

## **CHAPTER 11: ZONING**

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## ARTICLE 1. GENERAL PROVISIONS

*[Editor's Note: The Original Chapter 11 was Repealed by Ordinance No. 129, 6/25/77]*

### § 11-101 TITLE.

This chapter shall be known, cited, and referred to as the "Hallam Zoning Ordinance." (Ord. No. 129, 6/25/77)

### § 11-102 INTENT AND PURPOSE.

(A) *Intent.* This chapter is intended to promote the orderly development of the Village of Hallam in accordance with a comprehensive development plan or any components thereof. This chapter shall apply to all the territory within the zoning jurisdiction of the Village of Hallam, Nebraska. It is also the intent of this chapter that the extent of its applicability shall be automatically changed in accordance with the provisions contained hereof, or with any provision of state law which may hereinafter affect the applicability of this chapter.

(B) *Purpose.*

(1) The purpose of the Village of Hallam Zoning Ordinance is to promote the health, safety, order, convenience, and general welfare of the citizens of Hallam in accordance with present and future needs as expressed in the comprehensive development plan.

(2) It is the further purpose of the Village of Hallam Zoning Ordinance to provide for economic and efficient land development, encourage the most appropriate use of the land, provide convenient and safe movement of people and goods, control the distribution and density of population to areas where necessary public services can be provided, protect historical and environmental areas, encourage good civic design, and provide for adequate public utilities, facilities, and services. (Ord. No. 129, 6/25/77)

### § 11-103 RULES AND DEFINITIONS.

(A) *Rules.* In the construction of this chapter the rules and definitions contained in this article shall be observed and applied, except when the context clearly indicates otherwise.

(B) *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense shall include the future, and words used in the singular number shall include the plural number and the plural, the singular.

The word "shall" is mandatory and is not discretionary. The word "may" is permissive. The word "lot" shall include the words "piece", and "plots"; the word "building" shall include the word "structure"; and the phrase "used for" shall include the phrases "arranged for" and "occupied for".

**ACCESSORY BUILDING OR USE.** A building or use which is all of the following:

(a) Constructed or located on the same lot as the principal building or use served, except as may be specifically provided elsewhere in this chapter; and

(b) Clearly incidental to, subordinate in purpose to, and serves the principal use.

**AGRICULTURE.** The use of land for the purpose 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.

**ALLEY.** A public or private thoroughfare which affords only a secondary means of access to the property abutting thereon.

**APARTMENT HOTEL.** An apartment building 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 stores, barber shops, cosmetologists shops, cigar stands or newsstands, when such uses are located entirely within the building with no entrance from the street nor visible from any 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**.

**AUTO LAUNDRY.** A building, or portion thereof, containing facilities for the primary purpose of washing automobiles, using production line methods with a chain conveyor, blower, steam cleaning device, or other mechanical devices; or providing space, water, equipment, or soap for the complete or partial hand-washing of such automobiles, whether by operator or by customer.

**BASEMENT.** That portion of a building having part but not more than one-half (1/2) of its height below grade. A basement is counted as a story for the purpose of height regulations if subdivided and used for dwelling purposes other than by a janitor employed on the premises.

**BOARDINGHOUSE.** A building other than a hotel or a motel. Where, for compensation and by prearrangement for definite periods, meals, or lodging and meals, are provided for three (3) or more persons including nursing homes with less than twenty-one (21) patients and tourist homes accommodating not more than twenty (20) persons.

**BUILDING.** Any structure built, used, designed or intended for the support, shelter, protection, or enclosure of persons, animals, chattels, or property of any kind and which is permanently affixed to the land. When a building is divided into separate parts by unpierced fire or party walls extending continuously from the ground through all stories to and above the roof, each part shall be deemed a separate building.

**BUILDING HEIGHT.** For a flat roof, the vertical distance measured from the established grade to the highest point of the coping of a flat roof; to the deck line of a mansard roof; and to the mean level between the eaves and the ridge of a gable, hip, or gambrel roof. Chimneys, spires, towers, elevator penthouses, tanks, and similar projections, other than signs, shall not be included in calculating the height.

