjoining a watercourse which has been or may be covered by flood waters.
10. Floodway: The channel of a watercourse or drainage way and those portions of the flood plain adjoining the channel which are reasonably required to carry and discharge the flood water of any watercourse or drainage way.
11. Floor Area: Whenever the term "floor area" is used in these regulations as a basis for requiring off-street parking for any structure, it shall be assumed that, unless otherwise stated, said floor area applies not only to the ground floor area but also to any additional stories of said structure. All horizontal dimensions shall be taken from the exterior faces of walls.
12. Frontage: That portion of a parcel of property that abuts a dedicated public street or highway.
13. Funeral Home: A building or part thereof used for human funeral services. Such building may contain space and facilities for (1) a funeral chapel; (2) embalming and the performance of other services used in preparation of the dead for burial; (3) the performance of autopsies and other surgical procedures; (4) the storage of caskets, funeral urns, and other related funeral supplies; (5) the storage of funeral vehicles; and (6) facilities for cremation.

G

1. Garage, Private: A detached accessory building, carport, or a portion of a main building on the same lot as a dwelling for the housing of vehicles of the occupants of the dwelling, including carports.
2. Garage, Public: Any garage other than a private garage.
3. Garage, Repair: A building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work. (Also, see Service Station.)
4. Garbage: Any waste food material of an animal or vegetable nature, including waste that may be used for the fattening of livestock.
5. Grade: Except for Earthen Homes permitted under the Nebraska State Codes and Regulations, shall mean the following:
 - a. For buildings having walls facing one street only, the elevation of the sidewalk at the center of the wall facing the street shall be grade.
 - b. For buildings having walls facing more than one street, the grade shall be the average of the grades (as defined in A. above) of all walls facing each street.
 - c. For buildings having no walls facing a street, the average level of the finished surface of the ground adjacent to the exterior walls of the building shall be grade.
 - d. Any wall approximately parallel to and not more than five (5) feet from a street line is considered as facing a street.
6. Greenhouse: A building or premises used for growing plants, preparation of floral arrangements for off-site delivery to customers, cold storage of flowers.
7. Ground Water: Water occurring beneath the surface of the ground that fills available openings in the rock or soil materials such that they may be considered saturated.

8. Group Care Home: A home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home which is designed to provide twenty-four hour care for individuals in a residential setting.
9. Group Home for the Handicapped: A dwelling with resident staff shared by four or more handicapped persons who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. As used herein, the term "handicapped" shall mean having: (1) A physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently; (2) A record of having such impairment.
10. Group Housing: Two or more separate buildings on a lot, each containing one or more dwelling units.
11. Guest Room: A room which is designed to be occupied by one (1) or more guests for sleeping purposes, having no kitchen facilities, not including dormitories.

H

1. Half-Story: A story under a gable, hip or gambrel roof, plates of which are not more than three (3) feet above the floor of such story.
2. Halfway House: A licensed home for individuals on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, living together as a single housekeeping unit, wherein supervision, rehabilitation and counseling are provided to mainstream residents back into society, enabling them to live independently.
3. Hazardous Waste: Waste products of industrial or chemical process including finished surplus, used, contaminated or unwanted fertilizer, herbicide, petroleum products, or other such processed waste material.
4. *Head Equivalent: (See Animal Feeding Operation)*
5. Health Care Facilities: A facility licensed or approved by the state or an appropriate agency, if require. Health Care Facility may be any of the following: (1) Hospitals including offices or medical societies, offices of charitable public health associations, and private office space for the practice of medicine and dentistry under a license from the Department of Health of the State of Nebraska; provided, that any such private offices for the practice of medicine and dentistry shall be occupied only by those on the staff of the hospital; (2) Convalescent or nursing home; (3) A facility for outpatient physical, occupational, or vocational therapy or rehabilitation; (4) Public health clinics and facilities; and (5) Ambulatory surgical care center which does not allow for overnight stay by patients. Except as herein provided, health care facilities do not include doctors', or dentists' professional offices and private clinics.
6. Health Club: Privately owned for profit facilities such as gymnasiums, athletic clubs, health clubs, recreational clubs, reducing salons, and weight control establishments.
7. Health Recreation Facility: An indoor or outdoor facility including uses such as game courts, exercise equipment, locker rooms, whirlpool spa and/or sauna and pro shop.
8. Height of Building: The vertical distance above grade to the highest point of the coping of a flat roof, of the peak of a gable roof, or of any other type of pitched, hipped, or mansard roof. The grade may mean the highest adjoining sidewalk or ground surface within a 5 foot horizontal distance of the exterior wall of the building, when such sidewalk or ground surface is not more than 10 feet above grade. The height of a stepped or terraced building is the maximum height of any segment of the building. (See illustration on page 2-5.)

9. Highway, Major Inter-Regional: A "U.S." or "State" designated highway with 100 feet right-of-way or more on which partial control of access and geometric design and traffic control measures are used to expedite the safe movement of through vehicular traffic.
10. Highway Setback Line: The future right-of-way line or plan lines of any highway. A yard abutting such a highway shall be measured from this future right-of-way line.
- ~~10. Holding Pond: An impoundment made by constructing an excavated pit, dam, embankment, or combination of these for temporary storage of liquid livestock wastes.~~
11. *Holding pond: means an impoundment made by constructing an excavated pit, dam, embankment or combination of these for temporary storage of liquid livestock wastes, generally receiving runoff from open lots and contributing drainage area.*
12. Home Occupation, General: A business, occupation, trade or profession conducted for gain and carried on within a residential dwelling by the resident thereof.
13. Homeowners Association: A private, nonprofit corporation or association of homeowners of properties in a fixed area, established for the purpose of owning, operating, and maintaining various common properties and facilities.
14. Hospital: An institution providing health and emergency services of medical or surgical nature to human patients and injured persons and are licensed by the state to provide facilities and services in surgery, obstetrics, and general medical practice.
15. Hospital, Animal: 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.
16. Hotel: A building or portion thereof, or a group of buildings, offering transient lodging accommodations on a daily rate to the general public, which may provide services associated with restaurants, meeting rooms, and recreational facilities. The word "hotel" includes motel, inn, automobile court, motor inn, motor lodge, motor court, tourist court, motor hotel.
17. House Trailer: (see Dwelling: Mobile Home)
18. Household Pet: An animal that is customarily kept for personal use or enjoyment within the home. Household pet shall include but not be limited to domestic dogs, domestic cats, domestic tropical birds, fish, and rodents.
19. Housing for the Elderly: A building or group of buildings containing dwellings in which each dwelling unit is occupied by at least one person of fifty-five (55) years of age or more. This does not include developments containing convalescent or nursing facilities. (Also, see Congregate Housing.)
20. Housing For The Physically Handicapped: A building containing a dwelling or a group of dwellings in which each occupied dwelling unit is occupied by at least one physically handicapped person with a mobility impairment which requires certain construction design features for ingress, egress, and freedom of movement within the premises.

I

1. Incidental Use: A use that is subordinate to the main use of a premise.
2. Individual Septic System: A wastewater treatment system for a dwelling that has a septic tank and absorption system.

3. Industrial Park: A planned coordinated development of a tract of land with two or more separate industrial buildings. The development is planned, designed, constructed, and managed on an integrated and coordinated basis with an enforceable master plan and/or covenants, conditions, and restrictions with special attention to on-site vehicular circulation, parking, utility needs, building design, and orientation and open space.
4. Industrial Uses: Shall mean an industrial use or activity at a scale greater than home industry involving the manufacture and distribution of materials and/or products generated from raw materials or the assemblage of a product from several pre-manufactured pieces.
5. Industry: The manufacture, fabrication, processing reduction or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof and including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.
6. Inoperable Motor Vehicle: Any motor vehicle that: (1) Does not have a current state license plate; or, (2) may or may not have a current state license plate, but is disassembled or wrecked in part or in whole, or is unable to move under its own power, or is not equipped as required by Nebraska State Law for operation upon streets or highways. A vehicle that is wholly or partially dismantled shall not be considered inoperable when said vehicle is inside a completely enclosed building.
7. Intensity: The degree of concentration or activity with which land is used. Agriculture and residential are considered low intensity uses. Heavy industrial is considered a high intensity use. High intensity uses normally generate high concentrations of vehicular traffic and daytime population.
8. Intent and Purpose: That the Commission and Board by the adoption of these regulations, have made a finding that the health, safety, and welfare of the Community will be served by the creation of the District and by the regulations prescribed therein.

J

1. Juice Bar: (See Adult Establishment.)
2. Junk: Any worn-out, cast-off, old, or discarded articles of scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material.
3. Junk Yard: Any lot, land parcel, building, or structure or part thereof for storage, collection, purchase, sale, salvage, or disposal of machinery, farm machinery, and including motor vehicles, parts and equipment resulting from dismantling or wrecking, or keeping of junk, including scrap metals or other scrap materials. No burning permitted in a junk yard. For motor vehicles, see "Automobile Wrecking Yard".

K

1. Kennel, Boarding And Training: Any lot or premises on which four (4) or more dogs or cats or any combination thereof, at least four (4) months of age, are boarded, bred, or trained for a fee.
2. Kennel, Commercial: An establishment where four (4) or more dogs or cats, or any combination thereof, other household pets, or non-farm/non-domestic animals at least four (4) months of age are groomed, bred, boarded, trained, or sold as a business.
3. Kennel, Private: Any premises used for the keeping of four (4) or less dogs, cats, or a combination thereof, or other non-farm/non-domestic animals by the owner/occupant or occupant of the premises for the purpose of show, hunting, or as pets.

L

1. Lagoon: A wastewater treatment facility that is a shallow, artificial pond where sunlight, bacterial action, and oxygen interact to restore wastewater to a reasonable state of purity. This includes both human and livestock wastes. All lagoons shall meet the minimum design criteria established by the Nebraska Department of Environmental Quality and the Nebraska Department of Health and Human Services. All lagoons shall have the proper permits approved prior to starting construction.
2. Landfill: A disposal site employing a method of disposing solid wastes in a manner that minimizes environmental hazards in accordance with state and federal requirements.
3. Landscaping: The original planting of suitable vegetation in conformity with the requirements of these regulations and the continued maintenance thereof.
4. *Large Animal Feeding Operation: means an animal feeding operation that stables or confines as many as or more than the number of animals specified in any of the following categories:*
 - 700 mature dairy cows, whether milked or dry;*
 - 1,000 veal calves;*
 - 1,000 cattle other than mature dairy cows or veal calves and including but not limited to heifers, steers, bulls, and cow/calf pairs;*
 - 2,500 swine each weighing 55 pounds or more;*
 - 10,000 swine each weighing less than 55 pounds;*
 - 500 horses;*
 - 10,000 sheep or lambs;*
 - 55,000 turkeys;*
 - 30,000 laying hens or broilers, if the animal feeding operation uses a liquid manure handling system;*
 - 125,000 chickens, other than laying hens, if the animal feeding operation uses other than a liquid manure handling system;*
 - 82,000 laying hens, if the animal feeding operation uses other than a liquid manure handling system;*
 - 5,000 ducks, if the animal feeding operation uses a liquid manure handling system; or*
 - 30,000 ducks, if the animal feeding operation uses other than a liquid manure handling system.*
5. Laundry, Self Service: An establishment that provides home-type washing, drying, and/or ironing facilities for customers on the premises.
6. Leapfrog Development: The development of cheaper land on the urban fringe by jumping over more expensive land located immediately adjacent to an existing development. Thus, resulting in inadequate or the lack of support services such as: access to a street system designed to carry high volume traffic, utilities, and other commercial facilities or public services such as police, fire, schools, and parks, thus adding to the tax burden of the general public and being an uneconomical growth pattern to the community or county.
7. Life Care Facility: A facility for the transitional residency of the elderly and/or disabled persons, progressing from independent living to congregate apartment living where residents share common meals and culminating in full health and continuing care nursing home facility. (See Congregate Housing and Housing for the Elderly.)
8. Liquid Manure: That type of livestock waste that is in liquid form, collected in liquid manure pits or lagoons and which can be sprayed or injected beneath the surface.
9. Liquid Manure Storage Pits: Earthen or lined pits *located* wholly or partially beneath a semi or totally housed ~~(ECH) livestock~~ *animal feeding* operation or at some removed location used to collect waste production.
10. Livestock: (See Animals, Farm.)
11. ~~Livestock Feeding Operation (LFO): Any farming operation exceeding the per acre Animal Unit (A.U.) ratio as defined under "farming" or the feeding, farrowing, or raising cattle, swine, sheep, poultry, or other livestock, in a confined area where grazing is not possible, and where the confined area is for more than six (6) months in~~

~~any one calendar year, and where the number of animals so maintained exceeds three hundred (300) Animal Units as defined below. The confined area of the LFO shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds, and related facilities. Such facilities shall be constructed and operated in conformance with applicable county, state, and federal regulations. Two (2) or more LFO's under common ownership are deemed to be a single LFO if they are adjacent to each other or if they utilize a common area of system for the disposal of livestock wastes. Animal Units (A.U.) are defined as follows:~~

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

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

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

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

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

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

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

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

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

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

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

12. Livestock Pasturing Operation: Any livestock operation that uses pasture, as defined under this ordinance, as the primary source of feed for the animals.
13. Livestock Wastes: Animal and poultry excreta and associated feed losses, bedding, spillage, or overflow from watering systems, wash and flushing waters, sprinkling waters from livestock cooling, precipitation polluted by falling on or flowing onto a livestock operation, and other materials polluted by livestock or their direct product.
14. Livestock Waste Storage Facility: An excavated or diked pond, walled structure or platform designed for animal wastes and runoff containing animal wastes, including vehicles and transfer equipment used for temporary storage of animal waste pending land application.
15. Loading Space: An off-street space or berth on the same lot with a main building, or contiguous to a group of buildings, for the temporary parking of commercial vehicles while loading or unloading, and which abuts a street, alley, or other appropriate means of ingress and egress.
16. Local Street or Local Highway: A street or road primarily for service to abutting property.
17. Lot: A parcel or tract of land which is or may be occupied by a use herein permitted, together with yards, and other open spaces herein required, that has frontage upon a street, and is a part of a recorded subdivision plat or has been recorded prior to the adoption of the Regulation, or a parcel of real property delineated on an approved record of survey, lot-split or sub-parceling map as filed in the office of the County Recorder and abutting at least one (1) public street or right-of-way, two (2) thoroughfare easements, or one (1) private road.
18. Lot Area: The total area, on a horizontal plane, within the lot lines of a lot.
19. Lot, Corner: A lot located at the intersection of two (2) or more streets at an angle of not more than one hundred thirty-five (135) degrees. If the angle is greater than one hundred thirty-five (135) degrees, the lot shall be considered an "Interior Lot". The setbacks for a front yard shall be met on all abutting streets.
20. Lot Coverage: The portion of a lot or building site which is occupied by any building or structure, excepting paved areas, walks and swimming pools, regardless of whether said building or structure is intended for human occupancy or not.
21. Lot, Curve: A lot fronting on the outside curve of the right-of-way of a curved street, which street has a centerline radius of three hundred (300) feet or less.
22. Lot Depth: The horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

23. Lot, Double Frontage: A lot having a frontage on two non-intersecting streets as distinguished from a corner lot.
24. Lot, Flag: A lot with frontage and access provided to the bulk of the lot by means of a narrow corridor.
25. Lot, Frontage: A side of a lot abutting on a legally accessible street right-of-way other than an alley or an improved county road. For the purposes of this definition, on corner lots, all sides of a lot adjacent to streets or roads shall be considered frontage.
26. Lot, Interior: A lot other than a corner lot.
27. Lot Line: The property line bounding a lot. (See illustration under "Yards".)
28. Lot Line, Front: The property line abutting a street. (See illustration under "Yards".)
29. Lot Line, Rear: The lot line not abutting a street which is opposite and most distant from the front lot line. (See illustration under "Yards".)
30. Lot Line, Side: Any lot line not a front lot line or rear lot line. (See illustration under "Yards".)
31. Lot, Nonconforming: A lot having less area or dimension than required in the district it is located and lawfully created prior to the zoning thereof and whereby the larger area or dimension requirements were established, or any lot, other than one shown on a plat recorded in the office of the County Registrar of Deeds, which does not abut a public road or public road right-of-way and which was lawfully created prior to the effective date of these regulations.
32. Lot, Through: A lot having frontage on two (2) dedicated streets, not including a corner lot.
33. Lot of Record: A lot held in separate ownership as shown on the records of the County Registrar of Deeds at the time of the passage of a regulation or regulation establishing the zoning district in which the lot is located.
34. Lot Width: ~~The average horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines~~ *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.*

M

1. Maintenance Guarantee: Any security, other than cash, that may be accepted by the County to insure that required improvements will be maintained. (Also, see Performance Guarantee.)
2. Manufactured Home Park: A parcel of land under single ownership that has been planned and improved for the placement of manufactured housing used or to be used for dwelling purposes and where manufactured home spaces are not offered for sale or sold. The term "manufactured home park" does not include sales lots on which new or used manufactured homes are parked for the purposes of storage, inspection, or sale.
3. Manufactured Home Subdivision: Any area, piece, parcel, tract or plot of ground subdivided and used or intended to be used for the purpose of selling lots for occupancy by manufactured homes.
4. Manufacturing: Uses primarily engaged in the mechanical or chemical transformation of materials or substances into new products. These uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Uses engaged in assembling component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of material such as lubricating oils, plastics, resins, or liquors. Manufacturing production is usually carried on for the wholesale market, for interplant transfer, or to order for industrial users, rather than for direct sale to the domestic consumer.

5. Map, Official Zoning District: A map delineating the boundaries of zoning districts which, along with the zoning text, is officially adopted by the Madison County Board of Commissioners' zoning regulations for Madison County, Nebraska.
6. Massage Parlor: (See Adult Uses.)
7. Medical or Dental Clinic: Any building or portion thereof, other than a hospital, used or intended to be used as an office for the practice of any type of medicine, including chiropractic, dentistry, or optometry.
8. *Medium Concentrated Animal Feeding Operation:* means an animal feeding operation with the type and number of animals that fall within any of the ranges listed in the definition and which has been defined or designated as a concentrated animal feeding operation. An animal feeding operation is defined as a medium concentrated animal feeding operation if:
 - a. The type and number of animals that it stables or confines falls within any of the following ranges:
 1. 200 to 699 mature dairy cows, whether milked or dry;
 2. 300 to 999 veal calves;
 3. 300 to 999 cattle other than mature dairy cows or veal calves and including but not limited to heifers, steers, bulls, and cow/calf pairs;
 4. 750 to 2,499 swine each weighing 55 pounds or more;
 5. 3,000 to 9,999 swine each weighing less than 55 pounds;
 6. 150 to 499 horses;
 7. 3,000 to 9,999 sheep or lambs;
 8. 16,500 to 54,999 turkeys;
 9. 9,000 to 29,999 laying hens or broilers, if the animal feeding operation uses a liquid manure handling system;
 10. 37,500 to 124,999 chickens, other than laying hens, if the animal feeding operation uses other than a liquid manure handling system;
 11. 25,000 to 81,999 laying hens, if the animal feeding operation uses other than a liquid manure handling system;
 12. 1,500 to 4,999 ducks, if the animal feeding operation uses a liquid manure handling system; or
 13. 10,000 to 29,999 ducks, if the animal feeding operation uses other than a liquid manure handling system; or
 - b. The animal livestock feeding operation has been declared a Medium Animal Livestock Feeding Operation by the Director of the Nebraska Department of Environmental Quality.
9. Mini-Storage or Mini-Warehouse: (See Self-service Storage Facility.)
10. Mobile Home: (See Dwelling, Mobile Home)
11. Mobile Home Park: (See Manufactured Home Park.)
12. Mobile Home Subdivision: (See Manufactured Home Subdivision.)
13. Motel: (See Hotel.)
14. Motor Vehicle: Every self-propelled land vehicle, not operated upon rails, except mopeds and self-propelled invalid chairs.

N

1. Nebraska Revised Reissued Statutes, 1943 and the abbreviated term Nebr. R. R. S., 1943 are one and the same.
2. Nightclub: A commercial establishment dispensing beverages for consumption on the premises and in which dancing is permitted or entertainment is provided. (Also, see Bar.)

3. Non-community Water Supply System: Any public water supply system that is not a community water supply system.
4. Non-Conforming Building: A building or portion thereof which was lawful when established but which does not conform to subsequently established zoning or zoning regulations.
5. Non-Conforming Use: A use lawful when established but which does not conform to subsequently established zoning or zoning regulation.
6. Non-Farm Buildings: Are all buildings except those buildings utilized for agricultural purposes on a farmstead of twenty acres or more which produces one thousand dollars or more of farm products each year.
7. Non-Farm Dwelling: Any dwelling that is not a part of a farm regardless of lot size.
8. Nuisance: Anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses such as noise, dust, odor, smoke, gas, pollution, congestion, lighting, and litter.
9. Nursery: The use of a premises for the propagation, cultivation, and growth of trees, shrubs, plants, vines, and the like from seed or stock, and the sale thereof, and including the sale of trees, shrubs, plants, vines, and the like purchased elsewhere and transplanted into the soil of the premises. In connection with the sale of plants, such fungicides, insecticides, chemicals, peat moss, humus, mulches, and fertilizers as are intended to be used in preserving the life and health of the plants may be sold.
10. Nursing Home: A facility used or occupied by persons recovering from illness or suffering from infirmities of old age required skilled nursing care and related medical services and licensed by the appropriate state or federal agency or agencies.

O

1. ~~Odor Annoyance Free Frequency Requirements: A percentage measurement of the amount of odor that can be smelled by an average person for a certain number of hours per month.~~
2. ~~Odor Annoyance Level: A level of odor that an average person might detect if attention is drawn to the odor.~~
 - a. ~~99% annoyance free = 7 hours per month of odor.~~
 - b. ~~96% annoyance free = 36 hours per month of odor.~~
 - c. ~~94% annoyance free = 44 hours per month of odor.~~
 - d. ~~91% annoyance free = 66 hours per month of odor.~~
3. ~~Odor Circle: An area determining setbacks of Livestock Feeding Operations to non farm dwellings, church, park, school, or subdivision.~~
4. ~~Odor Emission Factor: A number generated by any odor setback estimation tool to determine an odor circle.~~
5. ~~Odor Management Plan: Must be submitted with any application for any Livestock Feeding Operation of 300 or more animal units. This plan must include:~~
 - a. ~~Methods and practices that will be used to minimize air emissions resulting from Livestock Feeding Operations or manure storage area.~~
 - b. ~~A complaint response protocol describing the procedures the owner of a Livestock Feeding Operation will use to respond to complaints directed at the facility, a determination of the odor sources most likely to generate significant amounts of odors, and a list of anticipated odor control strategies for addressing each of the significant odor source.~~
6. ~~Odor Setback Estimation Tool: Any tool such as an equation, spreadsheet, or computer program that determines an odor circle.~~

1. Official Map: (See Map, Official Zoning District.)
2. Off-Street Parking Area or Vehicular Use: To all off street areas and spaces designed, used, required, or intended to be used for parking, including driveways or access ways in and to such areas.
3. Open Lots: Pens or similar concentrated areas, including small shed-type areas or open-front buildings, with dirt, or concrete (or paved or hard) surfaces, wherein animals or poultry are substantially or entirely exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed-type areas.
4. Open Space: A parcel or parcels of land, together with the improvements thereon, primarily set aside for recreational use and enjoyment, exclusive of land areas used for streets, alleys, roads, driveways, parking areas, structures, and buildings.
5. Outdoor Advertising: The definitions of "Advertising Structure" and "Sign".
6. Overlay District: A district in which additional requirements will act in conjunction with the underlying zoning district. The original zoning district designation does not change.
7. Owner: One or more persons, including corporations, who have title to the property, building or structure in question.

P

1. Parcel: A lot or a contiguous group of lots in single ownership or under single control that may be considered as a unit for purposes of development.
2. Park: Any public or private land available for recreational, educational, cultural, or aesthetic use. For the purposes of establishing a setback for a Livestock Feeding Operation, a Wildlife Management Area (WMA) is not considered a park.
3. Parking Area, Private: An area, other than a street, used for the parking of automotive vehicles capable of moving under their own power and restricted from general public use.
4. Parking Area, Public: An area, other than a private parking area or street used for the parking of vehicles capable of moving under their own power, either free or for remuneration.
5. Parking Space, Automobile: An area, other than a street or alley, reserved for the parking of an automobile, such space having a dimension not less than eight and one-half (82) feet by twenty (20) feet, plus such additional area as is necessary to afford adequate ingress and egress.
6. Parkway: An arterial highway with full or partial control of access, and located within a park or ribbon of park like development.
7. Pasture: An area where crops, vegetative forage growth, post-harvest residues are sustained for the purpose of grazing animals in that area.
8. Performance Guarantee: A financial guarantee to ensure that all improvements, facilities, or work required by these Regulations will be completed in compliance with these regulations as well as with approved plans and specifications of a development (Also, see Maintenance guarantee.)
9. Permanent Foundation: A base constructed from either poured concrete or laid masonry rock or brick and placed on a footing located below ground level to a point below the frost line upon which a building or structure is permanently attached.

10. Permanently Attached: Connected to real estate in such a way as to require dismantling, cutting away, or unbolting in order to remove, relocate, or replace.
11. Permitted Use: Any land use allowed without condition within a zoning district.
12. Person: An individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, City, County, special district or any other group or combination acting as an entity, except that it shall not include Madison County, Nebraska.
13. Planned Development: A development designed to provide for an unusual or different arrangement of residential, business, or industrial uses in accordance with an approved development plan.
14. Planning Commission: Joint Planning Commission of Madison County, Nebraska.
15. Plat: A map showing the location, boundaries, and legal description of individual properties.
16. Policy: A statement or document of the county, such as the comprehensive plan, that forms the basis for enacting legislation or making decisions.
17. Poultry, Commercial Feeding: A poultry commercial feed lot, whether the confined feeding operations are enclosed or outdoors.
18. Premises: A tract of land, consisting of one lot or irregular tract, or more than one lot or irregular tract, provided such lots or tracts are under common ownership, contiguous, and used as a single tract. A building or land within a prescribed area.
19. Private Club: A non-profit association of persons who are bona fide members paying dues, which owns, hires or leases a building or premises, or portion thereof, the use of such building or premises being restricted to members and their guests. The affairs and management of such private clubs are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting. A private club may include the serving of food and meals on said premises while providing adequate dining room space and kitchen facilities. A private club may include the sale of alcoholic beverages to members and their guests provided the activity is secondary and incidental to the promotion of some common objective by the organization; and, said sale of alcoholic beverages is in complete compliance with all municipal, state and federal laws.
20. Private Well: A well that provides water supply to less than fifteen (15) service connections and regularly serves less than twenty-five (25) individuals.
21. Prohibited Use: Any use of land, other than nonconforming, which is not listed as a permitted use or conditional use within a zoning district.
22. Promotional Device: Any sign intended to be displayed either with or without a frame, with or without characters, letters, illustrations, or other material, on a fabric of any kind. National flags, flags of political subdivisions, or symbolic flags of any institutions or business shall be considered a promotional device for the purpose of this definition. Banners, pennants, inflatable characters, streamers, or fringe-type ribbons or piping, shall be considered as a promotional device.
23. Public Utility: Any business which furnishes the general public telephone service, telegraph service, electricity, natural gas, water and sewer, or any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the state or federal government.
24. Public Water Supply: A water supply system designed to provide public piped water fit for human consumption, if such system has at least fifteen (15) service connections or regularly serves at least twenty-five individuals. This definition shall include: (1) Any collection, treatment, storage, or distribution facilities under the control of the operator of such system and used primarily in connection with such system; and (2) Any

collection or pretreatment storage facilities not under such control which are used primarily in the connection with such system.

Q

R

1. Railroad: The land use including the right-of-way (R. O. W.) abutting railroad properties occupied by uses pertinent to the railroad operation and maintenance, but not including properties owned by the railroad and leased for use by others.
2. Recreational Facility: Facilities for the use by the public for passive and active recreation including tennis, handball, racquetball, basketball, track and field, jogging, baseball, soccer, skating, swimming, or golf. This shall include country clubs and athletic clubs, but not facilities accessory to a private residence used only by the owner and guests, nor arenas or stadiums used primarily for spectators to watch athletic events. In addition, recreational facilities shall mean museums, amphitheaters, race tracks (including all motor powered vehicles) and wildlife conservation areas (used for public viewing), and theme parks.
3. Recreational Vehicle (RV): A vehicular unit less than forty (40) feet in overall length, eight (8) feet in width, or twelve (12) feet in overall height, primarily designed as a temporary living quarters for recreational camping or travel use having either its own power or designed to be mounted on or drawn by a motor vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, camping trailer, and fifth wheel.
4. Recreational Vehicle (RV) Park: A tract of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes by campers, vacationers, or travelers.
5. Recycling Facility: A facility other than a junkyard in which recoverable resources such as paper, glass, metal cans, and plastics, are collected, bundled, stored, flattened, crushed, or reduced in some manner within a completely enclosed building, in preparation for shipment to others for reuse.
6. Recycling Collection Point: A drop-off point for temporary storage of recoverable resources such as paper, glass, cans, and plastics, and where no processing of such items takes place.
7. Recycling Plant: A facility other than a junkyard where recoverable resources such as paper products, glass, metal cans and other products are recycled, reprocessed, and treated to return the products to a condition in which they may be reused for production.
8. Research Laboratory or Center: A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, and not including manufacture or sale of products, except as incidental to the main purpose of the laboratory.
9. Residence: A building used, designed, or intended to be used as a home or dwelling place for one (1) or more families.
10. Restaurant: A public eating establishment at which the primary function is the preparation and serving of food primarily to persons seated within the building.
11. Restaurant, Drive-In: An establishment that has the facilities to serve prepared food and/or beverages to customers seated within motor vehicles for consumption either on or off the premises.
12. Restaurant, Fast Food: An establishment whose principal business is the sale of food and/or beverages in ready-to-consume individual servings, for consumption either within the establishment, for carry-out, or drive-in; and where foods are/or beverages are usually served in paper, plastic, or other disposable containers.

13. Retail Trade: Uses primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of goods. Uses engaged in retail trade sell merchandise to the general public or to households for personal consumption.
14. Reverse Spot Zoning: An arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and that uniquely burdens an individual owner largely to secure some public benefit. Reverse spot zoning usually results from downzoning a tract of land to a less intensive use classification than that imposed on nearby properties.
15. Rezoning: An amendment to or change in the zoning regulations either to the text or map or both.
16. Rezoning, Piecemeal: The zoning reclassification of individual lots resulting in uncertainty in the future compatible development of the area.
17. Right-of-Way: An area or strip of land, either public or private, on which an irrevocable right of passage has been dedicated, recorded, or otherwise legally established for the use of vehicles or pedestrians or both.
18. Road: The same as "Street".
19. Road, Improved: A street, county road, and/or State/Federal Highway that are graded, surfaced and maintained on a regular basis with an approved granular material or hard-surfacing material.
20. Road, Private: A way, other than driveways, open to vehicular ingress and egress established for the benefit of certain, adjacent properties. (Also, see Right-of-Way and Street.)
21. Road, Public: All public right-of-way reserved or dedicated for street or road traffic. (Also, see Right-of-Way and Street.)
22. Road, Unimproved: A road officially declared or designated as minimum maintenance. Said road will not generally be graded, crowned or contain a surfacing material of either a granular or hard-surfaced nature.
23. Roadside Stand: A temporary structure or vehicle used solely for the sale of farm products produced on the premises or adjoining premises.
24. Room: An un-subdivided portion of the interior of a dwelling unit, excluding bathroom, kitchen, closets, hallways, and service porches.

S

1. Satellite Dish Antenna: A round, parabolic antenna incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, or cone and used to transmit and/or receive radio or electromagnetic waves.
2. School, Day: A preschool or nursery school for children.
3. School, Day, Pre-, or Nursery: A school or center for children under school age, whether licensed as a day care center or not, shall be approved by the Nebraska State Fire Marshall as being in safety conformance with the National Fire Protection Association, Pamphlet 101, known as the Life Safety Code and shall be approved by the Nebraska Department of Health and Welfare as meeting their health and welfare standards.
4. School, Elementary, Junior High, or High: Public and other non-profit institutions conducting regular academic instruction at kindergarten, elementary, and secondary levels. Such institutions shall offer general academic instruction equivalent to the standards prescribed by the State Board of Education.
5. School, Private: An institution conducting regular academic instruction at kindergarten, elementary or secondary levels operated by a non-governmental organization in conformance with the Nebraska R. R. S.,

1943, Section 79-1701 through 79-1707.

6. School, Trade: An institution offering extensive instruction in the technical, commercial, or trade skills and operated by a non-governmental organization.
7. Screening: A method by which a view of one site from another adjacent site is shielded, concealed, or hidden during all seasons of the year and may include fences, walls, hedges, beams, or other features. (Also, see Buffer.)
8. Self-Service Station: An establishment where motor fuels are stored and dispensed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products.
9. Self-Service Storage Facility: A building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage.
10. Separate Ownership: Ownership of a parcel of land by a person who does not own any of the land abutting such parcel.
11. Service Stations: Buildings and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and motor vehicle accessories and where light maintenance activities such as engine tune-ups, lubrications, and washing may be conducted, but not including heavy maintenance and repair such as engine overhauls, painting, and body repair.
12. Setback Line, Front Yard: The line which defines the depth of the required front yard. Said setback line shall be parallel with the right-of-way line or highway setback line when one has been established. (See illustration under "Yards".)
13. Setback Line, Highway: The same as "Highway Setback Line".
14. Setback Line, Rear Yard or Side Yard: The line which defines the width or depth of the required rear or side yard. Said setback line shall be parallel with the property line, removed therefrom by the perpendicular distance prescribed for the yard in the district. (See illustration under "Yards".)
15. Shopping Center: A grouping of retail business and service uses on a single site with common parking facilities.
16. Sight Triangle: An area at a street or road intersection in which nothing shall be erected, placed, painted, or allowed to grow in such a manner as to materially impede vision of traffic at an intersection as established within these regulations.
17. Sign: Shall include any outdoor sign, display, declaration, device, figure, drawing, illustration, message, placard, poster, billboard, insignia, or other things which are designed, intended, or used for direction, information, identification, or to advertise, to inform, or to promote any business, product activity, service, or any interest, except the following:
 - a. A name plate or sign designating location, direction, information, or identification, providing the surface area or face of such sign does not exceed 10 square feet.
 - b. Sign less than 25 square feet in surface area advertising activities conducted on the premise, products grown, made, or produced on the premise.
 - c. Signs less than 50 square feet in area and less than 25 feet in height of a public or quasi-public nature or other official notices that are authorized by the State of Nebraska, Madison County, or a Federal Government Agency, directional, informational, or other official signs or notices authorized by law.

