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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 files 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 All Resolutions or parts of Resolutions in conflict herewith are hereby repealed.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 Special 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 Special 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-c0onforming 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.

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, except in a Planned Development
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 those in the plural number include the singular; "or" includes "and", and "and" includes "or"; and the masculine gender shall include the feminine.

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

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 cassesttes, 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 meets any one or more of the following criteria:

1. At least 35% of the establishment's displayed merchandise consists of said items; or
2. At least 35% of the establishment's revenue derive from the sale or rental, for any form of consideration, of said items; or
3. The establishment maintains at least 35% of its floor area for the display, sale, and/or rental of said items; or
4. 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 (AMPHITHEATRE) 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)

ANIMALS, 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 conductive 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 INN shall mean a house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises.

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

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 Environmental Quality, 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, right-of-ways, 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 other 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.

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 as 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 four-(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 not 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 columbariums, 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 drainway.

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.

CLUSTER DEVELOPMENT shall mean a development designed to concentrate buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and the preservation of environmentally sensitive areas.

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 round 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 Statues 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 environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance or character, except in overriding public interest, including but not limited to: wetlands, floodways, flood plains, drainage ways, river or stream banks, and areas of significant biological productivity or uniqueness.

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 is 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 drainway, 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.

1. Permanently Attached: Attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent continuous foundation or structural change in such mobile home in order to relocate it on another site in accordance to manufacturers recommendations.
2. 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:

A. The home shall have no less than nine hundred (900) square feet of floor area, above grade, for single story construction;

B. The home shall have no less than an eighteen (18) foot exterior width of at least four (4) exterior walls.

C. 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;

D. The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single family construction;

E. The home shall have a non-reflective roof material 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.

F. The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed, and

G. The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.

H. Permanent foundation: Base on which building rests to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of forty-two (42) inches below the final ground level.

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

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

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, a mended, 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.

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.

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 the following categories is conducting a farming operation and is not considered as operating a commercial feed lot unless he exceeds the following ratio:

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:

A. 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;
B. 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
C. Two (2) A.U. per acre for parcels over eighty (80) acres.
D. Exception: When a temporary permit is issued for animals used strictly for educational purposes in conjunction with a non-profit sponsor, school district or other political subdivision to a maximum of four (4) A.U.′s. Said Temporary Permit shall be valid for a period of twelve (12) months and is validated by the program sponsor/instructor.

Not withstanding the provisions of A-C above, anytime the number or combination of Animal Units (A.U.) exceeds two hundred fifty (250), 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. Environmental Quality)

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 drainway 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 drainway.

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, bridal 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; or

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:

1. The accessory building and the residential dwelling are located on the same lot or parcel and;
2. The residential dwelling is the primary residence of the owner of said lot or parcel and;
3. 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;
4. 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 (6) unrelated children at one time for hire or for compensation in accordance with Nebr. R. R. S. 1943, Sec. 71-1902, wherein caring for 7 or more children requires licensing as a Child Care Center.

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.

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 Environmental Quality 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 A Farming@ or the feeding, farrowing, or raising cattle, swine, sheep, poultry, or other livestock, in a confined area where grazing is not possible, and where the confined area is for more than six (6) months in any one calendar year, and where the number of animals so maintained exceeds two hundred fifty (250) Animal Units as defined below. The confined area of the LFO shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds, and related facilities. Such facilities shall be constructed and operated in conformance with applicable county, state, and federal regulations. Two (2) or more LFO's under common ownership are deemed to be a single LFO if they are adjacent to each other or if they utilize a common area of system for the disposal of livestock wastes. Animal units (AU) are defined as follows:

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

One (1) A.U.=One (1) Slaughter, Feeder Cattle;
One (1) A.U.=One (1) Horse;
One (1) A.U.=Seven Tenths (.7) Mature Dairy Cattle;
One (1) A.U.=Two and One Half (2.5) Swine (55 pounds or more);
One (1) A.U.=Twenty Five (25) Weaned Pigs (less than 55 pounds);
One (1) A.U.=Ten (10) Sheep;
One (1) A.U.=One Hundred (100) Chickens;
One (1) A.U.=Fifty (50) Turkeys;
One (1) A.U.=Five (5) Ducks

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 male or female 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 cuch 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 county staff 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 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 quarters for recreational camping or travel use having either its own power or designed to be mounted on or drawn by a motor vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, camping trailer, and fifth wheel.

RECREATIONAL VEHICLE (RV) PARK shall mean a tract of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes by campers, vacationers, or travelers.

RECYCLING CENTER 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 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 (1) 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 are/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 male or female 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 establishment shall avoid classification as a semi-nude lounge by offering 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.

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

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 (3) dimensional object designed for stimulation of the male or female 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.

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.** A name plate or sign designating location, direction, information, or identification, providing the surface area or face of such sign does not exceed 10 square feet.
- **B.** Sign less than 25 square feet in surface area advertising activities conducted on the premise, products grown, made, or produced on the premise.
- **C.** Signs less than 50 square feet in area and less than 25 feet in height of a public or quasi-public nature or other official notices that are authorized by the State of Nebraska, 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 activities 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 identifying the name of a business, enterprise, or the product sold on the premises and erected on the roof of the 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:

1. **The accessory building (s) and the residential building are located on the same lot or parcel and;**
2. **The residential dwelling is the primary residence of the owner of said lot or parcel and;**
3. **The Special Event Center shall employ only members of the immediate family of the resident of the dwelling full time, part time employees not related to the immediate family for property upkeep and events will be allowed on an occasional basis and;**
4. **The Special Event Center must meet the requirements of Article 6 Conditional Use and Supplemental Regulations Section 7.02 parking and Section 7.18 (Amendment 71, 3-2017)**

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

STORAGE UNIT 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.

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, or 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 other 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:

A. 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.

B. 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 a municipality not exercising its zoning powers and unincorporated village within the county.

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 "LOCAL DISTRIBUTION" SYSTEM OF shall mean the local service distribution circuit or lines and related appurtenances served from a substation, town border station, reservoir, or terminal facility which is served from a main supply line, main transmission line, or main feeder line as may be applicable to electric, communications, gas, fuel, petroleum, fertilizer, or other chemical utilities. Local electric distribution systems shall be limited to include all lines and appurtenances carrying a primary voltage of less than 161 KV from an electric transformer substation to the consumer. The local telephone distribution system shall be limited to include the local exchange lines, the local toll lines, and the local communications equipment facilities structure.

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.

VEHICLE, MOTOR (See Motor Vehicle.)

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 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.

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 provisions 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 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 to be 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.

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 pumpisland 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 and Television
Conveyors	Towers less than 125 feet in height
Cooling Towers	Grain Elevators and Silos
Elevator Bulkheads	Smoke Stacks
Fire Towers	Stage Towers or Scenery Lots
Water Towers and Standpipes	Tanks
Flag Poles	Air-Pollution Prevention Devices
Wind Energy Conversion Systems	
Communications Towers	Small 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 set backs 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 special permit unless otherwise approved or as specified in the Residential District.

C. Damage or Destruction

1. 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.

2. 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.

<u>Section 4.17 Nonconforming Uses.</u>

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 Special Use in the Recreational/Agricultural District

A Special 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 Special 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 special 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:

1. Administrative Subdivision	$300.00 + $25.00 per platted lot
2. Administrative Lot Split	$300.00+ $25.00 per platted lot
3. Preliminary Plat and/or	$500.00+$75.00 per platted lot – maximum fee $5000.00
Final Plat	$500.00+ $75.00 per platted lot - max fee = $5000.00
4. Conditional Use Permit	$500.00 except: Conditional Use Permit-Sign $300.00
5. Special Use Permit	$100.00 (New residential and/or accessory bldg in Rec/Ag Dist)
6. Zoning Text Change	$200.00
7. Zoning Map Change	$300.00
8. Temporary Building	$300.00
9. Access	$50.00
10. Road Name Change	$350.00
11. Conditional Use Permit Renewal	one-half (1/2) of current fee schedule
12. Conditional Use Wireless Communications Tower Development	$3000.00

13. Conditional Use Co-Location on existing Wireless Communications Tower $1500.00
14. Conditional Use Large Wind Energy Conversion System $3000.00
15. Conditional Use Small Wind Energy Conversion System $300.00

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

Section 4.22 Structural Requirements

Cass County adopts the **2012 International Residential Code, 2012 International Building Code,2012 International Plumbing Code, 2012 International Mechanical Code, 2012 International Fuel Gas Code, 2012 International Existing Building Code, 2014 National Electric Code and the 2009 Energy Conservation Code**. (**Amendment 70 2-21-2017**)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

ARTICLE 5: ZONING DISTRICTS

5.01	Districts;	Uses
5.02	Districts;	Boundaries
5.03	District Boundaries;	Interpretation
5.04	District (A);	Agricultural District
5.05	District (TA);	Transitional Agricultural District
5.06	District:	Design Guidelines Overlay District
5.07	District (R);	Residential District
5.08	District (C);	Commercial District
5.09	District (I);	Industrial District
5.10	District (REC/AG);	Recreational / Agricultural District
5.11	District (CON);	Conservation Overlay District
5.12	District (MUD-1)	Mixed Unit Development
5.13	District (FF/FW);	Flood Plain Overlay District
5.14	District (AA);	Airport Approach Zones
5.15	District IND/AG:	Industrial/Agricultural
5.16	District COM/AG:	Commercial/Agricultural
5.17	District Ag Tourism	AG/TR

Section 5.01 Districts; Use. For the purpose of this Chapter, the County is hereby divided into fourteen districts, designated as follows:

(A)	Agricultural
(TA)	Transitional Agricultural
(R)	Residential
(C)	Commercial
(I)	Industrial
(REC / AG)	Recreational / Agricultural
(CON)	Conservation Overlay
(MUD-1)	Mixed Unit Development
(FF/FW)	Flood Plain Overlay
(AA)	Airport Approach Zones
(IND/AG)	Industrial/Agricultural
(COM/AG)	Commercial/Agricultural
(AG/TR)	Agritourism
(Des)	Design Guidelines

Section 5.02 Districts; Boundaries. The boundaries of the districts are hereby established as shown on the maps entitled "Official Zoning Map of Cass County, Nebraska." Said maps and all explanatory matter thereon accompany and are hereby made a part of this Chapter as if fully written herein. The Official Zoning District Map shall be identified by the signature of the County.Zoning Administrator and be notarized. No changes shall be made on the Zoning District Map except as may be required by amendments to this Chapter. Such changes shall be promptly indicated on the Zoning District Map, nature of change, and date of change noted on the map. (Ref. 23-114.03 RS Neb.)

Section 5.03 Rules for Interpretation of District Boundaries. 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 roads, 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 following railroad lines shall be construed to be midway between the main tracks;

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

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

F. 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 (A) - (F) above, the Board of Adjustment shall interpret the district boundaries;

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

Section 5.04 AG-1: Agricultural District

A. Intent: 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.

B. Permitted Principal Uses.

1. Single family dwellings restricted to the living facilities for the family, relatives, or persons owning, operating, and/or employed thereon.
2. Single-family dwellings
3. General farms primarily crops and pasture land
4. Agricultural farm production crops: field crops, cash grain crops, vegetables, fruits, tree nuts
5. Agricultural farm production livestock: dairy products, cattle, hog, sheep, goat, horse, rabbit, poultry, egg production, and other animal husbandry specialties provided there are less than two hundred fifty animal units. Operations less than two hundred fifty animal units are considered a farm and are permitted by right provided other requirements in this district are met.
6. Horticultural farm specialties, apiaries, mushroom barns
7. Farm buildings and structures used for farm equipment, machinery, grain, animals and poultry
8. Farm irrigation facilities
9. Railroads and public thoroughfares
10. Roadside stands offering for sale farm products produced on the farm
11. Public overhead and underground utilities distribution systems and plants
12. Public parks, forest preserves, and conservation areas
13. Public facilities, fire protection, police protection, fairgrounds, libraries
14. Historical sites or monuments
15. Agricultural farm services includes but not limited to soil preparation, veterinary, animal services
16. Forestry

C. Permitted Conditional Uses: A Conditional Use Permit shall be required for the following conditional or special uses:

1. 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.

a. Livestock Feeding Operations (LFO) will be classified in one of four levels according to total number of animal units (A.U.) in the operation at any one time. Levels will include 251-500 animal units; 501-1,000 animal units; 1,001-5,000 animal units; and 5,001+ 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.

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.

All existing LFOs that expand within their designated level, as outlined below, shall not require a conditional use permit. 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 non-farm residences or other residences not on an owner's property in any affected Zoning District as hereafter described:

(1) <u>LFO having 251 to 500 animal units</u> shall locate 1,320 feet from any non-farm residence

or other residence not on the owner's property.

(2) LFOs having 501 to 1,000 animal units shall locate 1,980 feet from any non-farm residence or other residence not on the owner's property.

(3) LFOs having 1,001-5,000 animal units shall locate 2,640 feet from any non-farm residence or other residence not on the owner's property.

(4) LFOs having more than 5,000 animal units shall locate 3,920 feet from any non-farm residence or other residence not on the owner's property.

(5) The distance requirements for levels (1) through (4) may be decreased or waived by a waiver signed 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.

(6) LFOs having up to 1,000 animal units shall locate 2,640 feet from a platted residential area and LFOs having more than 1,000 animal units shall locate at least one mile from a platted residential area.

b. Conditional Use Permits shall be approved by the Planning Commission and County Board of Commissioners based upon a proposed site plan and conditions or requirements pending approval of application for a proposed operation and waste disposal plan from the Nebraska Department of Environmental Quality (DEQ) or any other applicable State Agency. The applicant shall file a copy of his/her Operation and Maintenance Plan and Manure Management Plan as filed with the DEQ with the Zoning Administrator, and shall also file a copy of all approved DEQ plans and permits with the Zoning Administrator within thirty (30) days after they are issued by the DEQ.

c. All ground surfaces within outside livestock pens shall be maintained to insure proper drainage of animal waste and storm or surface runoff in such a manner as to minimize manure from being carried into any roadway ditch, drainage area or onto a neighbor's property.

d. 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.

1. Kennels or facilities for raising, breeding, training, or boarding of dogs or other small domestic 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.

2.Other publicly owned installations, military installations, airports, community centers

3.Privately owned air landing strip or airport

4.Sanitary sewage treatment facilities

5.Communications and television towers, transmitters, or receivers, See Section 7.08

6.Recreational Facility

7.Cemeteries, including mausoleums, mortuaries, crematories, provided the mausoleums and crematories shall be located at least 200’ from any street, road, or highway and at least 1,000 feet from any residential use.

8.Auto wrecking, salvage, or junk yard provided the facilities are at least enclosed and located at least 150feet back from county roads and 500 feet back from state or federal designated highways. Said operation shall be located no closer than 2,500 feet from any residential use.

9.Commercial recreational and camping areas including fishing, hunting, gun clubs, rifle range, trap shoot, and similar uses

10. Signs
11. Solid non-metallic waste disposal and landfill operations if located at least 2,500 feet from any residential zoning district Waste products, offal, paunch manure, garbage disposal, compactor or transfer stations and landfill operations if located at least 2,500 feet from any residential zoning district
12. Residential acreage development, provided the conditions in Article 6 are met, as well as the following conditions:
    a. Said acreage meets a density requirement of one residence per forty acres along a graveled or hard surfaced County Road. If additional residences 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. The Zoning Administrator shall have the authority to administratively vary the 40 acre provision by up to 10% when the 40 acre requirement has been lessened due to acquisition of Right-of-Way by any governmental entity or section lines have been modified as a correction line.
    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 Environmental Quality approved system is used.