**BUILDING, PRINCIPAL.** Any building which is not an accessory building.

**BUILDING SETBACK LINE.** A line measured from the front property line beyond which no building or structure may be erected.

**CAMPSITE.** A parcel of land occupied or intended for occupancy by only one of the following: tent, tent trailer, pickup camper or camping trailer.

**CAPACITY IN PERSONS.** Of an establishment or use, the maximum number of persons that can avail themselves of the services (or goods) of such establishment at any one time with reasonable safety and comfort, as determined in the Building Code (or other applicable codes) or as maybe determined by the Zoning Administrator.

**CELLAR.** That portion or a building having more than one-half (1/2) of its height below grade. A **CELLAR** is not included in computing the number of stories for purpose of height measurement.

**CHILD CARE CENTER.** An establishment, other than a public or parochial schools, which provides day care, play groups, nursery schools or education for five (5) or more unrelated children and shall include the term nursery school. Group day care centers shall meet all requirements of the State of Nebraska.

**CLINIC, MEDICAL OR DENTAL.** An organization of specializing physicians and/or dentists who have their offices in a common building. A clinic shall not include in-patient care.

**CLUB, PRIVATE.** Consists of buildings and facilities owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit which inures to any individual and not primarily to render a service which is customarily carried on as a business.

**COMMISSION.** The Planning Commission of the Village of Hallam unless the context clearly indicates otherwise.

**COVERAGE.** The percentage of the lot covered by buildings and structures.

**DISTRICT.** A section(s) of the zoning area which this chapter governs; the use of the land, the height of buildings, the size of yards and the intensity of use are uniform.

**DOG KENNEL, COMMERCIAL.** Any place where more than two (2) adult dogs are kept for a boarding or other fee, or any place where more than five (5) adult dogs are kept for any purpose.

**DRIVE-IN ESTABLISHMENT.** A place of business being operated for the retail sale of food and other goods, services, or entertainment. It is designed to allow its patrons to be served or accommodated while remaining in their automobiles or allows the consumption of any food or beverage outside any completely enclosed structures. If, in addition to the consumption of food or beverages in automobiles or elsewhere on the premises outside any completely enclosed structure, an establishment also allows for the consumption of such products within a completely enclosed structure, it shall be considered a **DRIVE-IN ESTABLISHMENT**. The term **DRIVE-IN ESTABLISHMENT** shall include, but is not limited to, automobile service stations, auto laundries, drive-in restaurants, diners, grills, luncheonettes, sandwich stands, snack shops, soda fountains or short order cafes, banks, and drive-in theatres.

**DWELLING.** A building or portion thereof (but not a mobile home) designed or used exclusively for residential occupancy, including single-family dwelling, two-family dwelling, and multiple-family dwellings (but not including hotels or motels).

**DWELLING ATTACHED.** One (1) which is joined to another dwelling unit at one (1) or more sides by a party wall or walls.

**DWELLING DETACHED.** One (1) which is entirely surrounded by open space on the same lot.

**DWELLING, MULTIPLE-FAMILY.** A building, or portion thereof, containing three (3) or more dwelling units.

**DWELLING, SINGLE-FAMILY.** A building containing one (1) dwelling unit only.

**DWELLING, TWO-FAMILY.** A building containing two (2) dwelling units.

**DWELLING UNIT.** Consists of one (1) or more rooms which are arranged, designed or used as separate living quarters by a single family, or other group of persons living together as a household or a person living alone. Individual bathrooms and complete kitchen facilities, permanently installed, shall always be included for each **DWELLING UNIT**.

**ESTABLISHMENT, BUSINESS.** A place of business carrying on operations, the ownership and management of which are separate and distinct from those of any other place of business located on the same lot.

**FAMILY.** One (1) or more persons immediately related by blood, marriage or adoption and living as a single housekeeping unit in a dwelling shall constitute a **FAMILY**. A **FAMILY** may include, in addition thereto, two (2) but not more than two (2) persons not related by blood, marriage or adoption. A person shall be considered to be related for the purposes of this section if he or she is in a dwelling for the purpose of adoption or a foster care program.

**FARMING.** The growing of the usual farm products such as grain, and their storage, as well as the raising of the usual farm poultry and farm animals, and the operation of a dairy farm. **FARMING** shall not include the operation of stockyards or of a commercial feedlot.

**FEEDLOT OR FEED YARD, COMMERCIAL.** A place where the principal business is the feeding of livestock and such feeding is not done as a subordinate activity to the production of crops on the premises of which the feedlot is a part.

**FLOODPLAIN.** That area of land adjoining a watercourse or other body of water which has been or may be hereafter covered by floodwater and which has been designated by the Nebraska Natural Resources Commissioner and the Nebraska Department of Natural Resources.

**FLOOD PROOFING.** A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, intended primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures, and contents of buildings in a flood hazard area.

**FLOODWAY.** The channel of the stream or body of water and those portions of the adjoining floodplains designated by the Nebraska Natural Resources Commission or the Nebraska Department of Natural Resources as necessary to carry and discharge the floodwater flow of any such river, stream, or other body of water.

**FLOOR AREA.** The total number of square feet of floor space within the exterior walls of a building, not including storage space in cellar or basements and not including space used for the parking of automobiles.

**FRONTAGE.** All the property on one (1) side of a street between two (2) intersecting streets (crossing or terminating) measured along the property line of the street, or if the street is dead ended, then all of the property abutting on one (1) side between an intersecting street and the dead end of the street.

**GARAGE, PRIVATE.** A garage used for storage purposes only and having a capacity of not more than four (4) automobiles or not more than two (2) automobiles per family housed in the building to which the garage is accessory, whichever is the greater. Space therein may be used for not more than one (1) commercial vehicle, and that one (1) of not more than two (2) tons capacity, and space may be rented for not more than two (2) vehicles of other than occupants of the building to which such garage is accessory.

**GARAGE, PUBLIC.** A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles.

**GARAGE STORAGE.** A building or portion thereof, designed or used exclusively for storage of motor-driven vehicles and at which motor fuels and oils may be sold without exterior advertising and where motor driven vehicles are not equipped, repaired, hired or sold.

**GRADE.**

(a) For buildings having walls adjoining one (1) street only, the elevation of the sidewalk at the center of the wall adjoining the street.

(b) For buildings having walls adjoining more than one (1) street, the average of the elevation of the sidewalk at the center of all walls adjoining the streets.

(c) For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building. Any wall approximately parallel to and not more than five (5) feet from a street line is to be considered as adjoining the street; and where no sidewalk exists, the sidewalk grade shall be established by the village.

**HOME OCCUPATION.**

(a) Any occupation or activity carried on by a member of the family residing on the premises, in connection with which:

1. There is used no sign other than a non-lighted and non-reflecting nameplate not more than one (1) square foot in area, which name plate may designate the home occupation carried on within, in letters not to exceed two (2) inches in height, and which name plate must be clearly visible at the entrance to the premises wherein the home occupation is conducted;

2. There is no commodity sold upon the premises, except that which is prepared on the premises in connection with such occupation or activity;

3. There is no person employed other than a member of the family residing on the premises;

4. There is no mechanical equipment used except of a type that is similar in character to that customarily found in the home; and

5. No traffic shall be generated by such home occupation in greater volumes than would be normally generated in the neighborhood.

(b) **HOME OCCUPATION** shall also include the use of premises by a cosmetologist when the dwelling is occupied by such cosmetologist as his or her home and no other person is employed to assist in the conduct of such business.

**HOSPITAL.** A building or group of buildings, having room facilities for one (1) or more abiding patients, used for providing services for the in-patient medical or surgical care of sick or injured humans, and which may include related facilities such as laboratories, out-patient department, training facilities, central service facilities, and staff offices, providing, however, that such related facility must be incidental and subordinate to the main use and must be an integral part of the hospital operation.

**HOTEL.** A building in which lodging or boarding and lodging are provided for more than twenty (20) persons, primarily transient, and offered to the public for compensation; and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. A **HOTEL** may include restaurants, taverns, club rooms, public banquet halls, ball rooms, and meeting rooms.