18. Sign, Advertising: A sign which directs attention to any product, activity, or service; provided, however, that such sign shall not be related or make reference to the primary use, business activity, or service conducted on the premises.
19. Sign, Architectural Canopy: An enclosed, illuminated (backlit awning) or non-illuminated structure that is attached to the wall of a building with the face of the sign approximately parallel to the wall and with the sign's area integrated into its surface.
20. Sign Area: The entire area including the background of a sign on which copy can be placed but not including the minimal supporting framework or bracing. The area of individually painted letter signs, individual letter signs or directly or indirectly illuminated individual letter signs, shall be calculated on the basis of the smallest geometric figure that will enclose the entire copy area of the sign. Any such calculation shall include the areas between the letters and lines, as well as the areas of any devices, illuminated or non-illuminated.
21. Sign, Awning, Canopy or Marquee: A sign that is mounted, painted, or attached to an awning, canopy, or marquee that is otherwise permitted by the Zoning Regulations.
22. Sign, Billboard: Sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.
23. Sign, Building: Any sign supported by, painted on or otherwise attached to any building or structure.
24. Sign, Destination: A sign used to inform and direct the public to important public places and buildings, landmarks, and historical sites in the most simple, direct, and concise manner possible.
25. Sign, Electronic Message Board: A sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.
26. Sign, Flashing: A sign designed to give an electrical light flash intermittently or a revolving beacon light.
27. Sign, Freestanding: Any sign supported by uprights or braces placed on or in the ground, which is used principally for advertising or identification purposes and is not supported by any building.
28. Sign, Ground (Low Profile): A sign mounted directly to the ground with a maximum height not to exceed six (6) feet.
29. Sign, Illuminated: A sign illuminated in any manner by an artificial light source.
30. Sign, On-Premise: A sign, display, or device advertising activities conducted on the property on which such sign is located.
31. Sign, Open: A sign attached to or hung from a marquee, canopy, or other covered structure, projecting from and supported by the building and extending beyond the building wall, building line, or street lot line.
32. Sign, Portable: A sign, usually of a temporary nature, not securely anchored to the ground or to a building or structure and which obtains some or all of its structural stability with respect to wind or other normally applied forces by means of its geometry or character.
33. Sign, Projecting: A projecting sign attached to a building.
34. Sign, Roof: A sign identifying the name of a business, enterprise, or the product sold on the premises and erected on the roof of the building.
35. Sign, Setback: The horizontal distance from the property line to the nearest projection of the existing or proposed sign.

36. Sign, Subdivision: A sign erected on a subdivision identification lot which identifies the platted subdivision where the sign is located.
37. Sign, Surface: The entire area of a sign.
38. Sign, Temporary: A sign constructed of cloth, fabric, or other material with or without a structural frame intended for a limited period of display, including displays for holidays or public demonstrations. Temporary signs shall include portable signs as defined in this section.
39. Sign, Wall: A sign attached to or erected against the wall of a building with the exposed face of the sign in a plane parallel to the wall of the building and not projecting more than eighteen (18) inches from the face of the building wall.
40. Sign, Window: A sign painted, stenciled, or affixed on a window, which is visible from a right-of-way.
41. Similar Use: The use of land, buildings, or structures of like kind or general nature with other uses within a zoning district as related to bulk, intensity of use, traffic generation and congestion, function, public services requirements, aesthetics or other similarities.
42. Site Plan: A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, drives, parking, drainage, landscape features, and other principal site development improvements for a specific parcel of land.
43. Site, Septic: The area bounded by the dimensions required for the proper location of the septic tank system.
44. Sludge: Solids removed from sewage during wastewater treatment and then disposed of by incineration, dumping, burial, or land application.
45. *“Small animal feeding operation” means an animal feeding operation with fewer animals than a medium animal feeding operation.*
46. *“Small concentrated animal feeding operation” means an animal feeding operation that is designated as a concentrated animal feeding operation and is not a medium concentrated animal feeding operation.*
47. Solid Waste: Waste materials consisting of garbage, trash, refuse, rubble, sewage, offal, dead animals, or paunch manure.
48. Specified Anatomical Areas: Anatomical areas consisting of:
- a. Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and,
 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
49. Specified Sexual Activities: Activities consisting of the following:
- a. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts of conduct: Anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty; or
 - b. Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence; or
 - c. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
 - d. Fondling or touching of nude human genitals, pubic region, buttocks, or female breast(s); or

- e. Situation involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint or any such persons; or
 - f. Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or
 - g. Human excretion, urination, menstruation, vaginal, or anal irrigation.
50. Spot Zoning: An arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and primarily promotes the private interest of the owner rather than the general welfare. Spot zoning usually results from an upzoning to a more intensive use classification.
51. Stable, Private: A detached accessory building for the keeping of horses owned by the occupants of the premises and not kept for remuneration, hire or sale.
52. Stable, Riding: A structure in which horses or ponies, used exclusively for pleasure riding or driving, are housed, boarded, or kept for remuneration, hire, or sale.
53. State: The State of Nebraska.
54. Stockpiling: The accumulation or manure in mounds, piles, or other exposed and non-engineered site locations for storage or holding purposes for a period of not more than one (1) year.
55. Storage: The keeping, in a roofed or unroofed area, of any goods, junk, material, merchandise, or vehicles on the same tract or premises for more than thirty (30) days.
56. Story: A space in a building between the surface of any floor and the surface of the floor above, or if there is not floor above, then the space between such floor and the ceiling or roof above.
57. Story, One-Half: The same as "Half-Story".
58. Street: A public thoroughfare or right-of-way dedicated, deeded, or condemned for use as such, other than an alley, which affords the principal means of access to abutting property including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except as excluded in these regulations.
59. Street Arterial: A street designed with the primary function of efficient movement of through traffic between and around areas of a city, village, or county with controlled access to abutting property.
60. Street Collection: A street or highway that is intended to carry traffic from minor street to major streets. Collector streets are usually the principal entrance streets to residential developments and the streets for circulation within the development.
61. Street, Curvilinear: Local streets that deviate from straight alignment and change direction without sharp corners or bends.
62. Street, Frontage Access: A street parallel and adjacent to a major street, major inter-regional highway, or major collection road and primarily for service to the abutting properties, and being separated from the major street by a dividing strip.
63. Street, Local: A street designed for local traffic that provides direct access to abutting residential, commercial, or industrial properties.
64. Street, Looped: A continuous local street without intersecting streets and having its two (2) outlets connected to the same street.
65. Street, Major: A street or highway used primarily for fast or high volume traffic, including expressways, freeways, boulevards, and arterial streets.

- 66. Streets, Private: An open, unoccupied space, other than a street or alley dedicated to the public, but permanently established as the principal means of vehicular access to abutting properties. The term "private street" includes the term "place."
- 67. Street, Side: That street bounding a corner or reversed corner lot and which extends in the same general direction as the line determining the depth of the lot.
- 68. Street Centerline: The centerline of a street right-of-way as established by official surveys.
- 69. Street Line: A dividing line between a lot, tract, or parcel of land and the contiguous street.
- 70. Structure: Anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming and wading pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts, and similar recreation areas.
- 71. Structure, Advertising: The same as "advertising structure".
- 72. Structure, Temporary: A structure used for housing, offices, tool cribs, etc. during construction or remodeling of the primary structure. This temporary structure shall be removed no later than thirty (30) days after completion of construction.
- 73. Structural, Alteration: Any change in the support members of a building, such as in a bearing wall, column, beam or girder, floor or ceiling joists, roof rafters, roof diaphragms, foundations, piles, or retaining walls or similar components.
- 74. Subdivision: The division of land, lot, tract, or parcel into two or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future. The term shall also include the division of residential, commercial, industrial, agricultural, or other land whether by deed, metes, and bounds description, lease, map, plat, or other instrument.
- 75. Surface Water Class A -- Primary Contact Recreation: Surface waters which are used, or have a high potential to be used, for primary contact recreational activities. Primary contact recreation includes activities where the body may come into prolonged or intimate contact with the water, such that water may be accidentally ingested and sensitive body organs (e.g. eyes, ears, nose, etc.) may be exposed. Although the water may be accidentally ingested, it is not intended as a potable water supply unless acceptable treatment is supplied. These waters may be used for swimming, water skiing, canoeing, and similar activities.
- 76. Surface Waters: Waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, springs, canal systems, drainage systems, and all other bodies or accumulations of water, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.

T

- 1. Tavern: (See Bar.)
- 2. Temporary Use: A use intended for limited duration to be located in a zoning district not permitting such use.
- 3. Tower: A structure situated on a site that is intended for transmitting or receiving television, radio, or telephone communications. (Also, see Antenna.)
- 4. Trading Area: The area served by an existing commercial development or to be served by the proposed commercial development and from which said development draws its support.

5. Trailer, Automobile: A vehicle without motive power, designed and constructed to travel on the public thoroughfares and to be used for human habitation or for carrying property, including a trailer coach.
6. Transient: A person who is receiving accommodations for a price, with or without meals, for a period of not more than one hundred eighty (180) continuous days in any one (1) year.
7. Transitional use: A permitted use or structure that, by nature or level and scale or activity, acts as a transition or buffer between two or more incompatible uses.

U

1. Upzoning: A change in zoning classification of land to a more intensive or less restrictive district such as from residential district to commercial district or from a single family residential district to a multiple family residential district.
2. Urban Area: A municipality not exercising its zoning powers and unincorporated village within the county.
3. Use, Best: The recommended use or uses of land confined in an adopted comprehensive plan. Such use represents the best use of public facilities, and promotes the public health, safety and general welfare.
4. Use, Highest: The appraisal or real estate market concept that identifies the use of a specific tract of land that is most likely to produce the greatest net return on investment.
5. Use, Principal: The main use of land or structure, as distinguished from an accessory use. (Also, see Building, Principal.)
6. Used Material Yard: A lot or a portion of any lot used for the storage of used materials. This shall not include "Junk Yards" or "Automobile Wrecking Yards".
7. Utility Easement: The same as "Easement".

V

1. Variance: A relief from or variation of the provisions of this chapter, other than use regulations, as applied to a specific piece of property, as distinct from rezoning.
2. Vehicle: Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved solely by human power or used exclusively upon stationary rails or tracks.
3. Visual Obstruction: Any fence, hedge, tree, shrub, wall or structure exceeding two (2) feet in height, measured from the crown of intersecting or intercepting streets, alleys or driveways, which limit the visibility of persons in motor vehicles on said streets, alleys, or driveways. This does not include trees kept trimmed of branches below a minimum height of eight (8) feet.

W

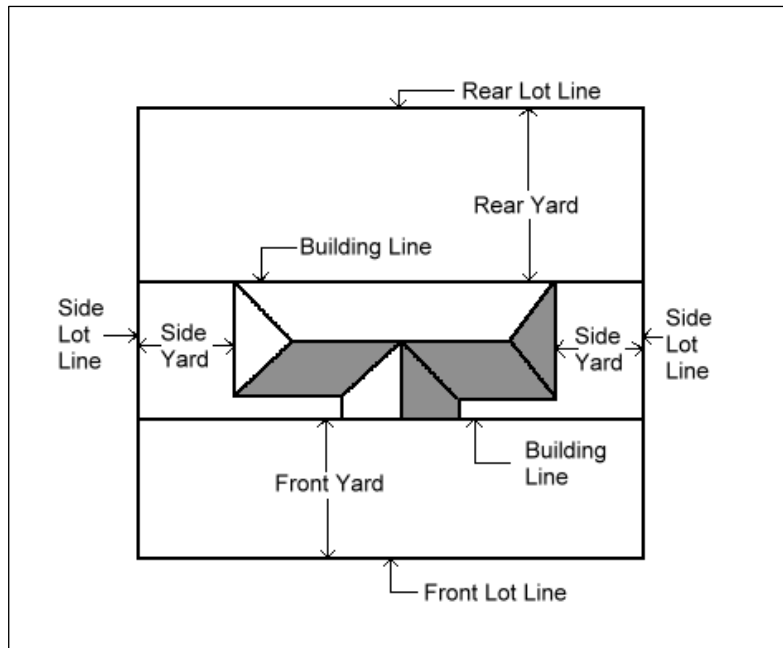
1. Warehouse: A building used primarily for the storage of goods and materials.
2. Warehouse and Distribution: A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment.
3. Wastewater Lagoon: (See Lagoon.)
4. Waters of the State: The waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage

systems, and all other bodies or accumulations of water surface or underground, material or artificial, public or private, situated wholly within or bordering upon the state.

5. Wetland: An area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soiled conditions, commonly known as hydrophytic vegetation.
6. Wholesale Establishment: An establishment for the on-premises sales of goods primarily to customers engaged in the business of reselling the goods.
7. Wholesale Trade: A use primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. The principal types of establishments included are: Merchant wholesalers; sales branches and sales offices (but not retail stores) maintained by manufacturing enterprises apart from their plants for the purpose of marketing their products; agents, merchandise or commodity brokers, and commission merchants; petroleum bulk storage, assemblers, buyers, and associations engaged in cooperative marketing of farm products. The chief functions of uses in wholesale trade are selling goods to trading establishments, or to industrial, commercial, institutional, farm and professional; and bringing buyer and seller together. In addition to selling, functions frequently performed by wholesale establishments include maintaining inventories of goods; extending credit; physically assembling, sorting and grading goods in large lots, breaking bulk and redistribution in smaller lots; delivery; refrigeration; and various types of promotion such as advertising and label designing.

Y

1. Yard: Any open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed from the ground upward to the sky, except for building projections or for accessory buildings or structures permitted by these regulations.
2. Yard, Front: A space between the front yard setback line and the front lot line or highway setback line, and extending the full width of the lot.
3. Yard Rear: A space between the rear yard setback line and the rear lot line, extending the full width of the lot.
4. Yard, Side: A space extending from the front yard, or from the front lot line where no front yard is required by these regulations, to the rear yard, or rear lot line, between a side lot line and the side yard setback line.



Z

1. Zoning Administrator: The person or persons authorized and empowered by the county which administers and enforces the requirements of these Regulations.
2. Zoning District: The same as "District".

3. Zoning District, Change of: The legislative act of removing one (1) or more parcels of land from one (1) zoning district and placing them in another zoning district on the zone map of the County.

3

ARTICLE THREE

GENERAL REGULATIONS

301 Nonconforming, General Intent.

It is the intent of this regulation to permit lawful non-conformities to continue until they are removed, but not encourage their survival. Such uses are declared by this regulation to be incompatible with permitted uses in the districts involved. It is further the intent of this regulation that non-conformities shall not be enlarged upon, expanded or extended nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district except as may be authorized in this title.

302 Nonconforming Lots of Record.

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

303 Nonconforming Structures.

1. *Authority to continue:* Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.
2. *Enlargement, Repair, Alterations:* Any such structure described in Section 303. 1. may be enlarged, maintained, repaired or remodeled, provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure. For structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be in conformance with these regulations or otherwise permitted by a conditional use permit. Other setbacks shall meet the required setbacks unless allowed to vary by another section of this regulation.
3. *Damage or Destruction:* In the event that any structure described in Section 303 1. is damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided that structures located on a lot that does not comply with the applicable lot size requirements in Section 302, shall not have a side yard of less than five (5) feet. When a structure is damaged to the extent of fifty percent (50%) or less, no repairs or restoration shall be made unless a zoning permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.
4. *Moving:* No structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

304 Nonconforming Uses.

1. *Nonconforming Uses of Land:* Where at the effective date of adoption or amendment of this regulation, lawful use of land exists that is made no longer permissible under the terms of this regulation as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to these provisions:
 - a. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Regulation;
 - b. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Regulation.
 - c. If any such nonconforming use of land ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use of such land shall conform to the regulations specified by this regulation for the district in which such land is located.
2. *Nonconforming Uses of Structures:* If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this regulation, that would not be allowed in the district under the terms of this regulation, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:
 - a. No existing structure devoted to a use not permitted by this regulation in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to use permitted in the district in which it is located;
 - b. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this regulation but no such use shall be extended to occupy any land outside such building;
 - c. If no structural alterations are made, any nonconforming use of a structure or structures and premises may be changed to another nonconforming use provided that the Board of Adjustment either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguard in accord with the provisions of this regulation;
 - d. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed;
 - e. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for twelve (12) consecutive months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located;
 - f. Where nonconforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

305 Lot.

1. Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot or lot of record and in no case shall there be more than one (1) principal building on a lot unless otherwise provided.
2. More than one principal building of a single permitted use may be located upon a lot or tract in the following instances if recommended by the Planning Commission and approved by the County Board.
 - Institutional buildings
 - Public or semi-public buildings
 - Multiple-family dwellings
 - Commercial or industrial buildings
 - Home for the aged
 - Agricultural buildings

306 Reductions in Lot Area Prohibited.

No lot, even though it may consist of one (1) or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this Regulation are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

307 Yard Requirements.

1. Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.
2. All accessory buildings that are attached to principal buildings (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.
3. Any side or rear yard in a residential district which is adjacent to any existing industrial or commercial use shall be no less than twenty-five (25) feet and shall contain landscaping and planting suitable to provide effective screening.
4. Any yard for a commercial or industrial use which is adjacent to any residential use or district shall be increased to forty (40) feet and shall contain landscaping and planting suitable to provide effective screening.

308 Drainage.

No building, structure, or use shall be erected on any land, and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Anyone desiring to build or otherwise change the existing drainage situation shall be responsible for providing to the County or their designated agent that such changes will not be a detriment to the neighboring lands.

309 Permitted Obstructions in Required Yards.

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

1. **All Yards:**
 - Steps and accessibility ramps used for wheelchair and other assisting devices which are four (4) feet or less above grade which are necessary for access to a permitted building or for access to a lot from a street or alley;
 - Chimneys projecting twenty-four (24) inches or less into the yard;
 - Recreational and laundry-drying equipment;
 - Approved freestanding signs;
 - Arbors and trellises;
 - Flag poles;
 - Window unit air conditioners projecting not more than eighteen (18) inches into the required yard; and
 - Fences or walls subject to applicable height restrictions are permitted in all yards.
2. **Front Yards:**
 - Bay windows projecting three (3) feet or less into the yard are permitted.
 - Open or screened porches, platforms or terraces not over three (3) feet above the average level of the adjoining ground, including a permanently roofed-over terrace or porch provided they do not extend or project into the yard more than six (6) feet and have no more than forty-eight (48) square feet of area;
 - Awnings and canopies provided they do not extend or project into the yard more than six (6) feet and has no more than forty-eight (48) square feet of area.
3. **Rear and Side Yards:**
 - Open off-street parking spaces,
 - Balconies or outside elements of central air conditioning or heating systems.
 - Open or screened porches, platforms or terraces not over three (3) feet above the average level of the adjoining ground, including a permanently roofed-over terrace or porch;
4. **Double Frontage Lots:**
 - The required front yard shall be provided on each street.

5. **Building Groupings:**

- For the purpose of the side yard regulation a group of business or industrial buildings separated by a common party wall shall be considered as one (1) building occupying one (1) lot.

310 Accessory Building and Uses.

1. No accessory building shall be constructed upon a lot for more than eighteen (18) months prior to beginning construction of the principal building. No accessory building shall be used for more than twelve (12) months unless the main building on the lot is also being used or unless the main building is under construction; however, in no event shall such building be used as a dwelling unless a certificate of occupancy shall have been issued for such use.
2. No detached accessory building or structure shall exceed the maximum permitted height of the principal building or structure.
3. No accessory building shall be erected in or encroach upon the required side yard on a corner lot or the front yard of a double frontage lot.
4. Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than ten (10) feet.
5. Garages and outbuildings in Residential Districts and Subdivisions, used for storage; and other structures customary and appurtenant to the permitted uses shall be site built and constructed of materials customarily used in residential construction. The sidewalls of said building shall not exceed eighteen (18) feet in height.
6. Regulation of accessory uses shall be as follows:
 - a. Except as herein provided, no accessory building shall project beyond a required yard line along any street.
 - b. Service station pumps and pump island may occupy the required yards, provided, however, that they are not less than fifteen (15) feet from street lines.

310 Permitted Modifications of Height Regulations.

The height limitations of this Regulation shall not apply to:

Belfries	Public Monuments
Chimneys	Ornamental Towers and Spires
Church Spires	Radio and Television Towers less than 125 feet in height
Conveyors	Grain Elevators and Silos
Cooling Towers	Smoke Stacks
Elevator Bulkheads	Stage Towers or Scenery Lots
Fire Towers	Tanks
Water Towers and Standpipes	Air-Pollution Prevention Devices
Flag Poles	

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

311 Occupancy of Basements and Cellars.

No basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed.

312 Repairs and Maintenance.

1. On any building devoted in whole or in part to any nonconforming use, work may be done in a period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring

or plumbing provided that the cubic content of the building as it existed at the time of passage of amendment of this regulation shall not be increased.

2. Nothing in this regulation shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

313 Amenities, Fire.

Open or lattice-enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard, may be permitted by the Zoning Administrator for a distance of not more than three and one-half (3½) feet and where the same are so placed as not to obstruct lights and ventilation.

314 Side Yards.

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

315 Corner Lots.

On a corner lot in any district, nothing shall be erected, planted or allowed to grow in such a manner as to materially impede vision between a height of two and one-half (2½) and eight (8) feet above the grades of the centerline of the intersecting streets or roads, from the point of intersection one hundred twenty (120) feet in each direction measured along the centerline of the streets or roads. This applies to the entire portion of the lot within the above described triangle.

316 Recreation Equipment, Storage.

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

317 Building Setback.

1. The building setback lines shall be determined by measuring the horizontal distance from the property line to the furthest architectural projection of the existing or proposed structure.
2. All new non-farm residences shall locate no less than at the corresponding distances provided in Sections 402 and 403; from an Existing Agricultural Operation or LFO with more than one hundred (100) animal units located in any affected adjacent Zoning District.
3. Any building, drain field, and drinking water well shall locate no less than one-hundred-fifty feet (150') from any wetland, watercourse, stream, creek, pond, lake or drinking water well not on the immediate property.

318 Temporary Structures.

Temporary structures incidental to construction work, but only for the period of such work, are permitted in all districts.

319 Caretaker's Quarters.

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

320 Front Yards.

1. The front yards heretofore established shall be adjusted in the following cases:
 - a. Where forty percent (40%) or more of the frontage on one side of the street between two intersecting streets is developed with buildings that have not observed a front yard as described above, then:
 - b. Where a building is to be erected on a parcel of land that is within one hundred (100) feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners or the adjacent buildings on the two (2) sides, or

- c. Where a building is to be erected on a parcel of land that is within one hundred (100) feet of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building.

322 Screening.

1. Junkyards (salvage or wrecking yards) shall be screened with an eight (8) foot high opaque, solid fence or earth berm so as to provide visual and aural separation between such use and adjacent areas.
2. All extractive industries shall be screened by means of plant materials, earth mounding, or solid fencing at least six (6) feet in height to provide visual and aural separation between such use and adjacent areas.
3. All holding or incineration areas of dead livestock shall be screened by means of plant materials, earth mounding, or solid fencing at least six (6) feet in height to provide visual and aural separation between such use and adjacent areas. No storage or incineration of dead livestock shall be located in road right-of-way or on any other land not owned or leased by the livestock operation.

323 Fences, Walls, Hedges and Trees.

1. Fences, walls and hedges may be permitted in any required yard or along the edge of any yard and they shall not exceed seven (7) feet in height in residential districts. Within any required front yard, no fence, wall or hedge shall be over two and one-half (2 1/2) feet in height nor closer than twenty-five (25) feet to a public right-of-way. The only exception to the foregoing shall be that fences of a woven wire type, or at least eighty (80) percent open may be erected to forty-eight (48) inches in height closer than twenty-five (25) feet to any property line parallel or perpendicular to a public right-of-way,
2. Trees may be permitted in any required yard or along the edge of any yard, provided that such trees are located forty (40) feet, or more, in new construction or when they are a sight hazard, from the public right-of-way of a County road or State Highway.

4

ARTICLE FOUR

DISTRICTS AND INTERPRETATION OF DISTRICT BOUNDARIES

401 Boundaries.

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

1. Boundaries indicated as approximately following the centerlines or right-of-way of streets, highways or alleys shall be construed to follow such center or right-of-way lines unless otherwise noted.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as following city/village limits shall be construed as following city/village limits.
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.
6. Boundaries indicated as parallel to or extensions of features indicated in subsection 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstance not covered by subsections 1 through 6 above, the Board of Adjustment shall interpret the district boundaries.

402: AG1 Intensive Agriculture

The AG1 Intensive Agriculture regulations are intended to provide for the use and conservation of agricultural land, to protect the value of such land, and to protect it from indiscriminate residential and urban development and other incompatible and conflicting land uses. The AG1 Intensive Agriculture is also intended to conserve and protect the value of open space, wooded areas, streams, mineral deposits and other natural resources and to protect them from incompatible land uses and to provide for their timely utilization. The district intends to provide for the location and to govern the establishment and operation of land uses which are compatible with agriculture and are of such nature that their location away from residential, commercial and industrial areas is most desirable. In addition, AG1 zoning is intended to provide for the location and to govern the establishment of residential uses which are accessory to and necessary for the conduct of agriculture and to provide for the location and to govern the establishment and use of limited non-agricultural residential uses. Such non-agricultural residential uses shall not be so located as to be detrimental to or conflict with other uses that are named as permitted or conditional uses in this district and are appropriate to other property in the area. The nature of the AG1 Intensive Agriculture and the uses allowed outright or by conditional use permit precludes the provision of services, amenities and protection from other land uses which are afforded to residential uses by the regulations of other districts, and it is not intended that the AG1 Intensive Agriculture regulations afford such services, amenities and protection to residential uses located therein.

Permitted Principal Uses.

The following principal uses are permitted in the AG1 Intensive Agriculture District.

1. Agricultural operations, and the usual agricultural and farm buildings and structures, including the residences of the owners and their families and any tenants and employees who are engaged in agricultural operations on the premises.
 - a. All use of farm chemicals, including application of pesticides and herbicides, shall be governed by State Agencies and applicants using restricted-use pesticides shall be required to be certified as required by law.
 - b. The spreading of manure by a "Farming" Operation. (as defined in Article 2 of this Resolution)
 - c. Mobile homes are permitted only when the land is used or intended to be used only for agricultural operations. All mobile homes require a special one (1) year permit which must be renewed annually and which shall be subject to the conditions of the permit.
 - d. *Small animal feeding operations and small confined animal feeding operations.*
2. Single family dwellings, provided the Intensity of Use and all other requirements of this district are met. In no case are single-family dwellings permitted on tracts without legal access to an improved road. All dwellings shall meet the prescribed maximum density requirements of this district.
3. Utility substation, pumping station, water reservoir and telephone exchange.
4. Fire Stations.
5. Private kennels and facilities, provided that all buildings and facilities be at least one hundred (100) feet from the property line and three hundred (300) feet from any neighboring residence.
6. Public and private riding academies provided that no stable, building or structure in which horses or other animals are kept is closer than 100 feet from the property line.
7. All other Permitted Uses as indicated as Permitted within the Zoning Matrix.

Permitted Conditional Uses.

1. Bed and breakfast residence subject to the following conditions in addition to those imposed by the Planning Commission:
 - a. The bed and breakfast residence shall be within a conforming single-family dwelling.
 - b. Guest rooms shall be within the principal residential building only and not within an accessory building.
 - c. Each room that is designated for guest occupancy must be provided with a smoke detector which is kept in good working order.
 - d. Two (2) off-street parking spaces shall be provided for each dwelling unit plus one (1) off-street parking space for each sleeping room designated for guests. Such parking areas shall not be within the required front or side yards.
 - e. One (1) identification sign of not more than four (4) square feet of sign area shall be permitted.
2. Publicly and privately owned parks, playgrounds, golf courses, dude ranches, forest and conservation areas, country clubs, swimming pools, golf driving ranges, motorized cart tracks, or other outdoor recreational areas such as campgrounds, youth camps, gun clubs, and archery, trap and skeet ranges.
3. Produce stands offering agricultural products for sale provided:
 - a. No parking or sales are allowed on the right-of-way of any State Highways or County Roads.
 - b. No signs are posted on the right-of-way of any State Highways or County Roads.
 - c. Adequate Parking is provided on the premises.
 - d. Any and all State permits are granted.
 - e. Products are limited to fruits, vegetables, annuals, perennials, trees and shrubs grown in the State of Nebraska.
 - f. The owner of the property assumes all liability.
4. Single-family dwellings on less than forty (40) acres, provided that the following minimum conditions are met (not including additional conditions which may be placed upon the application at the time of the hearing as provided in Article 5 of this Resolution):
 - a. The minimum buildable lot is ~~five (5)~~ three (3) acres and meets all density requirements;
 - b. The lot takes access from an improved county road or highway;
 - c. Has tested soils at proposed septic field for proper.
 - d. Said lot and dwelling shall meet all density requirements of the District.
5. Industrial Uses as provided in the Zoning Matrix with minimum conditions.
6. Commercial Uses as provided in the Zoning Matrix with minimum conditions.
7. All other Conditional uses as provided in the Zoning Matrix with minimum conditions.
8. Development of natural resources and the extraction of raw materials such as rock, gravel, sand, etc., including gas and oil extraction and exploration, and subject to the requirements of the Supplementary Regulations.
9. Radio, cellular and television towers and transmitters subject to the requirements of Section 6.01 of the Supplementary Regulations.
10. Airports.

11. Farm and industrial equipment sales.
12. Manufacture of light sheet metal products including heating and ventilation equipment.
13. Manufacture and/or processing of agricultural products including but not limited to ethanol plants and mills.
14. Truck and freight terminals.
15. Cemeteries and mortuaries.
16. Community sewage disposal facilities.
17. Wind Energy Devices.
18. Churches, seminary and convent.
19. Public and parochial schools.
20. Sanitary or Construction and Demolition landfill siting or expansion conducted in a manner and method approved by the County Board of Commissioners, provided said landfill is not closer than one thousand (1,000) feet to a municipal well and/or one mile to any village or city limits or any subdivision, addition or residence platted as of the effective date of this resolution, see Section 604 of the Supplemental Regulations.
21. Lawn and Garden Nurseries.
22. Seed and feed sales, machine repair shop, livestock equipment construction and sales, as a primary occupation in conjunction with an agricultural operation and which is operated on the premises.
23. Commercial Kennels and facilities for the raising, breeding and boarding of dogs and other small animals, including exotic, non-farm and non-domestic animals, provided that all buildings and facilities be at least one hundred (100) feet from the property line and three hundred (300) feet from any neighboring residence.
24. The spreading, stockpiling, or composting of dead livestock, sludge, by-products from manufacturing or any processing plant, and/or paunch manure on agricultural land by municipalities or operations inside or outside of the County.
25. The application of livestock manure in Madison County by operations located outside the County.
26. *(As amended September 2, 2003)* ~~Livestock~~ Animal Feeding Operations, subject to the license requirements, waste disposal requirements and recommendations of the State of Nebraska and the Land Use specifications in the Madison County Comprehensive Plan.

Each Conditional Use Permit for an ~~Livestock~~ Animal Feeding Operation will be for an unspecified period of time and provided the operator attains a passing score on the Madison County ~~Livestock~~ Animal Feeding Operation Siting Matrix annually.

a. Permit Requirement.

Under the following conditions, an Animal Feeding Operation Conditional Use Permit is required for:

1. A new ~~Livestock~~ Animal Feeding Operation, including a concentrated animal feeding operation, which is proposed for a lot or a site where an ~~Livestock~~ Animal Feeding Operation does not exist at the time of application for a permit, or a lot or a site on a lot where an ~~Livestock~~ Animal Feeding Operation previously existed;

2. Expansion of an existing ~~Livestock Animal Feeding Operation~~, ~~including~~ *classified by the Nebraska Department of Environmental Quality and these regulations as a medium and/or large concentrated* animal feeding operation, is proposed;
 3. An existing ~~Livestock Animal Feeding Operation~~, ~~including~~ *classified by the Nebraska Department of Environmental Quality and these regulations as a medium and/or large concentrated* animal feeding operation, is sought to be permitted;
 4. An existing permitted ~~Livestock Animal Feeding Operation~~, ~~including~~ *classified by the Nebraska Department of Environmental Quality and these regulations as a medium and/or large concentrated* animal feeding operation, is to be restocked after being abandoned, or unused for twenty-four (24) or more consecutive months.
 5. Stockpiling and/or composting of manure or animal carcasses.
- b. Exemption.
1. ~~Agricultural Operations of 300 A.U. and under~~ *Animal Feeding Operations classified by the Department of Environmental Quality and these regulations as a small animal feeding operation or a small concentrated animal feeding operation* are considered a farm as defined in these Regulations and do not require a Conditional Use Permit, unless stockpiling and/or composting of manure or animal carcasses under oral or written contract.
 2. Any livestock Special Use Permit granted on or prior to July 15, 2003 may be renewed by the original applicant under the zoning requirements enforced at that time. Any request for expansion or a change in ownership will be subject to these regulations.
- c. Madison County Livestock Siting Matrix.
- All applicants for a Conditional Use Permit for an ~~Livestock Animal Feeding Operation~~ must complete a Madison County Livestock Siting Matrix. The Matrix is Appendix 1 of this resolution.
- d. Required Submissions for an Application to Obtain a Conditional Use Permit.
1. A completed Conditional Use Permit Application listing all owners and operators, signed by all of the owners and a signed certification of the truth and accuracy of the information in the application;
 2. An application fee as set by the Madison County Board of Commissioners.
 3. A completed copy of the Madison County ~~Livestock Animal~~ Siting Matrix.
 4. A statement as to the maximum number of animals and type of animals, with corresponding total number of animal units, that will be confined at the ~~Livestock Animal Feeding Operation for ninety (90)~~ *forty-five (45)* or more days in one year.
 5. Proof of ownership or control of all livestock waste storage facilities and animal confinement buildings, demonstrated by copies of relevant legal instruments.
 6. A closure plan of any livestock waste storage facilities, including demonstration of financial assurance.
 7. Total acreage of the facility, including animal confinement buildings, animal waste storage facilities, and stormwater retention ponds.
 8. A description of the geologic condition and soil types at the proposed location of the facility.
 9. A scaled map or aerial photograph of the site showing the following information:
 - The locations and dimensions of all animal confinement buildings including outside lots;
 - The locations, dimensions, and design criteria of all animal waste storage facilities;
 - The location of any known well, active or abandoned, within 1,320 of the nearest confinement building or outside lot;
 - The drainage patterns at the site;
 - The location of all homes, buildings, lakes, ponds, watercourses, wetlands, surface drains, roads within the required setback of the L.F.O.
 10. Estimated number of full-time and part-time employees ~~with estimated salaries~~;

11. If stockpiling of animal waste and/or composting of dead carcasses, as per State Statutes, are part of the manure management plan, the waste shall be maintained in an area at least one (1) mile from a platted residential area, school, or church. Said area shall also be located on the proposed site plan indicated in number 9 above.

e. Procedural Requirements:

1. The applicant returns the completed application and with the required documents, a list of persons owning property within one-thousand feet (1,000') of the proposed ~~Livestock~~ *Animal Feeding Operation* prepared by a certified abstractor, and a completed and signed Matrix and the supporting documentation.
2. The producer shall have a Pre-submission meeting with the Planning Commission, as an agenda item, to verify the scoring of the Matrix prior to formal submission of the Conditional Use Permit for ~~Livestock~~ *Animal Feeding Operations*.
3. Any application for a Conditional Use Permit by a ~~Livestock~~ *Animal Feeding Operation* shall be submitted to the Planning Commission for a Public Hearing.
 - The local unit of government shall notify by first-class mail within 10 days of the scheduled Public Hearing all persons owning property within one-thousand feet (1,000') of the proposed ~~Livestock~~ *Animal Feeding Operation*.
 - All exhibits must be entered into the record During the Public Hearing. These exhibits may be identified by the title and exhibit number.
 - The County Comprehensive Plan shall always be submitted as Exhibit Number 1.
 - The County Zoning and Subdivisions Regulations shall be submitted as Exhibit Number 2.
 - The County Zoning Map shall always be submitted as Exhibit Number 3.
 - The Conditional Use Permit Application and documentation shall be submitted as Exhibit Number 4.
 - The ~~Livestock~~ *Animal Feeding Operation* Siting Matrix and supporting documentation shall be submitted as Exhibit Number 5.
 - Letters, written comments and material presented during the public hearing shall be given an Exhibit Number as they are presented.
4. After closing the Public Hearing, the Planning Commission shall not vote on the application until the next meeting.
5. At the meeting following of the Planning Commission, the Zoning Administrator will present a "Statement of Finding of Facts" drawn from the Public Hearing and exhibits. The Planning Commission shall then make a recommendation, or defer a recommendation to the next meeting, to the County Board of Commissioners to approve or deny the application based on the Public Hearing.
6. The Madison County Board of Commissioners shall schedule a Public Hearing and make proper notice of such.
7. The Zoning Administrator shall prepare a resolution containing the "Statement of Finding of Facts" and any conditions to be placed on the Applicant if the application is approved.
8. If during the Public Hearing held by the Board of Commissioners, no new facts, in the opinion of the County Board are entered at the hearing, a vote on the application may be taken after the hearing is closed.
9. If new facts are entered at the public hearing of the Board, the decision shall be postponed until the next meeting or until the "Statement of Finding of Facts" in the resolution can be revised.
10. Following approval of the application by the Board of Commissioners, the applicant shall be notified in writing of the decision, including conditions imposed and a finding of fact as to support the Board's decision, if any.
11. In the case of denial of the application by the Board, the applicant shall be notified in writing of the decision and the specific and detailed reasons for the decision. The applicant shall have the opportunity to amend the application and resubmit the

application, with no additional fee, to the Planning Commission for a Public Hearing with submissions that address the specific reasons for denial. If the County Board again denies the application, the applicant may seek declaratory relief and an injunction in the appropriate District Court.

- f. Standards for an ~~Livestock~~ *Animal Feeding Operation* Conditional Use Permit.
The Madison County Board of Commissioners may not approve the application for a Conditional Use Permit unless it finds that the application attained the minimum score on the Madison County ~~Livestock~~ *Animal Feeding Siting Matrix* and none of the following conditions are present:
1. Will not comply with the applicable requirements of these Regulations;
 2. The presence of any endangered species.
 3. The presence of any grave sites or Native American sacred sites.
 4. The presence of any important archeological, cultural, religious, or historic landmarks and artifacts.
 5. The owner/operator has not acquired signed easements from 100 percent of property owners with residential structures within the required setbacks on the property.
 6. Does not exceed EPA's minimum ambient air pollution standards at the property line.
 7. Not detrimental to the public health, safety, welfare, or materially injurious to properties or improvements in the vicinity.
 8. The permittee shall file a copy of all approved DEQ plans and permits with the Zoning Administrator within thirty (30) days after they are issued by the DEQ.
 9. Application of manure in areas of standing water is prohibited.
- g. General Setbacks
1. Any new, or expanding ~~Livestock~~ *Animal Feeding Operation*, including its confinement buildings and livestock waste storage facility(ies) shall be located according to the linear footage setback distances in Table 1 below, and

Table 1: Siting Setbacks for Livestock Barns and Waste Storage

Use	Setback Distance
Private or municipal Well	300 feet
20% downward slope	50 feet
Ordinary high water mark of surface waters	500 feet
Ordinary high water mark of a lake	1,000 feet
Public or private drainage ditch	100 feet
Wetland	100 feet
Right-of-way of any County, State or Federal Road	150 feet

2. Any new, or expanding ~~Livestock~~ *Animal Feeding Operation*, including its confinement buildings and livestock waste storage facility(ies) shall be located according to the linear footage setback distances in Table 2 below, and

Table 2: Setbacks to Other Uses

Use	Up to 1,000 HE	1,001 to 5,000 HE	5,001 to 10,000 HE	10,001 HE or more
Any non-farm residence not on the applicant's property	1,320 ft	1,980 ft	2,640 ft	3,940 ft
Platted Residential Area	1,320 ft	1,980 ft	2,640 ft	3,940 ft
public park, church, cemetery, religious area, school, historical site	1,320 ft	1,980 ft	2,640 ft	3,940 ft
Extraterritorial Jurisdiction of any city or village	1,320 ft	1,980 ft	2,640 ft	3,940 ft
Any other Zoning District except AG-2	1,320 ft	1,980 ft	2,640 ft	3,940 ft
The distance requirements may be decreased or waived by a waiver signed by all of the property owners of non-farm residences or other residences not on the applicant's property within the distances specified. The property owners shall sign a waiver on a form provided by the County Zoning Administrator which consent shall be acknowledged before a Notary Public and filed in the office of the Madison County Register of Deeds. The waiver, when filed, shall be evidence of the property owner's consent to the decrease and/or waiver of the required spacing distances as described hereof.				

3. Setbacks for the application of manure shall be established in accord with Table 3.

Table 3: Manure Application Setbacks

Physical Feature or Structure	Spreading without incorporation	Injection or incorporation within 72 hrs of application
Streams and Rivers	200 feet	50 feet
Drainage ditches connected to rivers & streams	200 feet	50 feet
Lakes	200 feet	50 feet
Any Water Wells including irrigation wells	200 feet 100 feet	100 feet
Any non-farm residence not on the applicant's Property or rented ground for manure application	1,230 feet	100 feet
Platted Residential Area	1,230 feet	100 feet
public park, church, cemetery, religious area, school, historical site	1,230 feet	500 feet
Zoning Jurisdiction of any city or village	1,230 feet	0 feet
Any other Zoning District other than AG2	1,230 feet	0 feet
Right-of-way of County or State Road	150 feet	0 feet

h. Variances from the General Setbacks.

1. The Board of Adjustment may grant a variance from any setback requirement based on a demonstrated hardship *provided the setback is not less than any setback set by the State of Nebraska or the Federal Government*;
2. Loss of profit, self-imposed hardships, such as that caused by ignorance, deed restrictions, proceeding without a permit, or illegal sales, are not sufficient reasons for granting a variance;
3. The plight of the applicant must be unique, such as a shallow or steep parcel of land, or situation caused other than his or her own action;
4. The hardship justifying the variance must apply to an individual applicant's own parcel and not generally to other properties in the same district.

i. Setback Exceptions:

1. Any ~~Class Livestock~~ *size Animal Feeding Operation* use in existence as of the effective date of this Resolution, and which is located within the minimum spacing distance to any church, school, public use, other ~~L~~AFO or single-family dwelling within the current class or to the next class, may expand in animal units and/or land area under a Conditional Use Permit, provided the proposed expansion complies with all of the following limitations:
 - Such expansion will not decrease the distance from the ~~L~~AFO use to any church, school, public use, other ~~L~~AFO or single-family dwelling not of the same ownership and not on the same premises with said ~~L~~AFO which is less than the minimum prescribed spacing distance.
2. The distances set in g. above shall be reciprocally applied to the siting of non-farm dwellings, commercial and industrial land uses, churches, schools and parks.

j. Discontinuance of Use of Livestock Waste Storage Facilities:

1. Six continuous months, excluding the time of construction, of not operating the ~~L~~AFO, as per the terms of the Conditional Use Permit, will void the Conditional Use Permit.
2. No livestock waste storage facility may be abandoned except in compliance with these Regulations.
3. The owner or operator of a livestock waste storage facility shall notify the Madison County Zoning Administrator at least sixty (60) days before the abandonment.
4. All animal waste must be removed from the livestock waste storage facility within one-hundred-twenty (120) days after animals are removed from the ~~Livestock~~ *Animal Feeding Operation*. The owner of the facility shall provide a statement of current and

future uses of the ~~Livestock~~ Animal Feeding Operation and date of abandonment, if appropriate.

5. If the livestock waste storage facility is not abandoned properly, it may be deemed a nuisance. If the facility is determined to be a nuisance, Madison County may act to abate such nuisance and require the cleanup of the facility at the property owner's expense.

Accessory Uses.

The following accessory buildings and uses are permitted in the AG1 District.

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Home occupations.
3. Temporary buildings and uses incidental to construction work which shall be removed upon the completion or abandonment of the construction work.

Lot Requirements and Intensity of Use.

The minimum lot requirements shall be as follows:

1. Minimum Lot Area and density:
 - a. Single family dwellings not including existing farmsteads - Forty (40) acres at a density of no more than two (2) dwellings, total, per $\frac{1}{4}$ Section, except as herein exempted or on non-conforming lots of record.
 1. Should a lot be located within two (2) $\frac{1}{4}$ Sections, the plat or lot split certificate shall designate from which $\frac{1}{4}$ Section the lot is being removed.
 - b. Mobile homes shall not be permitted except on agricultural operations of twenty (20) acres or greater.
 - c. Seasonal dwellings - ~~Five (5)~~ Three (3) acres excluding road R.O.W.
 - d. All other permitted and conditional uses - No minimum except for setbacks and sanitation requirements, or as designated in a Conditional Use Permit.
2. Exemptions:
 - a. More than one (1) dwelling or mobile home may be permitted on an agricultural operation provided the residence is an accessory use to an agricultural operation and under the same ownership as the existing dwelling(s) or mobile home(s).
 - b. Farmsteads in existence prior to January 1, 1987, may be located on lots of less than forty (40) acres provided that the lot is subdivided from a $\frac{1}{4}$ Section, as defined within these Regulations, the lot is platted in accordance with the Subdivision Regulations, and that the lot complies with all of the following conditions:
 1. The lot created shall not be less than ~~five (5)~~ three (3) acres in area, excluding road R.O.W.
 2. The lot has legal access to an improved street or county road.
 3. The lot contains soil suitable for a septic system or sanitation requirements outlined in these regulations.
 4. The $\frac{1}{4}$ Section shall be owned by all those requesting the subdivision.
 5. Should the lot be located within two $\frac{1}{4}$ Sections, the plat or lot split certificate shall designate from which $\frac{1}{4}$ Section the lot is being removed.
 - c. Single-family dwellings may be located on lots of less than forty (40) acres by conditional use permit provided that the lot is subdivided from a $\frac{1}{4}$ Section, as defined within these Regulations, the lot is platted in accordance with the Subdivision Regulations, and that the lot complies with all of the following conditions:
 1. The lot created shall not be less than ~~five (5)~~ three (3) acres in area, excluding road R.O.W.
 2. The lot has legal access to an improved street or county road.
 3. The lot contains soil suitable for a septic system or sanitation requirements outlined in these regulations.
 4. The $\frac{1}{4}$ Section shall be owned by all those requesting the subdivision.

5. Should the lot be located within two ¼ Sections, the plat or lot split certificate shall designate from which ¼ Section the lot is being removed.
3. Minimum Lot Widths, Setbacks, Yards, and Height of Buildings.
 - a. Minimum lot widths shall be as follows:

Single Family Dwellings	200 feet
Seasonal Family Dwellings	100 200 feet
Other Permitted Uses	200 feet
 - b. Minimum front yards shall be as follows:

Single Family Dwellings	50 feet
Seasonal Family Dwellings	50 feet
Other Permitted Uses	50 feet
 - c. Minimum side and rear yards shall be as follows:

Single Family Dwellings	Side/15 feet, Rear/25 feet
Seasonal Family Dwellings	Side/15 feet, Rear/20 feet
Other Permitted Uses	Side/15 feet, Rear/25 feet
 - d. Minimum required front, side and rear yard setbacks for all uses or structures shall be no less than eighty-three (83) feet from the road centerline when such yards are contiguous to a County road or state highway.
 - e. At County Road intersections, the minimum setback for structures shall be 133' diagonally, at a forty-five (45) degree angle, from the intersection of the two County roads. In no case shall any structure or trees be placed within the triangular space bounded by the roadways and the line at a right angle to the setback line at 133' from the centerlines intersection.
 - f. Maximum height for structures intended for human occupancy shall be thirty-five (35) feet; all others are not restricted.
 4. Supplementary Regulations.
 - a. Residential dwelling units on non-agricultural land existing at the time of passage of these regulations, may construct accessory structures, make repairs, replace, remodel, rebuild, or replace the residential structure in case of damage regardless of the percent of damage or extent of structural change provided the use does not change.
 - ~~b. All new and existing livestock feeding operations and farms with livestock of 300 animal units or less shall require a no fee livestock registration permit. In addition, all new or expanded Livestock Feeding Operations of over 300 animal units shall require a Conditional Use Permit as subject to in Section 402, Conditional Uses of this Article.~~
 - ~~b. Agricultural Operations Small animal feeding operations and small confined animal feeding operations having 300 A.U. or less that exceed density levels as defined in these Regulations shall be classified as an LFO of 301-1,000 A.U. animal feeding operation and shall require a Conditional Use Permit as subject to in Section 402, Conditional Uses, of this Article.~~
 - ~~d. New non farm residences shall be located no less than distances displayed on Odor Emission Factor Siting Chart in Section 402, Conditional Uses, of this Article. Non farm Residence Spacing and Distance, from an existing agricultural operation having between 50 and 300 animal units and an LFO based upon the type of operation.~~

(Table 4 below added as amendment 12-11-2007)

Table 4: Setbacks for the below listed uses to dwellings and dwellings to the below listed uses

Shooting Ranges	1,320 ft.
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DISTRICTS AND INTERPRETATIONS OF DISTRICT BOUNDARIES

Landfills (all types)	1,320 ft.
Race Tracks including horse race tracks, auto and motorcycle race tracks and courses, off road courses or tracks	2,640 ft.
Schools, colleges, trade schools, and/or athletic fields	1,320 ft.
Private Air Strips	2,640 ft.
Commercial storage of flammable products or fuel including propane, fertilizer, gasoline, diesel, etc.	1,320 ft.
Commercial storage of hazardous waste or hazardous products including manufacturing of such	2,640 ft.

403: AG2 General Agriculture

The intent of the Agricultural General District shall be to recognize the use of agricultural land for purposes of farming and other agricultural practices and to allow for increased development where conditions prove favorable while protecting water quality and minimizing flood hazards.

Permitted Principal Uses.

The following principal uses are permitted in the AG2 General Agriculture District.

1. Agricultural operations, and the usual agricultural and farm buildings and structures, including the residences of the owners and their families and any tenants and employees who are engaged in agricultural operations on the premises.
 - a. All use of farm chemicals, including application of pesticides and herbicides, shall be governed by State Agencies and applicants using restricted-use pesticides shall be required to be certified as required by law.
 - b. The spreading of manure by a "Farming" Operation. (as defined in Article 2 of this Resolution)
 - c. ~~Agricultural operations having up to three hundred (300) animal units are considered a farm and are permitted by right, provided other requirements in this district are met and submission of a no-fee livestock registration permit to the Zoning Administrator~~ *Small animal feeding operations and small confined animal feeding operations.*
 - d. Mobile homes are permitted only when the land is used or intended to be used only for agricultural operations. All mobile homes require a special one (1) year permit which must be renewed annually and which shall be subject to the conditions of the permit.
2. Single family dwellings, provided the Intensity of Use and all other requirements of this district are met. In no case are single-family dwellings permitted on tracts without legal access to an improved road.
3. Utility substation, pumping station, water reservoir and telephone exchange.
4. Fire Station.
5. Private kennels and facilities, provided that all buildings and facilities be at least one hundred (100) feet from the property line and three hundred (300) feet from any neighboring residence.
6. Roadside stands offering agricultural products for sale on the premises.
7. Public and private riding academies provided that no stable, building or structures in which horses or other animals are kept are no closer than 100 feet from the property line.
8. All other Permitted Uses indicated as Permitted within the Zoning Matrix.

Permitted Conditional Uses.

1. Bed and breakfast residence subject to the following conditions in addition to those imposed by the Planning Commission:
2. The bed and breakfast residence shall be within a conforming single-family dwelling.
 - a. Guest rooms shall be within the principal residential building only and not within an accessory building.
 - b. Each room that is designated for guest occupancy must be provided with a smoke detector which is kept in good working order.

- c. Two (2) off-street parking spaces shall be provided for each dwelling unit plus one (1) off-street parking space for each sleeping room designated for guests. Such parking areas shall not be within the required front or side yards.
 - d. One (1) identification sign on not more than four (4) square feet of sign area shall be permitted.
- 3. Publicly and privately owned parks, playgrounds, golf courses, dude ranches, forest and conservation areas, country clubs, swimming pools, golf driving ranges, motorized cart tracks, or other outdoor recreational areas such as campgrounds, youth camps, gun clubs, and archery, trap and skeet ranges.
- 4. Single-family dwellings on less than forty (40) acres, provided that the following minimum conditions are met (not including additional conditions which may be placed upon the application at the time of the hearing as provided in Article 5 of this Resolution):
 - a. The minimum buildable lot is ~~five (5)~~ three (3) acres;
 - b. The lot takes access from an improved county road or highway;
 - c. If not on an improved county road or highway, the applicant agrees in writing to improve and maintain said road to county standards;
 - d. Has tested soils at proposed septic field for proper percolation.
 - e. Said lot and dwelling shall meet all density requirements of the District.
- 5. Privately owned cabins and seasonal dwellings subject to the subdivision regulations.
- 6. Development of natural resources and the extraction of raw materials such as rock, gravel, sand, etc., including gas and oil extraction and exploration, and subject to the requirements of the Supplementary Regulations.
- 7. Publicly owned and operated buildings and facilities such as community centers, auditoriums, libraries, museums.
- 8. Radio, cellular and television towers and transmitters subject to the requirements of Section 601 of the Supplementary Regulations.
- 9. Airports.
- 10. Farm and industrial equipment sales.
- 11. Manufacture of light sheet metal products including heating and ventilation equipment.
- 12. Manufacture and/or processing of agricultural products including but not limited to ethanol plants and mills.
- 13. Truck and freight terminals.
- 14. Cemeteries and mortuaries.
- 15. Community sewage disposal facilities.
- 16. Church, seminary and convent.
- 17. Public and parochial school; college.

18. Hospital, sanitarium, nursing home, and retirement home.
19. Sanitary or Construction and Demolition landfill siting or expansion conducted in a manner and method approved by the County Board of Commissioners, provided said landfill is not closer than one thousand (1,000) feet to a municipal well and/or one mile to any village or city limits or any subdivision, addition or residence, see Section 604 of the Supplemental Regulations.
20. Lawn and Garden Nurseries.
21. Seed and feed sales, machine repair shop, livestock equipment construction and sales, as a primary occupation in conjunction with an agricultural operation and which is operated on the premises.
22. Commercial Kennels and facilities for the raising, breeding and boarding of dogs and other small animals, including exotic, non-farm and non-domestic animals, provided that all buildings and facilities be at least one hundred (100) feet from the property line and three hundred (300) feet from any neighboring reside.
23. The spreading, stockpiling, or composting of dead livestock, sludge, by-products from manufacturing or any processing plant, and/or paunch manure on agricultural land by municipalities or operations inside or outside of the County.
24. The application of livestock manure in Madison County by operations located outside the County.
25. All other permitted Conditional Uses indicated within the Zoning Matrix.
26. *(As amended September 2, 2003)* ~~Livestock~~ Animal Feeding Operations of 5,000 or less ~~animal units~~ *Head Equivalent*, subject to the license requirements, waste disposal requirements and recommendations of the State of Nebraska and the Land Use specifications in the Madison County Comprehensive Plan.
27. Each Conditional Use Permit for an ~~Livestock~~ Animal Feeding Operation will be for an unspecified period of time and provided the operator attains a passing score on the Madison County Livestock Feeding Operation Siting Matrix annually.
 - a. Permit Requirement.
 1. Under the following conditions, an Animal Feeding Operation Conditional Use Permit is required for:
 2. A new ~~Livestock~~ Animal Feeding Operation, including a concentrated animal feeding operation, which is proposed for a lot or a site where an ~~Livestock~~ Animal Feeding Operation does not exist at the time of application for a permit, or a lot or a site on a lot where an ~~Livestock~~ Animal Feeding Operation previously existed;
 3. Expansion of an existing ~~Livestock~~ Animal Feeding Operation; ~~including~~ *classified by the Nebraska Department of Environmental Quality and these regulations as a medium and/or large concentrated* animal feeding operation, is proposed;
 4. An existing ~~Livestock~~ Animal Feeding Operation; ~~including~~ *classified by the Nebraska Department of Environmental Quality and these regulations as a medium and/or large concentrated* animal feeding operation, is sought to be permitted;
 5. An existing permitted ~~Livestock~~ Animal Feeding Operation; ~~including~~ *classified by the Nebraska Department of Environmental Quality and these regulations as a medium and/or large concentrated* animal feeding operation, is to be restocked after being abandoned, or unused for twenty-four (24) or more consecutive months.
 6. Stockpiling and/or composting of manure or animal carcasses.
 - b. Exemption.
 1. ~~Agricultural Operations of 300 A.U. and under~~ *Animal Feeding Operations classified by the Department of Environmental Quality and these regulations as a small animal feeding operation or a small concentrated animal feeding operation* are considered a

- farm as defined in these Regulations and do not require a Conditional Use Permit, unless stockpiling and/or composting of manure or animal carcasses under oral or written contract.
2. Any livestock Special Use Permit granted on or prior to July 15, 2003 may be renewed by the original applicant under the zoning requirements enforced at that time. Any request for expansion or a change in ownership will be subject to these regulations.
- c. Madison County Livestock Siting Matrix.
1. All applicants for a Conditional Use Permit for an ~~Livestock~~ *Animal Feeding Operation* must complete a Madison County ~~Livestock~~ *Animal* Siting Matrix. The Matrix is Appendix 1 of this resolution.
- d. Required Submissions for an Application to Obtain a Conditional Use Permit.
1. A completed Conditional Use Permit Application listing all owners and operators, signed by all of the owners and a signed certification of the truth and accuracy of the information in the application;
 2. An application fee as set by the Madison County Board of Commissioners.
 3. A completed copy of the Madison County ~~Livestock~~ *Animal* Siting Matrix.
 4. A statement as to the maximum number of animals and type of animals, with corresponding total number of animal units, that will be confined at the ~~Livestock~~ *Animal Feeding Operation* for ~~ninety (90)~~ *forty-five (45)* or more days in one year.
 5. Proof of ownership or control of all livestock waste storage facilities and animal confinement buildings, demonstrated by copies of relevant legal instruments.
 6. A closure plan of any livestock waste storage facilities, including demonstration of financial assurance.
 7. Total acreage of the facility, including animal confinement buildings, animal waste storage facilities, and stormwater retention ponds.
 8. A description of the geologic condition and soil types at the proposed location of the facility.
 9. A scaled map or aerial photograph of the site showing the following information:
 - The locations and dimensions of all animal confinement buildings including outside lots;
 - The locations, dimensions, and design criteria of all animal waste storage facilities;
 - The location of any known well, active or abandoned, within 1,320 of the nearest confinement building or outside lot;
 - The drainage patterns at the site;
 - The location of all homes, buildings, lakes, ponds, watercourses, wetlands, surface drains, roads within the required setback of the L.F.O.
 10. Estimated number of full-time and part-time employees ~~with estimated salaries~~;
 11. If stockpiling of animal waste and/or composting of dead carcasses, as per State Statutes, are part of the manure management plan, the waste shall be maintained in an area at least one (1) mile from a platted residential area, school, or church. Said area shall also be located on the proposed site plan indicated in number 9 above.
- e. Procedural Requirements:
1. The applicant returns the completed application with and the required documents, a list of persons owning property within one-thousand feet (1,000') of the proposed Livestock Feeding Operation prepared by a certified abstractor, and a completed and signed Matrix and the supporting documentation.
 2. The producer shall have a Pre-submission meeting with the Planning Commission, as an agenda item, to verify the scoring of the Matrix prior to formal submission of the Conditional Use Permit for ~~Livestock~~ *Animal Feeding Operations*.
 3. Any application for a Conditional Use Permit by an ~~Livestock~~ *Animal Feeding Operation* shall be submitted to the Planning Commission for a Public Hearing.

- The local unit of government shall notify by first-class mail within 10 days of the scheduled Public Hearing all persons owning property within one-thousand feet (1,000') of the proposed ~~Livestock~~ *Livestock Animal Feeding Operation*.
 - All exhibits must be entered into the record During the Public Hearing. These exhibits may be identified by the title and exhibit number.
 - The County Comprehensive Plan shall always be submitted as Exhibit Number 1.
 - The County Zoning and Subdivisions Regulations shall be submitted as Exhibit Number 2.
 - The County Zoning Map shall always be submitted as Exhibit Number 3.
 - The Conditional Use Permit Application and documentation shall be submitted as Exhibit Number 4.
 - The ~~Livestock~~ *Livestock Animal Feeding Operation* Siting Matrix and supporting documentation shall be submitted as Exhibit Number 5.
 - Letters, written comments and material presented during the public hearing shall be given an Exhibit Number as they are presented.
 - 4. After closing the Public Hearing, the Planning Commission shall not vote on the application until the next meeting.
 - 5. At the meeting following of the Planning Commission, the Zoning Administrator will present a "Statement of Finding of Facts" drawn from the Public Hearing and exhibits. The Planning Commission shall then make a recommendation, or defer a recommendation to the next meeting, to the County Board of Commissioners to approve or deny the application based on the Public Hearing.
 - 6. The Madison County Board of Commissioners shall schedule a Public Hearing and make proper notice of such.
 - 7. The Zoning Administrator shall prepare a resolution containing the "Statement of Finding of Facts" and any conditions to be placed on the Applicant if the application is approved.
 - 8. If during the Public Hearing held by the Board of Commissioners, no new facts, in the opinion of the County Board are entered at the hearing, a vote on the application may be taken after the hearing is closed.
 - 9. If new facts are entered at the public hearing of the Board, the decision shall be postponed until the next meeting or until the "Statement of Finding of Facts" in the resolution can be revised.
 - 10. Following approval of the application by the Board of Commissioners, the applicant shall be notified in writing of the decision, including conditions imposed and a finding of fact as to support the Board's decision, if any.
 - 11. In the case of denial of the application by the Board, the applicant shall be notified in writing of the decision and the specific and detailed reasons for the decision. The applicant shall have the opportunity to amend the application and resubmit the application, with no additional fee, to the Planning Commission for a Public Hearing with submissions that address the specific reasons for denial. If the County Board again denies the application, the applicant may seek declaratory relief and an injunction in the appropriate District Court.
- f. Standards for a ~~Livestock~~ *Livestock Animal Feeding Operation* Conditional Use Permit.
- 1. The Madison County Board of Commissioners may not approve the application for a Conditional Use Permit unless it finds that the application attained the minimum score on the Madison County ~~Livestock~~ *Livestock Animal Feeding* Siting Matrix and none of the following conditions are present:
 - 2. Will not comply with the applicable requirements of these Regulations;
 - 3. The presence of any endangered species.
 - 4. The presence of any grave sites or Native American sacred sites.
 - 5. The presence of any important archeological, cultural, religious, or historic landmarks and artifacts.

6. The owner/operator has not acquired signed easements from 100 percent of property owners with residential structures within the required setbacks on the property.
7. Does not exceed EPA's minimum ambient air pollution standards at the property line.
8. Not detrimental to the public health, safety, welfare, or materially injurious to properties or improvements in the vicinity.
9. The permittee shall file a copy of all approved DEQ plans and permits with the Zoning Administrator within thirty (30) days after they are issued by the DEQ.
10. Application of manure in areas of standing water is prohibited.

g. General Setbacks

1. Any new, or expanding ~~Livestock~~ *Animal* Feeding Operation, including its confinement buildings and livestock waste storage facility(ies) shall be located according to the linear footage setback distances in Table 1 below, and

Table 1: Siting Setbacks for Livestock Barns and Waste Storage

Use	Setback Distance
Private or municipal Well	300 feet
20% downward slope	50 feet
Ordinary high water mark of surface waters	500 feet
Ordinary high water mark of a lake	1,000 feet
Public or private drainage ditch	100 feet
Wetland	100 feet
Right-of-way of any County, State or Federal Road	150 feet

2. Any new, or expanding ~~Livestock~~ *Animal* Feeding Operation, including its confinement buildings and livestock waste storage facility(ies) shall be located according to the linear footage setback distances in Table 2 below, and

Table 2: Setbacks to Other Uses

Use	Up to 1,000 HE	1,001 to 5,000 HE	5,001 to 10,000 HE	10,001 HE or more
Any non-farm residence not on the applicant's property	1,980 ft	2,640 ft	Not allowed	Not allowed
Platted Residential Area	1,980 ft	2,640 ft	Not allowed	Not allowed
public park, church, cemetery, religious area, school, historical site	1,980 ft	2,640 ft	Not allowed	Not allowed
Extraterritorial Jurisdiction of any city or village	1,980 ft	2,640 ft	Not allowed	Not allowed
Any other Zoning District other than AG-1	1,980 ft	2,640 ft	Not allowed	Not allowed
The distance requirements may be decreased or waived by a waiver signed by all of the property owners of non-farm residences or other residences not on the applicant's property within the distances specified. The property owners shall sign a waiver on a form provided by the County Zoning Administrator which consent shall be acknowledged before a Notary Public and filed in the office of the Madison County Register of Deeds. The waiver, when filed, shall be evidence of the property owner's consent to the decrease and/or waiver of the required spacing distances as described hereof.				

3. Setbacks for the application of manure shall be established in accord with Table 3.

Table 3: Manure Application Setbacks

Physical Feature or Structure	Spreading without incorporation	Injection or incorporation within 72 hours of application
Streams and Rivers	200 feet	50 feet
Drainage ditches connected to rivers & streams	200 feet	50 feet
Lakes	200 feet	50 feet

Any Water Wells including irrigation wells	200 feet 100 feet	100 feet
Any non-farm residence not on the applicant's Property or rented ground for manure application	1,230 feet	100 feet
Platted Residential Area	1,230 feet	100 feet
public park, church, cemetery, religious area, school, historical site	1,230 feet	500 feet
Zoning Jurisdiction of any city or village	1,230 feet	0 feet
Any other Zoning District except A-1	1,230 feet	0 feet
Right-of-way of County or State Road	150 feet	0 feet

h. Variances from the General Setbacks.

1. The Board of Adjustment may grant a variance from any setback requirement based on a demonstrated hardship *provided the setback is not less than any setback set by the State of Nebraska or the Federal Government*;
2. Loss of profit, self-imposed hardships, such as that caused by ignorance, deed restrictions, proceeding without a permit, or illegal sales, are not sufficient reasons for granting a variance;
3. The plight of the applicant must be unique, such as a shallow or steep parcel of land, or situation caused other than his or her own action;
4. The hardship justifying the variance must apply to an individual applicant's own parcel and not generally to other properties in the same district.

i. Setback Exceptions:

1. Any ~~Class Livestock~~ *size Animal Feeding Operation* use in existence as of the effective date of this Resolution, and which is located within the minimum spacing distance to any church, school, public use, other ~~LAF~~ or single-family dwelling within the current class or to the next class, may expand in animal units and/or land area under a Conditional Use Permit, provided the proposed expansion complies with all of the following limitations:
 - Such expansion will not decrease the distance from the ~~LAF~~ use to any church, school, public use, other ~~LAF~~ or single-family dwelling not of the same ownership and not on the same premises with said ~~LAF~~ which is less than the minimum prescribed spacing distance.
2. The distances set in g. above shall be reciprocally applied to the siting of non-farm dwellings, commercial and industrial land uses, churches, schools and parks.

j. Discontinuance of Use of Livestock Waste Storage Facilities:

1. Six continuous months, excluding the time of construction, of not operating the ~~LAF~~ as per the terms of the Conditional Use Permit, will void the Conditional Use Permit.
2. No livestock waste storage facility may be abandoned except in compliance with these Regulations.
3. The owner or operator of a livestock waste storage facility shall notify the Madison County Zoning Administrator at least sixty (60) days before the abandonment.
4. All animal waste must be removed from the livestock waste storage facility within one-hundred-twenty (120) days after animals are removed from the Livestock Feeding Operation. The owner of the facility shall provide a statement of current and future uses of the ~~Livestock~~ *Animal Feeding Operation* and date of abandonment, if appropriate.
5. If the livestock waste storage facility is not abandoned properly, it may be deemed a nuisance. If the facility is determined to be a nuisance, Madison County may act to abate such nuisance and require the cleanup of the facility at the property owner's expense.

Accessory Uses.

The following accessory buildings and uses are permitted in the AG2 District.

1. Buildings and uses customarily incidental to the permitted and conditional uses.

2. Home occupation.
3. Temporary buildings and uses incidental to construction work which shall be removed upon the completion or abandonment of the construction work.

Lot Requirements and Intensity of Use.

The minimum lot requirements shall be as follows:

1. Minimum Lot Area and density:
 - a. Single family dwellings, not including existing farmsteads - Forty (40) acres excluding road R.O.W. and at a density of no more than three (3) dwellings, total, per ¼ Section, except as herein exempted or on non-conforming lots of record.
 1. The lot shall be in a square or rectangular shaped tract. Should the lot be located within two (2) ¼ Sections, the plat or lot split certificate shall designate from which ¼ Section the lot is being removed.
 - b. Mobile homes shall not be permitted except on agricultural operations of twenty (20) acres or greater.
 - c. Seasonal dwellings - ~~Five (5)~~ Three (3) acres excluding road R.O.W.
 - d. All other permitted and conditional uses - No minimum except for setbacks and sanitation requirements, or as designated in a Conditional Use Permit.
2. Exemptions:
 - a. More than one (1) dwelling or mobile home may be permitted on an agricultural operation provided the residence is an accessory use to an agricultural operation and under the same ownership as the existing dwelling(s) or mobile home(s).
 - b. Farmsteads in existence prior to January 1, 1987, may be located on lots of less than forty (40) acres provided that the lot is subdivided from a ¼ Section, as defined within these Regulations, the lot is platted in accordance with the Subdivision Regulations, and that the lot complies with all of the following conditions:
 1. The lot created shall not be less than ~~five (5)~~ three (3) acres in area, excluding road R.O.W.
 2. The lot has legal access to an improved street or county road.
 3. The lot contains soil suitable for a septic system or sanitation requirements outlined in these regulations.
 4. The ¼ Section shall be owned by all those requesting the subdivision.
 5. Should the lot be located within two ¼ Sections, the plat or lot split certificate shall designate from which ¼ Section the lot is being removed.
 - c. Single-family dwellings may be located on lots of less than forty (40) acres by conditional use provided that the lot is subdivided from a ¼ Section, as defined within these Regulations, the lot is platted in accordance with the Subdivision Regulations, and that the lot complies with all of the following conditions:
 1. The lot created shall not be less than ~~five (5)~~ three (3) acres in area, excluding road R.O.W.
 2. The lot has legal access to an improved street or county road.
 3. The lot contains soil suitable for a septic system or sanitation requirements outlined in these regulations.
 4. The ¼ Section shall be owned by all those requesting the subdivision.
 5. Should the lot be located within two ¼ Sections, the plat or lot split certificate shall designate from which ¼ Section the lot is being removed.
2. Minimum Lot Widths, Setbacks, Yards, and Height of Buildings.
 - a. Minimum lot widths shall be as follows:

1. Single Family Dwellings	200 feet
2. Seasonal Family Dwellings	100 200 feet
3. Other Permitted Uses	200 feet
 - b. Minimum front yards shall be as follows:

1. Single Family Dwellings 50 feet
 2. Seasonal Family Dwellings 50 feet
 3. Other Permitted Uses 50 feet
- c. Minimum side and rear yards shall be as follows:
1. Single Family Dwellings Side/15 feet, Rear/25 feet
 2. Seasonal Family Dwellings Side/15 feet, Rear/20 feet
 3. Other Permitted Uses Side/15 feet, Rear/25 feet
- d. Minimum required front, side and rear yard setbacks for all uses or structures shall be no less than eighty-three (83) feet from the road centerline when such yards are contiguous to a County road or state highway.
- e. At County Road intersections, the minimum setback for structures shall be 133' diagonally, at a forty-five (45) degree angle, from the intersection of the two County roads. In no case shall any structure or trees be placed within the space at right angles from this point.
- f. Maximum height for structures intended for human occupancy shall be thirty-five (35) feet; all others are not restricted.
3. Supplementary Regulations.
- a. Residential dwelling units on non-agricultural land existing at the time of passage of these regulations, may construct accessory structures, make repairs, replace, remodel, rebuild, or replace the residential structure in case of damage regardless of the percent of damage or extent of structural change provided the use does not change.
 - ~~b. All new and existing livestock feeding operations and farms with livestock of 300 animal units or less shall require a no fee livestock registration permit. In addition, all new or expanded Livestock Feeding Operations of over 300 animal units shall require a Conditional Use Permit as subject to in Section 402, Conditional Uses of this Article.~~
 - b. ~~Agricultural Operations~~ *Small animal feeding operations and small confined animal feeding operations having 300 A.U. or less* that exceed density levels as defined in these Regulations shall be classified as an ~~LFO of 301-1,000 A.U.~~ *animal feeding operation* and shall require a Conditional Use Permit as subject to in Section 402, Conditional Uses, of this Article.
 - ~~d. New non farm residences shall be located no less than distances displayed on Odor Emission Factor Siting Chart in Section 402, Conditional Uses, of this Article. Non farm Residence Spacing and Distance, from an existing agricultural operation having between 50 and 300 animal units and an LFO based upon the type of operation.~~

(Table 4 below added as amendment 12-11-2007)

Table 4: Setbacks for the below listed uses to dwellings and dwellings to the below listed uses

Shooting Ranges	1,320 ft.
Landfills (all types)	1,320 ft.
Race Tracks including horse race tracks, auto and motorcycle race tracks and courses, off road courses or tracks	2,640 ft.
Schools, colleges, trade schools, and/or athletic fields	1,320 ft.
Private Air Strips	2,640 ft.
Commercial storage of flammable products or fuel including propane, fertilizer, gasoline, diesel, etc.	1,320 ft.
Commercial storage of hazardous waste or hazardous products including manufacturing of such	2,640 ft.

404: AT Agricultural Transition

The intent of this district is to recognize the transition between agricultural uses of land and communities; to encourage the continued use of that land which is suitable for agriculture, but limit the land uses that may be a detriment to the efficient pursuit of agricultural production.

A. Permitted Principal Uses.

The following principal uses are permitted in the AT Agricultural Transition District:

1. Agriculture, farming, dairy farming, livestock and poultry raising, and all uses commonly classed as agricultural, with no restrictions as to operation of such vehicles or machinery as are customarily incidental to such uses, and with no restrictions as to the sale or marketing of products raised on the premises; provided that the operation is no more than three hundred (300) ~~animal units~~ *Head Equivalent* and, that any building, structure or yard for the raising, confinement, housing or sale of livestock or poultry shall be located at least one thousand three hundred twenty (1,320) feet from a neighbors dwelling, and further provided, that there shall be no feeding, spreading, accumulation or disposal of garbage, rubbish or offal on any open surface of the land.
2. Churches and publicly owned and operated community buildings, public museums, public libraries.
3. Single-family dwellings provided the intensity of use and all other requirements of this district are met. In no case are single-family dwellings permitted on tracts without legal access to an improved road.
4. Fish hatcheries, apiaries, aviaries.
5. Forests and wildlife reservations, or similar conservation projects.
6. Fur farming for the raising of fur bearing animals.
7. Golf courses and clubhouses customarily accessory thereto, except miniature golf, driving ranges and other similar activities operated as a business.
8. Hospitals, sanitariums, homes for the aged and feeble minded.
9. Private Kennels, provided the buildings and pens shall be located at least one hundred (100) feet from the property line and three hundred (300) feet from any neighboring residence.
10. Mushroom barns and caves.
11. Nurseries, greenhouses and truck gardens.
12. Philanthropic or eleemosynary institutions.
13. Picnic groves.
14. Publicly owned parks and playgrounds, including public recreation or service building within such parks, public administrative building, police and fire stations, and public utility buildings and structures.
15. Public schools, elementary and high, and private schools with curriculum equivalent to that of a public elementary or high school, and institutions of higher learning, including stadiums and dormitories in conjunction, if located on the campus.
16. Railroad rights-of-way not including railroad yards.
17. Riding stables and riding tracks.
18. Cemeteries and mortuaries.

19. Accessory Uses.

20. All other Permitted Uses indicated as Permitted within the Zoning Matrix.

Permitted Conditional Uses.

1. Airports and heliports.
2. Bed and breakfast residence subject to the following conditions in addition to those imposed by the Commission:
 - a. The bed and breakfast residence shall be within a conforming single-family dwelling.
 - b. Guest rooms shall be within the principal residential building only and not within an accessory building.
 - c. Each room that is designated for guest occupancy must be provided with a smoke detector which is kept in good working order.
 - d. Two (2) off-street parking spaces shall be provided for each dwelling unit plus one (1) off-street parking space for each sleeping room designated for guests. Such parking areas shall not be within the required front or side yards.
 - e. One (1) identification sign on not more than four (4) square feet of sign area shall be permitted.
3. Commercial kennels and facilities for the raising, breeding and boarding of dogs and other small animals, including exotic, non-farm and non-domestic animals, provided that all buildings and facilities be at least one hundred (100) feet from the property line and three hundred (300) feet from any neighboring residence.
4. Farm and industrial equipment sales.
5. Development of natural resources and the extraction of raw materials, such as rock, gravel, sand and soil and conditions referred to in Section 6.02 of the Supplemental Regulations.
6. Utility installations such as electric substations, sewer lift stations, telephone exchanges, gas regulators and major transmission lines (not including utility office, repair, storage or production facilities).
7. Radio, Cellular and television towers and transmitters subject to the requirements of Section 6.01 of the Supplemental Regulations.

Accessory Uses.

The following accessory buildings and uses are permitted in the AT District.

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

Area and Intensity Regulations.

In the AT Agricultural Transition District the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot, shall be as follows:

Lot Requirements and Intensity of Use.

The minimum lot requirements shall be as follows:

1. Minimum Lot Area and density:
 - a. Single family dwellings not including existing farmsteads - Forty (40) acres excluding road R.O.W. and at a density of no more than four (4) dwellings, total, per ¼ Section, except as herein exempted or on non-conforming lots of record.
 1. The lot shall be in a square or rectangular shaped tract. Should the lot be located within two (2) ¼ Sections, the plat or lot split certificate shall designate from which ¼ Section the lot is being removed.

- b. Mobile homes shall not be permitted except on agricultural operations of twenty (20) acres or greater.
 - c. Seasonal dwellings - ~~Five (5)~~ *Three (3)* acres excluding road R.O.W.
 - d. All other permitted and conditional uses - No minimum except for setbacks and sanitation requirements, or as designated in a Conditional Use Permit.
2. Exemptions:
- a. More than one (1) dwelling or mobile home may be permitted on an agricultural operation provided the residence is an accessory use to an agricultural operation and under the same ownership as the existing dwelling(s) or mobile home(s).
 - b. Farmsteads in existence prior to January 1, 1987, may be located on lots of less than forty (40) acres provided that the lot is subdivided from a ¼ Section, as defined within these Regulations, the lot is platted in accordance with the Subdivision Regulations, and that the lot complies with all of the following conditions:
 - 1. The lot created shall not be less than ~~five (5)~~ *three (3)* acres in area, excluding road R.O.W.
 - 2. The lot has legal access to an improved street or county road.
 - 3. The lot contains soil suitable for a septic system or sanitation requirements outlined in these regulations.
 - 4. The ¼ Section shall be owned by all those requesting the subdivision.
 - 5. Should the lot be located within two ¼ Sections, the plat or lot split certificate shall designate from which ¼ Section the lot is being removed.
 - c. Single-family dwellings may be located on lots of less than forty (40) acres by conditional use provided that the lot is subdivided from a ¼ Section, as defined within these Regulations, the lot is platted in accordance with the Subdivision Regulations, and that the lot complies with all of the following conditions:
 - 1. The lot created shall not be less than ~~five (5)~~ *three (3)* acres in area, excluding road R.O.W.
 - 2. The lot has legal access to an improved street or county road.
 - 3. The lot contains soil suitable for a septic system or sanitation requirements outlined in these regulations.
 - 4. The ¼ Section shall be owned by all those requesting the subdivision.
 - 5. Should the lot be located within two ¼ Sections, the plat or lot split certificate shall designate from which ¼ Section the lot is being removed.
3. Minimum Lot Widths, Setbacks, Yards, and Height of Buildings.
- a. Minimum lot widths shall be as follows:

1. Single Family Dwellings	200 feet
2. Seasonal Family Dwellings	100 200 feet
3. Other Permitted Uses	200 feet
 - b. Minimum front yards shall be as follows:

1. Single Family Dwellings	50 feet
2. Seasonal Family Dwellings	50 feet
3. Other Permitted Uses	50 feet
 - c. Minimum side and rear yards shall be as follows:

1. Single Family Dwellings	Side/15 feet, Rear/25 feet
2. Seasonal Family Dwellings	Side/15 feet, Rear/20 feet
3. Other Permitted Uses	Side/15 feet, Rear/25 feet
 - d. Minimum required front, side and rear yard setbacks for all uses or structures shall be no less than eighty-three (83) feet from the road centerline when such yards are contiguous to a County road or state highway.

- e. At County Road intersections, the minimum setback for structures shall be 133' diagonally, at a forty-five (45) degree angle, from the intersection of the two County roads. In no case shall any structure or trees be placed within the space at right angles from this point.
 - f. Maximum height for structures intended for human occupancy shall be thirty-five (35) feet; all others are not restricted.
4. Supplementary Regulations.
- a. Residential dwelling units on non-agricultural land existing at the time of passage of these regulations, may construct accessory structures, make repairs, replace, remodel, rebuild, or replace the residential structure in case of damage regardless of the percent of damage or extent of structural change provided the use does not change.
 - ~~b. All new and existing livestock feeding operations and farms with livestock of 300 animal units or less shall require a no fee livestock registration permit. In addition, all new or expanded Livestock Feeding Operations of over 300 animal units shall require a Conditional Use Permit as subject to in Section 402, Conditional Uses of this Article.~~
 - c. ~~Agricultural Operations~~ *Small animal feeding operations and small confined animal feeding operations having 300 A.U. or less* that exceed density levels as defined in these Regulations shall be classified as an ~~LFO of 301-1,000 A.U. animal feeding operation~~ and shall require a Conditional Use Permit as subject to in Section 402, Conditional Uses, of this Article.
 - ~~d. New non farm residences shall be located no less than distances displayed on Odor Emission Factor Siting Chart in Section 402, Conditional Uses, of this Article. Non farm Residence Spacing and Distance, from an existing agricultural operation having between 50 and 300 animal units and an LFO based upon the type of operation.~~

405: RR Rural Residential

The RR district is established for the purpose of low-density single-family dwelling control and to allow certain public facilities. Regulations are intended to control density of population and to provide adequate open space around buildings and structures in the district to accomplish these purposes. The intent of this district is to recognize the gradual urbanization near cities and to provide for the proper development and facilities necessary for future growth.

Permitted Principal Uses.

1. Single-family dwellings.
2. Bed and breakfast residence subject to the following provisions:
 - a. Guest rooms shall be within the principal residential building only and not within an accessory building.
 - b. Each room that is designated for guest occupancy must be provided with a smoke detector which is kept in good working order.
 - c. Two (2) off-street parking spaces shall be provided for each dwelling unit plus one (1) off-street parking space for each sleeping room designated for guests. Such parking areas shall not be within the required front or side yards.
 - d. One (1) identification sign on not more than four (4) square feet of sign area shall be permitted.
3. General agricultural operations, but this shall not include or permit:
 - a. The confined feeding of livestock.
 - b. The spreading, accumulation, feeding or use of garbage or animal waste in any manner on the open surface of the land.
 - c. A use or activity engaged in within three hundred (300) feet of a residential or retail business structure, if such use or activity results in continuous odor, dust or noise.
4. Public parks and recreational areas and community buildings owned and operated by a public agency.
5. Churches, synagogues, and other similar places of worship.
6. Public and parochial schools.
7. Golf courses, pitch and putt golf courses and driving tees. Miniature golf is permitted if it is a part of the total golfing operation.
8. Accessory buildings and uses.

Permitted Conditional Uses.

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

6. Seasonal dwellings, including mobile homes, provided that:
 - a. Said seasonal dwelling meets the lot requirements for septic and water systems in Section 605.
 - b. Said seasonal dwelling meets state requirements for septic and water systems.
 - c. If said seasonal dwelling is a mobile home, said mobile home shall be removed upon termination of ownership or lease.
 - d. Said seasonal dwelling shall have access to permanent power hook-ups.
7. Home occupations, subject to the following:
 - a. That such uses are located in the dwelling used by a person as his/her private residence.
 - b. That no assistance other than a member of the family household is employed, and no window display or sign, either illuminated or more than two (2) square feet in area is used to advertise the same.
8. Residential dwellings on less than three (3) acres provided the following minimum conditions are met:
 - a. The dwelling unit is part of a standard subdivision.
 - b. The dwelling unit has a minimum lot area of 10,000 square feet.
 - c. The subdivision is served by a centralized sewer and water system.
 - d. The subdivision meets all the requirements of the Subdivision Regulations.

Accessory Uses.

The following accessory buildings and uses are permitted in the RR District.

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Temporary buildings and uses incidental to construction work and shall be removed upon the completion or abandonment of the construction work.

Area and Intensity Regulations.

1. In the RR Rural Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot or tract, shall be as follows subject to the sanitary requirements, Section 605 of these Regulations:
2. Single Family Density and Minimum Lot Sizes

- a. Three (3) acres excluding road R.O.W. and at a density of no more than ten (10) dwellings, total, per ¼ Section.
- b. Minimum lot area shall be 10,000 square feet when meeting the requirements of a Conditional Use Permit and the density may be no more than fifteen (15) dwellings, total, per ¼ Section.

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

1. Minimum lot widths shall be as follows:
 - a. Single Family Dwellings 200 feet
 - b. Seasonal Family Dwellings 100 feet
 - c. Other Permitted Uses 200 feet
2. Minimum front yards shall be as follows:
 - a. Single Family Dwellings 50 feet
 - b. Seasonal Family Dwellings 50 feet

406: MH Mobile Home:

The intent of the Mobile Home Residential District shall be to provide for mobile home dwellings on leased or owned property in areas where a mobile home court is appropriate, where such development is recognized as being in the best interests of the citizens and taxpayers of Madison County.

Permitted Principal Uses.

The following uses are permitted in the MH Mobile Home Residential District.

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

Permitted Conditional Uses.

1. Buildings and uses customarily incidental to the permitted uses.
2. Home occupation, subject to the following:
 - a. That such uses are located in the dwelling used by a person as his/her private residence.
 - b. That no assistance other than a member of the family household is employed, and no window display or sign, either illuminated or more than two (2) square feet in area is used to advertise the same.
3. Off-street parking.
4. *Multi-unit dwellings.*
5. Mobile Home Park, subject to regulations in Section 614 of the Supplemental Regulations.
6. Nursery or day-care schools.
7. Utility installations such as electric substations, sewer lift stations, telephone exchanges, gas regulators and major transmission lines (not including utility office, repair, storage or production facilities).
8. Sewage disposal and water supply and treatment facilities.
9. Campgrounds.
10. Public buildings.

Area and Lot Requirements for Mobile Home Parks.

1. A mobile home park shall have an area of not less than five (5) acres. No mobile homes or other structures shall be located less than eighty-three (83) feet from the road centerline when contiguous to or having frontage to a County road or state highway. The setback on all other court property lines shall be twenty-five (25) feet. These areas shall be landscaped. The minimum lot width for a mobile home court shall be two hundred (200) feet.
2. Each lot provided for occupancy of a single mobile home shall have an area of not less than seven thousand five hundred (7,500) square feet, excluding road R.O.W., and a width of not less than seventy (70) feet for

an interior lot, eighty (80) feet for a corner lot, or forty-five (45) feet when facing a cul-de-sac turnaround or curve on a minor loop street. Each individual lot shall have:

- a. Side yards shall not be less than eight (8) feet on one side and not less than eight (8) feet on the other side, except that on corner lots, the setback for all buildings shall be a minimum of thirty (30) feet on the side abutting a street/road.
 - b. Front yard of not less than thirty (30) feet.
 - c. A rear yard of not less than twenty-five (25) feet.
3. There shall be a minimum livable floor area of five hundred (500) square feet in each mobile home.
4. Height of Buildings.
 - a. Maximum height for principal uses: thirty-five (35) feet.
 - b. Maximum height for accessory uses: twenty (20) feet.

Community Facilities.

1. Each lot shall have access to a hard surfaced drive not less than twenty-two (22) feet in width excluding parking.
2. Community water and community sewage disposal facilities shall be provided with connections to each lot, in accordance with Section 6.05 of these Regulations. The water supply shall be sufficient for domestic use and for fire protection.
3. Service buildings including adequate laundry and drying facilities, and toilet facilities for mobile homes which do not have these facilities within each unit.
4. Not less than 8% of the total court area shall be designated and used for park, playground and recreational purposes.

Plan Requirements.

A complete plan of the mobile home court shall be submitted showing:

1. A development plan and grading plan of the court.
2. The area and dimensions of the tract of land.
3. The number, location, and size of all mobile home spaces.
4. The area and dimensions of the park, playground and recreation areas.
5. The location and width of roadways and walkways.
6. The location of service buildings and any other proposed structures.
7. The location of water and sewer lines and sewage disposal facilities.
8. Plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home court.

Area and Intensity Regulations for all Other Lots.

1. *In the Mobile Home Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot or tract, shall be as follows subject to the sanitary requirements, Section 605 of these Regulations:*
2. *Single Family Density and Minimum Lot Sizes*
 - a. *Three (3) acres excluding road R.O.W. and at a density of no more than ten (10) dwellings, total, per ¼ Section.*
 - b. *Minimum lot area shall be 10,000 square feet when meeting the requirements of a Conditional Use Permit and the density may be no more than fifteen (15) dwellings, total, per ¼ Section.*

3. Minimum Lot Widths, Setbacks, Yards, and Height of Buildings.
4. *Minimum lot widths shall be as follows:*
 - a. *Single Family Dwellings* 200 feet
 - b. *Seasonal Family Dwellings* 200 feet
 - c. *Other Permitted Uses* 200 feet
5. *Minimum front yards shall be as follows:*
 - a. *Single Family Dwellings* 50 feet
 - b. *Seasonal Family Dwellings* 50 feet
 - c. *Other Permitted Uses* 50 feet
6. *Minimum side and rear yards shall be as follows:*
 - a. *Single Family Dwellings* Side/15 feet, Rear/25 feet
 - b. *Seasonal Family Dwellings* Side/15 feet, Rear/20 feet
 - c. *Other Permitted Uses* Side/15 feet, Rear/25 feet
7. *Minimum required front, side and rear yard setbacks for all uses or structures shall be no less than eighty-three (83) feet from the road centerline when such yards are contiguous to a County road or state highway.*
8. *Maximum height for structures intended for human occupancy shall be thirty-five (35) feet; all others are not restricted.*

407: C3 – Highway Services District

Adult Entertainment Facilities are included in this Zoning District. The intent of the Madison County Zoning Resolution is not to prohibit these uses but to regulate the secondary effects of these uses within the community.

Permitted Uses:

1. Civic Uses including: government administration, clubs, college and universities, general day care services, guidance services, health care, hospitals, maintenance facilities, parks and recreation, postal facilities, primary education facilities, public assembly facilities, religious assembly facilities, safety services, secondary education facilities, and utilities.
2. Commercial Use Types, other than those uses defined in Adult Establishments, including:
 1. Cocktail lounges and bars, not including uses defined in Adult Establishments.
 2. Indoor commercial recreation.
 3. Communications services.
 4. Construction sales and services.
 5. Convenience storage.
 6. Convenience stores.
 7. Food sales (grocery stores).
 8. Retail services.
 9. Liquor sales.
 10. Lodging.
 11. Pet services.
 12. Research services.
 13. Restaurants.
 14. Surplus sales.
 15. Trade services.
 16. Veterinary services for small animals only with no outdoors boarding or kennel facilities.
3. Off-Street parking.
4. Passenger transportation excluding airports.
5. Amateur radio towers.

Permitted Conditional Uses:

1. Horticulture, feeds mills, and produce stands.
2. Agricultural sales and services.
3. Auction yards and barns.
4. Auto rental/sales services.
5. Auto services including convenience stores with fuel sales and gas stations.
6. Equipment rental/sales.
7. Equipment repair services.
8. Dry Cleaners and establishments with one dry cleaning unit having a capacity not to exceed 35 pounds per cycle using nonflammable or non-explosive solvents.
9. Outdoor commercial recreation facilities.
10. Adult Entertainment establishments, provided:

- a. No Adult business shall be closer than 1,000 feet to any similar use and no closer than 1,000 feet to a residential district or use, religious uses, educational uses and recreational uses. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult business, residential district or use, religious use, educational uses and recreational use.
 - b. Said businesses shall be screened along adjoining property lines as to prevent any direct visual contact of the adult business at the perimeter.
 - c. Doors, curtains and any other means of obstruction to the opening of all booths and other preview areas, including but not limited to Adult Novelty Businesses, Adult Motion Picture Arcades, Adult Mini-Motion Picture Theaters, and Adult Motion Picture Theaters shall be removed and kept off at all times during the execution of this permit. Failure to comply with this condition shall result in revocation of the Conditional Use Permit.
 - d. No adult business shall be open for business between the hours of twelve midnight (12:00 am) and 6:00 a.m.
 - e. The proposed location, design, construction, and operation of the particular use adequately safeguard the health, safety, and general welfare of persons residing or working in adjoining or surrounding property.
 - f. Such use shall not impair an adequate supply of light and air to surrounding property.
 - g. Such use shall not unduly increase congestion in the streets or public danger of fire and safety.
 - h. Such use shall not diminish or impair established property values in adjoining or surrounding property.
 - i. Such use shall be in accord with the intent, purpose, and spirit of these Regulations and the Comprehensive Development Plan of Madison County, Nebraska.
 - j. Applications for adult businesses under the terms of this Section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan defining the areas to be developed for buildings and structure, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls, the location and type of landscaping, and the location, size and number of signs.
 - k. An adult business shall post a sign at the entrance of the premises which shall state the nature of the business and shall state that no one under the age of eighteen (18) years of age is allowed on the premises. This section shall not be construed to prohibit the owner from establishing an older age limitation for entering the premises.
 - l. Prohibited Activities of Adult Businesses are as follows:
 1. No adult business shall employ any person less than eighteen (18) years of age.
 2. No Adult business shall furnish any merchandise or services to any person who is under eighteen (18) years of age.
 3. No adult business shall be conducted in any manner that permits the observation of any model or any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use. No operator of an adult business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct in or about the premises which is prohibited by these Regulations or any other laws of the State.
 4. No part of the interior of the adult business shall be visible from the pedestrian sidewalk, walkway, street, or other public or semi-public area.
11. Recycling collection and processing in an enclosed environment (does not include drop off areas).
 12. Enclosed and open warehousing subject to screening requirements.
 13. Railroad facilities and truck terminals.
 14. Broadcasting and wireless communication towers.
 15. Home occupations.

Permitted Accessory Uses:

1. Buildings and uses customarily incidental to the permitted and conditional uses.

2. Temporary buildings, incidental to construction work where such buildings or structures are removed upon completion of work.
3. Signs legal under these Regulations.
4. Parking legal under these Regulations.
5. Landscaping pursuant to these Regulations.

Lot, Setbacks, and Height Requirements: The lot, setback and height requirements shall be as follows:

Use	Lot Area	Lot Width	Front Yard	Side yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	10,000 sq. ft.	100 feet	30 feet	*	**	45 feet	25%
Permitted Conditional Uses	10,000 sq. ft.	100 feet	30 feet	*	**	45 feet	25%
Accessory Buildings	-	-	30 feet	*	**	45 feet	25%

* Side Yard setback shall be twenty-five feet (25') when abutting a State Highway or County Road, or shall be fifteen feet (15') when abutting any other street or road, including private roads, and shall be fifteen feet (15') when adjacent to any residential district.

** The Rear Yard setback shall be twenty-five feet (25'). With buildings three stories or greater having a rear yard setback of thirty feet (30').

Use Limitations:

1. When adjacent to any residential district, no parking, drives or signs shall be allowed in the required front yard within fifteen feet (15') of such residential district.
2. When adjacent to any residential district, any construction shall provide a six foot (6') high permanent screen in order to minimize impacts on residentially zoned property pursuant to these Regulations.
3. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
4. Exterior lighting fixtures shall be shaded so no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
5. All developments shall include access roads and an interior circulation system.

408: I Industrial District

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

Permitted Principal Uses.

The following principal uses are permitted in the I District:

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

Permitted Conditional Uses.

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

1. Warehouses or storage houses used for the warehousing or storage of hazardous products and materials.
2. Wholesale merchandise sales and storage houses including the commercial warehousing and storage of hazardous material either in mass or bulk.
3. Abattoirs
4. Alfalfa dehydrating plant
5. Asphalt manufacture or refining
6. Blast furnace or electric furnace
7. Boiler works
8. Cement, lime, gypsum or plaster-of-paris manufacture
9. Fat rendering
10. Packing house
11. Plating works
12. Sausage manufacture
13. Slaughter house
14. Smelter
15. Stock yards
16. Storage or baling of scrap paper, iron, bottles, rags or junk
17. Tallow, grease or lard manufacture or refining from animal fat
18. Tar distillation or manufacture
19. Radio, Cellular and television towers and transmitters.
20. Warehouses or storage houses used for the warehousing or storage of hazardous products and materials.

21. Wholesale merchandise sales and storage houses including the commercial warehousing and storage of hazardous material either in mass or bulk.
22. Vehicle wrecking yards, junkyards, salvage yards, and scrap processing yards subject to the following:
 - a. The operation shall be located on a tract of land at least six hundred sixty (660) feet from a residential district zone.
 - b. The operation shall be conducted wholly within a non-combustible building or within an area completely surrounded on all sides by a solid fence or wall, of uniform height, insure maximum safety to the public, obscure the junk from normal view of the public, and preserve the general welfare of the neighborhood. The fence or wall shall be installed in such a manner as to retain all scrap, junk, or other material within the yard.
 - c. No junk shall be loaded, unloaded or otherwise placed either temporarily or permanently outside the enclosed building, fence or wall, or within the public right-of-way.
 - d. Burning of paper, trash, junk, or waste materials shall be permitted only after approval of the Fire Department. The burning, when permitted, shall be done only during daylight hours.
 - e. No junk, salvage, scrap or other materials shall be piled or stacked higher than the top of the required fence or wall.
 - f. This use shall not be located on or visible from an arterial or major street or highway.
23. Other uses which may be noxious or offensive by reason of the emission of odor, dust, smoke, gas, noise or vibration or hazardous.

Lot Requirements.

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

1. There shall be a front yard of not less than thirty-five (35) feet.
2. There shall be a side yard on each side of a building not less than ten (10) feet, except on corner lots, the setback for all buildings shall be a minimum of thirty-five (35) feet on the side abutting a street/road.
3. There shall be a rear yard of no less than twenty-five (25) feet.
4. All front yards, except for access drives and guest parking, shall be landscaped and maintained with trees, shrubs, flowers and lawns.
5. All other yards shall be landscaped and maintained with trees, shrubs, flowers and lawns when they abut or are located across any street from an AG1, AG2, RT, RR or I District.
6. Height of Buildings.
 - a. Maximum height for principal uses: sixty (60) feet, except that when located within one hundred (100) feet of the RR or MH Districts buildings or structures shall not exceed thirty-five (35) feet in height.
 - b. Maximum height for accessory uses: twenty-five (25) feet.
7. Minimum lot width shall be at least one hundred fifty (150) feet.
8. Minimum lot area shall be at least one (1) acre excluding road R.O.W.
9. The total coverage of all buildings shall not occupy more than fifty (50) percent of the lot area.
10. Minimum required front, side and rear yard setbacks for all uses or structures shall be no less than eighty-three (83) feet from the road centerline when such yards are contiguous to a County road or state highway.

409: MUD Mixed Use Development District *(Section added by amendment September 27, 2005)*

The purpose of the Mixed Use Development District is to encourage and allow more creative and imaginative design of land developments than is possible under district zoning regulations. Mixed Use Development is intended to allow substantial flexibility in planning and designing a proposal. This flexibility often accrues in the form of relief from compliance with conventional zoning regulation site and design requirements. Ideally, this flexibility results in a development that is better planned, that contains more amenities, and ultimately a development that is more desirable to live in than one produced in accordance with typical zoning regulation and subdivision controls. An intrinsic and often neglected premise upon which the approval of a Mixed Use Development (MUD) District must be conditioned, while greater density or more lenient siting requirements may be granted, the Mixed Use Development should contain features not normally required of traditional developments. Inherent to realizing these objectives, is adhering to continuous and in-depth scrutiny of the proposed Mixed Use Development. To enable thorough analysis of a Mixed Use Development, more information is demanded about the proposal than would be required if development were being pursued through a different zoning district.

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

Permitted Principal Uses.

1. Permitted and conditional uses allowed in the zoning district underlying the planned development.
2. Any permitted or conditional use allowed in any other zoning district. An Animal Feeding Operation or Confined Animal Feeding Operation conditional use must still be approved as a conditional use in addition to and separate from the MUD District designation.

Requirements.

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

1. Said Mixed Use Development shall be in general conformity with the provisions of the Madison County Comprehensive Development Plan.
2. Said Mixed Use Development shall not have a substantially adverse effect on the development of the neighboring area.
3. The minimum size allowed for a MUD District shall be as follows:
 - Residential, Five (5) acres;
 - Mobile Home Parks, two (2) acres;
 - Commercial, three (3) acres;
 - Residential-commercial, four (4) acres;
 - Recreational, five (5) acre;
 - Industrial, five (5) acres;
 - Industrial - commercial, ten (10) acres;
 - Agricultural, five (5) acres;
 - Agricultural-residential, fifteen (15) acres;
 - Transitional Agriculture, five (5) acres.
4. Height, bulk, density and setback requirements may be varied so as to promote an efficient and creative MUD District.

Standards and conditions for development.

1. A MUD shall be consistent with the following general standards for use of land, and the use, type, bulk, and location of buildings, the density or intensity of use, open space, public facilities, and the development by subdivision:

2. The applicant shall satisfy the planning commission that he has the financial ability to carry out the proposed plan and shall prepare and submit a schedule of construction. The proposed construction shall begin within a period of twelve (12) months following the approval of the final application by the County Board. A minimum of fifty (50) percent of the total planned construction shown on the final plan shall be completed within a period of five (5) years following such approval or the plan shall expire. The period of time established for the completion of the development may be modified from time to time by the planning commission upon the showing of good cause by the developer.
3. The developer shall provide and record easements and covenants, shall make such other arrangements, and shall furnish such performance bonds, escrow deposit, or other financial guarantees as may be determined by the County Board to be reasonably required to assure performance in accordance with the development plan and to protect the public interest in the event of abandonment of said plan before completion.
4. The site shall be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development. The streets and driveways on the site of the proposed development shall be adequate to serve the residents or occupants of the proposed development.
5. The development shall not impose an undue burden on public services and facilities, such as fire and police protection.
6. The entire tract or parcel of land to be occupied by the Mixed Use Development shall be held in single ownership or control at the time of application, or if there are two (2) or more owners, the application for such Mixed Use Development shall be filed jointly by all owners.
7. The location and arrangement of structures, parking areas, walks, lighting, and appurtenant facilities shall be compatible with the surrounding land uses, and any part of a Mixed Use Development not used for structures, parking and loading areas, or access ways shall be landscaped or otherwise improved.
8. Off-street parking and loading shall be provided in accordance with the parking and loading requirements of these regulations.
9. When a commercial use within a MUD District abuts a residential district, a solid or semi-solid fence or wall at least six (6) feet high, but not more than eight (8) feet high, and having a density of not less than eighty (80) percent per square foot, shall be provided adjacent to any adjoining residential district; except in the event the adjacent residential district and the commercial developer are separated by a street right-of-way.
10. All residential, agricultural and commercial buildings shall be set back not less than twenty-five (25) feet from the right-of-way of any street and ten (10) feet from any district boundary lines that do not abut a street right-of-way. Additional setback from a heavily traveled thoroughfare may be required, when found reasonable by the planning commission for protection of health, safety, and general welfare.
11. Building coverage shall not exceed the following percentages of the net developable area of each individual parcel of the total development for each type of Mixed Use Development :
 - a. Residential, forty (40) percent maximum;
 - b. Commercial, thirty-five (35) percent maximum.
12. Lots within the MUD designated for an agricultural conditional use shall not comprise more than thirty (30) percent of the total land in the MUD.
13. A minimum of thirty (30) percent of the net area of that part of a MUD reserved for residential use shall be provided for open space as defined by these regulations under subsection (18.) below. Common open space for the leisure and recreation of MUD residents only shall be owned and maintained in common by them, through a homeowner's association. Lots within the MUD designated for an agricultural conditional use may be applied against the total amount of land needed for open space.

14. The MUD District shall include such provisions for the ownership and maintenance of the common open spaces as are reasonably necessary to insure its continuity, care, conservation, and maintenance, and to insure that remedial measures will be available to the County Board if the common open space is permitted to deteriorate, or is not maintained in a condition consistent with the best interests of the Mixed Use Development or of the entire community.
15. No residential use shall have direct access onto an arterial street.
16. All commercial areas must have access to a collector or arterial street; however, no individual commercial use may have direct access onto collector or arterial streets.
17. Sidewalks shall be built to county specifications along all public and private streets; however, an alternative pedestrian and sidewalk plan may be developed which provides pedestrian access between each use in the Mixed Use Development.
18. Open space as defined under this zoning district shall mean land area of the site not covered by buildings, parking, structures, or accessory structures, except recreational structures. Common open space as defined under this zoning district shall mean open space which is accessible and available to all occupants in common by a homeowner's, condominium's or resident's association.
19. The MUD District may allow for Cluster Developments provided they meet the definition of this Regulation and/or the developer creates an open space area which also contains a centralized sanitary sewer system which meets all requirements of the Nebraska Department of Environmental Quality for design and proper design capacity, including all other required permits.
20. The developer shall submit plans for the development to the Madison County Planning Department and to the Nebraska Department of Environmental Quality for review. The MUD District shall not be approved until all criteria have been met for the District, including approval and sign off for the sanitary septic system by the Nebraska Department of Environmental Quality. The developer or a Homeowners Association or Sanitary Improvement District shall be responsible for properly maintaining the system.
21. The developer may apply for a "staged" development with each stage to be reviewed and approved by the Madison County Planning Commission and the Board of Commissioners. No Zoning Permits will be issued within the area(s) identified as latter stages until the site plan for such stage is approved. At the time of the initial application, each stage area must be identified and the future use defined (i.e. commercial, residential, industrial, etc.).

Density Bonuses.

1. The use of the MUD District, in conjunction with Conservation Easements, will allow a developer of a Subdivision to institute Density Bonuses.
2. Density Bonuses shall be awarded in direct proportion to the amount of the proposed Subdivision that is placed within a Conservation Easement.

For example:

If a developer places 30% of the proposed Subdivision into a Conservation Easement, then the required Lot Area may be reduced by 30% in order to maintain the same number of lots that would have been allowed by the Subdivision lot area and the minimum lot size of the Zoning District.

Normal Development with Community Sewer and Water

- A developer has 10 acres of land to develop = 435,600 square feet
- Minimum lot area of the Zoning District = 10,000 square feet
- Total lots (minus streets) = 43.56

Development with Conservation Easements with Community Sewer and Water

- Same site of 10 acres = 435,600 square feet
- 30% of site is placed in a Conservation Easement = 130,680 square feet
- Density Bonus allows 43.56 total lots
- New minimum lot area for Subdivision = 7,000 square feet

Normal Acreage Development

- A developer has 30 acres of land to develop
- Minimum lot area of the Zoning District = 5 acres
- Total lots (minus street) = 6

Acreage Development with Conservation Easements

- Same site of 30 acres
- 30% of site is placed in a Conservation Easement = 9 acres
- Density Bonus allows 6 total lots
- New minimum lot area for Subdivision = 3.5 acres

3. Density Bonuses shall not be a means for a developer to lower the Minimum Lot Area within a Subdivision to below three (3) acres, when said lots are on private wells and septic systems. All lots shall be required to meet the criteria established for wells and septic systems as regulated by the Nebraska Department of Environmental Quality.

Procedure for Mixed Use Developments.

The unique character of Mixed Use Development requires their administrative processing as a special use in these Regulations. Mixed Use Developments may be processed as special uses in each district of these Regulations. Mixed Use Developments are more complex and of a significantly different character than other special uses, therefore requiring the establishment herein of specific procedures different than those used to process other special uses. The procedure, standards, objectives and purpose set forth in this Article, when in conflict with other provisions of these Regulations, as they may pertain to Mixed Use Development, and only Mixed Use Developments, shall be superseding.

A three-step procedure is prescribed for Mixed Use Developments.

1. Pre-Application Procedure

- a. Intent - The intent of the Pre-Application process is to obtain a general awareness of the County's adopted planning rationale, the compatibility of the proposed Mixed Use Development with existing and anticipated land uses in the vicinity, and a familiarity with the County's Mixed Use Development procedures. This procedure allows the developer to determine the suitability of the proposed Mixed Use Development procedures. This procedure allows the developer concerning the approval or construction of the proposed Mixed Use Development.
- b. Pre-Application Conference - Prior to the filing of an application for approval of a Mixed Use Development, the prospective applicant may request of the Joint Planning Commission one (1) informal meeting to discuss the development of the proposed Mixed Use Development site in conjunction with the County's adopted planning rationale and its compatibility with existing and anticipated land uses in the vicinity. Said meeting may be a part of a regularly scheduled meeting, shall be open to the public, and included on their agenda in advance of the meeting.

The Pre-Application conference is not mandatory nor does it require formal application fee, or filing of a Mixed Use Development plat. However, the expenses incurred by the County as a result of any additional conferences in excess of the one (1) entitled conference with the Planning Commission to discuss the development of the proposed Mixed Use Development site, within a period of one (1) year from the date of the initial Planning Commission conference on the said proposed Mixed Use Development site, shall be paid for by the prospective applicant.

- c. Pre-Application Document Review - Prior to the filing of an application for approval of a Mixed Use Development, either before, after, or in lieu of the Pre-Application Conference, all prospective applicants shall review copies of the Madison County Comprehensive Plan, the Zoning Map, and the Mixed Use

Development sections of these Regulations, which are available for inspection at the County Planning Department. The Plan shall be evaluated by the petitioner in order to determine the consistency of the proposal with the County's adopted planning rationale. The Zoning Map shall be reviewed to ascertain whether or not the proposal is likely to be compatible with existing and anticipated land uses in the vicinity of the proposal. The Mixed Use Development sections of these Regulations shall be reviewed to insure familiarity with the County's Mixed Use Development procedures.

The applicant is required to sign a statement to the effect that the applicant has reviewed copies of the Madison County Comprehensive Plan, the Zoning Map, and the Mixed Use Development sections of these Regulations at the time the Mixed Use Development application is submitted for approval.

2. Preliminary Plat Procedure

- a. Intent - It is the intent of the Preliminary Plat submission to obtain tentative approval from the County for the plans, design, and program that the petitioner contemplates compliance with. If the Preliminary Plat is approved, the petitioner can proceed to the Final Plat stage with reasonable assurance that the Final Plat will be approved if substantially in compliance with the Preliminary Plat. If the Preliminary Plat is submitted without the benefit of first completing the optional Conceptual Plat stage of the Mixed Use Development procedure, a relatively detailed submission is required to assure the County that the proposed Mixed Use Development substantially conforms to the objectives and standards expressed in this Article. If a Conceptual Plat has already been submitted and approved, the submission of the Preliminary Plat either in stages or in total is expected to refine the originally approved concept.
Any parcel of property may be eligible for consideration as a Mixed Use Development using the Preliminary Plat procedure. However, each petitioner for Preliminary Plat approval should be aware that the objectives and standards for Mixed Use Developments, as expressed in this Article, must be clearly integrated into the Mixed Use Development submission. Failure to do so will result in disapproval.
- b. Procedure - A request for approval of a Preliminary Plat, as a step in the Mixed Use Development procedure, shall be submitted to the Office of the Zoning Administrator, which shall refer same to the Planning Commission for public hearing, review and recommendation. The required procedure for review of the Preliminary Plat shall be: Submission of the items required of a Preliminary Plat petitioner as identified under the "Submission Requirements" Section of this Article. Said submission requirements fall into two general categories:
 - i. Submission of data required at the time application is made for Preliminary Plat approval;
 - ii. Submission of data required at the time of the first public hearing pertaining to the specific Preliminary plat.
- c. The Planning Commission shall hold a public hearing on the application for a Mixed Use Development Preliminary Plat in accord with the procedures established for conditional uses in these Regulations. If a public hearing was held on a Conceptual Plan for the subject Mixed Use Development, a second public hearing is required with the submission of the Preliminary Plat. The sophisticated submission required at the time of the Preliminary Plat hearing is significantly different from that required at the Conceptual Plan stage. In the first stage concepts are being reviewed, at the Preliminary Plat stage precise plans and designs are the subject of scrutiny. The public has the right to witness and voice opinions at both stages.
- d. Following the public hearing and review of the Preliminary Plat submission, the Planning Commission shall within thirty (30) days, unless an extension is requested by the petitioner, recommend approval, modification, or disapproval of the Preliminary Plat, and the reasons therefore, or indicate why a report and recommendation cannot be rendered to the County Board.

In its communication to the County Board, the Planning Commission shall set forth "findings of fact," in accordance with the "Findings of Fact" section of this Article, on which the recommendation is based and describing how the Preliminary Plat meets the standards and objectives stated in this Article.

- e. The County Board, after receipt of the Preliminary Plat from the Planning Commission, shall approve, modify, or disapprove the Plat within sixty (60) days, unless an extension is requested by the petitioner. In the case of approval, or approval with modification, the County Board shall authorize the Plat Officer to sign the Preliminary Plat. If the Preliminary Plat is the first submission made as part of the Mixed Use Development procedure, the County Board shall pass a resolution for a change in the Official County Zoning Map indicating that the subject site is approved for a Mixed Use Development and further allowing for any approved zoning amendments, variations, and/or special uses. The petitioner must submit subsequent Final Plat data in accordance with the schedule set forth in the "Revocation and Extension" Section of this Article. If same is not done, all map changes authorized by the County Board shall revert back to the original zoning designation affixed to the subject property in accordance with the same "Revocation and Extension" Section of this Article. The County Board may required such special conditions as it may deem necessary to ensure conformance with the objectives and standards established in this Article.

It is emphasized that no building or construction, excluding public improvements, may take place within the proposed Mixed Use Development, and no permits may be issued, until the Final Plat and accompanying data has been submitted, approved, and recorded. Several projects or stages may compose the overall Mixed Use Development. If this is the case, the Final Plat may be submitted and approved in several states in accordance with the agreed to development schedule processed with Preliminary Plat data. Permits shall be issued pursuant to the processing, approval, and recording of each separate stage of the overall Final Plat. Approval of a Preliminary Mixed Use Development Plat shall not constitute approval of the Final Plat. Rather, it shall be deemed an expression of approval to the layout submitted on the Preliminary Plat and as a guide to the preparation of the Final Plat, which will be submitted for approval of the County and subsequent recording, upon the fulfillment of the requirements of these regulations and conditions of the preliminary approval, if any. The Final Plat shall be approved if it conforms to the Preliminary Plat.

The Preliminary and Final Plats may be filed and approved simultaneously.

3. Final Plat Procedure

- a. Intent - The purpose of the Final Plat is to designate with particularity the land subdivided into conventional lots as wells as the division of other lands, not so subdivided, into common open space and building sites. The Final Plat is intended as a document to be recorded. The Final Plat shows the exact location of facilities, while the Preliminary Plat shows the general location of the same facilities.
- b. Procedure - The Final Plat shall be submitted as a Mixed Use Development Plat and shall conform substantially to the Preliminary Plat as approved and, if desired by the petitioner, may be submitted in stages with each stage reflecting the approved Preliminary Plat which is proposed to be recorded and developed; provided, however, that each stage submitted conforms to all requirements of these regulations. The required procedure for approval of a Final Plat shall be:
 - i. Submission of the items required of a Final Plat petitioner as identified under the "Submission Requirements" Section of this Article. Said submission shall be made to the Office of the Zoning Administrator for certification that the Final Plat is in conformance with Mixed Use Development Regulations and in agreement with the approved Preliminary Plat.
 - ii. The Planning Commission shall review the Final Plat data within thirty (30) days after submission. A public hearing is not required. After review of the Final Plat, the Planning Commission shall, within thirty (30) days, unless an extension is requested by the petitioner, recommend approval or disapproval, and the reasons therefore to the County Board.
 - ii. The County Board, after receipt of the Final Plat from the Planning Commission, shall approve, or disapprove the Final Plat within a period of sixty (60) days, unless an extension is requested by the petitioner. In the case of approval, the County Board shall authorize the Plat Officer to sign the Final

Plat. Permits are issued only after the Final Mixed Use Development Plat and any required supporting data have been recorded with the County Register of Deeds, and shall be issued in full conformance with the Mixed Use Development. Proof of the recording of the Final Plat shall be provided to the Zoning Administrator. The construction authorized by the Building Permit shall be in full compliance with the Final Mixed Use Development Plat, as recorded.

Submission Requirements.

1. Preliminary Plan Stage

At the time application is made for Preliminary Plan approval, the following items must be submitted to the Office of the Zoning Administrator:

- a. Application - A written application for a Mixed Use Development on forms supplied by the Office of the Zoning Administrator.
- b. Fee - A fee, of \$500 or \$250 each, is established by the Madison County Board for review of both the preliminary and the final proposal. A fee of \$250 will be assessed for review of any amendment submitted after final approval of the MUD. No fee will be charged for review of a "stage."

If special planning, engineering, architectural or other consultants must be retained by the County for review of the proposed Mixed Use Development, the petitioner shall be so notified, and all costs for said consultants expended by the County - not covered by the filing fee - shall be reimbursed by the petitioner.

- c. Notification List - A list of the names and addresses of owners of all property that is situated within one-thousand hundred (1,000) feet of the property lines of the subject site. This list will be prepared by a certified abstractor. This list shall be current as of the date of submission. People appearing on said list will be sent notice of the public hearing in compliance with statutory requirements.

The following are the agencies required to be notified by the applicant:

Nebraska Department of Environmental Quality
P.O. Box 98922
1200 "N" Street, Suite 400
Lincoln, Nebraska 68509-8922

Nebraska Department of Health and Human Services
Director of Health
301 Centennial Mall South
Lincoln, Nebraska 68509

U.S. Army Corp of Engineers
Eastern Nebraska Regulatory Field Office
9901 Pershing Drive
Omaha, Nebraska 68112

Nebraska Department of Natural Resources
301 Centennial Mall South
Lincoln, Nebraska 68509

Nebraska Department of Water Resources
301 Centennial Mall South
Lincoln, Nebraska 68509

Nebraska Department of Roads

1500 Highway 2
Lincoln, Nebraska 68509

Madison County Highway Superintendent
701 Michigan Avenue
Norfolk, Nebraska 68701

The affected school district(s)

All Utility Companies serving the proposed MUD

- d. Ownership - A state of present and proposed ownership of all land within the development.
- e. Legal Description - A legal description of the subject site.
- f. Taxes - Proof shall be furnished to indicate that there are no delinquent taxes constituting a lien on the whole or on any part of the property. Such proof may take the form of paid tax bills to the date of submission of the Mixed Use Development application, a statement from the title insurance company indicating that no liens affect the subject site, or a letter from the County Treasurer affirming that there are no delinquent taxes of the property.
- g. At the time of the public hearing on the Preliminary Plan, twenty (20) copies of all subsequent listed information shall be submitted (with the exception of non-reproducible exhibits). Failure to submit any of the required information, without a specific written waiver from the Planning Commission, shall constitute grounds for dismissal of the Mixed Use Development petition. Waiver of specific submission elements may be requested of the Planning Commission, in writing, at the time the Mixed Use Development Conceptual Plan application is made. The Planning Commission will decide upon the waiver request at its next regularly scheduled meeting; the petitioner will be notified of the decision, and the public hearing will then be scheduled. Specific grounds for waiver must be stated by the petitioner. The Preliminary Plan submission shall include the following:
 - i. Concept Plan - A drawing of the Mixed Use Development shall be prepared at a scale that provides for a clear understanding of the way in which the property is intended to be developed. The Plan shall indicate the concept of the development with refinements to indicate the overall land use pattern, general circulation system, open space or park system, and major features of the development. This Section does not require a detailed site plan of buildings, walks, etc. The Plan should include:
 - a. Boundary lines and dimensions of the subject site.
 - b. Existing and proposed easements--general location and purpose.
 - c. Streets on, adjacent, or proposed for the tract, including all rights-of-way and pavement widths.
 - d. Land use patterns proposed for the subject site.
 - e. Map data--name of development, name of site planner, north point, scale, date of preparation.
 - ii. Site Data - A list of pertinent site data, including:
 - a. Description and quantity of land uses.
 - b. Acreage of site.
 - c. Number of dwelling units proposed and anticipated population.

- d. Area of industrial, commercial, institutional, recreational, and circulation land uses proposed.
- e. Densities of residential areas.
- f. Bedroom mixes.
- iii. Objectives - A statement indicating how the proposed Mixed Use Development corresponds to and complies with objectives for Mixed Use Developments as previously stated in this Article.
- iv. Schedule - Development schedule indicating:
 - a. Stages in which project will be built with emphasis on area, density, use, and public facilities such as open space to be developed with each stage. Overall design of each stage shall be shown on the Plat and through supporting graphic material.
 - b. Approximate dates for beginning and completion of each stage.
 - c. If different land use types are to be included within the Mixed Use Development, the schedule must include the mix of uses anticipated to be built in each stage.
- v. Environmental Information - Data identifying existing natural and environmental site conditions, including:
 - a. Topography - A topographic map, if possible, underlying the concept plan, at a minimum of one (1) foot contour intervals.
 - b. Flood Plain - Information from the most current source specified by the County indicating the location and extent of the regulatory flood plain.
 - c. Soils - Information from the most current U.S. Department of Agriculture - Soil Conservation Service Soils Catalog indicating the location and species of soils. If said information is not available, soil borings may be submitted.
 - d. Location and extent of existing vegetation.
 - e. A depiction of existing surface drainage patterns and proposed retention and detention areas.
- vi. Utilities - Statement indicating that sanitary sewer, storm sewer, and water will be available to the site, or if well and septic systems are proposed, a statement from a licensed professional engineer indicating that the proposed development can be suitably served by such systems.
- vii. Traffic Analysis - A study providing information on the existing road network, and adjunct vehicle volumes, and the effect the proposed Mixed Use Development will have on the existing (or improved) road network may be requested by the Planning Commission, the County Highway Superintendent, or the County Board of Commissioners.

If traffic or roadway improvements external to the subject site are anticipated as a result of the proposed development, the petitioner shall submit a statement indicating the nature and extent of those contemplated improvements. Included in said statement shall be information pertaining to what proportion of the external traffic and roadway improvements made necessary as a result of the Mixed Use Development, if any, the developer will pay for. All internal traffic and roadway improvements associated with the Mixed Use Development shall be paid for by the developer.

- viii. Tax and School Impact - A study indicating the sources and amounts of revenue to be generated to various governmental jurisdictions as a result of the development, expected school-age children

generation, and estimated cost of providing service to the development that will be absorbed by the County and the affected school districts may be requested by the Planning Commission, the County School Superintendent, or a School District Superintendent or the County Board of Commissioners.

- ix. Market Analysis - Depending upon the types of land uses proposed to be included in a Mixed Use Development, The Planning Commission or the Board of Commissioners may request information provided from one (1) or more of the following categories:
 - a. Mixed Use Developments proposed to contain any residential uses shall require submission of at least the following market data:
 - 1. Details about the proposal pertaining to: housing types, floor area of dwellings, estimated price ranges, number of bedrooms, densities, amenities included, etc.
 - 2. An evaluation of the historical market pattern for the types of units proposed. Building permit issuance trends and/or surveys of existing recently constructed residential developments shall be used in this evaluation.
 - 3. Total anticipated demand in the County for the type of unit(s) proposed shall be estimated for the immediately subsequent five (5) year period. The percent of that demand which would be absorbed by the proposed Mixed Use Development shall be identified. Methods used in determining the five (5) year demand shall be indicated.
 - b. Mixed Use Developments proposed to contain any commercial uses shall require submission of at least the following market data:
 - 1. Details about the proposal pertaining to: number of users, floor area of each use area, bulk of buildings, price or rent ranges, floor area ratios, place of residence of prospective employees, etc.
 - 2. Trade area which the commercial development is intended to serve.
 - 3. Location of comparable commercial developments within the trade area.
 - 4. Population and effective per capita buying income of the trade area.
 - 5. Anticipated sales volume of the commercial development.
 - c. Mixed Use Developments proposed to contain any industrial uses shall require submission of at least the following market data:
 - 1. Details about the proposal pertaining to: number of users, floor area of each use area, bulk of buildings, price or rent ranges, floor area ratios, approximate number of employees, place of residence of prospective employees, etc.
 - 2. Location of other industrial development within the community.
 - 3. Market area for anticipated industries.
- x. Land Use and Zoning Exhibit - A graphic portrayal of existing land use and zoning patterns within a minimum of 1,320 feet of the subject site.
- xi. Conditional Use Permit Application – This is for any proposed use listed as a Conditional Use in the underlying zoning district. This is for Animal Feeding Operation or Confined Feeding Operations only.

2. Final Plat Stage

At the time the Final Plat is filed with the Planning Commission for review and recommendation, the following items must be submitted:

- a. Final Detailed Plan - A final Mixed Use Development Plat, suitable for recording with the County Register of Deeds, shall be prepared. The purpose of the Final Plat is to designate with particularity the land subdivided into conventional lots as well as the division of other land, not so treated, into common open areas and building areas. The Final Plat shall include:
 - i. An accurate legal description of the entire area under immediate development within the planned development.
 - ii. A Mixed Use Development Plat of all lands which are a part of the Final Plat being submitted, and meeting all the requirements for a Final Plat. If lands which are a subject of the Final Plat are to be subdivided, then a subdivision plat is also required.
 - iii. An accurate legal description of each separate unsubdivided use area, including common open space.
 - iv. Designation of the location of the building pads, or areas, or setback lines or setback standards for all buildings to be constructed.
 - v. Certificates, seals, and signatures required for the dedication of lands, and recording the document.
 - vi. Tabulation of separate unsubdivided use area, including land area, number of buildings, number of dwelling units, number of bedrooms, and dwelling units per acre.
- b. Common Open Space Documents - All common open space shall be either conveyed to a municipal or public corporation, conveyed to a not-for-profit corporation or entity established for the purpose of benefiting the owners and residents of the Mixed Use Development, or retained by the developer with legally binding guarantees, in a form approved by the County Attorney, verifying that the common open space will permanently be preserved as open area. All land conveyed to a not-for-profit corporation or like entity shall be subject to the right of said corporation to impose a legally enforceable lien for maintenance and improvement of the common open space.
- c. Final Systems Plans - Final plans, with all required detail, shall be submitted, including:
 - i. Engineering plans showing how the site is to be serviced with sewer, water, well, and/or septic systems (as agreed to during the Preliminary Plat Stage).
 - ii. Lighting plans.
 - iii. Drainage and storm water retention and detention plans.
 - iv. Road plans, including curbs and gutters, on-site/off-site signalization, acceleration, deceleration lanes, etc.
 - v. Sidewalk, paths, and cycle trails.
 - vi. Landscape Plans showing the type and location of plant material, berms, and other aesthetic treatments.
- d. Public Facilities - All on-site and/or off-site public facilities and improvements made necessary as a result of the Mixed Use Development shall be either constructed in advance of the approval of the Final Plat or subdivider's bond or approved letters of credit posted to guarantee construction of the required improvements. The subdivider's bond or approved letters of credit, payable to the County of Madison, shall

- be sufficient to cover the full cost of the improvements plus ten (10) percent. Detailed construction plans shall be submitted for all public facilities to be built.
- e. Construction Plans - Detailed plans shall be submitted for the design, construction, or installation of site amenities; including buildings, landscaping, lakes, and other site improvements.
 - f. Construction Schedule - A final construction schedule shall be submitted for that portion of the Mixed Use Development for which approval is being requested.
 - g. Guarantee Deposit - A deposit shall be made to the County in cash, letter of credit approved by the County Board in a form acceptable to the County Attorney, or maintenance bond equal to fifteen (15) percent of the estimated cost of roads, storm sewers, and community water or sewer systems. The deposit shall be a guarantee of satisfactory performance of the facilities constructed within the Mixed Use Development and shall be held by the County for a period of eighteen (18) months from the date of acceptance of the facilities by the County. After such eighteen (18) months, the deposit shall be refunded if no defects have developed, or if any defects have developed, then the balance of such deposit shall be refunded after reimbursement for amounts expended in correcting defective facilities.
 - h. Delinquent Taxes - A certificate shall be furnished from the appropriate County official that no delinquent taxes exist and that all special assessments constituting a lien on the whole or any part of the property of the Mixed Use Development have been paid.
 - i. Covenants - Final agreements, provisions, or covenants which will govern the use, maintenance and continued protection of the Mixed Use Development shall be approved by the County and recorded at the same time as the Final Mixed Use Development Plat.

Amendments.

The MUD District regulation or an approved preliminary or final development plan may be amended in the same manner prescribed in this division for approval of a preliminary or final plan. An application for amendment may be made by the homeowner's association or fifty-one (51) percent of the owners of the property within the MUD District.

Platting.

For unplatted tracts or tracts being replatted, the approval of the preliminary MUD shall be considered as the approval of a preliminary plan. To complete the platting process, the applicant need only submit a final plat. Said final plat shall be in accordance with the subdivision regulations, except the scale shall be either two hundred (200) feet, one hundred (100) feet, fifty (50) feet, or twenty (20) feet to the inch.

Findings of Fact.

The Planning Commission shall, after the public hearing, set forth to the County Board the reasons for the recommendation, and said recommendation shall set forth with particularity what respects the proposal would be in the public interest, including but not limited to findings of fact on the following:

1. In what respects the proposed plan is consistent with the stated purpose of the Mixed Use Development regulations and with the Madison County Comprehensive Plan.
2. The extent to which the proposed plan meets the standards of the Mixed Use Development regulations as set forth herein.
3. The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, dimension, area, bulk, and use, and the reasons why such departures are deemed to be in the public interest.
4. The method, by which the proposed plan makes adequate provision for public services, provides adequate control over vehicular traffic, provides for and protects designated common open space, and furthers the amenities of light and air, recreation and visual enjoyment.
5. The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood.

6. The desirability of the proposed plan as regards physical development, tax base and economic well-being of the County.
7. The conformity with County objectives.

Submission Checklist

Preliminary Plan Stage

- ☐ Application
- ☐ Fee of \$250
- ☐ Notification list prepared by a certified abstractor of property owners within 1,000 ft.
- ☐ Proof of notification by the applicant of:
 - i. Nebraska Department of Environmental Quality
 - ii. Nebraska Department of Health and Human Services
 - iii. U.S. Army Corps of Engineers
 - iv. Nebraska Department of Natural Resources
 - v. Nebraska Department of Water Resources
 - vi. Nebraska Department of Roads
 - vii. All utility companies serving the development.
 - viii. The affected School District
 - ix. Madison County Highway Superintendent
- ☐ Proof of ownership and a list of owners of all land within the development.
- ☐ Legal description of the subject site.
- ☐ Proof of no delinquent taxes.
- ☐ 20 copies of the preliminary plan.
- ☐ Concept Planning and Zoning Site
- ☐ Site Data
- ☐ Objectives
- ☐ Development schedule
- ☐ Environmental Data
- ☐ Utilities
- ☐ Traffic Analysis if requested
- ☐ Tax and School Impact Report if requested
- ☐ Market Analysis if requested
- ☐ Land Use and Zoning
- ☐ Conditional Use Permit Application

Final Plan Stage

- ☐ Fee of \$250
- ☐ Final Detailed Plan suitable for recording with the Register of Deeds
- ☐ 20 copies of the Final Detailed Plan
- ☐ Common Open Space Documents
- ☐ Final Systems Plans
- ☐ Public Facilities
- ☐ Construction Plans
- ☐ Guarantee Deposit
- ☐ Proof of no delinquent taxes.
- ☐ Covenants

409 410: EC Environmental Corridor

The intent of the EC Environmental Corridor District shall be to provide for areas to be protected from the intrusion of development and be preserved in a natural state for the residents of Madison County.

In an Environmental Corridor, no building, structure, land, or premises shall be used, and no building shall be erected, constructed, or altered, within the minimum setback of 150 feet from any established lake, stream, pond, creek, drinking water well or river.

Exceptions will be made for bridges, water accesses, and public parks and recreation areas including playgrounds, non-motorized trails, picnic shelters, forest and conservation areas. Seasonal Campgrounds and radio, cellular and television towers and transmitters may be allowed by Conditional Use Permit. The pasturing of livestock and general farming practices shall be permitted within an Environmental Corridor.

All existing uses at the time of adoption of these regulations, within an Environmental Corridor, shall be grandfathered and considered a non-conforming use. Any Special or Conditional Use Permits existing at the time of adoption of these regulations may be renewed provided the use does not change or expand.

5

ARTICLE FIVE

CONDITIONAL USES, PROCEDURES AND STANDARDS

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

501 Permitted.

Permitted uses are those uses permitted outright in the district.

502 Conditional Uses.

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

1. Procedure. After receiving an application and fee, the amount to be established by the governing body, and after a public hearing, the County Board of Commissioners after recommendation from the planning commission may authorize a conditional use permitted in a zoning district, provided it is found that the location and characteristics of the use will not be injurious to the health, safety, morals and general welfare of the area. An application for a conditional use permit shall include a site plan which shall denote the location of any hazardous materials. Notice for such hearings shall be given in the manner provided by these regulations.
 - a. Public Hearing on a Conditional Use. A proposed conditional use shall be considered by the Planning Commission at a public hearing held within forty-five (45) days after filing of the application. The County Clerk shall give notice of the hearing in the following manner:
 - i. By publication of a notice in a legal newspaper of general circulation in the County not less than ten (10) days prior to the date of the hearing.
 - ii. By sending notices by mail not less than ten (10) days prior to the date of hearing to the record title holders within the area enclosed by lines parallel to and one-thousand (1,000) feet from the exterior boundaries of the operation, structure or use involved, using for this purpose the name and address of owners as shown upon the records of the County Assessor. Applicant shall present the Zoning Administrator with a property list certified to by a registered abstractor of the record title holders within said one-thousand (1,000) feet. The notification area of property owners may be increased based upon the application of use and the required distances in each district or otherwise specified in these Regulations. The Zoning Administrator reserves the right to give notice to any other person(s) or agency as deemed necessary. Failure to receive such notice shall not invalidate any proceedings in connection with the application for a conditional use.
 - iii. Recess of the Hearing by Planning Commission. The Planning Commission may recess a hearing on a request for a conditional use in order to obtain additional information or to serve further notices upon other property owners or persons whom it decides may be interested in the proposed conditional use. Upon recessing for this purpose, the Planning Commission shall announce the time and date when the hearing will be resumed.
 - iv. Action on a Conditional Use. The Planning Commission may recommend approval, approval with specified conditions or disapproval of a conditional use to the County Board of Commissioners. The County Board of Commissioners may then act upon the Conditional Use after considering the Planning Commission's recommendation. A file of all recommendations and actions pertaining to Conditional Uses will be maintained in a manner prescribed by the County Board of Commissioners.

- v. Notification of Action. The County Clerk shall notify the applicant for a conditional use in writing of the County Board of Commissioners action within seven (7) days after the decision has been rendered.
2. Standards. The conditional uses shall conform to the intent and purpose of these regulations, the comprehensive plan and the following requirements:
 - a. The use shall in all other respects conform to the applicable regulations of the district in which it is located.
 - b. Ingress and egress shall be so designed as to minimize congestion in the public street, road or highway.
 - c. The use shall be in harmony with the character of the area and most appropriate use of the land. The planning commission considering an application for a conditional use may consider, among other things, the most appropriate use of land, the conservation and stabilization of the value of property, adequate open space for light and air, concentration of population, congestion of public streets, and the promotion of public safety, health, convenience, and comfort. The planning commission may stipulate and require such conditions and restrictions upon the conditional use and operation as is deemed necessary for the protection of the public interest and to secure compliance with these regulations. All decisions of the planning commission may be appealed to the governing body, by any person aggrieved by the decision of the planning commission, or any taxpayer, officer, department, board, or bureau of the county. Such appeal must be presented to the Zoning Administrator with fifteen (15) days after the decision is made by the planning commission. In the event of an appeal, the governing body, after a public hearing, may reverse, affirm or modify the decision of the planning commission.
3. If an approved conditional use is not begun within a period of twelve (12) months following approval, the conditional use permit shall become null and void.
4. Failure to observe and maintain the conditions and restrictions of the conditional use permit shall be considered a violation of these regulations and subject to a penalty as provided herein and shall be grounds for a review of the conditional use permit. Review of a conditional use permit may be requested by the Zoning Administrator, the planning commission or by the governing body. In the event of the review of a conditional use permit as provided herein, a public hearing shall be held by the planning commission. Notices of public hearing shall be as provided within these regulations. Following the public hearing, the planning commission may leave the conditional use permit unaltered, revoke the permit, or alter the permit by adding, deleting or modifying the conditions or restrictions. Any decision of the planning commission regarding the review may be appealed to the governing body which, after a public hearing, may reverse, affirm or modify the decision of the commission. Procedures for an appeal shall be as provided for within these Regulations.
 - a. Any operation or owner who has been granted a Conditional Use Permit (CUP) shall be subject to a review thereof upon a formal complaint being filed with the Zoning Administrator by any person who may be affected by the granting of a CUP. The formal complaint process shall follow the following procedures:
 - i. A complainant shall file a written complaint with the Zoning Administrator. The complaint shall be on a form provided by the Zoning Administrator and shall list the name and address of the complainant, the name and address of the holder of the CUP, the nature of the complaint, and the requested relief the complainant seeks. The complaint shall be accompanied by a filing fee as identified in the County Fee Schedule.
 - ii. Within seven (7) days of the receipt of a complaint as set forth in subparagraph (i) above, the Zoning Administrator shall send a copy of the complaint to the holder of the CUP by certified mail, return receipt requested, and notify the holder of the CUP that he/she or it has seven (7) days to respond in writing to the Zoning Administrator concerning the allegations contained in the complaint.
 - iii. Upon receipt of the holder of the CUP's response to the complaint, the Zoning Administrator shall send a copy of the response to the complainant by certified mail, return receipt requested. In addition, the Zoning Administrator shall schedule an informal meeting with the complainant and the holder of the CUP within seven (7) days of the Zoning Administrator's receipt of the holder of the CUP's response. Notice of the informal meeting shall be sent to the

complainant and the holder of the CUP by certified mail, return receipt requested. The time and date of the meeting may be changed by mutual agreement of the complainant, holder of the CUP, and the Zoning Administrator, but in no event shall the meeting be continued more than seven (7) days beyond the time originally set by the Zoning Administrator. Either time the complainant or the holder of the CUP may be represented at the informal meeting by his/her or its attorney. The purpose of the meeting is for the complainant and holder of the CUP to attempt to resolve the nature of the complaint, with the assistance of the Zoning Administrator. If the matter of the complaint is resolved, the Zoning Administrator shall reduce the agreement to writing and the same shall be signed by the complainant and the holder of the CUP. The agreement shall be kept on file with the Zoning Administrator and shall become a part of the holder of the CUP's Conditional Use Permit.

- iv. If the complainant and the holder of the CUP are unable to resolve the nature of the complaint as set forth in subparagraph (iii) above, or if the holder of the CUP fails or refuses to either respond in writing to the Zoning Administrator or to attend the informal meeting as provided in subparagraph (iii) above, the complaint shall be referred to the Planning Commission for action. The Planning Commission shall give notice as required by law and conduct a public hearing on the complaint. The purpose of the hearing will be to identify and quantify the complaint and to impose solution(s) to the problem or add additional conditions to the holder of the CUP's Conditional Use Permit. If, after the public hearing and the approval and adoption of the solution(s) or additional conditions to the CUP by the Planning Commission, the holder of the CUP fails or refuses to comply with the same or fails or refuses to comply with any regulations set forth by the Nebraska Department of Environmental Quality (DEQ) or appropriate agency, the holder's CUP may be revoked by the Planning Commission after the Planning Commission shall have given notice as required by law and conducted a second public hearing on the revocation of the CUP.
 - v. If the complainant shall fail or refuse to attend the informal meeting with the Zoning Administrator, the complaint shall be dismissed.
 - vi. The Zoning Administrator, Planning Commission, or Governing Body shall retain the right to file complaints on their own behalf as appointed or elected officials for any violation of a holder's CUP or a violation of any rules or regulations of the DEQ or any other state agency having jurisdiction over the subject matter of the CUP.
 - vii. All documentation concerning all complaints filed under this section, whether dismissed or otherwise, and all associated matters shall be kept on file in the office of the Zoning Administrator. In addition, all such documentation shall constitute a public record and subject to inspection and review by the public. The filing fee of said complaint shall be retained by the Zoning Administrator regardless of review outcome.
5. Conditional use permits are issued for the use of the property according to the terms of the permit or until the use of the property is changed to a permitted use or another allowed conditional use in the district. To change to another conditional use allowed within the district, the same procedures of this section for establishing a conditional use shall be followed.
 6. The Zoning Administrator shall cause the conditional use permit, any amendments and all applicable instruments to be filed with the Register of Deeds for recording. The recording costs shall be paid by the applicant for the conditional use permit.

6

ARTICLE SIX

SUPPLEMENTAL REGULATIONS

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

601 Radio, Television and Wireless Communication Towers.

Intent.

Based upon the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act) grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunication services. This section is intended to regulate towers, telecommunications facilities and antennas in the County in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunication service. Telecommunication facilities, towers and antennas in the County, to protect residential areas and land uses from potential adverse impact of installation of towers and antennas through careful design, siting, and camouflaging, to promote and encourage shared use / collocation of towers and other antenna support structures rather than the construction of additional single use towers, to avoid potential damage to property caused by towers, telecommunications facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed when no longer used or are determined to be structurally unsound and to ensure that towers and antennas are compatible with surrounding land uses.

Definitions.

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

1. Antenna: A device, designed and intended for transmitting or receiving television, radio, or microwave signals, direct satellite service (including direct-to-home satellite service), and/or video programming services via multi-point distribution services.
2. Antenna Support Structure: Any building or structure other than a tower which can be used for location of telecommunications facilities.
3. Applicant: Any person that applies for a Tower Development Permit.
4. Application: A process by which the owner of a tract of land within the zoning jurisdiction of the County submits a request to develop, construct, modify, or operate a tower upon such tract of land. The term application includes all written documentation, verbal statements, and representations, in whatever, formal forum, made by an applicant to the County concerning such request.
5. Conforming Commercial Earth Station: A satellite dish which is two meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this regulation.
6. Engineer: Any engineer qualified and licensed by any state or territory of the United States of America.
7. Owner: Any person with a fee simple title or a leasehold exceeding ten (10) years in duration to any tract of land within the zoning jurisdiction of the County who desires to develop, construct, modify, or operate a tower upon such tract of land.
8. Person: Any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

9. **Satellite Dish Antenna:** An antenna consisting of a radiation element intended for transmitting or receiving television, radio, microwave, or radiation signals and supported by a structure with or without a reflective component to the radiating dish, usually circular in shape.
10. **Stealth:** Any telecommunications facility, tower, or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than a tower, such as light poles, power poles and trees.
11. **Telecommunications Facilities:** Any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:
 - a. Any Conforming Commercial Earth Station antenna two (2) meters or less in diameter which is located on real estate zoned AG1, AG2, AT, RR, C3 or I.
 - b. Any earth station antenna or satellite dish antenna of one (1) meter or less in diameter, regardless of zoning applicable to the location of the antenna.
12. **Tower:** A self-supporting lattice, guyed, or monopole structure that supports Telecommunications Facilities. The term Tower shall not include non-commercial amateur radio operators' equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively.
13. **Tower Development Permit:** A permit issued by the County upon approval by the County Board of an application to develop a tower within the zoning jurisdiction of the County; which permit shall continue in full force and effect for so long as the tower to which it applies conforms to this Section. Upon issuance, a Tower Development Permit shall be deemed to run with the land during the permit's duration and may be transferred, conveyed, and assigned by the applicant to assigns and successors-in-interest.
14. **Tower Owner:** Any person with an ownership interest of any nature in a proposed or existing tower following the issuance of a Tower Development Permit.

Location of Towers and Construction Standards

1. Towers shall be permitted conditional uses of land in only those zoning districts where specifically listed and authorized in this regulation.
2. No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the County prior to approval of its application for a Tower Development Permit by the County Board and issuance of the permit by the County. Applicants shall submit their application for a Tower Development Permit to the Zoning Administrator and shall pay a filing fee in accordance with Section 117.
3. All towers, telecommunications facilities and antennas on which construction has commenced within the zoning jurisdiction of the County after the effective date of this regulation shall conform to the Building Codes and all other construction standards set forth by the County, federal, and state law and applicable American National Standards Institute (ANSI). Upon completion of construction of a tower and prior to the commencement of use, an engineer's certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed with the Zoning Administrator.

Application to Develop a Tower

Prior to commencement of development or construction of a tower, an application shall be submitted to the Zoning Administrator for a Tower Development Permit and shall include the following:

1. Name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. The application shall be executed by all applicants.
2. The legal description and address of the tract of land on which the tower is to be located.

3. The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one (1) mile radius of the proposed tower, including publicly and privately owned towers and structures.
4. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicants telecommunications facilities on a tower or useable antenna support or written technical evidence from an engineer that the applicants telecommunications facilities cannot be installed or collocated on another tower or useable antenna support structure.
5. Written technical evidence from an engineer that the proposed tower will meet the established Building Code, and all other applicable construction standards set forth by the County Board and federal and state and ANSI standards.
6. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residentially used and / or zoned property and nearest roadway, street or highway.
7. Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufacturers literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.
8. A performance bond in the amount of fifty-thousand dollars (\$50,000) for the expenses of removal and disposal of the tower.

Tower Development Permit: Procedure

After receipt of an application for a Tower Development Permit, the Zoning Administrator shall schedule a public hearing before the Planning Commission, following all statutory requirements for publication and notice, to consider such application. The Planning Commission shall receive testimony on the Tower Development Permit and shall make a recommendation to the County Board. Upon the completion of the Planning Commission Public Hearing the Zoning Administrator shall schedule a public hearing before the County Board, following all statutory requirements for publication and notice, to consider such application and the recommendation of the County Planning Commission. Notice, for each Public Hearing, shall be made at least one (1) time and at least ten (10) days prior to such hearing. In addition, the Zoning Administrator shall cause a notice to be posted in a conspicuous place on the property on which action is pending. Such notice shall conform to the notice requirements in Section 901 of this regulation. The Planning Commission and County Board may approve the Tower Development Permit as requested in the pending application with any conditions or safeguards it deems reasonable and appropriate based upon the application and / or input received at the public hearings or deny the application. In all zoning districts in which towers are a permitted conditional use of land, the Tower Development Permit shall be deemed a conditional use permit for said tract of land.

Setbacks and Separation or Buffer Requirements

1. All towers up to fifty (50) feet in height shall be setback on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of fifty (50) feet in height shall be set back one (1) additional foot for each foot of tower height in excess of fifty (50) feet. The height of the tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.
2. Towers exceeding one hundred (100) feet in height may not be located in any residentially zoned district and must be separated from all residentially zoned districts and occupied structures other than those utilized by the tower owner, by a minimum of two hundred (200) feet or one hundred percent (100%) of the height of the proposed tower, whichever is greater.

3. Towers of one hundred (100) feet or less in height may be located in residentially zoned districts provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the tower owner, by a minimum of one hundred percent (100%) of the height of the tower.
4. Towers must meet the following minimum separation requirements from other towers:
 - a. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed by a minimum of seven hundred fifty (750) feet.
 - b. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of one thousand five hundred (1,500) feet.

Structural Standards for Towers Adopted

The *Structural Standards for Steel Antenna Towers and Antenna Supporting Structures*, 1991 Edition (ANSI/EIA/TIA 222-E-1991) is hereby adopted, together with any amendments thereto as may be made from time to time, except such portions as are hereinafter deleted, modified, or amended by regulation and set forth in this Article of the Zoning Regulation.

Illumination and Security Fences

1. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). In cases where there are residential uses / zoned properties within a distance of 300% of the height of the tower, any tower subject to this Section shall be equipped with dual mode lighting. In no case shall said tower be allowed to operate a strobe lighting system after sunset and before dawn.
2. All self-supporting lattice or guyed towers shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which will preclude to the extent practical, unauthorized climbing of said structure.

Exterior Finish

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

Landscaping

All tracts of land on which towers, antenna support structures, telecommunications facilities and/or antennas are located shall be subject to the landscaping requirements of the County.

Maintenance, Repair or Modification of Existing Towers

All towers constructed or under construction on the date of approval of this regulation may continue in existence as a non-conforming structure and may be maintained or repaired without complying with any of the requirements of this Section. Nonconforming structures or uses may not be enlarged or the degree of nonconformance increased without complying with this Section, including applying for and obtaining a Tower Development Permit. Any modification or reconstruction of a tower constructed or under construction on the date of approval of this regulation shall be required to comply with the requirements of this Section including applying for and obtaining a Tower Development Permit. Said application shall describe and specify all items which do not comply with this Section and may request, subject to final review and approval of the County Board, an exemption from compliance as a condition of the Tower Development Permit.

Inspections

The County reserves the right to conduct inspection of towers, antenna support structures, telecommunications facilities and antenna upon reasonable notice to the tower owner or operator to determine compliance with this Section and to prevent structural and equipment failures and accidents which may cause damage, injuries or nuisances to the public. Inspections may be made to determine compliance with the County's Zoning Codes and any other construction standards set forth by the County, federal, and state law or applicable ANSI standards. Inspections shall be made by either an employee of the County's Zoning Office, or a duly appointed independent representative of the County.

Maintenance

The towers, antenna support structures, telecommunications facilities and antennas shall at all times be kept and maintained in good condition, order and repair so that the same does not constitute a nuisance to or a danger to the life or property of any person or the public.

Abandonment

1. The tower owner shall be required to notify the Zoning Administrator of any periods of nonuse or abandonment of the tower facility.
2. If any tower shall cease to be used for a period of one (1) year, the Zoning Administrator shall notify the tower owner that the site will be subject to determination by the Zoning Administrator that the site has been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, the tower owner shall have thirty (30) days to show by a preponderance of evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that, the tower owner shall have seventy-five (75) days, thereafter to dismantle and remove the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Zoning Administrator, or his/her designee pursuant to authority of the Nebraska State Statutes and County of Madison County codes, and charge the costs thereof against the real estate on which the tower is located or the owner of record of the said real estate.

Satellite Dish Antennas, Regulation

1. Upon adoption of this regulation, installation of satellite dish antennas shall be permitted within the zoning jurisdiction of Madison County only upon compliance with the following criteria:
2. In residentially zoned districts, satellite dish antennas may not exceed a diameter of ten (10) feet.
3. Single family residences may not have more than one (1) satellite dish antenna over three (3) feet in diameter.
4. Multiple family residences with ten (10) or less dwelling units may have no more than one (1) satellite dish antenna over three (3) feet in diameter. Multiple family residences with more than ten (10) dwelling units may have no more than two (2) satellite dish antennas over three (3) feet in diameter.
5. In residential zoning districts, satellite dish antennas shall not be installed in the required front yard setback or side yard setback area.
6. All satellite dish antennas installed within the zoning jurisdiction of Madison County, upon adoption of this regulation, shall be of a neutral color such as black, gray, brown, or such color as will blend with the surrounding dominant color in order to camouflage the antenna.

603 Sand and Gravel Mineral, Stone, Rock, and Soil Extraction and Quarries.

It shall be unlawful for any owner or owners of property to extract, mine, quarry, or remove soil for commercial purposes without a Conditional Use Permit except soil donated for use by a municipality, county, or state for public roadway purposes.

When soil is sold, removed, and transported on Madison County Roads, it shall be the responsibility of the property owner to meet the following conditions:

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

5. The surface shall be maintained in such a manner that surface waters do not collect or pond, unless specifically approved. Underground drainage may be supplied if it connects to an existing drainage facility;
6. Topsoil shall be collected and stored for redistribution on the site at the termination of the operation;
7. Excavation shall be conducted in such a way as not to constitute a hazard to any persons, nor to the adjoining property. All cuts shall be returned to a slope of less than three to one (3-1) as soon as possible. Safety screening shall be required at the outer boundary of the site; visual screening will also be required where said boundary is adjacent to residential or recreational land;
8. Within one (1) year after completion of the excavation on any portion of the site, the topography and soils shall be stabilized, and the land shall be graded, seeded, and sodded so as to prevent erosion and siltation, and to protect the health, safety, and general welfare of the public;
9. Costs for any damage to the county roads or bridges used for access to the site which require additional maintenance or repair from the normal county maintenance or repair as a result of additional traffic generated, shall be the responsibility of the owner of the property from which the soil is being removed. The determination of the costs and the method of repair and maintenance shall be prescribed by the Madison County Highway Superintendent. The property owner may appeal the Superintendent's decision to the Madison County Board of Commissioners within thirty (30) days after receiving the Superintendent's decision.

604 — ~~Wind Energy Installation.~~

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

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

SETBACK TABLE

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

- ~~2. The distance from any tower support base to any tower support base of another wind energy device under other ownership shall be a minimum of five (5) rotor distances figured by the size of the largest rotor.~~
- ~~3. The wind energy system operation shall not cause interference to the radio and television reception on adjoining property.~~
- ~~4. To limit climbing access to the tower, a fence six (6) feet high with a locking portal shall be placed around the tower base or the tower climbing apparatus shall be limited to no more than twelve (12) feet from the ground, or the tower may be mounted on a roof top.~~
- ~~5. Data pertaining to the machine's turbine safety and stability shall be filed with the application. Such data shall include turbine safety and acceptance results from tests conducted by a qualified individual or organization based upon standards set by the U.S. Department of Energy (DOE), Electric Power Research Institute (EPRI) Utility Wind Turbine Verification Program.¹~~

¹ U.S. Department of Energy – EPRI Wind Turbine Verification Program

6. ~~The application shall provide covenants, easements, or similar documentation from the abutting owners providing access to wind sufficient for its adequate operation, unless adequate accessibility to the wind is provided on the site.~~

603.1 Wind Energy Installation *(Sections 604.1 - 604.3 added as an amendment on 12/11/2007 replacing Original Section 604)*

In any zoning district, a conditional use permit may be granted to allow a wind energy conversion system, including such devices as wind charger, windmill, or wind turbine; subject to the regulations established in this section.

603.2 Small Wind Energy Systems

Purpose

It is the purpose of this regulation to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity.

Definitions

The following are defined for the specific use of this section.

1. *Small Wind Energy System* shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.
2. *Tower Height* shall mean the height above grade of the hub portion of the tower, excluding the wind turbine itself.

Requirements

Small wind energy systems shall be permitted as an Accessory Use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met:

1. Tower Height
 - a. For property sizes between ½ acre and one acre the tower height shall be limited to 80 feet.
 - b. For property sizes of one acre or more, there is no limitation on tower height, except as imposed by FAA regulations.
(See Figure 1)
2. Setbacks

No part of the wind system structure, including guy-wire anchors, may extend closer than accessory building setbacks of the appropriate zoning district to the property lines of the installation site.
3. Noise
 - a. Small wind energy systems shall not exceed 60 dBA, as measured at the closet neighboring inhabited dwelling unit.
 - b. The noise level may be exceeded during short term events such as utility outages and/or severe wind storms.
4. Approved Wind Turbines

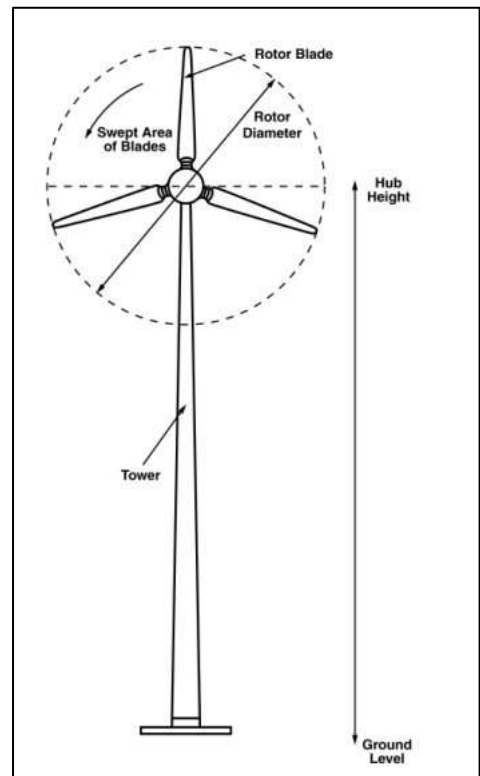


Figure 1

- a. Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.
5. Compliance with Building and Zoning Codes
 - a. Applications for small wind energy systems shall be accomplished by standard drawings of the wind turbine structure, including the tower base, and footings.
 - b. An engineering analysis of the tower showing compliance with the official building code of the governing body and/or the State of Nebraska certified by a professional engineer licensed and certified in Nebraska shall also be submitted.
 - c. The manufacturer frequently supplies this analysis.
 - d. Wet stamps shall not be required.
6. Compliance with FAA Regulations
 - a. Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
7. Compliance with National Electrical Code
 - a. Permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
 - b. The manufacturer frequently supplies this analysis.
8. Utility Notification
 - a. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.
 - b. Off-grid systems shall be exempt from this requirement.

603.3 Commercial/Utility Grade Wind Energy Systems

Purpose

It is the purpose of this regulation to promote the safe, effective and efficient use of commercial/utility grade wind energy systems within Madison County.

Definitions

The following are defined for the specific use of this section.

1. *Aggregate Project* shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.
2. *Commercial WECS* shall mean a wind energy conversion system equal to or greater than 100 kW in total name plate generating capacity.
3. *Fail Zone* shall mean the area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of a structural failure. This area is less than the total height of the structure.
4. *Feeder Line* shall mean any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.
5. *Meteorological Tower* shall mean, for purposes of this regulation, a tower which is erected primarily to measure wind speed and directions plus other data relevant to siting a Wind Energy Conversion System. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Roads, or other applications to monitor weather conditions.

6. *Public Conservation Lands* shall mean land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, Federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations, Public conservation lands will also include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.
7. *Rotor Diameter* shall mean the diameter of the circle described by the moving rotor blades shown in Figure 1.
8. *Small Wind Energy System* shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.
9. *Substations* shall mean any electrical facility to convert electricity produced by wind turbines to a voltage greater than 35,000 (35,000 KV) for interconnection with high voltage transmission lines.
10. *Total Height* shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.
11. *Tower* shall mean the vertical structures that support the electrical, rotor blades, or meteorological equipment.
12. *Tower Height* shall mean the total height of the Wind Energy Conversion System from grade to the hub.
13. *Transmission Line* shall mean the electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
14. *Wind Energy Conservation System* shall mean an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.
15. *Wind Turbines* shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture the wind.

Requirements.

Commercial/Utility Grade wind energy systems shall be permitted as a Conditional Use within any district where the use is listed and allowed. The following requirements and information shall be met and supplied:

1. The name(s) of project applicant.
2. The name of the project owner.
3. The legal description and address of the project.
4. A description of the project including; Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the feeder lines.
5. Site layout, including the location of property lines, wind turbines, electrical grid, and all related accessory structures. This site layout shall include distances and be drawn to scale.
6. Engineer's certification.
7. Documentation of land ownership or legal control of the property.
8. The latitude and longitude of individual wind turbines.

9. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other Wind Energy Conversion System not owned by the applicant, within 10 rotor distances of the proposed Wind Energy Conversion System.
10. Location of wetlands, scenic, and natural areas (including bluffs) within 1,320 feet of the proposed Wind Energy Conversion System.
11. An Acoustical Analysis
12. FAA permit
13. Location of all known Communication Towers within two miles of the proposed Wind Energy Conversion System.
14. Decommissioning Plan
15. Description of potential impacts on nearby Wind Energy Conversion Systems and wind resources on adjacent properties not owned by the applicant.

Aggregated Projects

1. Aggregated projects may jointly submit a single application and be reviewed under joint proceedings, including notices, public hearings, reviews and as appropriate approvals.
2. Permits may be issued and recorded separately.
3. Joint projects will be assessed fees as one project.
4. Setbacks to property lines, not road rights-of way, may be less when adjoining property owners are within the same aggregate project.

Setbacks

All towers shall adhere to the setbacks as measured from the hub established in the following table:

	Wind Turbine – Non Commercial	WECS Wind Turbine – Commercial/Utility WECS	Meteorological Towers
Property Lines (other than right angle corners)	Diameter plus applicable building setback	Diameter plus applicable building setback	1.1 times the total height
Right angle corner property lines	Diameter plus applicable building setback from both property lines	Behind a line on the property lines drawn between two points 150’ from the property line intersection. Generator blades must not exceed the building setback lines on the non-road side, and shall not encroach on the right-of-way on the road side. (See Figure 2)	1.1 times the total height from both property lines
Neighboring Dwelling Units*	Diameter plus applicable building setback	1,000’	1.1 times the total height plus applicable building setback
Road Rights-of-Way**	Diameter plus applicable building setback	Generator blades shall not encroach on the right-of-way.	1.1 times the total height plus applicable building setback
Other Rights-of-Way	Diameter plus applicable building setback	Generator blades shall not encroach on the right-of-way.	1.1 times the total height plus applicable building setback
Public Conservation Lands including Wildlife Management Areas and State Recreation Areas	Applicable building setback	Diameter plus applicable building setback	1.1 times the total height plus applicable building setback
Wetlands, USFW Types III, IV, and V	NA	600’	1.1 times the total height
Other structures not on the applicant’s site	NA	Diameter	1.1 times the total height
River Bluffs of over 15 feet		Diameter	

* The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System.

** The setback shall be measured from any future Rights-of-Way if a planned change or expanded right-of-way is known.

Special Safety and Design Standards

All towers shall adhere to the following safety and design standards:

1. Clearance of rotor blades or airfoils must maintain a minimum of 12 feet of clearance between their lowest point and the ground.
2. AH Commercial/Utility WECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information.
3. All wind turbines, which are a part of a commercial/utility WECS, shall be installed with a tubular, monopole type tower.
4. Consideration shall be given to painted aviation warnings on all towers less than 200 feet. Color and finish: All wind turbines and towers that are part of a commercial/utility WECS shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate decking; Finishes shall be matte or non-reflective.
5. Lighting:
Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations. Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds. Red pulsating incandescent lights should be avoided.
6. Other signage:
All other signage shall comply with the sign regulations found in these regulations.
7. Feeder Lines:
All communications and feeder lines installed as part of a WECS shall be buried, where feasible. Feeder lines installed as part of a WECS shall not be considered an essential service.
8. Waste Disposal:
Solid and Hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal rules and regulations.
9. Discontinuation and Decommissioning:
A WECS shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed to four (4) feet below ground level within 180 days of the discontinuation of use. This period may be extended by the Zoning Administrator following a written request by an agent of the owner of the WECS.

Each Commercial/Utility WECS shall have a Decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon being discontinued use. The cost estimates shall be made by a competent party; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for decommissioning and removal of the WECS and accessory facilities.
10. Noise:
No Commercial/Utility WECS shall exceed 50 dBA at the nearest structure occupied by humans. Exception: a Commercial/Utility WECS may exceed 50 dBA during periods of severe weather as defined by the US Weather Service.
11. Interference:
The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. The applicant shall notify all communication tower operators within five miles of the proposed WECS location upon application to the county for permits.

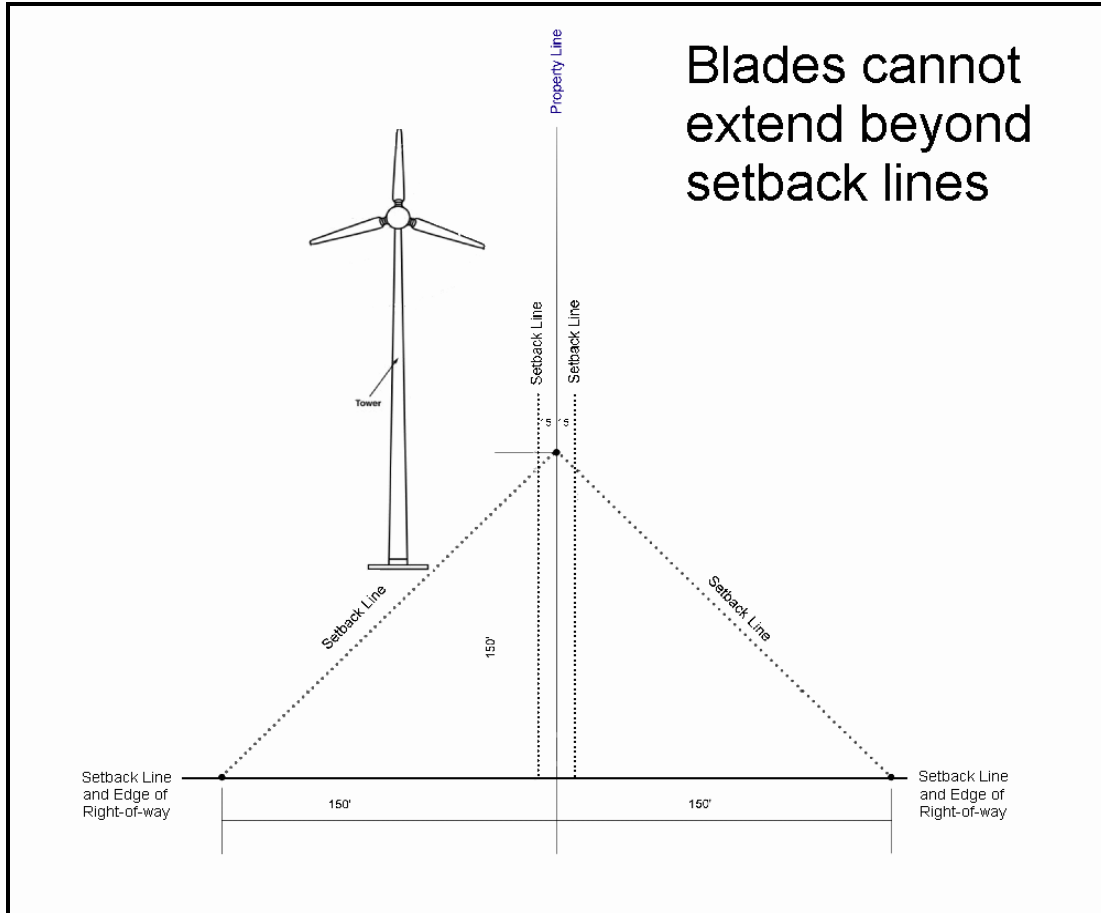


Figure 2

12. Roads:

Applicants shall:

- a. Identify all county, municipal or township roads to be used for the purpose of transporting WECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted jurisdictions prior to construction.
- b. Conduct a pre-construction survey, in coordination with the appropriate jurisdictions to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public facility.
- c. Be responsible for restoring the road(s) and bridges to preconstruction conditions.

13. Drainage System:

The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the WECS.

14. Permit Fees

Applicant shall remit an application fee of \$50 for every megawatt of nameplate capacity in the proposed WECF.

604 Waste Disposal Sites and Landfills.

A Conditional Use Permit may be granted for any waste material disposal, construction and demolition waste, garbage disposal, or land fill operations in the designated zoning district; provided the following special conditions shall be considered:

1. The effects on the adjacent property, traffic, and
2. The public necessity and advantage.
3. The maintenance of access routes related to all weather conditions and droppings of rubbish and liter.
4. The effects on underground water quality.
5. The immediate and long term effects on the environment and the public.
6. The concerns for public safety.
7. The application shall include documents to indicate conformance to all applicable governmental regulations and standards.
8. The application shall include affidavits or permits from the Environmental Protection Agency and/or the Nebraska Department of Environmental Quality, in the event an approval is required by these agencies.

605 Sanitary Requirements.

1. It shall be unlawful to occupy a residential structure or any building for living purposes that does not have an approved waste system. For purposes of this Article, an approved system shall meet or be equivalent to criteria as defined by "Rules and Regulations for the Design, Operation and Maintenance of Septic Tank System in Nebraska", as published by the Nebraska Department of Environmental Quality (NDEQ).
2. No waste absorption field (septic tank, cesspools, etc.) shall be constructed any closer than twenty-five (25) feet from any adjacent property line.
3. There shall be no waste absorption field located closer than fifty (50) feet from any other residential structure.
4. There shall be no waste absorption field located closer than one hundred (100) feet from a water well provided, however, where geology and subsurface conditions and topography would indicate that seepage could reach the well supply, a greater distance would be required.
5. A private sewage lagoon shall be located no closer than two hundred (200) feet of the house it serves and not less than five hundred (500) feet from any other house or residential boundary.
6. The following minimum lot area are required in all residential districts and for all seasonal housing, where permitted:
 - a. With private water and private sewer: Same as the Intensity of Use Regulations for each District.
 - b. With public water and private sewer: Two and one-half (2 1/2) Acres.
 - c. With private water and public sewer: One (1) Acre.
 - d. With public water and public sewer: One-quarter (1/4) Acre (10,890 sq. ft.).
7. Soil percolation tests shall be conducted in the area where the system will be located for those soils having severe limitations for such systems as identified by the Madison County Soil Survey and Madison County Comprehensive Plan.
8. A waste disposal system evaluation shall be required for septic systems serving all new residences. Evaluations shall be on forms furnished by the office of the Zoning Administrator.

606 Home Occupations.

Home occupations shall comply with the following Supplemental Regulations:

1. In all residential districts:
 - a. No commodities shall be displayed or sold on the premises except that which are produced on the premises.
 - b. No mechanical or electrical equipment shall be used other than that which is normally used for purely domestic or household purposes.
 - c. No outdoor storage of materials or equipment used in the home occupation shall be permitted.
 - d. No alteration of the principal residential building shall be made which changes the character thereof as a residence
 - e. The home occupation shall be carried on entirely within the principal residential structure and under no circumstances shall the home occupation be carried on within a detached accessory building.
 - f. No sign shall be permitted unless required by State Statute, and if so required, shall not exceed two (2) square feet in area; shall not be illuminated and shall be placed flat against the main wall of the building.
 - g. No person shall be engaged in such home occupation other than a person occupying such dwelling unit as his/her residence.
2. Particular Home Occupations Permitted: Customary home occupations include; but are not limited to, the following list of occupations; provided, however, that each listed occupation is subject to the requirements of subsections 1 and 2 of this Section.
 - a. Dressmakers, seamstresses, tailors.
 - b. Music teachers, provided that instruction shall be limited to five (5) pupils at one time.
 - c. Dance and drama instructors, provided that instruction shall be limited to not more than ten (10) pupils at one time.
 - d. Artists, sculptors and authors or composers.
 - e. Offices for architects, engineers, lawyers, realtors, insurance agents, brokers, computer programmers, computer-based occupations and members of similar professions.
 - f. Ministers, rabbis, and priests.
 - g. Offices for salespersons, sales representatives, manufacturer's representatives, when no retail or wholesale transactions are made on the premises
 - h. Home crafts, such as model building, rug weaving, sewing, gunsmithing, cabinet making, etc., provided that no machinery or equipment shall be used other than that which would customarily be used in connection with the above home crafts when pursued as a hobby or vocation.
 - i. Day care centers, child care homes or babysitters. Said occupation may include the caring for not more than (6) unrelated children at one time for hire or for compensation in accordance with Nebr. R. R. S. 1943, Sec. 71-1902, wherein caring for 7 or more children requires licensing as a Child Care Center.
 - j. Barber shops and beauty parlors.

607 Off-Street Automobile Storage.

1. Off-street automobile storage or standing space shall be provided on any lot on which any of the following uses are hereafter established; such space shall be provided with vehicular access to a street or an alley. For purposes of computing the number of parking spaces available in a given area, the ratio of two hundred fifty (250) square feet per parking space shall be used.
2. If vehicle storage space or standing space required above cannot be reasonably provided on the same lot on which the principal use is conducted in the opinion of the Board of Adjustment, the Board of Adjustment may permit such space to be provided on other off-street property, provided such space lies within four hundred (300) feet of an entrance to such principal use.
3. Where calculations in accordance with the foregoing list results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.

4. Where off-street parking is located on a lot other than the lot occupied by the use that requires it, site plan approval for both lots is required.

608 Required Parking.

SCHEDULE OF MINIMUM OFF-STREET PARKING AND LOADING REQUIREMENTS

Structures and Uses	Parking Requirements	Loading Requirements
Residential Units	2 Spaces for each dwelling unit	None Required
Bowling Alleys	4 Spaces per alley	1 Space per establishment
Religious Facilities	1 Space per 4 seats in main unit of worship	None required
Eating and Drinking Places	Parking spaces equal to 30% of capacity in persons	2 Spaces per establishment
Educational Uses, Nursery	Parking spaces equal to 20% capacity in students	2 Spaces per structure
Educational Uses, All Other	Parking spaces equal to 40% of capacity of students	2 Spaces per structure
Funeral Homes and Chapels	8 Spaces per reposeing room	2 Spaces per establishment
Hospitals	1 Space per 2 beds	3 Spaces per structure
Hotels and Motels	1 Space per rental unit	1 Space per establishment
Industrial Uses	.75 times the maximum number of employees on the premises at any one time	2 Spaces per establishment
Libraries	1 Space per 500 sq ft of floor area	1 Space per structure
Lodging, Boarding Houses and Bed & Breakfasts	1 Space per rental unit	None required
Medical Clinics	5 Spaces per staff doctor or dentist	None required
Mobile Home Park	2 Spaces per dwelling unit	None required
Offices	1 Space per 200 sq ft of floor area	
Other Commercial	.75 times the maximum number of employees on the premises at any one time	2 Spaces per establishment
Private Clubs and Lodges	1 Space per 500 sq ft of floor area	1 Space per establishment
Retail Sales Establishments	1 Space per 200 sq ft of floor area	1 Space per establishment
Roadside Stands	4 Spaces per establishment	None required
Sanitariums, Convalescent, and Rest Home Services	1 Space per 3 beds plus 1 space per employee on the largest shift.	1 Space per establishment
Service Establishments	1 Space per 200 sq ft of floor area	1 Space per establishment
Theaters, Auditoriums, and Places of Assembly	1 Space per 4 people in designed capacity	1 Space per establishment
Veterinary Establishments	3 Spaces per staff doctor	None required
Wholesaling and Distribution Operations	1 Space per 2 employees on largest shift	2 Spaces per establishment

609 Sign Regulations.

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

610 Use Regulations.

Any sign shall, by definition, be a structure. No land or building or structure shall be used for sign purposes except within the stipulated districts listed in Sign Use Regulations specified herein. All signs legally existing at the time of passage of these regulations may remain in use under the conditions of legal nonconformance. Signs in legal nonconformance shall not be enlarged, moved, lighted, or reconstructed; however, the change of

the advertising display shall not be restricted except as previously stated. After the effective date of the Regulation, no sign shall be erected, enlarged, constructed or otherwise installed without first obtaining a sign permit, and a sign permit shall be legally issued only when in compliance with this sign regulation. All signs shall be constructed in compliance with the building codes and shall be constructed in such a manner and of such material that they shall be safe and substantial. Scale drawings of the sign and manner of supports shall be furnished to the Zoning Administrator in application for a sign permit for all signs.

611 Classification of Signs.

Functional Types:

1. Advertising Signs: A sign which directs the attention of the public to any goods, merchandise, property, business, service, entertainment or amusement conducted or produced which is bought or sold, furnished, offered, or dealt in elsewhere than on the premises where such sign is located or to which it is affixed.
2. Bulletin Board Sign: A sign that indicates the name of an institution or organization on whose premises it is located and which contains the name of the institution or organization, the name or names of persons connected with it, and announcement or persons, events or activities occurring at the institution. Such sign may also present a greeting or similar message.
3. Business Signs: A sign which directs attention to a business or profession conducted, or to products, services or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed.
4. Construction Signs: A temporary sign indicating the names of the architects, engineers, landscape architects, contractors and similar artisans involved in the design and construction of a structure, complex or project only during the construction period and only on the premises on which the construction is taking place.
5. Identification Signs: A sign giving the name and address of a building, business, development or establishment. Such signs may be wholly or partly devoted to a readily recognized symbol.
6. Name Plate Signs: A sign giving the name and/or address or the owner or occupant of a building or premises on which it is located, and where applicable, a professional status.
7. Real Estate Signs: A sign pertaining to the sale or lease of a lot or tract of land on which the sign is located, or to the sale or lease of one or more structures, or a portion thereof on which the sign is located.
8. *School District, County or Municipal Recognition Sign: An official recognition sign erected and maintained by a school district, college, county or municipality within one mile of its territorial or zoning jurisdiction. The recognition sign for a school district is limited to displaying a message that identifies the school district, its boundaries, its services, its functions or activities that are located therein. The recognition sign for a county or municipality is limited to displaying a message that identifies the county or municipality, its boundaries, its public services and noncommercial attractions, functions or activities that are located therein. This type of sign has no spacing or size restrictions or requirements.*

Structural Types:

1. Awning, Canopy or Marquee Sign: A sign that is mounted or painted on, or attached to an awning, canopy or marquee. No such signs shall project above, below or beyond the awning, canopy or marquee.
2. Ground Sign: Any sign placed upon, or supported by, the ground independently of the principal building or structure on the property, where the bottom edge of the sign is less than six feet above the ground level.
3. Pole Sign: Any sign placed upon, or supported by, the ground independently of the principal building or structure on the property where the bottom edge of the sign is six feet or more above the ground level.

4. Projection Sign: Any sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building.
5. Wall Sign: A sign fastened to or painted on a wall of a building or structure in such a manner that the wall becomes merely the supporting structure or forms the background surface, and which does not project more than 12 inches from such building.
6. Roof Sign: A sign totally supported on the roof of a structure. Roof signs shall not project more than 12 inches beyond the face of the building.

612 General Standards.

1. Gross Area of Sign: The entire area within a single continuous perimeter enclosing the extreme limits of the sign, exclusive of the base on which it is mounted or from which it is suspended. If more than one side of a sign is utilized as a sign, then it shall also be computed and shall be counted as a portion of the gross area. On lots where more than one sign is located, the total gross area of all the signs shall not exceed the maximum gross area permitted by this regulation. For computing the gross area of any wall sign which consists of letters mounted or painted on a wall, the area shall be deemed to be the area of the smallest rectangular figure which can encompass all of the letters.
2. Sign Height: Sign height shall be measured from the ground elevation at the base of the sign to the highest element of the sign.
3. Illuminated Signs: A sign designed to give forth artificial light or designed to reflect light derived from any source.
 - a. Illuminated signs shall be designed as to reflect or direct light away from any residential dwelling district and any illuminated sign located on a lot adjacent to, in front of or across the street from any residential district, which sign is visible from such residential district, shall not be illuminated between the hours of 11 p.m. and 7 a.m.
 - b. Lighted signs in direct vision of a traffic signal shall not be in red, amber or green illumination.
4. Flashing or Moving Signs: Any illuminated sign on which the artificial light is not constant in intensity and color at all times. For the purpose of this regulation, any revolving, rotating, moving, animated, signs with moving lights or signs which create the illusion of movement shall be considered as a flashing sign and shall not be permitted except where:
 - a. A sign giving public service information.
 - b. A sign whereon the current time, temperature, weather or news is indicated by intermittent lighting shall not be deemed as a flashing sign if the lighting changes are limited to the numerals or configurations of letters indicating such information.
5. Accessway or Window: No sign shall block any required accessway or window.
6. Advertising Sign Spacing on Highways.
 - a. Advertising signs visible from a primary highway shall not be erected within the limits of an incorporated city less than one hundred (100) feet, and outside the limits of an incorporated city less than three hundred (300) feet, of another such sign on the same side of the highway.
 - b. Advertising signs visible from a freeway or interstate highway shall not be erected within five hundred (500) feet of another such sign on the same side of the highway, and outside the limits of an incorporated city, no such sign shall be located adjacent to or within five hundred (500) feet of an interchange, intersection at grade or a safety rest area, with such distance to be measured along the freeway or interstate highway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way.

- c. The minimum distances between two signs prescribed by subsections a. and b. shall not apply where such signs are separated by a building, structure, roadway or other obstruction which prevents a view of both signs at the same time by traffic proceeding on any one highway.
 - d. The minimum distance between two signs as prescribed by subsections a. and b. shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway.
 - e. Nothing in this subsection shall be construed as preventing the erection of double faced, back-to-back or V-type signs with a maximum of two (2) signs per facing.
- 7. Signs on Trees or Utility Poles: No sign shall be attached to a tree or utility pole whether on public or private property.
- 8. Metal Signs: Signs constructed of metal and illuminated by any means requiring wiring or electrically wired accessory fixtures attached to a metal sign shall maintain a free clearance to grade of nine feet. Accessory lighting fixtures attached to a non-metal frame sign also maintain a clearance of nine feet to grade.
 - a. No metal ground sign shall be located within eight feet vertically and four feet horizontally of electric wires or conductors in free air carrying more than 48 volts, whether or not such wires are insulated or otherwise protected.
- 9. Traffic Safety:
 - a. No sign shall be maintained at any location where by reason of its position, size, shape or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with any traffic or railroad control sign, signal or device, or where it may interfere with, mislead, or confuse traffic.
 - b. Any sign located within three feet of a driveway or within a parking area shall have its lowest elevation at least ten feet above the curb level; however, in no event shall any sign be placed so as to project over any public right-of-way.
 - c. Under no circumstances shall any sign be placed in the site triangle as defined by this regulation.
 - d. Signs shall not be erected or maintained which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of any street or highway and are of such brilliance as to cause glare or to impair the vision of, or otherwise interfere with, the driver of any motor vehicle.
- 10. Setbacks: No advertising sign shall project beyond the front, side or rear building setback lines for the district set forth in this zoning regulation.
- 11. Lineal Street Frontage: In those districts where gross sign area is allocated based on lineal street frontage and the tract or parcel is adjacent to more than one street, the lineal street frontage shall be computed as follows:
 - a. For those tracts or parcels located on major streets as designed in the Circulation Plan of the Comprehensive Plan, the lineal street frontage shall be the distance on that property line abutting the major street.
 - b. For those tracts or parcels not located on a major street, the lineal street frontage shall be one-half of the sum of all the street frontages.

613 Exemptions.

- 1. The following signs shall be exempt from the requirements of this Article:
 - a. Flags or emblems of a governmental or of a political, civic, philanthropic, educational or religious organization displayed on private property.

- b. Signs of a duly constituted governmental body, including traffic or similar regulatory signs, legal notices, warnings at railroad crossings and other instructional or regulatory signs having to do with health, hazards, parking, swimming, dumping, etc.
 - c. Memorial signs and tablets displayed on private property.
 - d. Small signs, not exceeding three square feet in area, displayed on private property for the convenience of the public, including signs to identify entrance and exit drives, parking areas, one-way drives, restrooms, freight entrances and other similar signs.
 - e. Score boards in athletic stadiums.
- 2. The following signs are exempt from the sign permit section of this Article, but shall comply with all of the other regulations imposed by this Article:
 - a. Name plate signs not exceeding two square feet in gross area accessory to a single-family or two-family dwelling.
 - b. Bulletin board signs not exceeding 15 square feet in gross area accessory to a church, school or public or non-profit institution.
- 3. *School District, County or Municipal Recognition Signs are allowed by permit in all zoning districts and are not subject to the spacing or size requirements of these regulations.*

614 District Regulations.

1. Agricultural Districts:

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

2. Residential Districts:

- a. Functional Types Permitted:
 - i. Business signs pertaining to a home occupation and subject to the sign requirements of the home occupation section of this regulation.
 - ii. Bulletin board signs.
 - iii. Construction signs.
 - iv. Identification signs.

- v. Name plate signs.
 - vi. Real estate signs.
 - b. Structural Types Permitted:
 - i. Ground signs.
 - ii. Wall Signs.
 - c. Number of Signs Permitted: One sign per zoning lot.
 - d. Maximum Gross Area:
 - i. Business signs - Home occupation: 2 square feet.
 - ii. Bulletin board and identification signs: 24 square feet.
 - iii. Construction signs: 20 square feet.
 - iv. Name plate signs: 2 square feet.
 - v. Real estate signs: six square feet, provided that one sign not more than 100 feet in area announcing the sale of lots and/or houses in a subdivision may be located on said development. Said sign shall be removed at the end of three years or when 75 percent of the lots have been sold, whichever occurs sooner.
 - vi. Mobile home park: 24 square feet on one face and not more than 40 square feet total.
 - e. Maximum Height: 15 feet.
 - f. Required Setback: No sign shall be placed closer to the front property line than 1/2 the distance of the front yard.
 - g. Illumination: Bulletin boards and identification signs may be indirectly illuminated with incandescent or fluorescent lighting.
- 3. Commercial District:
 - a. Functional Types Permitted:
 - i. Advertising signs.
 - ii. Bulletin board signs.
 - iii. Business signs.
 - iv. Construction signs.
 - v. Identification signs.
 - vi. Name plate signs.
 - vii. Real estate signs.
 - b. Structural Types Permitted:
 - i. Awning, canopy or marquee signs.
 - ii. Ground signs.
 - iii. Pole signs.
 - iv. Projecting signs.
 - v. Roof signs.
 - vi. Wall signs.
 - c. Number of Signs Permitted:
 - i. Awning, canopy or marquee signs and wall signs: No limitations.
 - ii. Ground signs and pole signs: Two per zoning lot.
 - iii. Projecting signs: One per zoning lot.
 - iv. Roof signs: One per zoning lot.
 - d. Maximum Gross Surface Area: Two square feet for each lineal foot of street frontage provided no single sign shall exceed a gross surface area of 400 square feet.
 - e. Maximum Height: 30 feet.
 - f. Required Setback: None except that advertising signs shall maintain the same setback that is required for principal structures.
 - g. Illumination: Illuminated signs shall be permitted.
- 4. "I" Industrial District:
 - a. Functional Types Permitted:
 - i. Bulletin board signs.
 - ii. Business signs.
 - iii. Construction signs.

- iv. Identification signs.
 - v. Real estate signs.
 - b. Structural Types Permitted:
 - i. Awning, canopy or marquee signs.
 - ii. Ground signs.
 - iii. Pole signs.
 - iv. Wall signs.
 - c. Number of Signs Permitted: Two per zoning lot.
 - d. Maximum Gross Surface Area: One square foot for each one foot of lineal street frontage, provided no single sign shall exceed a gross surface area of 250 square feet.
 - e. Maximum Height: 30 feet.
 - f. Required Setback: 10 feet.
 - g. Illumination: Illuminated signs shall be permitted.
- 5. All Other Industrial Districts:
 - a. Functional Types Permitted:
 - i. Advertising signs.
 - ii. Bulletin board signs.
 - iii. Business signs.
 - iv. Construction signs.
 - v. Identification signs.
 - vi. Name Plates.
 - b. Structural Types Permitted:
 - i. Awning, canopy or marquee signs.
 - ii. Ground signs.
 - iii. Pole signs.
 - iv. Projecting signs.
 - v. Wall signs.
 - vi. Roof signs.
 - c. Number of Signs Permitted: Two per zoning lot.
 - d. Maximum Gross Surface Area: Two square feet per lineal foot of street frontage, provided no single sign exceeds a gross area of 400 square feet.
 - e. Maximum Height:
 - i. Roof and wall signs: 30 feet above the highest point of the structure on which the sign is located.
 - ii. All other signs: 30 feet.
 - f. Required Setback: None, except that advertising signs shall maintain the same setback that is required for principal structures.
 - g. Illumination: Illuminated signs shall be permitted.

615 Public Utility Facilities Lot Size Requirements.

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

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

6. Transformer station
7. Water tower or standpipes.

616 Mobile Home Parks.

1. A mobile home park may be established provided that the proposed mobile home park meets all of the requirements of Section 4.06 and the additional requirements below.
2. Certification of compliance with all Regulations and regulations regarding mobile home park licensing, zoning, health, plumbing, electrical, building, fire prevention and all other applicable Regulations and regulations.
3. All mobile homes shall meet all applicable standards specified by Federal and State Regulations.
4. Individually owned lots on which mobile homes are placed may be purchased within an approved mobile home park if the owner wishes to sell.
 - a. The area of the mobile home shall be improved to provide an adequate and approved foundation for the placement and tie-down of the mobile home, thereby securing the superstructure against uplift, sliding, rotation, or overturning.
 - b. The mobile home shall be provided with anchors and tie-downs such as cast-in-place concrete "dead men," eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors or other devices securing the stability of the mobile home. The tie-down devices shall be compatible with the foundation system provided for the mobile home such that the tie-downs are designed to resist the action of frost in the same manner as the foundation system.
 - c. Anchors and tie-downs shall be placed based upon the manufacturer's recommendations and shall be able to resist design wind pressures. Wheels shall not be for bearing pressures.
 - d. The skirting of all mobile homes is required. Such skirting shall not attach a mobile home permanently to the ground, but shall be sufficient to withstand wind load requirements and shall not provide a harborage for debris or rodents, nor create a fire hazard. Such skirting shall be provided with removable access panels sufficient to provide easy access to all utility connection points of the mobile home and its subsequent connection to the utility risers if they are located within the skirted area.

617 Floodplain Regulations

An Ordinance designed to meet state and federal requirements for participation in the National Flood Insurance Program for communities identified as flood prone, but have not received detailed flood insurance study information.

618 Statutory Authorization

The legislature of the State of Nebraska has in Sections 31-1001 to 31-1022, R.R.S. 1943 assigned the responsibility to local governmental units to adopt floodplain management regulations designed to protect the public health, safety, and general welfare.

619 Findings of Fact

Flood Losses Resulting from Periodic Inundation: The flood hazard areas of Madison County, Nebraska, are subject to inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety, and general welfare. These flood losses are caused by:

1. The cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.
2. The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.

620 Statement of Purpose

It is the purpose of these regulations to promote the public health, safety, and general welfare and to minimize those losses described in Section 617 by applying the provisions of these regulations.

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

621 Local Administrator Responsibilities

The Zoning Administrator hereby has these added responsibilities and is authorized and directed to enforce all of the provisions of these regulations and specifically the Floodplain Regulations and all other Regulations of Madison County now in force or hereafter adopted, related to zoning and subdivision regulations.

622 Local Administrator Additional Responsibilities

The Zoning Administrator shall be appointed to these additional responsibilities by resolution of the County Board of Commissioners and this appointment shall continue during good behavior and satisfactory service. During temporary absence or disability of the Zoning Administrator, the County Board of Commissioners shall designate an acting administrator.

623 Designation of Current FHB/FIRM

The Madison County Board of Commissioners hereby designated to current Flood Hazard Boundary Map/Flood Insurance Rate Map dated *February 4, 2005*, and any revisions thereto, as the official map to be used in determining those areas of special flood hazard.

624 Permits Required

Permits Required: No person, firm or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in these regulations.

1. Within special flood hazard areas on the official map, separate floodplain development permits are required for all new construction, substantial improvements and other developments, including the placement of manufactured homes.
2. Application: To obtain a floodplain development permit, the applicant shall first file an application therefore in writing on a form furnished for that purpose. Every such application shall:
 - a. Identify and describe the development to be covered by the floodplain development permit for which application is made.
 - b. Describe the land on which the proposed development is to be done by lot, block, tract, and house and street address, or similar description that will identify and definitely locate the proposed building or development.
 - c. Indicate the use or occupancy for which the proposed development is intended.
 - d. Be accompanied by plans and specifications for proposed construction.
 - e. Be signed by the permittee or authorized agent who may be required to submit evidence to indicate such authority.
 - f. Within designated floodplain areas, be accompanied by elevations of the lowest floor, including basement, or in case of floodproofed non-residential structures, the elevation to which it shall be floodproofed. Documentation or certification of such elevations will be maintained by the Zoning Administrator.

- g. Give such other information as reasonably may be required by the Zoning Administrator (i.e., require a statement from the applicant that they are aware that elevating or floodproofing structures above the minimum levels will result in premium reduction, especially in the case of non-residential floodproofing when a minus one foot (-1') penalty is assessed at the time of rating the structure for the policy premium.)

625 Development Permit Application Review

The Zoning Administrator shall review all development permit applications to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by Federal and State law.

626 All Applications Review

The Zoning Administrator, in reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of manufactured homes and other development(s) will:

1. Obtain, review and reasonably utilize, if available, any regulatory flood elevation data and floodway data available from Federal, state or other sources, until such other data is provided by the Federal Insurance Administration in a Flood Insurance Study; and require within special flood hazard areas on the official map that the following performance standards be met:
 - a. That until a floodway has been designated – No development or substantial improvement may be permitted within the floodplain unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the 100-year flood or more than one (1) foot at any location.
 - b. Residential Construction – New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least one foot (1') above the base flood elevation.
 - c. Nonresidential construction – New construction or substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated at least one foot (1') above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below such a level the structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of this subsection are satisfied. Such certification shall be provided to the local administrator.
 - d. Require for all new construction and substantial improvements – That fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot (1') above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
2. Require the use of construction materials that are resistant to flood damage.
3. Require the use of construction methods and practices that will minimize flood damage.
4. Require that new structures be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
5. New structures shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

6. Assure that all manufactured homes shall be anchored to resist floatation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with State laws, local building codes and FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
 - a. Over-the-top ties shall be provided at each of the four corners of the manufactured home with two additional ties per side at the intermediate locations and manufactured homes less than fifty feet (50') long requiring one additional tie per side.
 - b. Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than fifty feet (50') long requiring four additional ties per side.
 - c. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
 - d. Any additions to manufactured homes shall be similarly anchored.
7. Assure that all manufactured homes that are placed or substantially improved within special flood hazard areas on the county's official map on sites:
 - a. Outside of a manufactured home park or subdivision.
 - b. In a new manufactured home park or subdivision.
 - c. In an expansion to an existing manufactured home park or subdivision; or
 - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at least one foot (1') above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Paragraph 6 of this section.
8. Assure that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the county's official map that are not subject to the provisions of Paragraph 6 of this section. Be elevated so that either:
 - a. The lowest floor of the manufactured home is at least one foot (1') above the base flood elevation, or
 - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent that are no less than thirty-six inches (36") in height above grade and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Paragraph 6 of this section.
9. Require that recreational vehicles placed on sites within the identified special flood hazard areas on the county's official map either (i) be on the site for fewer than one-hundred-eighty (180) consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of these regulations. A recreational vehicle is ready for highway use if it is on wheels or a jacking system, and is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
10. Agricultural Structures are structures used solely for agricultural purposes in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; there is no permanent retail, wholesale, or manufacturing use included in the structure; a variance has been granted from the floodplain management requirements of these regulations; and a floodplain development permit has been issued.
11. Accessory Structures are structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than 400 square feet, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single wall design; a variance has been granted from the standard floodplain management requirements of these regulations; and a floodplain development permit has been issued.

627 Subdivision Applications

The County Board of Commissioners shall review all subdivision applications and other proposed new developments (including manufactured home parks or subdivisions) and shall make findings of fact and assure that:

1. All such proposed developments are consistent with the need to minimize flood damage.
2. Subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions) greater than five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals regulatory flood elevation data in special flood hazard areas.
3. Adequate drainage is provided so as to reduce exposure to flood hazards.
4. All public utilities and facilities are located so as to minimize or eliminate flood damage.

628 Water and Sewer Systems

New and replacement water and sewage systems shall be constructed to eliminate or minimize infiltration by, or discharge into floodwaters. Moreover, on-site waste disposal systems will be designed to avoid impairment or contamination during flooding.

629 Storage of Material and Equipment

The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent floatation or if readily removable from the area within the time available after flood warning.

630 Flood-Carrying Capacity within any Watercourse

The County Board of Commissioners will ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained. The County Board of Commissioners will notify, in riverine situations, adjacent communities and the Nebraska Department of Natural Resources prior to any alteration or relocation of a watercourse, and submit copies of such notification to the Federal Emergency Management Agency. Moreover, the County Board of Commissioners will work with appropriate State and Federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the National Disaster Protection Act of 1973.

631 Variance Procedure

1. The Board of Adjustment as established by the Madison County Board of Commissioners shall hear and decide appeals and requests for variances from the requirements of these regulations/resolution.
2. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of these regulations.
3. Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the District Court as provided in Section 19-912, R.R.S. 1943.
4. In passing upon such applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of these regulations, and;
 - a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The danger to life and property due to flooding or erosion damage;
 - c. The susceptibility of proposed facility and its content to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the county;
 - e. The necessity to the facility of a waterfront location, where applicable;
 - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

- g. The compatibility of the proposed use with existing and anticipated development;
- h. The relationship of the proposed use with existing and anticipated development;
- i. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- j. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
- l. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

632 Conditions for Variances

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

633 Conditions for Approving Variances for Agricultural Structures

Any variance granted for an agricultural structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Sections 815 and 816 of these regulations.

In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for agricultural structures that are constructed at-grade and wet-floodproofed.

1. All agricultural structures considered for a variance from the floodplain management regulations of these regulations shall demonstrate that the varied structure is located in wide, expansive floodplain areas and no other alternate location outside of the special flood hazard area exists for the agricultural structure. Residential structures, such as farm houses, cannot be considered agricultural structures.
2. Use of the varied structures must be limited to agricultural purposes in zone A only as identified on the county's Flood Insurance Rate Map (FIRM).
3. For any new or substantially damaged agricultural structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood

elevation, must be built with flood-resistant materials in accordance with Section 810 (1); 810 (2); and 810 (3) of these regulations.

4. The agricultural structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with Section 810 (4) of these regulations. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
5. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Section 810 (5) of these regulations.
6. The agricultural structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Section 810 (4) of these regulations.
7. The agricultural structures must comply with the floodplain management floodway encroachment provisions of Section 810 (1) of these regulations. No variances may be issued for agricultural structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.
8. Major equipment, machinery, or other contents must be protected from any flood damage.
9. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the agricultural structures.
10. A county shall notify the applicant in writing over the signature of a county official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by these regulations.
11. Wet-floodproofing construction techniques must be reviewed and approved by the county and a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

634 Conditions for Approving Variances for Accessory Structures

Any variance granted for an accessory structure shall be decided individually on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Section 815 of these regulations.

In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for accessory structures that are constructed at-grade and wet-floodproofed.

1. Use of the accessory structures must be solely for parking and limited storage purposes in zone A only as identified on the county's Flood Insurance Rate Map (FIRM).
2. For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e. foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Section 810 (1); 810 (2) ; and 810 (3) of these regulations.
3. The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with Section 810 (4) of these regulations. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.

4. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Section 810 (5) of these regulations.
5. The accessory structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Section 810 (1) of these regulations.
6. The accessory structures must comply with the floodplain management floodway encroachment provisions of Section 810 (1) of these regulations. No variances may be issued for accessory structures within any designed floodway, if any increase in flood levels would result during the 100-year flood.
7. Equipment, machinery, or other contents must be protected from any flood damage.
8. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the accessory structures.
9. The county shall notify the applicant in writing over the signature of a county official that (i) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (ii) such construction below flood level increases to life and property. Such notifications shall be maintained with the record of all variance actions as required by these regulations.
10. Wet-floodproofing construction techniques must be reviewed and approved by the county and registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

635 Non-Conforming Use

A structure or the use of a structure or premises which was lawful before the passage or amendment of these regulations, but which is not in conformity with the provisions of these regulations may be continued subject to the following conditions:

1. If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to these regulations. The Utility Department shall notify the Zoning Administrator in writing of instances of non-conforming uses where utility services have been discontinued for a period of 12 months.
2. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.

If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty percent (50%) of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of these regulations. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State inventory of Historic Places.

636 Penalties for Violation.

Violation of the provisions of this resolution or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500 or be sentenced up to 30 days in jail. Each day such violation continues, shall be considered a separate offense.

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

637 Abrogation and Greater Restrictions

It is not intended by these regulations to repeal, abrogate or impair any existent easements, covenants, or deed restrictions. However, where these regulations impose greater restrictions, the provision of these regulations shall prevail. All other Regulations inconsistent with these regulations are hereby repealed to the extent of the inconsistency only.

638 Interpretation

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

639 Warning and Disclaimer of Liability

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. These regulations do not imply that areas outside floodplain district boundaries or land uses permitted within such districts will be free from flooding or flood damage. These regulations shall not create liability on the part of the County of Madison or any officer or employee thereof for any flood damages that may result from reliance on these regulations or any administrative decision lawfully made there-under.

640 Severability

If any section, clause, provision or portion of these regulations is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of these regulations shall not be affected thereby.

641 Appeal

Where a request for a permit to develop or a variance is denied by the Zoning Administrator the applicant may apply for such permit or variance directly to the Board of Appeals.

642 Conflicting Regulations

These regulations shall take precedence over conflicting Regulations or parts of Regulations. The Madison County Board of Commissioners may, from time to time, amend these regulations to reflect any and all changes in the National Flood Disaster Protection Act of 1973. The regulations of these regulations are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code Federal Regulations and the 1983 Nebraska Floodplain Management Act.

643 Definitions

Unless specifically defined below, words or phrases used in the Floodplain Section of these regulations shall be interpreted so as to give them the same meaning as they have in common usage and so as to give these regulations it's most reasonable application.

1. Base Flood: The flood having one percent chance of being equaled or exceeded in any given year.
2. Basement: means any area of the building having its floor subgrade on all sides.
3. Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
4. Existing Manufactured Home Park or Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a county.
5. Expansion of Existing Manufactured Home Park or Subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
6. Flood: A general and temporary condition of partial or complete inundation of normally dry land areas from: (i) The overflow of inland or tidal waters. (ii) The usual and rapid accumulation of runoff of surface waters from any source.
7. Flood Insurance Rate Map (FIRM): An official map of a county, on which the Administrator has delineated both the special flood hazard areas and the risk premium applicable to the county.
8. Floodplain: Any land area susceptible to being inundated by water from any source (see "flooding").
9. Floodproofing: Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
10. Floodway: The channel of the river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
11. Historic Structure: Any structure that is: (i) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (ii) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (iii) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (iv) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.
12. Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of these regulations.

13. **Manufactured Home:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.
14. **Manufactured Home Park or Subdivision:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
15. **New Construction:** For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of the floodplain management regulation adopted by a county and includes any subsequent improvements to such structures.
16. **New Manufactured Home Park or Subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of street, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a county.
17. **100-Year Flood:** The condition of flooding having one percent (1%) chance of annual occurrence.
18. **Principally Above Ground:** That at least fifty-one percent (51%) of the actual cash value of the structure is above ground.
19. **Recreational Vehicle:** A vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
20. **Regulatory Flood Elevation:** The water surface elevation of the 100-year flood.
21. **Special Flood Hazard Area:** The land in the floodplain within a county subject to one percent (1%) or greater chance of flooding in any given year.
22. **Start of Construction:** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.
23. **Structure:** A walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.
24. **Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.
25. **Substantial Improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before “start of construction” of the improvement. This includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either (1) any project for

improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alternation of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

- 26. Variance: A grant of relief to a person from the terms of a floodplain management ordinance.
- 27. Violation: The failure of a structure or other development to be fully compliant with the county’s floodplain regulations.

7

ARTICLE SEVEN

ADMINISTRATION AND ENFORCEMENT

701 Zoning Administrator.

A Zoning Administrator shall be appointed by the County Board of Commissioners and shall administer and enforce these Regulations. The Zoning Administrator may be provided with the assistance of such other persons as the County Board of Commissioners may direct.

702 Zoning Permit Required.

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

The Zoning Administrator may issue a temporary zoning permit for uses in any district for the purpose of uses and buildings incidental and required in the construction of a principal permitted use in the district in which it is located and highway construction, provided that such use be of a temporary nature and does not involve the erection of substantial buildings. Such permit shall be granted in the form of a temporary and revocable permit for not more than six months subject to conditions as will safeguard the public health, safety and general welfare.

703 Application for Zoning Permit.

Written application on forms prescribed and furnished by the Zoning Administrator stating such information as may be required for the enforcement of these regulations shall be submitted and shall be accompanied by plans in duplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon or to be changed in its use, in whole or in part, the exact location, existing and intended use of each building or structure or part thereof, the number of families or housekeeping units the building is designed to accommodate and when no buildings are involved, the location of the present use and proposed use to be made of the lot, existing and proposed water and sanitary sewer facilities, as may be necessary to determine and provide for the enforcement of these regulations. One (1) copy of such plans shall be returned to the owner when such plans shall have been approved by the Zoning Administrator together with such zoning permits as may be granted. All dimensions shown on these plans relating to the location and size of the lot to be built upon, shall be based on actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

The Zoning Administrator shall issue a written permit, or denial, thereof, with reasons in writing within fifteen (15) days from the date of the acceptance of the application. Those proposed uses requiring a zoning permit that are affected directly through these Regulations by another use currently in the conditional use process must yield until such use is permitted or denied.

Except where an extension has been obtained in writing from the Zoning Administrator, permits issued shall expire within ninety (90) days if the work described in the permit has not begun or the use applied for has not been established and within one year should the work not have been completed.

704 Enforcement by the Zoning Administrator.

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

Any person, partnership, limited liability company, association, club, or corporation violating these regulations or erecting, constructing, reconstructing, altering, or converting any structure without having first obtained a permit shall be guilty of a Class III misdemeanor. Each day such violation continues after notice of violation has been given to the offender may be considered a separate offense. In addition to other remedies, the County Board or the Zoning Administrator, as well as any owner or owners of real estate within the district affected by these regulations, may institute any appropriate action or proceedings to prevent such unlawful construction, erection, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain, correct, or abate such violation; or to prevent the illegal act, conduct, business, or use in or about such premises. Any taxpayer or taxpayers in the county may institute proceedings or compel specific performance by the Zoning Administrator, County Board or any other responsible officials of the county.

705 Certification of Occupancy.

No structure or land shall be hereafter used or the use changed thereof until a Certificate of Occupancy shall have been issued by the Zoning Administrator. A Certificate of Occupancy for a new building, or for the alteration of an existing structure shall be applied for coincident with the application for a zoning permit and shall be issued within ten days after the erection or alteration of such building is completed in conformity with these regulations.

No Certificate of Occupancy shall be issued for residential purposes for a partially completed or portion of a building. No structure shall be used as a temporary residence. Application for a change of use of land or existing structure shall be made on forms provided by the Zoning Administrator and shall state the proposed use is in conformity with these regulations.

8

ARTICLE EIGHT

BOARD OF ADJUSTMENT

801 Purpose.

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

802 Appointment.

The Madison County Board of Commissioners shall appoint a Board of Adjustment which shall consist of five members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three years and be removable for cause by the appointing authority upon written charges and after public hearing. No member of the Board of Adjustment shall be a member of the County Board of Commissioners. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed by the County Board from the membership of the County Planning Commission, and the loss of membership on the Commission by such member shall also result in his immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment.

803 Rules and Meetings.

The Board of Adjustment shall adopt rules in accordance with the provisions of any resolution adopted pursuant to this act. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed with the County Clerk and shall be a public record.

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

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

804 Powers.

The Board of Adjustment shall, subject to such appropriate conditions and safeguards as may be established by the County Board of Commissioners, have only the following powers:

1. To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, decision, or refusal made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;

2. To hear and decide, in accordance with the provisions of any regulation, requests for interpretation of any map, or for decisions upon other special questions upon which the board is authorized by such regulation to pass; and
3. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the adoption of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this act would result in peculiar and exceptional practical difficulties to, or exceptional undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantially impairing the intent and purpose of any zoning regulations, but no such variance shall be authorized unless the Board of Adjustment finds that: (a) The strict application of the resolution would produce undue hardship; (b) such hardship is not shared generally by other properties in the same zoning district and the same vicinity; (c) the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and (d) the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.
4. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property concerned is not of so general or recurring a nature as to make reasonable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

In exercising the above-mentioned powers, the Board may, in conformity with the provision of this act, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as shall be proper, and to that end shall have the power of the officer or agency from whom the appeal is taken. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.

805 Appeal of Board Decisions.

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

9

ARTICLE NINE

AMENDMENTS

901 Amendments.

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

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

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

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

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

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

Section 902 Remedies. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or land is used in violation of Sections 23-114 to 23-114.05, 23-168.01 to 23-168.04, 23-172, 23-174.02, 23-373, and 23-376, Reissue Revised Statutes of 1943 (in full), or this Regulation, or any regulation made pursuant to said sections, the appropriate authorities of the County may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

10

ARTICLE TEN

LEGAL STATUS PROVISIONS

1001 Separability. Should any article, section or provision of this Resolution be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Resolution as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

1002 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.

1003 Repeal of Conflicting Resolutions. All Resolutions or parts of Resolutions in conflict with this Resolution, or inconsistent with the provisions of this Resolution, are hereby repealed to the extent necessary to give this Resolution full force and effect.

1004 Effective Date. This Resolution shall take effect and be in force from and after its passage and publication according to law.

APPROVED AND ADOPTED by the Board of Commissioners of Madison County, Nebraska.

This _____ day of _____, 20__

(Seal)

ATTEST:

(COUNTY CLERK)

(CHAIR, COUNTY BOARD OF COMMISSIONERS)

Madison County Livestock Feeding Operation Siting Matrix Rules of Procedure

1. Any Conditional Use Permit applicant for a new or the expansion of an existing Livestock Feeding Operation (after July 15, 2003) with 300 or more animal units shall complete and pass the Madison County Livestock Feeding Operation Siting Matrix as part of the Conditional Use Permit application process. Passing the Matrix does not assure, guarantee, certify or secure a Conditional Use Permit.
2. Application for a Conditional Use Permit to Operate a Livestock Feeding Operation:
The Owner/Operator Must receive a passing score and comply with all the additional requirements of Section 402 or Section 403 of the Madison County Zoning Regulations at the time of application in order to receive a Conditional Use Permit to Operate a Livestock Feeding Operation.
3. The matrix currently used is Appendix 1 with a passing score of 300 points.
4. Once a Conditional Use Permit has been granted, the Owner/Operator shall complete and pass the Madison County Livestock Feeding Operation Siting Matrix annually. Only a passing score is required.
5. Any changes or updates in this matrix initiated by the County shall not be applicable to those Conditional Use Permits issued under a previous edition of the Matrix as long as the operation does not expand.
6. Any changes or updates in this matrix caused by a change in procedure, rules or law by the State of Nebraska and/or the United States Government shall be applicable to all Livestock Feeding Operation Conditional Use Permits issued with the use of this matrix.
7. Livestock Feeding Operations when holding a Special Use Permit issued prior to August 1, 2003, are subject to the matrix procedure when renewing a permit after August 1, 2008 or for any expansion prior to the expiration of the existing permit. This clause is geographic specific and pertains only to the legal description of each individual permit location and not the owner or operator.
8. Annual Review:
 - a. The Zoning Administrator shall complete the matrix as part of an on-site inspection, or mail the matrix the Owner/Operator for completion. Either shall be begun 60 days prior to, and completed and returned to the Zoning Administrator no later than, the anniversary date of the permit.
 - b. Failure to pass the matrix.
 - i. If the Owner/Operator does not attain the passing point level on the annual matrix review the Zoning Administrator shall notify the Owner/Operator with the current score and the exact areas in the matrix where the change of score occurred within fourteen (14) days of scoring the matrix.
 - ii. The Owner/Operator shall have forty-five (45) days to make the necessary changes in order to pass the matrix review and to notify the Zoning Administrator of the changes.
 - iii. After notification by the Owner/Operator, the Zoning Administrator will make a site visit and evaluate the changes together with the Owner/Operator.
 - iv. The Zoning Administrator shall notify, in writing, the Owner/Operator of the total matrix score within seven (7) days of the site visit.
 - v. If a passing matrix score is not achieved on the second attempt, the Owner/Operator shall have 30 days to make the necessary changes to pass the matrix or must notify the Zoning Administrator in writing of intentions to close the L.F.O.
 - vi. After notification of changes made by the Owner/Operator, the Zoning Administrator will make a site visit and evaluate the changes together with the Owner/Operator.
 - vii. The Zoning Administrator shall notify in writing the Owner/Operator of the total matrix score within seven (7) days of the site visit.
 - viii. Within thirty (30) days of being notified a passing score was not achieved on the third attempt, the Owner/Operator shall submit to the Zoning Administrator a new Livestock Conditional Use Permit Application or a written notice of intent to close the L.F.O.
9. Complaints:

- a. All complaints against an Owner/Operator of a L.F.O. shall be made in writing by the complainant.
 - b. The Zoning Administrator shall follow-up within thirty (30) days of receiving the complaint to determine the validity of the complaint.
 - c. If in the Zoning Administrator's judgment, the complaint is not valid, the Zoning Administrator shall notify the complainant in writing.
 - d. If the complaint is valid resulting in a violation of the Madison County Zoning Regulations, the Zoning Administrator shall notify the Owner/Operator in writing.
 - e. The Zoning Administrator shall handle a violation in the same fashion as any other violation of the Madison County Zoning and Subdivision Regulations including the following:
 - i. If the Zoning Administrator finds a violation of the Madison County Zoning Regulations he shall notify the Owner/Operator of that violation. Other officials and/or agencies, including but not limited to, the County Attorney, DEQ, EPA, USDA, etc. may also be notified of the violation.
 - ii. The Zoning Administrator shall, together with the Owner/Operator, complete a matrix review. If a passing score is not achieved, see Part 4, above.
10. Appeals:
- The decision of the Zoning Administrator on the scoring of the Zoning Matrix, violations of Madison County Zoning Regulations, etc. is final. Appeals of the Zoning Administrator's decision may only be made to the Madison County Board of Adjustment.

Madison County Livestock Siting Matrix

DEFINITION OF TERMS

1. "Applicant" shall mean the owner and/or the operator of the livestock operation.
2. "Application area" shall mean land utilized for the land application of livestock wastes.
3. "Best Management Practices (BMP)" shall mean schedules of activities, prohibitions, maintenance procedures, and other management practices found to be the most effective and practicable methods for specific sites to prevent or reduce the discharge of pollutants to waters of the State or control odor where appropriate. Best management practices also include operating procedures and practices to control site runoff, spillage, leaks, sludge or waste disposal or drainage from raw material storage.
4. "Class I livestock waste control facility" shall mean a livestock waste control facility designed for one thousand (1,000) or fewer animal units.
5. "Class II livestock waste control facility" shall mean a livestock waste control facility designed for more than one thousand (1,000) animal units and five thousand (5,000) or fewer animal units.
6. "Class III livestock waste control facility" shall mean a livestock waste control facility designed for more than five thousand (5,000) animal units and twenty thousand (20,000) or fewer animal units.
7. "Class IV livestock waste control facility" shall mean a livestock waste control facility designed for more than twenty thousand (20,000) animal units.
8. "Closure Plan" shall mean a plan to close the facility, to be implemented within 12 months of discontinuation of the livestock operation. The plan should detail the disposition of all accumulated waste, which complies with the requirements of Chapter 11 of Title 130.
9. "Common area" shall mean an area utilized by more than one livestock operation for land application of livestock waste. Common area must receive at least twenty percent (20%) of the waste produced from each livestock operation on an annual basis.
10. "Comprehensive nutrient management plan (CMNP)" shall mean and includes the legal description of planned waste application areas to be utilized by the operation, a description of the application areas including the number of useable acres, slope, soil type, cropping practices, historic yields, distance to surface water, location of wetlands and use by other operations. Any areas not owned by the operation shall include the landowner(s)' name, address, legal description, number of acres and an agreement signed by the landowner(s) allowing for the planned use of the land and any restrictions. The plan shall include waste sampling and analysis procedures, land application soil sampling and analysis procedures, and planned application rates, methods, and frequencies, which comply with Chapter 11 of Title 130. The plan also shall include appropriate record keeping of locations and quantities of livestock wastes land applied, sample results as required in Chapter 11 of Title 130 and records of waste sold or given away. The applicant may be required to provide the location and extent of wetlands, as determined by the Natural Resources Conservation Service, on the operation or land application areas.
11. "Confined livestock operations" shall mean totally roofed buildings, which may be open-sided (for ventilation purposes only) or completely enclosed on the sides, wherein animals or poultry are housed over solid concrete or dirt floors, or slatted (partially open) floors over pits or manure collection areas in pens, stalls or cages, with or without bedding materials and mechanical ventilation.
12. "Construct" or "Construction" shall mean the initiation of physical on-site activities specific to the livestock waste control facility. Such activities do not include the use of the site for a borrow site for other construction purposes or the construction of other components of the livestock operation.
13. "Construction permit" shall mean a permit issued by the Department after approval of plans and specifications for livestock waste control facilities and prior to the commencement of construction of such facilities.
14. "Contributing drainage area" shall mean surface area, other than the open lot, from which runoff cannot be diverted around the livestock operation and/or the livestock waste control facility.
15. "Debris basin" shall mean an individually designed low gradient, broad, flat channel with a supporting ridge on the lower side, which functions to trap and store settleable solids, (both manure and sediment), for subsequent removal.
16. "Department" shall refer to the Nebraska Department of Environmental Quality.
17. "Dewatering days" shall mean those days which have suitable weather and soil conditions for land application of accumulated livestock wastes.
18. "Discharge" shall mean the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of pollutants into any waters of the State or in a place which will likely reach waters of the State.

19. "Emergency Response Plan" shall mean a plan to respond to any spill, release or discharge of animal waste due to such events as power failures, large storms or chronic wet periods, leaks or breaks in water supply systems, component failure of the waste control facilities and any releases during land application due to equipment failure or accidents or irrigation equipment failure.
20. "Existing livestock operation" shall mean a livestock operation which was or had been in operation with a Madison County Special Use Permit prior to July 1, 2003.
21. "Existing livestock waste control facility" shall mean a livestock waste control facility in existence prior to July 1, 2003, that does or is exempt from holding a DEQ permit.
22. "Existing non-permitted livestock waste control facility" shall mean a livestock waste control facility constructed and operated without an inspection and permit by the DEQ prior to July 1, 2003, or a livestock waste control facility which has been exempted from a permit by the Department, and does not have or ever applied for a Special or Conditional Use Permit from Madison County.
23. "Ground water" shall mean water occurring beneath the surface of the ground that fills available openings in rock or soil materials such that they may be considered saturated.
24. "Holding pond" shall mean an impoundment made by constructing an excavated pit, dam, embankment or combination of these for temporary storage of liquid livestock wastes, generally receiving runoff from open lots and contributing drainage area.
25. "Irrigation distribution system" shall mean any device or combination of devices having a hose, pipe, or other conduit, which connects directly to any source of ground or surface water, through which livestock wastes or a mixture of water and livestock wastes is drawn and applied for agricultural or horticultural purposes.
26. "Lagoon" shall mean an impoundment made by constructing an excavated pit, dam, embankment or combination of these for treatment of liquid livestock waste by anaerobic, aerobic or facultative digestion. Such impoundment predominantly receives waste from a confined livestock operation.
27. "Landscape Plan" shall mean any type of document showing planned landscaping including but not limited to the type of grasses, trees, slope, berm, flowering plants and the proposed date of installation. Does not have to be done by any professional landscape architect, engineer, etc.
28. "Liquid manure storage pits" shall mean earthen or lined pits located wholly or partially beneath a semi or totally housed livestock operation or at some removed location used to collect waste production.
29. "Livestock waste control facilities" or "facility" or "facilities" shall mean any structure or combination of structures utilized to control livestock waste until it can be used, recycled, or disposed of in an environmentally acceptable manner. Such structures include, but are not limited to, diversion terraces, holding ponds, debris basins, liquid manure storage pits, lagoons or other such devices utilized to control livestock wastes.
30. "Livestock wastes" shall mean animal and poultry excreta and associated feed losses, bedding, spillage or overflow from watering systems, wash and flushing waters, sprinkling waters from livestock cooling, precipitation polluted by falling on or flowing onto a livestock operation, and other materials polluted by livestock wastes.
31. "Minimum design criteria" shall mean the minimum storage criteria plus the calculated open lot and contributing drainage area runoff for the month of June, plus the net precipitation on the holding pond surface for the month of June, plus solid accumulations of at least one-half inch per acre of open lot and other sources of waste water.
32. "Minimum storage criteria" shall mean the calculated runoff produced by a 25 year - 24 hour rainfall event per acre of drainage, for open lots and contributing drainage areas.
33. "Open discharge system" shall mean a system in which the water is pumped or diverted directly into a ditch or canal in such a manner that the force of gravity at the point of discharge into the ditch or canal cannot cause water to flow back to the point from which the water was pumped or diverted.
34. "Open lots" shall mean pens or similar concentrated areas, including small shed-type areas or open-front buildings, with dirt, or concrete (or paved or hard) surfaces, wherein animals or poultry are substantially or entirely exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed-type areas.
35. "Operational and maintenance plan" shall include a schedule for monitoring of available waste storage capacity, a schedule for comprehensive inspections of the facility, methods to prevent tampering with gravity drain valves, waste removal based on type and capacity of the facility and the availability of disposal area, maintenance activities, procedures to maintain the facility for periods of time when it is not in operation, and record keeping of all maintenance or necessary repairs made to the facility or appurtenances as required in Chapter 11 of Title 130.
36. "Operator" shall mean the person responsible for the overall operation of a livestock operation.
37. "Owner" shall mean the person who owns a livestock operation or part of a livestock operation.

38. "Single retention structure" shall mean an impoundment made by excavation and/or embankment which functions to collect and store all runoff (liquid and solid) from the livestock operation and any contributing drainage area for subsequent removal.
39. "Sludge management plan for holding ponds and lagoons" which shall include periodic monitoring of accumulated solids and a schedule for removal. In the case of liquid storage pits, adequate storage shall be provided prior to winter operation. Methods to provide this storage shall be described in the operational; and maintenance plan
40. "State operating permit" or "operating permit" shall mean a permit issued by the Department after the completion of the livestock waste control facility in accordance with the construction permit and the submittal of a completed certification form to the Department.
41. "Surface waters" shall mean all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, springs, canal systems, drainage systems, and all other bodies or accumulations of water, natural or artificial, public or private, situated wholly or partly within, or bordering upon, the State. Impounded waters in this definition do not include areas designated by the Department as wastewater treatment or wastewater retention facilities or irrigation reuse pits.
42. "25 year - 24 hour rainfall event" shall mean a rainfall event with a probable recurrence interval of one in twenty-five (25) years. Appendix A, of DEQ Chapter 130, depicts the 25 year-24 hour rainfall event areas for Madison County, Nebraska as 4.9 inches.
43. "Water pollution" shall mean the man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of water.
44. "Waters of the State" shall mean all waters within the jurisdiction of this State including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the State.
45. "Will" when used as adverb as in 'Will create jobs' shall be replaced by "Has" during annual review.

Madison County Animal Feeding Operation Siting Matrix

Type		Animal Specific	All Livestock Facilities	Negative Scores for All Facilities	Special to Open Feedlots	Special to Confined Facilities	Score
Animal Feeding Operation (when applicable)							
all	1 to 300 head equivalent capacity		40				
	301 to 500 head equivalent capacity		40				
	501 to 999 head equivalent capacity		30				
	1,00 to 1,250 head equivalent capacity		20				
	1,251 to 1,500 head equivalent capacity		10				
	1,501 to 2,500 head equivalent capacity		5				
	2,501 or more head equivalent capacity		0				
DEQ Permit							
all	Has DEQ permit (construction, operational, NPDES, Interim) in hand		50				
	Has letter from DEQ stating no permit is necessary		50				
	Has not yet applied to DEQ			-25			
	Has applied to and/or requested inspection from DEQ, but has not received permit			0			
Operator							
all	Operator has no history of verified DEQ violations in past five years		15				
all	Operator has no history of verified complaints filed in Madison County in past five years		15				
all	Owner lives on the site of the Livestock Feeding Operation		35				
all	Operator lives on the site of the Livestock Feeding Operation		20				
all	Owner or operator lives in Madison County		10				
all	Owner lives within the setback of the Livestock Feeding Operation		15				
all	Owner or operator does not live in Madison County			-50			
Odor Emissions							
con	The short side of the confinement barn is perpendicular to the closest neighbors					10	
con	The confinement is located as far as possible from the neighbor					10	
all	No odor control measures.			-20			
con	Functioning biofilters on exhaust fans.					25	
all	Impermeable cover (outdoor storage)		25				
con	Oil sprinkling for dust reduction					5	
feedlot	Water sprinkling for dust reduction				5		
all	Separation of solids		10				
all	Other generally accepted odor reduction methods in place.		5				
Manure Storage (multiplied by number of storage facilities)							
all	Debris basin or holding pond or diversion terraces		0				
all	Single retention structure					0	
all	Lined lagoon		5				
all	Plastic lined lagoon		15				
all	Functioning anaerobic lagoon minimum 8 ft. deep		15				
all	Aerated manure storage structure(s)		20				
all	Geotextile cover on lagoon(s) (>2.4 mm thickness)		15				
all	Straw or natural manure crust cover 4-inch thick		15				
all	Straw or natural manure crust cover 8-inch thick		20				
all	Steel or concrete tank, above or below ground		30				
all	Stockpile, crusted		2				
all	Methane digester is used to generate energy from manure and remaining manure is surface applied.		20				
all	Methane digester is used to generate energy from manure and remaining manure is injected or incorporated.		30				
all	Debris basin, lagoon, or holding pond exceeds minimum storage criteria				5		
all	and has retention room for a 50 year storm						
all	Debris basin, lagoon, or holding pond exceeds minimum storage criteria				15		
all	and has retention room for a 100 year storm						
Housing Type							
Beef	Open lots	15					
Dairy	Free stall, deep pit; Loose housing, scrape	15					
Dairy	Tie stall, scrape	15					

Type		Animal Specific	All Livestock Facilities	Negative Scores for All Facilities	Special to Open Feedlots	Special to Confined Facilities	Score
Chicken	Litter	15					
Chicken	Caged	5					
Turkey	Litter	15					
Swine							
Gestation	Deep pit, natural or mechanical ventilation	0					
	Pull plug, natural or mechanical ventilation	5					
Farrowing	Pull plug, natural or mechanical ventilation	10					
Nursery	Deep pit or pull plug natural or mechanical ventilation	0					
Finishing	Deep pit, natural or mechanical ventilation	5					
	Pull plug, natural or mechanical ventilation	7					
	Hoop barn, deep bedded, scrape; scrape	15					
	Loose housing, scrape; Open concrete lot, Cargill type (open front), scrape	10					
Manure Application							
a l l	No land application due to sale 100% of manure		25				
a l l	No land application due to sale 50% or more of manure		12				
a l l	No land application due to giving away 100% of manure		25				
a l l	No land application due to giving away 50% or more of manure		12				
feedlot	No land application of solids, solids separated and used for yard maintenance				15		
all	Livestock wastes collected in the facilities for confined livestock operations will be land applied onto application areas only on dewatering days at a rate to prevent a discharge from the facilities.				15		
all	Spreading without incorporation 80% or more of all included application areas			-10			
all	Injection or incorporation within 72 hours of application to 80% or more of all application areas		10				
all	Injection or incorporation within 2 hours of application to 80% or more of all application areas		25				
all	Vegetative buffers present on 75% natural surface drains on all application areas		5				
all	Vegetative buffers present on 100% of natural surface drains on all application areas		10				
all	Vegetative buffer of a minimum of 100 feet width between application fields and any surface waters.		10				
all	No application will occur on highly erodible land as classified by the USDA NRCS.		10				
all	The irrigation distribution system is disconnected from the irrigation water source during livestock waste application			-10			
all	Additional separation distance, above minimum requirements, from manure application area to closest: Residence not owned by Feeding Operation owner, Hospital, Nursing Home, School, church, platted subdivision or park. Applies to 100% of all application areas						
	50 to 100 feet		2				
	101 to 500 feet		5				
	501 to 1,320 feet		7				
	1,321 to 2,640 feet		10				
	2,641 feet and greater		15				
all	Additional separation distance, above minimum requirements, from manure application area to areas of 20% or more slope. Applies to 100% of all application areas.						
	50 to 100 feet		2				
	101 to 500 feet		5				
	501 to 1,320 feet		7				
	1,321 to 2,640 feet		10				
	2,641 feet and greater		15				
all	Additional separation distance, above minimum requirements, from manure application area to closest surface waters. Applies to 100% of all						
	50 to 100 feet		2				
	101 to 500 feet		5				
	501 to 1,320 feet		7				
	1,321 to 2,640 feet		10				
	2,641 feet and greater		15				

Type		Animal Specific	All Livestock Facilities	Negative Scores for All Facilities	Special to Open Feedlots	Special to Confined Facilities	Score
Environmental Protection							
all	Comprehensive Nutrient Management Plan (CNMP) has been submitted to Zoning Administrator		10				
all	Emergency Response Plan has been submitted to Zoning Administrator		10				
all	Operational and maintenance plan has been submitted to the Zoning Administrator		10				
all	Adoption and implementation of DEQ approved CNMP.		10				
all	Sludge management plan for holding ponds and lagoons has been submitted to the Zoning Administrator.		10				
all	Owner required by DEQ or EPA to install groundwater monitoring wells & report results to zoning administrator.		0				
all	Owner will voluntarily install groundwater monitoring wells & report results to zoning administrator.		15				
all	A DEQ permitted or other allowable open discharge system is utilized.		0				
all	An open discharge system is not utilized.		5				
all	When available, owner will give zoning administrator EPA Annual Report		10				
feedlot	Will maintain all ground surfaces within outside livestock pens to insure proper drainage of animal waste and storm or surface runoff in such a manner as to minimize manure from being carried into any roadway ditch, drainage area or onto a neighbor's prop				20		
all	Will not have any manure storage unit, lagoon, debris basin, holding pond, diversion terraces, etc. or system constructed where the bottom of the unit or system is within ten feet (10') of the existing water table where the unit or system is to be constructed		25				
Small	The facility is located on soils and/or constructed with materials and construction methods which will insure that percolation does not exceed the rate of 0.15 inches per day and is certified thereof by a registered professional engineer		25				
Medium and Large	The facility is located on soils and/or constructed with materials and construction methods which will insure that percolation does not exceed the rate of 0.08 inches per day and is certified thereof by a registered professional engineer		25				
Closure							
all	A Closure Plan has been submitted to the Zoning Administrator		10				
all	The producer/owner/operator or a certified financial institution has signed a statement agreeing to accept financial responsibility for cleanup if declared an environmental hazard by the State of Nebraska or EPA.		10				
all	An escrow account at \$100 per head equivalent (\$5,000 min., \$10,000 max.) has been established for cleanup if declared an environmental hazard by the State of Nebraska or EPA.		15				
all	A performance bond of \$10,000 per one-thousand head equivalent has been purchased to insure operation of the feeding operation.		35				
all	The producer/owner/operator does not take financial responsibility for cleanup in the case of closure of the operation.			-50			
Traffic							
all	Will be served by ingress and egress routes that will minimize traffic congestion or damage to roads and streets as determined by county highway superintendent.		10				
all	Will substantially increase traffic on gravel road as determined by county highway superintendent.			-10			
all	Located on oil or blacktop road with weight restrictions			-10			
all	Located within one-mile of farm to market road as determined by Madison County Highway Superintendent		5				
all	Truck route established without using any bridges or roads with seasonal or permanent weight restrictions		5				
all	Truck route established using bridges or roads with seasonal or permanent weight restrictions			-10			
all	Will not substantially increase traffic as determined by county highway superintendent.		10				
all	Producer will not use County Roads for travel to apply manure		10				

Type		Animal Specific	All Livestock Facilities	Negative Scores for All Facilities	Special to Open Feedlots	Special to Confined Facilities	Score
all	Producer has an agreement with the County to maintain or pay for road maintenance		25				
Neighbors - Community Support							
all	Tangible proof of communication with 100% of the property owners within a one mile radius.		25				
Noise levels							
all	Will not generate excessive noise as determined by the Zoning Administrator		10				
Economic Impact Factors							
all	Will increase property valuation as of CUP issue date 1 to 15%		5				
all	Will increase property valuation as of CUP issue date 16 to 35%		10				
all	Will increase property valuation as of CUP issue date 36 to 60%		15				
all	Will increase property valuation as of CUP issue date 61 to 85%		20				
all	Will increase property valuation as of CUP issue date 86 to 100%		25				
all	Will increase property valuation as of CUP issue date more than 100%		30				
all	Will purchase a minimum of 75% of feed from Madison County producers.		10				
all	Will create 1 to 3 new full-time or equivalent jobs		5				
all	Will create 4 to 9 new full-time or equivalent jobs		10				
all	Will create 10 or more new full-time or equivalent jobs		15				
Landscape & Aesthetic Appearance							
all	Landscape plan submitted to zoning administrator.		10				
all	Visual barriers		10				
all	Lack of landscaping or landscape plan			-10			
con	Fans exhaust into vegetative or constructed barrier					10	
all	Site designed to facilitate clean water drainage away from buildings and manure storage.		10				
all	Truck turnaround		5				
all	Will be served with adequate utilities, access roads, drainage and other necessary facilities, infrastructure, or public services		25				
Additional Setbacks							
all	Additional separation distance, above minimum requirements, from proposed Livestock Feeding Operation to closest: Residence not owned by Feeding Operation owner, Hospital, Nursing Home, School, church, platted subdivision or park.						
	250 to 500 feet		2				
	501 to 750 feet		5				
	751 to 1,000 feet		7				
	1,001 to 1,250 feet		10				
	1,251 feet or more		15				
all	Additional separation distance, above minimum requirements, from proposed Livestock Feeding Operation to closest body of water						
	250 to 500 feet		2				
	501 to 750 feet		5				
	751 to 1,000 feet		7				
	1,001 to 1,250 feet		10				
	1,251 feet or more		15				
Possible Points			1466				

The above information is, to the best of my knowledge, true and accurate, and supporting documentation has been presented to the Zoning Administrator. It is understood and agreed that any error, misstatement or misrepresentation of fact, either with or w

Signature of applicant: _____ Date: _____

I have reviewed the matrix, verified the answers, and certified the score. Supporting documentation has been provided by the applicant.

Zoning Administrator: _____ Date: _____

Passing score is 350 points

Zoning Matrix

Use Types	AG1	AG2	AT	RR	M H	C3	I	EC
Agricultural Uses								
Horticulture (Greenhouses)	P	P	P			C		
Feed Mills	P	P				C	P	
Crop Production	P	P	P	P	P	P	P	P
Livestock (<300 HE)	P/L	P/L	P/L					
Livestock (> 300 HE <5,000)	C	C						
Livestock (> 5,000)	C							
Livestock Sales	P	P	P			C		
Produce Stands	C	C	C			C		
Seed and Feed Sales	C	C	C			P		
Residential Uses								
Single-Family Detached (Farm)	P	P	P	P	P			
Single-Family Detached (Non-Farm)	C	C	C	P	P			
Single-Family Attached				C	C			
Duplex				C	C			
Two-Family				C	C			
Townhouse				C	C			
Multiple Family Residential				C	C			
Group Residential			C	C				
Manufactured Home Res	P/L	P/L	P/L		P			
Mobile Home Park					C			
Mobile Home Subdivision				C	C			
Retirement Residential			C	C	C			
Civic Use Types								
Administration	P	P	P	C	P	P	P	
Cemetery	C	C	P	C	C	C	C	
College and Universities			C	C		C		
Convalescent Services			C	C				
Cultural Services			C	C				
Day Care Services Limited	P	P	P	P	P	P	C	
Day Care Services General	C	C	C	C	C	C	P	
Detention Facilities			C			C	C	
Emergency Residential Services	C	C	C	C				
Group Care Facility			C	C				
Group Home			C	C				
Guidance Services			C	C				
Health Care			C	C		P		
Hospital			C	C		P		
Maintenance Facilities	C	C	C			C	P	
Parks and Recreation	P	P	P	P	P	P	P	P/L
Postal Facilities			C	P	P	P	P	
Primary Education Facilities	C	C	C	P	P	C		
Public Assembly	C	C	C	P	C	C		
Religious Assembly	C	C	P	P	P	P	C	
Safety Services			C	C	C	P		
Secondary Education Facilities	C	C	C	P	P	C		
Utilities	P	P	P	C	C	P	P	P/L
Office Use Types								
General Offices			C	C	C	P	C	
Financial Services						P		
Medical Offices			C	C	C	P		
Commercial Use Types								
Adult Entertainment						C		
Agricultural Sales & Services	C	C	C			P	P	
Auction Yards and Barns	P	P	P			C	P	
Auto Rental/Sales Services						C		
Auto Services						C	C	
Bed & Breakfast	C	C	C	P/L				
Body Repair						C	C	
Business Support Services	C	C	C	C		C		
Equipment Rental/Sales	C	C	C			C		
Equipment Repair Services	C	C				C		

Use Types	AG1	AG2	AT	RR	MH	C3	I	EC
Commercial Use Types Cont'd								
Business or Trade Schools	C	C				P		
Campground	C	C	C		C			C
Cocktail Lounge						P		
Commercial Recreation Indoor						C		
Commercial Recreation Outdoor			C			C		P/L
Communications Services	C	C	C	C	C	C	C	C
Construction Sales & Services	C	C	C			C	C	
Consumer Services						P	C	
Convenience Storage						C	P	
Convenience Stores						P/L		
Dry Cleaning						C	C	
Food Sales (Grocery Stores)						P		
Funeral & Mortuaries Services	C	C	P			P		
Gaming Facilities						P		
Golf Courses	C	C	C	P/L				
Industrial Equipment Sales	C	C				P	P	
Kennels	C	C	C					
Laundry Services						C	P	
Liquor Sales						P		
Lodging (Not Bed & Breakfast)						P		
Pet Services	P/L	P/L	P/L			P/L		
Research Services	C	C	C			C	C	
Restaurants Fast Food						P		
Restaurants General						P		
Retail Services						P		
Stables or Riding Schools	P/L	P/L						
Surplus Sales						P	P	
Trade Services						P	P	
Vehicle Storage (short-term)	C	C				P	C	
Vehicle Storage (long-term)	C	C				C	C	
Veterinary Services	P	P	P			P	C	
Parking Use Types								
Off-Street Parking						P	P	
Industrial Use Types								
Agricultural Industries	P/L	P/L	P/L				P/L	
Construction Yards							C	
Custom Manufacturing	C	C					P	
Light Industry	C	C					P	
General Industry							C	
Heavy Industry							C	
Recycling Collection	C	C	C			C	P	
Recycling Processing	C	C	C				P	
Resource Extraction	C	C	C					C
Salvage Services	C	C				C	C	
Warehousing (Enclosed)	C	C	C			P/L	P/L	
Warehousing (Open)	C	C	C			P/L	P/L	
Transportation Use Types								
Aviation Facilities (Airports)	C	C	C					
Railroad Facilities	C	C				P/L	P	
Passenger Transportation	C	C				P		
Truck Terminal	C	C				C	P	
Miscellaneous Types Uses								
Alternative Energy Production	C	C					C	
Amateur Radio Tower	P/L	P/L	P/L	P/L	P/L	C	C	C
Broadcasting Tower	C	C	C	C	C	C	C	C
Construction Batch Plant	C	C	C	C	C	C	C	C
Home Occupations	C	C	C	C	C			
Landfill (non-putrescible)	C	C	C					
Landfill (putrescible)	C	C	C					
Wind Energy Conservation	C	C	C			C	P	C
Wireless Communication Tower	C	C	C	C	C	C	C	C

P = Permitted Use
C = Conditional Use Permit Required
L = Allowed with some Limitations