13.Residential acreage cluster development, intended to provide for a comprehensive division of land for acreage development while preserving the agricultural use surrounding said development and provided the conditions in Article 6 are met, as well as the following conditions:

a. Said acreage meets a density of one (1) lot per forty (40) acres along a graveled or hard surfaced road. 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 the County Board may require access roads and/or platted streets to accommodate said development. The Zoning Administrator shall have the authority to administratively vary the 40 acre provision by up to 10% when the 40 acre requirement has been lessened due to acquisition of right-of-way by any government entity or section lines have been modified as a correction line; and
b. Said acreage development must be clustered to adjoin property lines
c. Said acreage developments of two (2) or more lots shall be platted to share access along a graveled or hard surfaced road. The Zoning Administrator shall have the authority to administratively vary this provision where geographically infeasible
d. Access to said properties is a minimum of 250 feet from any county road intersection
e. Within the allowable distance to any confined feeding operation
f. Soils are suitable for a private septic system and the proper testing has been completed or an alternative State of Nebraska Department of Environmental Quality approved system is used.
g. The remainder of the original parcel shall be platted in an Agricultural Preservation Easement and an agreement shall be entered into between Cass County and the original owner to be prepared by the County Attorney as a Deed Restriction identified as an Agricultural Preservation Easement and recorded in the office of the Register of Deeds. Said agreement shall prohibit further division of land for residential development
h. If at any time this provision would result in the establishment of 3 or more tax lots, such request shall conform to Minimum Design Standards under Cass County Subdivision Regulations and may be subject to formal review by the Planning Commission and County Board of Commissioners as the Zoning Administrator deems necessary
i. Land platted, and Deed Restricted in an Agricultural Preservation Easement may only remove such restrictions by review of the Planning Commission to determine consistency with the Comprehensive Land Use Plan and approval of the County Board of Commissioners

14. Wind energy conversion system provided conditions of Article 6 and Section 7.14 are met.
15. Industrial and fuel alcohol production

16.Mining, extraction of minerals, sand and gravel, clay, shale, limestone, and sandstone quarries, provided conditions of Article 6 and Section 7.13 are met.

17. Agricultural Enterprises Planned Developments that provide agricultural services and products to farmers; such as
    a. Commercial grain, feed storage and elevators
    b. Commercial fertilizer tank storage for distribution
    c. Commercial package, bulk or tank storage for distribution of fuel, pesticides and herbicides
    d. Livestock auction sales yard
    e. Farm Implement Dealership and Service
18. School, church, temples, hospitals and other eleemosynary, health care, or educational facilities
19. Home Occupations
20. Bed and Breakfast Inn
21. Mixed Unit Development
22. Winery with Tasting room facilities
23. Enclosed storage of recreational vehicles and/or watercraft provided:
    a. All recreational vehicles must be operational
    b. Lot size must be no less than ten (10) acres.
24. Small Commercial Compost Farm Operation limited to five acres. Conditional Use limited to review every three years. The recovered organic materials which compost is made shall be:

    1.Yard waste not exceeding 20,000 cubic yards of compost per year according to Nebraska Department of Environmental Quality 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.

    2. Food waste limited to less than 1,000 cubic yards of compost per year according to Nebraska Department of Environmental Quality 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.

    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 manufactures 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 Environmental Quality, 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 complainants 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

25. 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 Environmental Quality specifications. The recovered organic material which compost is made of 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 manufactures 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.
26. **Special Event Center (Amendment 71-2017)**

Accessory Uses: The following accessory buildings and uses are permitted in "AG-1" Agricultural Farming District:

1. Building and uses customarily incidental to the permitted principal uses
2. 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.
3. Private recreational facilities in conjunction with the permitted use
4. Parking and Signs when in conformance with the standards designated in Article 7 of this Regulation

E. Height and Lot Requirements.

1. The height and minimum lot requirements shall be as follows:

	Lot Area (Acre)	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height****
Residential Dwelling	40	450’	**	25’	25’	40’
Residential Acreage Developments*	3***	200’	**	25'	25'	40'
Residential Acreage Cluster Development ******	3***	200’	**	25’	25’	40’
Other Permitted Uses	20	400’	**	25’	25’	65’*****
Other Permitted Conditional Uses Accessory Buildings	3***	***	**	15’	15’	*****

* Allowed by Conditional Use only
** See Section F-1 below

*** Lot area may be reduced by the Planning Commission and County Board if extenuating circumstances warrant, such as central sewer or rural water use, etc, however the Planning Commission and County Board reserve the right to require stricter criteria.

**** Refer to Section 4.12 for additional height allowances

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

****** Remainder of original parcel would require an Agricultural Preservation Easement as a Deed Restriction prepared by the County Attorney to be recorded in the office of the Register of Deeds (Amended 01-03-2006 #45)

F. Other Applicable Provisions.

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 not 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 off-street parking requirements shall be as provided in Article 7
3. 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 if Section 4.15 is complied with.
4. Setback requirements for trees from adjoining landowner property line shall be:

Measured from:	Rear/Side Yard (property line)	Front Yard county right-of-way
Deciduous	20 feet	20 feet
Conifers	16 feet	16 feet
Shrubs	8 feet	8 feet

5. Accessory building are permitted on lots of record, which contain an established residential dwelling, based on the following:

NUMBER OF ACRES	NUMBER OF BLDGS.	MAXIMUM COMBINED FLOOR AREA
1 to 2	3	2,400 sq. ft.
More than 2 to 5	4	6,000 sq. ft.
More than 5 to less than 20	6	6,000 sq. ft. plus 400 sq. ft. per acre over 5

Section 5.05 TA-1: Transitional Agricultural District

A. **Intent:** The Transitional Agricultural District is intended as a transitional agricultural land use district which is located in the close proximity of cities and villages and other development areas where land may eventually be suitable for future urban developments. Adult Establishments are permitted uses in this Zoning District, but are regulated to control the negative secondary effects of these uses, as set forth in Article 7. Section 7.16

B. **Permitted Principal Uses:**

1. Any permitted principal uses in the AG-1 Agricultural Farming District
2. Churches including associated halls and residences
3. Private and Public elementary, junior high school, middle school, senior high school and associated uses.
4. Adult Establishments

C. Permitted Conditional Uses:

A special use permit shall be required for the following conditional or special uses.

1. Commercial grain elevators
2. Residential acreage development, provided the conditions in Article 6 are met, as well as the following conditions:
   a. Said acreage meets a density requirement of one residence per twenty acres along a graveled or hard surfaced County Road. If additional residences 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. The Zoning Administrator shall have the authority to Administratively vary the 20 acre provision by up to 10% when the 20 acre requirement has been lessened due to acquisition of Right-Of-Way by any governmental entity or section lines have been modified as a correction line.
   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.
3. Community auction and sale yards for sale of farm animals, products, implements, supplies or equipment.
4. Feed and farm supply sales
5. Farm equipment and machinery sales, rental, storage and maintenance
6. Mixed Unit Developments
7. Home Occupations
8. Construction activities
9. Child Care Center
10. Child Care Home
11. Privately owned air landing strip or airport
12. Sanitary sewage treatment facilities
13. Communications and television towers, transmitters, or receivers. See Section 7.08
14. Recreational facility
15. Cemeteries, including mausoleums, mortuaries, crematories, provided the mausoleums and crematories shall be located at least 200 feet from any street, road or highway and at least 1,000 feet from any residential use.
16. Signs, see Sections 7.03 through 7.06
17. Wind energy conversion system provided conditions of Article 6 and Section 7.14 are met
18. Bed and Breakfast Inn

19. Mining, extraction of minerals, sand and gravel, clay, shale, limestone and sandstone quarries, provided conditions of Article 6 and Section 7.13 are met.
20. Kennels or facilities for raising, 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
21. Small Commercial Compost Farm Operation limited to five acres. Conditional Use limited to review every three years. The recovered organic materials which compost is made shall be:
    1. Yard waste not exceeding 20,000 cubic yards of compost per year according to Nebraska Department of Environmental Quality 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.
    2. Food waste limited to less than 1,000 cubic yards of compost per year according to Nebraska Department of Environmental Quality 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. 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 one (1) hour period measured by field olfactory device, such as a Nasal Ranger4 (registered trademark), Olfactometer or Sentometer (registered trademark) according to manufactures 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 Environmental Quality, 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 complainants 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 the Villages of Murdock, Avoca and any multi lot subdivision in this district

22. **Special Event Center (Amendment 71-2017)**

D. Accessory Uses:

The following accessory buildings and uses are permitted in the "TA" Transitional Agricultural District

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

2. 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.
3. Private recreational facilities in conjunction with the permitted use.

E. **Height and Lot Requirements**

The height and minimum lot requirements shall be as follows:

	Lot Area (Acre)	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height ****
Permitted Residential Dwelling	20	300’	**	25’	25’	35’
Residential Subdivision*	3***	200’	**	25'	25'	35'
Other Permitted Uses	5	300’	**	25’	25’	65’*****
Other Permitted Conditional Uses	3***	***	**	25'	25'	65'*****
Accessory Buildings	- -	- -	45’	15’	15’	35’*****
Poultry and Farm animals	1					

* Allowed by Conditional Use Only

** See Section F-1 below

*** Lot area may be reduced by the Planning Commission and County Board if extenuating circumstances warrant, such as central sewer or rural water use, etc. however the Planning Commission and County Board reserve the right to require stricter criteria.

**** Refer to Section 4.12 for additional height allowances

***** The County Board may add the height of the tallest natural terrain within 1/4 mile to establish a new maximum height.

F. **Other Applicable Provisions:**

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 not 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 off-street parking requirements shall be as provided in Article 7
3. A lot or parcel of land of record on or before the effective date of this regulation or less than 20 acres in lot area may be built on and used for a permitted use after a Conditional Use Permit has been issued if Section 4.15 is complied with.

4. Setback requirements for trees from adjoining landowner property line shall be:

Measured from:	Rear/Side Yard (property line)	Front Yard county right-of-way
Deciduous	20 feet	20 feet
Conifers	16 feet	16 feet
Shrubs	8 feet	8 feet

Note: This setback may be adjusted by the County Board at their discretion and with the concurrence of the affected adjoining property owner.

5. Accessory buildings are permitted on lots of record, which contain an established residential dwelling, based on the following:

NUMBER OF ACRES	NUMBER OF BLDGS.	MAXIMUM COMBINED FLOOR AREA
1 to 2	3	2,400 sq. ft.
More than 2 to 5	4	6,000 sq. ft.
More than 5 to less than 20	6	6,000 sq. ft. plus 400 sq. ft. per acre over 5 acres

506.1 **Design Guidelines Overlay District**

1. 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.

2. Location

The Design Guidelines Overlay District applies to the following areas:

A. 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.

B. Land within one-half (1/2) mile of the centerline of East and West Park Highway south within the planning jurisdiction of Cass County.

3. Applicability

The Design Guidelines Overlay District, its development guidelines and other provisions apply to the following:

A. New, nonagricultural uses within the boundaries of the overlay district requiring a building permit after the effective date of this regulation.

B. 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.

C. 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.). Exemptions

A. 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.

B. 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.

C. Replats, lot adjustments, and lot consolidations of properties platted prior to the adoption date of this chapter, shall be exempt.

D. 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.

E. 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.

F. Designated historic structures being restored in compliance with Cass County Building Codes, including 2003 International Building Code Section 3407 Historic Buildings are exempt.

506.2 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 standards 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

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.

A. Group One - Exterior Wall Articulation

i. Openings or elements simulating openings must occupy at least twenty percent (20%) of wall surface area (Figure A)

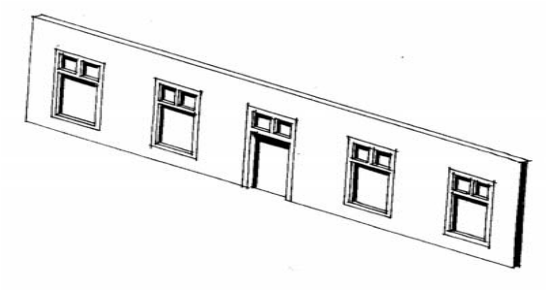

Figure A

ii. 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 wall (Figure B); or

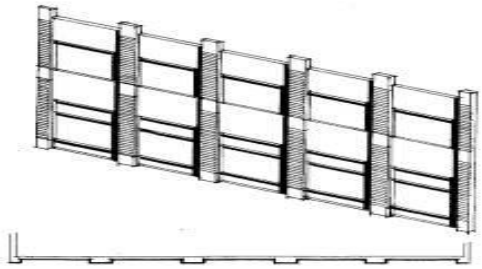

Figure B

iii. 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)

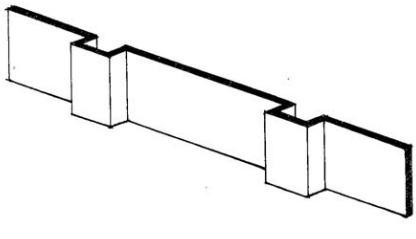

Figure C

iv. 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.

B. Group Two – Roof Articulation

i.

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

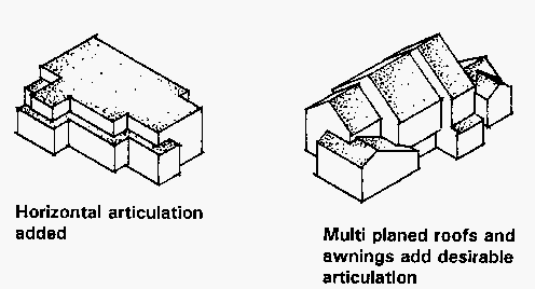

Figure D or E

ii. Some other architectural feature or treatment which breaks up the exterior horizontal and vertical mass of the roof in a manner equivalent to above.

C. Group Three - Building Openings, Walkways and Entrances

i. 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

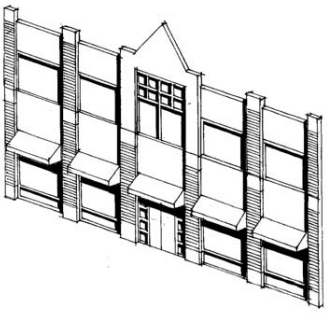

Figure F

ii. Canopies or awnings shall be used over a minimum of thirty (30) percent of the openings of the building.

iii. Covered walkways, porticos and/or arcades covering thirty (30) percent of the horizontal length of the front façade (Figure G)

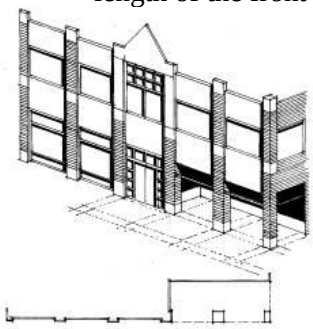

Figure G

D. Group Four - Other Architectural Definition

i. Over hanging eaves extending at least twenty-four (24) inches past supporting walls, flat roofs, cornice parapets, or capstone finishes (Figure H & I)

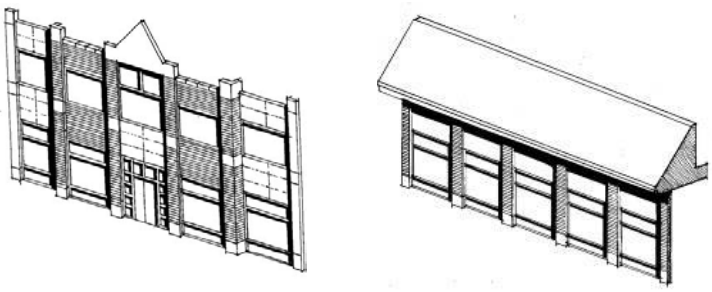

Figure H & I

ii. Ornamental lighting fixtures (excluding neon) for all exterior building lighting; or

iii. A feature that adds architectural definition to the building, in a manner equivalent to the above.

5. Design Requirements

A. Roof top units screened from view. Screening materials shall be the same or compatible to material used on the building

B. 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.

C. Materials and Finishes

i. Building colors shall blend into and unify elements of the development.

ii. Accent colors shall cover no more than five (5) percent of the building.

iii. 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.

6. Multi-Building Developments

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.

7. Franchise Architecture

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.

506.3 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.

2. Applicability

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. 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.

3. Aesthetic Enhancement Requirements.

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.

A. Plant Materials
   i. 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.

   ii. 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.
      a. Existing trees and shrubs shall be credited against landscaping requirements, provided that they meet applicable standards such as size and location requirements.
B. 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.

C. 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.

D. 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.

E. Plant Sizes

At the time of installation, plants shall be no smaller than the following:

i. Deciduous Trees
   a. Fifty (50) percent of the deciduous trees on site shall be three (3) inch caliper
   b. Fifty (50) percent of the deciduous trees on site shall be two (2) inch caliper

ii. 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

iii. All shrubs shall be five (5) gallon, or largest size appropriate for species

iv. Ornamental/native grasses and perennials shall be one (1) gallon

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.

F. Plant Quality

All plant material shall meet the American Association of Nurserymen specifications for number one (1) grade.