**INSTITUTION.** A non-profit corporation or a non-profit establishment for public use.

**JUNK (OR SALVAGE YARD).** An open area where waste or scrap materials (including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles) are bought, sold, exchanged, stored, baled, packed, disassembled, or handled. A **JUNK OR SALVAGE YARD** includes an auto wrecking yard, but does not include uses established entirely within enclosed buildings.

**LOADING SPACE OR LOADING BERTH.** A space within the main building or on the same lot which provides for the standing, loading, or unloading of trucks and which has a minimum dimension of twelve (12) by forty-five (45) feet and a vertical clearance of at least fifteen (15) feet.

**LODGING HOUSE** (including **BOARDING AND ROOMING HOUSE**). A residential building or portion thereof, other than a motel, apartment hotel, or hotel, which contains lodging rooms which accommodate not more than twenty (20) persons who are not members of the keeper's family. Lodging with or without meals is provided for compensation on a weekly or monthly basis.

**LODGING ROOM.** A room rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as one (1) **LODGING ROOM** for the purposes of this chapter.

**LOT.** A parcel of land occupied or intended for occupancy by a use permitted in this chapter, including one (1) main building together with its accessory buildings, the yard areas and parking spaces required by this chapter, and having its principal frontage upon a street or upon an officially approved private street.

**LOT, AREA, GROSS.** The area of a horizontal plane bounded by the front, side, and rear lot lines, but not including any area occupied by the waters of a lake or river.

**LOT, CORNER.** A lot situated at the intersection of two (2) or more streets, the interior angle of such intersection not exceeding one hundred thirty-five (135) degrees. The front of such lot shall be the shortest of the two (2) sides fronting on streets.

**LOT DEPTH.** The average horizontal distance between the front line and the rear lot line of a lot, measured within the lot boundaries.

**LOT, DOUBLE FRONTAGE.** A lot having a pair of opposite lot lines along two (2) more or less parallel public streets, and which is not a corner lot. On a **DOUBLE FRONTAGE LOT**, both street lines shall be deemed front lot lines.

**LOT LINE, FRONT.** Shall be that boundary of a lot which is along an existing or dedicated public street or, where no public street exists, is along a public or private way as designated.

**LOT LINE, REAR.** Shall be any boundary of a lot which is not a front lot line or a side lot line.

**LOT LINE, SIDE.** Shall be any boundary of a lot which is not a front lot or a rear lot line.

**LOT OF RECORD.** A lot which is part of a subdivision, the plat of which has been recorded in the Office of the Register of Deeds for Lancaster County at the time of the adoption of this chapter, provided that said lot has a frontage of not less than forty (40) feet; or, an irregular tract lot as described by a deed recorded with the Register of Deeds for Lancaster County at the time of passage of this chapter and is not greater in area than one (1) acre at the time of the passage of this chapter.

**LOT WIDTH.** The average horizontal distance between the side lot lines of a lot.

**MOBILE HOME.** A year-round, transportable structure, which is a single-family dwelling unit suitable for permanent (more than thirty (30) days) living quarters, more than eight (8) feet wide and thirty-two (32) feet in length, designed and built to be towed on its own chassis, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities; except a "double wide" on a permanent foundation shall not be determined a **MOBILE HOME**.

**MOBILE HOME PARK (COURT).** Any site, lot, parcel or tract of land which is improved, used or intended to provide a location for the accommodation of two (2) or more mobile homes or trailers which are used for living purposes, regardless of whether or not a charge is made for such accommodations.

**MOBILE HOME SPACE.** A plot of ground within a mobile home park designed for the accommodation of one (1) mobile home.

**MODULAR HOME.** A prefabricated structure used for dwelling purposes moved onto a site in essentially a completed, constructed condition in one (1) or more parts, and when completed is a single-family dwelling unit on a permanent foundation; attached to the foundation with permanent connections, including "double wides" on a permanent foundation.

**MOTEL, MOTOR COURT, MOTOR HOTEL, LODGE, OR INN.** The same as **HOTEL** except it is designed to accommodate any number of guests, the building or buildings are designed primarily to serve tourists traveling by automobile, and ingress or egress to rooms need not be through a lobby or office.

**NONCONFORMING BUILDING OR STRUCTURE.** Any building or structure which:

- (a) Either does not comply with all of the regulations of this chapter or with any amendment hereto governing bulk for the zoning district in which such building or structure is located; or
- (b) Is designed or intended for a nonconforming use.

**NONCONFORMING LOT.** A recorded lot, lawful at the time of the enactment of this chapter, which does not conform to the minimum area, yard or frontage requirements of the district in which it is located.

**NONCONFORMING USE.** An existing use of a building, structure or lot which does not conform with the regulations of the district in which it is situated as established by this chapter or any amendment hereto.

**OPEN SPACE.** Any land developed as yards, parks, landscaped green area, and recreational areas, including community centers, and is exclusive of areas developed for off-street parking.

**PARKING LOT.** An area consisting of one (1) or more parking spaces for the storage of automobiles, together with a driveway connecting the parking area with a street or alley and permitting ingress and egress for an automobile.

**PARKING SPACE.** An area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress for an automobile.

**PLACE.** An open unoccupied space other than a street or alley permanently reserved as the principal means of access to abutting property.

**PREMISES.** A lot, together with all buildings and structures thereon.

**PROFESSIONAL SERVICES.** Services provided by physicians, surgeons, chiropractors, osteopaths, physical therapists, dentists, architects, engineers, lawyers, and accountants.

**PROPERTY LINES.** The lines bounding a lot, as defined herein.

**PUBLIC WAY.** Any sidewalk, street, alley, highway, easement, or other public thoroughfare.

**RESERVOIR PARKING FACILITIES.** Those off-street parking spaces allocated to automobiles awaiting entrance to a particular establishment.

**REST HOME, NURSING HOME, OR CONVALESCENT HOME.** A private home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders. Such home does not contain equipment for surgical care or for the treatment of disease or injury.

**ROADSIDE STAND.** A structure for the display and sale of agricultural products, fireworks and similar seasonal products and is not enclosed on all sides.

**ROW HOUSE.** One (1) of a group or row of not less than four (4) nor more than twelve (12) attached, single-family dwellings designed and built as a single structure facing upon a street or place and in which the individual row houses may or may not be owned separately. For the purpose of the side yard regulations, the structure containing the row or group of **ROW HOUSES** shall be considered as one (1) building occupying a single lot.

**SERVICE STATION.** Any building, structure, or land used for the dispensing, sale, or offering for sale at retail of any automobile fuels, oils, or accessories, including lubricating or washing of automobiles and replacement or installation of minor parts and accessories, but not including major repair work such as motor replacement, body and fender repair or spray painting, but including temporary storage of wrecked vehicles where records are kept and disposed of after thirty (30) days.

**SIGN.** A name, identification, description, display, or illustration which is affixed to, or represented directly or indirectly upon, a building, structure, or piece of land, and which directs attention to an object, product, place, activity, person, institution, organization, or business. However, a **SIGN** shall not include any display of official court of public office notices nor shall it include the flag, emblem or insignia of a nation, political unit, school, or religious group. A **SIGN** shall not include a sign located completely within an enclosed building unless the context shall so indicate.

**SIGN, BUSINESS.** A sign which directs attention to a business or profession conducted, or to a commodity service, or entertainment sold or offered, upon the premises where such sign is located or to which it is affixed.

**SIGN, FLASHING.** Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this chapter, any moving, illuminated sign shall be considered a **FLASHING SIGN**.

**SIGN, GROSS AREA OF.** The entire area within a single continuous perimeter enclosing the extreme limits of such sign and in no case passing through or between any adjacent elements of same. However, such perimeter shall not include any structural elements lying outside the limits of such sign and not forming an integral part of the display.

**STORY.** That portion of a building included between the upper surface of any floor and the upper surface or the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar is more than six (6) feet above grade, such basement or cellar shall be considered a story.

**STREET.** A public or private right-of-way which affords a primary means of vehicular access to abutting property, whether designated as a street, avenue, highway, road, boulevard, lane, throughway, or however otherwise designated, but does not include driveways to buildings.

**STREET LINE.** The dividing line between a lot, tract or parcel of land and a contiguous street.

**STRUCTURAL ALTERATIONS.** Any change in the supporting members of a building including but not limited to bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls.

**STRUCTURE.** Anything constructed or erected, other than a fence or retaining wall, which requires location on or in the ground or is attached to something having a location on the ground, including but not limited to, advertising signs, billboards, posterboards, patios, swimming pools, and mobile homes.

#### **SUBDIVISION.**

(a) The division of a lot, tract, or parcel of land into two (2) or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development.

(b) Includes re-subdivision and, when appropriate to the context, relates to the process of re-subdividing or to the land or territory subdivided.

**TRAILER CAMP.** Any site, lot, parcel or tract of land which is improved, used, or intended to provide a location for the servicing or temporary accommodation of one (1) or more trailers which are used for travel, camping, or recreational purposes.

**TRAVEL TRAILER, HABITABLE.** A vehicular, portable structure designed to be used as a temporary dwelling for travel, camping and recreational purposes. Such units shall not include mobile homes, nor exceed thirty-two (32) feet in length or eight (8) feet in width.

**USE.** Of property, the purpose or activity for which the land or building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

**USE, PERMITTED.** A use which may be lawfully established in a particular district or districts provided it conforms with all requirements, regulations, and standards of such district.

**USE, PRINCIPAL.** The main use of land or buildings as distinguished from a subordinate or accessory use. A **PRINCIPAL USE** may be "permitted" or "special".

**USE, SPECIAL.** A use—either public or private—which, because of its unique characteristics cannot be properly classified as a permitted use in a particular district or districts. After due consideration, in each case, of the impact of such use upon neighboring land and or the public need for the particular use at the location, such **SPECIAL USE** may or may not be granted, subject to the terms of this chapter.

**YARD.** An open space on the same lot with a building or structure, unoccupied and unobstructed from the ground to the sky, except as otherwise permitted in this chapter. A **YARD** extends along a lot line, and to a depth or width specified in the yard requirements for the zoning district in which such zoning lot is located.

**YARD, FRONT.** A yard extending across the front of the lot between the side lot lines, said depth being the minimum horizontal distance between the street line and the principal building.

**YARD, REAR.** A yard extending across the rear of a lot measured between the side lot lines, said depth being the minimum horizontal distance between the rear lot line and the rear of the principal building.

**YARD, SIDE.** A yard between the main building and the side line of the lot being the minimum horizontal distance between the building and the side lot line, and extending from the front yard line to the rear yard line.

**ZONING ADMINISTRATOR.** The person appointed by the Village Board of Trustees and designated as the official responsible for enforcing and administering all requirements of the Village of Hallam Zoning Ordinance.

**ZONING PERMIT.** A written statement issued by the Zoning Administrator authorizing buildings, structures, or uses in accordance with the provisions of this chapter. (*Ord. No. 129, 6/25/77*)

## § 11-104 INTERPRETATION.

(A) The regulations set by this chapter within each district shall be held to be the minimum standards for the promotion of health, safety, morals, comfort, convenience, prosperity, environment and natural resources, and general welfare and shall permit development, construction, use and occupancy of land and buildings in prescribed districts except as hereinafter provided.

(B) For the purpose of this chapter, permitted uses are listed for the various districts. Unless the contrary is clear from the context of the list of permitted uses or other regulations contained within this chapter, uses not specifically permitted are prohibited. Uses other than those specified in the district regulations may be added to a district upon application by a landowner and upon proper amendment of the district regulations. (*Ord. No. 129, 6/25/77*)

**§ 11-105 LOT.**

(A) Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot or a lot of record and in no case shall there be more than one (1) principal building on a lot unless otherwise provided.

(B) More than one (1) principal building may be located upon a lot or tract in the following instances when recommended by the Planning Commission and approved by the Village Board of Trustees.

- (1) Institutional buildings;
- (2) