Cass County, Nebraska

Zoning Regulations • November 2025

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ARTICLE 1: GENERAL PROVISIONS

Section 1.01 Short Title

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

Section 1.02 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 Cass County.

Section 1.03 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.

Section 1.04 Conflicts

All Resolutions or parts of Resolutions in conflict herewith are hereby repealed.

Section 1.05 Intent and Purpose

This Resolution is a revision and update of the existing Zoning Regulations of Cass County, consistent with the Comprehensive Cass County Development Plan and designed for the purpose of promoting the health, safety, morals, convenience, order, prosperity, and welfare of the present and future inhabitants of Cass County, including among others, such purposes as developing both urban and nonurban 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 agricultural, 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 Cass County, Nebraska.

Section 1.06 Jurisdiction

The provisions of this Resolution shall apply to unincorporated areas of Cass 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 control over an unincorporated area, its regulations shall supersede those of Cass County.

Section 1.07 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.

Section 1.08 Effect

The adoption of this Resolution as the Revised Zoning Regulations of Cass County, Nebraska, with certain changes and modifications to the existing Zoning Regulations which were adopted as Resolution No. 1983-14, as amended, shall except as herein otherwise specifically provided, be deemed as a continuance of said Resolution No 1983-14.

A. All Variances heretofore granted by Cass County, Nebraska, and existing prior to the adoption of this Resolution shall be deemed to hereafter exist as lawfully existing Variances.

B. All Conditional Use Permits heretofore issued by Cass County, Nebraska, and existing prior to the adoption of this Resolution shall continue in effect by their original provisions, conditions, and terms of termination or shall hereafter continue in effect, or until otherwise revoked or terminated and shall be subject to all provisions relating to Conditional Use and Special Exception Permits as set forth under this Resolution.

C. All Conditional Use Permits heretofore issued for Planned Development by Cass County and existing as land-use developments or as partially completed land-use development prior to the adoption of this Resolution shall continue in effect under their original approved terms, conditions, and provisions and shall be deemed hereafter as a Planned Development, provided however, for that portion of the Planned Development Plan where the area is not developed or where less than twenty percent of the proposed pavements and utilities have been installed or constructed, the development is subject to the higher standards relating to a Planned Development as set forth under this Resolution.

D. Any existing building, structure, or improvement or any existing use of land, building, or structure, carried on or conducted in violation of the existing zoning ordinance, as amended and now in force shall not be deemed to have acquired a non-conforming status by reason of the adoption of this Resolution, but shall be deemed a continuing violation.

E. Any existing building, structure, or improvement, or any existing use of land, building, or structure carried on or conducted prior to and after the adoption of the existing zoning ordinance, as amended and now in force that were permitted to exist as non-conforming use, building, or structure shall be deemed to have a non-conforming status, and after the adoption of this Resolution and its effective date, these non-conforming uses, buildings, and structures shall be permitted to continue to exist under the conditions and provisions prescribed under the existing zoning ordinance as amended and as supersedes by the regulations of this Resolution.

Section 1.09 Farm Building Exemption

The regulations provided for under this Resolution 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. 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.

Section 1.10 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.

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ARTICLE 2: APPLICATION OF REGULATIONS

Section 2.01 General

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

Section 2.02 Scope of Regulations

No building, structure, or land in the unincorporated areas, excluding the portion of unincorporated areas over which cities and villages are granted and are exercising zoning jurisdiction in Cass 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 building permit from the Cass County Zoning Administrator and:

A. Every building hereafter erected shall be located on a lot of record.

B. Only one principal building will be permitted on one lot of record.

C. After a county road has been classified as a minimum maintenance road, no permits for residential dwellings, mobile home, or manufactured home shall be issued for construction on any property adjoining such classified road.

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ARTICLE 3: CONSTRUCTION AND DEFINITIONS

Section 3.01 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 number include the plural and those in the plural number include the singular; "or" includes "and," and "and" includes "or," and the masculine gender shall include the feminine.

- The word "Assessor" shall mean the County Assessor of Cass County.
- The words "Board" or “Board of Commissioners" shall mean the Board of Commissioners of Cass County.
- The word "Building" includes the word "Structure," but shall not include "Temporary Structures."
- The word "Commission" shall mean the Planning Commission of Cass County.
- The word "County" shall mean Cass County.
- The words "County Registrar" shall mean the County Registrar of Deeds of Cass County.
- The word "Federal" shall mean the Government of the United States of America.
- The word "Shall" is mandatory; and the word "may" is permissive.
- The word "State" shall mean the State of Nebraska.
- The word "used" includes the words "arranged for, designed for, occupied or intended to be occupied for."
- The words "Zoning Map" shall mean the Official Zoning Map of Cass County.
- The word "Administrator" shall mean the Zoning Administrator of Cass County.
- The word "Resolution" shall mean the Zoning Regulation of Cass County.
- The words "Comprehensive Plan" shall mean the Cass County Comprehensive Development Plan.

Section 3.02 Definition of Terms

ABANDONMENT shall mean to cease or discontinue a use or activity without intent to resume as distinguished from short term interruptions such as during periods of remodeling, maintenance, or normal periods of vacation or seasonal closure.

ABUTTING shall mean to border on, being contiguous with or have property or district lines in common, including property separated by an alley.

ACCESS OR ACCESS WAY shall mean the place, means, or way by which pedestrians and vehicles shall have safe, adequate, and usable ingress and egress to a property or use as required by this Regulation.

ACCESS BUILDING (see Building, accessory)

ACCESSORY OR LIVING QUARTERS shall mean 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.

ACCESSORY STRUCTURE shall mean 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.

ACCESSORY USE shall mean 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.

ACRE shall mean a full acre containing 43,560 square feet of area within the property lines of a lot or parcel.

ACREAGE shall mean any tract or parcel of land which does not qualify as a farm or development.

ADJACENT shall mean near, close, or abutting; for example, an Industrial District across the street or highway from a Residential District shall be considered as "Adjacent."

ADMINISTRATIVE USE PERMIT shall mean an administratively approved use where allowed by the specific district regulations, that would not be appropriate generally throughout the zoning district without special restrictions, but which, 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 as determined by the Zoning Administrator.

ADULT ARCADE shall mean a commercial establishment to which the public is permitted or invited that maintains booths or rooms smaller than 100 square feet, wherein image-producing devices are regularly maintained, where a fee is charged to access the booths or rooms, and where minors are excluded from the booths or rooms by reason of age.

ADULT BOOKSTORE shall mean a commercial establishment which, as one of its principal business activities offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of “specified sexual activities” or “specified anatomical areas.” A “principal business activity” exists where the commercial establishments meet any one or more of the following criteria:

- At least 35% of the establishment’s displayed merchandise consists of said items; or
- At least 35% of the establishment’s revenue derives from the sale or rental, for any form of consideration, of said items; or
- The establishment maintains at least 35% of its floor area for the display, sale, or rental of said items; or
- The establishment maintains at least seven hundred fifty square feet (750 sq. ft) of its floor area for the display, sale, and/or rental of said items.

ADULT ESTABLISHMENT shall mean an “adult arcade”, an “adult bookstore,” an “adult motion picture theater,” a “semi-nude lounge,” or a “sex paraphernalia store.”

ADULT MOTION PICTURE THEATER shall mean a commercial establishment to which the public is permitted or invited that maintains viewing rooms that are 100 square feet or larger wherein films or videos characterized by their emphasis upon “specified sexual activities” or “specified anatomical areas” are regularly shown.

ADVERTISING STRUCTURE shall mean 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.

AGRICULTURAL AND FARM BUILDINGS AND STRUCTURES shall mean any building or structure which is necessary or incidental to the normal conduct of a farm including but not limited to 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.

AGRICULTURE shall mean the use of land for agricultural purposes, of obtaining a profit by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products, or any other agricultural or horticultural use. Agricultural use shall not be construed to include any parcel of land of less than twenty acres or any non-agricultural commercial or industrial development.

AGRITOURISM as it is most broadly defined involves any agriculture-based operation or activity that brings visitors to a farm, ranch, or acreage. Diversification is one way to maintain a thriving agricultural business model. As more and more farmers try to make ends meet many have looked at different ways of using their land while keeping acreage in farming or ranching and maintaining the rural culture that is so important to Cass County. Some of these opportunities include development of agritourism venues, such as farm stores, bed and breakfasts and encouraging farm tours and festivals that celebrate the fruits of our county.

AIRPORT shall mean any area which is used or is intended to be used for the taking off and landing of aircraft, including helicopters, and any appurtenant areas which are used or are intended to be used for airport buildings or facilities, including open spaces, taxiways, and tie-down areas and any area of land or water for the landing and taking off of aircraft including any related buildings and facilities.

AIRPORT HAZARD ZONE consists of Operations 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 which also constitute the outer boundaries of the Approach and Turning Zones. This includes any structure or tree or use of land that penetrates any Approach, Operation, Turning and Transition Zones.

ALLEY shall mean a minor public service street or public thoroughfare 20 feet or less in width, through a block of lots primarily for vehicular service access to the rear or side of properties otherwise abutting on another street. Buildings facing an alley shall not be construed as satisfying the requirements of this regulation related to frontage on a dedicated street.

ALTERATION shall mean any change, addition or modification in construction or occupancy of an existing structure.

ALTERATION STRUCTURE (See Structural Alteration)

AMENDMENT shall mean a change in the wording, context or substance of this Regulation, an addition or deletion or a change in the district boundaries or classifications upon the zoning map.

AMPHITHEATER shall mean an outdoor complex and associated facilities where musical concerts, musical productions, dance productions, theatrical productions, film productions and other live performances are performed.

AMUSEMENT ARCADE shall mean a building or a part of a building where five or more pinball machines, video games or other similar player-orientated amusement devices are available and are

maintained for use.

AMUSEMENT PARK shall mean a facility, primarily outdoors, that may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or sale of items, buildings for shows and entertainment, and restaurants and souvenir sales.

ANIMAL HOSPITAL (see Hospital, animal)

ANIMAL UNIT (see Livestock Feeding Operation)

ANIMAL, DOMESTIC (see Household pet)

ANIMALS, FARM shall mean livestock associated with agricultural operation, commonly kept, or raised as a part of an agricultural operation including but not limited to horses, cattle, sheep, swine, goats, chickens, and turkeys.

ANTENNA shall mean any attached or external system of wires, poles, rods, reflecting disks, or similar devices used for the transmission or reception of electromagnetic waves. (Also see Satellite Dish Antenna and Tower)

APARTMENT shall mean 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. (Also see Dwelling Unit)

APARTMENT HOTEL shall mean 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.

APARTMENT HOUSE (see Dwelling, multiple family)

APPROVED LOT (see Lot, approved)

AQUACULTURE also known as aqua farming is the farming of aquatic organisms such as fish, crustaceans, mollusks, and aquatic plants.

AQUIFER shall mean a geological unit in which porous and permeable conditions exist and thus are capable of bearing and producing usable amounts of water.

AQUIFER RECHARGE AREA shall mean an area that has soils and geological features that are conducive to allowing significant amounts of surface water to percolate into groundwater.

ARCHITECTURAL CANOPY SIGN (see Sign, architectural canopy)

ATTACHED PERMANENTLY shall mean 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.

AUTOMOBILE AUCTION YARD shall mean an automobile storage and auction facility designed to accommodate a supply of automobiles. The sole purpose of this facility is to dispose of automobiles through auctions. The storage of the automobiles is limited to 120 days. The facility

is not to be utilized as a salvage or wrecking yard.

AUTOMOBILE AND TRAILER SALES LOT shall mean an open area used for the display, sales, or rental of new or used automobiles and trailer coaches, but where no repair, repainting or remodeling is done. (Exception: Homeowners with 2 or fewer vehicles for sale are not considered a commercial operation)

BAR shall mean any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises. (Also see Nightclub)

BASE FLOOD shall mean any depression 2 feet or more below the land which serves to give direction to a current of water less than 9 months of the year, and which has a bed and well-defined bank.

BASEMENT shall mean a building space partly underground and having at least one-half (1/2) of its height, measuring from its floor to its ceiling, above the average adjoining finished ground grade line.

BED AND BREAKFAST (B&B) is a temporary night-to-night lodging for paying guests in a home. This includes accessory structures that contain a residential living unit which serves as a residence. The rooms shall be located in the main residence with access to each bedroom provided within the residence or courtyard. The operator of the inn shall live on the premises.

BEDROOM shall mean a room within a dwelling unit planned and intended for sleeping, separable from other rooms by a door.

BEST INTERESTS OF COMMUNITY shall mean interests of the community at large and not interest of the immediate neighborhood.

BEST POSSIBLE MANAGEMENT PRACTICES shall mean livestock management techniques and practices as set forth by various agencies, including the Nebraska Department of Environment and Energy, that encourage and protect the environment and public.

BILLBOARD shall mean the same as "Advertising Structure."

BLOCK shall mean a parcel of land platted into lots and bounded by public streets or by waterways, rights-of-way, unplatted land, City-County boundaries, or adjoining property lines.

BLOCK FRONTAGE shall mean that section of a block fronting on a street between two intersecting streets or another block boundary.

BOARD OF ADJUSTMENT shall mean that board which 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.

BOARDING OR ROOMING HOUSE shall mean a building containing a single dwelling unit and provisions for not more than 5 guests, where lodging is provided with or without meals for compensation.

BORROW PIT shall mean 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.

BREW PUB shall mean a retail establishment that manufactures not more than 10,000 barrels of malt liquor and fermented malt beverages on its licensed premises or licensed alternating proprietor licensed premises, combined, each calendar year.

BREWERY shall mean any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept.

BROADCASTING TOWER shall mean a structure for the transmission or broadcast of radio, television, radar, or microwaves which exceeds the maximum height permitted in the district in which it is located; provided, however, that noncommercial radio towers not exceeding 50 feet in height shall not be considered broadcast towers.

BUFFER shall mean a strip of land established to protect one type of land use from another incompatible land use or between a land use and a private or public road. (Also see Screening)

BUILDING shall mean any structure built and maintained for the support, shelter or enclosure of persons, animals, chattels, or property of any kind, but shall not include temporary buildings as defined in "Structure, Temporary." Trailers, with or without wheels, shall not be considered buildings.

BUILDING ACCESSORY shall mean any detached subordinate building which serves a function customarily incidental to that of the main building or main use of the premises. Customary accessory building includes farm buildings, garages, carports, and small storage sheds.

BUILDING, AREA OF shall mean the sum in square feet of the ground areas occupied by all buildings and structures on a lot.

BUILDING, HEIGHT shall mean 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 5-foot horizontal distance at the exterior wall of the building. (Also see Height)

BUILDING INSPECTOR shall mean the Building Inspector of Cass County, Nebraska.

BUILDING PRINCIPAL shall mean a building within which the main or primary use of the lot or premises is located. (Also see Principal Use.)

BUILDING SETBACK LINE shall mean the minimum of distance as prescribed by this regulation between any property line and the closed point of the building line or face of any building or structure related thereto.

CALIPER shall be defined by the American Association of Nurserymen standard for trunk measurement of nursery stock. Caliper of the trunk shall be taken six (6) inches above the ground for and up to and including 4-inch caliper size, and 12 inches above the ground for larger sizes.

CAMPGROUND shall mean a parcel of land intended for the temporary occupancy of tents, campers, and major recreational vehicles and whose primary purpose is recreational, having open areas that are natural in character.

CAR WASH shall mean 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.

CARPORT shall mean a permanent roofed structure with no more than two (2) enclosed sides used or intended to be used for automobile shelter and storage.

CELLAR shall mean a building space having more than one-half (1/2) of its height below the average adjoining grade lines.

CEMETERY shall mean land used or intended to be used for the burial of the dead and dedicated for such purposes, including columbarium and crematoriums.

CENTERLINE shall have the same meaning as "Street Center Line."

CHANNEL shall mean the geographical area within either the natural or artificial banks of a watercourse or drainageway.

CHARACTERIZED BY shall mean describing the essential character or quality of an item. As applied to adult establishments, no business shall be classified as an adult establishment by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

CHARITABLE shall mean a public or semi-public institutional use of a philanthropic, charitable, benevolent, religious, or eleemosynary character, but not including sheltering or caring of animals.

CHILD CARE CENTER shall mean an establishment other than a public or parochial school, which provides day care, play groups, nursery schools or education for 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.

CHILD CARE HOME shall mean 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.

CHURCH shall mean a permanently located building commonly used for religious worship fully enclosed with walls (including windows and doors) and having a roof and conforming to applicable legal requirements.

CLEAR VIEW ZONE shall mean the area of a corner lot closest to the intersection which is kept free of visual impairment to allow full view of both pedestrian and vehicular traffic. (Also see Sight Triangle.)

CLEARING shall mean any intentional or negligent act to cut down, remove all or a substantial part of, or damage a tree or other vegetation that will cause the tree or other vegetation to decline and/or die. Such acts shall include but not be limited to damage inflicted upon the root system of the vegetation by the application of toxic substances, by the operation of equipment and vehicles, by storage of materials, by the change of natural grade due to unapproved excavation or filling, or by the unapproved alteration of natural physical conditions.

CLINIC shall mean a building designed and used for the examination, diagnosis and treatment of human patients and not including overnight care facilities.

CLUB shall mean an association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not including groups which are organized primarily to render a service carried on as a business for profit.

COMMERCIAL FEEDING OPERATION (See Livestock Feeding Operation)

COMMISSION shall mean the Cass County Planning Commission.

COMMON AREA OR PROPERTY shall mean a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the Owners of the individual

building sites in a Planned Development or condominium development.

COMMUNITY CENTER shall mean a place, structure, or other facility used for and providing either religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve various segments of the community.

COMMUNITY SANITARY SEWER SYSTEM shall mean 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.

COMMUNITY WATER SUPPLY SYSTEM shall mean a public water supply system which serves at least 15 service connections used by year-round residents or uses, or regularly serves 25 or more-year around residents or uses.

COMPATIBLE USES shall mean a land use which 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.

COMPREHENSIVE PLAN shall mean the Comprehensive Plan of Cass 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 may, from time-to-time, be amended.

CONDITIONAL USE shall mean a use where allowed by the district regulations, that would not be appropriate generally throughout the zoning district without restrictions, but which, 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.

CONDITIONAL USE PERMIT shall mean a permit issued by the Planning Commission and County Board that authorizes the recipient to make conditional use of property in accordance with the provisions of Article 6 and any additional conditions placed upon or required by said permit.

CONDOMINIUM shall be 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.

CONFINEMENT 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, 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.

CONFLICTING LAND USE shall mean the use of property which transfers over neighboring property lines negative economic, or environmental effects, including, but not limited to noise, vibration, odor, dust, glare, smoke, pollution, water vapor, mismatched land uses and/or density, height, mass, mismatched layout of adjacent uses, loss of privacy, and unsightly views.

CONGREGATE HOUSING shall mean a residential facility for four or more persons 55 years or over, their spouses, or surviving spouses, providing living and sleeping facilities including 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 or unit in the residential facility.

CONSERVATION EASEMENT shall mean 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.

CONVENIENCE STORE shall mean a one-story, retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). It is dependent on and designed to attract and accommodate large volumes of stop-and-go traffic. (Also see Self-Service Station)

CONTIGUOUS shall mean the same as "Abut."

COUNTRY CLUB shall mean 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.

COUNTY shall mean Cass County, Nebraska.

COUNTY BOARD shall mean the County Board of Commissioners of Cass County, Nebraska.

COURT shall mean an open, unoccupied space, other than a yard, on the same lot with a building or buildings and abounded on two (2) or more sides by such buildings.

COURT, INNER shall mean a court enclosed on all sides by the exterior walls of a building or buildings.

COURT, OUTER shall mean a court enclosed on all but one (1) side by exterior walls of building or buildings or lot lines on which fences, hedges, or walls are permitted.

CRITICAL ROOT ZONE shall mean a circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained or protected for the tree's survival. Critical root zone is one (1) foot of radial distance for every one (1) inch of tree DBH, with a minimum of eight (8) feet. For specimen trees, the formula changes to one and one-half (1 ½) feet for every inch of tree DBH.

CROWN shall mean the above-ground parts of a tree consisting of the branches, stems, buds, fruits, and leaves. May also be referred to as "canopy."

CUL-DE-SAC shall mean a short public way which has only one outlet for vehicular traffic and terminates in a vehicular turn-around.

CURB LEVEL shall mean 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 highest.

CURVE LOT (See Lot, Curve)

DAIRY FARM shall mean any place or premises upon which milk is produced for sale or other distribution.

DBH shall mean the diameter-at-breast-height and is tree trunk diameter measured in inches at a height of four and one-half (4 ½) feet above the ground. If a tree splits into multiple trunks below

four and one-half (4 ½) feet, the trunk is measured at its most narrow point beneath the split.

DENSITY shall mean the number of dwelling units per gross acre of land.

DEVELOPER shall mean any person, corporation, partnership, or entity that is responsible for any undertaking that requires a building or zoning permit, conditional use permit or sign permit.

DEVELOPMENT shall mean any manmade 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 for which necessary permits may be required.

DEVELOPMENT AREA shall mean an area of land which may or may not have been subdivided that contains three or more homes per nine (9) acres.

DEVELOPMENT CONCEPT PLAN (See Site Plan)

DEVELOPMENT IMPACT FEE shall mean a fee imposed on developers to pay for the costs associated with necessary improvements to infrastructure and/or services.

DEVELOPMENT REVIEW shall mean the review, by the county of subdivision plats, site plans, rezoning requests, or permit review.

DOG KENNEL (See Kennel, commercial; and Kennel, private)

DOG PARK shall mean an area set aside for dogs and their owners to exercise and play off leash in a controlled environment.

DOMESTIC ANIMALS (See Household Pet)

DORMITORY shall mean a building used as group living quarters for a student body, religious order, or other group as accessory use to a college, university, boarding school, orphanage, convent, monastery, farm labor camp, or other similar use where group kitchen facilities may be provided to serve all residents.

DOWNZONING shall mean 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.

DRAINAGEWAY shall mean any depression two feet or more below the surrounding land serving to give direction to a current of water less than nine months of the year, having a bed and well-defined banks; provided, that in the event of doubt as to whether a depression is a watercourse or drainageway, it shall be presumed to be a watercourse.

DRIPLINE shall be a vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

DRIVE-IN FACILITY shall mean an establishment where customers can be served without leaving the confinement of their vehicle.

DRIVEWAY shall mean any vehicular access to an off-street parking or loading facility.

DUMP shall mean 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.

DUPLEX shall mean the same as "Dwelling, two (2) Family".

DWELLING Any building or portion thereof which is designed and used exclusively for single-family residential purposes, excluding mobile homes.

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.

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 a 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.

- 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 with manufacturers recommendations.
- Permanent Foundation: Based 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 42" below.

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, those that do not meet the above criteria shall be considered a mobile home.

DWELLING, MULTIPLE shall mean 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.

DWELLING, SEASONAL shall mean a dwelling designed and used as a temporary residence and occupied less than six months in each year.

DWELLING, SINGLE FAMILY a building having accommodations for or occupied exclusively by one family, built to adopted International Building Code standards and meets all the following standards:

- The home shall have no less than nine hundred (900) square feet of floor area, above grade, for single story construction.
- The home shall have no less than an eighteen (18) foot exterior width of at least four (4) exterior walls.
- The roof shall be pitched with a minimum vertical rise of two and one-half (2 ½) inches for each twelve (12) inches of horizontal run.
- The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single family construction.

- The home shall have a non-reflective roof material which is or simulates asphalt or wood shingles, tile, or rock; or a metal roof which has a factory applied paint finish of a color normally found in residential construction.
- The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed, and
- The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.
- 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 inches below the final ground level.

DWELLING, TWO (2) FAMILY shall mean a building designed or used exclusively for the occupancy of two families living independently of each other and having separate kitchen and toilet facilities for each family.

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.

EASEMENT shall mean a space or a lot or parcel of land reserved for or used for public utilities or public or private uses.

EDUCATIONAL INSTITUTION shall mean a public or nonprofit institution or facility which conducts regular academic instruction at preschool, kindergarten, elementary, secondary, and 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, commercial, or private trade schools are not included in this definition.

EFFECTIVE DATE shall mean the date that this chapter shall have been adopted, amended, or the date land areas became subject to the regulations contained in this chapter as a result of such adoption or amendment.

ELECTRIC DISTRIBUTION SUBSTATION shall mean an electric substation with a primary voltage of less than 161 KV, with distribution circuits served therefrom.

ELECTRIC TRANSMISSION SUBSTATION shall mean an electric transformation or switching station with a primary voltage of more than 161 KV without distribution circuits served therefrom.

ELEEMOSYNARY INSTITUTIONS shall mean an institution supported by charity and designed to assist persons such as those recovering from mental or emotional illness.

EMPLOYEE OF AN ADULT ESTABLISHMENT shall mean any person who works on the premises of an adult establishment, on a full-time, part-time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, lessee, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

ENTERTAINMENT, FAMILY ORIENTED shall mean an indoor or outdoor entertainment venues for all ages (not Adult Entertainment) such as amusement parks, racetracks, miniature golf, skating rinks, archery ranges, etc.

ENCROACHMENT shall mean an advancement or intrusion beyond the lines or limits as designated and established be the Regulation, and to infringe or trespass into or upon the possession or right of others without permission.

ENLARGEMENT shall mean the expansion of a building, structure, or use in volume, size, area, height, length, width, depth, capacity, ground coverage, or in number.

EQUINE FACILITIES include the raising, breeding, training, and boarding of horses.

ERECTED shall mean constructed upon or moved onto a site.

EXPRESSWAY shall mean a street or road which provides fast and efficient movement of large volumes of vehicular traffic between areas and does not provide direct access to property.

EVENT CENTER, LARGE shall mean a facility located on agriculturally zoned land of forty (40) acres or larger that has an ongoing viable agricultural use that provides a facility for any type of social gathering and consisting of multipurpose meeting and/or recreational facilities, typically consisting of one or more meeting or multipurpose room and a kitchen and/or outdoor barbecue facilities, that are available for use by various private groups of four hundred (400) or less persons for such activities as meetings, parties, weddings, receptions, and dances.

EVENT CENTER, SMALL shall mean a facility located on agriculturally zoned land of ten (10) acres or larger that has ongoing viable agricultural use that provides a facility for any type of social gathering and consisting of multipurpose meeting and/or recreational facilities, typically consisting of one or more meeting or multipurpose room and a kitchen and/or outdoor barbecue facilities, that are available for use by various private groups of one hundred (100) or less persons for such activities as meetings, parties, weddings, receptions, and dances.

EXTRATERRITORIAL JURISDICTION shall mean 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.

FACADE shall mean the exterior wall of a building exposed to public view from the building's exterior.

FACTORY shall mean a structure or plant within which something is made or manufactured from raw or partly wrought materials into forms suitable for use.

FAMILY shall mean a household head and one or more persons related to the head by blood, marriage, or adoption living together in a single dwelling unit.

FARM an area containing at least twenty (20) acres or more including that area occupied by the farm residence or agricultural buildings which is used for growing of the usual farm products such as vegetables, fruit, and grain, and the storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce and the feeding of livestock as hereinafter prescribed provided such accessory uses do not include the feeding of garbage or offal to swine or other animals. In contrast to a commercial feed lot hereafter defined, any person operating within definition of a farming operation and is not considered as operating a commercial feed lot. If the use exceeds the Farming definition, the use shall be

considered a Livestock Feeding Operation (LFO).

FARMING shall mean 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 Feeding Operation (LFO), 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 LFO unless the operation exceeds the following:

- Two (2) Animal Units, as defined in the definition for Livestock Feeding Operation herein, for the first acre and an overall density of One (1) Animal Unit (A.U.) per acre for a parcel less than forty (40) acres in size;
- One and one-half (1 ½) A.U. per acre for a parcel of land greater than forty (40) acres, but less than eighty (80) acres; or Two (2) A.U. per acre for parcels over eighty (80) acres.

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. Said Temporary Permit shall be valid for a period of twelve (12) months and is validated by the program sponsor/instructor.

Notwithstanding the provisions above, anytime the number or combination of Animal Units (A.U.) exceeds two hundred ninety-nine (299), regardless of the size of the parcel of land, and where the confined area is for more than six (6) months in any one calendar year, the operation shall be considered a LFO and the owner/operator shall be required to obtain a Conditional Use Permit, in these Regulations.

FARMSTEAD In contrast to a farmstead dwelling, a tract of land of not less than 1 acre and not more than 20 acres, upon which a farm dwelling and other outbuildings and barns existed at the time of the adoption of this resolution and was used for single-family resident purposes.

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. Environment and Energy)

FLEA MARKET shall mean a building or open area in which stalls or sale areas are set aside, and rented or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that are either new, old, homemade, homegrown, handcrafted, obsolete, or antique and may include the selling of goods at retail by businesses or individuals who are generally engaged in retail trade. This definition does not include informal or private garage or yard sales.

FLOOD shall mean the water of any watercourse or drainage way which is above the banks or outside the channel and banks of such watercourse or drainageway.

FLOOD PLAIN shall mean the area adjoining a watercourse which has been or may be covered by flood waters.

FLOODWAY shall mean the channel of a watercourse or drainageway 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 drainageway.

FLOOR AREA whenever the term "floor area" is used in this Regulation 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.

FOREST shall be a biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater. Forests include areas that have at least 100 trees per acre with at least 50 percent of those trees having a twelve (12) inch or greater diameter at four and one-half (4 ½) feet above the ground, and forest areas that have been cut but not cleared. An orchard is not a forest.

FOREST STAND shall be a contiguous group of trees sufficiently uniform in species composition, arrangement of age classes, and condition to be a distinguishable, homogeneous unit.

FORESTED SLOPES shall mean an area meeting the definition of forest, growing on an area with a slope of 25 percent or more, and covering an area of at least 10,000 square feet.

FRONTAGE shall mean that portion of a parcel of property which abuts a dedicated public street or highway.

FUNERAL HOME shall mean 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.

GARAGE, PRIVATE shall mean a detached accessory building 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.

GARAGE, PUBLIC shall mean any garage other than a private garage.

GARAGE, REPAIR shall mean 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)

GARBAGE shall mean any waste food material of an animal or vegetable nature, including that which may be used for the fattening of livestock.

GLAMPING is a luxury form of camping which includes expensive equipment, high class facilities, luxury food, and drink.

GRADE shall mean the average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.

GREENHOUSE shall mean a building or premises used for growing plants, preparation of floral arrangements for off-site delivery to customers, cold storage of flowers or dry storage of materials used for agricultural or horticultural purposes.

GREENWAY shall mean a parcel or parcels of land, together with the improvements thereon, dedicated as an easement for access and/or recreation; usually a strip of land set aside for a walkway, bicycle trail, bridle path, or other similar access-way.

GROUND COVER shall mean plant material used in landscaping which remains less than twelve

(12) inches in height at maturity. (Also see Landscaping)

GROUND WATER shall mean 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.

GROUP CARE HOME shall mean a home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home which is designed to provide twenty-four-hour care for individuals in a residential setting.

GROUP HOME FOR THE HANDICAPPED shall mean 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 an impairment.

GROUP HOUSING shall mean two or more separate buildings on a lot, each containing one or more dwelling units.

GUEST ROOM shall mean a room which is designed to be occupied by one (1) or more guest for sleeping purposes, having no kitchen facilities, not including dormitories.

HALF-STORY shall mean a story under a gable, hip or gambrel roof, plates of which are not more than three (3) feet above the floor of such story.

HALFWAY HOUSE shall mean 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.

HAZARDOUS WASTE shall mean waste products of industrial or chemical process including finished surplus, used, contaminated, or unwanted fertilizer, herbicide, petroleum products, or other such processed waste material.

HEALTH CARE FACILITIES shall mean a facility licensed or approved by the state or an appropriate agency, if required, used in 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.

HEALTH CLUB shall mean privately-owned for-profit facilities such as gymnasiums, athletic clubs, health clubs, recreational clubs, reducing salons, and weight control establishments.

HEALTH RECREATION FACILITY shall mean an indoor or outdoor facility including uses such as game courts, exercise equipment, locker rooms, whirlpool spa and/or sauna and pro shop.

HEDGE shall mean a plant or series of plants, shrubs, or other landscape material, so arranged as to form a physical barrier or enclosure.

HEIGHT OF BUILDING shall mean 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.

HELIPORT shall mean a designated landing area used for the landing and taking off of helicopters and may include all necessary passenger and cargo facilities, fueling, and emergency service facilities.

HELISTOP shall mean any landing area used for the landing and taking off of helicopters for the purpose of picking up or discharging of passengers or cargo. No fueling, refueling, or serve facilities.

HIGHWAY, MAJOR INTER-REGIONAL shall mean 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.

HIGHWAY SETBACK LINE shall mean the future right-of-way line or plan lines of any highway. A yard abutting such a highway shall be measured from this future right-of-way line.

HOG RANCH shall mean any premises where five (5) or more weaned hogs are maintained.

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.

HOLDING ZONE shall mean a zoning district, usually a very low-density district, placed on property for the purpose of temporarily holding back the development of land for a more intensive desired use as indicated by the comprehensive plan until such time as community facilities are economically available and thereby avoiding the "leap frogging" of land uses.

HOME OCCUPATION, GENERAL shall mean a business, occupation, or profession carried on within a residential dwelling or one (1) accessory building provided:

- The accessory building and the residential dwelling are located on the same lot or parcel and;
- The residential dwelling is the primary residence of the owner of said lot or parcel and;
- If the Home Occupation is located in an accessory building no provision for parking facilities are to be made for customers, clients or the general public other than the property owner and his immediate family and;
- The Home Occupation shall have the following characteristics
- There shall be no external evidence of the occupation with the exception of one unlighted nameplate of not more than one square foot in area attached flat against the building. Advertising displays and advertising devices displayed through a window of the building shall not be permitted.
- The activity shall employ only members of the immediate family of the resident of the dwelling. Said occupation may include the caring for not more than six (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 seven (7) or more children require licensing as a Child Care Center.

HOMEOWNERS ASSOCIATION shall mean 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.

HOMESTEAD LOT SPLIT shall mean a subdivision of an existing platted lot or parcel of land shown on the January 1, 2022 Tax Rolls for Cass County with a habitable dwelling, that may be divided into no more than two (2) lots.

HOSPITAL shall mean 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.

HOSPITAL, ANIMAL shall mean 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.

HOTEL shall mean a building or portion thereof, or a group of buildings, offering transient lodging accommodations on a daily rate to the general public and providing 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.

HOUSE TRAILER (see Dwelling: Mobile Home)

HOUSEHOLD PET shall mean 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.

HOUSING FOR THE ELDERLY shall mean 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)

HOUSING FOR THE PHYSICALLY HANDICAPPED shall mean 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.

IMPACT FEE (See Development Impact Fee)

IMPERVIOUS SURFACE shall mean a surface that has been compacted or covered with a layer of material making the surface highly resistant to infiltration by water, such as compacted sand, rock, gravel, or clay and conventionally surfaced streets, roots, sidewalks, parking lots, and driveways.

INCIDENTAL USE shall mean a use which is subordinate to the main use of a premise.

INDIVIDUAL SEPTIC SYSTEM shall mean a wastewater treatment system for a dwelling that has a septic tank and absorption system.

INDUSTRIAL PARK shall mean 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.

INDUSTRY shall mean the manufacture, fabrication, processing reduction or destruction of any

article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof and including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.

INOPERABLE MOTOR VEHICLE shall mean any motor vehicle which: (1) Does not have a current state license plate; or (2) Which 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 which is wholly or partially dismantled shall not be considered inoperable when said vehicle is inside a completely enclosed building.

INTENSITY shall mean the degree to which land is used referring to the levels of concentration or activity in uses ranging from uses of low intensity being agricultural and residential to uses of highest intensity being heavy industrial uses. High intensity uses are normally uses that generate concentrations of vehicular traffic and daytime population and are less compatible with lower intensive uses.

INTENT AND PURPOSE shall mean that the Commission and Board by the adoption of this Regulation 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.

JUNK shall be any worn-out, cast-off, old, or discarded articles of scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material.

JUNK YARD shall mean any lot, 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, with no burning permitted. For motor vehicles, see "Automobile Wrecking Yard."

KENNEL, BOARDING AND TRAINING shall mean 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.

KENNEL, COMMERCIAL shall mean 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.

KENNEL, PRIVATE shall mean any premises used for the keeping of four (4) or more 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.

LAGOON shall mean a wastewater treatment facility which 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 Environment and Energy and the Nebraska Department of Health and Human Services. All lagoons shall have the proper permits approved prior to starting construction.

LANDFILL shall mean a disposal site employing a method of disposing solid wastes in a manner that minimizes environmental hazards in accordance with state and federal requirements.

LANDSCAPING shall include the original planting of suitable vegetation in conformity with the

requirements of this Regulation and the continued maintenance thereof.

LAUNDRY, SELF SERVICE shall mean an establishment that provides home-type washing, drying, and/or ironing facilities for customers on the premises.

LEAPFROG DEVELOPMENT shall mean the development of cheaper land on the urban fringe by jumping over more expensive land located immediately adjacent to an existing development resulting in inadequate or 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.

LIFE CARE FACILITY shall mean 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. (Also see Congregate Housing and Housing for the Elderly)

LIMITS OF CLEARING shall be the boundaries of that area of land to be trees and other vegetation in conjunction with a proposed development or land use, except that the area within these limits for such proposed development or use shall not include the removal of any outstanding or monarch trees unless approved by the Zoning Administrator.

LIMITS OF GRADING shall mean the outermost edge of the area in which the existing topography is to be altered by cutting and/or filling.

LIQUID MANURE shall mean 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; provided, however, only liquid manure collected in lagoons may be applied through the use of a center pivot or tow-line irrigation systems. (See definition of Lagoon)

LIQUID MANURE STORAGE PITS shall mean earthen or lined pits wholly or partially beneath a semi or totally housed (ECH) livestock operation or at some removed location used to collect waste production. In no event shall liquid manure that is stored or collected in a Liquid Manure Storage Pit be applied through the use of a center pivot or tow-line irrigation system. (See definition of Liquid Manure and Lagoon)

LIVESTOCK (See Animals, Farm)

LIVESTOCK FEEDING OPERATION (LFO) shall mean any farming operation exceeding the per acre Animal Unit (AU) ratio as defined under Farming for 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 two hundred ninety-nine (299) 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 LFOs 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 (AU) are defined as follows:

	Animals Per AU
Cow/Calf Combination	1
Slaughter, Feeder Cattle	1
Horse	1
Mature Dairy Cattle	0.7
Swine (55 lbs or more)	2.5
Weaned Pigs (less than 55 pounds)	25
Sheep	10
Laying Hens	83
Broilers	125
Turkeys	50
Ducks	5

Livestock Feeding Operations (LFO) will be classified in one of five levels according to total number of animal units (A.U.) in the operation at any one time. Levels will include 300-999 animal units; 1,000-4,999 animal units; 5,000-9,999 animal units; 10,000-19,999 animal units; and 20,000+ animal units. LFOs having more than one type feeding operation at one location shall be categorized according to the operation which constitutes the majority of the total operation.

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 or their direct product.

LOADING SPACE shall mean an off-street space or berth on the same lot with a main building, or contiguous to a group of buildings, for the temporary parking of commercial vehicles while loading or unloading, and which abuts a street, alley, or other appropriate means of ingress and egress.

LOCAL STREET OR LOCAL HIGHWAY shall mean a street or road primarily for service to abutting property.

LOT shall mean a parcel or tract of land which is or may be occupied by a use herein permitted, together with yards, and other open spaces herein required, that has frontage upon a street, and is a part of a recorded subdivision plat or has been recorded prior to the adoption of 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.

LOT AREA shall mean the total area, on a horizontal plane, within the lot lines of a lot.

LOT, CORNER shall mean a lot located at the intersection 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.

LOT COVERAGE shall mean the portion of a lot or building site which is occupied by any building or structure, excepting paved areas, walks and swimming pools, regardless of whether

said building or structure is intended for human occupancy or not.

LOT, CURVE shall mean a lot fronting on the outside curve of the right-of-way of a curved street, which street has a centerline radius of three hundred (300) feet or less.

LOT DEPTH shall mean the horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

LOT, DOUBLE FRONTAGE shall mean a lot having a frontage on two non-intersecting streets as distinguished from a corner lot.

LOT, FLAG shall mean a lot with frontage and access provided to the bulk of the lot by means of a narrow corridor.

LOT, FRONTAGE shall mean the 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.

LOT, INTERIOR shall mean a lot other than a corner lot.
LOT LINE shall mean the property line bounding a lot.

LOT LINE, FRONT shall mean the property line abutting a street.

LOT LINE, REAR shall mean a lot line not abutting a street which is opposite and most distant from the front lot line.

LOT LINE, SIDE shall mean any lot line not a front lot line or rear lot line.

LOT, NONCONFORMING shall mean a lot having less area or dimension than that required in the district in which it is located and which was lawfully created prior to the zoning thereof whereby the larger area or dimension requirements were established, or any lot, other than one shown on a plat recorded in the office of the 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 this Regulation.

LOT THROUGH shall mean a lot having frontage on two (2) dedicated streets, not including a corner lot.

LOT OF RECORD shall mean a lot held in separate ownership as shown on the records of the 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.

LOT WIDTH shall mean the average horizontal distance between the side lot line, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

MAINTENANCE GUARANTEE shall mean any security, other than cash, that may be accepted by the county to insure that required improvements will be maintained. (Also see Performance Guarantee)

MANUFACTURED HOME PARK shall mean 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.

MANUFACTURED HOME SUBDIVISION shall mean 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.

MANUFACTURING shall mean uses primarily engaged in the mechanical or chemical transformation of materials or substances into new products. These uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. 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.

MAP, OFFICIAL ZONING DISTRICT shall mean a map delineating the boundaries of zoning districts which, along with the zoning text, is officially adopted by the Cass County Board of Commissioners' zoning regulations for Cass County, Nebraska.

MASTER SERVICE AGREEMENT shall mean a contract that states the responsibilities and obligations of one partner with another.

MEDICAL OR DENTAL CLINIC shall mean 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.

MINI-STORAGE OR MINI-WAREHOUSE (See Self-Service Storage Facility)

MIXED UNIT DEVELOPMENT shall mean a development designed to provide for an unusual or different arrangement of residential, business, or industrial uses in accordance with an approved development plan.

MOBILE HOME (See Dwelling, Mobile Home)

MOBILE HOME PARK (See Manufactured Home Park)

MOBILE HOME SUBDIVISION (See Manufactured Home Subdivision)

MOTEL (See Hotel)

MOTOR VEHICLE shall mean every self-propelled land vehicle, not operated upon rails, except mopeds and self-propelled invalid chairs.

NEBRASKA REVISED REISSUED STATUTES 1943 and the abbreviated term Nebr. R. R. S., 1943 are one and the same.

NIGHTCLUB shall mean a commercial establishment dispensing beverages for consumption on the premises and in which dancing is permitted or entertainment is provided. (Also see Bar)

NONCOMMUNITY WATER SUPPLY SYSTEM shall mean any public water supply system that is not a community water supply system.

NON-CONFORMING BUILDING shall mean a building or portion thereof which was lawful when established but which does not conform to subsequently established zoning or zoning regulations.

NON-CONFORMING USE shall mean a use lawful when established but which does not conform to subsequently established zoning or zoning regulation.

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.

NUDITY OR NUDE CONDUCT shall mean the showing of human genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

NUISANCE shall mean 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.

NURSERY shall mean 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.

NURSING HOME shall mean 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.

OFFICE shall mean a building or a portion of a building wherein services are performed involving, primarily, administrative, professional, or clerical operations.

OFFICE PARK shall mean a tract of land that has been planned, developed, and operated as an integrated facility for a number of office buildings and supporting accessory uses, with special attention given to circulation, parking, utility needs, aesthetics, and compatibility.

OFFICIAL MAP (See Map, Official Zoning District)

OFF-STREET PARKING AREA or VEHICULAR USE shall refer 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.

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.

OPEN SPACE shall mean a parcel or parcels of land, together with the improvements thereon, primarily set aside for recreational use and enjoyment, exclusive of land areas used for streets, alleys, roads, driveways, parking areas, structures, and buildings.

OPEN SPACE, COMMON shall mean a separate and distinct area set aside as open space within or related to a development, and not on individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of the development. Rights-of-way, private streets, driveways, parking lots or other surfaces designed or intended for vehicular use or required yards shall not be included as common open space.

OPERATOR OF ADULT ESTABLISHMENT shall mean any person on the premises of an adult establishment who manages, supervises, or controls the business or a portion thereof. A person may be found to be an operator regardless of whether such person is an owner or part owner, of the business.

ORGANIC FARMING is the form of agriculture that relies on techniques such as crop rotation,

green manure, compost, and biological pest control to maintain soil productivity and control pests on a farm. Organic farming excludes or strictly limits the use of manufactured fertilizers, pesticides (which include herbicides, insecticides, and fungicides), plant growth regulators such as hormones, livestock antibiotics, food additives and genetically modified organisms.

ORGANIC GARDENING is the science and art of growing fruit, vegetables, flowers, or ornamental plants by following the essential principles of organic farming in soil buildings and conservation pest management.

OUTDOOR ADVERTISING shall include the definitions of "Advertising Structure" and "Sign."

OUTSTANDING OR MONARCH TREE shall mean a tree that has been determined by the County Board of Commissioners to be of high value because of its species, size, age, form, historical significance, or some professional criteria.

OVERLAY DISTRICT shall mean a district in which additional requirements act in conjunction with the underlying zoning district. The original zoning district designation does not change.

OVER THE COUNTER PERMIT (MINOR) means a minor review process intended to be conducted by Planning Administration on a walk-in, first come first served, case-by-case basis without the necessity of public notice or public hearing. It is not an entitlement nor does it constitute an automatic approval; but is rather the process by which a typical ordinary and/or ministered application is reviewed.

OVER THE COUNTER PERMIT (MAJOR) shall mean a conditional use permit will be issued by the Zoning Administrator. The review process shall include a public hearing before the Planning Commission and County Board of Commissioners. The applicant shall incorporate a site plan, general plan, zoning, and an environmental review. Major use permits are issued for agritourism only and fees are determined by the Zoning Department.

OWNER shall mean one or more persons, including corporations, who have title to the property, building or structure in question.

PARCEL shall mean a lot or a contiguous group of lots in single ownership or under single control which may be considered as a unit for purposes of development.

PARK shall mean any public or private land available for recreational, educational, cultural, or aesthetic use.

PARKING AREA, PRIVATE shall mean 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.

PARKING AREA, PUBLIC shall mean 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.

PARKING SPACE, AUTOMOBILE shall mean 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 (8 1/2) feet by twenty (20) feet, plus such additional area as is necessary to afford adequate ingress and egress.

PARKWAY shall mean an arterial highway with full or partial control of access and located within a park or ribbon of park like development.

PERFORMANCE GUARANTEE shall mean a financial guarantee to ensure that all improvements, facilities, or work required by this chapter will be completed in compliance with these regulations as well as with approved plans and specifications of a development. (Also see Maintenance Guarantee)

PERMANENT FOUNDATION shall mean 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.

PERMANENT TREE PROTECTION DEVICES shall be structural measures, such as retaining walls or aeration devices that are designed to protect the tree and its root systems throughout its lifetime.

PERMANENTLY ATTACHED shall mean connected to real estate in such a way as to require dismantling, cutting away, or unbolting in order to remove, relocate, or replace.

PERMITTED USE shall mean any land use allowed without condition within a zoning district.

PERSON shall mean an individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, city, county, special district or any other group or combination acting as an entity, except that it shall not include Cass County, Nebraska.

PLANNING COMMISSION shall mean the Planning Commission of Cass County, Nebraska.

PLAT shall mean a map showing the location, boundaries, and legal description of individual properties.

POLICY shall mean a statement or document of the county, such as the comprehensive plan, that forms the basis for enacting legislation or making decisions.

POULTRY, COMMERCIAL FEEDING shall mean a poultry commercial feed lot, whether the confined feeding operations are enclosed or outdoors.

PREMISES shall mean 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.

PRIVATE WELL shall mean a well which provides water supply to less than fifteen (15) service connections and regularly serves less than twenty-five (25) individuals.

PROHIBITED USE shall mean any use of land, other than nonconforming, which is not listed as a permitted use or conditional use within a zoning district.

PROJECTED 10-YEAR TREE COVER shall mean the area projected to be directly beneath the crown and within the dripline of a given tree species after a 10-year growing period.

PROMOTIONAL DEVICE shall mean 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.

PROTECTED ZONE shall mean all lands that fall outside the buildable areas of a parcel, all areas of a parcel required to remain in open space, and/or all areas required as landscaping strips according to the provisions of the Zoning Regulation.

PUBLIC UTILITY shall mean 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.

PUBLIC WATER SUPPLY shall mean 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.

QUARRY shall mean any premises from which rock, sand, gravel, and similar resources are being removed or are intended to be removed.

RAILROAD shall mean the land use including the right-of-way (R. O. W.) abutting railroad properties occupied by uses pertinent to the railroad operation and maintenance, but not including properties owned by the railroad and leased for use by others.

RECREATIONAL FACILITY shall mean 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, and wildlife conservation areas (used for public viewing), and theme parks.

RECREATIONAL VEHICLE (RV) shall mean 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 quarter 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.

RECREATIONAL VEHICLE (RV) PARK shall mean a tract of land upon which two (2) 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.

RECYCLING CENTER, INDOOR shall mean 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.

RECYCLING CENTER, OUTDOOR shall mean a facility other than a junkyard in which recoverable resources such as concrete, metal cans, and wood are collected, bundled, stored, flattened, crushed, or reduced in some manner within an enclosed or fenced area or building, in preparation for shipment to others for reuse.

RECYCLING COLLECTION POINT shall mean 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.

RECYCLING PLANT shall mean 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.

RESEARCH LABORATORY OR CENTER shall mean 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.

RESIDENCE shall mean a building used, designed, or intended to be used as a home or dwelling place for one or more families.

RESTAURANT shall mean a public eating establishment at which the primary function is the preparation and serving of food primarily to persons seated within the building.

RESTAURANT, DRIVE-IN shall mean an establishment which has the facilities to serve prepared food and/or beverages to customers seated within motor vehicles for consumption either on or off the premises.

RESTAURANT, FAST FOOD shall mean 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 and/or beverages are usually served in paper, plastic, or other disposable containers.

RETAIL TRADE shall mean 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.

REVEGETATION shall mean the replacement of trees and landscape plant materials into the minimum required landscape areas, as determined by the Zoning Regulation.

REVERSE SPOT ZONING shall mean 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.

REZONING shall mean an amendment to or change in the zoning regulations either to the text or map or both.

REZONING, PIECEMEAL shall mean the zoning reclassification of individual lots resulting in uncertainty in the future compatible development of the area.

RIGHT-OF-WAY shall mean 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.

ROAD shall mean the same as "Street."

ROAD, PRIVATE shall mean 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)

ROAD, PUBLIC shall mean all public right-of-way reserved or dedicated for street or road traffic. (Also see Right-of-Way and Street)

ROADSIDE STAND shall mean a temporary structure or vehicle used solely for the sale of farm products produced on the premises or adjoining premises.

ROOM shall mean an un-subdivided portion of the interior of a dwelling unit, excluding bathroom,

kitchen, closets, hallways, and service porches.

SATELLITE DISH ANTENNA shall mean 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.

SCENIC EASEMENT shall mean an easement for the purpose of limiting land development in order to preserve a view or scenic area.

SCHOOL, DAY shall mean a preschool or nursery school for children.

SCHOOL, DAY, PRE-, OR NURSERY shall mean a school or center for children under school age, whether licensed as a day care center or not, shall be approved by the Nebraska State Fire Marshall as being in safety conformance with the National Fire Protection Association, Pamphlet 101, 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.

SCHOOL, ELEMENTARY, JUNIOR HIGH, or HIGH shall mean public and other non-profit institutions conducting regular academic instruction at kindergarten, elementary, and secondary levels. Such institutions shall offer general academic instruction equivalent to the standards prescribed by the State Board of Education.

SCHOOL, PRIVATE shall mean an institution conducting regular academic instruction at kindergarten, elementary or secondary levels operated by a non-governmental organization in conformance with the Nebraska R. R. S., 1943, Section 79-1701 through 79-1707.

SCHOOL, TRADE shall mean an institution offering extensive instruction in the technical, commercial, or trade skills and operated by a nongovernmental organization.

SCREENING shall mean 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)

SEMI-NUDE OR SEMI-NUDITY shall mean the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the human buttocks. This definition shall include the lower portion of the human female breast but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

SEMI-NUDE LOUNGE shall mean a nightclub, juice bar, restaurant, bottle club, massage parlor, or similar commercial establishment that regularly offers live semi-nude conduct. No semi-nude establishment shall offer nude conduct.

SELECTIVE CLEARING shall be the careful and planned removal or trees, shrubs, and plants using specific standards and protection measures.

SELF-SERVICE STATION shall mean 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.

SEPARATE OWNERSHIP shall mean ownership of a parcel of land by a person who does not own any of the land abutting such parcel.

SERVICE STATIONS shall mean 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.

SETBACK LINE, FRONT YARD shall mean the line which defines the depth of the required front yard. Said setback line shall be parallel with the right-of-way line or highway setback line when one has been established.

SETBACK LINE, HIGHWAY shall mean the same as "Highway Setback Line."

SETBACK LINE, REAR YARD OR SIDE YARD shall mean the line which defines the width or depth of the required rear or side yard. Said setback line shall be parallel with the property line, removed therefrom by the perpendicular distance prescribed for the yard in the district.

SEXUAL DEVICE shall mean any three-dimensional object designed for stimulation of human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or the preventing pregnancy.

SEX PARAPHERNALIA STORE shall mean a commercial establishment where more than 100 sexual devices are regularly made available for sale or rental. This definition shall not be construed to include any establishment located within an enclosed regional shopping mall or any pharmacy or establishment dedicated to providing medical products.

SHOPPING CENTER shall mean a grouping of retail business and service uses on a single site with common parking facilities.

SHORT TERM RENTAL shall mean a dwelling unit, or portion thereof, that is offered or provided to a guest by a short-term rental owner or operator for a fee for fewer than thirty consecutive nights. They are commonly referred to as vacation or cabin rentals. They are a form of tourist or transient accommodations. Short-term rental units may be whole house rentals, apartments, or condominiums where the operator is not onsite. If short term rental is an accessory structure it shall be no larger than 1 bedroom and 500 square feet.

SIDEWALK CAFÉ shall mean an area adjacent to a street level eating or drinking establishment located adjacent to the public pedestrian walkway and used exclusively for dining, drinking, and pedestrian circulation. The area may be separated from the public sidewalk by railings, fencing, or landscaping or a combination thereof.

SIGHT TRIANGLE shall mean 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.

SIGN shall mean and include any outdoor sign, display, declaration, device, figure, drawing, illustration, message, placard, poster, billboard, insignia, or other things which are designed, intended, or used for direction, information, identification, or to advertise, to inform, or to promote any business, product activity, service, or any interest, except the following:

- 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.

- Sign less than 25 square feet in surface area advertising activities conducted on the premise, products grown, made, or produced on the premise.
- 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, Cass County, or a Federal Government Agency, directional, informational, or other official signs or notices authorized by law.

SIGN, ADVERTISING shall mean 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.

SIGN, ARCHITECTURAL CANOPY shall mean 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.

SIGN AREA shall mean 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.

SIGN, AWNING, CANOPY OR MARQUEE shall mean a sign that is mounted, painted, or attached to an awning, canopy, or marquee that is otherwise permitted by the Zoning Regulations.

SIGN. BILLBOARD shall mean a 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.

SIGN, BUILDING shall mean any sign supported by, painted on, or otherwise attached to any building or structure.

SIGN, CLOSED shall mean a sign in which more than fifty percent (50%) of the entire area is solid or tightly closed or covered.

SIGN, DESTINATION shall mean 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.

SIGN, ELECTRONIC MESSAGE BOARD shall mean 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.

SIGN, FLASHING shall mean a sign, which, by method or manner of illumination, flashes on or off, winks, or blinks with varying light intensity, shows motion, or creates the illusion of being on or off.

SIGN, FLASHING shall mean a sign designed to give an electrical light flash intermittently or a revolving beacon light.

SIGN, FREESTANDING shall mean 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.

SIGN, GROUND (LOW PROFILE) shall mean a sign mounted directly to the ground with a maximum height not to exceed six (6) feet.

SIGN, ILLUMINATED shall mean a sign illuminated in any manner by an artificial light source.

SIGN, OBSOLETE shall mean a sign that advertises a business no longer in existence or a product no longer offered for sale and has advertised such business or product for a period of six (6) months after the termination of the existence of such business or the termination of sale of the product advertised.

SIGN, ON-PREMISE shall mean a sign, display, or device advertising activity conducted on the property on which such sign is located.

SIGN, OPEN shall mean 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.

SIGN, PORTABLE shall mean 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.

SIGN, PROJECTING shall mean a projecting sign attached to a building.

SIGN, ROOF shall mean a sign which is erected, constructed, and maintained above the roof of the building.

SIGN, SETBACK shall mean the horizontal distance from the property line to the nearest projection of the existing or proposed sign.

SIGN, SUBDIVISION identification shall mean a sign erected on a subdivision identification lot which identifies the platted subdivision where the sign is located.

SIGN, SURFACE shall mean the entire area of a sign.

SIGN, TEMPORARY shall mean 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.

SIGN, WALL shall mean a sign attached to or erected against the wall of a building with the exposed face of the sign in a plane parallel to the wall of the building and not projecting more than eighteen (18) inches from the face of the building wall.

SIGN, WINDOW shall mean a sign painted, stenciled, or affixed on a window, which is visible from a right-of- way.

SIMILAR USE shall mean 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.

SITE PLAN shall mean 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.

SITE, SEPTIC shall mean the area bounded by the dimensions required for the proper location of the septic tank system.

SLUDGE shall mean solids removed from sewage during wastewater treatment and then disposed of by incineration, dumping, burial, or land application.

SOLID WASTE shall mean waste materials consisting of garbage, trash, refuse, rubble, sewage, offal, dead animals, or paunch manure.

SPECIAL EVENT CENTER shall mean a business, occupation, or profession carried on within a residential dwelling or accessory building(s) provided:

- The accessory building(s) and the residential building are located on the same lot or parcel and;
- The residential dwelling is the primary residence of the owner of said lot or parcel and;
- The Special Event Center shall employ only members of the immediate family of the resident of the dwelling full time or part time employees not related to the immediate family for property upkeep and events will be allowed on an occasional basis and;
- The Special Event Center must meet the requirements of Article 7 Conditional Use and Supplemental Regulations Section 8.20

SPECIFIED ANATOMICAL AREAS shall mean less than completely and opaquely covered human genitals, pubis region, buttock, and/or female breast below a point immediately above the top of the areola.

SPECIFIED SEXUAL ACTIVITIES shall mean intercourse, oral copulation, masturbation, or sodomy.

SPOT ZONING shall mean 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 up zoning to a more intensive use classification.

STABLE, PRIVATE shall mean a detached accessory building for the keeping of horses owned by the occupants of the premises and not kept for remuneration, hire or sale.

STABLE, RIDING shall mean a structure in which horses or ponies, used elusively for pleasure riding or driving, are housed, boarded, or kept for remuneration, hire, or sale.

STANDARD SYSTEM shall mean a sewage treatment system employing a building sewer, septic tank, and a standard soil absorption system.

STATE shall mean the State of Nebraska.

STOCKPILING shall mean the accumulation dirt, sand, gravel, aggregate, reclaimed asphalt or concrete 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.

STORAGE, SELF-SERVICE or MINI WAREHOUSE FACILITY shall mean a building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage.

STORAGE CONTAINER, OUTDOOR shall mean a fully enclosed, detached, and self-supporting structure, by itself incapable of motion or movement. The container must be manufactured/assembled off-site and transportable, by means other than its own, to a location where it is set into place on a graded surface of concrete, asphalt, or gravel and not upon a foundation or wheels. It shall be made of metal or a similar stable, durable, and acceptable material

and shall not be utilized as a dwelling or a sign nor include a foundation, electricity, plumbing, or other mechanical systems as part of its assembly or use. Truck boxes meeting this definition shall be considered outdoor storage containers. Placement of Outdoor Storage Containers requires a Building Permit.

Example of Outdoor Storage Container

STORAGE FACILITY, INDOOR shall mean a building or buildings used for the storage of goods, of any type, when such building or buildings contain more than two hundred (200) square feet of storage space, and where no retail operation is conducted.

STORAGE FACILITY, OUTDOOR shall mean the keeping, in a roofed or unroofed area, of any goods, merchandise, or vehicles on the same tract or premises for more than thirty (30) days.

STORY shall mean 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.

STORY, ONE-HALF shall mean the same as "Half-Story."

STREET shall mean a public thoroughfare or right-of-way dedicated, deeded, or condemned for use as such, other than an alley, which affords the principal means of access to abutting property including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except as excluded in this Regulation.

STREET, ARTERIAL shall mean 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.

STREET, COLLECTOR shall mean a street or highway which is intended to carry traffic from minor streets to major streets. Collector streets are usually the principal entrance streets to residential developments and the streets for circulation within the development.

STREET, CURVILINEAR shall mean local streets which deviate from straight alignment and change direction without sharp corners or bends.

STREET, FRONTAGE ACCESS shall mean 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.

STREET, LOCAL shall mean a street designed for local traffic which provides direct access to abutting residential, commercial, or industrial properties.

STREET, LOOPED shall mean a continuous local street without intersecting streets and having its two (2) outlets connected to the same street.

STREETS, MAJOR shall mean a street or highway used primarily for fast or high-volume traffic, including expressways, freeways, boulevards, and arterial streets.

STREET, PRIVATE shall mean 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."

STREET, SIDE shall mean that street bounding a corner or reversed corner lot and which extends in the same general direction as the line determining the depth of the lot.

STREET CENTERLINE shall mean the center line of a street right-of-way as established by official surveys.

STREET LINE shall mean a dividing line between a lot, tract, or parcel of land and the contiguous street.

STRUCTURE shall mean 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.

STRUCTURE, ADVERTISING shall mean the same as "advertising structure."

STRUCTURAL, ALTERATION shall mean 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, retaining walls, or similar components.

SUBDIVISION shall mean 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 another instrument.

SURFACE WATER CLASS A – PRIMARY CONTACT RECREATION shall mean 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 to be used as a potable water supply unless acceptable treatment is supplied. These waters may be used for swimming, water skiing, canoeing, and similar activities.

SURFACE WATERS shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, springs, canal systems, drainage systems, and all other bodies or accumulations of water, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.

TAVERN (See Bar)

TEMPORARY TREE PROTECTION DEVICES shall mean structural measures, such as fencing or berms, installed prior to construction for the purpose of preventing damage to trees during

construction.

TEMPORARY USE shall mean a use intended for limited duration to be located in a zoning district not permitting such use.

THEME PARK shall mean an entertainment or amusement facility built around a single theme that may be historical, architectural, or cultural. (Also see Amusement Park)

TOWER shall mean a structure situated on a site that is intended for transmitting or receiving television, radio, or telephone communications. (Also see Antenna)

TRADING AREA shall mean the area served by an existing commercial development or to be served by the proposed commercial development and from which said development draws its support.

TRAILER, AUTOMOBILE shall mean a vehicle without motive power, designed, and constructed to travel on the public thoroughfares and to be used for human habitation or for carrying property, including a trailer coach.

TRANSIENT shall mean a person who is receiving accommodations for a price, with or without meals, for a period of not more than one hundred eighty (180) continuous days in any one (1) year.

TRANSITIONAL USE shall mean 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.

TRANSPORTABLE HOUSE shall mean a trailer house, mobile home, double wide trailer house, transportable factory-built house constructed to travel on wheels and to be used for human habitation.

TREE shall mean: Any self-supporting woody plant growing upon the earth that usually provides one main trunk and produces a more or less distinct and elevated head with many branches. Any self-supporting woody plant, usually having a single woody trunk, and a potential DBH of twelve (12) inches or more.

TREE COVER shall mean an area directly beneath the crown and within the dripline of the tree.

TRUCK REPAIR shall mean the repair, including major mechanical and body work, straightening of body parts, painting, welding, or other work that may include noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in gasoline service stations, of trucks having a hauling capacity of over one (1) ton and buses but excluding pickups and other vehicles designed for the transport of under eight (8) passengers.

TRUCK TERMINAL shall mean a building or an area in which freight brought by truck is assembled and/or stored for routing or reshipment, or in which semitrailers, including tractor and/or trailer units and other trucks, are parked or stored for a short time period.

UPZONING shall mean 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.

URBAN AREA shall mean the corporate limits of a municipality and the extraterritorial jurisdiction where the municipality exercises its zoning power.

URBAN LOT shall mean any lot which lies, in whole or in part, within the boundaries of an urban area, as defined above.

USE, BEST shall mean the recommended use or uses of land confined in an adopted

comprehensive plan. Such uses represent the best use of public facilities, and promotes health, safety, and general welfare.

USE, HIGHEST shall mean an 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.

USE, PRINCIPAL shall mean the main use of land or structure, as distinguished from an accessory use. (Also see Building, Principal)

USED MATERIALS YARD shall mean any lot or a portion of any lot used for the storage of used materials. This shall not include "Junk Yards" or "Automobile Wrecking Yards."

UTILITY EASEMENT shall mean the same as "Easement."

UTILITIES, OVERHEAD OR UNDERGROUND "TRANSMISSION LINE, SUPPLY LINE, WHOLESALE CARRIER OR TRUNK LINE, MAIN FEEDER LINE" or other applicable designation shall mean the main supply or feeder line serving a local distribution system of utilities and shall include but is not limited to pumping stations, substations, regulating stations, generator facilities, reservoirs, tank farms, processing facilities, terminal facilities, towers, and relay stations, and treatment plants.

VARIANCE shall mean 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.

VEGETATION shall mean all plant life; however, for purposes of this Zoning Regulation it shall be restricted to mean trees, shrubs, and vines.

VEHICLE shall mean 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.

VIEWING ROOM shall mean the room or booth where a patron of an adult establishment would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video on an image-producing device.

VINE shall mean a woody plant whose stem climbs by tendrils or twining or creeps along the ground.

VISUAL OBSTRUCTION shall mean 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.

WAREHOUSE shall mean a building used primarily for the storage of goods and materials.

WAREHOUSE AND DISTRIBUTION shall mean a use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment.

WASTEWATER LAGOON (See Lagoon.)

WATERS OF THE STATE shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water surface or underground, material or artificial, public or private, situated wholly within or bordering upon the state.

WETLAND shall mean an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soiled conditions, commonly known as hydrophytic vegetation.

WHOLESALE ESTABLISHMENT shall mean an establishment for the on-premises sales of goods primarily to customers engaged in the business of reselling the goods.

WHOLESALE TRADE shall mean 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 additional 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.

WINERY is a building or portion thereof used for the crushing of grapes, the fermenting and the processing of grape juice, the aging, processing, storage and bottling of wine or the warehousing and shipping of wine. It shall include accessory buildings such as offices, laboratories, wholesale and retail activities and wine testing and winery tools.

YARD shall mean any open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed from the ground upward to the sky, except for building projections or for accessory buildings or structures permitted by this Regulation.

YARD, FRONT shall mean a space between the front yard setback line and the front lot line or highway setback line and extending the full width of the lot.

YARD, REAR shall mean a space between the rear yard setback line and the rear lot line, extending the full width of the lot.

YARD, SIDE shall mean a space extending from the front yard, or from the front lot line where no front yard is required by this Regulation, to the rear yard, or rear lot line, between a side lot line and the side yard setback line.

ZONING ADMINISTRATIVE OFFICER or ZONING ADMINISTRATOR shall mean the

person or persons authorized and empowered by the county to administer and enforce the requirements of this chapter.

ZONING DISTRICT shall mean the same as "District."

ZONING DISTRICT, CHANGE OF shall mean the legislative act of removing one (1) or more parcels of land from one (1) zoning district and placing them in another zoning district on the zoning map of the County.

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ARTICLE 4: GENERAL REGULATIONS

Section 4.01 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.

Section 4.02 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 one time ten days prior to such hearing.

Section 4.03 Jurisdiction

The provisions of this Regulation shall apply within the corporate limits of Cass County, Nebraska, excluding the area within the extraterritorial jurisdiction of municipalities exercising said jurisdiction through an adopted zoning ordinance.

Section 4.04 Provisions of Regulation Declared to be Minimum Requirements

In their interpretation and application, the provisions of this Regulation shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions of this Regulation require a lower height of building or lesser size of yards, courts or other spaces, or require a lower height of building or lesser number of stories or require a greater percentage of lot to be left unoccupied or impose other higher standards than are required in any other regulation, the provisions of this Regulation shall govern. Wherever the provision of any other regulation requires a greater width or size of yards, courts, or other open spaces, or requires a lower height of building or a lesser number of stories or require a greater percentage of lot to be left unoccupied or impose other higher standards than are required by the provisions of this Regulation, the provisions of such regulation shall govern.

Section 4.05 Zoning Affects Every Building and Use

No building or land shall hereafter be reused and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, except that any structure damaged or destroyed may be restored if such structure does not involve a non-conforming use.

Section 4.06 Lot

A. 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 principal building on a lot unless otherwise provided.

B. 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.

Section 4.07 Reductions in Lot Area Prohibited

No lot, even though it may consist of one 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.

Section 4.08 Yard Requirements

A. 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.

B. All accessory buildings which are attached to principal buildings (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.

C. 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 feet and shall contain landscaping and planting suitable to provide effective screening.

D. Any yard for a commercial or industrial use which is adjacent to any residential use or district shall be increased to forty feet and shall contain landscaping and planting suitable to provide effective screening.

Section 4.09 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 evidence that such changes will not be a detriment to the neighboring lands.

Section 4.10 Permitted Obstructions in Required Yards

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

A. **All Yards:** Steps and accessibility ramps used for wheelchair and other assisting devices which are four) 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 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 inches into the required yard; and fences or walls subject to applicable height restrictions are permitted in all yards.

B. **Front Yards:** Bay windows projecting three feet or less into the yard are permitted. Open or screened porches, platforms or terraces not over three feet above the average level of the

adjoining ground, including a permanently roofed-over terrace or porch; awnings and canopies provided they do not extend or project into the yard more than six feet and has no more than forty-eight square feet of area.

C. **Rear and Side Yards:** Open off-street parking spaces, balconies, or outside elements of central air conditioning systems.

D. **Double Frontage Lots:** The required front yard shall be provided on each street.

E. **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 building occupying one lot.

Section 4.11 Accessory Building and Uses

A. No accessory building shall be constructed upon a lot for more than eighteen months prior to beginning construction of the principal building. No accessory building shall be used for more than eighteen 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. *Exception- "A" does not apply to AG, TA, and RA parcels more than 20 acres. Accessory buildings in these districts are strictly for storage of agricultural equipment and livestock.

B. No detached accessory building or structure shall exceed the maximum permitted height of the principal building or structure.

C. 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.

D. Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than ten feet.

E. Garages and outbuildings in Residential Districts and Subdivisions used for storage and other structures customary and appurtenant to the permitted uses constructed of materials customarily used in residential construction. The sidewalls of said building shall not exceed eighteen feet in height.

F. Regulation of accessory uses shall be as follows:

1. Except as herein provided, no accessory building shall project beyond a required yard line along any street.

2. Service station pumps and pump island may occupy the required yards, provided, however, that they are not less than fifteen feet from street lines.

Section 4.12 Permitted Modifications of Height Regulations

A. The height limitations of this Regulation shall not apply to:

Belfries	Public Monuments
Chimneys	Ornamental Towers and Spires
Church Spires	Radio Towers less than 125 feet in height
Conveyors	Grain Elevators and Silos
Colling Towers	Smokestacks
Elevator Bulkheads	Stage Towers or Scenery Lots

Fire Towers and Standpipes	Water Towers
Flags Poles	Air-Pollution Prevention Devices
Communications Towers	Wind Energy Conversion Systems

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

Section 4.13 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 unless the code requirements under the County's Building Code are satisfied.

Section 4.14 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.

Section 4.15 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 setbacks on nonconforming lots shall only be obtained through action of the Board of Adjustment. All lots of less than three acres must have DEQ approval of septic systems.

Section 4.16 Nonconforming Structures

A. **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.

B. **Enlargement, Repair, Alterations**: Any such structure described in Section 4.18(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, except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be in conformance with this section, and unless otherwise permitted by conditional use permit unless otherwise approved or as specified in the Residential District.

C. **Damage or Destruction**: In the event that any existing residential structure that meets the definition of a single-family dwelling or associated structure described in Section 4.18 is damaged or destroyed, by any means, the structure may be restored or replaced, however, no restoration or replacement shall be made unless a building permit is obtained and restoration or replacement is actually begun within one year after the date of such destruction and is diligently pursued to completion. In the event that any structure other than an existing residential or associated structure described in Section 4.18 is damaged or destroyed, by any means, to the extent of more than seventy percent of its structural value using the standard fees used to assign permit fees, 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 4.16, shall not have a side yard of less than five feet. When a structure is damaged to the extent of seventy-five or less, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.

D. **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.

Section 4.17 Nonconforming Uses

A. **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 the following provisions:

1. 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 or this Regulation.
2. 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.
3. If any such nonconforming use of land ceases for any reason for a period of more than twelve 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.

B. **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:

1. 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;
2. 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;
3. 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;
4. Any structure, or structure and land in combination, in any 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;
5. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for twelve 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;
6. Where nonconforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming statutes of the land.

Section 4.18 Repairs and Maintenance

A. On any building devoted in whole or in part to any nonconforming use, work may be done 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.

B. 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.

Section 4.19 Administrative Use Permit in the Recreational/Agricultural District

An Administrative Use Permit shall be required for new residential construction and/or accessory building and shall be presented to the Planning Commission and County Board of Commissioners for approval. This Administrative Use Permit shall be permanently assigned to the approved footprint of the new residential construction and/or accessory building. Any future variations outside the footprint of this new residential construction and or accessory building would require an additional Administrative Use Permit.

Section 4.20 Fines and Penalties

Violation of the provisions of this regulation or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this regulation or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $100.00 per offense, with each day resulting in a separate offense, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

Section 4.21 Fees

The following are the current fees charged by the Cass County Zoning Office for Planning and Zoning related matters

A	Administrative Subdivision	$300.00 + $25.00 per platted lot
B	Administrative Lot Split	$300.00+ $25.00 per platted lot
C	Preliminary Plat	$500.00+$75.00 per platted lot – maximum fee $5000.00
D	Final Plat	$500.00+ $75.00 per platted lot - max fee = $5000.00
D	Conditional Use Permit: except CUP sign	$500.00 except: Conditional Use Permit-Sign
E	Conditional Use Permit-Sign	$300.00
E	Administrative Use Permit	$100.00 (New residential and/or accessory bldg. in Rec/Ag Dist.)
F	Zoning Text Change	$200.00
G	Zoning Map Change	$300.00
H	Temporary Building	$300.00
I	Access	$50.00
J	Road Name Change	$350.00
K	Conditional Use Permit Renewal	one-half (1/2) of current fee schedule
L	Wireless Communications Tower Development CUP	$3000.00
M	911-Sign Fee	$75.00
N	Conditional Use Co-Location on existing Wireless Communications Tower	$1500.00
O	Conditional Use Large Wind Energy Conversion System	$5000.00
P	Conditional Use Small Wind Energy Conversion System	$300.00
Q	Conditional Use Commercial Solar	$5,000.00
R	Conditional Use Neighborhood Solar	$1,500.00
S	Floodplain Review Fee	$250.00

All fees assessed by the County for the above permits are non-refundable.

Section 4.22 Structural Requirements

Cass County adopts the 2012 IBC and IRC. The Zoning Administrator shall declare in writing the date of the Code being used and post this notice in the Zoning and Inspections Office.

Section 4.23 Utility Connections

No person, employee or his agent of any utility company shall make any utility connections or issue any order for utility connection for any building or buildings constructed or proposed to be constructed without a building permit first being issued by Cass County and without approval from the Cass County Zoning Office.

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ARTICLE 5: ZONING DISTRICTS

Section 5.01 Districts; Use

For the purpose of this Chapter, the County is hereby divided into eight districts, designated as follows:

(AG)	Agricultural
(TA)	Transitional Agricultural
(R)	Residential
(C)	Commercial
(I)	Industrial
(REC/AG)	Recreational/Agricultural
(IND/AG)	Industrial/Agricultural
(COM/AG)	Commercial/Agricultural

Section 5.02 Districts; Boundaries and Official Zoning Map

The boundaries of the districts are hereby established as shown on the map entitled "Official Zoning Map of the County of Cass County, Nebraska." Said maps and all explanatory matter thereon accompany and are hereby made a part of this Ordinance as if fully written herein. The Official Zoning District Map shall be identified by the signature of the Chairperson and attested by the County Clerk. No changes shall be made on the Zoning District Map except as may be required by amendments to this Ordinance. Such changes shall be promptly indicated on the Zoning District Map with the Ordinance number, nature of change, and date of change noted on the map.

Section 5.03 Rules for Interpretation of District Boundaries on the Official Zoning Map

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

A. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;

B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

C. Boundaries indicated as approximately following and Village Extraterritorial Jurisdictions shall be construed as following such County limits;

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

E. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline;

F. 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;

G. Boundaries indicated as parallel to or extensions of features indicated in subsections (1) to (6) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;

H. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections (1) to (7) above, the Board of Zoning Adjustment shall interpret the district boundaries;

I. Where a district boundary line divides a lot, which was in single ownership at the time of passage of this Ordinance, The Board of Zoning Adjustment may permit the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

J. When a district boundary line splits a lot, tract, or parcel that is in sole ownership, the zoning district with the most restrictive requirements may be extended over the entire property without amending the zoning map through the public hearing process.

K. When a lot, tract, or parcel is bisected by the extraterritorial jurisdiction boundary line, the jurisdiction with the greatest portion of the property shall have controlling interest.

Section 5.04 Land Use Categories Matrix Explanation

The Matrix found in Section 5.06 of this Ordinance is a listing of uses that are allowed within the variety of Zoning Districts.

A. The different uses are grouped into specific "Land Use Categories."

B. The "Land Use Categories" are listed in each of the Zoning Districts in lieu of specific uses. It is important to note, if a "Land Use Category" is listed within a specific Zoning District, it DOES NOT indicate every use in the "Land Use Category" is allowed within the specific District.

The different uses within Section 5.06 are Permitted (P), Allowed upon approval of a Conditional Use Permit (C), Administrative Use Permit (A) or not permitted (-).

In order to determine if a specific use is allowed in a Zoning District, the following steps need to be followed:

A. Find the Use Type that matches your application.

B. Look across the table and determine which of the Zoning Districts in which it may be allowed.

C. Determine any special criteria for the use(s) by referring to the specific District.

D. Determine where the specific Zoning Districts are by reviewing the Official Zoning Map.

E. Determine the necessary procedures to receive required permits after the land or property is the control of the applicant.

F. When in doubt, please confer with Planning Administration.

G. If the matrix is in conflict with the Zoning District text, then the specific Zoning District text shall rule.

The Table in Section 5.06 also lists Accessory Uses which are allowed in any specific Zoning

District. The Accessory Use listing can be found at the end of the Table.

Section 5.05 Jurisdiction

The provisions of this Regulation shall apply within the corporate limits of Cass County, Nebraska, excluding the area within the extraterritorial jurisdiction of municipalities exercising said jurisdiction through an adopted zoning ordinance.

Section 5.06 Land Use Categories Matrix

		P = Permitted, C = Conditional Use, A = Administrative Use, and (-) = Not Permitted								
	ZONES	AG	TA	R	C	I	REC/AG	IND/AG	COM/AG	NOTES
Agriculture and Horticulture Uses	Agricultural crop production	P	P	-	-	-	P	P	P	
	Agricultural livestock production – less than 300 animal units	P	P	-	-	-	P	P	P	Section 8.23
	Medium LFO livestock production	C	-	-	-	-	-	-	-	Section 8.23
	Large LFO I livestock production	C	-	-	-	-	-	-	-	Section 8.23
	Large LFO II livestock production	C	-	-	-	-	-	-	-	Section 8.23
	Large LFO III livestock production	C	-	-	-	-	-	-	-	Section 8.23
	Large LFO IV livestock production	C	-	-	-	-	-	-	-	Section 8.23
	Agricultural farm services	P	P	-	-	-	-	P	P	
	Farm buildings and structures used for farm equipment, machinery, grain storage, livestock shelters	P	P	-	-	-	P	P	P	
	Wholesale trade	-	-	-	P	-	-	-	-	
	Commercial fuel, fertilizer, petroleum, and chemical tank storage for distribution	C	C	-	-	C	-	C	P	
	Farm Implement Dealership and Services	C	C	-	-	P	-	P	P	
	Livestock auction	C	C	-	-	-	-	-	-	
Residential Living	Detached Single-family dwellings	P	P	P	-	-	P		P	
	Attached Single-family dwellings	-	-	P	-	-	-	-	-	
	Duplex or two-family dwellings	-	-	P	-	-	-	-	-	
	Multi-family dwelling units	-	-	P	-	-	-	-	-	
	Mobile homes located within a mobile home park	-	-	C	-	-	-	-	-	
	Residential acreage development	A	A	-	-	-	A	-	-	Section 5.07.6, 5.08.7 & 5.12.6
	Residential Subdivisions	-	C	C	-	-	-	-	-	See Subdivision Regulations

		P = Permitted, C = Conditional Use, A = Administrative Use, and (-) = Not Permitted								
	ZONES	AG	TA	R	C	I	REC/AG	IND/AG	COM/AG	NOTES
Civic Uses	Church, church residences and assembly hall	C	P	P	P	-	-	-	-	
	Health care and social services	-	P	-	P	-	-	-	-	
	Historical sites or monuments	P	P	C	P	-	P	-	-	
	Museum	-	-	-	P	-	P	-	-	
	Other publicly owned installations, military installations, airports, community centers	C	-	-	-	-	-	-	-	
	County operated facilities, fire protection, fairgrounds, and government offices	P	P	P	P	P	P	P	P	
	Private Schools	C	P	P	P	-	-	-	-	
	Schools, hospitals and other charitable facilities	C	P	P	P	-	-	-	-	
General Commercial	Auto wrecking, salvage, or junk yard	-	-	-	-	C	-	C	C	
	Adult establishments	-	P	-	P	-	-	-	-	Section 8.18
	Cemeteries, Mausoleums	C	C	-	-	-	-	-	-	
	Mortuaries	-	-	-	P	-	-	-	-	
	Crematories	-	-	-	P	P	-	-	-	
	Clothing and apparel services, including dressmaking, millinery, shoe repair, furrier and tailors.	-	-	-	P	-	-	-	-	
	Farm supplies, feed, equipment, machinery and implement sales	-	C	-	P	P	-	P	-	
	Furniture, home furnishing, home appliance and equipment sales	-	-	-	P	-	-	-	-	
	Home Occupations	C	C	C	-	-	C	-	C	
	Bed & Breakfast	C	C	-	-	-	C	-	C	
	Motels and Hotels	-	-	-	P	-	C	-	P	

		P = Permitted, C = Conditional Use, A = Administrative Use, and (-) = Not Permitted								
	ZONES	AG	TA	R	C	I	REC/AG	IND/AG	COM/AG	NOTES
General Commercial	Personal services including: barber shops, beauty salons, reducing salons and photographic studios	-	-	-	P	-	-	-	-	
	Shopping centers	-	-	-	C	-	-	-	-	
	Short Term Rental	C	C	C	-	-	C	-	-	See Definition
	Rental cabin	C	C	-	-	-	C	-	-	Maximin size 500 sf, occupancy for less than 30 days
	Indoor Storage Unit	-	C	-	C	P	-	C		Within one half mile of a hard surfaced road
	Laundromats and Laundries	-	-	-	P	-	-	-	-	
Retail Stores	Convenience Mart (with or without fuel sales)	-	-	-	P	-	-	-	-	
		-	-	-		-	-	-	-	
	Department Store	-	-	-	P	-	-	-	-	
	Food Markets	-	-	-	P	-	-	-	-	
	General Retail	-	-	-	P	-	-	-	-	
	Gift Shop	-	-	-	P	-	C	-	-	
	Hardware	-	-	-	P	-	-	-	-	
Food & Beverage Services	Bars, Taverns and Nightclubs	-	-	-	C	-	C	-	-	
	Eating establishments/Restaurant	-	-	-	P	-	C	-	-	
	Roadside stands offering for sale farm products produced on the farm	A	A	-	-	-	A	A	A	
	Winery/Brewery/Distillery with a tasting room facilities	C	C	-	P	P	C	P	P	
Day Care	Child Care Center	-	C	C	C	-	-	-	-	
	Child Care Home	-	A	A	-	-	-	-	-	
Recreational Commercial	Outdoor Shooting Range	C	-	-	-	-	-	-	-	
	Family oriented entertainment venues such as amusement parks, racetracks, miniature golf, indoor shooting range etc.	-	-	-	C	C	C	C	C	
	Event Centers	C	C	-	P	-	C	-	P	Section 8.20

		P = Permitted, C = Conditional Use, A = Administrative Use, and (-) = Not Permitted								
	ZONES	AG	TA	R	C	I	REC/AG	IND/AG	COM/AG	NOTES
Auto Oriented Commercial	Auction Yard (non-livestock)	-	-	-	-	C	-	C		
	Automotive dealers, fuel service stations and truck stops, automotive repair and miscellaneous repair services.	-	-	-	P	-	-	-	-	
Industrial	Outdoor Storage Facility	-	-	-	C	P	-	C		Within one half mile of a hard surfaced road
	Privately owned air landing strip or airport	C	C	-	-	-	-	-	-	
	Freight terminals and warehousing facilities	-	-	-	-	P	-	C	C	
	Building construction, general contractors and builders operations	-	-	-	-	P	-	C	C	
	Building materials, hardware and garden supply	-	-	-	P	P	-	C	C	
	Storage Container	A	A	-	P	P	-	A	-	
	Animal rendering and hide curing	-	-	-	-	-	-	C	-	
	Chemicals and allied products	-	-	-	-	C	-	C	-	
	Furniture and fixtures products	-	-	-	-	P	-	C	C	
	Industrial and alcohol fuel production	C	-	-	-	-	-	-	-	
	Meat, food and kindred products	-	-	-	-	C	-	C	C	
	Metal products	-	-	-	-	C	-	C	C	
	Mining and Quarries - extraction of sand & gravel, minerals, limestone, rock, clay, shale, sandstone and soil extraction	C	C	-	-	-	-	-	-	Section 8.14
	Modular or manufactured home sales, trailer and camper sales	-	-	-	P	P	-	C	C	
	Paper and allied products	-	-	-	-	C	-	C	C	
	General Manufacturing	-	-	-	-	P	-	C	C	
		-	-	-	-	-	-	-	-	
Business Services	Finance, Investment and Insurance Services	-	-	-	P	-	-	-	-	
	Offices	-	-	-	P	-	-	-	-	
		-	-	-	-	-	-	-	-	
		-	-	-	-	-	-	-	-	

		P = Permitted, C = Conditional Use, A = Administrative Use, and (-) = Not Permitted								
	ZONES	AG	TA	R	C	I	REC/AG	IND/AG	COM/AG	NOTES
Parks and Open Space	Wildlife Preserve	-	-	-	-	-	C	-	-	
	Amphitheaters	-	-	-	-	-	C	-	-	
	Camping/Campground	C	C	-	-	-	C	-	-	Section 8.07
	Commercial recreational including fishing, hunting, gun clubs, rifle range, trap shooting, and similar uses	C	-	-	-	-	C	-	-	
	Recreational Facility	C	C	-	-	-	C	-	-	See Definition
	Dog Park	-	C	C	-	-	C	-	-	Section 5,08.06, 5.09.1 & 5.14.4
	Kennels or facilities for raising, breeding, training, boarding of dogs or other small animals	C	C	-	P	P	C	-	-	Sections 5.07.5, 5.08.00 Sections 5.10.1, 5.11.1
	Public parks, forest preserves, and conservation areas	P	P	P	P	P	P	P	P	
Utilities and Waste Disposal	Communication towers, transmitters, cable and satellite receiving stations and appurtenances	C	C	-	-	C	C	C	C	Section 8.09
	Overhead and underground main utilities transmission lines including but not limited to electric, communications, gas, fuel or fertilizer lines, pumping stations, substations, terminal facilities, tanks and reservoirs	P	P	P	P	P	P	P	P	
	Commercial Solar Conversion Systems	C	C	-	-	C	-	C	C	Section 8.21
	Neighborhood Solar Conversion Systems	C	C	C	-	C	-	C	C	Section 8.21
	Individual Solar Conversion System	A	A	A	A	A	A	A	A	Section 8.21
	Commercial Wind Energy Conversion System	C	C	-	-	C	-	C	C	Section 8.15
	Individual Wind Energy Conversion System	A	A	A	A	A	A	A	A	Section 8.16
	Commercial Compost Farm Operation (less than 5 acres)	C	C	-	-	C	C	C	C	Section 5.07.2, 5.07.3, 5.08.2, 5.08.3, 5.11.1, 5.112, 5.12.1, 5.12.2, 5.13.1, 5.13.2, 5.14.1, 5.14.2
	Commercial Compost Farm Operation (up to 20 acres)	C	C	-	-	C	-	C	-	Section 5.07.4, 5.08.4, 5.11.3, 5.13.4
	Sanitary sewage treatment facilities	C	C	C	-	C	C	C	C	
	Indoor recycling centers	-	-	-	-	C	-	C	-	Section 8.17
	Landfills	-	-	-	-	-	-	-	-	Section 8.17
	Solid non-metallic waste disposal, outdoor recycling centers	C	-	-	-	C	-	C	-	Section 8.17

		P = Permitted, C = Conditional Use, A = Administrative Use, and (-) = Not Permitted								
	ZONES	**AG**	**TA**	**R**	**C**	**I**	**REC/AG**	**IND/AG**	**COM/AG**	**NOTES**
Accessory	Parking	A	A	A	A	A	A	A	A	Section 8.01
	Private recreational facilities in conjunction with the permitted use	A	A	A	A	A	A	A	A	
	Accessory Uses to a principal use	A	A	A	A	A	A	A	A	
	Signs	A	A	A	A	A	A	A	A	Section 8.03-8.06
Temporary	Temporary buildings and uses incidental to construction work or in the event of any emergency as determined by the Board which shall be removed upon the completion or abandonment of the construction work.	P	P	P	P	P	P	P	P	

Section 5.06.1 Minimum Area, Setbacks, Height and Density Requirements

	Criteria	AG	TA	R	C	I	Rec/Ag	Ind/Ag	Com/Ag
Height and Bulk Requirements	**Minimum Area**								
	Permitted Use (non-residential)	20 Acres	20 Acres	3 Acres	7,200 sf[4]	10,000 sf[5]	10,000 sf [6]	40 Acres	40 Acres
	Permitted Single Family	20 Acres	20 Acres	7,500 sf			40 Acres		3 Acres
	Residential Acreage	3 Acres	3 Acres[7]	7,500 sf					
	Attached Single-Family (per unit)			4,000/ unit					
	Two-Family/Duplex Dwelling			4,000/ unit					
	Multi-Family Dwelling (per unit)			4,000/ unit					
	Other Permitted Uses	20 Acres	5 Acres	3 Acres	7,200sf	10,000 sf[5]	5 Acres		
	Conditional Permitted Uses	3 acres	3 Acres[7]	3 Acres	7,200sf	10,000 sf[5]	10,000 sf [6]	3 Acres	3 Acres
	Lot Width								
	Permitted Use	450	300	70	60 [4]	60 [5]	300 [6]	200	200
	Residential Acreage	200	200	70					
	Attached Single-Family (per unit)			70					
	Two-Family/Duplex Dwelling			70					
	Multi-Family Dwelling (minimum width)			70					
	Other Permitted Uses	400	300	300	200	200	300		
	Conditional Permitted Uses	400	300	300	200	200	300	200	200
	Front yard								
	Primary Use	75/120/ 135 [1]	75/120/ 135 [1]	50	25	45	25 [6]	45	45
	Accessory Use	75/120/ 135 [1]	75/120/ 135 [1]	45	25	45	45	45	85
	Rear Yard								
	Primary Use	25	25	25 [3]	25	25	25	25	25
	Accessory Use	15	15	15 [3]	15	15	15	15	15
	Side Yard								
	Primary Use	25	25	10 [3]	0 [4]	25	10	25	25
	Accessory Use	15	15	10 [3]	15	25	15	15	15
	Maximum Height								
	Primary Use	40	35	35	45 [2]	45	40	45	45
	Other Permitted Use	X [2]	65	65	45 [2]	45	25	45	45
	Accessory Use	65	35	18	45 [2]	35	15	35	35

	Criteria	AG	TA	R	C	I	Rec/Ag	Ind/Ag	Com/Ag
Trees and Shrubs Setbacks & Structure Density Requirements	**Trees & Shrubs Setbacks**								
	Deciduous: Front Yard from County ROW	20 feet	20 feet						
	Deciduous: Rear/Side Yards property lines	20 feet	20 feet						
	Conifers: Front Yard from County ROW	20 feet	20 feet						
	Conifers: Rear/Side Yards property lines	20 feet	20 feet						
	Shrubs: Front Yard from County ROW	8 feet	8 feet						
	Shrubs: Rear/Side Yards property lines	8 feet	8 feet						
	Building Density								
	1.0 to 2.0 acres (# of buildings)	N/A	N/A				N/A		
	1.0 to 2.0 acres (total max combined area)	3,200 sf	3,200 sf				3,200 sf		
	2.01 to 5.0 acres (# of buildings	N/A	N/A				N/A		
	2.01 to 5.0 acres (total max combined area)	6,000 sf	6,000 sf				6,000 sf		
	5.01 to 20.0 acres (# of buildings)	N/A	N/A				N/A		
	5.01 to 20.0 acres (total max combined area) (plus 400 SF per acres per over 5.0 acres)	12,000 sf	12,000 sf				12,000 sf		
	Commercial Solar – CSCS Setbacks								
	Occupied Residence Setback – from the approximate center of a residence.	500 feet	500 feet						
	Yard Setbacks - from the Side and Rear Property Lines	50/50 ft	50/50 ft						
	Right-of-Way Setback – from the Center Line of a County Road	70 feet [8]	70 feet [8]						
	Right-of-Way Setback – from the ROW Line of a State Highway	75 feet [8]	75 feet [8]						
	Right-of-Way Intersection Setback – from the Center Line of a County Road or ROW Line of a State Highway / from Intersection	250 ft / 250 ft [9]	250 ft / 250 ft [9]						
	Reserved								

(Footnotes follow)

1. No new structure shall be hereafter erected, or any existing structure structurally altered with any portion of said structure nearer than 75 feet to the R.O.W. line of a U.S. or State designated highway,

and no nearer than 120 feet from the centerline of a County Road and/or Highway. Exception: any structure constructed or any existing structure in compliance with setback regulations after August 17, 1998, and prior to the passage of Amendment 37 of the August 17, 1998, Zoning Ordinance shall not be considered nonconforming as a result of Amendment 37 and shall retain all rights allowed by current Zoning Regulations. Any roads designated as other arterials in the Cass County Comprehensive Plan and those roads designated as other arterials by the county highway department, setbacks to any new structure shall be 135 feet from the centerline of said road until such time as the new right-of-way has been established.

2. The County Board may add the height of the tallest natural terrain within ¼ mile to establish a new maximum height.

3. The Beaver Lake Association, Buccaneer Bay Architectural Control Committee including the Homeowners Association on Block 27 in Buccaneer Bay may modify the setback requirements on lots platted, prior to the effective date of this amendment, within their respective subdivisions that do not meet County lot requirements, due to lot size, to a minimum of 5 feet side yard setback and 10 feet rear yard setback

4. 3-acre, 200 feet width, and 25 feet side yard setback minimum when a private well and septic system are used by the Permitted Use.

5. 3 acre, and 200 feet width minimum when a private well and septic system are used by the Permitted Use.

6. 3-acre, 200 feet width, and 45 feet side yard setback minimum when a private well and septic system are used by the Conditional Use Permit.

7. If connected to community water and sanitary sewer systems and within ½ mile of a paved road, then lots can be one-acre minimum size, OR a Homestead Lot Split.

8. CSCS Setbacks from a Public Right-of-Way - No new CSCS (defined in Section 8.21.05) panels and equipment (excluding fencing and visual screening) shall be hereafter erected or any existing structure be structurally altered with any portion of said panels and equipment nearer than 75 feet to the R.O.W. line of a U.S. or State designated highway, and not nearer than 70 feet from the centerline of a County Road and /or Highway. For any roads designated as other arterials in the Cass County Comprehensive Plan and those roads designated as other arterials by the county highway department, setback to any such structure shall be 135 feet from centerline of said road until such time as the new right-of-way has been established.

9. CSCS Setbacks from an Intersection of Public Right-of-Ways - No new CSCS (defined in Section 8.21.05) panels and equipment (excluding fencing and visual screening) shall be hereafter erected or structurally altered with any portion of said panels and equipment nearer than 250 feet to the R.O.W. line of a U.S. or State designated highway, and not nearer than 250 feet from the centerline of a County Road for a distance of 250 feet from an intersection of public roads. For any roads designated as other arterials in the Cass County Comprehensive Plan and those roads designated as other arterials by the county highway department, setback to any such structure shall be 250 feet from centerline of said road until such time as the new right-of-way has been established.

Section 5.07 AG - Agricultural District

It is the intent of this zoning district to conserve and otherwise preserve the prevailing rural

agricultural farming characteristics, values, and resources. The intent is to encourage and to promote in every practicable manner, the interest of agriculture, the facilitation of farm production, and to encourage soil and water conservation.

Principal Permitted Uses:

A. Agricultural Crop Production
B. Agricultural Livestock Production – less than 300 animal units – Refer to Section 8.23
C. Agricultural Farm Services
D. Farm Buildings and Structures used for farm equipment, machinery, grain storage and livestock shelter
E. Detached Single-Family Dwellings
F. Residential Acreage Development – Refer to Section 5.07.6
G. Historical Sites and Monuments
H. County Operated Facilities – fire protection, fairgrounds and government offices
I. Public Parks, Forest Preserves and Conservation
J. Overhead and Underground Main Utilities Transmission Lines; including but not limited to electric, communications, gas, fuel or fertilizer lines, pumping stations, substations, terminal facilities, tanks and reservoirs.
K. Temporary buildings and uses incidental to construction work or in the event of an emergency as determined by the Board which shall be removed upon the completion or abandonment of the construction work.

Permitted Conditional Uses:

Conditional Use Permits shall be required for the following conditional uses. Article 7 provides additional provision and process:

A. Medium LFO – 300 A.U. to 999 A.U. (Refer to Section 8.23)
B. Large LFO I – 1,000 A.U. to 4,999 A.U. (Refer to Section 8.23)
C. Large LFO II – 5,000 A.U. to 9,999 A.U. (Refer to Section 8.23)
D. Large LFO III – 10,000 A.U. to 19,999 A.U. (Refer to Section 8.23)
E. Large LFO IV – 20,000 A.U. or more (Refer to Section 8.23)
F. Commercial Fuel, Fertilizer, Petroleum and Chemical Tank Storage for Distribution
G. Farm Implement Dealership and Services
H. Livestock Auction
I. Church, Church Residences and Assembly Halls
J. Other Publicly Owned Installations – military installations, airports, and community centers
K. Private Schools
L. Schools, Hospitals and other Charitable Facilities
M. Cemeteries and Mausoleums: shall be located at least 200 feet from any public/private street, road, or highway and at least 1,000 feet from any residential use.
N. Home Occupations
O. Bed & Breakfast

P. Short Term Rental – See Definition

Q. Rental Cabin – maximum size, 500 square feet, occupancy less than 30 day.

R. Winery/Brewery/Distillery with tasting facilities

S. Outdoor Shooting Range

T. Event Centers – Refer to Section 8.20

U. Privately owned air landing strip or airport

V. Industrial Alcohol Fuel Production

W. Mining – Extraction of minerals, sand & gravel, clay, shale, limestone, and sandstone quarries. Refer to Section 8.14

X. Camping/Campgrounds Refer to Section 8.07

Y. Commercial recreational including fishing, hunting, gun clubs, rifle range, trap shooting, and similar uses.

Z. Recreational Facility

AA. Kennels or Facilities for Raising, Breeding, Training, Boarding of Dogs or other Small Animals – Refer to Section 5.07.5

BB. Communications towers, transmitters, cable and satellite receiving stations and appurtenances – Refer to Section 8.09

CC. Commercial Solar Conversion Systems – Refer to Section 8.21

DD. Neighborhood Solar Conversion Systems – Refer to Section 8.21

EE. Commercial Wind Energy Conversion System – Refer to Section 8.15

FF. Commercial Compost Farm Operation (less than 5 acres) – Refer to Sections 5.07.2 or 5.07.3

GG. Commercial Compost Farm Operation (up to 20 acres) – Refer to Section 5.07.4

HH. Sanitary Sewage Treatment Facilities

II. Solid non-metallic waste disposal, outdoor recycling center – Refer to Section 8.17

Section 5.07.1 Windrow Composting

Windrow Composting: Commercial Compost Farm Operation limited to five acres. Conditional Use limited to review every three years. The recovered organic materials of which compost is made shall be:

A. Yard waste not exceeding 20,000 cubic yards of compost per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material which compost is made may be yard waste such as grass, leaves and twigs to create an effective soil amendment or fertilizer.

B. Food waste which includes Type II Feedstock, limited to less than 1,000 cubic yards of compost per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material which compost is made may be edible and inedible organic material, excluding sewage sludge and meat and dairy products to create an effective soil amendment or fertilizer. Such composting is limited to windrow composting in which windrows are turned to improve porosity and oxygen content.

Section 5.07.2 Turned Aerated Piles (TAP)

Turned Aerated piles (TAP): Commercial Compost Farm Operation limited to five acres. Conditional Use Limited to review every three years. The recovered organic materials of which

compost is made shall be:

A. Yard waste not exceeding 130,000 cubic yards of compost per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material which compost is made may be yard waste such as grass, leaves and twigs to create an effective soil amendment or fertilizer.

B. Food waste which includes Type II Feedstock, limited to less than 50,000 cubic yards of compost per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material which compost is made may be edible and inedible organic material, excluding sewage sludge and meat and dairy products to create an effective soil amendment or fertilizer. Such composting is limited to Turned Aerated piles (TAP) composting in which piles are turned to improve porosity and oxygen content.

   The compost operator shall have a site-specific odor management plan in place that is to be followed when verifying, assessing and implementing response actions for an odor problem. The assessment and/or monitoring is necessary to determine the extent and severity of the emissions of odor and ensure the public is not exposed to concentrations that may cause a nuisance condition or pose a potential risk to public health and/or safety. There shall not be discharged from any sources the emission of odorous matter in concentrations and frequencies or for durations that an odor detectable in the ambient air is greater than 7 dilution to threshold (D/T) for two (2) samples for observations not less than fifteen (15) minutes apart within a one (1) hour period measured by field olfactory device, such as a Nasal Ranger4 (registered trademark), Olfactometer or Sentometer (registered trademark) according to manufacturer's specifications. When three (3) or more written and signed complaints are received by the Zoning Administrator within a three (3) day period the third complainant shall deposit with the Zoning Department a check for $100.00 to cover the cost of testing. Based upon a site inspection by the Zoning Administrator which includes but not limited to an inspection of the shipment logs, atmospheric conditions and conferring with the Nebraska Department of Environment and Energy, the Zoning Administrator may require an odor evaluation be taken at a location outside of the installation's property boundary. If the test proves negative the cost of the test shall be deducted from the complainant's deposit and any and all remainder shall be returned to the complainant. If the test proves positive the composting facility owner shall bear the expense of the test and the money deposited with the Zoning Department shall be returned in its entirety to the complainant. The Zoning Administrator shall periodically make observations at the property line of the establishment to determine if this business is being conducted in compliance with these regulations. **Note**: A composting facility shall not be located closer than one mile to any multi lot subdivision in this district.

Section 5.07.3 Commercial Compost Farm Operation

A Commercial Compost Farm Operation of more than 5 acres but not to exceed 20 acres with up to 70,000 cubic yards of compost allowed per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material of which compost is made may utilize edible and inedible organic materials excluding sewage sludge, meat, and dairy products to create an effective soil amendment or fertilizer. Such composting is limited to windrow composting in which windrows are turned to improve porosity and oxygen content. The Compost operator shall have a site-specific odor management plan in place that is to be followed when verifying, assessing, and implementing response actions for an odor problem. The assessment

and/or monitoring is necessary to determine the extent and severity of the emissions of odor and ensure the public is not exposed to concentrations that may cause a nuisance condition or pose a potential risk to public health and/or safety. There shall not be discharged from any sources the emission of odorous matter in concentrations and frequencies or for durations that odor detectable in the ambient air is greater than 7 dilution to threshold (D/T) for two (2) samples for observations not less than fifteen (15) minutes ap[art within one (1) hour period measured by a field olfactometer device, such as a Nasal Ranger (registered trademark). Olfactometer or Sentometer (registered trademark) according to manufacturer's specifications. The Zoning Administrator shall periodically make observations at the property line of the establishment to determine if this business is being conducted in compliance with these regulations.

Section 5.07.4 Kennels

Kennels are a facility for racing, breeding, training or boarding of dogs or other small animals using the following guidelines:

A. One to fifteen animals; all facilities are located at least 150 feet from any property line and 1,200 feet from any nearby residential use.

B. Sixteen or more animals; all facilities are located at least 300 feet from any property line and 2,400 feet from any nearby residential use.

C. Any facility used for the overnight boarding of animals must be an enclosed building.

Permitted Administrative Uses:

The Administrative Uses listed in Table 5.06 are allowed per the Zoning Administrator's or Planning Commission's approval of the Site Plan.

Section 5.07.5 Residential Acreage Development

Residential Acreage Development (Single Lot), provided the conditions in Article 7 are met, as well as the following conditions:

A. Said acreage meets a density of one (1) subdivided lot per forty (40) acres along a graveled or hard surfaced county road. A forty (40) acre parcel shall be defined as a quarter of a quarter of a Section, Township, Range as defined by the original government recorded township plat. The Planning Commission shall have the authority to administratively vary the 40 acre provision by up to 10% when the requirement has been lessened due to acquisition of right-of-way by any governmental entity or correction section line having reduced a quarter of a quarter of a Section, Township, Range as defines by the original government recorded township plat or public trails or cemetery and public school site.

B. Access to said property is a minimum of 250 feet from any county intersection.

C. Within the allowable distance to any confined feeding operation.

D. Soils are suitable for a private septic system and the proper testing has been completed or an alternative State of Nebraska Department of Environment and Energy approved system is used.

Administrative Accessory Uses: The following accessory buildings and uses are permitted in the "AG" Agricultural District.

A. Roadside stands offering for sale farm products produced on the farm.

B. Individual Solar Conversion System– Refer to Section 8.21

C. Individual Wind Energy Conversion System – Refer to Section 8.16

D. Accessory Uses to a principal use.

E. Private recreational facilities in conjunction with permitted use.

F. Storage Containers are limited to one per five acres with a maximum of five containers per lot or parcel.

Other Applicable Provisions: A lot or parcel of land of record on or before the effective date of this regulation of less than forty (40) acres in lot area may be built on and used for a permitted principal use after a Conditional Use Permit has been issued.

A. Minimum site area requirements – Refer to Section 5.06.1

B. Minimum Lot width – Refer to Section 5.06.1

C. Setback (front, rear and side) requirements for structures from adjoining landowner property line shall be – Refer to Section 5.06.1

D. Maximum Height restrictions – Refer to Section 5.06.1

E. Setback requirements for trees & shrubs from adjoining landowner property line shall be – Refer to Section 5.06.1

F. Accessory building density permitted on lots of record, which contain an established residential dwelling -– Refer to Section 5.06.1

Section 5.08 TA - Transitional Agricultural District

Intent: The Transitional Agricultural District is intended as a transitional agricultural land use district which is located in close proximity of cities and villages and other development areas where land may eventually be suitable for future urban developments.

Principal Permitted Uses:

A. Agricultural Crop Production

B. Agricultural Livestock Production – less than 300 animal units – Refer to Section 8.23

C. Agricultural Farm Services

D. Farm Buildings and Structures used for farm equipment, machinery, grain storage and livestock shelter

E. Detached Single-Family Dwellings

F. Residential Acreage Development – Refer to Section 5.08.7

G. Church, Church Residences and Assembly Hall

H. Health Care and Social Services

I. Historical Sites and Monuments

J. County Operated Facilities – fire protection, fairgrounds and government offices

K. Private Schools

L. Schools, Hospitals and Other Charitable Facilities

M. Adult Establishments – Refer to Section 8.18
N. Public Parks, Forest Preserves and Conservation
O. Overhead and Underground Main Utilities Transmission Lines; including but not limited to electric, communications, gas, fuel or fertilizer lines, pumping stations, substations, terminal facilities, tanks and reservoirs
P. Temporary buildings and uses incidental to construction work or in the event of an emergency as determined by the Board which shall be removed upon the completion or abandonment of the construction work.

Permitted Conditional Uses:

Conditional Use Permits shall be required for the following conditional uses. Article 7 provides additional provision and process:

A. Commercial Fuel, Fertilizer, Petroleum and Chemical Tank Storage for Distribution
B. Farm Implement Dealership and Services
C. Livestock Auction
D. Cemeteries and Mausoleums: shall be located at least 200 feet from any public/private street, road, or highway and at least 1,000 feet from any residential use.
E. Farm Supplies, Feed, Equipment, Machinery, and Implement Sales
F. Home Occupations
G. Bed & Breakfast
H. Short Term Rental – See Definition
I. Rental Cabin – maximum size, 500 square feet, occupancy less than 30 day.
J. Indoor Storage Units – Within one half mile of a hard surfaced road.
K. Winery/Brewery/Distillery with tasting facilities
L. Child Care Center
M. Event Centers – Refer to Section 8.20
N. Privately owned air landing strip or airport
O. Mining – Extraction of minerals, sand & gravel, clay, shale, limestone, and sandstone quarries. Refer to Article 7 and Section 8.14 are met.
P. Camping/Campgrounds – Refer to Section 8.07
Q. Recreational Facility
R. Dog Parks – Refer to Section 5.08.6
S. Kennels or Facilities for Raising, Breeding, Training, Boarding of Dogs or other Small Animals – Refer to Section 5.08.5
T. Communications towers, transmitters, cable and satellite receiving stations and appurtenances – Refer to Section 8.09
U. Commercial Solar Conversion Systems – Refer to Section 8.21
V. Neighborhood Solar Conversion Systems – Refer to Section 8.21
W. Commercial Wind Energy Conversion System – Refer to Article 7 and Section 8.15
X. Commercial Compost Farm Operation (less than 5 acres) – Refer to Sections 5.08.2 or 5.08.3

Y. Commercial Compost Farm Operation (up to 20 acres) – Refer to Section 5.08.4

AA. Sanitary Sewage Treatment Facilities

Section 5.08.1 Windrow Composting

Windrow Composting: Commercial Compost Farm Operation limited to five acres. Conditional Use limited to review every three years. The recovered organic materials of which compost is made shall be:

A. Yard waste not exceeding 20,000 cubic yards of compost per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material which compost is made may be yard waste such as grass, leaves and twigs to create an effective soil amendment or fertilizer.

B. Food waste which includes Type II Feedstock, limited to less than 1,000 cubic yards of compost per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material which compost is made may be edible and inedible organic material, excluding sewage sludge and meat and dairy products to create an effective soil amendment or fertilizer. Such composting is limited to windrow composting in which windrows are turned to improve porosity and oxygen content.

Section 5.08.2 Turned Aerated Piles (TAP)

Turned Aerated piles (TAP): Commercial Compost Farm Operation limited to five acres. Conditional Use Limited to review every three years. The recovered organic materials of which compost is made shall be:

A. Yard waste not exceeding 130,000 cubic yards of compost per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material which compost is made may be yard waste such as grass, leaves and twigs to create an effective soil amendment or fertilizer.

B. Food waste which includes Type II Feedstock, limited to less than 50,000 cubic yards of compost per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material which compost is made may be edible and inedible organic material, excluding sewage sludge and meat and dairy products to create an effective soil amendment or fertilizer. Such composting is limited to Turned Aerated piles (TAP) composting in which piles are turned to improve porosity and oxygen content.

The compost operator shall have a site-specific odor management plan in place that is to be followed when verifying, assessing and implementing response actions for an odor problem. The assessment and/or monitoring is necessary to determine the extent and severity of the emissions of odor and ensure the public is not exposed to concentrations that may cause a nuisance condition or pose a potential risk to public health and/or safety. There shall not be discharged from any sources the emission of odorous matter in concentrations and frequencies or for durations that an odor detectable in the ambient air is greater than 7 dilution to threshold (D/T) for two (2) samples for observations not less than fifteen (15) minutes apart within a one (1) hour period measured by field olfactory device, such as a Nasal Ranger4 (registered trademark), Olfactometer or Sentometer (registered trademark) according to manufacturer's specifications. When three (3) or more written and signed complaints are received by the Zoning Administrator within a three (3) day period the third complainant shall deposit with the Zoning Department a check for $100.00 to cover the cost of testing. Based upon a site inspection by the Zoning Administrator which includes but not limited to an inspection of the

shipment logs, atmospheric conditions and conferring with the Nebraska Department of Environment and Energy, the Zoning Administrator may require an odor evaluation be taken at a location outside of the installation's property boundary. If the test proves negative the cost of the test shall be deducted from the complainant's deposit and any and all remainder shall be returned to the complainant. If the test proves positive the composting facility owner shall bear the expense of the test and the money deposited with the Zoning Department shall be returned in its entirety to the complainant. The Zoning Administrator shall periodically make observations at the property line of the establishment to determine if this business is being conducted in compliance with these regulations. **Note**: A composting facility shall not be located closer than one mile to any multi lot subdivision in this district.

Section 5.08.3 Commercial Compost Farm Operation

A Commercial Compost Farm Operation of more than 5 acres but not to exceed 20 acres with up to 70,000 cubic yards of compost allowed per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material of which compost is made may utilize edible and inedible organic materials excluding sewage sludge, meat, and dairy products to create an effective soil amendment or fertilizer. Such composting is limited to windrow composting in which windrows are turned to improve porosity and oxygen content. The Compost operator shall have a site-specific odor management plan in place that is to be followed when verifying, assessing, and implementing response actions for an odor problem. The assessment and/or monitoring is necessary to determine the extent and severity of the emissions of odor and ensure the public is not exposed to concentrations that may cause a nuisance condition or pose a potential risk to public health and/or safety. There shall not be discharged from any sources the emission of odorous matter in concentrations and frequencies or for durations that odor detectable in the ambient air is greater than 7 dilution to threshold (D/T) for two (2) samples for observations not less than fifteen (15) minutes ap[art within one (1) hour period measured by a field olfactometer device, such as a Nasal Ranger (registered trademark). Olfactometer or Sentometer (registered trademark) according to manufacturer's specifications. The Zoning Administrator shall periodically make observations at the property line of the establishment to determine if this business is being conducted in compliance with these regulations.

Section 5.08.4 Kennels

Kennels are a facility for racing, breeding, training or boarding of dogs or other small animals using the following guidelines:

A. One to fifteen animals; all facilities are located at least 150 feet from any property line and 1,200 feet from any nearby residential use.

B. Sixteen or more animals; all facilities are located at least 300 feet from any property line and 2,400 feet from any nearby residential use.

C. Any facility used for the overnight boarding of animals must be an enclosed building.

Section 5.08.5 Dog Parks

Dog parks require varying features which shall include but not limited to the following:

A. Six (6) foot high fence surrounding the property.

B. Separate double gated entry and exits points.

C. Adequate drainage

D. Beaches for humans

E. Water

F. Tools to pick-up and covered trash cans for disposal of animal waste.

G. Regular maintenance and cleaning of grounds not less than twice monthly.

H. Parking

I. Property owner must provide a copy of liability insurance when applying of Conditional Use Permit

Permitted Administrative Uses:

The Administrative Uses listed in Table 5.06 are allowed per the Zoning Administrator's or Planning Commission's approval of the Site Plan.

Section 5.08.6 Residential Acreage Development

Residential Acreage Development (Single Lot), provided the conditions in Article 7 are met, as well as the following conditions:

A. Said acreage meets a density of one (1) subdivided lot per twenty (20) acres along a graveled or hard surfaced county road. A twenty (20) acre parcel shall be defined as a single parcel of land within a quarter of a quarter of a Section, Township, Range as defined by the original government recorded township plat. The Planning Commission shall have the authority to administratively vary the 20 acre provision by up to 10% when the requirement has been lessened due to acquisition of right-of-way by any governmental entity or correction section line having reduced a quarter of a quarter of a Section, Township, Range as defines by the original government recorded township plat or public trails or cemetery and public school site.

   If additional lots are requested, then the applicant shall be required to subdivide the property in accordance with the County's Subdivision Regulations. The County Planning Commission and County Board may require access roads and/or platted streets to accommodate said development.

B. Access to said property is a minimum of 250 feet from any county intersection.

C. Within the allowable distance to any confined feeding operation.

D. Soils are suitable for a private septic system and the proper testing has been completed or an alternative State of Nebraska Department of Environment and Energy approved system is used.

Administrative Accessory Uses: The following accessory buildings and uses are permitted in the "TA" Transitional Agricultural District.

A. Roadside stands offering for sale farm products produced on the farm.

B. Child Care Homes

C. Storage Container

D. Individual Solar Conversion System– Refer to Section 8.21

E. Individual Wind Energy Conversion System – Refer to Section 8.16

F. Accessory Uses to a principal use.

G. Private recreational facilities in conjunction with permitted use.

H. Storage Containers are limited to one per residence with a single use.

Other Applicable Provisions: A lot or parcel of land of record on or before the effective date of this regulation of less than twenty (20) acres in lot area may be built on and used for a permitted principal use after a Conditional Use Permit has been issued.

A. Minimum site area requirements – Refer to Section 5.06.1

B. Minimum Lot width – Refer to Section 5.06.1

C. Setback (front, rear and side) requirements for structures from adjoining landowner property line shall be – Refer to Section 5.06.1

D. Maximum Height restrictions – Refer to Section 5.06.1

E. Setback requirements for trees & shrubs from adjoining landowner property line shall be – Refer to Section 5.06.1

F. Accessory building density permitted on lots of record, which contain an established residential dwelling -– Refer to Section 5.06.1

NOTE: These setbacks may be adjusted by the County Board at their discretion and with the concurrence of the affected adjoining property owner.

Section 5.09 R - Residential District

R: Residential District is intended to create or preserve some land near the urban communities for rural low density or acreage lot residential home sites. Smaller lot residential home sites will be approved provided that the developer will lay out the residential streets and utilities:

A. As orderly extension of the existing village or city street utilities.

B. The developer will install and serve each lot with a street design and pavement meeting the county development standards.

C. The developer will construct and install an adequate central sanitary sewer distribution and disposal system.

D. The developer will develop an adequate well, storage, or pressured central water distribution system.

E. The developer will install adequate storm drainage.

Permitted Principal Uses:

A. Detached single-family dwelling units in a residential subdivision.

B. Attached single-family dwelling units in a residential subdivision.

C. Duplex and two-family dwelling units in a residential subdivision.

D. Multi-family dwelling units in a residential subdivision.

E. Churches, Church residences and Assembly Halls.

F. County operated facilities, fire protection, fairgrounds, and government offices.

G. Public Schools

H. Schools, hospitals and other charitable facilities.

I. Public parks, forest preserves, and conservation areas.

J. Overhead and underground main utilities transmission lines including but not limited to electric, communication, gas, fuel or fertilizer lines, pumping stations, substations, terminal facilities, tanks and reservoirs.

K. Temporary buildings and uses incidental to construction work or in the event of an emergency as determined by the Board which shall be removed upon the completion or abandonment of the construction work.

Permitted Conditional Uses:

Conditional use permit shall be required for the following uses. Article 7 provides additional provision and process:

A. Mobile home located within a mobile home park.

B. Historical sites or monuments

C. Home Occupations – See Definition

D. Short Term Rentals – See Definition

E. Child Care Center

F. Dog Parks – Refer to Section 5.09.1

G. Neighborhood Solar Conversion System – Refer to Section 8.21

H. Sanitary sewage treatment facilities

Section 5.09.1 Dog Parks

Dog parks require varying features which shall include but not limited to the following:

A. Six (6) foot high fence surrounding the property.

B. Separate double gated entry and exits points.

C. Adequate drainage

D. Benches for humans

E. Water

F. Tools to pick-up and covered trash cans for disposal of animal waste.

G. Regular maintenance and cleaning of grounds not less than twice monthly.

H. Parking

I. Property owner must provide a copy of liability insurance when applying of Conditional Use Permit

Administrative Accessory Uses: The following accessory buildings and uses are permitted in the "R" Residential District.

A. Child Care Home

B. Individual Solar Conversion System – Refer to Section 8.21

C. Individual Wind Energy Conversion System – Refer to Section 8.16

D. Private recreational facilities in conjunction with the permitted use.

E. Accessory Uses to a principal use.

Other Applicable Provisions: A lot or parcel of land of record on or before the effective date of this regulation of 7,500 square feet or more may be built on and used for a permitted principal use.

A. Minimum site area requirements – Refer to Section 5.06.1

B. Minimum Lot width – Refer to Section 5.06.1

C. Setback (front, rear and side) requirements for structures from adjoining landowner property line shall be – Refer to Section 5.06.1

D. Maximum Height restrictions – Refer to Section 5.06.1

E. Setback requirements for trees & shrubs from adjoining landowner property line shall be – Refer to Section 5.06.1

F. Accessory building density permitted on lots of record, which contain an established residential dwelling -– Refer to Section 5.06.1

NOTE: These setbacks may be adjusted by the County Board at their discretion and with the concurrence of the affected adjoining property owner.

- Where a lot of record has less width on or before the effective date of this regulation, the existing building on the non-conforming standard lot may be expanded, extended, or structurally altered if a conditional use permit application is granted.

- An existing building of a non-conforming use, so determined by the passage of this regulation, may be expanded, extended, or structurally altered provided an application for a conditional use permit is granted.

Section 5.10 C - Commercial District

The intent of this district is to provide a land use zoning district to accommodate those commercial activities that require a location adjoining an interstate, expressway, arterial or collector highway to serve the convenience of travelers, to facilitate a large volume of vehicular traffic, to serve heavy truck traffic and to gain greater sales frontage space.

Permitted Principal Uses:

A. Wholesale trade

B. Church, church residences and assembly hall

C. Health care and social services

D. Historical sites or monuments

E. Museum

F. County operated facilities, fire protection, fairgrounds, and government office.

G. Private Schools

H. Schools, hospitals and other charitable facilities.

I. Adult establishments – Refer to Section 8.18
J. Mortuaries
K. Crematories
L. Clothing and apparel services, including dressmaking, millinery, shoe repair, furrier and tailors.
M. Farm supplies, feed, equipment, machinery and implement sales.
N. Furniture, home furnishing home appliance and equipment sales.
O. Motels and Hotels
P. Personal services including barber shops, beauty salons, reducing salons and photographic studios.
Q. Laundromats and Laundries
R. Convenience Marts (with or without fuel sales)
S. Department Store
T. Food Markets
U. General Retail
V. Gift Shop
W. Hardware
X. Eating Establishments/Restaurant
Y. Winery/Brewery/Distillery with tasting room facilities
Z. Event Center – Refer to Section 8.20
AA. Automotive dealers, fuel service stations, truck stops, automotive repair miscellaneous repair services.
BB. Building materials, hardware and garden supply.
CC. Storage Container are limited to one per twenty-five thousand square feet with a maximum of five containers per lot or parcel.
DD. Modular or manufactured home sales, trailer and camper sales
EE. Finance, Investment and Insurance Services
FF. Offices
GG. Kennels or Facilities for Raising, Breeding, Training, Boarding of Dogs or other Small Animals. – Refer to Section 5.10.1
HH. Public parks, forest preserves, and conservation areas.
II. Overhead and Underground Main Utilities Transmission Lines; including but not limited to electric, communications, gas, fuel or fertilizer lines, pumping stations, substations, terminal facilities, tanks and reservoirs.
JJ. Temporary buildings and uses incidental to construction work or in the event of an emergency as determined by the Board which shall be removed upon the completion or abandonment of the construction work

Permitted Conditional Uses:

A conditional use permit shall be required for the following conditional uses:

A. Shopping Centers

B. Indoors Storage Units – Within one half mile of a hard surfaced road.
C. Bars, taverns and nightclubs
D. Child Care Center
E. Family oriented entertainment venues such as amusement parks, racetracks, miniature golf, indoor shooting range etc.
F. Commercial Solar Conversion Systems

Section 5.10.1 Kennels

Kennels are a facility for racing, breeding, training or boarding of dogs or other small animals using the following guidelines:

D. One to fifteen animals; all facilities are located at least 150 feet from any property line and 1,200 feet from any nearby residential use.

E. Sixteen or more animals; all facilities are located at least 300 feet from any property line and 2,400 feet from any nearby residential use.

F. Any facility used for the overnight boarding of animals must be an enclosed building.

Administrative Accessory Uses: The following accessory buildings and uses are permitted in the "C" Commercial District.

A. Individual Solar Conversion System – Refer to Section 8.21

B. Individual Wind Energy Conversion System – Refer to Section 8.16

C. Private recreational facilities in conjunction with the permitted use.

D. Accessory Uses to a principal use.

Other Applicable Provisions: A lot or parcel of land of record on or before the effective date of this regulation of 7,200 square feet or more may be built on and used for a permitted principal use.

G. Minimum site area requirements – Refer to Section 5.06.1

H. Minimum Lot width – Refer to Section 5.06.1

I. Setback (front, rear and side) requirements for structures from adjoining landowner property line shall be – Refer to Section 5.06.1

J. Maximum Height restrictions – Refer to Section 5.06.1

K. Setback requirements for trees & shrubs from adjoining landowner property line shall be – Refer to Section 5.06.1

L. Accessory building density permitted on lots of record, which contain an established residential dwelling -– Refer to Section 5.06.1

NOTE: These setbacks may be adjusted by the County Board at their discretion and with the concurrence of the affected adjoining property owner.

- Where a lot of record has less width on or before the effective date of this regulation, the existing building on the non-conforming standard lot may be expanded, extended, or structurally altered if a conditional use permit application is granted.

- An existing building of a non-conforming use, so determined by the passage of this regulation,

may be expanded, extended, or structurally altered provided an application for a conditional use permit is granted.

Section 5.11 I - Industrial District

This zoning district is intended to provide for commercial and industrial land uses to provide for labor intensive establishments in rural areas that require railroad or highway accessibility.

Permitted Principal Uses.

A. Farm Implement Dealership and Services.
B. County operated facilities, fire protection, fairgrounds, and government office.
C. Crematories
D. Farm supplies, feed equipment, machinery and implement sales.
E. Indoor Storage Unit
F. Winery/Brewery/Distillery with tasting room facilities.
G. Outdoor Storage Units
H. Freight terminals and warehousing facilities.
I. Building construction, general constructors and builder operations.
J. Building materials, hardware and garden supply.
K. Storage Container
L. Furniture and fixtures products
M. Modular or manufactured home sales, trailer and camper sales.
N. General Manufacturing
O. Kennels or Facilities for Raising, Breeding, Training, Boarding of Dogs or other Small Animals. – Refer to Section 5.11.4
P. Public parks, forest preserves, and conservation areas.
Q. Overhead and Underground Main Utilities Transmission Lines; including but not limited to electric, communications, gas, fuel or fertilizer lines, pumping stations, substations, terminal facilities, tanks and reservoirs.
R. Temporary buildings and uses incidental to construction work or in the event of an emergency as determined by the Board which shall be removed upon the completion or abandonment of the construction work

Permitted Conditional Uses:
A use permit shall be required for the following conditional uses. Article 7 provides additional provision and process:

A. Commercial fuel, fertilizer, petroleum, and chemical tank storage for distribution
B. Family oriented entertainment venues such as amusement parks, racetracks, miniature golf, indoor shooting range etc.
C. Auction Yard (non-livestock)
D. Chemicals and allied products
E. Meat, food, and kindred products
F. Metal products
G. Paper and allied products

H. Communications, cable and satellite receiving stations and appurtenances
I. Commercial Solar Conversion Systems – Refer to Section 8.21
J. Neighborhood Solar Conversion Systems – Refer to Section 8.21
K. Commercial Wind Energy Conversion System – Refer to Section 8.15
L. Commercial Compost Farm Operation (less than 5 acres) – Refer to Section 5.11.1 and 5.11.2
M. Commercial Compost Farm Operation (up to 20 acres) – Refer to Section 5.11.3
N. Sanitary sewage treatment facilities.
O. Indoor recycling center
P. Solid non-metallic waste disposal outdoor recycling centers

Section 5.11.1 Windrow Composting

Windrow Composting: Commercial Compost Farm Operation limited to five acres. Conditional Use limited to review every three years. The recovered organic materials of which compost is made shall be:

A. Yard waste not exceeding 20,000 cubic yards of compost per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material which compost is made may be yard waste such as grass, leaves and twigs to create an effective soil amendment or fertilizer.

B. Food waste which includes Type II Feedstock, limited to less than 1,000 cubic yards of compost per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material which compost is made may be edible and inedible organic material, excluding sewage sludge and meat and dairy products to create an effective soil amendment or fertilizer. Such composting is limited to windrow composting in which windrows are turned to improve porosity and oxygen content.

Section 5.11.2 Turned Aerated Piles (TAP)

Turned Aerated piles (TAP): Commercial Compost Farm Operation limited to five acres. Conditional Use Limited to review every three years. The recovered organic materials of which compost is made shall be:

A. Yard waste not exceeding 130,000 cubic yards of compost per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material which compost is made may be yard waste such as grass, leaves and twigs to create an effective soil amendment or fertilizer.

B. Food waste which includes Type II Feedstock, limited to less than 50,000 cubic yards of compost per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material which compost is made may be edible and inedible organic material, excluding sewage sludge and meat and dairy products to create an effective soil amendment or fertilizer. Such composting is limited to Turned Aerated piles (TAP) composting in which piles are turned to improve porosity and oxygen content.

The compost operator shall have a site-specific odor management plan in place that is to be followed when verifying, assessing and implementing response actions for an odor problem. The assessment and/or monitoring is necessary to determine the extent and severity of the emissions of odor and ensure the public is not exposed to concentrations that may cause a nuisance condition or pose a potential risk to public health and/or safety. There shall not be

discharged from any sources the emission of odorous matter in concentrations and frequencies or for durations that an odor detectable in the ambient air is greater than 7 dilution to threshold (D/T) for two (2) samples for observations not less than fifteen (15) minutes apart within a one (1) hour period measured by field olfactory device, such as a Nasal Ranger4 (registered trademark), Olfactometer or Sentometer (registered trademark) according to manufacturer's specifications. When three (3) or more written and signed complaints are received by the Zoning Administrator within a three (3) day period the third complainant shall deposit with the Zoning Department a check for $100.00 to cover the cost of testing. Based upon a site inspection by the Zoning Administrator which includes but not limited to an inspection of the shipment logs, atmospheric conditions and conferring with the Nebraska Department off Environment and Energy, the Zoning Administrator may require an odor evaluation be taken at a location outside of the installation's property boundary. If the test proves negative the cost of the test shall be deducted from the complainant's deposit and any and all remainder shall be returned to the complainant. If the test proves positive the composting facility owner shall bear the expense of the test and the money deposited with the Zoning Department shall be returned in its entirety to the complainant. The Zoning Administrator shall periodically make observations at the property line of the establishment to determine if this business is being conducted in compliance with these regulations. **Note**: A composting facility shall not be located closer than one mile to any multi lot subdivision in this district.

Section 5.11.3 Commercial Compost Farm Operation

A Commercial Compost Farm Operation of more than 5 acres but not to exceed 20 acres with up to 70,000 cubic yards of compost allowed per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material of which compost is made may utilize edible and inedible organic materials excluding sewage sludge, meat, and dairy products to create an effective soil amendment or fertilizer. Such composting is limited to windrow composting in which windrows are turned to improve porosity and oxygen content. The Compost operator shall have a site-specific odor management plan in place that is to be followed when verifying, assessing, and implementing response actions for an odor problem. The assessment and/or monitoring is necessary to determine the extent and severity of the emissions of odor and ensure the public is not exposed to concentrations that may cause a nuisance condition or pose a potential risk to public health and/or safety. There shall not be discharged from any sources the emission of odorous matter in concentrations and frequencies or for durations that odor detectable in the ambient air is greater than 7 dilution to threshold (D/T) for two (2) samples for observations not less than fifteen (15) minutes ap[art within one (1) hour period measured by a field olfactometer device, such as a Nasal Ranger (registered trademark). Olfactometer or Sentometer (registered trademark) according to manufacturer's specifications. The Zoning Administrator shall periodically make observations at the property line of the establishment to determine if this business is being conducted in compliance with these regulations.

Section 5.11.4 Kennels

Kennels are a facility for racing, breeding, training or boarding of dogs or other small animals using the following guidelines:

A. One to fifteen animals; all facilities are located at least 150 feet from any property line and 1,200 feet from any nearby residential use.

B. Sixteen or more animals; all facilities are located at least 300 feet from any property line and

2,400 feet from any nearby residential use.

C. Any facility used for the overnight boarding of animals must be an enclosed building.

Administrative Accessory Uses: The following accessory buildings and uses are permitted in the "I" Industrial District.

A. Individual Solar Conversion System – Refer to Section 8.21

B. Individual Wind Energy Conversion System – Refer to Section 8.16

C. Private recreational facilities in conjunction with the permitted use.

D. Accessory Uses to a principal use.

Other Applicable Provisions: A lot or parcel of land of record on or before the effective date of this regulation of 10,000 square feet or more may be built on and used for a permitted principal use.

M. Minimum site area requirements – Refer to Section 5.06.1

N. Minimum Lot width – Refer to Section 5.06.1

O. Setback (front, rear, and side) requirements for structures from adjoining landowner property line shall be – Refer to Section 5.06.1

P. Maximum Height restrictions – Refer to Section 5.06.1

Q. Setback requirements for trees & shrubs from adjoining landowner property line shall be – Refer to Section 5.06.1

R. Accessory building density permitted on lots of record, which contain an established residential dwelling – Refer to Section 5.06.1

NOTE: These setbacks may be adjusted by the County Board at their discretion and with the concurrence of the affected adjoining property owner.

- Where a lot of record has less width on or before the effective date of this regulation, the existing building on the non-conforming standard lot may be expanded, extended, or structurally altered if a conditional use permit application is granted.
- An existing building of a non-conforming use, so determined by the passage of this regulation, may be expanded, extended, or structurally altered provided an application for a conditional use permit is granted.

Performance Standards:

A. Physical Appearance: All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles for sale or the storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition.

B. Fire Hazard: No operation shall involve the use of highly flammable gasses, acid, liquids, grinding processes or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gasses when handled in

accordance with other regulations of local, state, and federal authorities.

C. Noise: No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise shall be measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges.

D. Sewage and Liquid Wastes: No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, liquid waste of any radioactive or poisonous nature or chemical waste which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.

E. Air Contaminants:

1. Air Contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one four-minute period in each one-half hour. Light colored contaminants of such an opacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted.

2. Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths (0.2) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit, except for a period of four minutes in any one-half hour, at which time it may equal but not exceed six tenths (0.6) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit.

3. Due to the fact that the possibilities of air contamination cannot generally be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public in general; or to endanger the comfort, repose, health or safety of any such considerable number of persons or to the public in general, or to cause, or have a natural tendency to cause injury or damage to business, vegetation or property.

F. Odor: The emission of odors that are generally agreed to be obnoxious to any considerable numbers of persons, shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this Regulations.

G. Gasses: The gasses sulfur dioxide and hydrogen sulfide shall not exceed five (5) parts per million, carbon monoxide shall not exceed five (5) parts per million. All measurements shall be taken at the zoning lot line.

H. Vibration: All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousandths (0.003) of an inch measured at the zoning lot line. The use of steam or broad hammers shall not be permitted in this zone except during construction under a building permit. Said use must be declared at the time of the permit application.

I. **Glare and heat**: All glare, such as welding arcs and open furnaces shall be shielded so that they shall not be visible from the zoning lot line. No heat from furnaces or processing equipment shall be sensed at the zoning lot line to the extent of raising the temperature of air or materials more than five degrees Fahrenheit.

Section 5.12 REC/AG - Recreational/Agricultural District

It is the intent of this zoning district to provide for logical development of recreational facilities within the county while allowing established agricultural operations to continue into the future. This district includes areas with a number of recreational uses.

Permitted Principal Uses.

A. Agricultural crop production
B. Agricultural livestock production less than 300 animal units. – Refer to Section 8.23
C. Farm buildings and structures used for farm equipment, machinery, grain storage, livestock shelters
D. Detached Single-family dwellings
E. Residential Acreage Development – Refer to Section 5.12.6
F. Historical sites or monuments
G. Museum
H. County operated facilities, fire protection, fairgrounds, and government offices.
I. Public parks, forest preserves, and conservation areas.
J. Overhead and Underground Main Utilities Transmission Lines; including but not limited to electric, communications, gas, fuel or fertilizer lines, pumping stations, substations, terminal facilities, tanks and reservoirs.
K. Temporary buildings and uses incidental to construction work or in the event of an emergency as determined by the Board which shall be removed upon the completion or abandonment of the construction work.

Permitted Conditional Uses:
A use permit shall be required for the following conditional uses. Article 7 provides additional provision and process:

A. Home Occupations
B. Bed and Breakfast
C. Motels and Hotels
D. Short Term Rental – See Definition
E. Rental cabin – maximum size, 500 square feet, occupancy less than 30 day.
F. Gift Shop
G. Bars, taverns and nightclubs
H. Eating establishments/Restaurant
I. Winery/Brewery/Distillery with tasting room facilities
J. Family oriented entertainment venues such as amusement parks, racetracks, miniature golf, indoor shooting range etc.
K. Event Center – Refer to Section 8.20

L. Wildlife Preserve
M. Amphitheaters
N. Camping/Campgrounds – Refer to Section 8.07
O. Commercial recreational including fishing, hunting, gun clubs, rifle ranges, trap shooting and similar uses.
P. Recreational Facility
Q. Dog Park – Refer to Section 5.12.4
R. Kennels or Facilities for Raising, Breeding, Training, Boarding of Dogs or other Small Animals. – Refer to Section 5.12.3
S. Communications, cable and satellite receiving stations and appurtenances.
T. Commercial Compost Farm Operation (less than 5 acres) – Refer to Section 5.12.1 and 5.12.2
U. Sanitary sewage treatment facilities.

Section 5.12.1 Windrow Composting

Windrow Composting: Commercial Compost Farm Operation limited to five acres. Conditional Use limited to review every three years. The recovered organic materials of which compost is made shall be:

A. Yard waste not exceeding 20,000 cubic yards of compost per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material which compost is made may be yard waste such as grass, leaves and twigs to create an effective soil amendment or fertilizer.

B. Food waste which includes Type II Feedstock, limited to less than 1,000 cubic yards of compost per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material which compost is made may be edible and inedible organic material, excluding sewage sludge and meat and dairy products to create an effective soil amendment or fertilizer. Such composting is limited to windrow composting in which windrows are turned to improve porosity and oxygen content.

Section 5.12.2 Turned Aerated Piles (TAP)

Turned Aerated piles (TAP): Commercial Compost Farm Operation limited to five acres. Conditional Use Limited to review every three years. The recovered organic materials of which compost is made shall be:

A. Yard waste not exceeding 130,000 cubic yards of compost per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material which compost is made may be yard waste such as grass, leaves and twigs to create an effective soil amendment or fertilizer.

B. Food waste which includes Type II Feedstock, limited to less than 50,000 cubic yards of compost per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material which compost is made may be edible and inedible organic material, excluding sewage sludge and meat and dairy products to create an effective soil amendment or fertilizer. Such composting is limited to Turned Aerated piles (TAP) composting in which piles are turned to improve porosity and oxygen content.

The compost operator shall have a site-specific odor management plan in place that is to be followed when verifying, assessing and implementing response actions for an odor problem.

The assessment and/or monitoring is necessary to determine the extent and severity of the emissions of odor and ensure the public is not exposed to concentrations that may cause a nuisance condition or pose a potential risk to public health and/or safety. There shall not be discharged from any sources the emission of odorous matter in concentrations and frequencies or for durations that an odor detectable in the ambient air is greater than 7 dilution to threshold (D/T) for two (2) samples for observations not less than fifteen (15) minutes apart within a one (1) hour period measured by field olfactory device, such as a Nasal Ranger4 (registered trademark), Olfactometer or Sentometer (registered trademark) according to manufacturer's specifications. When three (3) or more written and signed complaints are received by the Zoning Administrator within a three (3) day period the third complainant shall deposit with the Zoning Department a check for $100.00 to cover the cost of testing. Based upon a site inspection by the Zoning Administrator which includes but not limited to an inspection of the shipment logs, atmospheric conditions and conferring with the Nebraska Department of Environment and Energy, the Zoning Administrator may require an odor evaluation be taken at a location outside of the installation's property boundary. If the test proves negative the cost of the test shall be deducted from the complainant's deposit and any and all remainder shall be returned to the complainant. If the test proves positive the composting facility owner shall bear the expense of the test and the money deposited with the Zoning Department shall be returned in its entirety to the complainant. The Zoning Administrator shall periodically make observations at the property line of the establishment to determine if this business is being conducted in compliance with these regulations. **Note**: A composting facility shall not be located closer than one mile to any multi lot subdivision in this district.

Section 5.12.3 Kennels

Kennels are a facility for racing, breeding, training or boarding of dogs or other small animals using the following guidelines:

A. One to fifteen animals; all facilities are located at least 150 feet from any property line and 1,200 feet from any nearby residential use.

B. Sixteen or more animals; all facilities are located at least 300 feet from any property line and 2,400 feet from any nearby residential use.

C. Any facility used for the overnight boarding of animals must be an enclosed building.

Section 5.12.4 Dog Parks

Dog parks require varying features which shall include but not limited to the following:

A. Six (6) foot high fence surrounding the property.

B. Separate double gated entry and exits points.

C. Adequate drainage

D. Beaches for humans

E. Water

F. Tools to pick-up and covered trash cans for disposal of animal waste.

G. Regular maintenance and cleaning of grounds not less than twice monthly.

H. Parking

I. Property owner must provide a copy of liability insurance when applying of Conditional Use Permit

Permitted Administrative Uses:

The Administrative Uses listed in Table 5.06 are allowed per the Zoning Administrator's or Planning Commission's approval of the Site Plan.

Section 5.12.5 Residential Acreage Development

Residential Acreage Development (Single Lot), provided the conditions in Article 7 are met, as well as the following conditions:

A. Said acreage meets a density of one (1) subdivided lot per forty (40) acres along a graveled or hard surfaced county road. A forty (40) acre parcel shall be defined as a quarter of a quarter of a Section, Township, Range as defined by the original government recorded township plat. The Planning Commission shall have the authority to administratively vary the 40 acre provision by up to 10% when the requirement has been lessened due to acquisition of right-of-way by any governmental entity or correction section line having reduced a quarter of a quarter of a Section, Township, Range as defines by the original government recorded township plat or public trails or cemetery and public school site.

   If additional lots are requested, then the applicant shall be required to subdivide the property in accordance with the County's Subdivision Regulations.

B. Access to said property is a minimum of 250 feet from any county intersection.

C. Within the allowable distance to any confined feeding operation.

D. Soils are suitable for a private septic system and the proper testing has been completed or an alternative State of Nebraska Department of Environment and Energy approved system is used.

Administrative Accessory Uses: The following accessory buildings and uses are permitted in the "REC/AG" Recreational/Agricultural District.

A. Private recreational facilities in conjunction with permitted use.

B. Accessory Uses to a principal use.

Other Applicable Provisions: A lot or parcel of land of record on or before the effective date of this regulation of 10,000 square feet or more may be built on and used for a permitted principal use.

A. Minimum site area requirements – Refer to Section 5.06.1

B. Minimum Lot width – Refer to Section 5.06.1

C. Setback (front, rear and side) requirements for structures from adjoining landowner property line shall be – Refer to Section 5.06.1

D. Maximum Height restrictions – Refer to Section 5.06.1

E. Setback requirements for trees & shrubs from adjoining landowner property line shall be – Refer to Section 5.06.1

F. Accessory building density permitted on lots of record, which contain an established residential dwelling -– Refer to Section 5.06.1

NOTE: These setbacks may be adjusted by the County Board at their discretion and with the concurrence of the affected adjoining property owner.

- Where a lot of record has less width on or before the effective date of this regulation, the existing building on the non-conforming standard lot may be expanded, extended, or structurally altered if a conditional use permit application is granted.
- An existing building of a non-conforming use, so determined by the passage of this regulation, may be expanded, extended, or structurally altered provided an application for a conditional use permit is granted.

SECTION 5.13 IND/AG - INDUSTRIAL/AGRICULTURAL

It is the intent of this zoning district to provide for the logical development of industrial facilities within the county while allowing established agricultural operations to continue into the future.

Permitted Principal Uses.

A. Agricultural crop production
B. Agricultural livestock production less than 300 animal units. – Refer to Section 8.23
C. Agricultural farm services
D. Farm buildings and structures used for farm equipment, machinery, grain storage, livestock shelters
E. Farm Implement Dealership and Services
F. County operated facilities, fire protection, fairgrounds, and government offices.
G. Farm supplies, deed, equipment, machinery and implement sales.
H. Winery/Brewery/Distillery with tasting room facilities.
I. Public parks, forest preserves, and conservation areas.
J. Overhead and Underground Main Utilities Transmission Lines; including but not limited to electric, communications, gas, fuel or fertilizer lines, pumping stations, substations, terminal facilities, tanks and reservoirs.
K. Temporary buildings and uses incidental to construction work or in the event of an emergency as determined by the Board which shall be removed upon the completion or abandonment of the construction work.

Permitted Conditional Uses:
A use permit shall be required for the following conditional uses. Article 7 provides additional provision and process:

A. Commercial fuel, fertilizer, petroleum, and chemical tank storage for distribution.
B. Auto wrecking salvage, or junk yard.
C. Indoor Storage Unit – Within one half mile of a hard surfaced road.
D. Family oriented entertainment venues such as amusement parks, racetracks, miniature golf, indoor shooting range etc.
E. Auction Yard (non-livestock)
F. Outdoor Storage Facility – Within one half mile of a hard surfaced road.

G. Freight terminals and warehousing facilities.
H. Building construction, general contractors and builder operations.
I. Building materials, hardware and garden supply.
J. Animal rendering and hide curing.
K. Chemicals and allied products.
L. Furniture and fixtures products.
M. Meat, food and kindred products.
N. Metal products
O. Modular or manufactured home sales, trailer and camper sales.
P. Paper and allied products
Q. General Manufacturing
R. Communications, cable and satellite receiving stations and appurtenances. – Refer to Section 8.09
S. Commercial Solar Conversion Systems – Refer to Section 8.21
T. Neighborhood Solar Conversion Systems – Refer to Section 8.21
U. Commercial Wind Energy Conversion Systems – Refer to Section 8.15
V. Commercial Compost Farm Operation (less than 5 acres) – Refer to Section 5.13.1 and 5.13.2
W. Commercial Compost Farm Operation (up to 20 acres) – Refer to Section 5.13.3
X. Sanitary sewage treatment facilities.
Y. Indoor recycling center – Refer to Section 8.17
Z. Solid non-metallic waste disposal outdoor recycling center. – Refer to Section 8.17

Section 5.13.1 Windrow Composting

Windrow Composting: Commercial Compost Farm Operation limited to five acres. Conditional Use limited to review every three years. The recovered organic materials of which compost is made shall be:

A. Yard waste not exceeding 20,000 cubic yards of compost per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material which compost is made may be yard waste such as grass, leaves and twigs to create an effective soil amendment or fertilizer.

B. Food waste which includes Type II Feedstock, limited to less than 1,000 cubic yards of compost per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material which compost is made may be edible and inedible organic material, excluding sewage sludge and meat and dairy products to create an effective soil amendment or fertilizer. Such composting is limited to windrow composting in which windrows are turned to improve porosity and oxygen content.

Section 5.13.2 Turned Aerated Piles (TAP)

Turned Aerated piles (TAP): Commercial Compost Farm Operation limited to five acres. Conditional Use Limited to review every three years. The recovered organic materials of which compost is made shall be:

A. Yard waste not exceeding 130,000 cubic yards of compost per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material which

compost is made may be yard waste such as grass, leaves and twigs to create an effective soil amendment or fertilizer.

B. Food waste which includes Type II Feedstock, limited to less than 50,000 cubic yards of compost per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material which compost is made may be edible and inedible organic material, excluding sewage sludge and meat and dairy products to create an effective soil amendment or fertilizer. Such composting is limited to Turned Aerated piles (TAP) composting in which piles are turned to improve porosity and oxygen content.

The compost operator shall have a site-specific odor management plan in place that is to be followed when verifying, assessing and implementing response actions for an odor problem. The assessment and/or monitoring is necessary to determine the extent and severity of the emissions of odor and ensure the public is not exposed to concentrations that may cause a nuisance condition or pose a potential risk to public health and/or safety. There shall not be discharged from any sources the emission of odorous matter in concentrations and frequencies or for durations that an odor detectable in the ambient air is greater than 7 dilution to threshold (D/T) for two (2) samples for observations not less than fifteen (15) minutes apart within a one (1) hour period measured by field olfactory device, such as a Nasal Ranger4 (registered trademark), Olfactometer or Sentometer (registered trademark) according to manufacturer's specifications. When three (3) or more written and signed complaints are received by the Zoning Administrator within a three (3) day period the third complainant shall deposit with the Zoning Department a check for $100.00 to cover the cost of testing. Based upon a site inspection by the Zoning Administrator which includes but not limited to an inspection of the shipment logs, atmospheric conditions and conferring with the Nebraska Department of Environment and Energy, the Zoning Administrator may require an odor evaluation be taken at a location outside of the installation's property boundary. If the test proves negative the cost of the test shall be deducted from the complainant's deposit and any and all remainder shall be returned to the complainant. If the test proves positive the composting facility owner shall bear the expense of the test and the money deposited with the Zoning Department shall be returned in its entirety to the complainant. The Zoning Administrator shall periodically make observations at the property line of the establishment to determine if this business is being conducted in compliance with these regulations. **Note**: A composting facility shall not be located closer than one mile to any multi lot subdivision in this district.

Section 5.13.3 Commercial Compost Farm Operation

A Commercial Compost Farm Operation of more than 5 acres but not to exceed 20 acres with up to 70,000 cubic yards of compost allowed per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material of which compost is made may utilize edible and inedible organic materials excluding sewage sludge, meat, and dairy products to create an effective soil amendment or fertilizer. Such composting is limited to windrow composting in which windrows are turned to improve porosity and oxygen content. The Compost operator shall have a site-specific odor management plan in place that is to be followed when verifying, assessing, and implementing response actions for an odor problem. The assessment and/or monitoring is necessary to determine the extent and severity of the emissions of odor and ensure the public is not exposed to concentrations that may cause a nuisance condition or pose a potential risk to public health and/or safety. There shall not be discharged from any sources the emission of odorous matter in concentrations and frequencies or for durations that odor detectable

in the ambient air is greater than 7 dilution to threshold (D/T) for two (2) samples for observations not less than fifteen (15) minutes ap[art within one (1) hour period measured by a field olfactometer device, such as a Nasal Ranger (registered trademark). Olfactometer or Sentometer (registered trademark) according to manufacturer's specifications. The Zoning Administrator shall periodically make observations at the property line of the establishment to determine if this business is being conducted in compliance with these regulations.

Permitted Administrative Uses:

The Administrative Uses listed in Table 5.06 are allowed per the Zoning Administrator's or Planning Commission's approval of the Site Plan.

A. Roadside stands offering for sale farm products produced on the farm.
B. Storage Container
C. Individual Solar Conversion System– Refer to Section 8.21
D. Individual Wind Energy Conversion System – Refer to Section 8.16

Administrative Accessory Uses: The following accessory buildings and uses are permitted in the "IND/AG" Industrial/Agricultural District.

A. Private recreational facilities in conjunction with permitted use.
B. Accessory Uses to a principal use.

Other Applicable Provisions: A lot or parcel of land of record on or before the effective date of this regulation of less than forty (40) acres in lot area may be built on and used for a permitted principal use after a Conditional Use Permit has been issued.

A. Minimum site area requirements – Refer to Section 5.06.1
B. Minimum Lot width – Refer to Section 5.06.1
C. Setback (front, rear and side) requirements for structures from adjoining landowner property line shall be – Refer to Section 5.06.1
D. Maximum Height restrictions – Refer to Section 5.06.1
E. Setback requirements for trees & shrubs from adjoining landowner property line shall be – Refer to Section 5.06.1
F. Accessory building density permitted on lots of record, which contain an established residential dwelling -– Refer to Section 5.06.1

NOTE: These setbacks may be adjusted by the County Board at their discretion and with the concurrence of the affected adjoining property owner.

Performance Standards:

A. Physical Appearance: All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles for sale or the storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition.

B. Fire Hazard: No operation shall involve the use of highly flammable gases, acid, liquids,

grinding processes or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gasses when handled in accordance with other regulations of local, state, and federal authorities.

C. Noise: No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise shall be measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges.

D. Sewage and Liquid Wastes: No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, liquid waste of any radioactive or poisonous nature or chemical waste which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.

E. Air Contaminants:

1. Air Contaminants and smoke shall be less dark than designated by Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one four-minute period in each one- half-hour. Light colored contaminants of such opacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted.
2. Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit, except for a period of four minutes in any one-half-hour, at which time it may equal but not exceed six tenths grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit.
3. Due to the fact that the possibilities of air contamination cannot be reasonable be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, nuisance or annoyance to any considerable number of persons or to the public in general; or to endanger the comfort, repose, health or safety of any such considerable number of persons or to the public in general, or to cause or have a natural tendency to cause injury or damage to business, vegetation or property.

F. Odor: The emission of odors that are generally agreed to be obnoxious to any considerable numbers of persons shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of buts and coffee shall not normally be considered obnoxious within the meaning of this Regulation.

G. Gasses: The gasses sulfur dioxide and hydrogen sulfide shall not exceed five parts per million, carbon monoxide shall not exceed five parts per million. All measurements shall be taken at the zoning lot line.

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

must be declared at the time of the permit application.

I. **Glare and Heat**: All glare, such as welding arcs and open furnaces shall be shielded so that they shall not be visible from the zoning lot line. No heat from furnaces or processing equipment shall be sensed at the zoning lot line to the extent of raising the temperature of air materials more than five degrees Fahrenheit.

SECTION 5.14 COMM/AG - COMMERCIAL/AGRICULTURAL DISTRICT

It is the intent of this zoning district to provide for the logical development of commercial activities that require a location adjoining an interstate, expressway, arterial or collector highways to serve the convenience of travelers, to facilitate a large volume of vehicular traffic, to serve heavy truck traffic and to gain greater sales frontage space while allowing established agricultural operations to continue into the future.

Permitted Principal Uses.

A. Agricultural crop production
B. Agricultural livestock production less than 300 animal units. – Refer to Section 8.23
C. Farm buildings and structures used for farm equipment, machinery, grain storage, livestock shelters
D. Farm Implement Dealership and Services
E. Detached Single-family dwellings
F. County operated facilities, fire protection, fairgrounds, and government offices.
G. Motels and Hotels
H. Winery/Brewery/Distillery with tasting room facilities.
I. Event Center – Refer to Section 8.20
J. Public parks, forest preserves, and conservation areas.
K. Overhead and Underground Main Utilities Transmission Lines; including but not limited to electric, communications, gas, fuel or fertilizer lines, pumping stations, substations, terminal facilities, tanks and reservoirs.
L. Temporary buildings and uses incidental to construction work or in the event of an emergency as determined by the Board which shall be removed upon the completion or abandonment of the construction work.

Permitted Conditional Uses:
A use permit shall be required for the following conditional uses. Article 7 provides additional provision and process:

A. Auto wrecking salvage, or junk yard.
B. Home Occupations
C. Bed and Breakfast
D. Family oriented entertainment venues such as amusement parks, racetracks, miniature golf, indoor shooting range etc.
E. Freight terminals and warehousing facilities.
F. Building construction, general contractors and builders operations.
G. Building materials, hardware and garden supply.

H. Furniture and fixtures products
I. Meat, food and kindred products.
J. Metal products
K. Modular or manufactured home sales, trailer and camper sales.
L. Paper and allied products
M. General Manufacturing
N. Communications, cable and satellite receiving stations and appurtenances. – Refer to Section 8.09
O. Neighborhood Solar Conversion Systems – Refer to Section 8.21
P. Commercial Wind Energy Conversion Systems – Refer to Section 8.15
Q. Commercial Compost Farm Operation (less than 5 acres) – Refer to Section 5.14.1 and 5.14.2
R. Sanitary sewage treatment facilities.
S. Commercial Solar Conversion Systems-refer to Section 8.21

Section 5.14.1 Windrow Composting

Windrow Composting: Commercial Compost Farm Operation limited to five acres. Conditional Use limited to review every three years. The recovered organic materials of which compost is made shall be:

A. Yard waste not exceeding 20,000 cubic yards of compost per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material which compost is made may be yard waste such as grass, leaves and twigs to create an effective soil amendment or fertilizer.

B. Food waste which includes Type II Feedstock, limited to less than 1,000 cubic yards of compost per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material which compost is made may be edible and inedible organic material, excluding sewage sludge and meat and dairy products to create an effective soil amendment or fertilizer. Such composting is limited to windrow composting in which windrows are turned to improve porosity and oxygen content.

Section 5.14.2 Turned Aerated Piles (TAP)

Turned Aerated piles (TAP): Commercial Compost Farm Operation limited to five acres. Conditional Use Limited to review every three years. The recovered organic materials of which compost is made shall be:

A. Yard waste not exceeding 130,000 cubic yards of compost per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material which compost is made may be yard waste such as grass, leaves and twigs to create an effective soil amendment or fertilizer.

B. Food waste which includes Type II Feedstock, limited to less than 50,000 cubic yards of compost per year according to Nebraska Department of Environment and Energy specifications. The recovered organic material which compost is made may be edible and inedible organic material, excluding sewage sludge and meat and dairy products to create an effective soil amendment or fertilizer. Such composting is limited to Turned Aerated piles (TAP) composting in which piles are turned to improve porosity and oxygen content.

The compost operator shall have a site-specific odor management plan in place that is to be followed when verifying, assessing and implementing response actions for an odor problem. The assessment and/or monitoring is necessary to determine the extent and severity of the emissions of odor and ensure the public is not exposed to concentrations that may cause a nuisance condition or pose a potential risk to public health and/or safety. There shall not be discharged from any sources the emission of odorous matter in concentrations and frequencies or for durations that an odor detectable in the ambient air is greater than 7 dilution to threshold (D/T) for two (2) samples for observations not less than fifteen (15) minutes apart within a one (1) hour period measured by field olfactory device, such as a Nasal Ranger4 (registered trademark), Olfactometer or Sentometer (registered trademark) according to manufacturer's specifications. When three (3) or more written and signed complaints are received by the Zoning Administrator within a three (3) day period the third complainant shall deposit with the Zoning Department a check for $100.00 to cover the cost of testing. Based upon a site inspection by the Zoning Administrator which includes but not limited to an inspection of the shipment logs, atmospheric conditions and conferring with the Nebraska Department of Environment and Energy, the Zoning Administrator may require an odor evaluation be taken at a location outside of the installation's property boundary. If the test proves negative the cost of the test shall be deducted from the complainant's deposit and any and all remainder shall be returned to the complainant. If the test proves positive the composting facility owner shall bear the expense of the test and the money deposited with the Zoning Department shall be returned in its entirety to the complainant. The Zoning Administrator shall periodically make observations at the property line of the establishment to determine if this business is being conducted in compliance with these regulations. **Note**: A composting facility shall not be located closer than one mile to any multi lot subdivision in this district.

Permitted Administrative Uses:

The Administrative Uses listed in Table 5.06 are allowed per the Zoning Administrator's or Planning Commission's approval of the Site Plan.

A. Roadside stands offering for sale farm products produced on the farm.
B. Individual Solar Conversion System– Refer to Section 8.21
C. Individual Wind Energy Conversion System – Refer to Section 8.16

Administrative Accessory Uses: The following accessory buildings and uses are permitted in the "COM/AG" Commercial/Agricultural District.

A. Private recreational facilities in conjunction with permitted use.

B. Accessory Uses to a principal use.

Other Applicable Provisions: A lot or parcel of land of record on or before the effective date of this regulation of less than forty (40) acres in lot area may be built on and used for a permitted principal use after a Conditional Use Permit has been issued.

A. Minimum site area requirements – Refer to Section 5.06.1

B. Minimum Lot width – Refer to Section 5.06.1

C. Setback (front, rear and side) requirements for structures from adjoining landowner property line shall be – Refer to Section 5.06.1

D. Maximum Height restrictions – Refer to Section 5.06.1

E. Setback requirements for trees & shrubs from adjoining landowner property line shall be – Refer to Section 5.06.1

F. Accessory building density permitted on lots of record, which contain an established residential dwelling -– Refer to Section 5.06.1

NOTE: These setbacks may be adjusted by the County Board at their discretion and with the concurrence of the affected adjoining property owner.

When the side or rear yard abuts a residential use or district, it shall be screened with approved landscape plant materials, walls, or fencing

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ARTICLE 6: OVERLAY DISTRICT

Section 6.01 General Provisions

For the purpose of this Section, the County has designated four overlay districts, designated Overlay Districts are as follows:

(CON)	Conservation Overlay
(FF/FW)	Flood Plain Overlay
(AA)	Airport Approach Zone Overlay
(Des)	Design Guidelines

Section 6.02 CON - Conservation District (Overlay District)

A. Intent: It is the intent of this zoning overlay district to conserve and otherwise preserve the prevailing natural resources of Cass County, especially, the wooded areas along the Platte and Missouri Rivers, as well as other environmentally sensitive areas of the county. The intent is to encourage and to promote in every practicable manner development whenever feasible, provided that a portion of the natural characteristics can be preserved.

B. Purpose: The purpose of this overlay district is to provide additional development criteria in identified areas of Cass County. This overlay district has been established in order to conserve and protect the land, water, air, vegetation and other natural resources of Cass County, to alleviate erosion, siltation and other harmful effects of land-disturbing activities on neighboring land and streams by ensuring that the owner of the property on which land-disturbing activities are to be carried out provides adequate controls on erosion and sedimentation, and takes necessary measures to preserve and protect trees and other vegetation, during all phases of any land-disturbing activity. In addition, the purpose of this overlay district is to protect and conserve the landscape from the issues stated. The means by which this is to be accomplished will be through continuation of established trees and vegetation in conjunction with new plantings, retaining walls and other methods approved for such conservation activities. The general requirements deal with minimum standards and guidelines for accommodating development while providing for conservation of the areas.

C. General Requirements: Review of proposed projects will occur during either the subdivision platting process or at the time a building permit is requested. The following criteria is used in the review process:

1. Subdivision Platting Process: The developer, if he/she chooses to include the conservation of the existing natural resources within the new development shall identify areas to be protected as well as any protective convenances that will be placed upon said development. Conservation and protection of an area within a subdivision shall follow the general guidelines of this Section throughout the entire development.

2. Short Form Plat, Administrative Subdivision and Lot Split: The owner shall provide the County with a site plan, at the time the building permit application is made. The applicant shall provide sufficient data to demonstrate that the proposed site development will conform with the protective standards established in the general guidelines of this Section. Short Form Plats shall not be required to be certified by an independent expert, provided the applicant can demonstrate that a combination of existing and future landscaping will sufficiently prevent erosion, siltation, and other harmful effects of land-disturbing activities on

neighboring land and streams and other bodies of water. The Zoning Administrator shall review the application and pass on a recommendation to the Planning Commission if needed. The Planning Commission shall review said application and make a final recommendation to the County Board.

3. Administration - Permit Application

   a. A site plan shall be included with any building permit. Upon receipt of said site plan, the Cass County Zoning Office shall review the site plan for compliance with these regulations. In addition, the Cass County Zoning Office may request additional review of the site plan by the following:

   b. The Cass County Planning Commission, a Professional Engineer, certified landscape architect Representatives of the Lower Platte South Natural Resources District,

   c. A certified arborist, or any other individuals or agencies deemed necessary for input on erosion and siltation control.

   d. Upon review of the proposed site plan or preliminary plat, the County shall return the applications with either an unconditional approval, a conditional approval, or denial. All conditional approvals shall state the conditions required to be met along with a finding of fact to support said conditions. All denials shall be required to include the reasons for such a determination as well as a finding of fact to support the reasons. All decisions may be appealed to the Cass County Planning Commission, Cass County Board of Commissioners and/or the Cass County Board of Adjustment.

   e. The Applicant shall pay a fee of $50.00 to cover the necessary review and processing costs. Additional fees may be assessed to cover specialized review. All additional review fees shall be determined and approved by applicant prior to authorization of specialized review.

   f. The proposed site plan once approved by the County shall become a binding contract between the County and the developer. Any modification to this site plan must be submitted to the Zoning Office prior to implementing said modifications. Along with the modification request, a statement noting the reasons behind the changes shall be submitted. Examples of reasons may include unsuitable soil capacity for structures, unknown conditions of said trees and vegetation (illness, rot, etc.)

D. Fines and Penalties

4. Failure to meet the necessary requirements of this Overlay District shall result in a fine of $100.00 per Offense with each day of noncompliance counting as a separate Offense. Upon notification of noncompliance, the County may waive said fines provided all work on said property and/or subdivision has ceased, and the developer is proceeding in good faith to bring the project into compliance. If said good faith efforts cease the County may continue issuing additional Offenses as well as cite each individual day throughout the good faith period.

Section 6.03 FF/FW - Flood Plain District (Overlay Districts)

A. Title: This Section shall be known as the Cass County Floodplain Regulation and shall constitute an amendment to the Cass County Zoning Regulations.

B. Statutory Authorization: The legislature of the State of Nebraska has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety, and general welfare. The Legislature, in Section 31-1001 to 31-1022, R.R.S. 1943 (as amended) has

further assigned the responsibility to adopt, administer and enforce floodplain management regulations to the county, city or village with zoning jurisdiction over the flood-prone area. Therefore, the Board of Commissioners of Cass County, Nebraska, ordains as follows:

C. Findings of Fact

1. Flood losses resulting from periodic inundation. The flood hazard areas of Cass 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 affects the public health, safety and general welfare.

2. General causes of flood losses. These flood losses are caused by the cumulative effect of obstructions in flood plains vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.

3. Methods used to analyze flood hazards. This Regulation uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps.

    a. Selection of a regulatory flood base which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood is selected for this resolution. It is representative of large floods, which are reasonably characteristic of what can be expected to occur on the particular streams subject to this resolution. It is in the general order of a flood which could be expected to have a one percent (1%) chance of occurrence in any one year as delineated on the Federal Insurance Administration's Flood Insurance Study and illustrative materials dated November 26, 2010, as amended.

    b. Calculation of water surface profiles on a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood.

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

    d. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any water surface increase along the floodway profile.

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

4. Statement of Purpose: The purpose of this Regulation is to protect the public health, safety, and general welfare and to minimize those losses described in Section C, Item 1. by applying the provisions of this Regulation to:

    a. 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.

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

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

    d. Assure that eligibility is maintained for property owners in the community to purchase

flood insurance in the National Flood Insurance Program.

Section 6.03.1 General Provisions

A. **Lands to which this Regulation applies**: This Regulation shall apply to all lands within the jurisdiction of the County of Cass, Nebraska identified on the Flood Insurance Rate Map (FIRM) dated November 26, 2010, as numbered and unnumbered A Zones (including AE, AO and AH Zones) and within the zoning districts FW and FF established in Section 6.03.3 of this Regulation. In all areas covered by this Regulation no development shall be permitted except upon the issuance of a floodplain development permit, granted by Cass County, Nebraska or its duly designated representative under such safeguards and restriction as Cass County, Nebraska or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Sections 6.03.4, 6.03.5 & 6.03.6

B. **The Enforcement Officer**: The Zoning Administrator of Cass County, Nebraska is hereby designated as the community's duly designated enforcement officer under this Regulation.

C. **Rules for Interpretation of District Boundaries**: The boundaries of the floodway and flood fringe overlay districts shall be determined by scaling distances on the official zoning map or on the Flood Insurance Rate Map or Floodway Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the enforcement officer shall make the necessary interpretation. In such cases where the interpretation is contested, the Cass County Board of Adjustment will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Cass County Board of Adjustment and to submit his own technical evidence if he so desires.

D. **Compliance**: Within identified special flood hazard areas of the community no development shall be located, extended, converted, or structurally altered without full compliance with the terms of this Regulation and other applicable regulations.

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

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

G. **Warning and Disclaimer of Liability**: The degree of flood protection required by this Regulation is considered reasonable for regulatory purposes and is based on engineering and scientific method of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes such as ice jams and bridge openings restricted by debris. This Regulation does not imply that areas outside floodway and flood fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This Regulations shall not create liability on the part of Cass County, Nebraska or any officer or employee thereof for any flood damages that may result from reliance on this

Regulation or any administrative decision lawfully made thereafter.

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

I. Appeal: Where a request for a permit to develop or a variance is denied by the Cass County Zoning Administrator, the applicant may apply for such permit or variance directly to the Board of Adjustment.

Section 6.03.2 Permit Required

A. 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 6.03.2

B. **Administration**: The Zoning Administrator is hereby appointed to administer and implement the provisions of this Regulation. Duties of the Zoning Administrator shall include but not be limited to:

1. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of these Regulations have been satisfied.
2. Review applications for proposed developments to assure that all necessary permits have been obtained from those Federal, State or Local governmental agencies from which prior approval is required.
3. Review all subdivision proposals and other proposed new developments, including manufactured home parks or subdivisions to determine whether such proposals will be reasonably safe from flooding.
4. Notify adjacent communities and the Nebraska Department of Natural Resources prior to any alteration or relocation of a water course and submit evidence of such notification to the Federal Emergency Management Agency.
5. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood capacity is not diminished.
6. Verify, record, and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures in special flood hazard areas.
7. Verify, record, and maintain record of the actual elevation (in relation to mean sea level) to which new or substantially improved structures have been flood proofed.
8. When Flood proofing is utilized for a particular structure the Zoning Administrator shall be presented certification from a registered professional engineer or architect.

C. **Application for Permit**. To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:

1. Identify and describe the development to be covered by the flood plain development permit.
2. Describe the land on which the proposed development is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or development.
3. Indicate the use or occupancy for which the proposed development is intended.

4. Be accompanied by plans and specifications for proposed construction.
5. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
6. Give such other information as reasonably may be required by the Zoning Administrator.

Section 6.03.3 Establishment of Overlay Districts

Along water courses where a floodway has been established, the mapped flood plain areas are hereby divided into the two following districts:

1. A Floodway Overlay district (FW) and a Flood Fringe Overlay District (FF) as identified in the Flood Insurance Study (and accompanying map or maps). Within these districts all uses not meeting the standards of this Regulation and those standards of the underlying zoning district shall be prohibited.

Section 6.03.4 Standards for Floodplain Development

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

B. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the base flood; however, the water surface elevation was not provided. The unnumbered A zones shall be subject to all development provisions of Section 5.13.5 If the Flood Insurance Study data is not available, the community shall utilize any base flood elevation or floodway data currently available from Federal, State, or other sources.

C. Until a floodway has been designated no development or substantial improvement may be permitted within special flood hazard areas unless the applicant has demonstrated that the proposed development or substantial improvement when combined with all other existing and reasonably anticipated developments or substantial improvements will not increase the water surface elevation of the base flood more than one (2) foot at any location as shown on the Flood Insurance Study.

D. New construction, subdivision proposals, substantial improvements, prefabricated building, placement of manufactured homes and other developments shall require:

1. Design or anchorage to prevent floating collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

2. New or replacement water supply systems and or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and on-site waste disposal systems be located so as to avoid impairment or contamination.

3. Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located as to prevent water from entering or accumulating within the components during condition of flooding.

4. All utility and sanitary facilities be elevated or flood proofed up to the regulatory flood

protection elevation.

5. Storage of Material and Equipment
   a. 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.
   b. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
   c. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that:
      I. All such proposals are consistent with the need to minimize flood damage.
      II. All public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated, and constructed to minimize or eliminate flood damage.
      III. Adequate drainage is provided so as to reduce exposure to flood hazards; and
      IV. Proposals for development (including proposals for manufactured home parks and subdivisions) of five (5) acres or fifty (50) lots, whichever is lesser include within such proposals the base flood elevation.
6. Appurtenant Structures
   a. Structures accessory to a principal building may have the lowest floor below one foot above base flood elevation provided that the structure complies with the following requirements:
      1. The structure shall not be used for human habitation.
      2. The use of the structure must be limited to parking of vehicles or storage of items readily removable in the event of a flood warning.
      3. The floor area shall not exceed 800 square feet.
      4. The structure shall have a low damage potential.
      5. The structure must be adequately anchored to prevent flotation, collapse, or other lateral movement.
      6. The structure shall be designed to automatically provide for the entry and exit of floodwaters for the purpose of equalizing hydrostatic forces. 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. A minimum of two openings having a net area of not less than one (1) square inch for every one (1) square foot of enclosed space,
         b. The bottom of all openings shall not be higher than two (2) feet above grade, and
         c. Three openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they allow the automatic entry and exit of floodwaters.
      7. No utilities shall be installed except electrical fixtures in the structure, which must be elevated or flood proofed to two (2) foot above base flood elevation.
      8. The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

9. If the structure is converted to another use, it must be brought into full compliance with the minimum standards governing such use

Section 6.03.5 Flood Fringe Overlay district (Including AO and AH Zones)

A. **Permitted Uses**: Any use permitted in Section 6.03.6 shall be permitted in the Flood Fringe Overlay District. No use shall be permitted in the district unless the standards of Section 6.03.4 are met.

B. **Standards for the Flood Fringe Overlay District**:

1. Require new construction or substantial improvements residential structures to have the lowest floor, including basement, elevated to or above two (2) feet above the base flood elevation.
2. Require new construction or substantial improvements of non-residential structures to have the lowest floor, including basement, elevated to or above one (2) foot above the base flood elevation or, together with attendant utility and sanitary facilities, to be flood proofed so that below that level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Zoning Administrator as set forth in Section 6.03.2
3. 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. A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall not be higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves; or
   b. Other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
4. Within all zones adequate drainage paths, ground structures on slopes shall be required in order to guide flood waters around and away from proposed structures.
5. Manufactured Homes. All manufactured homes shall be anchored to resist floatation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be used:
   a. Over-The-Top ties be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations and manufactured homes less than fifty (50) feet long requiring one (1) additional tie per side.
   b. Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points and manufactured homes less than fifty (50) feet long requiring

four (4) additional ties per side.

c. All components of the anchoring system be capable of carrying a force of 4800 pounds; and any additions to the manufactured home be similarly anchored.

6. Require all manufactured homes to be placed or substantially improved within special flood hazard areas on the community FIRM 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 a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above two (2) feet above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 6.03.5, B #5.
7. Require 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 community's FIRM that are not subject to the provisions of Section 6.01, #7 be elevated so that either:
   a. The lowest floor of the manufactured home is at or above two (2) feet above the base flood elevation, or
   b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade; and to be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 6.03.5, #6
8. Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall either:
   a. Be on site for fewer than one hundred eighty (180) consecutive days.
   b. Be fully licensed and ready for highway use, or
   c. Meet the permit requirements and the elevation and anchoring requirements for "manufactured homes" of this regulation. A recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices and has no permanently attached additions.
9. Located within the areas of special flood hazard established in Section 5.03.1 A are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones.
10. All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two (2) feet above the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified).
11. All new constructed and substantial improvements of non-residential structures shall:
    a. Have the lowest floor elevated above the highest adjacent grade at least as high as

one (2) foot above the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth is specified; or

b. Together with attendant utility and sanitary facilities be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effect of buoyancy. Such certification shall be provided to the official as set forth in Section 5.03.2, B7.

12. Adequate drainage paths around structures on slopes shall be required in order to guide flood waters around and away from proposed structures.

Section 6.03.6 Floodway Overlay District

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

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

B. Standards for the Floodway Overlay District: New structures for human habitation are prohibited. All encroachments, including fill, new construction, substantial improvements and other development must be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during occurrence of the base flood discharge. These uses are subject to the standards of Section 6.03.4 and 6.03.5. In Zone A unnumbered, obtain, review, and reasonably utilize any flood elevation and floodway data available through Federal, State, or other services or Section 6.03.4, #D of this Regulation, in meeting the standards of this Section.

Section 6.03.7 Variance Procedures

A. The Board of Adjustment as established by Cass County shall hear and decide appeals and requests for variances from the requirements of this Regulation.

B. 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 this Regulation.

C. 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 23-168, R.R.S. 1943

D. In passing upon such application, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this regulation, and

1. The danger that materials may be swept onto other lands to the injury of others.

2. The danger of life and property due to flooding or erosion damage.
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
4. The importance of the services provided by the proposed facility to the community.
5. The necessity to the facility of a waterfront location, where applicable.
6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
7. The compatibility of the proposed use with existing and anticipated development.
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
9. The safety of access to the property in time of flood for ordinary and emergency vehicles.
10. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
11. 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.

Section 6.03.8 Conditions for Variances

A. 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 (B-F below) have been fully considered. As lot size increases beyond the one-half acre, the technical justification required for issuing variances increases.

B. 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.

C. Variances shall not be issued within any designated floodway if any increase in flood levels along the floodway during the base flood discharge would result.

D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

E. Variances shall only be issued upon:

1. A showing of good and sufficient cause.
2. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
4. The applicant shall be given a written notice over the signature of a community

official that:

a. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100 of insurance coverage, and

b. 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 this Regulation.

Section 6.03.9 Non-Conforming Use

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

   a. If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Regulation.

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

B. 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 (50) percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this Regulation. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places, provided that the alteration shall not preclude its continued designation.

Section 6.03.10 Penalties for Violation

Violation of the provisions of this Regulation or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this Regulation or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $100, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 6.03.11 Amendments

The regulations, restrictions and boundaries set forth in this Regulation may from time to time be amended, supplemented, changed or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in local newspaper of any county which has territory within three (3) miles of the property affected by such action of the County Board, one time at least ten (10) 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 clerk of units or local government having jurisdiction over land within three (3) miles of the property affected by such action. A copy of such amendments will be provided to the Federal Emergency Management Agency. This Regulation is in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the 1983 Nebraska Flood Plain Management Act.

Section 6.03.12 Definitions

Unless specifically defined below, words or phrases used in this Regulation shall be interpreted so as to give them the meaning they have in common usage and to give this Regulation its most reasonable application.

APPEAL means a request for a review of the Zoning Administrator's interpretation of any provision of this Regulation or a request for a variance.

APPURTENANT STRUCTURE shall mean a structure on the same parcel of property as the principal structure, the use of which is incidental to the use of the principal structure. Also shall be known as "accessory structure."

AREA OF SHALLOW FLOODING means a designated AO or Ah zone on a community's Flood Insurance Rate Map (FIRM) with a one (1) percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

BASE FLOOD means the flood having one (1) percent chance of being equaled or exceeded in any given year.

BASEMENT means any area of the building having its floor sub grade below ground level) on all sides.

DEVELOPMENT means 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.

EXISTING CONSTRUCTION means (for the purposes of determining rates) structures for which the "start of construction" commenced before the effective date of the FIRM or Before January 1, 1975, for FIRMs effective before that date. "Existing construction may also be referred to as "existing structures."

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION

means 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).

FLOOD OR FLOODING means a general and temporary condition of partial or complete inundation of normally dry land areas from: The overflow of inland or tidal waters or the usual and rapid accumulation of runoff of surface waters from any source.

FLOOD FRINGE is that area of the floodplain, outside of the floodway, that on the average is likely to be flooded once every 100 years (i.e., that has a one (1) percent chance of flood occurrence in any one year.

FLOOD INSURANCE RATE MAP (FIRM) means an official map of a community, on which the Flood Insurance Study has delineated the Flood Hazard Boundaries and the zones establishing insurance rates applicable to the community.

FLOOD INSURANCE STUDY is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

FLOODPLAIN means any land area susceptible to being inundated by water from any source (see definition of flooding).

FLOOD PROOFING means any combination of structural and non-structural additions. Changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved reap property, water and sanitary facilities, structures, and their contents.

FLOODWAY OR REGULATORY FLOODWAY means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

FREEBOARD means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings and the hydrological effect of urbanization of the watershed.

HIGHEST ADJACENT GRADE means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE means any structure that is:

1. Listed individually in the national Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
2. 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.
3. 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
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either.
    a. By an approved state program as determined by the Secretary of the Interior or
    b. Directly by the Secretary of the Interior in states without approved programs.

LOWEST FLOOR means 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 this Regulation.

MANUFACTURED HOME means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

MANUFACTURED HOME PARK OR SUBDIVISION means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

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 community and includes any subsequent improvements to such structures."

NEW MANUFACTURED HOME PARK OR SUBDIVISION means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

100 YEAR FLOOD means the condition of flooding having one (1) percent chance of annual occurrence.

OVERLAY DISTRICT is a district in which additional requirements act in conjunction with the underlying zoning district (s). The original zoning district designation does not change.

PRINCIPALLY ABOVE GROUND means that at least 51 percent of the actual cash value of the structure is above ground.

RECREATIONAL VEHICLE means a vehicle which is:

1. Built on a single chassis.
2. 400 square feet or less when measured at the largest horizontal projections.
3. Designed to be self-propelled or permanently towable by a light duty truck.
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

SPECIAL FLOOD HAZARD AREA is the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.

START OF CONSTRUCTION (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348) includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

STRUCTURE means 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.

SUBSTANTIAL DAMAGE means damage of any origin sustained whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred or cumulative over 5 years.

SUBSTANTIAL IMPROVEMENT means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent 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 alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

VARIANCES is a grant of relief to a person from the requirements of this Regulation which permits construction in a manner otherwise prohibited by this Regulation where specific enforcement would result in unnecessary hardship.

VIOLATION means a failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

Section 6.04 AA - Airport Approach Zone

A. Intent: This overlay district provides for airport facilities. They apply around airports which are licensed by the Nebraska Department of Aeronautics, as designated on the Official Zoning Map of Cass County, Nebraska and on the Airport Zoning Maps prepared by the Nebraska Department of Transportation, Division of Aeronautics for the for the Plattsmouth Municipal Airport.

B. Designated Public Airport: The designated public airports for which these regulations have been prepared are the airports located in Cass County and the Plattsmouth Municipal Airport located in Cass County which are or partly within the planning and zoning jurisdictional area of Cass County, Nebraska. Information on the Plattsmouth Municipal Airport can be obtained from the Nebraska Department of Transportation, Division of Aeronautics at www.aero.nebraska.gov or at www.airnav.com/airports/.

C. Hazard Area Description: In accordance with Neb. Rev. Stat. §3-303, every political subdivision that has adopted an airport hazard area within the area of its zoning jurisdiction, must adopt, administer, and enforce the regulations in this section for such airport hazard area.

The airport hazard area consists of Operation Zones, Approach Zones, Turning Zones, and Transitional Zones. The outer boundary of the hazard area is composed of a series of connected tangents and simple curves which also constitute the outer boundaries of the Approach and Turning Zones. The inner boundary of the hazard area is a boundary line consisting of a series of intersecting tangents five hundred (500) feet from and parallel to the centerline of the instrument runway or landing strip and two hundred fifty (250) feet from and parallel to the respective centerlines of all other runways or landing strips and connecting the inner boundaries of adjacent Approach Zones at the ends of the runways, landing strips or proposed

runways or landing strips.

D. Zone Descriptions and Regulations: Operation Zones are longitudinally centered on each existing or proposed runway:

Length: For existing and proposed paved runways, the operation zone extends two hundred (200) feet beyond the ends of each runway. For existing and proposed turf runways, the operation zone begins and ends at the same points as the runway begins and ends;

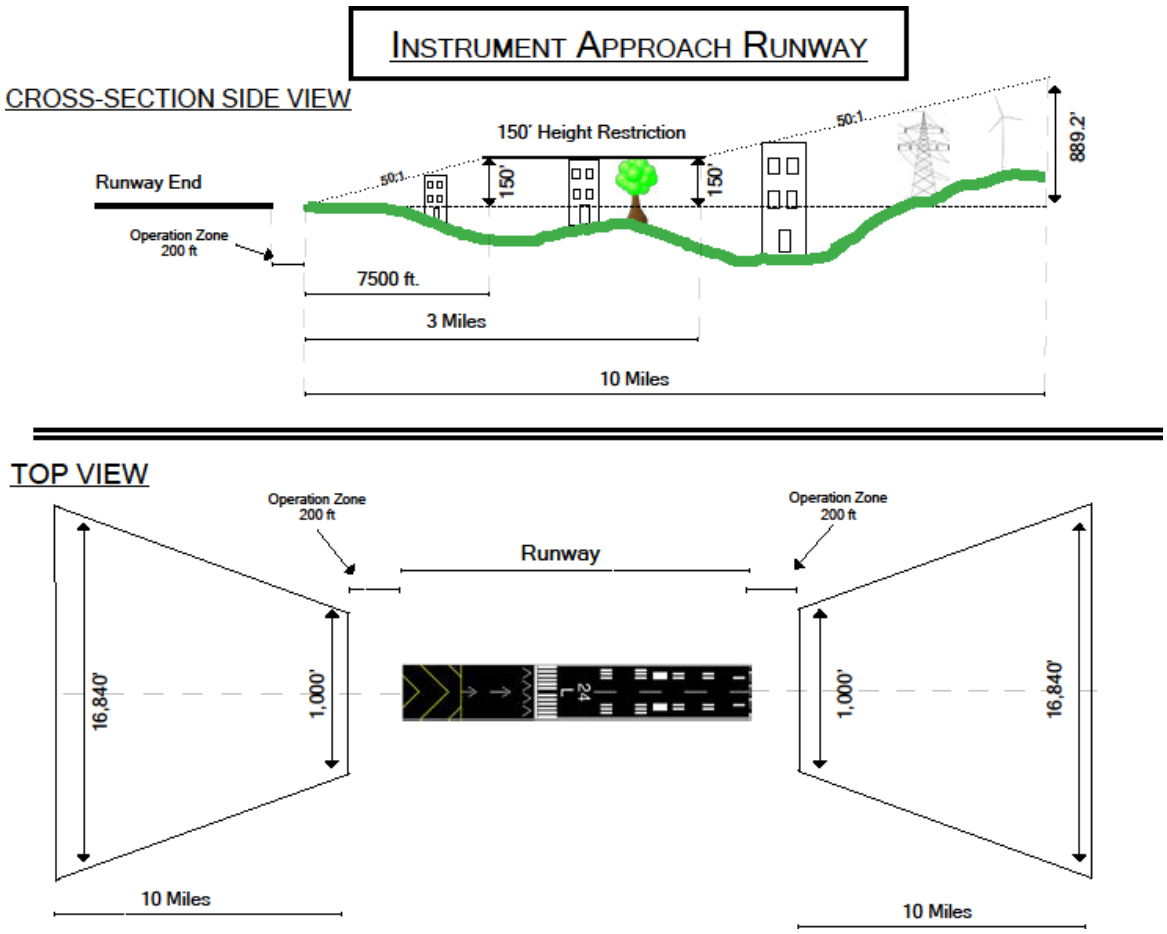
Width: For existing and proposed instrument runways, the operation zone is 1,000 feet wide, with 500 feet on either side of the runway centerline. For all other existing and proposed runways, the operation zone is 500 feet wide, with 250 feet on either side of the runway centerline; and

Height: The height limit of the operation zone is the same as the height of the runway centerline elevation on an existing or proposed runway or the surface of the ground, whichever is higher. Approach Zones extend from the end of each operation zone and are centered along the extended runway centerlines. The dimensions of the zones are as follows:

For an existing or proposed instrument runway:

Length and Width: An approach zone extends ten miles from the operation zone, measured along the extended runway centerline. The approach zone is 1,000 feet wide at the end of the zone nearest the runway and expands uniformly to 16,840 feet wide at the farthest end of the zone; and

Height Limit: The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one (1) foot vertically for every 50 feet horizontally, except that the height limit shall not exceed 150 feet above the nearest existing or proposed runway end elevation within three (3) miles of the end of the operation zone at that runway end. At three miles from such AN operation zone, the height limit resumes sloping one foot vertically for every 50 feet horizontally and continues to the ten-mile limit.



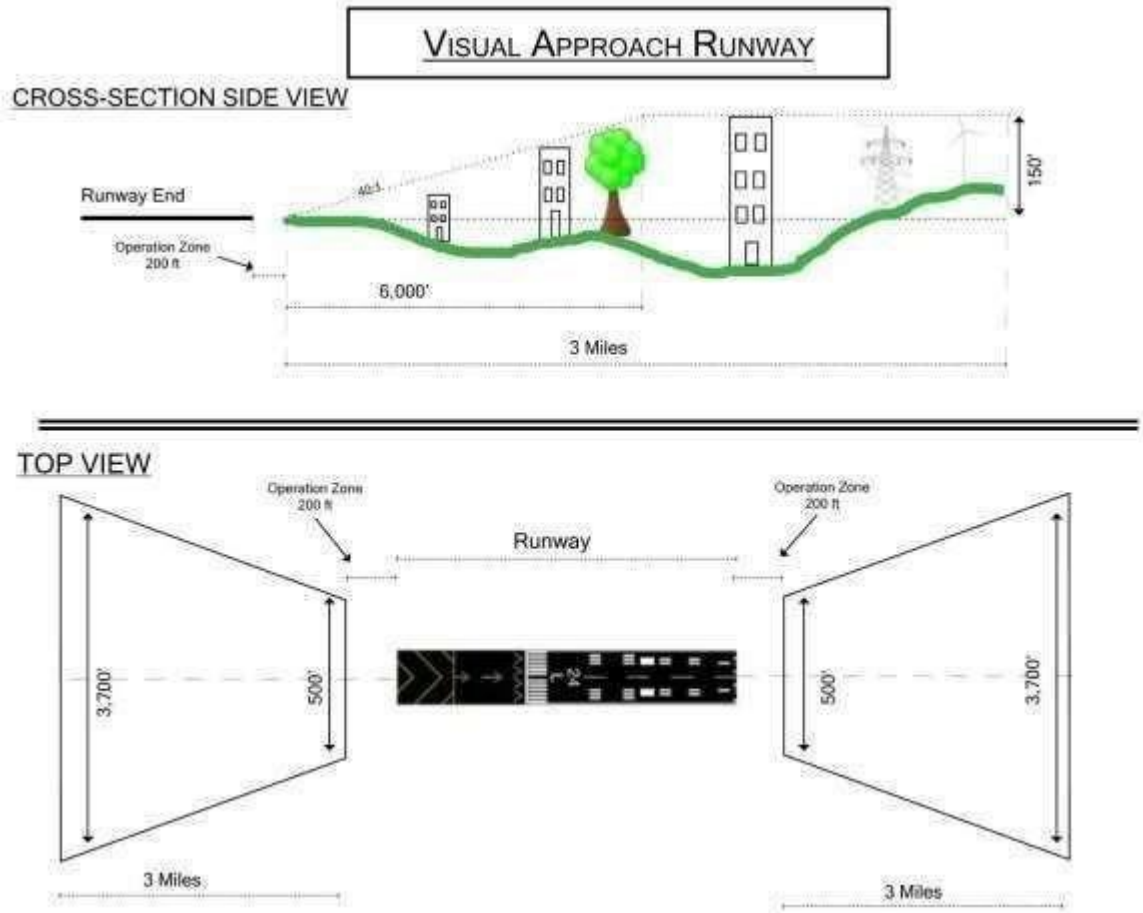
For an existing or proposed visual runway:

Length and Width: An approach zone extends from the operation zone to the limits of the turning zone, measured along the extended runway centerline. The approach zone is 500 feet wide at the end of the zone nearest the runway and expands uniformly so that at a point on the extended runway centerline three miles from the operation zone, the approach zone is 3,700 feet wide; and

Height: The height limit of an approach zone begins at the elevation of the runway end for which it is the approach and rises one (1) foot vertically for every 40 feet horizontally, except that the height limit shall not exceed 150 feet above the nearest existing or proposed runway end elevation within three (3) miles of the end of the operation zone at that runway end.

Transition Zones: extend outward at right angles to the runway centerline and upward at a rate of one foot vertically for every seven feet horizontally (7:1). The height limit of these zones begins at the height limit of the adjacent operation zones or approach zones. The transition zones end at a height of 150 feet above the nearest existing or proposed runway end.

Turning Zones: extend three miles as a radius from the corners of the operation zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the approach zone, operation zone, or transition zone. The height limit of the turning zones is 150 feet above the nearest existing or proposed runway end.



E. **Height Restrictions**: No building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character shall hereafter be erected, constructed, repaired or established, nor shall any tree or other object of natural growth be allowed to grow, above the heights described in Section 6.04.04 above or in the diagrams following:

F. **Location Sketch and Zoning Map**: The boundaries, Operation Zones, Approach Zones, Transition Zones and Turning Zones of the Plattsmouth Municipal Airport are as indicated on the maps identified in Section 6.04.01, which accompany and are hereby made a part of these regulations, copies of which shall at all times be on file in the offices of the County Clerk and Planning Administrator of Cass County, Nebraska.

G. **Permit Required, Exceptions, Application Forms and Permit Fees:**

1. Permit Required: It shall hereafter be unlawful to erect, construct, reconstruct, repair or establish any building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character or to plant or replant any tree or other object of natural growth within the boundary of the zoned airport hazard area of the Plattsmouth Municipal Airport without first obtaining a zoning permit from the Cass County Planning Director and review of the Plattsmouth Airport Authority, and/or the Nebraska Department of Transportation, Division of Aeronautics for the appropriate airport.
2. Exceptions: In the outer area of Approach Zones and within Turning Zones, no such permit

shall be required for construction of planting which is no higher than seventy-five feet above the elevation of the end of the nearest runway or landing strip, except for any permits required by other sections of these regulations.

3. Application Forms: Application for a zoning permit as required under these regulations shall be made upon a form or forms to be available in the office of the Planning Director and shall indicate the approximate location, ground elevation with reference to the elevation at the end of the nearest runway or landing strip and height of the proposed structure or planting (Mean Sea Level Elevation).
4. Permit Fees: The fee for each zoning permit shall be the normal fee charged by the county plus any other additional fees determined by the county, Plattsmouth Airport Authority, or the state for the appropriate airport.

H. Non-Conforming Uses and Structures: Within the zoned airport hazard area as hereinbefore defined, no non-conforming building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character or object of natural growth shall hereafter be replaced, substantially reconstructed, repaired, altered, replanted or allowed to grow, as the case may be, to a height which constitutes a greater hazard to air navigation than existed before these regulations where adopted; nor above the heights permitted by these regulations if such structures or objects of natural growth have been torn down, destroyed, have deteriorated or decayed to an extent of eighty (80) percent or more of their original condition, or abandoned for a period of twelve (12) consecutive months or more. Transmission lines and communication lines as referred to in these regulations shall be interpreted to mean all poles, wires, guys, and all other equipment necessary for the operation and maintenance of the same within the airport hazard zone.

Except as provided in subsection 6.04.05 of this section for certain electric facilities, all such airport zoning regulations adopted under the act shall provide that before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit authorizing any replacement, alteration, repair, reconstruction, growth, or replanting must be secured from the administrative agency authorized to administer and enforce the regulations. A permit shall be granted under this subsection if the applicant shows that the replacement, alteration, repair, reconstruction, growth, or replanting of the nonconforming structure, tree, or nonconforming use would not result in an increase in height or a greater hazard to air navigation than the condition that existed when the applicable regulation was adopted. For nonconforming structures other than electric facilities, no permit under this subsection shall be required for repairs necessitated by fire, explosion, act of God, or the common enemy or for repairs which do not involve expenditures exceeding more than sixty percent of the fair market value of the nonconforming structure, so long as the height of the nonconforming structure is not increased over its preexisting height.

An electric supplier owning or operating an electric facility made nonconforming by the adoption of airport zoning regulations under the Airport Zoning Act may, without a permit or other approval by the political subdivision adopting such regulations, repair, reconstruct, or replace such electric facility if the height of such electric facility is not increased over its preexisting height. Any construction, repair, reconstruction, or replacement of an electric facility, the height of which will exceed the preexisting height of such an electric facility, shall require a permit from the political subdivision adopting such regulations. The permit shall be granted only upon a showing that the excess height of the electric facility will not establish or

create an airport hazard or become a greater hazard to air navigation than the electric facility that previously existed.

I. **Marking of Non-Conforming Structures**: Whenever the Planning Director shall determine, or shall be notified by the Nebraska Department of Transportation, Division of Aeronautics or the Plattsmouth Airport Authority, that a specific non-conforming structure or object exists and has existed prior to the passage of these regulations and within the airport hazard zoned area at such a height or in such a position as to constitute a hazard to the safe operation of aircraft landing at or taking off from said airport, the owner or owners and the lessor or lessors of the premises on which such structure or object is located shall be notified in writing by the Planning Director and shall, within a reasonable time, permit the marking thereof by suitable lights or other signals designated by the Planning Director as is based on recommendations of the Nebraska Department of Aeronautics, and/or Plattsmouth Airport Authority. The cost of such marking shall not be assessed against the owner or lessee of the said premises.

J. **Administrative Agency**: The Planning Director or his/her designee of Cass County, Nebraska shall administer and enforce these regulations, and the Plattsmouth Airport Authority shall be the administrative agency for their appropriate airport provided for in Neb. Rev. Stat. Section 3-319 (Reissued 2007), and shall have all the powers and perform all the duties of the administrative agency as provided by the Airport Zoning Act within the zoning jurisdictional area of the county regarding the Plattsmouth Airport Authority shall be the administrative agency within the zoning jurisdictional area of the county regarding the Plattsmouth Municipal Airport.

K. **Variance from Regulations**: Any person desiring to erect any structure, increase the height of any structure, permit the growth of any tree, or otherwise use his or her property in a manner inconsistent with the airport zoning regulations adopted under this regulation may apply to the board of adjustment for a variance from the zoning regulations in question. Such variances shall be allowed only if the board of adjustment makes the same findings for the granting of variances generally as set forth in State Statute, except that if the applicant demonstrates that the proposed structure or alteration of a structure does not require any modification or revision to any approach or approach procedure as approved or written by the Federal Aviation Administration on either an existing or proposed runway and the applicant provides signed documentation from the Federal Aviation Administration that the proposed structure or alteration of the structure will not require any modification or revision of any airport minimums, such documentation may constitute evidence of undue hardship and the board of adjustment may grant the requested variance without such findings. Any variance may be allowed subject to any reasonable conditions that the board of adjustment may deem necessary to effectuate the purposes of this regulation.

In granting any permit under or variance from any airport zoning regulation adopted under this regulation, the administrative agency or board of adjustment may, if it deems such action is advisable to effectuate the purposes of the regulation and reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to permit the political subdivision, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

L. **Board of Zoning Adjustment**: The Board of Adjustment shall be the board of zoning adjustment with respect to these regulations, to have and to exercise the powers conferred by Neb. Rev. Stat. Section 3-320, et. Seq. (Reissued 2007), and such other powers and duties as

are conferred and imposed by law.

M. Conflicts: In the event of any conflict between these airport hazard regulations and any other regulations established by these or other regulations, whether the conflict is with respect to the height of structures or trees, the use of land or any other matter, the more stringent or restrictive limitation shall govern and prevail.

Section 6.05 OBO - Offutt Airforce Base

AICUZ Air Installation Compatible Use Zone; Clear Zone, Accident Potential Zones I and II, Noise Zones, and Height and Obstruction Criteria (Overlay District)

A. Intent: To reduce the risk to public health, safety, and quality of life due to aircraft noise exposure and accident potential. To promote compatible land development in areas surrounding a military airfield by regulating land uses and establishing criteria for the regulation of building height and density. To preserve the operational capabilities and mission of Offutt Air Force Base and to prohibit uses which create potential hazards to the safe approach and departure of aircraft. To address potentially life-threatening situations in areas exposed to aircraft accident potential through restrictions on the congregation of large numbers of people or high concentrations of people and by restrictions on concentrations of people who are unable to respond to emergency situations such as children, elderly, handicapped, and persons undergoing medical treatment. To increase the protection of persons exposed to high levels of aircraft noise by requiring acoustical treatment in buildings located within these areas and regulating those uses which are sensitive to such noise.

B. General Provisions

1. **Applicability**: These Regulations shall apply to all lands within the jurisdiction of the County of Cass County, Nebraska, and its extraterritorial jurisdiction identified in the Air Installation Compatible Use Zone Report for Offutt Air Force Base dated October 1992, or as may be updated or amended. These lands include areas designated as Clear Zones, Accident Potential Zones I and II, Noise Zones, and the Height and Obstruction criteria designated by the FAA and DoD. In all areas covered by this Regulations, no development shall be permitted except upon a permit to develop granted by the Board or its duly designated representative under such safeguards and restrictions as they may reasonably impose for the promotion and maintenance of the general welfare, health, and safety of the inhabitants of the community and where specifically noted in Sections 6.05.03,2-3 below. The following types of development shall be regulated by these Regulations.
2. **New development**: A change in, expansion of, or addition to the use of an existing structure as follows:
   a. The residential density or employee density requirements of Sections 6.05.05, apply to the entire existing structure if the change, expansion, or addition results in an increase in any of the following:
      1. Employee density; residential density; the number of employees; or the number of persons of the general public for which the structure was intended or designed to accommodate.
   b. The noise attenuation requirements of Section6.05.05 apply to the entire existing structure if the use of the existing structure is changed from any other land use to one or more of the following uses:
      1. Residential; place of public accommodation; or administrative or professional

office.

3. **Expansion of existing development as follows**:

   a. If the gross floor area of a structure or the gross floor area on the project site is expanded by less than fifty (50) percent, the provisions of Section 6.05.05 apply only to the areas of expansion.

   b. If the gross floor area of a structure is expanded by fifty (50) percent or more, the requirements of Section 6.05.05 apply to the entire structure. The sound attenuation requirement in this section does not, however, apply to an expansion of the following types of structures existing prior to the effective date of this Regulations: a single family or duplex dwelling; or a manufactured or mobile home.

   c. If the gross floor area on a project site is expanded by fifty (50) percent or more, the employee density and lot coverage requirements apply to the entire project site.

   d. Cumulation of Expansions: Expansions are cumulated over time from the effective date of these Regulations. Once a structure or project site is brought into conformance with the provisions of these Regulations, subsequent expansions are accumulated as of the date the existing structure or project site is brought into conformance.

   e. Enforcement Officer: The County Administrator or his/her designee is hereby designated as the Board's duly designated Enforcement Officer under these Regulations.

   f. Rules For Interpretation of District Boundaries: The boundaries of the Clear Zones, Accident Potential Zones I and II, Noise Zones, and the Height and Obstruction criteria designated by the FAA and DoD, shall be determined by scaling distances on the official zoning map of the County of Cass County, Nebraska. Where interpretation is needed to the exact location of the boundaries, the Enforcement Officer shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of Adjustment will resolve the dispute.

   g. Compliance: No development located within the AICUZ shall be located, extended, converted, or structurally altered without full compliance with the terms of these Regulations and other applicable regulations.

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

   i. 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 any other powers granted by State Statutes.

   j. Warning and Disclaimer of Liability: The degree of protection required by these Regulations is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. These Regulations do not imply that areas outside of the AICUZ or land uses permitted within such districts will be free from hazards. These Regulations shall not create liability on the part of the County of Cass County, Nebraska, or any officer or employee thereof for any damage that may result from reliance on these Regulations or any administrative decision lawfully made thereunder.

k. 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.

l. Application for Appeal: Where a request for a permit to develop is denied by the Enforcement Officer, the applicant may apply for such permit or variance directly to the Board of Adjustment. The Board of Adjustment may grant or deny such request in accordance with the provisions of the Zoning Regulations governing the Board of Adjustment.

4. **Development Permit**:

a. **Permit Required**: No person, firm, or corporation shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in Section 6.05.02.

b. **Administration**: The Enforcement Officer is hereby appointed to administer and implement the provisions of these Regulations. The duties of the Enforcement Officer shall include, but not be limited to:

1. Review all development permits to assure that the permit requirements of these Regulations have been satisfied.

2. Review permits for proposed development to assure that all necessary permits have been obtained from those federal or state governmental agencies from which prior approval is required.

3. Notify the Base Civil Engineer at Offutt Air Force Base for comments on the proposed development and its conformance with the standards as set forth in the AICUZ Report and the requirements of these Regulations.

4. **Application for Permit**: To obtain a permit, the applicant shall first file an application, in writing, on a form furnished for that purpose. Every such application shall:

a. Include a site plan showing all existing and proposed structures located within the property, height of all existing and proposed structures, the total acreage of the parcel, distance to the property line and distance to structures which are adjacent to the property scale of the drawing, north arrow, and date of the drawing.

b. Identify and describe the work to be covered by the permit.

c. Describe the land on which the proposed work is to be done by lot, block, tract, and house and street address, or similar description that will readily identify and definitely locate the proposed building or work.

d. Indicate the use or occupancy for which the proposed work is intended.

e. Be signed by the property owner or his authorized agent who may be required to submit evidence to indicate such authority.

f. Include correspondence from the FAA and/or DoD to demonstrate compliance with their requirements, if applicable.

g. Give such other information as may reasonably be required by the Enforcement Officer.

5. **Establishment of Zoning Districts**: The mapped AICUZ areas within the

jurisdiction of these regulations are hereby divided into the following districts: Clear Zone (CZ), Accident Potential Zone I (APZ I), Accident Potential Zone II (APZ II), Noise Zones (NZ), and the Height and Obstruction (HO) criteria designated by the FAA and the Air Force. Within these districts, all uses not meeting the standards of these regulations and those standards of the underlying zoning district shall be prohibited. These zones shall be consistent with the zones as identified in the AICUZ Report and shall be indicated on the atlas of maps which is entitled "Official Zoning Map – AICUZ Overlay" incorporated herein and by this reference made a part hereof.

6. Standards for The Clear Zone (CZ), Accident Potential Zone I (APZ I), Accident Potential Zone II (APZ II), Noise Zones (NZ), and Land-Use Restrictions. All applications for development permits submitted per the requirements of Section 6.05.03 shall be reviewed based on the following criteria:

Table 6.05A:

SLUCM NO.	Land Use	Accident Potential Zones			Noise Zones			
		CLEAR ZONE	APZ I	APZ II	65-70	70-75	75-80	80+
10	Residential							
11	Household units							
11.11	Single units; detached	N	N	Y[1]	25[11]	30[11]	N	N
11.12	Single units; semi detached	N	N	N	25[11]	30[11]	N	N
11.13	Single units; attached row	N	N	N	25[11]	30[11]	N	N
11.21	Two units; side-by-side	N	N	N	25[11]	30[11]	N	N
11.22	Two units; one above the other	N	N	N	25[11]	30[11]	N	N
11.31	Apartments; walk up	N	N	N	25[11]	30[11]	N	N
11.32	Apartments; elevator	N	N	N	25[11]	30[11]	N	N
12	Group quarters	N	N	N	25[11]	30[11]	N	N
13	Residential hotels	N	N	N	25[11]	30[11]	N	N
14	Mobile home parks or courts	N	N	N	N	N	N	N
15	Transient lodgings	N	N	N	25[11]	30[11]	35[11]	N
16	Other residential	N	N	N[1]	25[11]	30[11]	N	N
20	Manufacturing							
21	Food & Kindred products; manufacturing	N	N[2]	Y	Y	Y[12]	Y[13]	Y[14]
22	Textile mill products; manufacturing	N	N[2]	Y	Y	Y[12]	Y[13]	Y[14]
23	Apparel & other finished products made from fabrics	N	N	N[2]	Y	Y[12]	Y[13]	Y[14]
24	Lumber & wood products (except furniture); manufacturing	N	Y[2]	Y	Y	Y[12]	Y[13]	Y[14]
25	Furniture & fixtures; manufacturing	N	Y[2]	Y	Y	Y[12]	Y[13]	Y[14]
26	Paper & allied products; manufacturing	N	Y[2]	Y	Y	Y[12]	Y[13]	Y[14]
27	Printing, publishing, & allied industries	N	Y[2]	Y	Y	Y[12]	Y[13]	Y[14]
28	Chemicals & allied products; manufacturing	N	N	N[2]	Y	Y[12]	Y[13]	Y[14]
29	Petroleum refining & related industries	N	N	Y	Y	Y[12]	Y[13]	Y[14]
30	Manufacturing							
31	Rubber & misc. plastic products; manufacturing	N	N[2]	N[2]	Y	Y[12]	Y[13]	Y[14]
32	Stone, clay, & glass products, manufacturing	N	N[2]	Y	Y	Y[12]	Y[13]	Y[14]
33	Primary metal industries	N	N[2]	Y	Y	Y[12]	Y[13]	Y[14]
34	Fabricated metal products; manufacturing	N	N[2]	Y	Y	Y[12]	Y[13]	Y[14]

LEGEND	
SLUCM	Standard Land Use Coding Manual, U.S. Department of Transportation
Y (yes)	Land Use and related structures are compatible without restriction
N (no)	Land Use and related structures are not compatible and should be prohibited
NLR	Noise Level Reduction: (outdoor to indoor) to be achieved through incorporation of noise attenuation into the design and construction of the structure. See Appendix E, Vol. II
25, 30, OR 35	Land use and related structures generally compatible; measures to achieve NLR of 25, 30, or 35 need to be incorporated into the design and construction of structures. See Appendix E, Vol. II
25*, 30* and 35*	Land use generally compatible with NLR. However, measures to achieve an overall noise level reduction do not necessarily solve noise difficulties and additional evaluation is warranted

SLUCM NO.	Land Use	Accident Potential Zones			Noise Zones			
		CLEAR ZONE	APZ I	APZ II	65-70	70-75	75-80	80+
35	Professional, scientific, & controlling instruments; photographic & optical goods; watches & clocks	N	N	N[2]	Y	25	30	N
39	Miscellaneous manufacturing	N	Y[2]	Y[2]	Y	Y[12]	Y[13]	Y[14]
	Transportation, communications, & utilities							
	Railroad, rapid rail transit, & street railroad transportation	N[3]	Y[4]	Y	Y	Y[12]	Y[13]	Y[14]
	Motor vehicle transportation	N[3]	Y	Y	Y	Y[12]	Y[13]	Y[14]
	Aircraft transportation	N[3]	Y[4]	Y	Y	Y[12]	Y[13]	Y[14]
	Marine craft transportation	N[3]	Y[4]	Y	Y	Y[12]	Y[13]	Y[14]
	Highway & street rights-of-way	N[3]	Y	Y	Y	Y[12]	Y[13]	Y[14]
	Automobile parking	N[3]	Y[4]	Y	Y	Y[12]	Y[13]	Y[14]
	Communication	N[3]	Y[4]	Y	Y	25[15]	30[15]	N
	Utilities	N[3]	Y[4]	Y	Y	Y	Y[12]	Y[13]
	Other transportation, communication, & utilities	N[3]	Y[4]	Y	Y	25[15]	30[15]	N
	Trade							
	Wholesale Trade	N	Y[2]	Y	Y	Y[12]	Y[13]	Y[14]
	Retail trade-building materials, hardware, & farm equipment	N	Y[2]	Y	Y	Y[12]	Y[13]	Y[14]
	Retail trade-general merchandise	N	N[2]	Y[2]	Y	25	30	N
	Retail trade-food	N	N[2]	Y[2]	Y	25	30	N
	Retail trade-automotive, marine craft, & aircraft & accessories	N	N[2]	Y[2]	Y	25	30	N
	Retail trade-apparel & accessories	N	N[2]	Y[2]	Y	25	30	N
	Retail trade-furniture, home furnishings, & equipment	N	N[2]	Y[2]	Y	25	30	N
	Retail trade-eating & drinking establishments	N	N[2]	Y[2]	Y	25	30	N
	Other retail trade	N	N[2]	Y[2]	Y	25	30	N
	Services							
	Finance, insurance, & real estate services	N	N	Y[6]	Y	25	30	N
	Personal services	N	N	Y[6]	Y	25	30	N
	Cemeteries	N	Y[7]	Y[7]	Y	Y[12]	Y[13]	Y[14,21]
	Business services	N	Y[8]	Y[8]	Y	25	30	N

LEGEND	
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NLR	Noise Level Reduction: (outdoor to indoor) to be achieved through incorporation of noise attenuation into the design and construction of the structure. See Appendix E, Vol. II
25, 30, OR 35	Land use and related structures generally compatible; measures to achieve NLR of 25, 30, or 35 need to be incorporated into the design and construction of structures. See Appendix E, Vol. II
25*, 30* and 35*	Land use generally compatible with NLR. However, measures to achieve an overall noise level reduction do not necessarily solve noise difficulties and additional evaluation is warranted

SLUCM NO.	Land Use	Accident Potential Zones			Noise Zones			
		CLEAR ZONE	APZ I	APZ II	65-70	70-75	75-80	80+
	Repair services	N	Y[2]	Y	Y	Y[12]	Y[13]	Y[14]
	Professional services	N	N	Y[6]	Y	20	30	N
	Hospitals, nursing homes	N	N	N	25*	30*	N	N
	Other medical facilities	N	N	N	Y	25	30	N
	Contract construction services	N	Y[6]	Y	Y	25	30	N
	Governmental services	N	N	Y[6]	Y*	25*	30*	N
	Educational services	N	N	N	25*	30*	N	N
	Miscellaneous services	N	N[2]	Y[2]	Y	25	30	N
70	Cultural, entertainment, & recreational							
71	Cultural activities (including churches)	N	N	N[2]	25*	30*	N	N
71.2	Nature exhibits	N	Y[2]	Y	Y*	N	N	N
72	Public assembly	N	N	N	Y	N	N	N
72.1	Auditoriums, concert halls	N	N	N	25	30	N	N
72.11	Outdoor music shells, amphitheaters	N	N	N	N	N	N	N
72.2	Outdoor sports arenas, spectator sports	N	N	N	Y[17]	Y[17]	N	N
73	Amusements	N	N	Y[8]	Y	Y	N	N
74	Recreational activities (inc. golf courses, riding stables, water recreation)	N	Y[8,9,10]	Y	Y*	25*	30*	N
75	Resort and group camps	N	N	N	Y*	Y*	N	N
76	Parks	N	Y[8]	Y[8]	Y*	Y*	N	N
79	Other cultural, entertainment, & recreation	N	Y[9]	Y[9]	Y*	Y*	N	N
80	Resource production & extraction							
81	Agriculture (except livestock)	Y	Y	Y	Y[18]	Y[19]	Y[20]	Y[20,21]
81.5-81.7	Livestock farming & animal breeding	N	Y	Y	Y[18]	Y[19]	Y[20]	Y[20,21]
82	Agricultural related activities	N	Y[5]	Y	Y18	Y19	N	N
83	Forestry activities & related services	N[5]	Y	Y	Y[18]	Y[19]	Y[20]	Y[20,21]
84	Fishing activities & related services	N[5]	Y[5]	Y	Y	Y	Y	Y
85	Mining activities & related services	N	Y[5]	Y	Y	Y	Y	Y
89	Other resource production & extraction	N	Y[5]	Y	Y	Y	Y	Y

LEGEND	
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Y (yes)	Land Use and related structures are compatible without restriction
N (no)	Land Use and related structures are not compatible and should be prohibited
NLR	Noise Level Reduction: (outdoor to indoor) to be achieved through incorporation of noise attenuation into the design and construction of the structure. See Appendix E, Vol. II
25, 30, OR 35	Land use and related structures generally compatible; measures to achieve NLR of 25, 30, or 35 need to be incorporated into the design and construction of structures. See Appendix E, Vol. II
25*, 30* and 35*	Land use generally compatible with NLR. However, measures to achieve an overall noise level reduction do not necessarily solve noise difficulties and additional evaluation is warranted

NOTES

The designation of these uses as "compatible" in this zone reflects individual Federal agencies, and program consideration of general cost and feasibility factors as well as past community experiences and program objectives. Localities, when evaluating the application of these guidelines to specific situations, may have different concerns or goals to consider.

1 Suggested maximum density 1-2 dwelling units per acre, possibly increased under a Planned Development (PD) where maximum lot coverage is less than twenty (20) percent.
2 Within each land use category, uses exist where further definition may be needed due to the variation of densities in people and structures.
3 The placing of structures, buildings, or above-ground utility lines in the Clear Zone is subject to severe restrictions. In a majority of the Clear Zones, these items are prohibited. See Air Force Regulation 19-9 and Air Force Regulation 86-14 for specific guidance.
4 No passenger terminals and no major above-ground transmission lines in APZ I.
5 Factors to be considered; labor intensity, structural coverage, explosive characteristics, air pollution.
6 Low-intensity office uses only. Meeting places, auditoriums, etc., not recommended.
7 Excludes chapels.
8 Facilities must be low intensity.
9 Clubhouse not recommended.
10 Areas for the gathering of people are not recommended.
11 a. Although local conditions may require residential use, it is discouraged in Ldn 65-70 and strongly discouraged in Ldn 70-75. An evaluation should be conducted prior to approvals, indicating that a demonstrated community need for residential use would not be met if development were prohibited in these zones and that there are no viable alternative locations. dB over standard construction and normally assume mechanical ventilation and closed windows year-round. Additional consideration should be given to modifying NLR levels based on peak noise levels.
b. Where the community determines the residential uses must be allowed, measures to achieve outdoor to indoor Noise Level Reduction (NLR) of at least 25 dB (Ldn 65-70) and 30 dB (Ldn 70-75) should be incorporated into building regulations and be considered in individual approvals. Normal construction can be expected to provide a NLR of 20 dB, thus the reduction requirements are often stated as 5, 10, or 15
c. NLR criteria will not eliminate outdoor noise problems. However, building location and site planning, design, and use of berms and barriers can help mitigate outdoor exposure particularly from near ground level sources. Measures that reduce noise at a site should be used whenever practicable in preference to measures which only protect interior spaces.
12 Measures to achieve NLR of 25 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas, or where the normal noise level is low.
13 Measures to achieve NLR of 30 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas, or where the normal noise level is low.
14 Measures to achieve NLR of 35 must be incorporated into the design and construction of portions of these buildings where the public is received, office areas, noise sensitive areas, or where the normal noise level is low.
15 If noise sensitive, use indicated NLR; if not, the use is compatible.
16 No buildings.
17 Land-use compatible, provided special sound reinforcement systems are installed.
18 Residential buildings require a NLR of 25.
19 Residential buildings require a NLR of 30.
20 Residential buildings not permitted.
21 Land use not recommended, built if the community decides the use is necessary, hearing protection devices should be worn by personnel.

5. **Concentrations of Persons Per Acre Standard**: Uses are compatible if they do not result in a gathering of individuals in an area that would result in an average density of greater than 25 persons per acre per hour during a 24-hour period, not to exceed 50 persons per acre at any time.

   a. Average densities of persons per hour during a 24-hour period are determined by calculating the number of persons per acre expected on a site, multiplying by the number of hours they will be on the site, and dividing the total by 24.

   b. The maximum number of persons allowed per acre per hour is calculated by dividing the number of hours persons will be on the site by 24 hours and then dividing 25 persons per acre per hour by the result. The resulting number is the maximum number of persons allowed per acre per hour, provided it does not exceed 50. Fifty persons per acre at any one time is the maximum number of persons allowed under the standard.

   c. Application of this formula results in the following table which specifies the maximum persons per acre per hour for the duration of time that persons are expected to be on site during a 24-hour period.

Table 6.05B:

Hours of Operation Per Day	Max. Persons Allowed [a] per Acre/ During Each Hour
24	25
23	26
22	27
21	28
20	30
19	31
18	33
17	35
16	37
15	40
14	42
13	46
12 or less	50[b]

a Fractions in the maximum number of persons allowed column are rounded to the lowest whole number.

b Concentrations of persons per acre cannot exceed 50 persons per acre at any time.

6. **Standards for The Area with Height and Obstruction Criteria (HO)**

a. Height and Obstructions Criteria: This section establishes criteria for determining whether an object or structure is an obstruction to air navigation. Obstructions to air navigation are considered to be: Natural objects or man-made structures that protrude above the planes or surfaces as defined in the following paragraphs; and/or Man-made objects that extend more than 500 feet above the ground at the site of the structure.

b. Land-Use Restrictions: The land areas outlined herein are regulated to prevent uses that might otherwise be hazardous to aircraft operations. The following uses are therefore prohibited in these areas:

1. Uses which release into the air any substance which would impair visibility or otherwise interfere with the operation of aircraft (i.e., steam, dust, and smoke).
2. Uses that produce light emissions, either direct or indirect (reflective), which would interfere with pilot vision.
3. Uses that produce emissions that would interfere with aircraft communications systems or navigational equipment.
4. Uses which would attract birds or waterfowl, such as but not limited to, operations of sanitary landfills, maintenance of feeding stations, or the growing of certain vegetation.

d. Height Restrictions: To obtain a permit per Section 6.05.04, the applicant shall, in addition, submit calculations that show that the proposed project will meet the height restriction criteria of FAA Part 77 as described, in part, by the information contained in Section 6.05.07.

e. Coordinates and Elevations: Offutt Air Force Base, Nebraska: Average Field Elevation – 1010’ MSL. 30L – Lat 41° 06’ 35” N - Long. 95º 53’ 31” W 12R – Lat 41º 07’ 45” N -

Long 95º 55’ 29” W

7. **Explanation of Terms and Definitions**: The following additional words and phrases are explained or defined for the purposes of Section 6.05.07.

CONTROLLING ELEVATION Whenever surfaces or planes within the obstructions criteria overlap, the controlling (or governing) elevation becomes that of the lowest surface or plane.

RUNWAY LENGTH Offutt Air Force Base has two runways, 11,700 feet of pavement designed and built for sustained aircraft landings and takeoffs.

ESTABLISHED AIRFIELD ELEVATION The elevation, in feet above mean sea level (MSL) for Offutt Air Force Base is 1010 feet.

DIMENSIONS All dimensions are measured horizontally unless otherwise noted.

PRIMARY SURFACE This surface defines the limits of the obstruction clearance requirements in the immediate vicinity of the landing area. The Primary Surface comprises surfaces of the runways, runway shoulders, and lateral safety zones. The length of the primary surface is the same as the runway lengths 11,700 feet and 11,700 feet respectively. The width of the primary surface for a single runway is 2,000 feet or 1,000 feet on each side of the runway centerline.

CLEAR ZONE SURFACE This surface defines the limits of the obstruction clearance requirements in the vicinity contiguous to the end of the primary surface. The length and width (for a single runway) of the clear zone surface is 3,000 feet and 3,000 feet.

APPROACH-DEPARTURE CLEARANCE SURFACE This surface is symmetrical about the runway centerline extended, begins as an inclined plane (glide angle) 200 feet beyond each end of the primary surface of the centerline elevation of the runway end and extends for 50,000 feet. The slope of the approach-departure clearance surface is 50:1 along the extended runway (glide angle) centerline until it reaches an elevation of 500 feet above the established airfield elevation. It then continues horizontally at this elevation to a point 50,000 feet from the start of the glide angle. The width of this surface at the runway end is 2,000 feet; it flares uniformly, and the width at 50,000 is 16,000 feet.

INNER HORIZONTAL SURFACE This surface is a plane, oval in shape at a height of 150 feet above the established airfield elevation. It is constructed by scribing an arc with a radius of 7,500 feet above the centerline at the end of the runway and interconnecting these arcs with tangents.

CONICAL SURFACE This is an inclined surface extending outward and upward from the outer periphery of the inner horizontal surface for a horizontal distance of 7,000 feet to a height of 500 feet above the established airfield elevation. The slope of the conical surface is 20:1.

OUTER HORIZONTAL SURFACE This surface is a plane located 500 feet above the established airfield elevation. It extends for a horizontal distance of 30,000 feet from the outer periphery of the conical surface.

TRANSITIONAL SURFACE These surfaces connect the primary surfaces, clear zone surfaces, and approach-departure clearance surfaces to the outer horizontal surface, conical surface, another horizontal surface, or other transitional surfaces. The slope of the transitional surface is 7:1 outward and upward at right angles to the runway centerline. To determine the elevation for the beginning of the transitional surface slope at any point along the lateral boundary of the primary surface, including the Clear Zone, draw a line from this point to the runway centerline. This elevation at the runway centerline is the elevation for the beginning of the 7 to 1 slope.

8. **Nonconforming Use**: A structure or the use of a structure or premises which was lawful before the passage or amendment of this Regulations, but which is not in conformity with the provision of these regulations may be continued subject to the following conditions:

   A. No such use or substantial improvement of that use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity. If such use is discontinued for 365 calendar days, any future use of the building or premises shall conform to this Regulations. Uses or adjuncts thereof, which are or become nuisances, shall not be entitled to continue as nonconforming uses.

   B. If any nonconforming use or structure is destroyed by any means, it shall not be reconstructed if the cost is more than sixty percent of the market value of the structure before the damage occurred, except that if it is reconstructed in conformity with the provisions of this Regulations.

Section 6.06 Design Guidelines Overlay District

A. Purpose and Intent: The Design Guidelines Overlay District is meant to provide basic guidelines that will promote quality design standards and preserve the natural scenic beauty along East Park and West Park Highway (also known as State Highway 66). Along this highway are two of the busiest Nebraska State Parks, Mahoney State Park and Platte River State Park. Other attractions are the Strategic Air and Space Museum and Simmons Wildlife Safari Park. The highway also traverses rolling hills and scenic views of the Platte River and Platte River Valley. Cass County seeks to preserve the natural landscape and promote the complementary development of this area for the enjoyment of visitors and residents of region.

The following standards are intended to establish high quality design for future development along East and West Park Highway and preserve the appearance of the natural landscape. The Overlay District will encourage design compatibility with the surrounding areas, achieve greater architectural cohesiveness and compatibility, and reduce negative visual impacts of site development. These standards apply to the design and placement of landscaping, buffers, buildings, and exterior architecture features and finishes.

B. Location: The Design Guidelines Overlay District applies to the following areas:

1. All land within the planning jurisdiction of Cass County north of the centerline of East and West Park Highway to the Sarpy and Saunders County lines.
2. Land within one-half (1/2) mile of the centerline of East and West Park Highway south within the planning jurisdiction of Cass County.

C. Applicability: The Design Guidelines Overlay District, its development guidelines, and other provisions apply to the following:

1. New, nonagricultural uses within the boundaries of the overlay district requiring a building permit after the effective date of this regulation.
2. Any project which involves the total reconstruction of any existing structure on a site. A voluntary decision to redevelop the site or redevelopment as the result of a casualty loss shall be subject to Overlay District standards and guidelines.
3. Any renovation or addition to a building or site that within five (5) years cumulatively adds twenty-five (25) percent or more of the existing gross floor area of the pre-existing building(s). (For example, if an owner increases the gross area by five (5) percent each year for five (5) years beginning at the date of adoption of this chapter, the standards and guidelines of this chapter shall apply when the gross floor area has increased by

twenty-five (25) percent, or in the fifth (5th) year.).

D. Exemptions:

1. These standards shall not apply to any complete development or building permit application submitted or approved prior to the effective date of the Overlay District. Overlay District standards and guidelines also should not be construed to necessitate improvements to existing site conditions.
2. Any existing or proposed structure or site that is part of a phased development platted prior to the effective date of Overlay District standards and zoned for a non-agricultural use is exempt.
3. Replats, lot adjustments, and lot consolidations of properties platted prior to the adoption date of this chapter, shall be exempt.
4. Ordinary maintenance and repairs of an existing structure or site shall not be subject to the standards and guidelines set forth in the Overlay District.
5. The requirements of the Overlay District shall not apply to rehabilitation, repair, additions or enlargement(s) of a building in place or under construction on a site as of the effective date of this regulation, provided the cumulative gross floor area of any addition(s) does not exceed twenty-five percent (25%) of the gross floor area of the pre-existing building(s**).** Any rehabilitation, repair, additions, or enlargement(s) shall be reasonably integrated with the existing structure or site condition consistent with these standards as determined by the Planning Board.

E. Designated historic structures being restored in compliance with Cass County Building Codes, including 2012 International Building Code Section 3409 Historic Buildings are exempt.

Commercial Architectural Standards

1. Application:
    a. The following standards apply to any non-agricultural use in the Recreational Agricultural District. In case of business or commercial areas in a mixed unit development standard may be different or more stringent than those set forth in this section.
    b. It is intended that these standards apply to the primary façade of the building and that all sides of the building where visible from public rights-of-way, private roads, service drives, adjacent residential properties, and park/recreation areas shall include design characteristics and material consistent with those of the primary facade, except as provided in Paragraph C below.
    c. The Planning Board may waive the application of the standards set forth in this chapter in cases where visibility of side or rear walls of the building is substantially diminished by landscaping or by a decorative screening wall or earthen berm combined with landscaping located between the building wall and any such right- of-way or adjacent property. A waiver may also be considered in cases where the distance of the building from the right-of-way or adjacent property and/or intervening structures or other landscape features diminish the visibility of the proposed structure in a manner consistent with

the intent of this paragraph.

d. All landscaping shall meet the minimum requirements of Section 506.6 of the Cass County Code.

2. Design Compatibility

a. Building design shall contribute to the special or unique characteristics of the Park Highway area and/or development through the use of building placement, massing, scale, materials, architectural elements, and color palette.

b. Design compatibility shall be achieved through techniques such as repetition of roof lines, the use of similar proportions in building mass and outdoor spaces, similar relationships to the street or highways, similar window and door patterns, and/or the use of building materials that have color shades and textures similar to those in the immediate area.

c. Where there is no established or consistent neighborhood character or unifying theme or where it is not desirable to continue the existing character because it does not reflect a design theme consistent with the architectural standards as described in this Chapter, the proposed development shall be designed to establish an attractive image and set a standard of quality for future developments and buildings within the area. Greater attention to design with respect to design compatibility standards in this paragraph shall be required in areas of high visibility due to topography or location at community entryways or along arterial and major collector roadways.

d. Multi-building developments. The building shall include predominant characteristics in each building so buildings within the development appear to be part of a cohesive, planned area, yet not monotonous in design.

3. Building Placement

a. To the extent possible, buildings and developments shall be sited to minimize grading and disruption of topography and natural features.

b. Consideration shall be given to the placement of buildings, parking lots, and other site improvements such that the natural features of the site minimize the negative visual impact of the development from East and West Park Highway.

4. Building Design Elements

a. All buildings shall be designed and maintained using the following building elements, with a minimum of one selected from each of the four groups below.

1. Group One - Exterior Wall Articulation

a. Openings or elements simulating openings must occupy at least twenty percent (20%) of wall surface area (Figure A)

b.

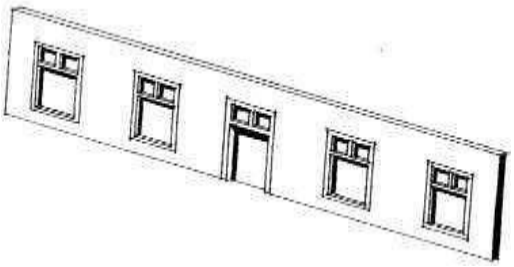

Figure A

- Building bays created by columns, ribs, pilasters, piers, or an equivalent element that divides a wall into smaller proportions or segments with at least one (1) foot in width and a minimum depth of eight (8) inches, spaced at intervals of no more than twenty-five (25) percent of exterior wall. For buildings over twenty thousand (20,000) square feet, the minimum dimensions of the above listed elements shall be eighteen (18) inches in width and twelve (12) inches in depth spaced twenty (20) percent of exterior building walls (Figure B); or

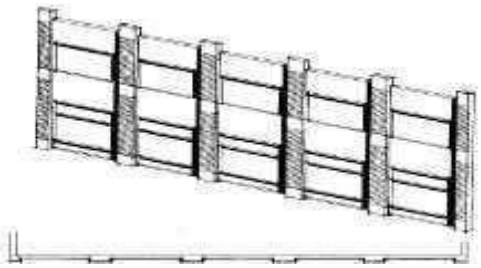

Figure B

- Facades and any wall of the building greater than one hundred (100) feet in length facing any road, public or private service drives, residential, or recreation area shall incorporate wall plane projection or recesses having a depth of at least four (4) percent of the length of the façade, extending at least twenty (20) percent of the length of the façade (Figure C)

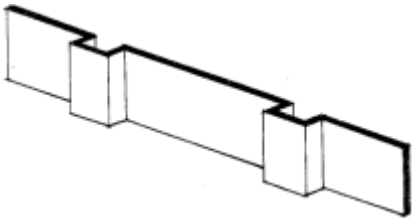

Figure C

- A recognizable base treatment of the wall consisting of thicker walls, ledges, sills, or using integrally textured and colored materials such as stone, masonry, or a decorative concrete.

2. Group Two – Roof Articulation
   a. Figure Changes in roof lines, including the use of stepped cornice parapets, a combination of flat and sloped roof with at least two (2) roof line elevations (Figure D or E) or

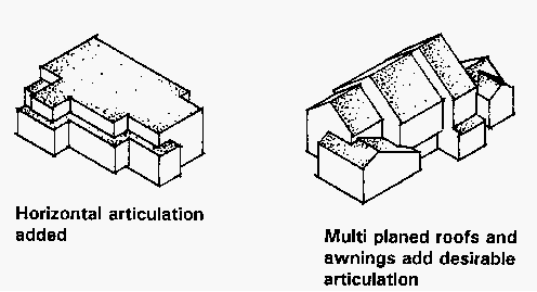

Figure D or E

   b. Some other architectural feature or treatment which breaks up the exterior horizontal and vertical mass of the roof in a manner equivalent to above.

3. Group Three - Building Openings, Walkways and Entrances
   - Building entrances shall be clearly defined. Entrances shall be recessed, projected, or framed by elements such as cornice parapets, awnings, canopies, or awnings over at least thirty (30) percent of the openings of the building, canopies, arcades, porticos, or other architectural features (Figure F);or

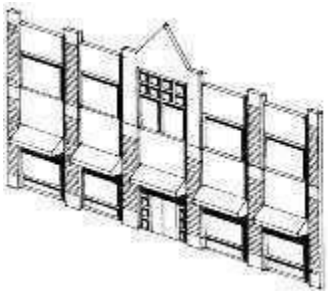

Figure F

   - Canopies or awnings shall be used over a minimum of thirty (30) percent of the openings of the building.
   - Covered walkways, porticos and/or arcades covering thirty (30) percent of the horizontal length of the front façade (Figure G)

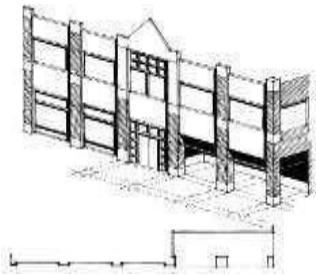

Figure G

4. Group Four - Other Architectural Definition
   - Over hanging eaves extending at least twenty-four (24) inches past supporting walls, flat roofs, cornice parapets, or capstone finishes (Figure H & I)

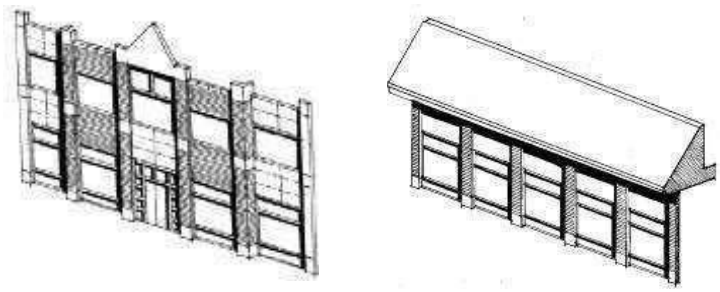

Figure H & I

   - Ornamental lighting fixtures (excluding neon) for all exterior building lighting; or
   - A feature that adds architectural definition to the building, in a manner equivalent to the above.

F. Design Requirements

1. Roof top units screened from view. Screening materials shall be the same or compatible to material used on the building.
2. No delivery, loading dock or trash removal shall be located on the main street or the highway facing façade of the building. Any such door or facility located on the side or rear wall of the building shall be screened. For sites that have road frontage on multiple sides, these facilities shall be located in the least obtrusive manner, preferably on non-road facing side of the building, or the road frontage that has least public visibility.
3. Materials and Finishes
   a. Building colors shall blend into and unify elements of the development.
   b. Accent colors shall cover no more than five (5) percent of the building.
   c. Metal siding may be used as exterior finish as long as the amount used does not exceed twenty-five (25) percent of an area wall and compliments the building color and material scheme. Only “standing seam” type is allowed and not “corrugated”. Architectural metals, such as bronze, brass, copper and wrought iron may be used and may exceed the twenty-five (25) percent area limit. Metal siding may be used if the Planning Board determines the exterior wall is not visible from a public right-of-way, private drive, residential development, or recreation area.
   d. Illumination highlighting the entire façade of a building or a significant portion of the building or back lighted translucent awnings intended to function as signage shall not be permitted as part of the building design. This standard does not preclude the use of lighting to accent portions of the building façade.

G. Multi-Building Developments

1. Developments with multiple buildings shall include predominant characteristics in each building so that the buildings within the development appear to be part of a cohesive, planned area, yet are not monotonous in design. Predominant characteristics may include use of the same or similar architectural style, materials, and colors.

H. Franchise Architecture

1. Prototypical or franchise architectural standards shall be required to be modified to meet these architectural standards. Changes to prototypical franchise styles to meet these standards may include, but not be limited to modifications to roofs, windows, doors, building mass, materials, colors, placement of architectural features and details. Care should be taken to ensure that such modifications comply with Design Compatibility standards. Franchise architectural styles found to meet these standards will not require any modification.

I. Landscaping and Buffers

1. Purpose and Intent: The intent of this section is to establish standards to:
   a. Protect and enhance the appearance of the Design Guidelines Overlay District with the installation of appropriate landscaping and buffering materials;
   b. Encourage the preservation of native plant communities and ecosystems;
   c. Maintain and increase the value of land by providing for restoration of disturbed areas and by incorporating adequate landscaping into development;
   d. Restrict the spread of invasive plant species that disturb and destroy native ecosystems;
   e. Encourage skilled installation and continued maintenance of all plant materials;
   f. Establish procedures and standards to enforce this section.

J. Applicability

1. These landscape and buffer standards shall apply to all retail, commercial, and residential development in the Overlay District. No development plan under this overlay district shall receive final approval unless a landscaping and buffering plan meeting the requirements of this section has been submitted and approved.
2. Landscaping plans may include provisions for a phased development plan. The following minimum standards shall apply to all landscaped areas developed under the requirements of this Section. Alternatives to the specifications concerning minimum plant sizes and quantities set forth in this section may be authorized by the Planning Board, provided that the applicant submits a detailed landscaping plan and the Planning Board determines the proposed landscaping satisfies the purpose and intent of this section.

K. Aesthetic Enhancement Requirements

1. Landscaping shall be utilized in the design to enhance the aesthetic quality of the property by adding color, texture, and visual interest, while obscuring views of parking and unsightly areas and uses. In locations where new development alters visually attractive and distinctive natural landscapes, the selection and arrangement of new plantings shall be designed to complement and enhance the natural landscape character of the site.

L. Plant Materials

1. Use of native or adaptive plant material is encouraged to complement the existing natural landscape, further water conservation, and assure adequate growth and survival of new plantings. All landscape plans should be comprised of native or adapted plants that reflect the surrounding plant materials and environment.
2. Healthy, existing trees, native grasses, and shrubs shall be incorporated into the landscape to the maximum extent feasible. Similarly, existing and retained trees shall be listed on the plant list with their current size shown.
3. Existing trees and shrubs shall be credited against landscaping requirements, provided that they meet applicable standards such as size and location requirements.

4. Preservation of Existing Trees: If located within twenty-five (25) feet of a property line at the street, no existing tree of four (4) inches caliper or greater or dense stand of trees or shrubs of four (4) or more feet in both depth and height shall be removed, unless dictated by plant health, access, or safety.
5. Root Zones: Design of the landscape shall take retained, existing trees into consideration with an adequate area provided around each tree that is free of impervious material to allow for infiltration of water and air. The pervious area shall be equal to one and one-half (1.5) times the drip line of the tree. The root zones of existing trees and shrubs to be preserved shall be protected from unnecessary disturbance due to fill or grade changes. The location of underground utility lines shall be carefully planned to avoid unnecessary disturbance of root zones that would threaten the survival of existing trees and shrubs to be preserved.
6. Species Mix: Species variation is required for all landscape plans because species uniformity can result in disease susceptibility and eventual demise of a large portion of a landscape. Landscape plans shall exhibit species variation which shall increase based on the number of trees proposed in the landscaping plan.

M. Plant Sizes: At the time of installation, plants shall be no smaller than the following:

1. Deciduous Trees
   a. Fifty (50) percent of the deciduous trees on site shall be three (3) inch calipers.
   b. Fifty (50) percent of the deciduous trees on site shall be two (2) inch calipers.
2. Evergreen trees
   a. Fifty (50) percent of evergreen trees on site shall be eight (8) feet tall.
   b. Fifty (50) percent of evergreen trees on site shall be six (6) feet tall.
3. All shrubs shall be five (5) gallon, or largest size appropriate for species.
4. Ornamental/native grasses and perennials shall be one (1) gallon.
5. It may be necessary for plant sizes to exceed these minimums in order to meet special buffering or screening needs. Individual species growth rates and patterns shall be considered when choosing installation size of plants.

N. Plant Quality: All plant material shall meet the American Association of Nurserymen specifications for number one (1) grade.

O. Location and Arrangement of Required Landscaping

1. The selection and arrangement of new plantings shall be planned to create visual appeal, to provide screening, to define site circulation and to enhance the use of the site.
2. All required landscaping elements shall be located on the property they serve.
3. Trees shall be planted to allow for normal growth in height and shape without the need for excessive pruning.
4. Trees shall be planted no closer than seven (7) feet from any structure and shall be installed with at least fifty-five (55) square feet of nonpaved area around the trunk.
5. No trees shall be planted within five (5) feet on either side of water or sewer main lines. All plantings shall be set back from overhead power lines or be of a type whose structure will not grow high enough to interfere with power lines.
6. Trees with a mature height of more than twenty-five (25) feet shall not be planted under utility lines.
7. Plants that will exceed six (6) inches in height shall not be planted within three (3) feet of a

fire hydrant.

8. No trees shall be located within twenty-five (25) feet of street intersections or ten (10) feet from fire hydrants and utility lines.

P. Restoration and Revegetation of Disturbed Areas: All portions of the site where existing vegetative cover is damaged or removed, that are not otherwise covered with new improvements, shall be successfully revegetated with a substantial mixed stand of native or adapted grasses and ground covers. The density of the reestablished grass vegetative after one (1) growing season shall be adequate to prevent soil erosion and invasion of weeds.

Q. Irrigation: All newly installed landscapes shall be properly irrigated. This may be done by a properly functioning automated sprinkler system or by individual drip lines. Other forms of irrigation or use of native landscapes requiring minimal irrigation may be approved on a case-by-case basis.

R. Buffering and Screening: Buffering is intended to help mitigate the physical, visual, and environmental impacts created by development on adjacent properties. Buffering and screening create a visual buffer between incompatible or differing land uses. Buffering is required in the following circumstances:

1. A landscaped buffer shall be planted on the boundary between commercial and residential areas, unless the Zoning Administrator determines the abutting property is unbuildable or visually separated by topographic features.
2. A minimum buffer consisting of eight (8) evergreen trees and eleven (11) shrubs per one hundred (100) linear feet of property lines between a commercial and residential property.

S. Street Frontage Buffers, or landscaped areas located adjacent to streets, is intended to create tree lined streets, provide shade, improve air quality, and enhance property values through improved views for the traveling public.

1. Arterial street frontage - one (1) tree shall be planted for each twenty-five (25) lineal feet of street frontage and one (1) shrub for each ten (10) linear feet of street frontage, positioned to adequately buffer developed frontage as viewed from adjacent street or right- of-way as determined by the Planning Board.
2. Nonarterial street frontage - one (1) tree shall be planted for each forty (40) lineal feet of street frontage and one (1) shrub for each fifteen (15) lineal feet of street frontage, positioned to adequately buffer developed frontage as viewed from adjacent street right-of-way.
3. No development is permitted in street frontage buffer area. Within the street frontage buffer, there shall be no development, parking or drives except for access to the portion of the site not in the buffer, which is approximately perpendicular to the right-of-way underground utility installation, pedestrian and bicycle paths, allowable sign, and necessary lighting.
4. Service area screening for multi-family and nonresidential service areas, such as dumpsters, other trash receptacles, and ground mounted mechanical equipment, shall be screened from public view on three (3) sides by a solid wall or fence at least six (6) feet in height and on the fourth side by a solid gate at least five (5) feet high. The screening structure and gate shall be architecturally compatible with the principal building(s) on the site.
5. Berms may be utilized as part of street frontage landscaping but shall vary in height over the length of the berm.
6. Responsibility for buffering shall be with the new development. Existing land uses may be required to provide buffering if the use changes, expands, enlarges or in any other way

increases. The impacts on adjacent properties or rights-of-way over what is present at the time this regulation is adopted. It shall be the responsibility of the expanded or changed land use to evidence what the uses and impacts were at the time of adoption of this regulation.

T. Parking Lot Landscaping: Parking lot landscaping is intended to improve the views from adjacent properties and public use areas, alter the microclimate of parking areas by providing shade and reducing reflected heat, and break up large areas of impermeable surface, allowing areas for water infiltration. All parking lots containing six (6) or more spaces shall provide perimeter landscaping pursuant to the requirements below, except where the Zoning Administrator determines abutting property to be unbuildable or visually separated by topographic features.

1. All parking areas shall be separated from property lines at the street by a planting area at least twenty-five (25) feet wide on arterial streets and by planting area at least fifteen (15) feet wide on other street property lines.
2. All parking areas shall be separated from side and rear property lines by a planting area at least eight (8) feet wide.
3. Perimeter landscaping shall provide a semi-opaque screen during winter season. Berms may be utilized as part of the perimeter landscaping but shall vary in height over the length of the berm.
4. Where walls or fences are used, a minimum of one (1) evergreen tree or three (3) shrubs is required for every forty (40) lineal feet of wall or fence and shall be planted on the side of the fence facing the surrounding streets, walks, parks, trails or other public use properties.
5. Perimeter Planting Requirements
   a. A minimum of one (1) tree per twenty (20) lineal feet and one (1) shrub per five (5) lineal feet shall be planted along the perimeter of any parking lot area located adjacent to an arterial street. Ornamental native grasses/perennials of similar ground area and maturity height may use in place of the required shrubs.
   b. A minimum of one (1) tree per thirty (30) lineal feet and one (1) shrub per ten (10) lineal feet shall be planted along the perimeter of any parking lot area located adjacent to nonarterial streets. Ornamental native grasses/perennials of similar ground area and maturity height may use in place of the required shrubs.
   c. For parking lot areas that are adjacent to a side or rear lot line, one (1) tree per thirty (30) lineal feet and one (1) shrub per five (5) lineal feet shall be planted along the perimeter of any parking area located along a lot line.
   d. Ornamental native grasses/perennials of similar ground area and maturity height may use in place of the required shrubs.
   e. Plants should be grouped, not evenly spaced.
6. Parking Lot Interiors: All parking lots with thirty (30) or more parking places shall comply with these interior parking lot landscaping requirements. Interior parking lot landscaping requirements shall be in addition to all other landscaping requirements; no other landscaping requirements may be used to fulfill interior parking lot landscaping requirements.
   a. A minimum of six (6) percent of the total interior parking lot area shall be landscaped with planted islands. A minimum of one (1) tree and two (2) shrubs must be planted in interior islands for every two thousand five hundred (2500) square feet of parking lot, exclusive of perimeter plantings. Ornamental native grasses/perennials of similar ground area and maturity height may use in place of the required shrubs.

b. Individual landscaped islands shall include a minimum of one (1) tree, an automated sprinkler, and raised concrete curbs.

1. Landscaped islands shall be at least one hundred (100) square feet in size, with the smallest dimension being six (6) feet to allow for adequate root aeration and expansion.
2. Islands shall be arranged to maximize shading of parking spaces.
3. Planting shall be arranged so as not to interfere with driver vision, vehicle circulation, or pedestrian circulation.
4. To the maximum extent feasible, landscape islands shall be incorporated in the stormwater management plan and located to break up large areas of impermeable surface, allowing areas for water infiltration.

U. Fences and Walls are permitted as elements of a landscape plan and in some locations may be used to conceal storage of other unsightly or conflicting land uses. All fences or walls shall meet the following requirements:

1. Fences or walls shall be constructed of wood, stone, brick, decorative concrete block, wrought iron (or products created to resemble these materials) as approved by the Planning Board.
2. All fencing shall be finished on both sides, except fencing accessory to a residential use or development, which shall be finished on all sides that are visible from off site.
3. Plywood, particle board, sheet metal, concrete slabs, concrete barriers, or similar materials shall not be used for fencing or walls intended to provide screening or buffering.
4. Chain-link fencing shall not be used for screening or buffering purposes.
5. Chain-link fencing may be allowed for security purposes as approved by the Planning Board. No slats shall be allowed with chain-link fencing.
6. Barbed wire and similar fence material may only be used in conjunction with the permitted keeping of horses or livestock.
7. Where opaque or solid fencing will abut a public road, it shall be screened from the road. Breaks in the screening shall be created and changes in fence setbacks, heights or materials shall be utilized to provide visual diversity, where more than two (2) consecutive rear lot lines will abut a public right- of-way, it shall be the developer's responsibility to install the wall or fence that will delineate the property line in order to assure diversity of setback, screening and streetscape views.
8. Where opaque or solid fencing continues for more than forty (40) feet along a buffer zone, the buffer requirements shall be located between the fence and the area to be buffered.
9. Where opaque or solid fencing continues for more than forty (40) feet of street frontage, a minimum of one (1) evergreen tree and three (3) shrubs shall be planted on the outer or public side of the fence for each forty (40) linear feet of fence.

V. Technical Landscaping Requirements

1. To protect landscaping from vehicular damage, wheel stops, curbs, or other elements intended to keep vehicles out of landscaped areas shall be setback from existing plant materials an adequate distance.
2. To protect landscaping from wildlife damage, transparent fences (including very low-voltage electrified fencing), walls or other architectural elements shall be included around landscaped areas in all landscape and buffering plans. Materials shall be compatible with materials used for structures on the site. No chain-link fencing shall be allowed to protect landscaping from wildlife damage.

W. Maintenance Requirements

1. Required landscaping shall be maintained in a healthy, growing condition at all times. The property owner is responsible for regular irrigating, pruning, weeding, mowing, fertilizing, replacement of plants in poor condition and other maintenance of all plantings as needed.
2. Where walls, fences or other structures are an integral part of the landscape plan, such structures shall be maintained in good repair. Fences that are leaning, broken, have missing pieces, peeling paint or are in any other way damaged shall be immediately repaired or replaced. Walls with missing bricks or blocks, crumbling motor or other aesthetic or structural defects shall be immediately repaired.
3. The following plant materials require plant removal and replacement during the same growing season in which plant material exhibits one of the following conditions:
   a. Deciduous trees and shrubs that fail to produce leaves on more than fifty (50) percent of the plant by July 1st of the calendar year.
   b. Evergreen trees and shrubs with needle loss or browning over more than fifty (50) percent of the tree or shrub.
   c. Damaged plant materials that have split trunks, loss of major branch structure, loss of leader shoot or other damage that a certified nurseryman confirms will ultimately cause the premature death of the plant.
   d. Diseased, insect-infested, or parasite-infected plants that cannot be adequately treated to prevent premature death or to prevent contamination of other plant materials.

X. **Exterior Lighting**

1. Purpose and Intent: The use of exterior lighting may be necessary for nighttime safety, but exterior lighting can also interfere with the use and enjoyment of nearby properties, especially in a rural or outdoor recreation environment. To preserve safety and prevent interference with adjacent properties, exterior lighting shall be evaluated to ensure that the functional and security needs of the project are met in a way that does not unnecessarily adversely impact adjacent properties. The degree of adverse impact or interference will be evaluated by considering the light source, level of illumination, hours of illumination, and safety or functional need for illumination. It is the intent of this ordinance to encourage exterior lighting practices that preserve safety and functionality and minimize adverse impacts on adjacent properties and the nighttime sky.
2. Applicability: All new developments shall comply with the standards set forth in this section.
3. Design Standards: Exterior lighting is not required except for purposes of public safety. However, if installed, all exterior lighting shall meet the following design standards:
   a. Light sources for safety and functionality should uses fully shielded fixtures that are shielded in such a manner that light rays emitted by the fixture are projected below the horizontal from the lowest point of the bulb within the fixture. Shielded luminaires minimize the potential for glare and unnecessary diffusion of light on adjacent property. In no case shall exterior lighting add more than one (1) foot- candle to illumination levels at any point off site.
   b. All outdoor light not necessary for security purposes shall be reduced, activated by motion sensors, or turned off during nonoperating hours.
   c. Light fixtures used to illuminate flags, statues or any other objects mounted on a pole, pedestal or platform shall use a narrow cone beam or light that will not extend beyond the object to be illuminated.
   d. For upward-directed architectural, landscape and decorative lighting, direct light

emissions shall not be visible above the building roof line.

4. Height Standards: All exterior lighting luminaires shall be mounted no higher than fifteen (15) feet, except that lighting in parking lots containing more than one hundred (100) spaces shall have a maximum height of twenty-five (25) feet.

Y. **Street Lighting**: Lighting for public or private streets shall be fully shielded.

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ARTICLE 7: CONDITIONAL USE PERMITS

Section 7.01 General Provisions

The County Board may, by conditional permit after a public hearing and referral to and recommendation from the Planning Commission, authorize and permit conditional uses as designated in the district use regulations. Approval shall be based on findings that the location and characteristics of the use will not be detrimental to the health, safety, morals, and the general welfare of the county. All Conditional Use Permits may have an expiration date which shall be set by the County Board with the following exception: Communications Towers and Large Wind Energy Conversion Systems which have an expiration date of 15 years before review. After the expiration of a Conditional Use Permit, within that year of expiration, there shall be a review by the Planning Commission and County Board of Commissioners. The required fee is stated on the fee schedule. Allowable uses may be permitted, enlarged, or altered upon application for a Conditional Use Permit in accordance with the rules and procedures of this regulation. The County Board may grant or deny a conditional use permit in accordance with the intent and purpose of this regulation. In granting a conditional use permit, the County Board will authorize the issuance of a conditional use permit and shall prescribe and impose appropriate conditions, safeguards and may establish a specified time limit for the performance of the conditional use permit.

Section 7.02 Application for Conditional Use Permits

A request for a conditional use permit or modification of a conditional use permit may be initiated by a property owner or his authorized agent by filing an application with the County upon forms prescribed for the purpose. The application shall be accompanied by a drawing or site plan and other such plans and data showing the dimensions, arrangements, description data and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in relation to the provisions set forth herein. A plan as to the operation and maintenance of the proposed use shall also be submitted. The application shall be accompanied with a non-refundable fee.

Section 7.03 Public Hearing

Before issuance of any conditional use permit, the County Board will consider the application for the Conditional Use Permit together with the recommendations of the Planning Commission at a public hearing after prior notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in Cass County and mailed notices to all property owners within 1 mile of the project site one time at least 10 days prior to such hearing. CSCS notifications will include all registered airports within 10 miles.

Section 7 .04 Decisions

The concurring majority vote of the County Board shall be necessary to grant a conditional use permit.

Section 7.05 Standards

No conditional use permit shall be granted unless the Planning Commission or County Board has considered, among other things, such purposes as:

A. Developing both urban and non-urban areas;
B. Reducing the waste of excessive amounts of roads;
C. Securing safety from fire and other dangers;
D. Lessening or avoiding the accumulation of runoff of storm or flood waters;
E. Providing adequate light and air;
F. Preventing excessive concentration of population and excessive wasteful scattering of population or settlement;
G. Promoting such distribution of population, such classification of land uses, and such distribution of land development as will assure adequate provision for transportation, water flowage, water supply, drainage, sanitation, recreation, soil fertility, food supply and other public requirements;
H. Protecting the tax base;
I. Protecting property against blight and depreciation;
J. Securing economy in government expenditures;
K. Fostering the state's agricultural, recreation and other industries;
L. Encouraging the most appropriate use of land in the county; and
M. Preserving, protecting, and enhancing historic buildings, places, and districts.

Section 7.06 Consideration Examples

In considering the issues set out in Section 7.05 of this code, the County Board may consider the following issues which are listed as examples and not as an extensive list:

A. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the County.
B. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, not substantially diminish, and impair property values within the area of the County.
C. That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses.
D. That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.
E. The use shall not include noise which are objectionable due to volume, frequency or beat unless muffled or otherwise controlled.
F. The use shall not include vibration which is discernible without instruments on adjoining lot or property.
G. The use shall not involve any pollution of the air by fly-ash, dust vapors or other substance which is harmful to health, animals, vegetation, or other property or which can cause soiling, discomfort, or irritation.
H. The use shall not involve any malodorous gas or matter which is discernible on and adjoining lot or property.
I. The use shall not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road, or highway. In addition, the conditional use is not injurious to the visual appearance of the adjoining property.

J. The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.

K. The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

L. The use shall not include any activity involving the use or storage of flammable or explosive material unless protected by adequate firefighting suppression equipment and by such safety devices as are normally used in the handling of any such material.

M. The intended use will not adversely affect the health, safety, and welfare of the people in the County.

N. The intended use will demonstrate a reasonable necessity for the convenience of the County residents.

O. That the applicant of the Conditional Use Permit in the event such intended use may overburden county services for the maintenance of access road for the use the County Board may require the applicant to assume to costs for the necessary improvements and maintenance of the access roads by an agreement with the County.

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ARTICLE 8: SUPPLEMENTAL REGULATIONS

Section 8.01 Off-Street Automobile Storage

A. 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 square feet per parking space shall be used.

B. If vehicular storage space or standing space required cannot be reasonably provided on the same lot on which the principal use is conducted in the opinion of the County Board, the County Board may permit such space to be provided on other off-street property, provided such space lies within four hundred feet of an entrance to such principal use. Such vehicular standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.

C. All parking spaces shall be paved with asphalt, concrete or suitable substitution as determined by the County Board.

D. 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.

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

Section 8.02 Required Parking

SCHEDULE OF MINIMUM OFF-STREET PARKING AND LOADING REQUIREMENTS

Structures and Uses	Parking Requirements	Loading Requirements
Residential Units (including apartment buildings)	2 spaces per dwelling unit	
Bowling Alley	4 spaces per alley	1 space per
Church, Synagogue, Temple, and Mosque	1 space per 4 seats in unit of worship	None required
Eating and Drinking Establishments	Parking spaces equal to 30% of capacity in persons	2 spaces per
Education Uses, Nursery	Parking spaces equal to 20% capacity in students	2 spaces per structure
Education Uses, All Other	Parking spaces equal to 40% capacity in students	2 spaces per structure
Funeral Homes and Chapels	8 spaces per reposing room	2 spaces per
Hospitals	1 space per 2 beds	3 spaces per structure
Hotels and Motels	1 space per rental unit	1 space per
Industrial Uses	.75 times the maximum number of employees on the premises at any one time	2 spaces per

Structures and Uses	Parking Requirements	Loading Requirements
Libraries	1 space per 500 square feet of floor area	
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	None required
Offices	1 space per 200 square feet of gross 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 square feet of floor area	1 space per establishment
Retail Sales Establishments	1 space per 200 square feet 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 and Offices	1 space per 200 square feet of gross 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

Section 8.03 Signs: Standard of Measurement

The total area of all signs permitted on a lot shall include:

A. The total area of the faces of all permanent exterior signs visible from a public way, plus

B. The area of permanent signs placed upon the surface of windows and doors, plus

C. The area within the outline enclosing the lettering, modeling, or insignia of signs integral with the wall and not designed as a panel.

D. A building or use having frontage on a second street may include 20% of the length of the lot facing the second street.

Section 8.04 Signs: Type

A. Real Estate: Not more than 2 signs per lot may be used as a temporary sign no larger than 6 square feet (except, "A" or "TA" may be up to 32 square feet and setback a minimum five feet from the R.O.W.) and set back 20 feet from the road right-of-way or road easement boundary. In no case shall these signs obstruct the visibility at any intersection or driveway.

B. Business: Small announcement or professional signs, not over 6 square feet in area, except that an announcement sign or bulletin board not over 18 square feet in area, set back at least 20 feet

from any highway, street, road or roadway easement may be erected in connection with any of the permitted principal uses of a nonresidential nature.

C. **Wall**: A sign or sign flat against a building wall when appertaining to a nonconforming use on the premises, not exceeding in the aggregate 50 square feet in area except as may be authorized by the Board of Adjustment.

D. **Name Plate**: One nameplate not exceeding 2 square feet for each dwelling.

E. **Billboard**: Billboards, signboards, and other similar advertising signs subject to the same height and location requirements as other structures in the district and also subject to the following conditions and restrictions.

F. No billboard, signboard or similar advertising signs shall be located at intersections so as to obstruct vision, hearing or interfere with pedestrian or vehicular safety.

G. No billboard, signboard or similar advertising signs shall be located within 100 feet of any lot in a residential district.

H. No billboard, signboard or similar advertising signs shall exceed 500 square feet in area.

I. No billboard, signboard or similar advertising signs shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property.

J. **Low Profile or Ground**: Ground signs at least 5 feet from any lot line with a maximum height of 6 feet.

K. **Projecting or Pole**: One free standing or projecting sign for each enterprise on the premises of not more than 100 square feet per sign face, at no point closer to the front line or a sideline than one-half of the required building setback distance and not exceed the maximum height from the established grade level for said Zoning District. The lowest horizontal projecting feature of any post or pole-mounted sign shall be eight feet above the established grade.

L. **Subdivision**: Not more than one sign per entrance into the subdivision. No sign shall be greater than 32 square feet in size.

M. Signs hung from canopies and awnings shall be no closer than 80 inches from the bottom edge of the sign to grade below.

Section 8,05 Sign Schedule

Signs shall be permitted in the various districts according to the following schedule. If a sign is greater than 25 feet in height or light, it is subject to a Conditional Use Permit:
Sign Schedule

Zoning District Sign Type		AG	TA	R	C	I	IND/AG	COM/AG	REC/AG[2]	CON	AA
Real Estate	-	+	+	+	+	+	+	+	+	+	+
Business	-	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**
Wall	-	-	-	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**
Name Plate	-	+	+	+	+	+	+	+	+	+	+
Billboard	-	-	-	**P**	**P**	**P**[1]	**P**	**P**	-	**P**	**P**

Subdivision	-	P	P	P	P	P	P	P	P	P	P
Projecting or Pole	-	-	-	P	P	P[1]	P	P	-	P	P
Ground or Low Profile	-	P	P	P	P	P	P	P	P	P	P

+: Permitted
-: Not Permitted
C: Conditional Use

1. Establishments in the Rec/Ag District shall be allowed no more than one low lighting sign visible from a public road which shall be located on the property being advertised. This sign shall be of a design to blend into the natural surroundings.

Section 8.06 Sign Permits

All signs, except Real Estate signs advertising the sale of property where the sign is located and up to one sign advertising business being conducted on the property where the sign is located, shall require a building permit from the Zoning Administrator's Office prior to installing any new sing. Election signs shall be exempt so long as they do not interfere with the safety and wellbeing of the public.

Section 8.07 Recreational Vehicle (RV) Park/Campground

A. Applicability: Recreational Vehicle (RV) Park/Campgrounds require a conditional use permit in the Recreational/Agriculture district. In addition to the provisions outlined in Article 7, Conditional Use Permits of the Cass County Zoning Code, applications for recreational vehicle and commercial campgrounds shall be subject to the provisions outlined in this section.

B. Density Requirements:

1. The maximum density within the RV Park shall be twelve (12) RV sites per acre.
2. The maximum density within the campground shall be eight (8) camp sites per acre.

C. Site Requirements:

1. RV Parks shall have a minimum area of ten (10) acres and sites for no less than fifteen (15) recreational vehicles. Each site shall be a minimum of one thousand three hundred fifty (1,350) square feet in area, excluding roadways. A graveled vehicle parking pad of at least twelve (12) feet by thirty (30) feet shall be provided for each site.
2. Campgrounds shall have a minimum area of ten (10) acres and no less than fifteen (15) campsites.
3. Group sites may be established within a campground, provided they have a minimum area of fifteen thousand (15,000) square feet (excluding roadways); and provided, they shall designate a minimum of four hundred (400) square feet of parking area for vehicles other than recreational vehicles for every two (2) sites within the group site.
4. Separate camping areas shall be maintained for independent units, dependent units, and tents.
5. Each RV site within an RV park or campground shall be equipped with an electrical hookup for each recreational vehicle.

6. All land areas shall have an acceptable form of groundcover to prevent erosion and blowing dust.
7. One (1) tree of a species suitable for the area and climate shall be provided for each two (2) RV sites or camping spaces and shall be located in close proximity to those sites/spaces. Existing trees can be used to satisfy this requirement.
8. The main drive entrance shall be within ½ mile of a paved roadway.

D. Comfort Stations: Comfort stations with restrooms and other facilities shall be provided in accordance with Nebraska Department of Health Standards and the following requirements:

1. Comfort stations shall occupy no more than ten (10) percent of the gross park or campground area and shall be maintained primarily for users of the campground. The general public shall not be invited by advertisement or otherwise to use such service buildings.

Comfort stations in RV Parks and campgrounds shall have the following minimum facilities:

# Sites	Toilets		Urinals	Lavatories		Showers	
	Male	Female		Male	Female	Male	Female
15	1	2	1	1	1	1	1
16-30	1	2	1	1	1	1	1
31-45	2	3	1	3	3	1	1
46-60	3	5	2	3	3	2	2
61-80	3	5	2	4	4	2	2
81-100	3	5	2	4	4	3	3

2. For every thirty (30) additional sites in excess of one hundred (100) sites, one (1) additional male toilet, female toilet, male lavatory, and female lavatory shall be provided.
3. For every forty (40) additional sites in excess of one hundred (100) sites, one (1) additional male shower and female shower shall be provided.
4. For every one hundred (100) additional sites in excess of one hundred (100) sites one (1) additional urinal and one (1) additional female toilet shall be provided
5. Every site within an RV park or campground shall be located within a radius of at least four hundred fifty (450) feet from a comfort station; provided, however, that in no event shall a comfort station be located closer than seventy-five (75) feet to any site.
6. Comfort Station requirement may be waived if all individual sites provide sanitary sewer hook-ups.

E. Water stations:

1. Each RV Park and nonprimitive campground shall contain at least one (1) water station for every one hundred (100) sites or fraction thereof.
2. Every water station shall be equipped with two (2) or more hydrants, a water fountain, a sump, a vacuum breaker to prevent siphonage, a shut-off valve for controlling the rate of water flow, and a flexible hose to reach the inlet of recreational vehicle water storage tanks.

F. Sanitary Stations:

1. Each RV Park and nonprimitive campground shall contain a minimum of one (1) sanitary station for every one hundred (100) sites or fraction thereof.
2. Sanitary stations shall comply with the following standards:
   a. The drainage basin of the sanitary station shall be constructed of an impervious material.
   b. Sewage facilities shall be connected to either a public sewer collection and treatment system or, if a private system, it must meet the Nebraska Department of Environment and Energy Rules and Regulations and must have the proper permits issued.
   c. The sanitary station shall be connected to the park or campground water supply and shall provide facilities for washing recreational vehicle waste, holding tanks and for cleaning the general area of the sanitary station.

G. Recreation Areas:

1. Each campground in an RV park shall provide and maintain an outdoor recreational area consisting of one hundred (100) square feet per site of campground space. Outdoor recreation areas include adult recreation, child play areas, and comfort stations, but shall not include areas devoted for parking.

H. Setback and Separation Requirements: Sites within an RV park or campground shall comply with the following minimum setback and separation requirements:

1. From the perimeter property line - seventy-five (75) feet
2. From existing single-family residences or other housing use, unless such use is an accessory to the principal park/campground use - two hundred fifty (250) feet.
3. From exterior and/or public roadways - fifty (50) feet as measured from boundary right- of-way
4. Between sites - ten (10) feet
5. Between sites and other structures - fifteen (15) feet

I. Screening Requirements:

1. The perimeter of the RV Park/Campground shall be screened from surrounding uses and public right-of-way with a fence or wall a minimum of six (6) feet in height and in accordance with fence and wall standards in Section 506.6.
2. All trash collection areas shall be screened and protective fencing shall be provided around hazardous areas.

J. Road and Parking Requirements:

1. Road systems shall be required to form a loop system only and shall be constructed in the same manner and to the same standards as an access road. If such road system is for one-way traffic only directional signs shall be installed.
2. All interior roads of RV/campgrounds shall meet the requirements of the State of Nebraska Board of Public Roads Classification and Standards and Cass County Regulations.

3. Each camp site within a campground shall provide a parking space of at least two hundred (200) square feet for one (1) vehicle, other than a recreational vehicle, and such parking space shall be constructed that no portion of such vehicle shall extend onto any roadway within the campground.

K. Operational Requirements:

1. Campgrounds and RV parks shall not be used as permanent residences except for the owner or manager and permanent maintenance personnel.
2. All recreational vehicles in an RV park or campground shall be parked in an approved RV site.
3. Each campground site shall be equipped with a numbered and color-coded sign indicator at least four (4) inches square in an area and attached to a post or tree on or near the campsite indicating the type of recreational vehicle, if any, which may be parked on the campsite.
4. If provided, electric and gas service shall meet all state and local electric and gas regulations. All utilities shall be underground.
5. Towed vehicles within the campground or RV park shall not exceed one hundred two (102) inches in width.
6. Each campground or RV park shall provide at least one (1) full time attendant.
7. A permanent record of vehicle registrations of campground or park users shall be maintained.
8. Walkways within the campground or RV park area shall be at least four (4) feet wide with an all-weather surface.
9. Streets, walkways, buildings, comfort stations and other areas or facilities subject to nighttime use shall be lighted for safe nighttime use, subject to lighting standards in Section 506.8.

Section 8.08 Mobile Home Parks

A mobile home park may be established as a Conditional Use Permit in a Residential District provided that the proposed mobile home park meets all the following requirements:

A. Certification of compliance with all ordinances and regulations regarding mobile home park licensing, zoning, health, plumbing, electrical, building, fire prevention and all other applicable ordinances and regulations.

B. Individual mobile home lots shall have an area of not less than three thousand square feet for single wide mobile homes and forty-five hundred square feet for double wide mobile homes, and the total number of lots per gross acre shall not exceed seven.

C. A minimum of twenty-five feet measured from any entrance, lean-to or other extension from said mobile home shall be maintained between mobile homes.

D. A mobile home park shall have an area of not less than two acres, nor more than five acres and no mobile home or office or service building shall be closer to a street right-of-way or other property line than twenty feet.

E. All mobile homes shall meet all applicable standards specified by Federal and State

Regulations

F. Individually owned lots on which mobile homes are placed may be purchased within an approved Mobile home park if the owner wishes to sell.

G. 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.

H. 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.

1. Anchors and tie-downs shall be placed at least to each corner of the mobile home and at intervals not to exceed ten feet and shall be able to resist the design wind pressures. Wheels shall not be for bearing pressures.
2. Anchoring of a mobile home shall meet the manufacturers recommendations or the above as a minimum.
3. 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.

Section 8.09 Wireless Communication Towers

A. Intent: The Telecommunications Act of 1996 affirmed Cass County's authority concerning the placement, construction and modification of Wireless Telecommunications Facilities. Cass County finds that Wireless Telecommunications Facilities may pose significant concerns to the health, safety, public welfare, character and environment of the County and its inhabitants. The County also recognizes that facilitating the development of wireless service technology can be an economic development asset to the County and of significant benefit to the County and its residents. In order to ensure that the placement, construction or modification of Wireless Telecommunications Facilities is consistent with the County's land use policies, the County is adopting a single, comprehensive, Wireless Telecommunications Facilities application and permit process. The intent of this Local Ordinance is to minimize impact of Wireless Telecommunications Facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of Cass County.

B. Severability:

1. If any word, phrase, sentence, part, section, subsection, or other portion of this Ordinance or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection , or other portion, or the proscribed Application thereof, shall be

severable, and the remaining provisions of this Ordinance, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

2. Any Conditional Use Permit issued under this Ordinance shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the Permit shall be void in total, upon determination by the County.

C. Definitions: For purposes of this Ordinance, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory, and not merely directory.

ACCESSORY FACILITY or STRUCTURE means an accessory facility or structure serving or being used in conjunction with Wireless Telecommunications Facilities and located on the same property or lot as the Wireless Telecommunications Facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.

APPLICANT means any Wireless service provider submitting an Application for Conditional Use Permit for Wireless Telecommunications Facilities.

APPLICATION means all necessary and appropriate documentation that an Applicant submits in order to receive a Conditional Use Permit for Wireless Telecommunications Facilities.

ANTENNA means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.

BOARD means the Board of the County of Cass.

CO-LOCATION means the use of an existing Tower or structure to support Antennae for the provision of wireless services. A replacement tower that is constructed on the same site as an existing tower will be considered co-location as long as the new tower is no taller than the old tower and that the old tower is removed in a reasonable short time frame after the new tower is constructed.

COMMERCIAL IMPRACTICABILITY or COMMERCIALLY IMPRACTICABLE means the inability to perform an act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be "commercially impracticable" and shall noT render an act or the terms of an agreement "commercially impracticable."

COMPLETED APPLICATION means an application that contains all information and/or data necessary to enable an informed decision to be made with respect to an application.

CONDITIONAL USE PERMIT means the official document or permit by which an Applicant is allowed to file for a building permit to construct and use Wireless Telecommunications Facilities as granted or issued by the County.

DISTRIBUTED ANTENNA SYSTEM OR DAS means a network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service

within a geographic area or structure.

ELIGIBILITY FACILITY means a facility as defined in FCC 14-153.

FAA means the Federal Aviation Administration, or its duly designated and authorized successor agency.

FCC meanS the Federal Communication Commission, or its duly designated and authorized successor agency.

HEIGHT means, when referring to a Tower or structure, the distance measured from the pre-existing grade level to the highest point on the Tower or structure, even if said highest point is an Antenna or lightning protection device.

MODIFICATION or MODIFY means, the addition, removal or change of any of the physical and visually discernable components or aspects of a wireless facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color of materials of any visually discernable components, vehicular access, parking and/or an upgrade or change out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a Telecommunications Tower or Telecommunications Site as a co-location is a modification. A Modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.

NIER means Non-Ionizing Electromagnetic Radiation.

PERSON means any individual, corporation, estate, trust, partnership, joint stock Company, association or two (2) or more persons having a joint common interest, or any other entity.

PERSONAL WIRELESS FACILITY See definition for "WIRELESS TELECOMMUNICATIONS FACILITIES."

PERSONAL WIRELESS SERVICES or PWS or PERSONAL TELECOMMUNICATIONS SERVICE or PCS shall have the same meaning as defined and used in the 1996 Telecommunications Act.

REPAIRS and MAINTENANCE means the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without the addition, removal, or change of any of the physical or visually discernable components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted.

STEALTH or STEALTH TECHNOLOGY means to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or Commercially Impracticable under the facts and circumstances.

STATE means the State of Nebraska.

TELECOMMUNICATIONS means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

TELECOMMUNICATIONS SITE See definition for Wireless Telecommunications Facilities.

TELECOMMUNICATIONS STRUCTURE means a structure used in the provision of services described in the definition of "Wireless Telecommunications Facilities."

TEMPORARY means, temporary in relation to all aspects and components of this Ordinance, something intended to, or that does not exist for more than ninety (90) days.

TOWER means any structure designed primarily to support an antenna for receiving and/or transmitting a wireless signal.

WIRELESS TELECOMMUNICATIONS FACILITIES means and includes a "Telecommunications Site" and "Personal Wireless Facility." It means a structure, facility or location designed, or intended to be used as, or used to support Antennas or other transmitting or receiving devices. This includes without limit, Towers of all types and kinds and structures, including but not limited to buildings, church steeples, silos, water towers, signs or other structures that can be used as a support structure for Antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters, and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, Personal Communications Services (PCS), commercial satellite services, microwave services and any commercial wireless telecommunications service not licensed by the FCC.

D. Overall Policy and Desired Goals for Conditional Use Permits for Wireless Telecommunications Facilities: In order to ensure that the placement, construction, and modification of Wireless Telecommunications Facilities protects the County's health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this Ordinance, the County hereby adopts an overall policy with respect to a Conditional Use Permit for Wireless Telecommunications Facilities for the express purpose of achieving the following goals:

1. Requiring a Conditional Use Permit for any new, co-location or modification of a Wireless Telecommunication Facility.
2. Implementing an application process for person(s) seeking a Conditional Use Permit for Wireless Telecommunications Facilities.
3. Establishing a policy for examining an application for and issuing a Conditional Use Permit for Wireless Telecommunications Facilities that is both fair and consistent.
4. Promoting and encouraging, wherever possible, the sharing and/or colocation of Wireless Telecommunications Facilities among service providers
5. Promoting and encouraging, wherever possible, the placement, height and quantity of Wireless Telecommunications Facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or Commercial Impracticable under facts and circumstances.

6. That in granting a Conditional Use Permit, the County has found that the facility shall be the most appropriate site as regards being the least visually intrusive among those available in the County.

E. Exceptions from a Conditional Use Permit for Wireless Telecommunications Facilities:

1. Except as otherwise provided by this Ordinance no Person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of, Wireless Telecommunications Facilities as of the effective date of this Ordinance without having first obtained a Conditional Use Permit for Wireless Telecommunications Facilities. Notwithstanding anything to the contrary in this section, no Conditional Use Permit shall be required for those non-commercial exclusions noted in Section 7.
2. All legally permitted Wireless Telecommunications Facilities, constructed as permitted. Existing on or before the effective date of this Ordinance shall be allowed to continue as they presently exist. provided however, that any visible modification of an existing Wireless Telecommunications Facility will require the complete facility and any new installation to comply with this Ordinance.
3. Any Repair and Maintenance of a Wireless Facility does not require an Application for a Conditional Use Permit.

F. Exclusions: The following shall be exempt from this Ordinance:

1. The County's fire, police, department of transportation or other public service facilities owned and operated by the local government.
2. Any facilities expressly exempt from the County's siting, building and permitting authority including small wireless facilities on County Right of Way.
3. Over-the-Air reception Devices including the reception antennas for direct broadcast satellites (DBS), multichannel multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception.
4. Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial Telecommunications.
5. Facilities used exclusively for providing unlicensed spread spectrum technology i.e. Bluetooth or “Hot Spot,” where the facility does not require a new tower, where the service is not to be used for commercial purposes, where there is no fee or charge for the use of the service and where the service is intended to be useable for less than ‘200.'

G. Conditional Use Permit Application and Other Requirements

1. All Applicants for a Conditional Use Permit for Wireless Telecommunications Facilities or any modification of such facility shall comply with the requirements set forth in this Ordinance. The County Board is the officially designated agency or body of the County to whom applications for a Conditional Use Permit for Wireless Telecommunications Facilities must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting or revoking Conditional Use Permits for Wireless Telecommunications Facilities. The County may at its discretion delegate or designate other official agencies or Officia1s of the County to accept, review, analyze,

evaluate and make recommendations to the County Board with respect to the granting or not granting or revoking Conditional Use Permits for Wireless Telecommunications Facilities.

2. The County Board delegates its authority to the County Planning and Zoning Administrator, or his/her designee, to accept, review, analyze and make "Administrative Approvals" with respect to the granting or not granting, or revoking Conditional Use Permits for those facilities that meet requirements of the Ordinance and that do not require a public hearing as defined by Subsection P.
3. The County may reject applications not meeting the requirements stated herein or which are otherwise incomplete
4. No Wireless Telecommunications Facilities shall be installed, constructed or modified until the Application is reviewed and approved by the County, and the Conditional Use Permit has been issued.
5. Any and all representations made by the Applicant to the County on the record during the Application process. whether written or verbal. shall be deemed a part of the Application and may be relied upon in good faith by the County.
6. An Application for a Conditional Use Permit for Wireless Telecommunications Facilities shall be signed on behalf of the Applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information.
7. The Applicant must provide documentation to verify it has the right to proceed as proposed on the Site. This would require an executed copy of the lease with the landowner or landlord or a signed letter acknowledging authorization. If the applicant owns the site, a copy of the ownership record is required.
8. The Applicant shall include a statement in writing:
    a. That the applicant's proposed Wireless Telecommunications Facilities shall be maintained in a safe manner, and in compliance with all conditions of the Conditional Use Permit, without exception, unless specifically granted relief by the County in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable County, State and Federal Laws, rules, and regulations;
    b. That the construction of the Wireless Telecommunications Facilities is legally permissible including but not limited to the fact that the Applicant is authorized to do business in the State.
9. Where a certification is called for in this Ordinance, such certification shall bear the signature and seal of a Registered Professional licensed in the State.
10. In addition to all other required information as stated in this ordinance, all applications for the construction or installation of new Wireless Telecommunications Facilities or modification of an existing facility shall contain the information hereinafter set forth.
    a. A descriptive statement of the objective(s) for the new facility or modification including and expanding on a need such as coverage and/or capacity requirements;

b. Documentation that demonstrates and proves the need for the Wireless Telecommunications Facility to provide service primarily and essentially within the County. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites that demonstrate a significant gap in coverage and/or if a capacity need, including an analysis of current and projected usage;

c. The name, address and phone number of the person preparing the report;

d. The name, address, and phone number of the property owner and Applicant, and to include the legal name of the Applicant. If the site is a tower and the owner is different than the applicant, provide name and address of the tower owner;

e. The postal address and tax map parcel number of the property;

f. The Zoning District or designation in which the property is situated;

g. Size of the property stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines;

h. The location of nearest residential structure;

i. The location, size and height of all existing and proposed structures on the property which is the subject of the Application;

j. The type, locations and dimensions of all proposed and existing landscaping. and fencing:

k. The azimuth, size and center-line height location of all proposed and existing antennae on the supporting structure;

l. The number, type and model of the Antenna(s) proposed with a copy of the specification sheet;

m. The make, model, type and manufacturer of the Tower and design plan stating the Tower's capacity to accommodate multiple users

n. A site plan describing the proposed Tower and Antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;

o. The frequency, modulation and class of service of radio or other transmitting equipment;

p. The actual intended transmission power stated as the maximum effective radiated power (ERP) in watts;

q. Signed documentation such as the "'Checklist to Determine Whether a Facility is Categorically Excluded" to verify that the Wireless Telecommunication Facility with the proposed installation will be in full compliance with the current FCC RF Emissions guidelines (NIER). If not categorically excluded, a complete RF Emissions study is required to provide verification;

r. A signed statement that the proposed installation will not cause physical or RF interference with other telecommunications devices;

s. A copy of the FCC license applicable for the intended use of the Wireless Telecommunications Facilities;

t. A copy of the geotechnical sub-surface soils investigation, evaluation report and foundation recommendation for a ·proposed or existing Tower site and if existing Tower or water tank site, a copy of the installed foundation design.

11. The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the proposed new Tower or existing structure intended to support wireless facilities is in compliance with Federal Aviation Administration Regulation Part 77 and if it requires lighting. This requirement shall also be for any existing structure or building where the application increases the height of the structure or building. If this analysis determines that an FAA determination is required, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided with the application.

12. Application for New Tower

a. In the case of a new Tower, the Applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing Tower(s) or the use of alternative buildings or other structures within the County. Copies of written requests and responses for shared use shall be provided to the County in the Application, along with any letters of rejection stating the reason for rejection.

b. In order to better inform the public, in the case of a new Telecommunication Tower. The Applicant shall, prior to the public hearing on the application, hold a “balloon test." The Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three (3) foot in diameter brightly colored balloon at the maximum height of the proposed new Tower. The dates, (including a second date, in case of poor visibility on the initial date) times and location of this balloon test shall be advertised by the Applicant seven (7) and fourteen (14) days in advance of the first test date in a newspaper with a general circulation in the County. The Applicant shall inform the County, in writing, of the dates and times of the test, at least fourteen (14) days in advance. The balloon shall be flown for at least four consecutive hours sometime between 7:00 am and 4:00 pm on the dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date may be on a weekday. A report with pictures from various locations of the balloon shall be provided with the Application.

c. The Applicant shall examine the feasibility of designing the proposed Tower to accommodate future demand for at least four (4) additional commercial applications, for example, future co-locations. The Tower shall be structurally designed to accommodate at least four (4) additional Antenna Arrays equal to those of the Applicant and located as close to the Applicant's Antenna as possible without causing interference. This requirement may be waived, provided that the Applicant, in writing, demonstrates that the provisions of future shared usage of the Tower is not technologically feasible, is Commercially Impracticable or creates an unnecessary and unreasonable burden, based upon:

i. The foreseeable number of FCC licenses available for the area;

ii. The kind of Wireless Telecommunications Facilities site and structure proposed;

iii. The number of existing and potential licenses without Wireless Telecommunications Facilities spaces/sites;

iv. Available space on existing and approved Towers.

d. Upon completing construction and before the issuance of the Certificate of Compliance, to ensure the tower was constructed as permitted, the applicant is to provide signed documentation of the Tower condition such as an ANSI report as per Annex E, Tower Maintenance and Inspection Procedures, ANSI/TIA/EIA-222F or most recent version. The inspection report must be performed every three (3) years for a guyed tower and five (5) years for monopoles and self-supporting towers.

e. The owner of a proposed new Tower, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed Tower by other Wireless service providers in the future and shall:

i. Respond within 60 days to a request for information from a potential shared use Applicant;

ii. Negotiate in good faith concerning future requests for shared use of the new Tower by other Telecommunications providers;

iii. Allow shared use of the new Tower if another Telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation and all of the costs of adapting the Tower or equipment to accommodate a shared user without causing electromagnetic interference.

iv. Failure to abide by the conditions outlined above may be grounds for revocation of the Conditional Use Permit.

13. The Applicant shall provide certification with documentation (structural analysis) including calculations that the Telecommunication Facility Tower and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, County, State and Federal structural requirements tor loads. including wind and ice loads.

14. If proposal is for a co-location or modification on an existing Tower, the applicant is to provide signed documentation of the Tower condition such as an ANSI report as per Annex, Tower Maintenance and Inspection Procedures, ANSI/TIA/EIA-222. The inspection report must be performed every three (3) years for a guyed tower and five (5) years for monopoles and self-supporting towers.

15. All proposed Wireless Telecommunications Facilities shall contain a demonstration that the Facility will be sited so as to minimize visual intrusion as much as possible, given the facts and circumstances involved and will thereby have the least adverse visual effect on the environment and its character and on the residences in the area of the Wireless Telecommunications Facility.

16. If a new Tower, proposal for a new Antenna attachment to an existing structure, or modification adding to a visual impact, the Applicant shall furnish a Visual Impact Assessment, which shall include:

a. If a new Tower or increasing the height of an existing structure is proposed, a computer generated "Zone of Visibility Map" at a minimum of one mile radius from the proposed structure, with and without foliage shall be provided to illustrate locations from which the proposed installation may be seen.

b. Pictorial representations of "before and after" (photo simulations) views from key viewpoints both inside and outside of the County as may be appropriate, including but not limited to State highways and other major roads; State and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided, concerning the appropriate key sites at the pre-application meeting. Provide a map showing the locations of where the pictures were taken and distance from the proposed structure.

c. A written description of the visual impact of the proposed facility including and as applicable the Tower base, guy wires, fencing and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.

17. The Applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the base and all related equipment and structures of the proposed Wireless Telecommunications Facility.

18. The Wireless Telecommunications Facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend. with the structure to which it may be affixed and/or to harmonize with the natural surroundings, this shall include the utilization of stealth or concealment technology as may be required by the County.

19. All utilities at a Wireless Telecommunications Facilities site shall be installed underground whenever possible and in compliance with all Laws, Ordinances, rules and regulations of the County, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.

20. At a Telecommunications Site, an access road, turnaround space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.

21. All Wireless Telecommunications Facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the County, State, or United States, including but not limited to the most recent editions of the ANSI Code, National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.

22. A holder of a Conditional Use Permit granted under this Ordinance shall obtain, at its own expense, all permits and licenses required by applicable Law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the County or other governmental entity or agency having jurisdiction over the applicant.
23. There shall be a pre-application meeting. The purpose of the pre-application meeting will be to address issues that will help to expedite the review and permitting process. A pre-application meeting shall also include a site visit if there has not been a prior site visit for the requested site.
24. An Applicant shall submit to the County the number of completed Applications determined to be needed at the pre-application meeting. Written notification of the Application shall be provided to the legislative body of all adjacent municipalities as applicable and/or requested.
25. The holder of a Conditional Use Permit shall notify the County of any intended Modification of a Wireless Telecommunication Facility and shall apply to the County to modify, relocate or rebuild a Wireless Telecommunications Facility.

H. Location of Wireless Telecommunications Facilities:

1. Applicants for Wireless Telecommunications Facilities shall locate, site and erect said Wireless Telecommunications Facilities in accordance with the following priorities, one (1) being the highest priority and seven (7) being the lowest priority.
   a. On existing Towers or other structures on County owned properties, including the right-of-way.
   b. On existing Towers or other structures on other property in the County
   c. A new Tower on County-owned properties, including the right-of-way
   d. A new Tower on properties in areas zoned for Industrial use
   e. A new Tower on properties in areas zoned for Commercial use
   f. A new Tower on properties in areas zoned for Agricultural use
   g. A new Tower on properties in areas zoned for Residential use
2. If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the Applicant if the permit were not granted for the proposed site.
3. An Applicant may not bypass sites of higher priority by stating the site proposed is the only site leased or selected. An Application shall address co-location as an option. If such option is not proposed, the Applicant must explain to the reasonable satisfaction of the County why co-location is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of Commercial Impracticability or hardship.
4. Notwithstanding the above, the County may approve any site located within an area in the above list of priorities, provided that the County finds that the proposed site is in the best interest of the health, safety and welfare of the County and its inhabitants and will

not have a deleterious effect on the nature and character of the community and neighborhood.

5. The Applicant shall submit a written report demonstrating the Applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the Application.
6. Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the County may disapprove an application for any of the following reasons.
   a. Conflict with safety and safety-related codes and requirements;
   b. Conflict with the historic nature or character of a neighborhood or historical district;
   c. The use or construction of Wireless Telecommunications Facilities which is contrary to an already stated purpose of a specific zoning or land use designation;
   d. The placement and location of Wireless Telecommunications Facilities which would create an unacceptable risk, or the reasonable probability of' such, to residents, the public, employees and agents of the County, or employees of the service provider or other service providers;
   e. Conflicts with the provisions of this Ordinance.

I. Shared Use of Wireless Telecommunications Facilities and Other Structures:

1. The County, as opposed to the construction of a new Tower, shall prefer locating on existing Towers or other structures without increasing the height. The Applicant shall submit a comprehensive report inventorying existing Towers and other suitable structures within two (2) miles of the location of any proposed new Tower, unless the Applicant can show that some other distance is more reasonable and demonstrate conclusively why an existing Tower or other suitable structure cannot be used.
2. An Applicant intending to locate on an existing Tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the Applicant.
3. Such shared use shall consist only of the minimum Antenna Array technologically required to provide service primarily and essentially within the County, to the extent practicable, unless good cause is shown.

J. Height of Telecommunications Tower(s):

1. The Applicant shall submit documentation justifying the total height of any Tower, Facility and/or Antenna requested and the basis therefore. Documentation in the form of propagation studies must include all backup data used to perform at requested height and a minimum of ten (10) feet lower height to allow verification of this height need. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the County, to the extent practicable, unless good cause is shown.
2. No Tower constructed after the effective date of this Ordinance, including allowing for all attachments, shall exceed that height which shall permit operation without required

artificial lighting of any kind in accordance with County, State, and/or any Federal statute, law, local law, County Ordinance, code, rule or regulation.

K. Visibility of Wireless Telecommunications Facilities:

1. Wireless Telecommunications Facilities shall not be artificially lighted or marked, except as required by Law.
2. Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Ordinance.
3. If lighting is required, Applicant shall provide a plan for sufficient lighting of as unobtrusive and inoffensive an effect as.is permissible under State and Federal regulations.

L. Security of Wireless Telecommunications Facilities: All Wireless Telecommunications Facilities and Antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

1. All Antennas, Towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and
2. Transmitters and Telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

M. Signage: Wireless Telecommunications Facilities shall contain a sign no larger than four (4) square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the Antenna(s) as well as emergency phone number{s). The sign shall be on the equipment shelter or cabinet of the Applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration site as applicable is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.

N. Lot Size and Setbacks: All proposed Towers and any other proposed Wireless Telecommunications Facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: A distance equal to the height of the proposed Tower or Wireless Telecommunications Facility structure plus ten percent (10%) of the height of the Tower or structure, or the existing setback requirement of the underlying Zoning District, whichever is greater. Any Accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

O. Retention of Expert Assistance and Reimbursement by Applicant:

1. The County may hire any consultant and/or expert necessary to assist the County in reviewing and evaluating the Application, including the construction and modification of the site, once permitted, and any site-inspections.

2. An Applicant shall deposit with the County escrow funds sufficient to reimburse the County for all costs of the County's consultant in providing expert evaluation and consultation to any agency of the County in connection with the review of any Application, including where applicable, the lease negotiation, the pre-approval evaluation, and the construction and modification of the site, once permitted. The initial deposit shall be $8,500.00. The placement of the $8,500.00 with the County shall precede the pre-application meeting. The County will maintain a separate escrow account for all such funds. The County's consultants/experts shall invoice the County for its services related to the Application. If at any time during the process this escrow account has a balance less than $2,500.00, the Applicant shall immediately, upon notification by the County, replenish said escrow account so that it has a balance of at least $5,000.00. Such additional escrow funds shall be deposited with the County before any further action or consideration is taken on the Application. 1n the event that the amount held in escrow by the County is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall, upon request of the Applicant, be promptly refunded to the Applicant. If notified by the County that additional escrow is required, the Applicant may request copies of Consultants' and/or experts' invoices. If the Applicant finds errors in those invoices, Applicant may ask the County to audit those specific items for reasonableness and may request relief there from if not deemed reasonable by the County.
3. Notwithstanding the above, there shall be a fee cap of $l7,000.00 as to the total consultant fees to be charged to applicant in a case. The foregoing does not prohibit the County from imposing additional reasonable and cost-based fees for costs incurred should an applicant amend or change its application, and the fee cap shall not apply as to any fees which the County determines to be attributable to the dilatory or otherwise bad faith actions of Applicant in providing a complete application or in proceeding with a public hearing.
4. The total amount of the funds needed as set forth in subsection (B) of this section may vary with the scope (lease negotiations and/or review) and complexity of the project, the completeness of the Application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.

P. Public Hearing and Notification Requirements:

1. Prior to the approval of any Application for a Conditional Use Permit for Wireless Telecommunications Facilities, a Public Hearing shall be held by the County, notice of which shall be published in the newspaper with general circulation in the County no less than ten (10) calendar days prior to the scheduled date of the Public Hearing. In order that the County may notify nearby landowners, the Application shall contain the names and addresses of all landowners whose property is located within fifteen hundred (1,500) feet of any property line of the lot or parcel on which the new Wireless Telecommunications Facilities are proposed to be located.
2. There shall be no Public Hearing required for an Application to co-locate on an existing Tower or other structure or a modification at an existing site, as long as there is no proposed increase in the height of the Tower or structure, including attachments thereto. ln addition. for an Eligible Facility request, no public hearing shall be required. Rather, an administratively granted Conditional Use Permit shall be granted by the County Planning and Zoning Administrator.

3. The County shall schedule the Public Hearing referred to in Subsection (A) of this section once it finds the Application is complete. The County, at any stage prior to issuing a Conditional Use Permit, may require such additional information as it deems necessary.

Q. Action on Application for a Conditional Use Permit for Wireless Telecommunications Facilities.

1. The County will undertake a review of an application pursuant to this Article in a timely fashion, consistent with its responsibilities, and shall act within a reasonable period of time given the relative complexity of the Application and the circumstances, with due regard for the public's interest and need to be involved, and the Applicant's desire for a timely resolution.
2. The County may refer any Application or part thereof to any advisory, other committee or commission for a non-binding recommendation.
3. After the Public Hearing and after formally considering the Application, the County may approve, approve with conditions, or deny a Conditional Use Permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the granting of the Permit shall always be upon the Applicant.
4. If the County approves the Conditional Use Permit for Wireless Telecommunications Facilities, then the Applicant shall be notified of such approval in writing within ten (10) calendar days of the County's action, and the Conditional Use Permit shall be issued within thirty (30) days after such approval. Except for necessary building permits, and subsequent Certificate of Compliance, once a Conditional Use Permit has been granted hereunder, no additional permits or approvals from the County, such as site plan or zoning approvals, shall be required by the County for the Wireless Telecommunications Facilities covered by the Conditional Use Permit.
5. If the County denies the Conditional Use Permit for Wireless Telecommunications Facilities, then the Applicant shall be notified of such denial in writing within ten (10) calendar days of the County's action.

R. Extent and Parameters of Conditional Use Permit for Wireless Telecommunications Facilities: The extent and parameters of a Conditional Use Permit for Wireless Telecommunications Facilities shall be as follows:

1. Such Conditional Use Permit shall not be assigned, transferred or conveyed without the express prior written notification to the County.
2. Such Conditional Use Permit may, following a hearing upon due prior notice to the Applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the Conditional Use Permit, or for a material violation of this Ordinance after prior written notice to the holder of the Conditional Use Permit.

S. Application Fee: At the time that a Person submits an Application for a Conditional Use Permit for a new Tower. such Person shall pay a non-refundable application fee of $3,000.00 to the County. If the Application is for a Conditional Use Permit for modifying or co-locating on an existing Tower or other suitable structure, where no increase in height of the Tower or structure is required, or for a temporary facility the non-refundable fee shall be $1,500.00.

T. Performance Security: The Applicant and the owner of record of any proposed Wireless Telecommunications Facilities property site shall, at its cost and expense, be jointly required

to execute and file with the County a bond, or other form of security acceptable to the County as to type of security and the form and manner of execution, in an amount of at least S75,000.00 for a Tower facility and $25,000 for a co-location on an existing tower or other structure and with such sureties as are deemed sufficient by the County to assure the faithful performance of the terms and conditions of this Ordinance and conditions of any Conditional Use Permit issued pursuant to this Ordinance. The full amount of the bond or security shall remain in full force and effect throughout the term of the Conditional Use Permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that, which existed prior to the issuance of the original Conditional Use Permit.

U. Reservation of Authority to Inspect Wireless Telecommunications Facilities: In order to verify that the holder of a Conditional Use Permit for Wireless Telecommunications Facilities and any and all lessees, renters, and/or licensees of Wireless Telecommunications Facilities, place and construct such facilities, including Towers and Antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, Laws, Ordinances and regulations and other applicable requirements, the County may inspect all facets of said permit holder's, renter's, lessee's or licensees placement, construction, modification and maintenance of such facilities, including, but not limited to, Towers, Antennas and buildings or other structures constructed or located on the permitted site.

V. Liability Insurance:

1. A holder of a Conditional Use Permit for Wireless Telecommunications Facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Conditional Use Permit in amounts as set forth below
   a. Commercial General Liability covering personal injuries, death and property damage: $1,000,000 per occurrence/$2,000,000 aggregate;
   b. Automobile Coverage: $1,000,000 per occurrence/$2,000,000 aggregate;
   c. Workers Compensation and Disability: Statutory amounts
2. For a Wireless Telecommunications Facility on County property, the Commercial General Liability insurance policy shall specifically include the County and its officers, Boards, employees, committee members, attorneys, agents and consultants as additional insureds.
3. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best’s rating of at least A.
4. The insurance policies shall contain an endorsement obligating the insurance company to furnish the County with at least thirty (30) days prior written notice in advance of the cancellation of the insurance.
5. Renewal or replacement policies or certificates shall be delivered to the County at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.
6. Before construction of a permitted Wireless Telecommunications Facilities is initiated, but in no case later than fifteen (15) days after the granting of the Conditional Use Permit the holder of the Conditional Use Permit shall deliver to the County a copy of each of the policies or certificates representing the insurance in the required amounts.

W. Indemnification:

1. Any application for Wireless Telecommunication facilities that is proposed for County property, pursuant to this Ordinance, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the Law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the County, and its officers, Boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising there from, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said Facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the County, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the County.
2. Notwithstanding the requirements noted in subsection (A) of this section, an indemnification provision will not be required in those instances where the County itself applies for and secures a Conditional Use Permit for Wireless Telecommunications Facilities.

X. Fines:

1. In the event of a violation of this Ordinance or any Conditional Use Permit issued pursuant to this Ordinance, the County may impose and collect, and the holder of the Conditional Use Permit for Wireless Telecommunications Facilities shall pay to the County, fines or penalties as set forth below.
2. The holder of a Conditional Use Permit's failure to comply with provisions of this Ordinance shall constitute a violation of this Ordinance and shall subject the Applicant to the code enforcement provisions and procedures as provided in the applicable sections of the County of Cass Code of Ordinances and Statutes.
3. Notwithstanding anything in this Ordinance, the holder of the Conditional Use Permit for Wireless Telecommunications Facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this Ordinance or any section of this Ordinance. An attempt to do so shall subject the holder of the Conditional Use Permit to termination and revocation of the Conditional Use Permit. The County may also seek injunctive relief to prevent the continued violation of this Ordinance, without limiting other remedies available to the County.

Y. Default and/or Revocation: If a Wireless Telecommunications Facility is repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Ordinance or of the Conditional Use Permit, then the County shall notify the holder of the Conditional Use Permit in writing of such violation. A Permit holder in violation may be considered in default and subject to fines as in Section 25 and if a violation is not corrected to the satisfaction of the County in a reasonable period of time, the Conditional Use Permit is subject to revocation.

Z. Removal of Wireless Telecommunications Facilities:

1. Under the following circumstances, the County may determine that the health, safety, and welfare interests of the County warrant and require the removal of Wireless Telecommunications Facilities.
   a. Wireless Telecommunications Facilities with a permit have been abandoned (i.e. not used as Wireless Telecommunications Facilities) for a period exceeding ninety consecutive (90) days or a total of one hundred-eighty (180) days in any three hundred-sixty five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days;
   b. Permitted Wireless Telecommunications Facilities fall into such a state of disrepair that it creates a health or safety hazard;
   c. Wireless Telecommunications Facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required Conditional Use Permit, or any other necessary authorization and the Special Permit may be revoked.
2. If the County makes such a determination as noted in subsection (A) of this section, then the County shall notify the holder of the Conditional Use Permit for the Wireless Telecommunications Facilities within forty-eight-(48) hours that said Wireless Telecommunications Facilities are to be removed, the County may approve an interim temporary use agreement/permit, such as to enable the sale of the Wireless Telecommunications Facilities.
3. The holder of the Conditional Use Permit, or its successors or assigns, shall dismantle and remove such Wireless Telecommunications Facilities, and all associated structures and facilities. from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or Commercial Impracticability, within ninety (90) days of receipt of written notice from the County. However, if the owner of the property upon which the Wireless Telecommunications Facilities are located wishes to retain any access roadway to the Wireless Telecommunications Facilities, the owner may do so with the approval of the County.
4. If Wireless Telecommunications Facilities are not removed or substantial progress has not been made to remove the Wireless Telecommunications Facilities within ninety (90) days after the Permit holder has received notice, then the County may order officials or representatives of the County to remove the Wireless Telecommunications Facilities at the sole expense of the owner or Conditional Use Permit holder.
5. If the County removes or causes to be removed Wireless Telecommunications Facilities, and the owner of the Wireless Telecommunications Facilities does not claim and remove it from the site to a lawful location within ten (10) days, then the County may take steps to declare the Wireless Telecommunications Facilities abandoned and sell them and their components.
6. Notwithstanding anything in this Section to the contrary, the County may approve a temporary use permit/agreement for the Wireless Telecommunications Facilities, for no more ninety (90) days, during which time a suitable plan for removal, conversion, or relocation of the affected Wireless Telecommunications Facilities shall be developed by the holder of the Conditional Use Permit, subject to the approval of the County, and an

agreement to such plan shall be executed by the holder of the Conditional Use Permit and the County. If such a plan is not developed, approved, and executed within the ninety (90) day time period, then the County may take possession of and dispose of the affected Wireless Telecommunications Facilities in the manner provided in this Section.

AA. Relief: Any Applicant desiring relief, waiver or exemption from any aspect or requirement of this Ordinance may request such, provided that the relief or exemption is contained in the submitted Application for either a Conditional Use Permit, or in the case of an existing or previously granted Conditional Use Permit a request for modification of its Tower and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the Applicant to prove. The Applicant shall bear all costs of the County in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the Applicant demonstrates by clear and convincing evidence that, if granted the relief, waiver or exemption will have no significant effect on the health, safety and welfare of the County, its residents and other service providers.

BB. Periodic Regulatory Review by the County:

1. The County may at any time conduct a review and examination of this entire Ordinance.
2. If after such a periodic review and examination of this Ordinance, the County determines that one or more provisions of this Ordinance should be amended repealed, revised, clarified, or deleted, then the County may take whatever measures are necessary in accordance with applicable Law in order to accomplish the same. It is noted that where warranted, and in the best interests of the County, the County may repeal this entire Ordinance at any time.
3. Notwithstanding the provisions of subsections (A) and (B) of this Section, the County may at any time and in any manner (to the extent permitted by Federal, State, or local law), amend, add, repeal, and/or delete one or more provisions of this Ordinance.

CC. Adherence to State and/or Federal Rules and Regulations:

1. To the extent that the holder of a Conditional Use Permit for Wireless Telecommunications Facilities has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the holder of such a Conditional Use Permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height. lighting, security, electrical and RF emission standards.
2. To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a Conditional Use Permit for Wireless Telecommunications Facilities, then the holder of such a Conditional Use Permit shall conform the permitted Wireless Telecommunications Facilities to the applicable changed and/or modified rule. regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

DD. Conflict with Other Laws: Where this Ordinance differs or conflicts with other Laws, rules and regulations, unless the right to do so is preempted or prohibited by the County, State or Federal government, this Ordinance shall apply.

EE. Effective Date: This Ordinance shall be effective immediately upon passage, pursuant to applicable legal and procedural requirements.

FF. Authority: This local Ordinance is enacted pursuant to applicable authority granted by the State and federal government.

Section 8.10 E-911 Numbering System

Cass County, in order to provide quality and effective response time for all medical, fire and law enforcement emergencies, has established an Enhanced 911 system. As a part of this system, all existing properties, containing a habitable structure shall have a road address assigned to that location. Upon adoption of this regulation, all newly constructed habitable structures shall be required to place said address along the road as prescribed in this Section.

A. Address Plate: The required address shall be places on a plate. Said Address Plate shall have a blue reflective background with the address comprised of a reflective white material using alpha-numeric characters six inches in height.

B. Address Plate Location: The required Address Plate shall be located at or near the driveway entrance along the front property line of the building tract. The Address Plate shall be located at a height of forty- eight inches above the road surface grade and shall not have an obstructed view from the road and shall have a clear view triangle of 45 degrees on either side of the centerline of the Address Plate if possible.

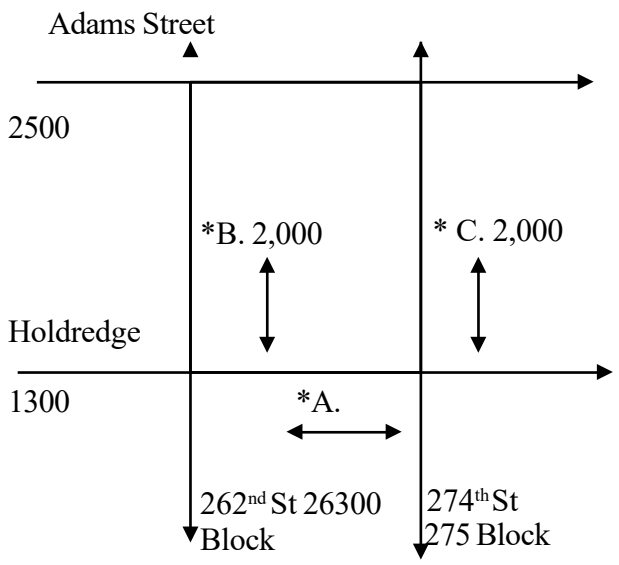
C. Formula for Address Designation: The following shall be followed when assigning addresses within the County:

1. State at the centerline of the intersection of the nearest county road to the property.
2. Measure to the center of the driveway.
3. Take the total measurement in feet and divide by 4.4, add or subtract this number from the block number of the intersection where the measurement was taken.
4. The north and west sides of the road should be even numbered addresses and the south and east should be odd numbered addresses. *
    a. Exception: The exception to this process is from 262nd Street West; in this case the north and east sides will be even numbered addresses and the south and west will be odd numbered addresses.

D. Road Name Change: Private road or roads easements platted as a result of Cass County Subdivision Regulations providing egress to two or more property owners, to the County Road system may request to rename these public or private road easements.

1. Submission: Request shall be made to the Zoning Department via a notarized petition of all property owners having access to these public or private road easements. Such petition shall be accompanied with the applicable fees as determined in Article 4, Section 4.21 Fees.
2. Hearing: The Zoning Department shall forward such requests to the County Board of Commissioners for public hearing to seek approval/disapproval.

3. Upon approval from the County Board of Commissioners, the Zoning Department shall arrange for the necessary materials and installation of the new street name sign(s) to be located within the County R.O.W.



Diagram

(A.) 1000 □ 4.4 =227
27500 - 227=27273
House is on south side of Holdredge Address: 27273 Holdredge

(B) 2000□ 4.4= 455
455 +1300= 1755
House is on east side of 262nd Address: 1756 262nd St.

(C) 2000 □4.4= 455
455 + 1300= 1755
House is on east side 274th St Address: 1755 274th St.

Section 8.11 Nuisance Code

A. **Definition**: A nuisance is generally defined as the physical existence or situation that may negatively impose or jeopardize the health, safety, or morals of the general public and/or deprive one's enjoyment of property or depreciate land value or tax base. Pursuant to Nebraska Revised State Statute 23-174.10 which entitles counties having adopted zoning regulations to adopt by resolution, regulations as may be necessary to promote public health, safety, and welfare. Given the vast geographical zoning jurisdiction of the county, different minimum density requirements, and the multitude of different land uses within different zoning districts, it becomes necessary to evaluate and understand the complexity of these land uses and its relationship with the Comprehensive Land Use Plan. It is essential to evaluate permitted uses consistent in each zoning district and the delicate balance of defining a nuisance and those circumstances consistent with certain land uses within a particular zoning district.