G. Location and Arrangement of Required Landscaping

i. 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.

ii. All required landscaping elements shall be located on the property they serve.

iii. Trees shall be planted to allow for normal growth in height and shape without the need for excessive pruning.

iv. 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.

v. 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.

vi. Trees with a mature height of more than twenty-five (25) feet shall not be planted under utility lines.

vii. Plants that will exceed six (6) inches in height shall not be planted within three (3) feet of a fire hydrant.

viii. No trees shall be located within twenty-five (25) feet of street intersections or ten (10) feet from fire hydrants and utility lines.

H. 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.

I. 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.

J. Buffering and Screening

i. Buffering is intended to help mitigate the physical, visual, and environmental impacts created by development on adjacent properties. Buffering and screening creates a visual buffer between incompatible or differing land uses. Buffering is required in the following circumstances:

a. 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.

b. A minimum buffer consisting if eight (8) evergreen trees and eleven (11) shrubs per one hundred (100) linear feet of property lines between a commercial and residential property.

ii. 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.

a. 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.

b. 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.

c. 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.

iii. 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.

iv. Berms may be utilized as part of street frontage landscaping, but shall vary in height over the length of the berm.

v. 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.

K. 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.

i. 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.

ii. All parking areas shall be separated from side and rear property lines by a planting area at least eight (8) feet wide

iii. 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.

iv. 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.

v. 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 used 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 used in place of the required shrubs.

b. 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.

c. Ornamental native grasses/perennials of similar ground area and maturity height may used in place of the required shrubs.

d. Plants should be grouped, not evenly spaced.

L. 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.

i. 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 used in place of the required shrubs.

ii. Individual landscaped islands shall include a minimum of one (1) tree, an automated sprinkler, and raised concrete curbs.

a. 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.

b. Islands shall be arranged to maximize shading of parking spaces.

c. Planting shall be arranged so as not to interfere with driver vision, vehicle circulation, or pedestrian circulation.

d. 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.

M. 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:

i. 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.

ii. 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.

iii. 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.

iv. Chain-link fencing shall not be used for screening or buffering purposes.

v. Chain-link fencing may be allowed for security purposes as approved by the Planning Board. No slats shall be allowed with chain-link fencing.

vi. Barbed-wire and similar fence material may only be used in conjunction with the permitted keeping of horses or livestock.

vii. 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.

viii. 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.

ix. 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.

N. Technical Landscaping Requirements

i. 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.

ii. 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.

O. Maintenance Requirements

i. 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.

ii. 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.

iii. 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.

506.7 Recreational Vehicle (RV) Park/Campground

1. Applicability

Recreational Vehicle (RV) Park/Campgrounds require a conditional use permit in the Recreational/Agriculture district. In addition to the provisions outlined in Article 6 of the Cass County Zoning Code, applications for recreational vehicle and commercial campgrounds shall be subject to the provisions outlined in this section.

2. Density Requirements

A. The maximum density within the RV Park shall be twelve (12) RV sites per acre.

B. The maximum density within the campground shall be eight (8) camp sites per acre

3. Site Requirements

A. 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.

B. Campgrounds shall have a minimum area of ten (10) acres and no less than fifteen (15) campsites.

C. 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.

D. Separate camping areas shall be maintained for independent units, dependent units, and tents.

E. Each RV site within an RV park or campground shall be equipped with an electrical hookup for each recreational vehicle.

F. All land areas shall have an acceptable form of groundcover to prevent erosion and blowing dust.

G. 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.

4. Comfort Stations

Comfort stations with restrooms and other facilities shall be provided in accordance with Nebraska Department of Health Standards and the following requirements:

A 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

B. 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.

C. For every forty (40) additional sites in excess of one hundred (100) sites, one (1) additional male shower and female shower shall be provided.
D. 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
E. 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

5. Water stations

A. Each RV park and nonprimitive campground shall contain at least one (1) water station for every one hundred (100) sites or fraction thereof.
B. 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.

6. Sanitary Stations

A. Each RV park and nonprimitive campground shall contain a minimum of one (1) sanitary station for every one hundred (100) sites or fraction thereof.
B. Sanitary stations shall comply with the following standards:
   i. The drainage basin of the sanitary station shall be constructed of an impervious material.
   ii. 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 Environmental Quality Rules and Regulations and must have the proper permits issued.
   iii. 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.

7. Recreation Areas

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

8. Setback and Separation Requirements

Sites within an RV park or campground shall comply with the following minimum setback and separation requirements:

A. From the perimeter property line - seventy-five (75) feet
B. 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
C. From exterior and/or public roadways - fifty (50) feet as measured from boundary right-of-way
D. Between sites - ten (10) feet
E. Between sites and other structures - fifteen (15) feet

9. Screening Requirements

A. 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.
B. All trash collection areas shall be screened and protective fencing shall be provided around hazardous areas

10. Road and Parking Requirements

A 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.

B. 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.

C. 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.

11. Operational Requirements

A. Campgrounds and RV parks shall not be used as permanent residences except for the owner or manager and permanent maintenance personnel.

B. All recreational vehicles in an RV park or campground shall be parked in an approved RV site.

C. 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.

D. If provided, electric and gas service shall meet all state and local electric and gas regulations. All utilities shall be underground.

E. Towed vehicles within the campground or RV park shall not exceed one hundred two (102) inches in width.

F. At least one (1) public telephone shall be provided.

G. Each campground or RV park shall provide at least one (1) full time attendant.

H. A permanent record of vehicle registrations of campground or park users shall be maintained.

H. Walkways within the campground or RV park area shall be at least four (4) feet wide with an all weather surface.

I. 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.

506.8 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.

5. Street Lighting

Lighting for public or private streets shall be fully shielded

Section 5.07 R-2: Residential District

A. I**ntent:** R-2: 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:

1. As orderly extension of the existing village or city street utilities.
2. The developer will install and serve each lot with a street design and pavement meeting the county development standards
3. The developer will construct and install an adequate central sanitary sewer distribution and disposal system
4. The developer will develop an adequate well, storage, or pressured central water distribution system; and
5. The developer will install adequate storm drainage

B. **Permitted Principal Uses:**

1. Detached single family dwelling units in a residential subdivision
2. Duplex or two family dwelling units in a residential subdivision
3. Churches and associated halls and residences
4. Public and Private elementary, junior high schools, middle schools, senior high schools and all associated uses.

C. **Permitted Conditional Uses**

A conditional use permit shall be required for the following uses

1. Mobile homes in a mobile home park
2. Multi-family dwelling units
3. Mixed Unit Developments
4. Wind energy conversion system provided conditions of Article 6 and Section 7.14 are met
5. Home Occupations
6. Child Care Center
7. Child Care Home
8. Sanitary sewage treatment facilities
9. Recreational facility
10. Signs must conform to Section 7.03 through 7.06
11. Dog Park- Dog parks have varying features which shall include but are not limited to the following:

    a.6 foot fence surrounding the property

    b. Separate double gated entry and exit points

    c. Adequate drainage

    d. Benches for humans

    e. Water

    f. Tools to pick up and dispose of animal waste in covered trash cans

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 for Conditional Use Permit

D. **Accessory Uses:**

The following accessory buildings and uses are permitted in this District:

1. Buildings and uses customarily incidental to the permitted principal uses
2. 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
3. Private recreational facilities in conjunction with the permitted use

E. **Height and Lot Requirements *****

The height and minimum lot requirements shall be as follows:

	Lot Area (acres/sf)	**Lot Width**	**Front Yard**	**Side Yard**	**Rear Yard**	**Max Height*** **	**Max. Coverage**
Residential Dwelling	7,500	70’	50' see note	10’ or **	25’ or **	35’	30%
Duplexes and other multi-family dwellings	4,000 sf / unit	70'	25’ or **	10’ or **	25’ or **	35'	
Other Permitted Uses******	3 acres	300’	35’ or **	10’ or **	25’ or **	65’	40%
Other Permitted Conditional Uses	*	*	35 or **'	25' or **	25' or **	65'	40%
Accessory Buildings******	- -	- -	45’ or **	10’ or **	15’ or **	18’	10%

* Lot area may be reduced by the Planning Commission and County Board if extenuating circumstances warrant such as central sewer or rural water use, etc. however the Planning Commission and County Board reserve the right to require stricter criteria.

** See Section F-1 below

*** Refer to Section 4.12 for additional height allowances

**** The County Board may add the height of the tallest natural terrain within 1/4 mile to establish a new maximum height

***** The Beaver Lake Association, NP Dodge 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

Note: Residential District located on private streets, the setback shall be measured from the centerline of said street

F. **Other Applicable Provisions:**

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. of a U.S. or State designated highway, and not nearer than 60 feet to the centerline of a County Road and/or Highway. Exception: Any structure constructed or any existing structure in compliance with the setback regulations after August 17, 1998 and prior to 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 off-street parking requirements shall be as provided in Article 7

3. 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

4. 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.

5. 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 5.08 C-1: Commercial District

A. **Intent:** 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, arterials 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. Adult Establishments are permitted uses in this Zoning District, but are regulated to control the negative secondary effects of these uses, as set forth in Article 7, Section 7.16.

B. **Permitted Principal Uses:**

1. Automotive dealers, gasoline service stations and truck stops, automotive repair and miscellaneous repair services.
2. Eating establishments
3. Wholesale trade, auction and animal sales yard
4. Building materials, hardware and garden supply
5. Farm supplies, fee, equipment and machinery sales
6. Furniture, home furnishing, home appliance and equipment sales
7. Clothing and apparel services, including dressmaking, millinery, shoe repair, furrier and tailors.
8. Business services including: banks, insurance, real estate, offices, postal stations, printing, credit services, security brokers, dealers and exchange, title abstracting, savings and loans, finance services and investment services
9. Self-service cleaning establishments including: Laundromats and laundries
10. Personal services including: barber shops, beauty salons, reducing salons and photographic studios
11. Retail stores such as food markets, delicatessen, bakery, candy store, fruit and vegetable store, department store, drug stores, haberdasheries, books and stationery, newspaper distribution, shoe and apparel shops, hobby, camera and sporting goods, dry goods, hardware, gift, jewelry, variety stores, retail mail order stores, confectionery, retail dairy stores, clothing and furnishings store, radio, electronics and music store., retail liquor store, antiques, cigar and tobacco, retail paint stores, flower shops, wallpaper, drapery, or floor covering store and convenience mart (with or without gasoline sales)
12. Food service, such as eating, ice cream parlor and sandwich shops
13. Law, membership organization, educational and associated services
14. Health care and social services
15. Museum, art galleries and motion picture theaters places
16. Public, governmental, justice, financial, legislative and administrative offices
17. Public utilities, thoroughfares and facilities, fire and police protection facilities, libraries, schools, churches and associated residences, temples, hospitals
18. Railroads and public thoroughfares
19. Motels and hotels
20. Historical sites or monuments
21. Modular or manufactured home sales, trailer and camper sales
22. Adult Establishments

C. **Permitted Conditional Uses:**

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

1. Planned commercial developments, shopping centers
2. Bars, taverns and nightclubs
3. Communications, cable and satellite receiving stations and appurtenances, See Section 7.08
4. Signs, see Section 7.03 through 7.06
5. Child Care Center
6. Rental Storage Unit
7. Family oriented entertainment venues such as amusement parks, racetracks, miniature golf, etc.
8. Wind energy conversion system provided conditions of Article 6 and Section 7.14 are met

Accessory Uses: The following accessory buildings and uses are permitted in this District:

1. Buildings and uses customarily incidental to the permitted principal uses
2. 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
3. Private recreational facilities in conjunction with the permitted use

D. **Height and Lot Requirements:**

1. The height and minimum lot requirements shall be as follows:

	Lot Area (Acres/ S.F.)	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height*****
Permitted Uses*	3 Acres	200'	25' or ****	25'	25'	45'******
Permitted Uses**	7,200	60’	25’ or ****	-0-	25’	45’******
Accessory Buildings	- -	- -	85’ or ****	15’	15’	25’******
Permitted Conditional Uses	***	***	***	15'	15'	45'******

* When a private well and septic system are used by the Permitted Use

** When the Permitted Use is connected to a public sanitary sewer collection and disposal system and/or a public water system

*** Lot Area may be reduced by the Planning Commission and County Board if extenuating circumstances warrant, such as a central sewer or rural water use, etc. however the Planning Commission and County Board reserve the right to require stricter criteria.

**** See Section F-1 below

***** Refer to Section 4.12 for additional height allowances

****** The County Board may add the height of the tallest natural terrain within 1/4 mile to establish a new maximum height.

E. **Other Applicable Provisions:**

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. of a U.S. or State designated highway, and not nearer than 60 feet to 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 off-street parking requirements shall be a provided in Article 7

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

Section 5.09 I-1: Industrial District

A. **Intent:** 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.

B. **Permitted Principal Uses**

1. Building construction, general contractors and builders operations
2. Non-building construction general contractors and special trade construction contractors
3. Railroad, trucking, air, water transportation, freight terminals and warehousing facilities
4. Lumber and wood products
5. Printing, publishing and allied products
6. Electric, gas, water and sanitary services
7. Agricultural products and grain elevators, refer to Section 4.12 for additional information
8. Rental Storage Unit

C. Permitted Conditional Uses:

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

1. Communications and television services and towers, See Section 7.08
2. Meat, food and kindred products
3. Textile mill products
4. Apparel and other products of fabrics, leather and similar materials
5. Furniture and fixtures products
6. Paper and allied products
7. Chemicals and allied products
8. Petroleum and allied products
9. Rubber and miscellaneous plastic products
10. Metal products
11. Stone, clay, cement and glass products
12. Professional, scientific and controlling
13. Photographic and optical products
14. Watches and clocks
15. Animal rendering and hid curing
16. Planned Industrial developments
17. Signs, See Section 7.03 through 7.06
18. Family oriented venues such as amusement parks, racetracks, miniature golf, etc
19. Automobile Auction Yard
20. Wind energy conversion system provided conditions of Article 6 and Section 7.14 are met

Accessory Uses:

The following accessory buildings and uses are permitted in this District

1. Buildings and uses customarily incidental to the permitted principal uses
2. 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
3. Private recreational facilities in conjunction with the permitted use

D. Height and Lot Requirements

The height and minimum lot requirements shall be as follows:

	Lot Area (acre/S.F..)	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height*****
Permitted Uses*	3 Acres	200'	45' or ****	25'	25'	45'******
Permitted Uses**	10,000	60’	45’ or ****	25’	25’	45’******
Accessory Buildings	- -	- -	45’ or ****	15’	15’	35’******
Permitted Conditional Uses	***	***	***	15'	15'	45'******

***** When a private well and septic system are used by the Permitted Use

** When the Permitted Use is connected to a public sanitary sewer collection and disposal system and/or a public water system

*** Lot Area may be reduced by the Planning Commission and County Board if extenuating circumstances warrant, such as a central sewer or rural water use, etc., however the Planning Commission and County Board reserve the right to require stricter criteria.

**** See Section F-1 below

***** Refer to Section 4.12 for additional height allowances

******The County Board may add the height of the tallest natural terrain within 1/4 mile to establish a new maximum height.

E. Other Applicable Provisions:

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. of a U.S. or State designated highway, and not nearer than 60 feet to 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 off-street parking requirements shall be as provided in Article 7
3. When the side or rear yard abuts a residential use or district, the outside boundaries shall be screened with approved landscape plant materials, walls or fencing
4. Environmental performance standards. Any use under the provisions of this Article shall comply with environmental performance standards relating to noise, emission, dust, odor, glare and heat

F. **Performance Standards:**

1. **Physical Appearance:** All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles for sale or the storage of vehicles, boats, farm machinery, trailers, mobile homes or similar equipment when in operable condition.
2. **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.
3. **Noise:** No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise shall be measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges.
4. **Sewage and Liquid Wastes:** No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, liquid waste of any radioactive or poisonous nature or chemical waste which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations
5. **Air Contaminants:**
   a. Air Contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one 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.
   b. Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths (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.
   c. 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.
6. **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.

7. **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.

8. **Vibration:** All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousands (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.

9. **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 5.10 REC/AG: Recreational/Agricultural District

A. Intent: 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.

B. Permitted Principal Uses:

1. General farm production crops and pasture land
2. Agricultural farm production crops; field crops, cash grain crops, vegetables, fruits and tree nuts
3. Agricultural farm production livestock: dairy products, cattle, hog, sheep, goat, horse, rabbit, poultry, egg production and other animal husbandry specialties up to two hundred fifty animal units or the density requirements found in the definition of "Farming"
4. Horticultural farm specialties, apiaries, mushroom barns
5. Farm buildings and structures used for farm equipment, machinery, grain, animals and poultry
6. Farm irrigation facilities
7. Railroads and public thoroughfares
8. Roadside stands offering for sale farm products produced on the farm
9. Public overhead and underground utilities distribution systems
10. Public parks, forest preserves and conservation areas
11. Historical sites or monuments
12. Forestry
13. Museums

C. Permitted Conditional Uses: A Conditional Use Permit shall be required for the following conditional or special uses:

1. Recreational facility, Conditional Use Permits shall satisfy all standards and conditions found in Article 6 and Section 8.03 of this regulation
2. Wildlife Preserves
3. Amphitheaters Conditional Use Permits shall satisfy all standards and conditions found in Article 6 and Section 8.03 of this regulation
4. Amusement Parks and Entertainment Centers Conditional Use Permits shall satisfy all standards and conditions found in Article 6 and Section 8.03 of this regulation
5. Hotels, motels, restaurants, gift shops, rental cabins Conditional Use Permits shall satisfy all standards and conditions found in Article 6 and Section 8.04 of this regulation
6. Residential Subdivisions when meeting the following criteria, as well as, the conditions set forth in Article 6 and Section 8.05 of this regulation:
   a. When developed as a Mixed Unit Development and meeting said requirements of the Mixed Unit Development District
   b. All private septic systems shall meet all criteria of the Nebraska Department of Environmental Quality for percolation tests and shall be certified by a licensed Professional Engineer.
   c. All private wells shall meet the criteria for Safe Drinking Water established by the Nebraska Department of Environmental Quality and Nebraska Department of Health and Human Services

d. All testing shall be completed by the developer with the Conditional Use Permit approval contingent upon said testing.

7. 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

8. Sanitary sewage treatment facilities

9. Commercial recreational and camping areas including fishing and hunting

10. Signs, excluding projecting and pole signs, see Section 7.03 through 7.06

11. Mixed Unit Development

12. Mining, extracting of minerals, sand and gravel, clay, shale, limestone and sandstone quarries provided conditions of Article 6 and Section 7.13 are met

13. Construction activities

14. Home Occupations

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

    b. Within the allowable distance to any confined feeding operation

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

15. Communications and television towers, transmitters, or receivers. See Section 7.08. Note: Stealth technology must be used in this zoning district to conceal the tower.

16. Small Commercial Compost Farm Operation limited to five acres. Conditional Use limited to review every three years. The recovered organic materials which compost is made shall be:
    1.Yard waste not exceeding 20,000 cubic yards of compost per year according to Nebraska Department of Environmental Quality 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.
    2.Food waste limited to less than 1,000 cubic yards of compost per year according to Nebraska Department of Environmental Quality 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. 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 an 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 apart within one (1) hour period measured by field olfactory device, such as a Nasal Ranger4 (registered trademark), Olfactometer or Sentometer (registered trademark) according to manufactures 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 Environmental Quality, 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 complainants 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

17. Special Event Center (Amendment 71-2017)

D. Special Use

1. Single family dwellings restricted to the living facilities for the family, relatives or persons owning, operating and/or employed thereon. This special 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 special use permit.

2. Residential acreage development, provided the conditions of Article 6 are met, as well as the following conditions:

a. Said acreage meets a density requirement of one residence per forty acres along a graveled or hard surfaced County road. If additional residences 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. The Zoning Administrator shall have the authority to administratively vary the 40 acre provision by up to 10% when the 40 acre requirement has been lessened due to acquisition of Right-of-way by any governmental entity or section lines have been modified as a correction line.

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. This special 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 special use permit.

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

D. Accessory Uses:

The following accessory buildings and uses are permitted in the Recreational/Ag District

1. Building and uses customarily incidental to the permitted principal uses
2. 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
3. Private recreational facilities in conjunction with the permitted use

E. **Height and Lot Requirements**

The height and minimum lot requirements shall be as follows:

	Lot Area (Acre/sf)	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height*****
Residential Dwelling*			45' or ****	25'	25'	25'
Residential Dwelling**	10,000 sqf	75'	25' or ****	10'	25'	40'
Other Permitted Uses	5 acres	300'	45' or ****	25'	25'	25'******
Other Permitted Conditional Uses	***	***	45' or ****	25'	25'	65'******
Accessory Buildings	- -	- -	45' or ****	15'	15'	15'******

* Allowed by Conditional Use Permit only and is on a private septic and wells system

** Allowed by Conditional Use Permit and has as a minimum a public/centralized water supply system or a public/centralized sewage collection and treatment facilities

*** Lot Area may be reduced by the Planning Commission and County Board if extenuating circumstances warrant, such as a central sewer or rural water use, etc. however the Planning Commission and County Board reserve the right to require stricter criteria.

**** See Section F-1 below

***** Refer to Section 4.12 for additional Height allowances

****** The County Board may add the height of the tallest natural terrain within 1/4 mile to establish a new maximum height

F **Other Applicable Provisions**

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. of a U.S. or State designated highway, and not nearer than 60 feet to 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 off-street parking requirements shall be as provided in Article 7

3. A lot or parcel of land of record on or before the effective date of this regulation of less than five acres in lot area may be built on or used for a permitted principal use after a Conditional Use Permit has been issued

4. Accessory buildings are permitted on lots of record, which contain an established residential dwelling, at the time of adoption of this regulation, cased on the following:

NUMBER OF ACRES	NUMBER OF BLDGS.	MAXIMUM COMBINED FLOOR AREA
1 to 2	2	2,400 sq. ft.
More than 2 to 5	3	6,000 sq. ft.
More than 5 to less than 20	5	6,000 sq. ft. plus 400 sq. ft. per acre over 5

Section 5.11 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 are the criteria for each:

1. Review Process

Subdivision Platting Process

a. 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.

Short Form Plat: Administrative Subdivision and Lot Split

b. 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.

2. Reserved

3. **Administration**

a. Permit Application

1. 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:

The Cass County Planning Commission

A Professional Engineer, certified landscape architect

Representatives of the Lower Platte South Natural Resources District

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

2. 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 findings of fact to support said conditions. All denials shall be required to include the reasons for such a determination as well as a findings 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.
3. 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.
4. 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

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 5.12 MUD 1 Mixed Unit Developments

1. **Intent:** The intent of the MUD-1 District is to encourage the creative design of new living, retail, industrial, and recreational areas, as distinguished from subdivisions of standard lot sizes in order to permit such creative design in buildings, open space, and their interrelationship while protecting the health safety and general welfare of existing and future residents of surrounding neighborhoods. The MUD-1 District is a floating zone. Although the specific conditions within this district are predetermined, the location of a proposed district must be carefully reviewed to assure that these conditions can be met.
2. The Planning Commission shall make a report to the County Board setting forth its reasons for recommendation of approval or denial of the application for a MUD-1 District, along with specific evidence and facts showing that the proposal meets or does not meet the following conditions.
    A. Said mixed unit development shall be in general conformity with the provision of the Cass County Comprehensive Plan
    B. Said mixed unit development shall not have a substantially adverse effect on the development of the neighboring area
    C. The minimum size allowed for a MUD-1 District shall be as follows
    Residential, one acre
    Mobile Home Parks, two acres
    Commercial, three acres
    Residential-commercial, four acres
    Recreational, five acres
    Industrial, five acres
    Industrial-commercial, ten acres
    Agricultural, five acres
    Transitional Agricultural, five acres
    Note: Individual lots within the MUD may be smaller
    D. Height, bulk and setback requirements may be varied by the Board of Commissioners so as to promote an efficient and creative PUD-1 District.
3. **Use regulations.** In District MUD-1 no building, structure, land or premises shall be used and no building shall be erected, constructed or altered except for any use permitted in the primary underlying Zoning District. All uses must be approved as shown on the development plan as specified in this division.
4. **Standards and conditions for development.** A mixed unit development shall not be inconsistent with the following general standards for use of land, and the use, type, bulk and location of buildings, the density or intensity of use, open space, public facilities and the development by geographic division of the state:
    A. The applicant shall satisfy the planning commission that he has the ability to carry out the proposed plan and shall prepare and submit a schedule of construction. The proposed construction shall begin within a period of eighteen months following the approval of the final application by the County Board. A minimum of fifty percent of the total planned construction shown on the final plat shall be completed within a period of five years following such approval or the plan shall expire. The period of time established for the completion of the development may be modified from time to time by the planning commission upon showing of good cause by the developer.
    B. The developer shall provide and record easements and covenants, shall make such other arrangements, and shall furnish such performance bonds, escrow deposit, or other financial guarantees for public improvements as may be determined by the County Board to be reasonable required to assure performance in accordance with the development plan and to protect the public interest in the event of abandonment of said plan before completion.

C. The entire tract or parcel of land to be occupied by the mixed unit development shall be held in single ownership or control, or if there are two or more owners, the application for such mixed unit development shall be filed jointly by all owners.

D. The location and arrangement of structures, parking areas, walks, lighting and appurtenant facilities shall be compatible with the surrounding land uses, and any part of a mixed unit development not used for structures, parking and loading areas, or access ways shall be landscaped or otherwise improved.

E. When a commercial use within a MUD-1 District abuts a residential district, a solid or semi-solid fence or wall at least six feet high, nut not more than eight feet high, and having a density of not less than eighty percent per square foot, shall be provided adjacent to any adjoining residential district, except in the event the adjacent residential district and the commercial development are separated by a street right-of-way.

F. All residential and commercial buildings shall be set back not less than twenty five feet from the right-of-way of any street and ten feet from any district boundary lines that do not abut a street right-of-way. Additional setback from a heavily traveled thoroughfare may be required, when found reasonable by the Planning Commission for protection of health, safety and general welfare.

G. Building coverage shall not exceed the following percentages of the net developable area of each individual parcel of the total development for each type of mixed unit development:
Residential, forty percent maximum
Commercial, sixty percent maximum

H. A minimum of thirty percent of the net area of that part of a mixed unit development reserved for residential use shall be provided for open space. Common open space for the leisure and recreation of MUD-1 residents only shall be owned and maintained in common by them, through a homeowner's association.

I. The MUD-1 District shall include such provisions for the ownership and maintenance of the common open spaces as are reasonable necessary to insure its continuity, care, conservation and maintenance and to insure that remedial measures will be available to the County Board if the common open space is permitted to deteriorate, or is not maintained in a condition consistent with the best interests of the mixed unit development or of the entire community.

J. No residential use shall have direct access onto an arterial street.

K. All commercial areas must have access to a collector or arterial street, however, no individual commercial use may have direct access onto collector or arterial streets.

L. Sidewalks shall be built to county specifications along all public and private street; however an alternative pedestrian and sidewalk plan may by developed which provides pedestrian access between each use in the planned unit development.

M. The MUD-1 District may allow for Cluster Development provided they meet the definition of the Regulation and/or the developer creates an open space area which also contains a centralized sanitary sewer system which meets all requirements of the Nebraska Department of Environmental Quality for design and proper design capacity, including all other required permits.

N. The developer shall submit plans for the development to the Cass County Zoning Office and to the Nebraska Department of Environmental Quality for review. The MUD-1 District shall not be approved until all criteria have been met for the District, including approval and sign off the sanitary septic system by the Nebraska Department of Environmental Quality. The developer or a Homeowners Association or Sanitary Improvement District shall be responsible for properly maintaining the system.

5. Application for approval of Preliminary MUD-1

A. An application for a MUD-1 shall be a conditional use permit

B. The applicant shall prepare and submit thirteen (13) copies of the preliminary development plan for review and approval by the Planning Commission. Said preliminary shall include:

1. A site plan showing:

a. Contours at intervals of five feet or less or spot elevations on a one hundred foot grid shall be required on flat land;
b. Location, size, height and use of all proposed structures in conformance with the yard requirements;
c. All points of ingress and egress, driveways, circulation aisles, parking lots, parking spaces and service areas;
d. All streets adjoining subject property and the width of the existing right-of-way;
e. Areas set aside for public and private open space, with the type of recreational facilities planned for each and indicated;
f. Designation of individual parcels if the proposed development is to be set up in separate construction phases;
g. Designation of individual lots if such lots are proposed to be sold to individual owners;
h. Location of required screening;
i. Location of natural features such as ponds, tree clusters and rock outcropping;
j. Existing development on adjacent properties within two hundred feet.

2. The above-described site plan shall also include a section designated as "general provisions" and said section shall include the following when, said items are applicable
   a. Net area in square feet or acres. (Note: Net area does not include land dedicated or necessary to be dedicated for public street right-of-way. If more than one parcel is proposed, designate net area by parcel as well as total net area)
   b. Density of dwelling units per acre of the total dwelling units for the entire plan;
   c. Building coverage of the net area of the mixed unit development by individual parcel or total development;
   d. The percentage of the development plan provided for common open space as defined by this regulation. (Note: Normally, this figure should be approximately 0-20 percent);
   e. If more than one parcel is proposed a statement relating to the sequence of development shall be included;
   f. Required number of off-street parking spaces;
   g. Gross floor area proposed for commercial buildings;
   h. All proposed land uses shall be listed by parcel.
3. A statement or adequate drawings shall be included describing the manner for the disposition of sanitary waste and storm water.
4. The full legal description of the boundaries of the property to be included in the planned unit development.
5. A vicinity map showing the general arrangement of streets within an area of one thousand feet from the boundaries of the proposed mixed unit development.
6. A description, rendering or drawing of the general characteristics of the proposed buildings shall be submitted if the County so desires.
7. Copies of any restrictive covenants that are to be recorded with respect to property included in the mixed development district.

C. Substantial or significant changes in the preliminary MUD-1 shall only be made after rehearing and reapproval. The County Board shall determine what constitutes substantial or significant changes.

6. Final approval

a. After approval of a preliminary plan and prior to the issuance of any building permit the applicant shall submit an application for final. The application shall include fifteen copies of such drawings, specifications, covenants, easements, conditions, and for of performance bond as set forth in the approval of the preliminary plan and in accordance with the conditions established in this chapter for a MUD-1 District. The final plan shall include the same information as the preliminary plan except the following shall also be provided:

1. A Surveyor's certificate certifying to the accuracy of the boundary surveys shown.

2. Location, names, tangent lengths, centerline radius of each curve and its interior width and angle of all proposed public right-of-way.
3. All easements and appropriate building setback lines.
4. All lot lines and lot dimensions including chord distances for curvilinearlot lines
5. Dedication of all streets, public highways or other land intended for public use, signed by the owner and by all other parties who have a mortgage or lien interest in the property, together with any restrictions or covenants which apply to the property.

b. A plan submitted for final approval shall be deemed to be in substantial compliance with the plan previously given tentative approval, provided any modification of the plan by the landowner is tentatively approved does not:

1. Vary the proposed gross residential density or intensity of use by more than five percent or involve a reduction in the area set aside for common open space, not the substantial relocation of such area; not
2. Increase by more than ten percent the floor area proposed for non residential use; not
3. Increase by more than five percent the total ground area covered by buildings nor involve a substantial change in the height of buildings.
4. Substantially change the design of the plan so as to significantly alter:
    a. Pedestrian or vehicular traffic flow
    b. The juxtaposition of different land uses
    c. The relation of open space to residential development
    d. The proposed phasing of construction
    e. Proposed use of one or more buildings to a more intensive use category as delineated in this chapter.

c. A public hearing need not be held for the approval of a final plan if it is in substantial compliance with the approved preliminary plan. The Planning Commission shall, within thirty business days of the time of filing review the final plan for compliance with the approved preliminary plan. Upon review approval, said final plan shall be filed with the County Board for final approval and acceptance.

d. In the event that the final plan submitted contains substantial changes from the approved preliminary development plan, the applicant shall resubmit a new preliminary development plan with new permit fees assessed. This preliminary development plan shall be modified in the same manner prescribed in this division as for original approval.

7. Enforcement and modification of plan

To further the mutual interest of the residents and owners of the mixed unit development and of the public in the preservation of the integrity of the MUD-1 plan, as finally approved, and to insure that modifications, if any, in the plan shall not impair the reasonable reliance of the said residents and owners upon the provisions of the plan, nor result in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the plan as finally approved, whether recorded by plan, covenant , easement or otherwise, shall be subject to the following provisions:

a. The provisions of the plan relating to:
    1. The use of land and the use, bulk and location of buildings and structures; and
    2. The quality and location of common space;
    3. The intensity of use or the density of residential units shall run in favor of the county and shall be enforceable in law or in equity, by the county, without limitation on any powers or regulation otherwise granted by law.

B. All provisions of the plan shall run in favor of the residents and owners of the planned development, but only to the extent expressly provided in the plan and in accordance with the terms of the plan and to the extent said provisions, whether recorded by plat, covenant, easement or otherwise may be enforced at law or equity by said residents and owners acting individually, jointly or through an organization designated in the plan to act on their behalf; provided, however, that no provisions of the plan shall be implied to exist in favor of residents and owners of the planned unit development except as to those portions of the plan which have been finally approved and have been recorded.

8. **Amendments**. The MUD-1 District regulation or an approved preliminary or final development plan may be amended in the same manner prescribed in this division for approval of a preliminary or final plan. Application for amendment may be made by the homeowner's association or fifty-one percent of the owners of the property within the MUD-1 District, or approval of SID Board of Trustees.

9. **Platting.** For unplatted tracts or tracts being replatted, the approval of the preliminary MUD-1 shall be considered as the approval of a preliminary plan. To complete the platting process, the applicant need only submit a final plat. Said final plat shall be in accordance with the subdivision regulations, except the scale shall be either two hundred feet, one hundred feet, fifty feet or twenty feet to the inch.

Section 5.13 "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 the floods 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 A. 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 5.13.1 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 5.13.3 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 5.13.4,5.13.5 & 5.13.6

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 opening's 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 there of 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 5.13.2 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 5.13.12

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 5.13.3 Establishment of Zoning Districts.

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

A. 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 5.13.4 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 (1) 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:

      1. All such proposals are consistent with the need to minimize flood damage
      2. All public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage.
      3. Adequate drainage is provided so as to reduce exposure to flood hazards; and
      4. 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.

Section 5.13.5 Flood Fringe Overlay district (Including AO and AH Zones)

A. Permitted Uses

Any use permitted in Section 5.13.6 shall be permitted in the Flood Fringe Overlay District. No use shall be permitted in the district unless the standards of Section 5.13.4 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 one (1) foot 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 (1) 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 5.13.2
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 (1) 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 one (1) foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section5.13.5B#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 5.13,#7 be elevated so that either:
   a. The lowest floor of the manufactured home is at or above one (1) foot 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 5.13.5, #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 Section5.13.1A 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
   a. All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified).
   b. All new constructed and substantial improvements of non-residential structures shall:
      1. Have the lowest floor elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth is specified;or
      2. Together with attendant utility and sanitary facilities be completely flood proofed to or above that level so that any space below that level is water tight 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 5.13.2, B7.

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

Section5.13.6 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:
   1. Agricultural uses such as general farming, pasture, nurseries, forestry
   2. Residential uses such as lawns, gardens, parking and play areas
   3. Non-residential areas such as parking, loading areas and airport landing strips
   4. 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 5.13.4 and 5.13.5. In Zone A unnumbered, obtain, review and reasonably utilize any flood elevation and floodway data available through Federal, State, or other services or Section5.13.4, #D of this Regulation, in meeting the standards of this Section.

Section 5.13.7 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;
      a. 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.
      b. 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 5.13.8 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.

F. The applicant shall be given a written notice over the signature of a community official that:
   1. 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
   2. Such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this Regulation.

Section 5.13.9 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:
   1. If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Regulation.
   2. 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.

Section5.13.10 Penalties for Violation

A. 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 5.13.11 Amendments

A. 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.

Section5.13.12 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.

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 FIRM's 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:

1. The overflow of inland or tidal waters
2. The usual and rapid accumulation of runoff of surface waters from any source.

Flood Fringe – is that area of the floodplain, outside of the floodway, that 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

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 5.14 "AA" Airport Approach Zone

A. Intent. This zoning district is created to be appended to a primary zoning district and provides for restrictive land uses occurring near all public owned heliports and airports, extended out three miles in all directions from the adjacent boundaries of the airport. The governing map shall be the current Airport Zoning Map of the given facility.

B. Zone Description

1. The Operation Zones shall be located along each existing or proposed runway, landing strip or other portion of the air field used regularly, for the landing or taking off of airplanes and shall begin or end at each end of each landing strip and 200 feet beyond the end of each runway and shall be 1000 feet in width for each instrument runway or landing strip and 500 feet in width for all other runways and landing strips.
2. The Approach Zone shall begin at the ends of their respective Operation Zones and shall extend and expand uniformly centered along the extended center line of the respective runway or landing strip, to the outer boundary of the Approach Zone at a rate of 30 feet of width for each 100 feet of horizontal length for the instrument runway or landing strip and 20 feet in width for each 100 feet of horizontal length for all other runways.

   The Inner Area of each Approach Zone shall be that portion of the Approach Zone beginning at the end of the respective or proposed Operation Zone and extending to the intersection of the controlling glide angle with a plane 150 feet above the highest elevation of the end of the respective runway or landing strip.

   The Outer Area of each Approach Zone shall be the area between the outer limit of the Inner Area of the Approach Zone and the outer limit of the Approach Zone.
3. The Transition Zone shall be the areas bounded by the Operation Zones of the Hazard Area, the sides of contiguous inner areas of Approach Zones and the Outer Limits of the Transition Zones; said outer limits of the Transition Zones being the intersections, at elevations of 150 feet above the highest elevation at the ends or edges of the closest runway or landing strip, or proposed runway or landing strip, of a series of contiguous planes originating from bases established by the Operation Zones of the Hazard Area and the edges of adjacent inner areas of Approach Zones, said planes rising from their respective bases along lines perpendicular to the centerline of the landing strip or runway at the rate of one foot vertically to seven feet horizontally to the lines of intersections previously referred to.
4. The Turning Zones shall be comprised of all portions of the Hazard Area not contained in the Operations Zones, Approach Zones and in the Transition Zones. The Outer Limits of the Turning Zones shall be a series of points forming a line which is the horizontal distance of ten statute miles from the nearest points along the airport property.

C. Permitted Principal Use: Any permitted principal uses permitted in the Primary District, provided all buildings, structures and obstacles meet the height requirements as established by this regulation.

D. Permitted Conditional Uses: Any permitted Conditional Uses in the Primary District, provided all buildings, structures and obstacles meet height requirements as established by this regulation.

E. Height Requirements: No building, transmission line, communication line, pole, tree, smoke-stack, 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:

1. In Inner areas of Approach Zones to a height above the elevation of the nearest point on the end or proposed end of said instrument runway or landing strip in excess of 1/50, and all other runways or landing strips in excess of 1/40 of the distance from the end of the Approach Zone (the end nearest the runway or landing strip) to said structure of object;
2. In the Outer Area of Approach Zones and in Turning Zones to a height in excess of 150 feet above the elevation at the end of the nearest runway or landing strip.
3. In the Transition Zones to a height above the planes forming the transition slopes; and

4. In the existing or proposed Operation Zones to a height above the existing or proposed finished grade of said runway or landing strips or surface of the ground.

F. Other Requirements: Any permitted use shall first receive administrative approval pursuant to Article 4, Article 6 and Article 8 of this Regulation.

SECTION 5.15 IND/AG: INDUSTRIAL/AGRICULTURAL

A. Intent: 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.

B. Permitted Principal Uses.

1. Single family dwellings restricted to the living facilities for the family, relatives or persons owning, operating and/or employed thereon.
   Use restriction: An industrial development shall not be allowed on a lot or parcel containing a single family residence.
2. General farms primarily crops and pasture land
3. Agricultural farm production crops: field crops, cash grain crops, vegetables, fruits and tree nuts
4. Agricultural farm production, livestockdairy products, cattle, hogs, sheep, goats, horse, rabbit, poultry, egg production and other animal husbandry specialties up to two hundred fifty animal units or the density requirements found in the definition of "Farming"
5. Horticultural farm specialties, apiaries, mushroom barns
6. Farm buildings and structures used for farm equipment, machinery, grain, animals and poultry
7. Farm irrigation facilities
8. Railroads and public thoroughfares
9. Roadside stands offering for sale farm products produced on the farm
10. Public overhead and underground utilities distribution systems.

B. Permitted Conditional Uses: A Conditional Use Permit shall be required for the following conditional or special uses

1. Building construction, general contractors and builders operations
2. Non-building construction general contractors and special trade construction contractors
3. Railroad, trucking, air, water transportation, and freight terminals and warehousing facilities
4. Lumber and wood products
5. Printing, publishing and allies products
6. Electric, gas, water and sanitary services
7. Agricultural products and grain elevators, refer to Section 4.12 for additional information
8. Rental Storage Units
9. Communications and television services and towers, See Section 7.08
10. Meat, food and kindred products
11. Textile mill products
12. Apparel and other products of fabrics, leather and similar materials
13. Furniture and fixtures products
14. Paper and allied products
15. Chemicals and allied products
16. Petroleum and related products
17. Rubber and miscellaneous plastic products
18. Metal products
19. Stone, clay, cement and glass products
20. Professional, scientific and controlling instruments
21. Photographic and optical products
22. Watches and clocks
23. Animal rendering and hide curing
24. Planned Industrial Developments
25. Signs, See Section 7.03 through 7.06
26. Family oriented venues such as amusement parks, race tracks, miniature golf, etc
27. Automobile Auction Yard
28. Wind energy conversion system provided conditions of Article 6 and Section 7.14 are met

29. Wind Energy Conversion Systems provided conditions of Article 6 and Section 7.14 are met.
30. Small Commercial Compost Farm Operation limited to five acres. Conditional Use limited to review every three years. The recovered organic materials which compost is made shall be:
    1. Yard waste not exceeding 20,000 cubic yards of compost per year according to Nebraska Department of Environmental Quality 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.
    2. Food waste limited to less than 1,000 cubic yards of compost per year according to Nebraska Department of Environmental Quality 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.

    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 apart within one (1) hour period measured by field olfactory device, such as a Nasal Ranger4 (registered trademark), Olfactometer or Sentometer (registered trademark) according to manufactures 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 Environmental Quality, 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 complainants 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

D. Accessory Uses:

The following accessory buildings and uses are permitted in this District.

1. Buildings and uses customarily incidental to the permitted principal uses.
2. 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
3. Private recreational facilities in conjunction with the permitted use.

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E. Height and Lot requirements

The height and minimum lot requirements shall be as follows:

	Lot Area (area/S.F.)	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height*****
Permitted Uses***	40 acres	200'	45' or ****	25'	25'	45'******
Accessory Buildings	--	--	45' or ****	15'	15'	35'******
Permitted Conditional Uses	3 acres	***	****	15'	15'	45******

*** Lot area and setbacks may be reduced by the Planning Commission and County Board if extenuating circumstances warrant, such as a central sewer or rural water use, etc. however the Planning Commission and County Board reserve the right to require stricter criteria.

**** See Section F-1 below

***** Refer to Section 4.12 for additional height allowances

****** The County Board may add the height of the tallest natural terrain within 1/4 mile to establish a new maximum height

F. Other Applicable Provisions:

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. of a U.S. or State designated highway, and not nearer than 60 feet to 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 off-street parking requirements shall be as provided in Article 7
3. When the side or rear yard abuts a residential use or district, the outside boundaries shall be screened with approved landscape plant materials, walls or fencing.
4. Environmental performance standards. Any use under the provisions of this Article shall comply with environmental performance standards relation to noise, emission, dust, odor, glare and heat.

G. Performance Standards

1. Physical Appearance: All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles for sale or the storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition.
2. 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.
3. Noise: No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise shall be

measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges.

4. Sewage and Liquid Wastes: No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, liquid waste of any radioactive or poisonous nature or chemical waste which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.
5. Air Contaminants:
   a. 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.
   b. Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit, except for a period of 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.
   c. 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.
6. 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.
7. 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.
8. Vibration: All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousands of an inch measured at the zoning lot line. The use of steam or broad hammers shall not be permitted in this zone except during construction under a building permit. Said use must be declared at the time of the permit application.
9. 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 5.16 COMM/AG: COMMERCIAL/AGRICULTURAL DISTRICT

A. Intent: 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.

B. Permitted Principal Uses

1. Single family dwellings restricted to the living facilities for the family, relatives or persons owning, operating and/or employed thereon.
2. General farms primarily crops and pasture land
3. Agricultural farm production crops: field crops, cash grain crops, vegetables, fruits and tree nuts
4. Agricultural farm production livestock: dairy products, cattle, hog, sheep, goat, horse, rabbit, poultry, egg production, and other animal husbandry specialties up to two hundred fifty animal units or the density requirements found in the definition of "Farming"
5. Horticultural farm specialties, apiaries, mushroom barns
6. Farm buildings and structures used for farm equipment, machinery, grain, animals and poultry
7. Farm irrigation facilities
8. Railroads and public thoroughfares
9. Roadside stands offering for sale farm products produced on the farm
10. Public overhead and underground utilities distribution systems

C. Permitted Conditional Uses: A Conditional Use Permit shall be required for the following conditional or special uses:

1. Automotive dealers, gasoline service stations and truck stops, automotive repair and miscellaneous repair services
2. Eating establishments
3. Wholesale trade, auction and animal sales yard
4. Building materials, hardware and garden supply
5. Farm supplies, feed, equipment and machinery sales
6. Furniture, home furnishing, home appliance and equipment sales
7. Clothing and apparel services, including dressmaking, millinery, shoe repair, furrier and tailors
8. Business services including: banks, insurance, real estate, offices, postal stations, printing, credit services, security brokers, dealers and exchange, title abstracting, savings and loans, finance services and investment services
9. Self-service cleaning establishments including: Laundromats and laundries
10. Personal services including: Barber shops, beauty salons, reducing salons, and photographic studios
11. Retail stores such as food markets, delicatessen, bakery, candy store, fruit and vegetable store, department store, drug stores, haberdasheries, books and stationary newspaper distribution, show and apparel shops, hobby, camera, and sporting goods, dry goods, hardware, gift, jewelry, variety stores, retail mail order stores, confectionery, retail dairy stores, clothing and furnishings store, radio electronics and music store, retail liquor store, antiques, cigar and tobacco, retail paint stores, flower shops, wallpaper, drapery or floor covering store and convenience mart (with or without gasoline sales)
12. Food service, such as eating, ice cream parlor, and sandwich shops
13. Law, membership organizations, educational and associated services
14. Health care and social services
15. Museum, art galleries and motion picture theaters places
16. Public, governmental, justice, financial, legislative and administrative offices

17. Public utilities, thoroughfares and facilities, fire and police protection facilities, libraries, schools, churches and associated residences, temples, hospitals
18. Railroads and public thoroughfares
19. Motels and hotels
20. Historical sites or monuments
21. Planned commercial developments, shopping centers
22. Bars, taverns and nightclubs (not including adult establishments)
23. Communications, cable and satellite receiving stations and appurtenances, See Section 7.08
24. Signs, See Section 7.03 through 7.06
25. Child Care Center
26. Rental Storage Unit
27. Family oriented entertainment venues such as amusement parks, race tracks, miniature golf, etc.
28. Wind energy conversion system provided conditions of Article 6 and Section 7.14 are met
29. Small Commercial Compost Farm Operation limited to five acres. Conditional Use limited to review every three years. The recovered organic materials which compost is made shall be:
    1. Yard waste not exceeding 20,000 cubic yards of compost per year according to Nebraska Department of Environmental Quality 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.
    2. Food waste limited to less than 1,000 cubic yards of compost per year according to Nebraska Department of Environmental Quality 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. 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 apart within one (1) hour period measured by field olfactory device, such as a Nasal Ranger4 (registered trademark), Olfactometer or Sentometer (registered trademark) according to manufactures 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 Environmental Quality, 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 complainants 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

D. Accessory Uses

The following accessory buildings and uses are permitted in this District

1. Buildings and uses customarily incidental to the permitted principal uses
2. 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
3. Private recreational facilities in conjunction with the permitted use

E. Height and Lot requirements

The height and minimum lot requirements shall be as follows:

	Lot area (area/S.F.)	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height*****
Permitted Uses ***	40 acres	200'	45' or ****	25'	25'	45'******
Accessory Buildings	--	--	85'or ****	15'	15'	35'******
Permitted Conditional Uses	3 Acres	***	****	15'	15'	45'******

*** Lot Area and setbacks may be reduced by the Planning Commission and County Board if extenuating circumstances warrant, such as a central sewer or rural water use, etc., however the Planning Commission and County Board reserve the right to require stricter criteria

**** See Section F-1 below

***** Refer to Section 4.12 for additional height allowances

****** The County Board may add the height of the tallest natural terrain within 1/4 mile to establish a new maximum height

F. Other Applicable Provisions:

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. of a U.S. or State designated highway, and not nearer than 60 feet to 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 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 off-street parking requirements shall be as provided in Article 7
3. When the side or rear yard abuts a residential use or district, it shall be screened with approved landscape plant materials, walls or fencing

SECTION 5.17 AGRITOURISM OVERLAY DISTRICT

INTENT: Cass County Agritourism implementation states that to be successful depends upon the quality of the natural and built environments. Cass County's distinct character and quality resources provide the foundation for developing appropriate types of authentic tourism products that would ensure the county remains a unique and competitive destination in the future. Therefore, any tourism venture or experience which would be permitted in the agriculture and rural areas of the county must be directly related to the supporting primary agricultural use of the farm by interpreting the agricultural heritage of the county and providing a distinctly Cass County experience. This overlay district is intended for the Agriculture, Trans Agriculture and Rec/Agriculture Districts.Based on that foundation, certain types of uses are more appropriate than others in an agricultural or related zoning district because of the direct nexus to experiencing Cass County's agricultural heritage. Other uses that do not meet this basic threshold or are not incidental to the primary agricultural use should not be permitted uses. In other words, in the agritourism related uses identified below, the visitor to the attraction, event or experience must leave the enterprise with a better understanding and appreciation of Cass County agricultural heritage, processes and culture. Benefits include:

1.Enhancing the economic viability of the farm and providing onsite employment opportunities.
2.Generating additional income or off season income
3..Interacting and educating locals and visitors about the importance of farming in Cass County
4.Increasing awareness of local agricultural products
5.Developing a new consumer market niche

A. Minor permitted Uses:

1. Camping/Glamping
2. Cooperative organic gardening/farming
3. Farmers Market
4. Pumpkin Patches
5. Berry Farms
6. Aquaculture
7. Nurseries
8. Orchards
9. Fruit and Vegetable Operations
10. Traditional Folk Art Facilities
11. Roadside Stands
12. Vineyards
13. Beehive Farming and Sales
14. U-pick up operations
15 Christmas tree farm/cut your own
16 Corn mazes(with educational interpretation**)**
17 Agriculturaly related educational and learning experiences
18 Agriculturally related event/fairs/festivals (Annual)
19 On site farm, garden, nursery tours
20 Walking and bicycling tours
21 Recreation related operations (outfitters/cross country skiing/fishing and hunting facilities/bird watching)
22 Horseback riding
23 Others that may be determined on a case by case basis if it meets the purpose and intent of the regulations

B. Major permits

1. Bed and Breakfast
2. Food Manufacturing and sales
3. Candle making and sales
4. Soap making and sales
5. Small animal husbandry operations
6. Equine facilities
7. Dude ranch or farm guest operation
8. Antique Dealers
9. Related Signage
10. Commercial hunting
11. Primitive Camping
12. Others that may be determined on a case by case basis if it meets the purpose and intent of the regulations
13. Winery

C. With all land use related venues, such as the promotion of agritourism development, a sensible balance must be found between the legitimate public health, safety and welfare concerns of local government, the preservation of the rural character of the county, and the provisions of opportunities for growing a sustainable tourism industry in rural areas.

D. Fees- Minor Permitted Uses -Over the Counter Permits:

Fees are assessed to recoup the cost of staff time spent during application, processing and inspections. A carefull evaluation is necessary to strike a fine balance between the needs of the applicant and the needs of the County since each project is unique and therefore requires different fee's. The following groups require fees associated with agritourism. Some "Minor Over the Counter Permits" could revert to a Major Conditional Use Permit if determined by the Zoning Administrator. The fee for a Minor Permitted Use Permit shall be set by the Zoning Administrator. Major Permits require a Conditional Use Permit with a fee evaluation to be set by the Zoning Administrator

ARTICLE 6: CONDITIONAL USE PERMITS

Section 6.01 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 Section 4.21 Fees. 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 6.02 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 6.03 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 one time at lease 10 days prior to such hearing.

Section 6.04 Decisions The concurring majority vote of the County Board shall be necessary to grant a conditional use permit.

Section 6.05 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 6.06 Consideration Examples. In considering the issues set out in Section 6.05 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 fire fighting 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.

ARTICLE 7: SUPPLEMENTAL REGULATIONS

Section 7.01 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 reasonable 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 7.02 Required Parking. 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 establishment
Churches, Synagogues, and Temples	1 Space per 4 seats in main unit of worship	None required
Eating and Drinking Places	Parking spaces equal to 30% of capacity in persons	2 Spaces per establishment
Educational Uses, Nursery	Parking spaces equal to 20% capacity in students	2 Spaces per structure
Educational Uses, All Other	Parking spaces equal to 40% of capacity of students	2 Spaces per structure
Funeral Homes and Chapels	8 Spaces per reposing room	2 Spaces per establishment
Hospitals	1 Space per 2 beds	3 Spaces per structure
Hotels and Motels	1 Space per rental unit	1 Space per establishment
Industrial Uses	.75 times the maximum number of employees on the premises at any one time	2 Spaces per establishment
Libraries	1 Space per 500 square feet of floor area	1 Space per structure
Lodging, Boarding Houses and Bed and Breakfasts	1 Space per rental unit	None required
Medical Clinics	5 Spaces per staff doctor	None required

	or dentist	
Mobile Home Park	2 Spaces per dwelling unit	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 gross 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 plus1 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 7.03 Signs: Standard of Measurement The total area of all signs permitted on a lot shall include:

1. The total area of the faces of all permanent exterior signs visible from a public way, plus
2. The area of permanent signs placed upon the surface of windows and doors, plus
3. The area within the outline enclosing the lettering, modeling or insignia of signs integral with the wall and not designed as a panel
4. A building or use having frontage on a second street may include 20% of the length of the lot facing the second street

Section 7.04 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.

1. 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.

2. No billboard, signboard or similar advertising signs shall be located within 100 feet of any lot in a residential district

3. No billboard, signboard or similar advertising signs shall exceed 500 square feet in area

4. No billboard, signboard or similar advertising signs shall be so constructed or located where it will unreasonable interfere with the use and enjoyment of adjoining property.

F. **Low Profile or Ground:** Ground signs at least 5 feet from any lot line with a maximum height of 6 feet

G. **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 side line 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.

H. **Subdivision:** Not more than one sign per entrance into the subdivision. No sign shall be greater than 32 square feet in size.

I. Signs hung from canopies and awnings shall be no closer than 80 inches from the bottom edge of the sign to grade below.

Section 7,05 Sign Schedule

A. Signs shall be permitted in the various districts according to the following schedule:

Sign Schedule

Zoning District Sign Type	FW	AG-1	TA-1	R-2	C-1	I-1	Ind/Ag	Com/Ag	MUD	Rec/Ag	Con	AA
Real Estate	-	+	+	+	+	+	+	+	+	+	+	+
Business	-	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**
Wall	-	-	-	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**
Name Plate	-	+	+	+	+	+	+	+	+	+	+	+
Billboard	-	-	-	**C**	**C**	**C***	**C**	**C**	-	-	**C**	**C**
Subdivision	-	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**
Projecting or Pole	-	-	-	**C**	**C**	**C***	**C**	**C**	-	-	**C**	**C**
Ground or Low Profile	-	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**	**C**

+: Permitted
-: Not Permitted
C: Conditional Use

- **Except in a MUD-1 within a Recreational/Agricultural District**

**** Establishemnts 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 7.06 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 well being of the public.

Section 7.07 Mobile Home Parks: A mobile home park may be established as a Planned Unit Development in a Residential District provided that the proposed mobile home park meets all of 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.

1. 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.
2. 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.
3. 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.
4. Anchoring of a mobile home shall meet the manufacturers recommendations or the above as a minimum.
5. The skirting of all mobile homes is required. Such skirting shall not attach a mobile home permanently to the ground, but shall 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 7.08 Wireless Communication Towers

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

B. **Definitions:** All terms in this Section which are not specifically defined herein shall be construed in accordance with the Communications Act of 1934, the Telecommunications Act of 1996 and the Rules

and Regulations of the Federal Communications Commission (FCC). As used in this Section, the following terms shall have the following meanings:

ANTENNA shall mean a device, designed and intended for transmitting or receiving television, radio or microwave signals, direct satellite service (including direct-to-home satellite service), and/or video programming services via multipoint distribution services.

ANTENNA SUPPORT STRUCTURE shall mean any building or structure other than a tower which can be used for location of telecommunications facilities.

APPLICANT shall mean any person that applies for a Tower Development Permit

APPLICATION shall mean a process by which the owner of a tract of land within the zoning jurisdiction of the County submits a request to develop, construct, modify or operate a tower upon such tract of land. The term application includes all written documentation, verbal statements and representations in whatever formal forum made by an applicant to the County concerning such request.

CONFORMING COMMERCIAL EARTH STATION shall mean a satellite dish which is two meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this regulation.

EMERGENCY SERCIVES COMMUNICATION EQUIPMENT shall mean equipment necessary for local law enforcement and local emergency service communication needs within FCC Regulations

ENGINEER shall mean any engineer qualified and licensed by any state or territory of the United States of America

OWNER shall mean any person with a fee simple title or a leasehold exceeding ten years in duration to any tract of land within the zoning jurisdiction of the County who desires to develop, construct, modify or operate a tower upon such tract of land.

PERSON shall mean any person, firm, partnership, association, corporation, company or other legal entity, private or public, whether for profit or not for profit.

SATELLITE DISH ANTENNA shall mean an antenna consisting of a radiation element intended for transmitting or receiving television, radio, microwave or radiation signals and supported by a structure with or without a reflective component to the radiating dish, usually circular in shape.

STEALTH shall mean any telecommunications facility, tower or antenna which is designed to enhance compatibility with adjacent land uses, including but not limited to architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than a tower, such as light poles, power poles and trees.

TELECOMMUNICATIONS FACILTIIES shall mean any cables, wires, lines, waive guides, antennas or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:

1. Any Conforming Commercial Earth Station antenna two meters or less in diameter which is located in real estate zoned AG, TA, REC,/AG, C or I
2. Any earth station antenna or satellite dish antenna of one meter of less in diameter, regardless of zoning applicable to the location of the antenna

TOWER shall mean a self-supporting lattice, guyed or monopole structure which supports Telecommunications Facilities. The term tower shall not include non-commercial amateur radio operators equipment as licensed by the FCC or structure supporting an earth station antenna servicing residential premises or dwelling units.

TOWER DEVELOPMENT PERMIT shall mean a permit issued by the County upon approval by the County Board of an application to develop a tower within the zoning jurisdiction of the County; which permit shall continue in full force and effect for so long as the tower to which it applies conforms to this Section. Upon issuance, a Tower Development Permit shall be deemed to run with the land during the permits duration and may be transferred, conveyed and assigned by the applicant to assigns and successors-in- interest.

TOWER OWNER shall mean any person with an ownership interest of any nature in a proposed or existing tower following the issuance of a Tower Development Plan.

C. Location of Towers and Construction Standards

1. Towers shall be permitted conditional uses of land in only those zoning districts where specifically listed and authorized in this regulation.
2. No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the County prior to approval of its application for a Tower Development Permit by the County Board and issuance of the permit by the County. Applicants shall submit their application for a Tower Development Permit to the Zoning Office and shall pay a filing fee in accordance with Section 4.21. A Conditional Use Permit shall run concurrent for a period of 15 years. See Article 6 Section 6.01 for renewal procedures.
3. All towers, telecommunications facilities and antennas on which State Law and construction has commenced within the zoning jurisdiction of the County after the effective date of this regulation shall conform to the Building Codes and all other construction standards set forth by the County, Federal and applicable American National Standards Institute (ANSI). Upon completion of construction of a tower and prior to the commencement of use, an engineer's certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed in the Zoning Office.

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

1. Name, address and telephone number of the owner and if applicable the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having ownership interest in the proposed tower. The application shall be executed by all applicants.
2. The legal description and address of the tract of land on which the tower is to be located.
3. All requests for new installations must either co-locate to use existing facilities or structures unless it is demonstrated, as documented by a qualified and licensed professional engineer and accompanied by the relevant cost information and other substantial evidence, that within at least one mile search radius (one half mile search radius for towers under 120 feet in height).
   A. The planned equipment would exceed the structural capacity of existing or approved towers or other potentially suitable support structures, and those facilities cannot be reinforced, modified or replaced to accommodate the planned or equilivant equipment at a reasonable cost.
   B. The planned equipment would cause interference materially impacting the usability of the planned equipment, or of other existing or approved equipment at the facility, and the interference cannot be prevented at a reasonable cost.

C. Existing facilities or structures cannot accommodate the planned equipment at a height necessary to function reasonably.

D. There are no existing facilities or structures as required to meet the applicant's engineering requirements.

E. The fees, costs, or contractual provisions required by the owner in order to share the existing facility are unreasonable. Costs exceeding new facility development are presumed to be unreasonable.

4. Written technical evidence from an engineer that the proposed tower will meet the established Building Code, and all other applicable construction standards set forth by the County Board, Federal and State and ANSI standards.
5. Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufactures literature, appurtenances such as buildings, driveways, parking areas and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.
6. The Applicant shall examine the feasibility of designing the proposed Tower to accommodate future demand for at least three (3) additional commercial applications such as future co-locations. The Tower shall be structurally designed to accommodate at least three (3) additional antenna arrays equal to those of the Applicant, and located as close to the Applicant's Antenna as possible without causing interference. This requirement may be waived, provided that the Applicant, in writing, demonstrates that the provisions of future shared usage of the Tower is not technologically feasible, is commercially impracticable or creates an unnecessary and unreasonable burden based upon:
    1. The for seeable number of FCC licenses available for the area,
    2. The kind of Wireless Telecommunications Facilities site and structure proposed,
    3. The number of existing and potential licenses without Wireless Telecommunications Facilities space/sites,
    4. Available space on existing and approved Towers

E. Tower Development Permit: Procedure: After receipt of an application for a Tower Development Permit, the Zoning Administrator shall schedule a public hearing before the Planning Commission, to consider such application. The Planning Commission shall receive testimony on the Tower Development Permit and shall make a recommendation to the County Board. Upon the completion of the Planning Commission Public Hearing the Zoning Administrator shall schedule a public hearing before the County Board to consider such application and the recommendation of the Planning Commission. Notice, for each public hearing, shall be made at least one time and at least ten days prior to such hearing. In addition, the Zoning Administrator shall cause a notice to be posted in a conspicuous place on the property on which action is pending. Such notice shall conform to Section 10.01 of this regulation. The Planning Commission and County Board may approve the Tower Development Permit as requested pending application with any conditions or safeguards it deems reasonable and appropriate based upon the application and/or input received at the public hearings or deny the application. In all zoning districts in which towers are a permitted conditional use of land, the Tower Development Permit shall be deemed a conditional use permit for said tract of land. All installations, owners, his or her successors and assigns agree to:

1. Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee paid by said applicant;
2. Negotiate in good faith with third parties to co locate at the facility owners site, on a space available basis;
3. Require no more than a reasonable charge for shared use, be it rent or capital contribution or both, based on community rates and generally accepted accounting principles. This charge may include but is not limited to, a pro-rata share of the cost of the site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the facility to accommodate a shared user without

causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished over the useful life span of the facility.

4. The requirements of number 3 may not apply if both parties to the co location have previously entered into a Master Service Agreement, an agreed upon lease template or its equivalent.;

F. Setbacks and Separation or Buffer Requirements

1. All towers up to fifty feet in height shall be setback on all sides a distance equal to the underlying setback requirement in the applicable zoning district or one hundred (100) percent of the height of the tower whichever is greater. Towers in excess of fifty feet in height shall be setback one additional foot for each foot of tower height in excess of fifty feet or one hundred (100) percent of the height of the tower whichever is greater. The height of the tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located. Towers shall be setback a minimum of 100% of the height of the tower from all structures or public roads.

   Free Standing Towers Only: The planning Commission may recommend and the County Board of Commissioners may approve a reduction to the setbacks on the Conditional Use Permit upon manufacturer's recommendations, a registered certified engineer or if they determine that such reduction does not constitute or adversely impact adjacent properties and is consistent with the intent of this Section to promote the public health, safety and welfare. This applies to item 1 above.

2. Towers exceeding one hundred feet in height may not be located in any residential zoned district and must be separated from all residentially zoned districts and occupied structures other than those utilized by the tower owner, by a minimum of two hundred feet or one hundred percent of the height of the proposed tower, whichever is greater.
3. Towers of one hundred feet or less in height may be located in residentially zoned districts provided said tower is separated from any residential structure, school, church and/or occupied structures other than those utilized by the tower owner, by a minimum of one hundred percent of the height of the tower.
4. When a wireless telecommunications facility extends above the roof height of a building or structure on which it is mounted, every effort shall be made to conceal the facility within or behind existing architectural features to limit its visibility from public ways.
5. Roof-mounted facilities shall be stepped back from the front façade in order to limit the impact on the buildings silhouette.
6. When a wireless telecommunications facility is mounted on the side of a building or structure, every effort shall be made to blend the facility with the existing architectural features to limit its visibility from public ways. The facility shall be shielded with material consistent with the design features and materials of the building and/or colored to be so consistent.
7. Ground-mounted facilities shall be screened from view by suitable landscaping, except where a design of non-vegetative screening better reflects, complements, and is in character with the architectural character of the surrounding area. Perimeter landscaping shall be installed as needed, around fencing at the base of the tower and around any building or equipment such that there is a minimum year round opacity of 75% beginning at the time of installation, as measured from the lot lines. A six-foot minimum height shall be required at installation for new landscaping, with the realistic potential to grow to a height of at least twelve feet at maturity.

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

H. **Illumination and Security Fences**

1. Unless required by the Federal Aviation Administration (FAA) no lighting of towers is permitted. In any case where a tower is determined to need obstruction marking, or lighting, the applicant must demonstrate that it has or will request the least visually obtrusive marking and/or lighting scheme in FAA applications. Copies of required FAA applications shall be submitted by the applicant. Heights may be reduced to eliminate the need for lighting or another location selected. No commercial signs or lettering shall be placed on a tower facility. Signage shall be limited to that required by federal or state regulations.
2. All self-supporting lattice or guyed towers shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which will preclude to the extent practical, unauthorized climbing of said structure.

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

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

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

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

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

N Abandonment:

1. Planned Abandonment: When a provider plans to abandon or discontinue use of a facility and provides the County with written, advance notice of the date of abandonment, the owner of the facility shall have ninety days from the date of abandonment within which to remove the facility.
2. Other Abandonment: Abandonment occurs when the service provider has not operated a viable telecommunications network using the facility for a continuous period of ninety days. The Zoning Administrator shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety days of receipt of the written notice. The owner of the facility shall have thirty days from receipt of the notice to demonstrate to the Zoning Administrator that the facility is not abandoned. If the owner fails to demonstrate that the facility is in active operation, the owner shall have the balance of the ninety day removal period in which to remove the facility.
3. Removal Items: Removal items shall include, but not be limited to:
   A. Removal of all antennas, towers, mounts, buildings and other structures, utilities, roads and fencing from the property.
   B. Proper disposal of waste materials from the property
   C. Restoration of the facility location to its natural condition, except that any landscaping and grading shall remain as improved.
4. Removal by the County: In the event that a facility is not removed within the ninety-day removal period, the County may remove the facility at the owner's expense. The owner of the facility shall pay all costs deemed necessary and reasonable to return the site to its preconstruction condition, including removal costs for such items as detailed above.
5. Security: If a security has been given to the County for removal of the facility, the owner of the facility may apply to the County Board for release of the security when the facility is removed to the satisfaction of the County Board.

O. Satellite Dish Antennas, Regulation

Upon adoption of this regulation, installation of satellite dish antennas shall be permitted within the zoning jurisdiction of Cass County only upon compliance with the following criteria:

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

P Severability: If any clause, subsection, or any other part of this Section shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Section shall not be affected thereby, but shall remain in full force and effect.

Q.**Security :** An escrow account, insurance policy in an amount approved by the County Board as reasonably necessary to restore the site to its natural topography and topsoil condition/or an irrevocable letter of credit issued from an FDIC financial institution. shall be submitted to and held by Cass County for the removal of the facility when it is no longer operational. Such security shall be maintained for the life of the facility, and shall include projected costs deemed necessary and reasonable to return the site to its preconstruction condition, including the removal of roads and reestablishment of vegetation. The County, as an administrative matter, may periodically require the amount of the security to be adjusted to

cover the then-current cost of removal and/or disposal. Proof of adequate insurance coverage for accident or damage shall be provided for all facilities to the issuance of a Building Permit, and shall be resubmitted on an annual basis thereafter. The purpose of this account/policy or letter of credit is to assure removal of all improvements subject to the Conditional Use Permit. After review the County Board has the right to determine which type of security is needed.

R. Liability Insurance:

1. A holder on 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 set forth below:
   Commercial General Liability covering personal injuries, death and property damage: $1,000,000 per occurrence/$2,000,000 aggregate;
   Automobile Coverage: $1,000,000 per occurrence/$2,000,000 aggregate
   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, Councils, employees, committee members, attorneys, agents and consultants as additional insured's.
3. The insurance policies shall be issued by an agent or representative of an insurance company licenses 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 Facility 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.

S. Performance Security:

1. The Applicant and the owner of record of any proposed Wireless Telecommunications Facilities property site shall, at it's 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. For a Tower facility and $25,000 for a co-location on an existing tower or other structure and with such sureties as are deemed sufficient by the County Board to assure the faithful performance of the terms and conditions of this Regulation and conditions of any 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.

T. Indemnification

1. Any application for a Wireless Telecommunication Facility 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 Wireless Telecommunications Facilities.

U. 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. 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. 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. 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.

Section 7.09 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:

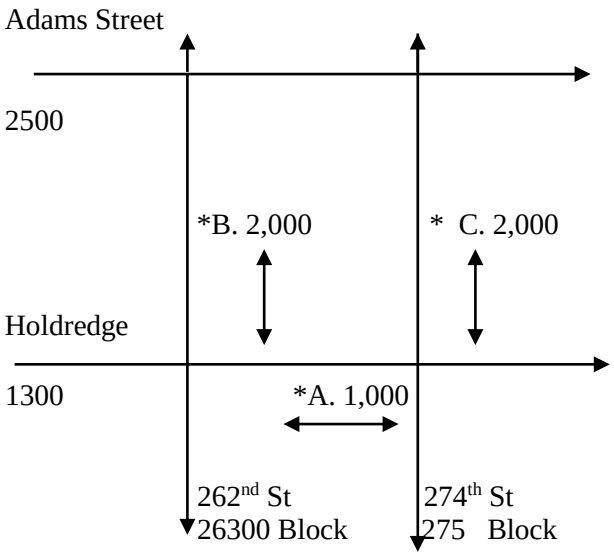
1. State at the centerline of the intersection of the nearest county road to the property
2. Measure to the center of the driveway
3. Take the total measurement in feet and divide by 4.4, add or subtract this number from the block number of the intersection where the measurement was taken
4. The north and west sides of the road should be even numbered addresses and the south and east should be odd numbered addresses. *

- 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.



(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.

Diagram

Section 7.10

Section 7.101 Nuisance Code

Nuisance Code

7.10.1. 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 ones 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.

(A.) The permitted uses within in the Agricultural, Industrial Agricultural, Industrial, Recreational Agricultural, and Transitional Agricultural districts are generally related to agricultural 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 theses districts a nuisance shall be defined in accordance with Nebraska Department of Environmental Quality Title 132, and,

1. 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.

(B.) In the Commercial, Residential and Residential Mixed Unit Development 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 ;

1. 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;

2. Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, alley, highway, stream, ditch or drainage.

3. Any activity at or in any building, structure or location in violation of local, state or federal law;

4. 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.

5. 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.

6. Constitutes any method of human excreta disposal which does not conform to local, state, or Federal laws, rules or regulations.

7. In any way renders other persons insecure in life or the substantial use of property.

8. Essentially interferes with the quiet enjoyment of life and property, or tends to substantially depreciate the value of property of others.

9. Constitutes any accumulation of stagnant water on any lot.

10. 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.

11. Constitutes abandoned or open wells, cisterns or cellars.

12. Creates or allows to exist any unnecessary or unauthorized noises and annoying vibrations except in conjunction with any approved Conditional Use Permits.

13. Polutes any water well, cistern, stream, lake, canal or other body of water by sewage, dead animals, crematory, industrial wastes or other substances.

14. 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.

15. 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

16. 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.

7.10.2 Unlawful.

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

7.10.3 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.

7.10.4. 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.

7.10.5. 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 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.

7.10.6. Dangerous Building or Structures

A. 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.

B. 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.

C. 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.

D. 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.

E. 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.

7.10.7 Notice to Abate or remove; Remove by County.

A. 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.

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

1) A description of the condition constituting the nuisance.
2) The location of the nuisance, if the same is stationary.
3) An order to abate the nuisance within a prescribed time period.
4) A statement of acts necessary to abate the nuisance.
5) 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
6) 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.

7.10.8. Show cause Hearing

A. 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.

B. 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.

C. 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.

D. 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.

E. 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.

F. 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.

G. 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.

7.10.9 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.

7.10.10 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 yo 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, lesee or occupant in the manner provided by law.

7.10.11 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 7.11 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 date reported to the Zoning Office.

A. **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

B. **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.

C. **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
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 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 entity:
    a. If the contractor is a corporation, the name, address, telephone number and position of each office of the corporation as well as the name and address of the contractors registered agent in the State; and
    b. If the contractor is other than a corporation, the name address and telephone number of each owner
    c. 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

6. A description of the business, which includes the principal products and services provided each application shall be renewed annually upon payment of the fee.

7. Proof of certification by the Nebraska Department of Environmental Quality for those person (s) who do the following types of work with on-site waste water treatment systems:

a. Percolation testing
b. Installer (includes alteration, construction, reconstruction, modification or repair work

D. **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

E. **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 hit problems encountered by building inspectors over the previous quarter

F. **Fees:** Each application or renewal shall be accompanied by a fee of twenty dollars. The fee shall not be required when an amendment to an application is submitted.

G. **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.

H. **Failure to maintain worker's 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 7.11(C) by failing to maintain compliance with the laws of the State of Nebraska relating to worker'' compensation insurance coverage. If the Administrator receives a notice of cancellation of worker's 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 revocation date.

I. **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 showing of compliance with the application to contest the revocation. Notice of contest shall be sent to the Administrator who shall schedule a hearing before the County Commissioners for a final resolution.

J. **Complaints:** Written complaints regarding a contractor made to the Administrator in which the complaintent provides his or her name and address shall receive a written response as to the results of the investigation. Complaints shall be kept on file in the department for a minimum of one year. All files in the department are public files.

K. **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 Ordinance. 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.

L Violation; citation, penalty

1. The Administrator shall issue a citation 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 fifty dollars in the cast of a first violation and not more than five hundred dollars 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 (I) as herein set forth.

M. Contractor Registration All funds shall be remitted to the County Treasurer

N. **Applicability of regulations** The regulations shall not apply to the county, state or any political subdivision thereof.

Section 7.12 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 Environmental Quality approved common sewer system serving all lots. Covenants shall be required to ensure maintenance of these systems by land owners.

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 7.13 Sand and Gravel Mineral, Stone, Rock and Soil Extraction and Quarries

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 table of the adjoining properties

C. The application shall identify proposed vehicle and equipment storage areas
D. Erosion controls, including retention and sediment basins shall be provided during extraction to prevent a change in the character of runoff onto adjacent land
E. 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
F. Topsoil shall be collected and stored for redistribution on the site at the termination of the operation
G. 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
H. 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
I. 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 7.14 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:

1. 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.

2. Definitions

A. 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.
B. 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.
C. 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.
D. 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.
E. Height, total system – The height above grade of the system, including the generating unit and the highest vertical extension of any blades or rotors.
F. Height, tower – The height above grade of the fixed portion of the tower, excluding the generation unit and attached blades and rotors.
G. 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.
H. Shadow flicker – Strobe effect that occurs when sun is horizontal to rotor blades, which causes repetitive intermittent shadows that can affect people on near by properties.

I. 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.

J. Tower – The vertical component of a wind energy conversion system that elevates the wind turbine generator and attached blades above the ground.

K. 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

L. Wind Turbine Generator – The component of a wind energy system that transforms mechanical energy from the wind into electrical energy.

3. 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. The application shall also include the following documents:

A. A survey map illustrating the following:
   - i. Property lines, dimension, acreage and contours with appropriate intervals for site evaluation;
   - ii. Location and elevation of all components of the proposed WECS;
   - iii. Location and dimensions of all existing structures and uses on property within three hundred (300) feet of the system;
   - iv. Height of any structures over thirty-five (35) feet within a five hundred (500) foot radius on site or offsite of the proposed WECS;
   - v. Location of any overhead utility lines on the property;
   - vi. Location of all known communications towers within two (2) miles of the proposed WECS
   - vii. Access roads;
   - viii. 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.

B. 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:
   - i. Existing or proposed tourist or recreation activities;
   - ii. Residential activities;
   - **iii.** Industrial activities;
   - iv. Agricultural activities;
   - v. Commercial activities

C. 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:
   - i. Grading;
   - ii. Construction and drainage of access roads and turbine pads;

iii. Design features to control dust;
iv. Design features to maintain downstream water quality;
v. Re-vegetation to ensure slope stability;
vi. Restoring the site after temporary project activities;
vii. Disposal or storage of excavated materials;
viii. Protecting exposed soil;
ix. Stabilizing restored material and removal of silt fences or barriers when the area is stabilized; and
x. Maintenance of erosion controls throughout the life of the project.

D. Applicant shall provide information regarding flora and fauna of the proposed project area including:
i. Officially listed threatened or endangered species;
ii. Critical habitat and habitat conditions;
iii. An avian study based on the US Fish and Wildlife Services "Interim Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbines"

F. Standard drawings of the structural components of the WECS, including structures, tower, base, and footings.

G. Certification by a registered engineer that:
i. There is a substantial need for the proposed use or WECS, one hundred (100) kW or greater;
ii. All applicable local, state, and federal building, structural and electrical codes have been followed;
iii. The site is feasible for a WECS; the WECS can be successfully operated in the climate conditions found in Cass County**;**
iv. The rotor and over speed control have been designed for the proposed use on the proposed site;
v. The design and safety of the proposed tower to withstand winds of ninety (90) miles per hour; and
vi. 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
   c. Workers Compensation and Disability: Statutory amounts
2. 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 insured's.
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 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 it's 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.

J. 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. 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. 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. 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.

4. General Siting and Design Standards

A. WECS shall be located on a parcel of at least ten (10) acres in size.

B. 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:

i. Noise levels conforming to the International Electromechanical Commission (IEC) Standard 61400-11 part 11; and

ii. 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.

C. WECS shall maintain a minimum setback distance from any property lines of two (2) times the combined height of the tower and blade.

D. 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.

E. In no case shall a WECS be located within any required setback or in any front yard area.

F. If an aggregated project, setbacks from multiple entities shall be one and one-tenth (1.1) times the height of the total system.

F. 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.

G. 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.

H. 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.

I. Appropriate landscaping shall be provided to screen accessory structures from roads and adjacent residences

J. 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 night time.

K. The applicant shall minimize or mitigate any interference with electromagnetic communications, **such as** radio, telephone or television signals caused by any wind energy facility.

5. Construction and Operations

A. 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

B. 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

C. 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.

6. Safety Measures

A. 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**.**

B. The planning board shall determine the height, color, and type of fencing for the WECS installation

C. 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:

i. Warning – high voltage
ii. Manufacturer's name
iii. Operator's name
iv. Emergency phone number
v. Emergency shutdown procedures

D. Each WECS shall be properly grounded to safely sustain natural lightning strikes in conformance with the National Electric Code.

E. 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.

F. The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.

G. 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

7. Discontinuation and Decommissioning.

A. 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.

B. 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.

C. 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.

8. Small Wind Energy Conversion System

A Small Wind Energy Conversion System (SWECS) is a facility used for the production of one hundred (100) kilowatts or less of electrical energy supplied by the wind. The facility may include wind turbine(s) with total height(s) of eighty (80) feet or less and any transmission lines. The SWECS is primarily used to generate energy for use by its owner. A small wind energy facility shall be sited and designed to minimize adverse visual impacts on neighboring properties.

A. Application Requirements

i. 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.

ii. 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.

B. General Siting and Design Standards

i. Setback from property lines, habitable structures public rights-of-way, and access easements at least 1.1 times the tower height.

ii. 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 used to display advertising.

iii. SWECS shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA).

iv. 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.

v. The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.

vi. 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.

vii. 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.

viii. Construction access must be regraded and revegetated to minimize environmental impacts.

ix. 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 7.15 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 the adjacent property, traffic, and
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 Environmental Quality, in the event an approval is required by these agencies. (Amended 4-07-09 #54)

SECTION 7.16 ADULT ESTABLISHMENTS

7.16.01 Purpose, Findings and Rationale

1.Purpose. 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.

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. v. 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:

a.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.

b.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.

c.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.

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.

7.16.02 Regulations

1.No person shall establish, operate or cause to be operated an adult establishment in Cass County within:
a. 1,000 feet of another adult establishment;
b. 500 feet of a business licensed to sell alcohol at the premises;
c. 1500 feet of a residential district, residential use, residence, church, educational institution, park, recreational facility; or
d. 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.
e. 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.

2.No adult establishment shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day.

3.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.

4.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.

5.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.

6.No person shall possess alcoholic beverages on the premises of an adult establishment.

7.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.

8.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.

9.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:

i.That the occupancy of viewing rooms less than 150 square feet is limited to one person.

ii.That specified sexual activity on the premises is prohibited.

iii.That the making of openings between viewing rooms is prohibited.

iv.That violators will be required to leave the premises.

v.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 in e.i. through e.v. above.

g.The interior of the premises shall be configured in such a manner that there is an obstructed 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 obstructed 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 11.a. through 11.h above to knowingly or recklessly fail 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.

10.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.

11.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 8.10.04.

12.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 for 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 7.17 Erosion Control

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.

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.

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.

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.

Waste and Material Disposal:

All waste and unused building materials shall be disposed of in a timely manner and not allowed to be carried away by runoff.

Each site shall contain graveled access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto any roadway.

All storm drain inlets and culvert openings shall be protected from infiltration by a straw bale, filter fabric or an equivalent barrier.

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.

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 it original or better condition and shall install the necessary controls to prevent erosion after the job is completed.

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.

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.

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.

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.

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:

1. 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.
2. 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
3. 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
4. A schedule of estimated starting and completion dates of each stage of land disturbing activities and conservation measures, including final stabilization completion date.

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:

1. 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.
2. Soil boring and tests
3. Other engineering studies, computations, schedules and supporting data

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.

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

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.

All conservation measures shall apply to the construction site, including but not limited to road and utility installations and the protection of individual lots.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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 state clearly the grounds in which the appeal is based.

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 7.18 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. Alcholic 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 (Amendment 71-2017)

ARTICLE 8: PERFORMANCE CRITERIA

Section 8.01 Purpose

The purpose of this section is to identify minimal development criteria within certain Zoning Districts. Performance criteria will not apply to all uses within Cass County, only those which are deemed to be special in nature and requiring special environmental, quality of life and review for the public's health, safety and general welfare.

Section 8.02 Point System

Each use and/or Zoning District requiring special attention will be rated through a point system. In all cases, a minimum number of points will be required in order for a Conditional Use Permit to be issued. In a limited number of uses where the score reaches a certain threshold, the Zoning Administrator will have the authority to issue said Conditional Use Permit through an administrative action in lieu of Planning Commission and County Board review. Those uses allowing administrative action shall be noted at the beginning of the Section.

Section 8.03 Recreational Uses (including Amphitheaters, Amusement/theme Parks)

A. The Zoning Administrator does not have the authority to issue an Administrative Conditional Use on these uses. In order for this type of development to be approved by the Planning Commission, the application shall receive a minimum 7-% of the possible total score.

B. **Mixed Unit Development (MUD) Criteria.** Note: Only if applicable will these points be used.

1.	Applicant has met the requirements of the MUD criteria of this Zoning Regulation	20 points
2.	Applicant has not met the criteria of a MUD	- 70 points

C. Topography/Terrain

1.	Works with existing topography/terrain and disturbs less than 20% of the site for grading	25 points
2.	Disturbs between 20% and 50% of the site	15 points
3.	Disturbs between 50% and 75% of the site	5 points
4.	Disturbs more than 75% of the site	-20 points

D. Preservation of existing vegetation or returns vegetation

1.	90% to 100% preservation of vegetation	20 points
2.	50% to 90% preservation of vegetation	10 points
3.	20% to 50% preservation of vegetation	5 points
4.	Less than 20% preservation of vegetation	-20 points

E. County Road Classification

1.	Along a paved County Road or State/Federal Highway	15 points
2	Along a maintained and graveled County Road	5 points
3.	Along minimum maintenance road unless brought up to County standards by the property owner/developer	-7 points

F **Overall Concept of the Recreational Development**

1.	Concept represents the history/character/atmosphere of Nebraska And/or the Platte River/Missouri River region	25 points
2.	Concept represents in part the history/character/atmosphere Of Nebraska and/or the Platte River/Missouri River region	0-10 points
3.	Concept has nothing to do with the history/character/atmosphere Of Nebraska and/or the Platte River/ Missouri River region	-10 points

G. **Architectural Aesthetics of the Recreational Development**

1.	The architectural aesthetics and style of the development makes complete use of materials and architectural styles common to the region	20 points
2.	The architectural aesthetics and style of the development makes partial use of materials and architectural styles common to the region	15 points

3. The architectural aesthetics and style of the development completely ignores the materials and architectural styles common to the region -20 points

H Fire Protection (Bonus Points Only)

1. New Construction and has a built-in fire suppression system and Makes use of an alternative system for sire protection 40 points
2. New construction and has a built-in fire suppression system 30 points
3. Development makes use of an alternative system for fire protection 20 points

Total Points possible in this Section 135 points
Total Points required for Administrative Action NA
Total Points needed for a Conditional Use Permit to be issued 94 points

<u>Section 8.04 Commercial Uses in the Recreation/Agricultural District (including Hotels/Convenience Stores)</u>

A. The Zoning Administrator does not have the authority to issue an Administrative Conditional Use on these uses. In order for this type of development to be approved by the Planning Commission, the application shall receive a minimum 70% of the possible total score.

B. Mixed Unit Development (MUD) Criteria. Note: Only if applicable will these points be used

1. Applicant has met the requirements of the MUD criteria of this Zoning Regulation 20 points
2. Applicant does not meet the MUD criteria -70 points

C. Topography/Terrain

1. Works with existing topography/terrain and disturbs less than 20% of the site for grading 25 points
2. Disturbs between 20% and 50% of the site 15 points
3. Disturbs between 50% and 75% of the site 5 points
4. Disturbs more than 75% of the site -20 points

D. Preservation of existing vegetation

1. 90% to 100% preservation of vegetation 20 points
2. 50% to 90% preservation of vegetation 10 points
3. Less than 50% preservation of vegetation -10 points

E. County Road Classification

1. Along a paved County Road or State/Federal Highway 15 points
2. Along a maintained and graveled County Road 5 points
3. Along a Minimum Maintenance Road unless brought up to County standards by the property owner/developer -70 points

F. Setbacks

1. Commercial property exceeds required setbacks by 100% (Bonus Points) 20 points
2. Commercial property exceeds the required setbacks by 50% 10 points
3. Commercial property meets required setbacks 0 points
4. Commercial property does not meet the required setbacks -70 points

G. Landscaping

1. Highway frontage uses landscaping to screen parking 20 points
2. Highway frontage is partially landscaped to screen parking 0-10 points
3. Highway frontage is not landscaped -20 points

H. Architectural Aesthetics of the Recreational Development

1. The architectural aesthetics and style of the development makes complete use of materials and architectural styles common to the region 20 points
2. The architectural aesthetics and style of the development makes partial use of the materials and architectural styles common to the region 0-10 points

	3.	The architectural aesthetics and style of the development completely ignores the materials and architectural styles common to the region	-20 points

I. Fire Protection (Bonus Points Only)

1.	New construction and ahs a built-in fire suppression system and Uses an alternative system for fire protection	40 points
2.	New Construction and has a built-in fire suppression system	30 points
3.	Development makes use of an alternative system for fire protection	20 points

Total Points possible in this Section	140 points
Total Points required for Administrative Action	NA
Total Points needed for a Conditional Use Permit to be issued	98 points

<u>Section 8.05 Residential Subdivisions in the Recreational/Agricultural District</u>

A. The Zoning Administrator does not have the authority to issue an Administrative Conditional Use on these uses. In order for this type of development to be approved by the Planning Commission, the application shall receive a minimum 70% of the possible total score.

B. **Mixed Unit Development (MUD) Criteria**

1.	Applicant has met the requirements of the MUD criteria of this Zoning Regulation	20 points
2.	Applicant has not met the MUD criteria	-70 points

C. Topography/Terrain

1.	Works with existing topography/terrain and disturbs less than 10% of the site for grading	20 points
2.	Disturbs between 10% and 25% of the site	10 points
3.	Disturbs between 25% and 50% of the site	0 points
4.	Disturbs more than 50% of the site	-20 points

D. Preservation of existing vegetation

1.	90% to 100% preservation of vegetation	10 points
2.	50% to 90% preservation of vegetation	6 points
3.	20% to 50% preservation of vegetation	2 points
4.	Less than 20% preservation of vegetation	-10 points

E. Minimum distance from County Intersection (Minimum distance=250 feet)

1.	Meets minimum requirements in the Agricultural District	10 points
2.	Does not meet minimum requirements of the Agricultural District	-70 points

F. Minimum distance from an existing driveway (Minimum distance=250 feet)

1.	Meets minimum requirements in the Agricultural District	10 points
2.	Does not meet minimum requirements of the Agricultural District And requires Department of Roads concurrence	-70 points

G. Distance from an existing Livestock Feeding Operation

1.	Distance is greater than required setback (Bonus Points)	20 points
2.	Distance is equal to required setback	10 points
3.	Distance is less than required setback	-70 points

H. County Road Classification

1.	Along paved County Road or State/Federal Highway	10 points
2.	Along a maintained and graveled County Road	5 points

I **Sanitary Sewer and Water Systems**

1.	Subdivision is served by a centralized Sanitary Sewer Collection And treatment facility and utilizes a centralized water supply (Bonus Points)	30 points
2.	Subdivision is served by a centralized sanitary sewer collection And treatment facility or utilizes a centralized water supply	20 points
3.	Subdivision has private septic systems and individual wells	

		And testing certified by a licensed professional engineer	0 points
J.	**Architectural Aesthetics of the Residential Subdivision**		
	1.	The architectural aesthetics and style of the development makes complete use of materials and architectural styles common to the region	20 points
	2.	The architectural aesthetics and style of the development makes partial use of the materials and architectural styles common to the region	0-10 points
K.	**Fire Protection (Bonus Points Only)**		
	1.	New construction and has a built-in fire suppression system and Uses an alternative system for fire protection	40 points
	2.	New construction and has a built-in fir suppression system	30 points
	3.	Development makes use of an alternative system for fire protection	20 points
Total Points possible in this Section			130 points
Total Points required for Administrative Action			NA
Total Points needed for a Conditional Use Permit to be issued			91 points

Section 8.06 Development in the Conservation Overlay District

A. The Zoning Administrator does have the authority to issue an Administrative Conditional Use on single lot development requests, but not on proposed subdivisions. Single lot development requests shall be required to score at least 70% of the total possible points. In order for this type of development to be approved by the Planning Commission, the application shall receive a minimum 70% of the possible total score.

B.	**Conservation District Criteria**		
	1.	Applicant has met the application requirements	20 points
	2.	Applicant does not meet all of the application requirements	-90 points
C.	**Topography/Terrain**		
	1.	Works with existing topography/terrain and disturbs less than 10% of the site for grading	20 points
	2.	Disturbs between 10% and 25% of the site	10 points
	3.	Disturbs between 25% and 50% of the site	0 points
	4.	Disturbs more than 50% of the site	-20 points
D.	**Preservation of existing vegetation***		
	1.	80% to 100% preservation of vegetation	10 points
	2.	60% to 79% preservation of vegetation	8 points
	3.	40% to 59% preservation of vegetation	6 points
	4.	20% to 39% preservation of vegetation	2 points
	5.	10% to 19% preservation of vegetation	0 points
	6.	Less than 10% preservation of vegetation	-10 points
	7.	Less than required to prevent future erosion problems	-90 points

- Note: Analysis of these conditions by an Engineer specializing in soils may be required on some proposals. Cost of said review will be the responsibility of the applicant

E.	**Minimum distance from County intersection. (Minimum distance = 250 feet)**		
	1.	Meets minimum requirements	10 points
	2.	Does not meet minimum requirements	0 points
F.	**Minimum distance from an existing driveway (Minimum distance = 250 feet)**		
	1.	Meets minimum requirements	10 points
	2.	Does not meet minimum requirements	0 points
G.	**Distance from an Existing Livestock Feeding Operation**		
	1.	Distance is greater than required setback (Bonus Points)	20 points
	2.	Distance is equal to required setback	10 points

	3.	Distance is less than required setback	-70 points
H.	**County Road Classification**		
	1.	Along paved County Road or State/Federal Highway	15 points
	2.	Along a maintained and graveled County Road	0 points
	3.	Along a minimum maintenance road unless brought up to County standards by the property owner/developer	-15 points
I.	**Sanitary Sewer and water Systems**		
	1.	Subdivision is served by a Centralized Sanitary Sewer Collection and Treatment facility and utilizes a centralized water system (Bonus Points)	30 points
	2.	Subdivision is served by a Centralized Sanitary Sewer Collection and Treatment facility or utilizes a centralized water system	20 points
	3.	Subdivision has private septic systems and individual wells and testing certified by a licensed professional engineer	10 points
	4.	Subdivision has private septic systems and individual wells and testing has not been certified by a licensed professional engineer	-90 points
J.	**Soil types and conditions (based upon the Cass County Soil Survey)***		
	1.	Soil types on site are considered appropriate and adequate for proposed development (including: septic, lagoons, structurally, erosion control, etc.)	20 points
	2.	Soil types are not adequate for the proposed development and Developer will be bringing in the proper fill material	0 points
	3.	Soil types are not adequate and the developer is not modifying the soil conditions	-90 points
K.	**Fire Protection (Bonus Points Only)**		
	1.	New construction and has a built-in fire suppression system and Uses an alternative system for fire protection	40 points
	2.	New construction and has a built-in fire suppression system	30 points
	3.	Development makes use of an alternative system for fire protection	20 points
Total Points possible in this Section			135 points
Total Points required for Administrative Action			NA
Total Points needed for a Conditional Use Permit to be issued			94 points

ARTICLE 9: BOARD OF ADJUSTMENT

Section 9.01 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 9.02 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 9.03 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 9.04 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 effect any variation in such regulation.

Section 9.05 Appeal of Board Decisions Section 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.

ARTICLE 10: AMENDMENT

Section 10.01 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 three hundred feet of the property to be rezoned.

In case of a protest against a change of zoning signed by the owners of twenty percent of more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred feet therefrom, or of those directly opposite thereto extending one hundred feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of 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 replatting of any development of real estate, shall notify the board of education of each school district in which the real estate, or some part thereof, to be affected by such a proposal lies, of the next regular meeting of the planning commission at which such proposal is to be considered and shall submit a copy of the proposal to the board of education at least ten days prior to such meeting.

Upon adoption of an amendment to the 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 10.02 Planning Commission Review Section 10.02 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 10.03 Zoning Administrator Section 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 10.04 Building Permits. Section 10.04 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 10.05 Certificate of OccupancySection 10.05 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 10.06 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 10.08 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:

Notice of violation sent to property owner stating the violation and requesting a meeting within thirty (30) days to resolve the issue.

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.
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.

ARTICLE 11: LEGAL STATUS PROVISIONS

Section 11.01 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 11.02 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 11.03 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 11.04 Effective Date. This Resolution shall take effect and be in force from and after its passage and publication according to law.