1. The permitted uses within in the Agricultural, Industrial Agricultural, Industrial, Recreational Agricultural, and Transitional Agricultural districts are generally related to agriculturally based businesses, typically consisting of large parcels of land. Residential housing in these areas is often sparse posing little health and safety issues to adjoining property owners. These businesses utilize large machinery both new and old. The need to store machinery and those things associated with Agribusinesses sometimes become a necessity, therefore in these districts a nuisance shall be defined in accordance with Nebraska Department of Environment and Energy Title 132, and Storage and/or keeping of inoperable vehicles or unregistered vehicles other than in an enclosed building or screened from view or other than in a zoning district permitting and regulating such occurrence shall be prohibited.

2. In the Commercial, Residential and Residential Districts where the primary permitted uses include human habitation and the general traffic of thereof, and where residential settings are in close proximity of one another, standards must be established to protect the health, safety, and peaceful enjoyment of property of citizens in these areas. For the purpose of this section, a nuisance shall be defined and shall exist when: a person (s) fail (s) to perform a duty or permits any condition or thing to exist, which by act, omission, condition, or thing:

   a. Constitutes storage and/or keeping of inoperable vehicles or unregistered vehicles other than in an enclosed building or screened from view or other than in a zoning district permitting and regulating such occurrence;

   b. Unlawfully interferes with, obstructs, or tends to obstruct or renders dangerous for passage any public or private street, alley, highway, stream, ditch, or drainageway;

   c. Any activity at or in any building, structure, or location in violation of local, state, or federal law;

   d. Constitutes a building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity in which it is located;

   e. Constitutes storing or stock piling in excess filthy, littered, trash, garbage, household fixtures, appliances, tires, or rubbish on or in close proximity of any dwelling intended for human inhabitance, accessory buildings thereto, or adjacent vacant lots for any extended periods of time and shall not be reoccurring in nature;

f. Constitutes any method of human excreta disposal which does not conform to local, state, or Federal laws, rules, or regulations;

g. In any way renders other persons insecure in life or the substantial use of property;

h. Essentially interferes with the quiet enjoyment of life and property, or tends to substantially depreciate the value of property of others;

i. Constitutes any accumulation of stagnant water on any lot;

j. Constitutes any building designed or constructed with the intent for human occupancy, which is found to be unsafe or unfit for occupancy or, use, and/or which is liable to fall or collapse from inherent structural weakness, or as the result of fire, decay, or otherwise, and in which the owner refuses or fails to repair in accordance with the provisions of the County's adopted building code, or which has deteriorated from any cause to the extent of 50% of the cost of a similar new building above the foundations;

k. Constitutes abandoned or open wells, cisterns, or cellars;

l. Creates or allows to exist any unnecessary or unauthorized noises and annoying vibrations except in conjunction with any approved Conditional Use Permits;

m. Pollutes any water well, cistern, stream, lake, canal, or other body of water by sewage, dead animals, crematory, industrial wastes, or other substances;

n. Constitutes leaking or defective water pipes, sewer pipes, hydrants, cisterns, wells, or seepage in or about any structure used for human occupancy on or into the surrounding soil;

o. Constitutes a place used or maintained as a junkyard, dumping grounds, or a place for the wrecking and dismantling or dissembling of automobiles, trucks, trailers, enclosed trailers or vans or machinery of any kind, or for the storing or leaving of worn out, wrecked or abandoned automobiles, boats, tires, trucks, trailers, enclosed trailers or vans or machinery of any kind except within an enclosed building within a district permitting such activity; and/or

p. Allows or continues any act or thing done on any property, whether public or private, which is detrimental to the health, safety, or general welfare.

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

C. Citizens Complaint: All complaints shall be submitted to the Zoning Administrator in writing. Such written complaints shall be kept on file as a matter of public record.

D. General Authority of Enforcement Officers: The Zoning Administrator, Building Inspector, or County Attorney may take all measures necessary to abate nuisances of every public or private property.

E. Right of Entry: When it is necessary to make an inspection to enforce the provisions of this code, or when the Zoning Administrator or Building Inspector has reasonable cause to believe there exists in a building or upon a premises a condition which is contrary to or in violation of this code, the Zoning Administrator or Building Inspector may request to enter the building or premises at reasonable times to inspect or perform the duties imposed by this code, provided that if such building or premises be occupied that credentials be presented to the owner or occupant. If such building or premises be unoccupied, all reasonable efforts

shall be made to contact the owner or persons in charge or control of the building or premises and request entry. If entry is refused, the County shall have recourse to the remedies provided by law to secure entry.

F. Dangerous Building or Structures:

1. It shall be unlawful for any person to continue the use or occupancy of any building or structure in which violations of the provisions of these regulations are found to exist to such an extent as would make the building or structure dangerous for occupancy and use until changes, alterations or repairs ordered by the Zoning Administrator or Building Inspector shall have been made.
2. Whenever the occupancy or use of a building or portion thereof becomes dangerous to life or limb by reason of imminent or actual failure or collapse, the Zoning Administrator or Building Inspector may order the immediate vacation of such building, or part of the building, or adjacent building found to be unsafe until such dangerous condition is corrected.
3. Any building or other structure, or other pertinent apparatus in, upon or about the building or structure, found, either in whole or in part, to be structurally unsafe or dangerous as a result of fire, panic, tornado, wind, lightning, deterioration flood or other cause, or which is insufficient in any way for the purpose in which it is intended to be used, shall be made safe and secure by the owner, agent lessee or occupant of such building or other structure within the time set forth in the written notice from the Building Inspector.
4. If the owner, agent, lessee, or occupant of any building or structure found to be unsafe for occupancy or use or otherwise in violation of the provisions of this code shall fail to make such changes, alterations, or repairs in the time set forth in the notice of violation, and no extension of time has been procured, the zoning administrator shall report such violations to the County Attorney's Office for appropriate legal action.
5. Where immediate action is deemed necessary to protect life, limb or wellbeing of occupants or the welfare of others, the zoning administrator or building inspector may cause an unsafe or dangerous building or structure, appurtenance, appliance or apparatus, or any portion thereof, to be taken down or repaired. The cost of taking down or repairing the building or structure under the provisions of this section, in an amount of a certified bill of all expenses incurred, prepared by the Zoning Administrator or Building Inspector shall be collected in the same manner provided for in Section 7.10.10.

G. Notice to Abate or remove; Remove by County:

1. Whenever the Zoning Administrator, Building Inspector or County Attorney determines a condition to be a nuisance under this ordinance, the Zoning Administrator shall give a written temporary notice of nuisance via registered or certified mail to the owner and/ or occupant of the property upon which such nuisance exists or upon the person causing or maintaining the nuisance.
2. The notice to abate a nuisance issued under the provisions of these regulations, unless otherwise specifically provided in a subsequent article, shall contain:
   a. A description of the condition constituting the nuisance.
   b. The location of the nuisance, if the same is stationary.

c. An order to abate the nuisance within a prescribed time period.

d. A statement of acts necessary to abate the nuisance.

e. The procedure available to the party or parties being noticed for the purpose of convening a hearing on the sufficiency of the notice and/ or the requirement to abate the alleged nuisance; and

f. A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time; the County may abate such nuisance and assess the cost thereof against such person, property owner or person in control of maintaining such nuisance.

H. Show cause Hearing:

1. Upon receipt of a request for hearing or upon the failure to obey the order to abate or remedy the nuisance, the Zoning Administrator shall set a hearing date before the Board of County Commissioners and shall fix the time and place at which the owner, lessee, occupant, or mortgage of record of the building may appear and show cause as to why such building, structure, condition or use shall not be condemned as a nuisance.

2. The Zoning Administrator shall immediately notify or cause to be notified, the owner, lessee, occupant or mortgagee of record of any building or structure or property declared to be a nuisance under the provisions of these regulations, in writing via registered or certified mail, wherein the Show cause Hearing has been set, setting therein the date, time and place that the owner, lessee, occupant or mortgagee of record may appear and show cause why the County should not condemn such building, structure or property as a nuisance.

3. The notice of hearing provided for by this section shall be given not less than fifteen (15) days prior to the time of the hearing; provided that whenever the person or entity required to be given notice cannot be found, then the Zoning Administrator shall publish in the official legal newspaper such notice for two (2) consecutive weeks, the last publication being at least one (1) week prior to the date of the hearing. Hearings may be continued for up to twenty-one (21) days in order for adequate service to be properly given.

4. Upon the date fixed for hearing as provided by this subsection, and for which proper notice has been given, the County Board of Commissioners shall hear all objections made by the owner, lessee, occupant or mortgagee of record of the building, structure, property or use declared to be a nuisance, as well as evidence submitted by the building inspector or other persons interested.

5. If, after consideration by the County Board of Commissioners of all evidence produced, the building, structure, property or condition is confirmed to be declared a Nuisance, an order to abate shall become final and a time period prescribed for the removal of the building, structure or condition will be issued.

6. In the event the owner, lessee, occupant or mortgagee of record does not appear at the hearing, the Zoning Administrator or Building Inspector or his/her duly authorized assistant shall order such nuisance abated or the building or structure to be torn down and removed, and shall notify the owner, lessee, occupant or mortgagee of record, in writing via registered or certified mail of this order and advise that if a Show cause appeal is not made to the County Board of Commissioners within (15) days, such order shall become effective

at that time and will be final.

7. After a building, structure or property has been declared a nuisance under the provisions of these regulations and should the owner or person(s) in control refuse or neglect to promptly comply with the order to tear down and /or remove such declared nuisance within the time period prescribed from the hearing with the County Board of Commissioners, the Zoning Administrator shall proceed with the removal of such declared nuisance at a time sufficient with the available resources.

I. Abatement Extension: An extension of time to abate may be granted from County Board of Commissioners through the appeals process, should the owner show just cause. Such an appeal shall be filed with the County Clerk no less than (5) days prior to prescribed deadline given from the Appeal Hearing with the County Board of Commissioners.

J. Record of Expenses & Assessment of Costs: The county shall keep an itemized account of the expenses involved in abating the nuisance. The county shall give written notification to owner, occupant or mortgagee of record via registered or certified mail of the expense of abatement, together with a notice of the time and place when the statement will be submitted to the Board of County Commissioners for approval and confirmation and at which time the Board of Commissioners may consider the objections and protests to the costs of such removal. The costs of such abatement may be specially assessed against said property owner, lessee or occupant in the manner provided by law.

K. Remedy No Exclusive: The remedy provided to the County for the removal of a condition determined to be a nuisance and assessment of costs thereof shall not be deemed the exclusive remedy to the County for such violations, but all of such acts shall remain enforceable as other violations of the Zoning Ordinance and Penalties described or applicable thereto may be applied in lieu of or in addition to the remedies provided herein.

Section 8.12 Contractor Registration

All contractors doing business in Cass County shall be registered with the Cass County Zoning Department. It is not the intent to endorse the quality or performance of services provided by any individual contractor, however, a file will be maintained on each contractor consisting of any pertinent data reported to the Zoning Office.

Terms, defined: For the purposes of the Contractor Registration provisions of the Cass County Zoning Regulation

ADMINISTRATOR shall mean the Cass County Zoning Administrator.

CONSTRUCTION shall mean work on real property and annexations, including new work, additions, alterations, reconstruction, installations, and repairs performed at one or more different sites, which may be dispersed geographically.

CONTRACTOR shall mean a person who engages in the business of construction and shall include a subcontractor, a general contractor, and any person arranging for the performance of construction. A person who earns less than one thousand dollars annually or who performs work or has work performed on the person's own property shall not be a contractor for purposes of this regulation.

DEPARTMENT shall mean the Cass County Zoning Department.

WORKING DAYS shall mean Mondays through Fridays but shall not include Saturdays, Sundays

or Federal or State holidays.

A. **Registration Required**: Before performing any construction work in Cass County, a contractor shall be registered with the department. If a contractor does business under one or more name, the contractor shall obtain a registration number for each name under which the contractor is doing business.

B. **Registration, Application, Contents, Renewal**: Each contractor shall apply to the department for a registration number on an application form provided by the department. The application shall contain the following information:

1. The name of the contractor
2. The principal place of business of the contractor. If the contractor's principal place of business is outside Nebraska, the application shall state the address of the contractor's principal place of business and the name and address of the contractor's registered agent in Nebraska;
3. The telephone number of the contractor in the State of Nebraska. If the contractor's principal place of business is outside Nebraska, the application shall state the telephone number of the contractor's principal place of business and the telephone number of the contractor's registered agent in Nebraska;
4. The type of business entity of the contractor such as corporation, partnership, limited liability company, sole proprietorship, or trust;
5. The following information about the business entity:
   a. If the contractor is a corporation, the name, address, telephone number and position of each officer of the corporation as well as the name and address of the contractor's registered agent in the State; and;
   b. If the contractor is other than a corporation, the name address and telephone number of each owner.
6. Proof of
   a. a certificate or policy of insurance written by an insurance carrier duly authorized to do business in this state which gives the effective date of workers' compensation insurance coverage indicating that it is in force,
   b. a certificate evidencing approval of self-insurance privileges as provided by the Nebraska Workers' Compensation Court pursuant to Nebraska Revised Statutes Section 48-145, or
   c. a signed statement indicating that the contractor is not required to carry workers' compensation insurance pursuant to the Nebraska Workers' Compensation Act; and
7. A description of the business, which includes the principal products and services provided or the employer's standard industrial classification code.
8. Proof of certification by the Nebraska Department of Environment and Energy for those people (s) who do the following types of work with on-site wastewater treatment systems:
   a. Percolation testing
   b. Installer (includes alteration, construction, reconstruction, modification, or repair

work

9. Contractor Registration expires December 31 each year.

C. Application, Report of Change, Amendments:

1. A contractor shall report to the Administrator any change in the information originally reported on or with the application within fifteen days of the change.
2. After the time specified in subsection (1) of this section, the Administrator, with good cause shown, may determine that amendments may be made to correct an application.
3. Amendments to applications shall not be permitted when a change occurs in the business classification such as a change from sole proprietorship to corporation.

D. Newsletter: The Administrator shall at least quarterly distribute a newsletter to each registered contractor. This newsletter shall highlight any upcoming changes to the Zoning Regulation which affect the building industry and may highlight problems encountered by building inspectors over the previous quarter.

E. Fees: Each application or renewal shall be accompanied by a fee of twenty dollars ($20). The fee shall not be required when an amendment to an application is submitted.

F. Registration Number: Within thirty days of receipt of a completed application, the Administrator shall issue to the contractor a registration number. The registration number shall be a five-digit number followed by a two-digit number indicating the year of issuance.

G. Failure to Maintain Workers' Compensation, Notice of Revocation: The Administrator shall issue a notice of revocation of registration to a contractor when an investigation reveals that the contractor no longer meets the conditions of registration set forth in regulation 8.12(B) by failure to maintain compliance with the laws of the State of Nebraska relating to workers' compensation insurance coverage. If the Administrator receives a notice of cancellation of workers' compensation insurance coverage, the Administrator shall revoke the registration as of the time of cancellation unless the contractor provides a new certificate of insurance prior to the cancellation date.

H. Notice of Revocation; Service, Hearing: The Administrator shall serve notice of revocation, after consulting with the County Attorney, on the contractor by mailing such notice by certified mail to the address of the contractor or the contractor's registered agent listed in the application. Upon ***a*** showing of compliance with the application requirements set out in regulation 8.12(B), the Administrator shall schedule a hearing before the Board of Commissioners for a final resolution.

I. Complaints: Written complaints regarding a contractor made to the Administrator in which the complainant provides his or her name and address shall receive a written response as to the results of the investigation. A complainant's name and other identifying information shall not be released if the complaint was included as part of another complaint when the complainant's identity would be protected under other statutes or rules and regulations. Complaints shall be kept on file in the department for a minimum of one year. All files in the department are public files.

J. Substandard Performance, Substantiated Complaints, Investigation, Powers: The Administrator may make investigations he or she finds necessary or appropriate to determine if there is compliance with the Cass County Zoning Regulations. The Administrator shall

investigate any complaints of substandard performance by registered contractors. The Administrator may interview persons at the work site, take photographs, and utilize other reasonable investigation techniques. The conduct of the investigation shall be such as to preclude unreasonable disruption of the operations of the work site.

K. Violation, Citation, Penalty:

1. The Administrator shall issue a citation via certified letter to a contractor when an investigation reveals that the contractor has violated:
   a. The requirements that the contractor be registered;
   b. The requirements that the contractor's registration information be substantially complete and accurate; or
   c. The contractor has been found to have completed substandard work based upon a substantiated inspection by Cass County Zoning.
2. If a citation is issued, the Administrator shall notify the contractor by certified mail, of the proposed administrative penalty, if any. The administrative penalty shall be not more than five hundred dollars ($500) in the case of a first violation and not more than one thousand dollars ($1000) in the case of a second or subsequent violation. An administrative penalty, imposed under this section, may be enforced in the manner provided by law for the enforcement of civil judgements.
3. The contractor shall have fifteen working days from the date of the citation or penalty to contest the penalty. Notice of contest shall be sent to the Administrator who shall provide a hearing before the County Commissioners for final resolution.
4. Any job site found to have contractors working and not registered with the county shall be issued a stop work order immediately.
5. Upon the determination by the Administrator that a contractor has completed their work in a substandard manner, the Administrator may issue a notice to revoke the registration of the contractor. The contractor is then subject to the procedures set forth in section (H) as herein set forth.

L. Contractor Registration: All funds shall be remitted to the County Treasurer.

M. Applicability of regulations: The regulations shall not apply to the county, state, or any political subdivision thereof.

Section 8.13 Water and Sewer Facilities

A. Each building or structure or use hereafter established shall provide for sewage disposal and water. Any subdivision consisting of three or more lots shall be required to connect to rural water if available within one hundred yards of any portion of the subdivision. Should rural water not be available, a central water system consisting of one or more wells connected to a common line serving each lot shall be mandatory. Subdivisions with lots of less than two and one-half acres shall be required to have a State of Nebraska Department of Environment and Energy approved common sewer system serving all lots. Covenants shall be required to ensure maintenance of these systems by landowners.

B. If a well is needed for the water source, the well shall not be located any closer than fifty feet to any adjoining agricultural use property line. All locations, construction, connection, and use

shall comply with the requirements and standards recommended by the State of Nebraska Department of Health and Human Services.

Section 8.14 Mining and Quarries - Extraction of Sand & Gravel, Minerals, Limestone, Rock, Clay, Shale, Sandstone and Soil Extraction

A. The application shall include a grading map showing contours, proposed excavation contours and proposed final grade contours.

B. The applicant shall identify the effect of the extraction on the groundwater levels of the adjoining properties. The application shall identify proposed vehicle and equipment storage areas.

C. Erosion controls, including retention and sediment basins shall be provided during extraction to prevent a change in the character of runoff onto adjacent land.

D. 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.

E. Topsoil shall be collected and stored for redistribution on the site at the termination of the operation.

F. Excavation shall be conducted in such a way as not to constitute a hazard to any persons, not to the adjoining property. All cuts shall be returned to a slope of less than three to one 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.

G. Within one 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 health, safety and general welfare of the public.

H. 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 Section 10.01 of this regulation.

Section 8.15 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 conditions:

A. Intent and Purpose: In order to balance the need for clean, renewable energy resources with the protection of the health, safety, and welfare of the residents of Cass County, Nebraska, the County finds these regulations are necessary in order to ensure that all wind energy conversion systems (WECS) are appropriately designed, sited, and installed.

B. Definitions:

AGGREGATED PROJECT Those 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 a larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregated project.

COMMERCIAL WIND ENERGY CONVERSION SYSTEM A wind energy conversion system under common or aggregated ownership or operating control that includes substations, MET towers, cables/wires and other building accessories, whose main purpose is to supply electricity to off- site customers.

FALL ZONE The area, defined as the furthest distance from the tower base, in which a tower will collapse in the event of a structural failure.

FEEDER LINE 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 the interconnection shall be the substation serving the WECS.

HEIGHT, TOTAL SYSTEM The height above grade of the system, including the generating unit and the highest vertical extension of any blades or rotors.

HEIGHT, TOWER The height above grade of the fixed portion of the tower, excluding the generation unit and attached blades and rotors.

METEOROLOGICAL TOWER For the purposes of wind energy conversion systems, meteorological towers are those which are erected primarily to measure wind speed and direction plus other data relevant to siting WECS. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Transportation, or other similar applications to monitor weather conditions.

SHADOW FLICKER Strobe effect that occurs when sun is horizontal to rotor blades, which causes repetitive intermittent shadows that can affect people on nearby properties.

SMALL WIND ENERGY CONVERSION SYSTEM (SWECS) A wind energy conversion system which has a rated capacity of up to one hundred (100) kilowatts and which is incidental and subordinate to another use on the same parcel. A system is considered a small wind energy system only if it supplies electrical power for on-site use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be sold back to the utility company.

TOWER The vertical component of a wind energy conversion system that elevates the wind turbine generator and attached blades above the ground.

WIND ENERGY CONVERSION SYSTEM (WECS) An aggregation of parts including the base, tower, generator, rotor, blades, supports, and configuration as necessary to convert the power of wind into mechanical or electrical energy, e.g., wind charger, windmill, or wind turbine.

WIND TURBINE GENERATOR The component of a wind energy system that transforms mechanical energy from the wind into electrical energy.

C. Application Requirements: The applicant for a conditional use permit for construction of a WECS shall file an application with the Cass County Zoning Administrator and pay the required fees. A Conditional Use Permit will run concurrent for a period of 15 years. See Article 6 Section 6.01 for renewal procedures. The application shall include the name(s) of the project applicant(s), the name of the project owner(s), and the legal description and address for the project. An Escrow Account (amount to be determined) may be required by the County Board to cover reasonable costs incurred for a professional consultant. The application shall also include the following documents:

1. A survey map illustrating the following:
   a. Property lines, dimension, acreage, and contours with appropriate intervals for site evaluation;
   b. Location and elevation of all components of the proposed WECS;
   c. Location and dimensions of all existing structures and uses on property within three hundred (300) feet of the system;
   d. Height of any structures over thirty-five (35) feet within a five hundred (500) foot radius on site or offsite of the proposed WECS;
   e. Location of any overhead utility lines on the property;
   f. Location of all known communications towers within two (2) miles of the proposed WECS;
   g. Access roads;
   h. Adjacent ownership, land uses, existing residences, schools, churches, hospitals, public libraries, federal, state, county, or local parks, recognized historic or heritage sites, identified wildlife preserves, or habitat areas to a distance of 2000 feet.

D. Applicant shall identify potential effects in terms of constraints or benefits the wind energy facility may place on current or future use of the land within the project site and the surrounding area. The extent of any limitations due to public health and safety risks shall be specifically addressed, and the effects on the following activities shall also be addressed:

1. Existing or proposed tourist or recreation activities;
2. Residential activities;
3. Industrial activities;
4. Agricultural activities;
5. Commercial activities

E. Soil erosion, sediment control, and storm water runoff plan shall address what types of erosion control measures will be used during each phase of the project. It shall identify plans for:

1. Grading;
2. Construction and drainage of access roads and turbine pads;
3. Design features to control dust;
4. Design features to maintain downstream water quality;
5. Re-vegetation to ensure slope stability;
6. Restoring the site after temporary project activities;
7. Disposal or storage of excavated mate
8. Protecting exposed soil;
9. Stabilizing restored material and removal of silt fences or barriers when the area is stabilized; and
10. Maintenance of erosion controls throughout the life of the project.

F. Applicant shall provide information regarding flora and fauna of the proposed project area including:

1. Officially listed threatened or endangered species;

2. Critical habitat and habitat conditions;
3. An avian study based on the US Fish and Wildlife Services "Interim Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbines."

G. Standard drawings of the structural components of the WECS, including structures, tower, base, and footings.

1. Certification by a registered engineer that:
   a. There is a substantial need for the proposed use or WECS, one hundred (100) kW or greater;
   b. All applicable local, state, and federal building, structural and electrical codes have been followed;
   c. The site is feasible for a WECS; the WECS can be successfully operated in the climate conditions found in Cass County;
   d. The rotor and over speed control have been designed for the proposed use on the proposed site;
   e. The design and safety of the proposed tower to withstand winds of ninety (90) miles per hour; and
   f. If the wind turbine were to fall, no building or structure, existing or potential, would be damaged.

H. Liability Insurance:

1. A holder on a Conditional Use Permit for Large Wind Energy Conversion Systems shall secure and at all times maintain public liability insurance for personal injuries, death and property damage and umbrella insurance coverage for the duration of the Conditional Use Permit in amounts set forth below:
   a. Commercial General Liability covering personal injuries, death, and property damage: $1,000,000 per occurrence/$2,000,000 aggregate.
   b. Automobile Coverage: $1,000,000 per occurrence/$2,000,000 aggregate
2. Workers Compensation and Disability: Statutory amounts
3. For a Large Wind Energy Conversion System on county property, the Commercial General Liability insurance policy shall specifically include the County and its officers, Councils, employees, committee members, attorneys, agents, and consultants as additional insureds.
4. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best's rating of at least A.
5. The insurance policies shall contain an endorsement obligating the insurance company to furnish the County with at least thirty (30) days prior written notice in advance of the cancellation of the insurance.
6. Renewal or replacement policies or certificates shall be delivered to the County at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.
7. Before construction of a permitted Large Wind Energy Conversion System is initiated, but in no case later than fifteen (15) days after the grant of a Conditional Use Permit, the holder

of the Conditional Use Permit shall deliver to the County a copy of each of the policies or certificates representing the insurance in the required amounts.

I. Performance Security:

1. The Applicant and the owner of record of any proposed Large Wind Energy Conversion System property site shall, at its cost and expense, be jointly required to execute and file with the County Board an escrow account or other form of security acceptable to the County Board as to type of security and the form and manner of execution, in an amount of at least $100,000.00 for a Large Wind Energy Conversion System facility with such sureties as are deemed sufficient by the County Board to assure the faithful performance of the terms and conditions of this Regulation and conditions of any Conditional Use Permit issued pursuant to this Regulation. The full amount of the escrow account or other security shall remain in full force and effect throughout the term of the Conditional Use Permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that, which existed prior to the issuance of the original Conditional Use Permit.

J. Indemnification:

1. Any application for a Large Wind-Energy Conversion System that is proposed for County property, pursuant to this Regulation, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the Law, to at all times defend, indemnify, protect, save, hold harmless and exempt the County and its officers, Councils, employees, committee members, attorneys, agents and consultants from any and all penalties, damages, costs or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising there from, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal or restoration of said Facility, excepting however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributed to the negligent or intentional acts or omissions of the County, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorney's fees. Consultant's fees, and expert witness fees are included in those costs that are recoverable by the County. Exception: An indemnification provision will not be required in those instances where the County itself applies for and secures a Conditional Use Permit for a Wind Energy Conversion system.

K. The County Board may hire any consultant and/or expert necessary to assist the Zoning Administrator, Planning Commission and County Board in reviewing and evaluating the Application, including the construction and modification of the site, once permitted, and at any site inspection.

1. The Applicant shall deposit with the County funds sufficient to reimburse the County Board for all reasonable costs of consultant and expert evaluation and consultation to the County in connection with the review of any Application including where applicable, the construction and modification of the site, once permitted.

2. The initial deposit shall be $8,500.00. The placement of the $8,500.00 with the County shall precede the pre-application meeting. The County will maintain a separate escrow

account for all such funds. The County's consultants/experts shall invoice the County for its services related to the Application. If at any time during the process this escrow account has a balance less than $2,500.00, the Applicant shall immediately, upon notification by the County, replenish said escrow account so that it has a balance of at least $5,000.00.

3. Such additional escrow funds shall be deposited with the County before any further action or consideration is taken on the Application. In the event that the amount held in escrow by the County is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall upon request of the Applicant, be promptly refunded to the Applicant.

L. General Siting and Design Standards:

1. WECS shall be located on a parcel of at least ten (10) acres in size.
2. WECS shall be designed and placed in such a manner as to minimize to the greatest extent feasible, adverse visual and noise impacts on adjacent areas. This shall include documentation of:

a. Noise levels conforming to the International Electromechanical Commission (IEC) Standard 61400-11 part 11; and

b. Projections of the "shadow flicker" on any existing structures located off the property on which the WECS will be constructed and the extent and duration of the shadow flicker on these existing structures.

3. WECS shall maintain a minimum setback distance from any property lines of two (2) times the combined height of the tower and blade.
4. WECS shall maintain a minimum setback distance from any public road or highway of at least two (2) times the combined height of the tower and blade.
5. In no case shall a WECS be located within any required setback or in any front yard area.
6. If an aggregated project, setbacks from multiple entities shall be one and one-tenth (1.1) times the height of the total system.
7. Structures for wind turbines shall be self-supporting tubular towers painted a neutral color such as white or pale gray. No lattice structure shall be used. No logos or advertisements are allowed on these structures. Each turbine shall be marked with a visible identification number located no higher than fifteen (15) feet above ground level.
8. Colors and surface treatment of the WECS and supporting structures shall, to the greatest extent possible, minimize disruption of the natural characteristics of the site.
9. Reasonable measures shall be taken to mitigate specific adverse visual impacts such as reflections, shadow flicker, and blade glint affecting residences within or immediately adjacent to the project area.
10. Appropriate landscaping shall be provided to screen accessory structures from roads and adjacent residences.
11. WECS shall be equipped with air traffic warning lights or other marking lights only if so required by the Federal Aviation Administration and in which event, such light should be positioned or shielded to avoid visual impact on neighboring properties and shall be a white flashing light from daylight till twilight and a steady red-light nighttime.

12. The applicant shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any wind energy facility.

M. Construction and Operations:

1. All county roads to be used for the purpose of transporting WECS, substation parts, cement or equipment for construction, operation, or maintenance of the WECS shall be identified and applicable weight and size permits from the impacted road authority(ies) shall be obtained prior to construction.
2. The WECS owner shall be responsible for immediate repair of damage to public roads and drainage systems stemming from construction, operation, or maintenance of the WECS.
3. 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 regulations.

N. Safety Measures:

1. Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor**.**
2. The planning board shall determine the height, color, and type of fencing for the WECS installation.
3. WECS shall include no sign or advertising of any kind, except for one sign not to exceed two (2) square feet posted at the base of the tower, electrical equipment, and entrances. The sign shall contain the following information:
   a. Warning – high voltage
   b. Manufacturer's name
   c. Operator's name
   d. Emergency phone number
   e. Emergency shutdown procedures
4. Each WECS shall be properly grounded to safely sustain natural lightning strikes in conformance with the National Electric Code.
5. Any WECS facility shall be equipped with anti-climbing devices. Tower climbing apparatus shall not be located within fifteen (15) feet of the ground. Where the tower is capable of being climbed, a locked, protective fence at least six (6) feet high shall enclose the tower.
6. The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.
7. The WECS operator shall maintain a current insurance policy which will cover installation, operation, and any possible damage or injury that might result from the failure of a tower or towers or any other part or parts of the generation and transmission facility. The amount of said policy shall be established as a condition of approval. The WECS shall be warranted against any system failures reasonably expected in severe weather operation conditions.

O. Discontinuation and Decommissioning:

1. WECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the Cass County Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed four (4) feet below ground level within ninety (90) days of the discontinuation of use.
2. Each WECS shall have a decommissioning plan outlining the anticipated means and costs of removing WECS at the end of the serviceable life or upon becoming a discontinued use. The cost estimates shall be made by a competent party, such as a profession engineer, a contractor capable of decommissioning, or a person with suitable expertise or experience with decommissioning. The plan shall include documentation showing financial capability to carry out the decommissioning and restoration requirements. Applicant shall submit an escrow account/surety bond/insurance policy in an amount approved by the planning board as reasonably necessary to restore the site to its pre-wind energy facility topography and topsoil quality. The purpose of this account/bond/policy is to assure removal of all improvements subject to the Conditional Use Permit.
3. At the end of the wind energy facility's useful life, the site shall be restored in accordance with the requirements of this condition within eighteen (18) months.

Section 8.16 Residential and Small Wind Energy Systems

Purpose: It is the purpose of this ordinance to promote the safe, effective, and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity and that such systems are appropriately sited within Cass County's zoning jurisdiction.

Definitions: The following are defined for the specific use of this section. Additional definitions pertaining to wind energy systems are found in Section 8.15 herein.

BUILDING-MOUNTED WIND TURBINE (BMWT) a wind energy conversion system consisting of a wind turbine mounting system and associated control or conversion electronics and which is mounted to a building and intended to primarily reduce on-site consumption of utility power.

DECIBEL (db) The measurement of a sound pressure relative to the logarithmic conversion of the sound pressure reference level often set as 0 dbA. In general, this means the quietest sound we can hear is near 0 dbA and the loudest we can hear without pain is near 120 dbA. Most sounds in the typical day-to-day environment range from 30 dbA to 100 dbA. Normal speech at 3 feet averages about 65 dbA.

FAA Federal Aviation Administration.

MICRO-WIND ENERGY CONVERSTION SYSTEM shall mean a Wind Energy Conversion System of 1 kW nameplate generating capacity or less and utilizing supporting towers of 40 feet or less.

RESIDENTIAL WIND ENERGY CONVERSION SYSTEM (RWECS) a wind energy conversion system consisting of a wind turbine, tower, and associated control or conversion electronics, and which is intended to primarily reduce on-site consumption of utility power. A system is considered a residential wind energy system only if it supplies electrical power solely for on-site use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company.

SMALL WIND ENERGY CONVERSION SYSTEM (SWECS) a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, and which will be used primarily to reduce on-site consumption of utility power. Such system has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

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.

TOWER HEIGHT shall mean the height above grade of the first fixed portion of the tower, excluding the wind turbine itself.

A. **Requirements for Residential Wind Energy Conversion System (RWEC)**: Residential wind energy systems shall be permitted as a conditional use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met.

1. Wind energy towers shall to the extent possible blend into the surrounding environment and architecture, including painting to reduce visual obtrusiveness. The County Planner may require a photo of an RWECS system of the same model that is the subject of the landowner's application adjacent to a building or some other object illustrating scale (e.g., manufacturer's photo).

2. RWECS shall not be artificially lighted unless required by the FAA or another appropriate authority.

   a. No tower should have any sign, writing, or picture that may be construed as advertising.

   b. RWECS shall not exceed 60 dBA, as measured at the closest property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.

   c. An RWECS shall be located on a parcel that is at least one-half (1/2) acre in size.

   d. The applicant shall provide information demonstrating that the system will be used primarily to off-set on-site consumption of electricity. No residential 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. Off-grid systems shall be exempt from this requirement.

   e. The minimum distance between the ground and any protruding blades utilized on an RWECS shall be 20 feet, as measured at the lowest point on the arc of the rotor. The supporting tower shall also be enclosed with a six-foot-tall fence or the base of the tower shall not be climbable for a distance of 12 feet.

   f. Compliance with FAA regulations: An RWECS must comply with applicable regulations of the Federal Aviation Administration, including any necessary approvals for installations close to airports.

   g. Compliance with the International Building Code: Building permit applications for an RWECS shall be accompanied by standard drawings of the wind turbine structure, including the tower base, and footings. An engineering analysis of the tower showing compliance with the International Building Code and certified by a professional engineer licensed in the State of Nebraska shall also be submitted.

h. Compliance with National Electric Code: Building permit applications for an RWECS 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 Electric Code. This information may be supplied by the manufacturer.

i. Setbacks: See Section 8.15 for setbacks.

j. No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site.

k. Tower Height. The applicant shall provide evidence that the proposed height of the RWECS does not exceed the height recommended by the manufacturer or distributor of the system.

3. The maximum tower height is 80 feet unless a greater restriction is imposed by FAA regulations.

B. Requirements for Small Wind Energy Conversion System (SWECS): Small wind energy systems shall be permitted as a conditional use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met.

1. Small wind energy towers shall maintain a galvanized steel finish, unless FAA standards require otherwise, or if the owner is attempting to match the finish on the tower to the surrounding environment and architecture, in which case it may be painted to reduce visual obtrusiveness. The County Planner may require a photo of an SWECS system of the same model that is the subject of the landowner's application adjacent to a building or some other object illustrating scale (e.g., manufacturer's photo).

2. SWECS shall not be artificially lighted unless required by the FAA or another appropriate authority.

3. No tower should have any sign, writing, or picture that may be construed as advertising.

4. SWECS shall not exceed 60 dBA, as measured at the closest property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.

5. An SWECS shall be located on a parcel that is at least three (3) acres in size.

6. The applicant shall provide information demonstrating that the system will be used primarily to off-set on-site consumption of electricity. No residential 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. Off-grid systems shall be exempt from this requirement.

7. The minimum distance between the ground and any protruding blades utilized on an SWECS shall be 20 feet, as measured at the lowest point on the arc of the rotor. The supporting tower shall also be enclosed with a six-foot-tall fence or the base of the tower shall not be climbable for a distance of 12 feet.

8. Compliance with FAA regulations: An SWECS must comply with applicable regulations of the Federal Aviation Administration, including any necessary approvals for installations close to airports.

9. Compliance with the International Building Code: Building permit applications for an

SWECS shall be accompanied by standard drawings of the wind turbine structure, including the tower base, and footings. An engineering analysis of the tower showing compliance with the International Building Code and certified by a professional engineer licensed in the State of Nebraska shall also be submitted.

10. Compliance with National Electric Code: Building permit applications for an SWECS 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 Electric Code. This information may be supplied by the manufacturer.

11. Setbacks: See Section 8.15 for setbacks.

    a. No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site.

12. Tower Height. The applicant shall provide evidence that the proposed height of the SWECS does not exceed the height recommended by the manufacturer or distributor of the system.

    a. The maximum tower height is 120 feet unless a greater restriction is imposed by FAA regulations.

C. Application Requirements:

1. A survey map at an appropriate scale identifying site boundary; adjacent public right-of-way; existing structures; proposed small wind energy system and accessory structures; adjacent ownership and existing residences; any overhead utility lines.
2. A report from a licensed engineer containing; small wind system specifications including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed); documentation to establish that the tower has sufficient structural integrity for the proposed use at the proposed location; certification that the small wind energy system complies with all applicable state construction and electrical codes and the National Electrical Code.

D. General Siting and Design Standards:

1. Setback from property lines, habitable structures public rights-of-way, and access easements at least 1.1 times the tower height.
2. Turbines and towers shall be of tubular design and must be painted or coated in a non-reflective white, grey, or other neutral color and shall not use to display advertising.
3. SWECS shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA).
4. All electrical wires associated with a small wind energy system other than the wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
5. The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.
6. All ground mounted electrical and control equipment must be labeled and secured to prevent unauthorized access. A tower may not have step bolts or a ladder within eight (8) feet of the ground that is readily accessible to the public.
7. The owner of a small wind energy facility shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by

the facility.

8. Construction access must be regraded and revegetated to minimize environmental impacts.
9. A SWECS application must include an agreement that addresses decommissioning and abandonment of the facility. The agreement must at a minimum provide for reuse or dismantlement of the facility at the owner's expense.

Wind Energy Conversion Systems and Small Wind Energy Conversion Systems will be permitted by Conditional Use Permits in the land use district as shown below:

District	WECS	SWECS	Meteorological
AG	C	C	C
Trans/AG	C	C	C
Rec/AG	-	-	-
Ind/AG	-	C	-
Commercial	-	C	-
Residential	-	C	-
Com/AG	-	C	-
Industrial	-	C	-

- Not Permitted C Conditional Use

New Technology

These regulations pertaining to all wind energy conversion systems are intended to respond to equipment available at the time of adoption. Cass County recognizes that this is an emerging technology and that new means of collecting wind energy, including but not limited to vertical axis wind turbine generators, are under development. Accordingly, these standards will be reviewed and may be amended as technology advances.

Section 8.17 Waste Disposal Sites and Landfills

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

A. The effects on adjacent properties, traffic, and infrastructure

B. The public necessity and advantage

C. The maintenance of access routes related to all weather conditions and droppings of rubbish and litter.

D. The effects on underground water quality

E. The immediate and long-term effects on the environment and the public

F. The concerns for public safety

G. The application shall include documents to indicate conformance to all applicable governmental regulations and standards.

H. The application shall include affidavits or permits from the Environmental Protection Agency and/or the Nebraska Department of Environment and Energy, in the event an approval is required by these agencies.

Section 8.18 Adult Establishments

A. Purpose, Findings and Rationale: It is the purpose of this resolution to regulate adult establishments in order to promote the health, safety, and general welfare of the citizens of the County, and to establish reasonable and uniform regulations to prevent the deleterious

secondary effects of adult establishments within the County. The provisions of this resolution have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this resolution to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this resolution to condone or legitimize the distribution of obscene material.

B. Findings and Rationale: Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Board of Commissioners, and on findings, interpretations, and narrowing constructions incorporated in the cases of City of Littleton v. Z.J. Gifts D-4, L.L.C., 541 U.S. 774 (2004); City of Los Angeles v. Alameda Books, Inc., 535 U.S. 425 (2002); City of Erie v. Pap's A.M., 529 U.S. 277 (2000); City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986); Young v. American Mini Theatres, 427 U.S. 50 (1976); Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991); California v. LaRue, 409 U.S. 109 (1972); N.Y. State Liquor Authority v. Bellanca, 452 U.S. 714 (1981); Sewell v. Georgia, 435 U.S. 982 (1978); FW/PBS, Inc. v. City of Dallas, 493 U.S. 215 (1990); City of Dallas v. Stanglin, 490 U.S. 19 (1989); and Farkas v. Miller, 151 F.3d 900 (8th Cir. 1998); Jakes, Ltd. v. City of Coates, 284 F.3d 884 (8th Cir. 2002); BZAPS, Inc. v. City of Mankato, 268 F.3d 603 (8th Cir. 2001); SOB, Inc. v. County of Benton, 317 F.3d 856 (8th Cir. 2003); Scope Pictures v. City of Kansas City, 140 F.3d 1201 (8th Cir. 1998); ILQ Invs. v. City of Rochester, 25 F.3d 1413 (8th Cir. 1994); City of Lincoln v. ABC Books, Inc., 470 N.W.2d 760 (Neb. 1991); Xiong v. City of Moorhead, 2009 WL 322217 (D. Minn. Feb. 2, 2009); Entm't Prods., Inc. v. Shelby County, 721 F.3d 729 (6th Cir. 2013); Lund v. City of Fall River, 714 F.3d 65 (1st Cir. 2013); Imaginary Images, Inc. v. Evans, 612 F.3d 736 (4th Cir. 2010); LLEH, Inc. v. Wichita County, 289 F.3d 358 (5th Cir. 2002); Ocello v. Koster, 354 S.W.3d 187 (Mo. 2011); 84 Video/Newsstand, Inc. v. Sartini, 2011 WL 3904097 (6th Cir. Sept. 7, 2011); Plaza Group Properties, LLC v. Spencer County Plan Commission, 877 N.E.2d 877 (Ind. Ct. App. 2007); Flanigan's Enters., Inc. v. Fulton County, 596 F.3d 1265 (11th Cir. 2010); East Brooks Books, Inc. v. Shelby County, 588 F.3d 360 (6th Cir. 2009); Entm't Prods., Inc. v. Shelby County, 588 F.3d 372 (6th Cir. 2009); Sensations, Inc. v. City of Grand Rapids, 526 F.3d 291 (6th Cir. 2008); World Wide Video of Washington, Inc. v. City of Spokane, 368 F.3d 1186 (9th Cir. 2004); Ben's Bar, Inc. v. Village of Somerset, 316 F.3d 702 (7th Cir. 2003); Peek-a-Boo Lounge v. Manatee County, 630 F.3d 1346 (11th Cir. 2011); Daytona Grand, Inc. v. City of Daytona Beach, 490 F.3d 860 (11th Cir. 2007); Heideman v. South Salt Lake City, 348 F.3d 1182 (10th Cir. 187 (Mo. 2011); 84 Video/Newsstand, Inc. v. Sartini, 2011 WL 3904097 (6th Cir. Sept. 7, 2011); Plaza Group Properties, LLC v. Spencer County Plan Commission, 877 N.E.2d 877 (Ind. Ct. App. 2007); Flanigan's Enters., Inc. v. Fulton County, 596 F.3d 1265 (11th Cir. 2010); East Brooks Books, Inc. v. Shelby County, 588 F.3d 360 (6th Cir. 2009); Entm't Prods., Inc. v. Shelby County, 588 F.3d 372 (6th Cir. 2009); Sensations, Inc. v. City of Grand Rapids, 526 F.3d 291 (6th Cir. 2008); World Wide Video of Washington, Inc. v. City of Spokane, 368 F.3d 1186 (9th Cir. 2004); Ben's Bar, Inc. v. Village of Somerset, 316 F.3d 702 (7th Cir. 2003); Peek-a- Boo Lounge v. Manatee County, 630 F.3d 1346 (11th Cir. 2011); Daytona Grand, Inc. v. City of Daytona Beach, 490 F.3d 860 (11th Cir. 2007); 2003); Williams v. Morgan, 478 F.3d 1316 (11th Cir. 2007); Jacksonville Property Rights Ass'n, Inc. v. City of Jacksonville, 635 F.3d 1266 (11th Cir. 2011); H&A Land Corp. v. City of Kennedale, 480 F.3d 336 (5th Cir. 2007); Hang On, Inc. v. City of Arlington, 65 F.3d 1248 (5th Cir. 1995); Fantasy Ranch, Inc. City of Arlington, 459 F.3d 546 (5th Cir. 2006); Illinois One News, Inc. v. City of Marshall, 477 F.3d 461 (7th Cir. 2007); G.M. Enterprises, Inc. v. Town of St. Joseph, 350 F.3d 631 (7th Cir. 2003); Richland Bookmart, Inc. v. Knox County, 555 F.3d 512 (6th Cir. 2009); Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County, 256 F. Supp. 2d 385 (D. Md. 2003); Richland Bookmart, Inc. v. Nichols, 137 F.3d 435 (6th Cir. 1998); Spokane Arcade, Inc. v. City of Spokane, 75 F.3d 663 (9th Cir. 1996); DCR, Inc. v. Pierce County,

964 P.2d 380 (Wash. Ct. App. 1998); City of New York v. Hommes, 724 N.E.2d 368 (N.Y. 1999); Taylor v. State, No. 01-01- 00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); Fantasyland Video, Inc. v. County of San Diego, 505 F.3d 996 (9th Cir. 2007); Gammoh v. City of La Habra, 395 F.3d 1114 (9th Cir. 2005); Z.J. Gifts D-4, L.L.C. v. City of Littleton, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); People ex rel. Deters v. The Lion's Den, Inc., Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); Reliable Consultants, Inc. v. City of Kennedale, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); Major Liquors, Inc. v. City of Omaha, 188 Neb. 628 (1972); DLH Inc. v. Nebraska Liquor Control Commission, 266 Neb. 361(2003); Village of Winslow v Sheets, 261 Neb.203 (2001); Law Enforcement and based upon reports concerning secondary effects occurring in and around adult establishments, including, but not limited to, "Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD," Journal of Urban Health (2011); "Does the Presence of Sexually Oriented Businesses Relate to Increased Levels of Crime? An Examination Using Spatial Analysis," Crime & Delinquency (2012) (Louisville, KY); Metropolis, Illinois – 2011-12; Manatee County, Florida – 2007; Hillsborough County, Florida – 2006; Clarksville, Indiana – 2009; El Paso, Texas – 2008; Memphis, Tennessee – 2006; New Albany, Indiana – 2009; Louisville, Kentucky – 2004; Fulton County, GA – 2001; Chattanooga, Tennessee – 1999-2003; Jackson County, Missouri – 2008; Ft. Worth, Texas – 2004; Kennedale, Texas – 2005; Greensboro, North Carolina – 2003; Dallas, Texas – 1997; Houston, Texas – 1997, 1983; Phoenix, Arizona – 1995-98, 1979; Tucson, Arizona – 1990; Spokane, Washington – 2001; St. Cloud, Minnesota – 1994; Austin, Texas – 1986; Indianapolis, Indiana – 1984; Garden Grove, California – 1991; Los Angeles, California – 1977; Whittier, California – 1978; Oklahoma City, Oklahoma – 1986; New York, New York Times Square – 1994; the Report of the Attorney General's Working Group On The Regulation Of Adult establishments, (June 6, 1989, State of Minnesota); Dallas, Texas – 2007; "Rural Hotspots: The Case of Adult Businesses," 19 Criminal Justice Policy Review 153 (2008); "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; "Adult Establishments: An Insiders View," by David Sherman presented to the Michigan House Committee on Ethics and Constitutional Law, Jan.12, 2000; Sex Store Statistics; and Law Enforcement and Private Investigator Affidavits (Adult Cabarets in Forest Park, GA and Sandy Springs, GA), McCleary and Weinstein; Do "Off-Site Adult Businesses Have Secondary Effects? Legal Doctrine, Social Theory and Empirical Evidence, Law and Policy, Vol. 31, No. 2 (April 2009), Adult Business Study: Town and Village of Ellicottville, Cattaraugus County, New York (January 1998),The Board of Commissioners finds:

1. Adult establishments, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight litter and sexual assault and exploitation. Alcohol consumption impairs judgement and lowers inhibitions, thereby increasing the risk of secondary effect.

2. Adult establishments should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other adult establishments, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of adult establishments in one area.

3. Each of the foregoing negative secondary effects constitutes a harm which the County has a substantial government interest in preventing and/or abating. Additionally, the County's interest in regulating adult establishments extends to preventing future secondary effects of either current or future adult establishments that may locate in the County. The County finds that the cases and documentation relied on in this resolution are reasonable believed

to be relevant to said secondary effects.

4. The Board hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of adult establishments, including the judicial opinions and reports related to such secondary effects.

C. Regulations: No person shall establish, operate or cause to be operated an adult establishment in Cass County within:

1. 1,000 feet of another adult establishment;
2. 500 feet of a business licensed to sell alcohol at the premises;
3. 1500 feet of a residential district, residential use, residence, church, educational institution, park, recreational facility; or
4. 1,500 feet of an interstate, where "interstate interchange" means those areas and their approaches where traffic is channeled off or onto an interstate route (excluding deceleration lanes, acceleration lanes, and feeder systems) from or to another federal state, county, city, or other route.
5. For the purpose of this section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of the structure containing the adult establishment to the closest point on a property boundary or right-of-way of another adult establishment, a business licensed to sell alcohol at the premises, a residential district, a residential use, a residence, a church, an educational institution, a park, a recreational facility, or an interstate interchange.
6. No adult establishment shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day.
7. No patron, employee of an adult establishment, or any other person shall knowingly or intentionally, in an adult establishment, appear in a state of nudity or engage in a specified sexual activity.
8. No person shall knowingly or intentionally, in an adult establishment, appear in a semi-nude condition unless the person is an employee of an adult establishment who, while semi-nude, remains at least six (6) feet from all patrons and on a stage at least eighteen (18) inches from the floor in a room of at least six hundred (600) square feet.
9. No employee of an adult establishment who appears semi-nude in an adult establishment shall knowingly or intentionally touch a customer or the clothing of a customer on the premises of an adult establishment. No customer shall knowingly or intentionally touch such an employee of an adult establishment or the clothing of such an employee of an adult establishment on the premises of an adult establishment.
10. No person shall possess alcoholic beverages on the premises of an adult establishment.
11. No person shall knowingly or recklessly allow a person under the age of eighteen (18) years to be or remain on the premises of an adult establishment.
12. No operator of an adult establishment shall knowingly or recklessly allow a room in the adult establishment to be simultaneously occupied by any patron and any employee of an adult establishment who is semi-nude or who appears semi-nude on the premises of the adult establishment, unless an operator of the adult establishment is present in the same

room.

13. A person who operates or causes to be operated an adult establishment which exhibits in a booth or viewing room on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements:

    a. The operator of the adult establishment shall, within one week of opening the adult establishment for business, submit to the County Zoning Officer a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain equipment for displaying films, video cassettes, digital video discs, or other video reproductions. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches.

    b. It shall be the duty of the operator of the adult establishment, and of any employees of the adult establishment present on the premises, to ensure that no patron is permitted access to any area of the premises, which has been designated as an area in which patrons will not be permitted.

    c. The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level. It shall be the duty of the operator of an adult establishment, and of any employees of an adult establishment present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.

    d. It shall be the duty of the operator of an adult establishment, and of any employees of an adult establishment present on the premises, to ensure that no specified sexual activity occurs in or on the licensed premises.

    e. It shall be the duty of the operator of an adult establishment to post conspicuous signs in well-lighted entry areas of the business stating all of the following:

        - That the occupancy of viewing rooms less than 150 square feet is limited to one person.
        - That specified sexual activity on the premises is prohibited.
        - That the making of openings between viewing rooms is prohibited.
        - That violators will be required to leave the premises.
        - That violations of these regulations are unlawful.

    f. It shall be the duty of the operator of an adult establishment to enforce the regulations articulated above.

    g. The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator of the adult establishment's station of every area

of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator of an adult establishment to ensure that at least one employee of an adult establishment is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator of an adult establishment, and it shall also be the duty of any employees of an adult establishment present on the premises, the ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

h. It shall be the duty of the operator of an adult establishment to ensure that no porous materials are used for any wall, floor, or seat in any booth or viewing room.

i. It shall be unlawful for a person having a duty under subsections (m) i. through (m) viii above to fail knowingly or recklessly to fulfill that duty.

j. No patron shall knowingly or recklessly enter or remain in a viewing room less than 150 square feet in area that is occupied by any other patron.

k. No patron shall knowingly or recklessly be or remain within one foot of any other patron which in a viewing room that is 150 square feet or larger in area.

l. No person shall knowingly or recklessly make any hole or opening between viewing rooms.

m. It shall be the duty of the operator of an adult establishment to ensure that the interior premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level and the illumination must be maintained at all times that any customer is present in or on the premises.

n. Unless a culpable mental state is otherwise specified herein, a showing of reckless mental state shall be sufficient to establish a violation of a provision of this section.

D. The minimum lot area for an adult establishment is 3 acres, and the minimum lot width is 200 feet, notwithstanding stricter requirements set for the permitted uses in a zoning district. No conditional use permit shall be required to establish or operate an adult establishment on a lot that is 3 acres or larger in area and 200 feet or greater in width.

Section 8.19 Erosion Control

A. Intent: The purpose of these regulations is to prevent excessive erosion and to reduce the amount of sedimentation and other pollutants from entering and clogging storm sewers, filling ditches and waterways, covering roads and other abutting properties while adding silt over other resources and occurring as the result of uncontrolled construction site storm water runoff which may also cause a threat to public health, safety and welfare.

It is the intent of these regulations to provide minimum requirements for erosion and sedimentation control for all land disturbing construction activities within the jurisdiction of

the County in order to reduce the amount of sedimentation and erosion by managing storm water runoff.

B. Jurisdiction: These regulations shall apply to all land within the jurisdiction of the County. Any person, persons, firm, corporation, or business proposing to develop land within this jurisdiction shall apply to the Administrator for approval of required plans as specified within these regulations.

C. Prohibited Activities: Except as provided for herein, it shall be unlawful for any person to begin any land disturbing activity without an approved permit from the County.

D. Scope and Exclusions: These regulations shall apply to any land activity by any person on any land within the County. These regulations do not apply on sites pertaining to agricultural activities where the Administrator determines that such land disturbing activity is unlikely to cause soil erosion and the movement of sediments into surface waters or onto land.

E. Waste and Material Disposal:

1. All waste and unused building materials shall be disposed of in a timely manner and not allowed to be carried away by runoff.
2. Each site shall contain graveled access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto any roadway.
3. All storm drain inlets and culvert openings shall be protected from infiltration by a straw bale, filter fabric or an equivalent barrier.
4. Roadside ditches shall be protected from siltation from a land disturbing activity. Any siltation into roadside ditches shall be removed and the ditch restored to its original condition and erosion controls installed.
5. Any public or private body involved in a land disturbing activity within a public right-of-way, along or within a roadside ditch shall restore the ditch to its original or better condition and shall install the necessary controls to prevent erosion after the job is completed.
6. Erosion Control for Individual Lot Development: Except as provided hereafter within these regulations, construction of single-family residences shall also be controlled for erosion when they are constructed by, or under contract with, the owner for the owner's occupancy. Any person who desires to build improvements on an individual platted lot shall install slot fences two feet (2) back of the property line and at low spots where water runs off the site in order to confine soil movements within the boundaries of the property.
   a. Access to the property shall be established and maintained so that soil is not carried or washed onto roads. These control measures are to remain until the site has been adequately protected to sufficiently prevent erosion. It shall be a violation of these regulations if it is found, by site inspection, that these requirements are not being adequately provided for, and all work on and occupancy of the premise shall cease until all site erosion control measures are in place.

F. Permit Application: Prior to a land disturbing activity as delineated within these regulations, an application for a sediment control permit shall be prepared on forms provided and submitted to the Administrator. The application shall be accompanied by a sediment control plan.

1. All maps, drawings and supportive computations shall bear the signature and seal of the professional engineer, architect or landscape architect who is licensed in the State of Nebraska who was responsible for the design.

2. The sediment control permit shall cover only the area shown on the sediment control plan. Should the tract be developed in stages, the plan shall follow the stages. The plan shall include all of the following for the entire tract of land to be disturbed:
   a. A vicinity map showing the proposed development in relation to roadways, location and dimensions of utilities, structures, lakes, streams, channels, and ditches on and immediately adjacent to the site.
   b. A site plan showing: (a) soil types, (b) existing and proposed topography shown at an interval of not more than five (5) feet, (c) existing vegetation, (d) existing and proposed water courses, (e) flood plains and floodways,)f) critical erosion areas, and (g) features of the proposed development.
   c. A plan showing temporary and permanent vegetative and structural practices which specify the conservation measures to be used during clearing, grading, filling, construction, and permanent development. Their proposed operation and location within the development shall be described.
   d. A schedule of estimated starting and completion dates of each stage of land disturbing activities and conservation measures, including final stabilization completion date.
3. Where the Administrator deems that special soil erosion and sedimentation control problems are likely, the Administrator may require in addition to other information the following:
   a. A detailed description of: (a) a maintenance program for sediment control facilities, (b) vegetative establishment on exposed soils, (c) method and frequency of removal and disposal of waste materials from control facilities, and (d) disposition of temporary structural measures.
   b. Soil boring and tests
   c. Other engineering studies, computations, schedules and supporting data

G. Plan Review and Approval: The Administrator shall review the proposed plan and may request comments and information from other departments or reviewing agencies. Upon finding the plans adequate to control erosion and sedimentation on the site, The Administrator shall issue the permit. The Administrator shall have ten (10) working days after receiving a complete application or after receiving required additional information in which to act on the application. Should the plan be disapproved, the Administrator shall inform the applicant the reasons for the disapproval.

H. Design Standards: The following design procedures shall be utilized by the designer and anyone involved in the implementation of the plan for erosion and sediment control:

1. Topsoil to be stockpiled, protected and re-spread over areas stripped of vegetation or regraded.
2. Whenever feasible, natural vegetation shall be retained, protected, and supplemented.
3. The duration of exposure to the elements of the disturbed area shall be kept to a minimum.
4. Disturbed soil shall be stabilized as quickly as feasible.
5. Temporary vegetation or mulching shall be used to protect exposed critical erosion areas.
6. Permanent vegetation, mulching and structural erosion control facilities shall be installed

as soon as possible.

7. Cut and fill slopes shall be designed to retain finished grades.
8. Cuts and fills and other permanent structures shall not adversely affect adjoining property, not shall fills encroach upon natural or constructed water courses which affect other property owners.
9. All necessary measures shall be exercised to control dust and wind erosion.

I. There shall be no grading, clearing, excavation, trenching, filling, or other land disturbing activities as described within these regulations, until approved conservation measures have been installed.

1. All conservation measures shall apply to the construction site, including but not limited to road and utility installations and the protection of individual lots.
2. All persons implementing the provisions of these regulations and all subsequent owners of the property shall maintain all measures, devices, and plantings in effective working condition.

J. Inspection and Enforcement: The Administrator shall make periodic inspections of the site (s) during construction to evaluate the land disturbing activity for which a permit has been issued to make a determination if the measures of erosion control are effective.

1. The administrator may make subsequent inspections to the site (s) to determine the effectiveness of the installed measures and to determine whether all of the measures, devices, and plantings are being properly maintained.
2. Nothing within these regulations shall be construed as to prohibit the Administrator from inspecting any site exempted from these regulations and directing the abatement of any nuisance erosion or sedimentation.
3. The Administrator shall have the power to enter at a reasonable time upon any property, public or private, for the purpose of investigating and inspecting land disturbing activities.
4. No person shall refuse entry or access to the Administrator requesting entry for the purpose of inspection, nor shall any person obstruct. Hamper or interfere with the Administrator while carrying out his or her official duties.

K. Enforcement: Should the Administrator determine that the person engaged in the land disturbing activity has failed to comply with the Plan, the Administrator shall serve that person with a written notice to comply. The notice shall specify the measures necessary to comply with the Plan and shall specify the measures necessary to comply with the Plan and shall specify the time within which these measures must be completed. Should the person fail to comply within the time specified it shall be deemed to be a violation of these regulations and the permit shall be voided and revoked.

Upon completion of the land disturbing project, the designer shall certify in writing that the work has been completed in accordance with the Plan. Following a final inspection, the Administrator may issue a notice of compliance and grant a certificate of occupancy.

L. Penalties: Should there be a violation of any provision of these regulations, the person or persons responsible for such violation, or the owner of any property upon which such violation occurs or the agent, designer, contractor or any other person who commits, or takes part in or assists in any violation or who maintains the site in violation, shall upon conviction be punished

by a fine not to exceed one hundred (100) dollars for each offense. Each and every day that such violation continues after written notice of the violation shall constitute a separate offense.

1. Where any violation to these regulations exists, the appropriate authorities, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceedings necessary to correct, enjoin or abate such violation or to prevent the occupancy of the premise.

M. Appeals: Any person aggrieved by action of the Administrator shall have the right to appeal and may petition the governing body for a hearing. The appeal shall be filed in writing within fifteen (15) days of official notification of the determination of the Administrator. The petitioner shall clearly state the grounds in which the appeal is based.

N. Validity: If any section, subsection, clause, or phrase of these regulations is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of these regulations.

Section 8.20 Special Event Center

Events such as but not limited to weddings, wedding receptions, conferences, and concerts. A Conditional Use Permit shall meet the following requirements:

A. A detailed site plan which would include building (s), outside event area and parking of the proposed facility.

B. No parking will be allowed on a county road or State Hwy.

C. Handicapped accessible parking according to ADA standards.

D. An inside facility must have two (2) handicap accessible bathrooms.

E. An outdoor event shall have at least one (1) bathroom per forty people attending the event and at least one (1) must be handicap accessible.

F. Notification to property owners within one (1) mile of the special event center

G. Alcoholic beverages will be permitted only if the property owner has a designated liquor license.

H. Fire Marshall review of proposed special event center is required before Conditional Use Permit is approved.

Section 8.21 Solar Energy Development

No solar conversion system (SCS) shall be installed or constructed within the zoning jurisdiction of Cass County unless the applicable permit has been issued. Individual Solar Conversion Systems require a Zoning Permit. Neighborhood and Commercial Solar Conversion Systems require a Conditional Use Permit – Refer to Article 7. All solar conversion systems shall meet the requirements found in this section. Portable solar panels which generate less than 4kW are exempt from zoning.

Section 8.21.1 Definitions

CONCENTRATED SOLAR POWER: An SCS that generates power by using mirrors or lenses to concentrate a large area of sunlight, or solar thermal energy, unto a small area. These include but are not limited to the following technologies: parabolic trough, solar power tower, enclosed trough,

Fresnel reflectors and Dish-Stirling.

ELECTRIC UTILITY: The public entity providing retail electrical service to a given area.

NET EXCESS GENERATION: On an individual solar conversion system (ISCS), net excess generation means the net amount of energy, if any, by which the output of a qualified facility exceeds a customer-generator's total electricity requirements during a billing period;

NET METERING: Net metering means a system of metering electricity in which a local distribution utility:

A. Credits a customer-generator at the applicable retail rate for each kilowatt-hour produced by a qualified facility during a billing period up to the total of the customer-generator's electricity requirements during that billing period. A customer-generator may be charged a minimum monthly fee that is the same as other noncustomer-generators in the same rate class but shall not be charged any additional standby, capacity, demand, interconnection, or other fee or charge; and

B. Compensates the customer-generator for Net Excess Generation during the billing period at a rate equal to the electric utility avoided cost of electric supply over the billing period. The monetary credits shall be applied to the bills of the customer-generator for the preceding billing period and shall offset the cost of energy owed by the customer-generator. If the energy portion of the customer-generator's bill is less than zero in any month, monetary credits shall be carried over to future bills of the customer generator until the balance is zero. At the end of each annualized period, any excess monetary credits shall be paid out to coincide with the final bill of that period.

SOLAR ACCESS: The ability to receive sunlight across any real property for any solar energy device.

SOLAR ACCESS EASEMENT: A right, expressed as an easement, covenant, condition, restriction or other property interest in any deed, will or other instrument executed by or on behalf of any landowner or in any order of taking, appropriate to protect the solar skyspace of a solar collector at a particularly described location to forbid or limit any or all of the following where detrimental to access to solar energy: structures on or above ground; vegetation on or above ground; or other activities

SOLAR CONVERSION SYSTEM (SCS): An assembly, structure, or design, including passive elements, used for gathering, concentrating, or absorbing direct or indirect solar energy, specifically designed for holding a substantial amount of useful energy and transferring that energy to a gas, solid or liquid or using that energy directly; this may include, but is not limited to, a mechanism or process used for gathering solar energy, or a component used to transfer thermal energy to a gas, solid or liquid or to convert into electricity.

SOLAR CONVERSION SYSTEM, COMMERCIAL (CSCS): A CSCS with the following characteristics: a series of solar modules and equipment connected together, with a project area greater than one (1) acre, in order to commercially supply the converted energy to a community and/or power grid.

SOLAR CONVERSION SYSTEM, GROUND-MOUNTED: Any SCS which is directly

supported and located on the ground.

SOLAR CONVERSION SYSTEM, INDIVIDUAL (ISCS): A solar conversion system for the specific use of an individual residential, commercial, public or industrial use equal or less than one (1) acre in total project area.

SOLAR CONVERSION SYSTEM, NEIGHBORHOOD (NSCS): A series of solar panels and equipment connected together in order to supply converted energy to a specific neighborhood and its uses.

SOLAR CONVERSION SYSTEM, STRUCTURE-MOUNTED: Any SCS which is directly connected to and supported by a building.

SOLAR ENERGY: Radiant energy received from the sun at wavelengths suitable for heat transfer, photosynthetic use, or photovoltaic use.

SOLAR ORIENTED SUBDIVISION: A subdivision in which a minimum of 65 percent of the lots are solar oriented lots.

SOUTH OR SOUTH-FACING: True south, or 20 degrees east of magnetic south.

Section 8.21.2 General Provisions

The following provisions shall apply to all of the different solar conversion systems in this Section.

A. **Pre-existing SCS**: Notwithstanding noncompliance with the requirements of this section, a SCS erected prior to the adoption of these regulations, pursuant to a valid building permit issued by Cass County, may continue to be utilized so long as it is maintained in operational condition.

B. Concentrated Solar Power (CSP) systems are prohibited within Cass County's jurisdiction.

C. All SCS shall be constructed in conformance with all applicable building and fire codes. For those systems that include electrical, plumbing and/or heating constructions, any applicable permits shall also be obtained.

D. A SCS may be installed in the floodplain subject to the zoning district regulations, as may be amended from time to time, given that all components are installed a minimum of two foot (2') above base flood elevation and subject to written authorization of the Floodplain Administrator.

E. No SCS shall be constructed in an identified Floodway.

F. **Maintenance**: All system and components shall be kept in operational condition, including appearance of all components; plus, the ground beneath any ground mounted SCS shall be kept in a presentable manner. If the system and/or components are damaged due to fault or no fault of the operator/owner/developer, then said party shall have a reasonable time to restore any damaged systems or components.

G. **Repowering**: If any SCS is no longer operating for purposes of repowering, replacement, or maintenance, decommissioning provisions will not apply for up to 12 months. However, an SCS that is not operating or is operating at a substantially reduced capacity for more than 12 months will be considered abandoned and decommissioning provisions will apply.

H. Repowering does not require a new permit or permit amendment if the footprint of the SCS is

the same or reduced. Any increase in the footprint of the facility will require a permit amendment.

I. **Decommissioning**: All systems when they are no longer generating power and will no longer be used shall follow a decommissioning plan that has been agreed to upfront by Cass County, and the owner/developer.

Section 8.21.3 Individual Solar Conversion Systems (ISCS)

A. **General Requirements for ISCS**:

ISCS shall meet the following requirements as provided herein:

1. A structure mounted ISCS may project two feet into the front yard, six feet into the rear yard, and two feet into the side yard;
2. A ground mounted ISCS may be located in the rear yard. It must be located not less than five feet from the rear lot line and not closer than one foot to any existing easement as measured from the closest point of the structure including its foundation and anchorage;
3. All ground mounted ISCS shall have an executed Solar Access Easement, on the south side of the yard, from any neighboring properties. Said easement shall be filed as an instrument to each property's deed and said easement shall stay in place as long as the ground mounted ISCS is in place and operational; and

B. **Structural Requirements:** The physical structure and connections to existing structures shall conform to the applicable local, state, and federal codes and requires an Engineer's Certificate.

C. **Plot Plan:** The application for a permit shall be accompanied by a plot plan drawn to scale showing property lines, existing structures on the lot, proposed ISCS location with respect to property lines, and dimensions of the proposed ISCS.

D. **Decommissioning**:

1. Whenever an ISCS is no longer operating, the owner shall notify the Cass County Zoning Administrator and the electric utility.
2. Whenever a ground mounted ISCS is no longer operating, the property owner shall have 180 days to completely remove the structure and wiring. The location of the SCS shall be returned to a usable state based upon the surrounding property.

E: **Witness Test:** Prior to the interconnected operation of any ISCS that has potential to generate electricity, a final inspection must be performed by the electric utility or their agent to ensure the ISCS was constructed as designed and the system is still safe to interconnect.

Section 8.21.4 Neighborhood Solar Conversion Systems (NSCS)

A. **General Requirements for NSCS:** NSCS shall meet the following requirements as provided herein:

1. The NSCS shall be designed and constructed for no more than the anticipated maximum solar usage in the designated neighborhood or development;
2. A net metering agreement between the developer, Homeowners Association, and any other entity and the electric utility shall exist in case of excess electricity. No net excess power generated shall be sold or given to a user outside the agreed upon neighborhood or development, except via a net metering agreement;

3. All ground mounted NSCS's shall have an executed solar access easement from any neighboring properties. Said easement shall be filed as an instrument to each property's deed and said easement shall stay in place as long as the ground mounted NSCS is in place and operational.
4. The developer shall provide Cass County with all solar easements established; however, Cass County shall not be responsible for enforcing said easements;
5. All solar easements shall be enforced by an establish Homeowners Association for the development/neighborhood.
6. An access agreement between the developer, Homeowners Association, and any other necessary other entity and the electric utility shall exist in case of an emergency;
7. The NSCS shall be set on its own lot within the neighborhood/development;
8. The developer shall provide evidence that the project meets commonly accepted management practices for avian, wildlife, and environmental protections in place at the time of application;
9. The NSCS shall comply with any specific requirements of the appropriate fire district;
10. All NSCS operations shall have, located at key access points, signage stating specific language as outlined by the electric utility. Signage shall conform to the Cass County Sign Regulations.
11. All connections to the uses within the neighborhood shall be made underground; and
12. A ground mounted NSCS shall be protected with fencing and/or bollards.

B. Structural Requirements: The physical structure and connections to existing structures shall conform to the applicable local, state, and federal codes.

C. Solar Oriented Subdivision Plot Plan:

1. Whenever a NSCS is part of a proposed subdivision, the developer shall outline the specific lot or out lot where the NSCS will be placed. Specific developments/neighborhoods initially designed with an NSCS shall identify all solar easements on the preliminary and final plats and shall be recorded the same as other utility easements. In addition, the subdivision plats shall indicate, in addition to all other requirements in the subdivision regulations, the location of all proposed underground conduits serving the other lots in said subdivision.
2. The application for a permit shall be accompanied by a plot plan drawn to scale showing property lines, existing structures on the lot, proposed solar panel location with respect to property lines, and dimensions of the proposed NSCS.
3. The developer shall install all underground wiring as prescribed by the governing electric codes.
4. All transmission lines and wiring shall be protected by a utility easement or located within prescribed rights-of-way.
5. The developer shall provide Cass County with as-builts of the wiring locations within the subdivision.

D. Decommissioning: A decommissioning plan shall be required to ensure that facilities are

properly removed after their useful life. Decommissioning of the NSCS must occur in the event it is not in use for 12 consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. Cass County may require the posting of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning. The NSCS owner shall remove all SCS equipment and appurtenances within 180 days of abandonment.

Section 8.21.5 Commercial Solar Conversion Systems (CSCS)

A. Applicability:

The purpose of this subsection is to provide standards for a CSCS generating energy and distributing that energy to the electrical grid on sites greater than one (1) acre. The provisions of this subsection are based on a ground mounted SCS constructed with techniques that support the flow of rainwater between each module, the growth of vegetation beneath the arrays, limit the impacts of stormwater runoff, and allow for minimal disturbance to the existing ground and grading of the site. Based on the assumed CSCS, Cass County finds the use to be low intensity with minimal trip generation, low amounts of impervious cover, and low emission; thus, the use is compatible in non-urbanized, low-density residential areas.

B. Site Development Standards:

1. Zoning Districts: CSCS are allowed subject to a conditional use permit in the AG Agricultural zoning district and TA Transitional Agricultural zoning district per Section 5.06.
2. Lot coverage: No more than five percent of the gross site area shall be occupied by enclosed buildings and structures.
3. Setbacks: The required setbacks shall meet or exceed the required setbacks for the zoning district in which the CSCS is located. A 500-foot setback shall apply from CSCS panels and equipment (excluding fencing and visual screening) to the approximate center of any abutting, occupied non-participating residence in the AG Agricultural zoning district. More restrictive setback up to 500 feet from CSCS panels and equipment (excluding fencing and visual screening) from occupied, non-participating residences and additional screening may apply in the TA Transitional Agricultural zoning district due to density of residential housing. There shall be no setback to any participating residence. A 70-foot side and rear yard setback shall apply from CSCS panels and equipment (excluding fencing and visual screening) to the lot line of any abutting, occupied non-participating residence. There shall be no side or rear yard setback for any lot line where the CSCS is located on adjacent or contiguous parcels. Landowners may reduce, alter or wave entirely setbacks by written notice to the County Zoning Administrator.
4. Sound Minimization: Sound producing equipment including but not limited to, inverters and transformers, shall be located in such a way to minimize disturbance to nearby residences. A decibel limit or sound reducing devices may apply dependent on the location of the noise producing equipment.
5. Height: The maximum height of the ground mounted CSCS shall not exceed 25 feet, excluding substations.
6. Screening: Visual screening shall be required if the closest exterior wall of an abutting,

occupied non-participating residence is within 500 feet of the CSCS panels and equipment (excluding fencing). The CSCS owner may use fencing, walls, berming, vegetation or some combination thereof to provide visual screening. The CSCS owner may use existing natural features, topography and vegetation to provide visual screening. In the AG Agricultural zoning district, the CSCS owner shall provide visual screening only along the portion of a lot line abutting a non-participating residential use, for a distance equal to the parallel wall of the residence. In the TA Transitional Agricultural zoning district, The CSCS owner shall provide visual screening along the portion of a lot line abutting a non-participating residential use, for a distance equal to the parallel wall of the residence, plus 75 feet in both directions or until the lot line meets a public right-of-way, whichever comes first. Screening is not required where the CSCS abuts a participating residential use or where the homeowner requests a waiver of screening by written notice to the County Zoning Administrator. There are no requirements for screening from public roads or streets. A sight line study will be conducted which may modify or reduce screening requirements for residential properties.

7. Screening Maintenance: The CSCS owner shall maintain screening to establish healthy vegetative material and remedy damaged or dead plantings as soon as seasonally and commercial reasonable. In the event of any such defect, the Zoning Administrator shall confer with the CSCS owner to determine the necessity and substance of the remedy.

8. Stormwater Management: CSCS shall comply with all applicable state and local storm water construction regulations.
   All CSCS operations shall have, located at primary access points, signage stating specific language as outlined by the electric utility or CSCS owner. Signage shall conform to the County Sign Regulations.

9. On-site power lines shall be buried where reasonably feasible, except where connecting to existing overhead utility lines. This requirement shall not apply to lines transmitting power from a parcel on which the CSCS is located to the point of interconnection to existing overhead utility lines, including lines running between parcels on which the CSCS is located for collection of electricity for transmission to the point of interconnection to existing overhead utility lines. This requirement shall not apply to fiber optic connections, unless above ground power lines are needed in order to prevent complications resulting from possible flooding or other topographic restrictions.

10. Fencing: Due to the unique security requirements of this land use, to ensure public safety, and to facilitate the educational value of seeing this land use, fencing up to eight feet in height is permitted, provided the fencing material is predominantly open. For security and safety purposes, chain-link fence, wildlife fence or similar is required.

11. All state and federal codes and provisions not specified in this subsection are required including but not limited to tree preservation, traffic impact analysis and historic preservation.

	Criteria	AG	TA	R	C	I	Rec/Ag	Ind/Ag	Com/Ag
CSCS Setbacks & Screening Requirements	**CSCS Setbacks**								
	Occupied Residence Setback - from the approximate center of a residence. *	500 feet	500 feet						
	Yard Setbacks - from the Side & Rear Property Lines *	50/50 feet	50/50 feet						
	Right-of-Way Setback - from the Center Line of a County Road *	70 feet	70 feet						
	Right-of-Way Setback - from the ROW Line of a State Highway.*	75 feet	75 feet						
	Right-of-Way Intersection Setback – from the Center Line of a County Road & ROW Line of a State Highway / from Intersection.*	120 ft / 250 ft	120 ft / 250 ft						
	* Refer to Site Development Standards								
	Screening								
	Screening applies to lot lines that abuts a occupied residence of a non-participating landowners. Measurement is from the closest exterior wall. **	500 feet	500 feet						
	** Refer to Site Development Standards								

C. Submittal Requirements: These requirements shall apply to a Conditional Use Permit application for a CSCS. All applications shall contain, at a minimum, the following:

a. A site plan, drawn to scale, of the project area, indicating the parcels to be included in the project, total site acreage, landscape and buffer areas, tree preservation, location of all structures, the proposed location of the solar panels, the distances of the solar panels to structures on the property as well as distances to the overall project boundary lines

b. The site plan shall include any roads, electric lines and/or overhead utility lines;

c. A general description of the electrical generating capacity and means of interconnecting with the electrical grid as coordinated;

d. Manufacturer's recommended installations, if any;

e. Documentation of land ownership and/or legal authority to construct on the property; The applicant may submit a letter of authorization from the legal owners of the land consenting to participation in and construction of the CSCS on their land;

f. Evidence that the project meets commonly accepted management practices for avian, wildlife, and environmental protections in place at the time of application;

g. Any specific requirements of the appropriate fire district.

h. A cost estimate for the decommissioning of the CSCS and any estimated resale or salvage value shall be provided at the cost of the applicant. The applicant shall provide Cass County a revised and updated decommissioning cost estimate every five years from the date of

approval.

i. A decommissioning plan to ensure that facilities are properly removed after their useful life. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. Upon the five-year interval when the decommissioning cost estimate set forth in this section shows a positive net decommissioning cost, Cass County may require the posting of a surety, in the form of a bond, letter of credit or the establishment of an escrow account to ensure proper decommissioning. The net surety amount shall account for the estimated resale and salvage value of materials.

j. An Escrow Account (amount to be determined) may be required by the County Board to cover the reasonable costs of a Professional Consultant.

D. Compliance with Other Regulations:

a. Conditional use permit applications for CSCS's shall be accompanied by a single line drawing of electrical components. The final design of electrical components shall conform to the State's adopted electrical code and shall be approved by the associated electric utility meeting their distribution generation requirements and guidelines.

b. This subsection does not waive any requirements of any state or federal codes, electrical codes, or other technical codes as applicable.

E. Decommissioning:

A CSCS shall be considered abandoned after 12 consecutive months without energy production; provided, however, that a CSCS shall not be considered abandoned if the energy is not being produced as a result of maintenance, repairs, or replacement of the CSCS system, or damage caused to the CSCS system by an event outside of the control of the owner. A Natural Disaster Site Reconstruction Plan shall be submitted to the Cass County Zoning Administrator within 90 days of a natural disaster. The CSCS owner and/or land owner shall remove all SCS equipment and appurtenances within 180 days of abandonment.

Section 8.22 Small Cell Infrastructure Design Guidelines

A. Purpose and Intent: To establish guidelines for the installation of small cell equipment and poles in the public rights-of-way via administrative use permit. Applicants must comply with the requirements of these Guidelines and obtain approval from the County Engineer. This guide does not apply to small cells installed on private property or County property outside of the right-of-way.

B. Overall Policy and Desired Options: New small cells shall match existing, adjacent streetscape character. When proposed in a "Special" District or neighborhood that maintains unique streetlight aesthetics, the applicant must consider and propose infrastructure that most closely matches adjacent themed infrastructure to the maximum extent feasible.

Where small cells already exist, applicants shall use the same small cell pole aesthetics for a uniform appearance. Four different options of small cell infrastructure installations are permitted within rights-of-way.

These options include:

Option 1 – small cell attachments to existing utility poles and utility lines

Option 2 – small cell attachments to existing wooden streetlight poles.

Option 3 – combination small cell and new metal streetlights

Option 4 – new freestanding small cell infrastructure (new poles to be installed by the applicant)

In all instances, as set forth below, the Applicant must demonstrate the structural ability of the poles (existing or new) to accommodate small cell facilities.

C. Conformance with Special District requirements: A Special District is an area within the County with a County Code designation for which unique design, development and aesthetic standards may be applied uniformly.

D. General Luminaries Criteria: Street lighting luminaries shall comply with lighting specifications for the County. Construction of small cell infrastructure shall have no impact on the streetlight's operational performance.

E. General Code Guidelines: Small Cell facilities shall be constructed, operated, maintained, repaired, removed, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the County, State, or United States, including but not limited to the most recent editions of the ANSI Code, National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to, are codes that include, but are not limited to, construction, building, structural, transportation, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.

F. General Existing Pole Guidelines: The Applicant is responsible for documenting the existing supporting pole(s) are capable of supporting the additional small cell equipment loadings for Option 1 and 2. If not structurally capable, it is expected that the Applicant will be responsible for replacing any existing pole.

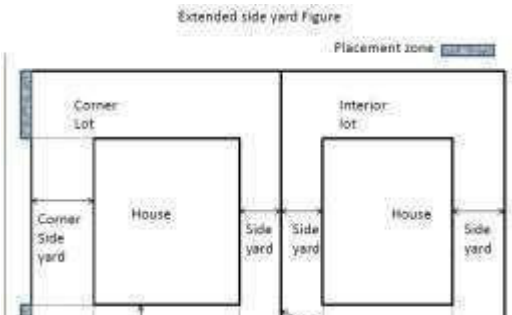
G. New Pole Placement Guidelines: All proposed Freestanding Small Cell Infrastructure shall be located:

1. In a manner or location that does not: obstruct, impede, or hinder the usual pedestrian or vehicular travel, adversely affect public safety, or impair the legal access and use of the public right-of-way. The small cells must be constructed per applicable law and with public ROW design standards, specifications, or design requirements and not violate the federal Americans With Disabilities Act of 1990, or in any way create a risk to public health, safety, or welfare.

2. In a manner that does not significantly create a new obstruction to primary and inherently valuable sightline(s) of an adjacent property.

3. In alignment with existing trees, utility poles, and streetlights and placed to avoid disturbance within the critical root zone of any tree.

4. In the right-of-way but placed within the extended side yard setback zones of the adjacent property, (See Figure).



5. With a recommended separation of a minimum of two hundred fifty feet (250') from any other Small Cell facility to the extent allowed by law.
6. Other than along the frontage of properties designated as Federal, State or Local Historic Landmarks unless otherwise approved by the County.
7. With separation from any low-pressure natural gas line, intermediate or high-pressure natural gas line and with appropriate clearance as approved from all existing utilities.
8. So as not to impact any existing bridges, culverts or retaining walls.
9. Outside of all AASHTO clear zones and outside of clear sight triangles (at a minimum) as follows:
   a. 5-foot leg pedestrian sight triangle at each residential driveway,
   b. 10-foot leg pedestrian sight triangle at each driveway and alley,
   c. 30-foot leg corner sight triangle,
   d. Roadway sight triangles shall be based on AASHTO standards for each driveway, alley, and intersection.
10. In a manner that does not impede, obstruct, or hinder operation of any emergency service, nor the usual pedestrian or vehicular access or travel including to or from private properties.

H. Design Rules: All proposed Freestanding Small Cell Infrastructure shall be designed to comply with the current version of the County Small Cell Infrastructure Design Guidelines, as follows;

1. To camouflage and conceal to the maximum extent feasible all proposed equipment within proposed freestanding antenna pole(s) as applicable without use of faux trees, faux landscaping, or other faux decorative items, and consolidate any remaining equipment within approved singular enclosures, and;
2. To meet the following size limitations of equipment:
   a. Any new freestanding antenna pole shall be consistent in height with poles in the vicinity plus an additional five (5) feet, with a maximum height of 50' unless otherwise approved by Public Works.
   b. All antenna and all of the antenna's exposed elements and/ or shroud transitions shall be mounted at the top of the proposed pole with the following criteria:
      i. The antenna shall be enclosed within a single cylindrical antenna shroud with a color that matches the pole. The maximum permitted diameter of this shroud shall be fourteen (14) inches. Once transitioned from the pole shaft, the antenna shroud diameter shall remain uniform.
      ii. All contents, wires, and cables shall be visually concealed.
      iii. The antenna shroud may not exceed a height of five (5) feet.
   c. All remaining equipment to be located at the pole including radios not mounted at the

top of the pole, electric meters, grounding equipment, cut-off switches, etc. shall be placed below grade to the maximum extent technically feasible and when it is not feasible to place below grade, shall be fully enclosed within a base shroud that:

i. Is structural to fully support the pole while maximizing equipment volume.

ii. Is cylindrical and is a small as feasible with a maximum consistent diameter of thirty (30) inches.

iii. Does not exceed a height of six (6) feet from mounting surface.

iv. Matches pole color, finish, and be as solid as feasible to visually conceal and lock all contents and/or wiring.

d. Any equipment attached to support poles must be mounted so that all parts are at least seven (7) feet or higher above adjacent surface grade and be the least visually intrusive as feasible.

e. If relief is granted to allow above ground mounted enclosures, they may not be greater than three feet six inches (3’ 6”) in any dimension, and;

f. no generators will be required to support power demands for proposed infrastructure, and; no advertising signage or banners will be located upon the poles or antennas, and; all utilities, wires and cables shall be enclosed and placed underground. No overhead lines or support cables are allowed. One possible exception, Option 1 may connect to aerial transport facilities for which an attachment right has been granted for attachment to the utility pole by the utility pole owner, and; provide identifying information, and an emergency telephone number for the owner of each facility on an imprinted/etched on 4”x6” metallic sign permanently mounted on the small cell pole at approximately 4 to 6 feet from ground level so as to be visible to the public and onto any associated ground mounted equipment, in addition to any other signage required by law (e.g. RF ground notification signs), and; the small cell will cause no interference to the County’s radio and emergency radio frequencies and will be in compliance with FCC interference requirements. Applicant shall document the proposed frequency or frequencies at the site.

3. Permit Submittal Requirements

a. Small Cell Permit application form.

b. Complete Construction plans for proposed infrastructure bundled into a single PDF file, formatted to 11”x17” (The County recommends each pole has a separate set of plans within the overall file, in order that if any single pole is removed from the application, the remaining plan set remains valid); including:

i. A cover sheet with pole title, name, address(es), information containing a scaled County map including all pole locations included in the subject application, a list of each pole location including the GPS coordinate and a legend for all sheets.

c. Each pole plan set shall include the following: Labeled and dimensioned site plan and elevation plan, including the following when applicable:

i. Key symbols, ROW lines, property lines, etc.

ii. Street information and topographic information, including existing and proposed utilities both public and private.

iii. Identification of immediately adjacent property owner(s) and/ or easements

iv. Structural Plans for pole and associated foundations that reference structural calculations and include geotechnical reports, depth, diameter, grounding, reinforcing, 4,000 psi concrete, etc.

v. Pole dimensions and heights along with the construction materials, type, color, and finish.

vi. All dimensions of any pole attachments.

vii. Proposed voltage, maximum transmission wattage, radio frequency and Microwave expulsion for all equipment associated with each pole, as allowed under FCC regulations along with documentation of compliance for RF emissions.

viii. All detail required to clarify the proposed fiber, communication, and electrical construction to be completed.

d. Appropriate pole and foundation structural calculations, signed and stamped by a Licensed Professional Engineer (PE) in Nebraska, to the most stringent of the following design standard(s):

i. AASHTO Standard Specifications for Structural Supports for Highway Signs, Luminaires, and Traffic Signals (AASHTO LTS), 6th Edition, with 2015 Interim Revisions

ii. Design and wind speed to comply with TIA-222 as adopted by the County (IBC).

e. Small Cell Program Proposed Pole Location Map with street names and other key guideline concerns (i.e., historical, and other areas of interest, waterways, etc.).

f. Address of each pole in the submittal and the approximate location of each pole referenced from official street surface features and latitude and longitude GPS coordinates.

g. Copy of all required insurance and indemnification certificates.

h. Radio Frequency Emission Certification documenting FCC compliance for RF Emissions for each proposed network node signed by a Telecommunications Engineer certified by the International Association for Radio, Telecommunications and Electromagnetics (iNARTE) or similarly recognized certifying body with experience regarding radio frequency transmissions.

4. Maintenance, Repair, Removal and/ or Replacement of Small Cells

a. As a condition for placement, the applicant shall:

i. Inspect per TIA 222 as required and maintain all equipment and appurtenances in a timely and responsible manner.

ii. Remove all graffiti placed on any of its network nodes, transport facilities, poles, or other property or equipment located in the public ROW.

iii. Promptly repair any damage resulting from the installation, repair, modification, removal, operation, and use at a small cell facility to its original condition. The

County may opt to perform the repair and charge the permit holder if the permit holder fails to respond to a notice requiring repair, or when the public is in imminent danger.

iv. Remove all non-operational small cell antennas, support poles, transport facilities, and associated equipment within twelve months after abandonment of the facility.

b. Applicant shall notify Public Works in writing not less than 30 business days prior to removal of a small cell if removed at applicant's own discretion. The permit holder shall obtain all permits required for relocation or removal prior to relocation or removal.

5. RF Modification

a. "RF Modification" means any equipment modification during the life of operation of the facility that changes the RF emissions generated from a small cell location. This shall require the applicant to provide the County with a new Radio Frequency Emission Certification and supporting documentation of compliance with FCC requirements.

6. Insurance

a. A holder of a Permit for Wireless Telecommunications Facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Permit in amounts as set forth below:

i. Commercial General Liability covering personal injuries, death, and property damage: $1,000,000 per occurrence/$2,000,000 aggregate;

ii. Automobile Coverage: $1,000,000 per occurrence/ $2,000,000 aggregate;

iii. Workers Compensation and Disability: Statutory amounts

iv. For a Wireless Telecommunications Facility on County property, the Commercial General Liability insurance policy shall specifically include the County and its officers, Councils, employees, committee members, attorneys, agents, and consultants as additional insureds.

v. The insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least thirty-(30) days prior written notice in advance of the cancellation or reduction of the insurance.

vi. Renewal or replacement policies or certificates shall be delivered to the City at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.

7. Relief.

a. Any Applicant desiring relief, waiver or exemption from any aspect or requirement may request such, provided that the relief, waiver, or exemption is contained in the submitted Application. The burden of proving the need for the requested relief, waiver or exemption is solely on the Applicant. No such relief, waiver or exemption shall be approved unless the Applicant demonstrates by clear and convincing evidence that, if

granted the relief, waiver or exemption will have no significant effect on the health, safety and welfare of the County, its residents and other service providers.

Section 8.23 Livestock Feeding Operations Standards

Livestock Feeding Operations, subject to the license requirements, waste disposal requirements and recommendations of the State of Nebraska and the Land Use specifications in the Cass County Comprehensive Plan.

The following minimum sanitation and odor practices, and those imposed by the Planning Commission and/or County Board of Commissioners in considering the health, safety, and general welfare of the public, including such items as property values, dust, lighting, disposal of waste and dead livestock. The Conditional Use Permit shall be approved after public notice has been given and public hearing conducted as required by law.

NOTE: Livestock Operations of 250 A.U. and under are considered a farm as defined in these Regulations and do not require a Conditional Use Permit provided the Animal Unit ratios as defined in Farming are met.

A. Livestock Feeding Operations (LFO) will be classified in one of five levels according to total number of animal units (A.U.) in the operation at any one time.
1. Medium LFO = 300 A.U. to 999 A.U.
2. Large LFO I = 1,000 A.U. to 4,999 A.U.
3. Large LFO II = 5,000 A.U. to 9,999 A.U.
4. Large LFO III = 10,000 A.U.' to 19,999 A.U.
5. Large LFO IV = 20,000 A.U. or more

B. All existing LFOs that have been granted a conditional use permit may expand within their designated level, provided separation distances can be met; except for operations with 20,000 A.U. or more which will be required to obtain a new conditional use permit prior to any expansion, unless it meets the standards of the exceptions in the Exceptions Section.

C. All new LFOs and those expanding to the next level shall require a Conditional Use Permit and shall be located no less than at a distance from residences not on the property, public park, recreational area, church, cemetery, religious area, school, historical site, and/or residential district in any affected Zoning District as hereafter described:

TABLE 1: LFO Minimum Spacing and Distance

LFO Class	**Non-farm or Other Residence and Other LFO (feet)**		
	Solid Manure System	Semi-Solid or Combo System	Liquid Manure System
Medium LFO	1,320	1,650	1,980
Large LFO I	1,980	2,970	3,960
Large LFO II	2,640	4,070	5,000
Large LFO III	3,960	6,600	7,920
Large LFO IV	3.960+1 per A.U. > 20,000	6,600 + 1 per A.U. > 20,000	7,920 + 1 per A.U. > 20,000

1. The distance requirements may be decreased or waived by all of the property owners of non-farm residences or other residence, including existing farm residences, not on the owner's property within the distances specified. The property owners shall sign a waiver on a form provided by the County Zoning Administrator which consent shall be acknowledged before a Notary Public and filed in the office of the Cass 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.

D. LFOs defined as any class of Large LFO shall locate at a distance of at least one mile from a platted residential area.

E. Measurements shall be from the nearest point of any LFO to the nearest point of the other use/structure including other LFOs. When there are two or more LFOs of different size, the separation distance for the larger LFO shall be applied. The setback is not intended to be measured from property line to property line.

F. The producer shall have a pre-submission meeting with the County Zoning Administrator to discuss tentative plans and layouts prior to formal submission of any application.

1. New waste handling facilities for LFOs defined as any class of Large LFO shall either be synthetically lined or be a concrete structure.
2. A proposed site plan and conditions or requirements of this regulation pending approval of application for a proposed operation and waste disposal plan from the Nebraska Department of Environment and Energy (NDEE) or any other applicable State Agency.
3. The applicant shall submit all pertinent materials and designs, as per the Conditional Use Permit Application for Livestock Feeding Operations.
4. The applicant shall file a copy of the proposed Operation and Maintenance Plan and proposed Manure Management Plan. The approved plans shall be submitted after NDEE approval if different from the proposed. Said plans shall be filed with the Zoning Administrator.
5. Shall also file a copy of all approved NDEE plans and permits with the Zoning Administrator within 30 days after they are issued by the NDEE.
6. An annual manure management plan shall be submitted to the County Zoning Administrator which shall follow “best possible management practices” as specified by NDEE in order to protect the environment, as well as the health, safety and general welfare of the public and their property values.
7. 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 as outlined in Table 1 of this Section. Said area shall also be located on the proposed site plan indicated in number (2) above.
8. All ground surfaces within outside livestock pens shall be maintained to ensure 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 property.
9. In no event shall any manure storage unit or system be constructed in a Flood Plain (as delineated on the Federal Emergency Management Agency’s Flood Plain map as adopted by Cass County) or where the bottom of the unit or system is either in contact with or below the existing water table where the unit or system is to be constructed. Application of manure in a designated Floodway and flooded areas of standing water shall be prohibited.
10. All runoff or waste generated by an LFO facility shall be contained within the associated farming operation, or, on the premises upon which the confined feeding facility or feedlot is located. The applicant must verify that all runoff control ponds, lagoons, methods of manure disposal and dust control measures are designed to minimize odor and air pollution and avoid surface or groundwater contamination as regulated by the State of Nebraska.

G. Exceptions:

1. The modification of any existing waste handling system as required by either or both EPA and/or NDEE for purposes of compliance with State and Federal regulations shall be allowed to be modified outright and shall not require any conditional use permit.

Section 8.24 Homestead Lot Split Standards

Upon recommendation of the Planning Commission and approval of the County Board, in AG, TA, REC/AG, and COM/AG Zoning Districts a lot split is allowed where a lot, tract or parcel of land is divided into no more than two (2) lots subject to the following standards.

A. The original lot or parcel shall have a habitable dwelling shown on the January 1, 2022, Cass County Assessor's Tax Roll;

B. One lot is at least three acres and the second lot is greater than ten (10) acres;

C. The applicant shall file a deed restriction on both parcels prohibiting future lot splits and development of additional dwellings or habitable structures with the lot split recording;

D. The applicant shall process the Homestead Lot Split per the Cass County Subdivisions.

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ARTICLE 10: BOARD OF ADJUSTMENT

Section 10.01 Purpose

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

Section 10.02 Appointment

The Cass 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.

Section 10.03 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 or planning commission. 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.

Section 10.04 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:

A. 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.

B. 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

C. 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 this 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.

D. 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 for the intended use of the property is not of so general or recurring a nature as to make reasonable 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 form 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 affect any variation in such regulation.

Section 10.05 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 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 judgement 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 judgement of the district court shall be prosecuted in accordance with the general laws of the state regulating appeals-in actions at law.

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ARTICLE 11: AMENDMENT

Section 11.01 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 mile 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 the majority of the voting members 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 re-platting 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 Cass County Zoning Regulation, the following steps shall be undertaken in order to provide a clear understanding of said amendment:

A. 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;

B. All deletions from the text shall be shown with a strikeout within the body of the regulation;

C. All additions to the Zoning Regulation shall be shown as bold and in italics within the body of the regulation; and

D. 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.

Note: The zoning regulation may occasionally be reprinted in its entirety. The word reprint and the date shall be affixed to each page and all strike out and bold Italics reflecting previous amendments shall be removed. A list of all previous amendments and date of approval shall be attached as the last page of the reprint and authenticated by signature of the Zoning Administrator. All original amendments shall be maintained in the Zoning office for the life of the amended ordinance.

Section 11.02 Planning Commission Review

No amendment, supplement, change or modification of this Regulation, including the boundaries of any zoning district, shall be made by the County Board without first the consideration by the County Planning Commission, the Commission shall submit in writing its recommendations on each amendment, supplement, change or modification to the County Board within forty-five days after receipt thereof. Said recommendations shall include approval, disapproval, or other suggestions and the reasons thereof, and a discussion of the effect of each amendment, supplement, change or modification on the Comprehensive Plan. Said recommendations shall be of an advisory nature only.

Section 11.03 Zoning Administrator

The provisions of this Regulation shall be administered and enforced by a Zoning Enforcement Officer appointed by the County Board, who shall have the power to make inspection of buildings or premises necessary to carry out his duties in the enforcement of this Regulation.

Section 11.04 Building Permits

The following shall apply to all new construction and all applicable renovations and remodels within Cass County's Zoning Jurisdiction:

A. It shall be unlawful to commence the construction of any building, or any accessory buildings, or to commence the moving, or alteration of any buildings, including accessory buildings, until the Zoning Administrator has issued a building permit for such work.

B. Issuance of a building permit. In applying to the Zoning Administrator for a building permit, the applicant shall submit a dimensioned sketch or a scale plan indicating the shape, size and height and location of all buildings to be erected, altered, or moved and of any building already on the lot. He shall also state the existing and intended use of all such buildings and supply such other information as may be required by the Zoning Administrator for determining whether the provisions of this Regulation are being observed. If the proposed excavation or construction as set forth in the application are in conformity with the provisions of this Regulation, and other Regulations of the County then in force, the Zoning Administrator shall issue a building permit for such excavation or construction. If a building permit is refused, the Zoning Administrator shall state such refusal in writing, with the cause, and shall immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application. The Zoning Administrator shall grant or deny the permit within a reasonable time from the date the application is submitted. The issuance of a permit shall, in no case, be construed as waiving any provisions of this Regulation. A building permit shall become void six months from the date of issuance unless substantial progress has been made by that date on the project described therein.

Section 11.05 Certificate of Occupancy

No land or building or part thereof hereafter erected or altered in its use or structure shall be used until the Zoning Administrator shall have issued a certificate of occupancy stating that such land, building or part thereof, and the proposed use thereof, are found to be in conformity with the provisions of this Regulation. Within three working days after notification that a building or premises is ready for occupancy or use, it shall be the duty of the Zoning Administrator to make a final inspection thereof and to issue a certificate of occupancy if the land, building, or part thereof and the proposed use thereof are found to conform with the provisions of this Regulation, or, if such certification is refused, to state refusal in writing, with the cause, and immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application.

Section 11.06 Remedies for Violation, Penalties, and Enforcement Generally

Remedies for violation and penalties concerning the Regulations and provisions in this Resolution, as may be amended, as read in its entirety, shall be those set forth in Neb. Rev. Stat. 23-114.05 and 23-174, or as otherwise amended by the State Legislature.

Section 11.07 Procedures for Notice of Violation

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, in violation of these regulations the following steps shall be taken by the Zoning Administrator:

A. Notice of violation sent to property owner stating the violation and requesting a meeting within thirty (30) days to resolve the issue.

B. If no response is received: Second letter sent to property owner, certified return delivery, stating violation, possible penalty, giving property owner ten (10) days in which to contact the Zoning Department to set up a meeting to resolve issue.

C. If no response is received: Turn violation over to County Attorney for prosecution

Note: In some cases, the County may request a deputy assist with a meeting at the property site due to extenuating circumstances.

Section 11.08 Amendments Reference List

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2. Intentionally left blank (Amendment #, Date, Brief description)
3. Intentionally left blank (Amendment #, Date, Brief description)
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ARTICLE 12: LEGAL STATUS PROVISIONS

Section 12.01 Severability

Each section and provision herein is hereby declared to be independent and, not withstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision herein, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions, and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision or application so known to be valid.

Section 12.02 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.

Section 12.03 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.

Section 12.04 Effective Date

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

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ARTICLE A: AMENDMENTS ADDENDUM

(04/22/2025 Res. 2024-05) Section 4.21Floodplain review fee

(10/07/2025 Res. Z-2025-02) Section 3.02 LFO A.U. and classifications definition

(11/04/2025 Res. Z-2025-03) Section 5.06 LFO classifications in land use matrix

(11/04/2025 Res. Z-2025-04) Section 5.07 LFO classifications in AG district

(11/04/2025 Res. Z-2025-05) Section 8.23 LFO standards

(11/04/2025 Res. Z-2025-06) Section 8.12 Clarifications and fees for contractor registrations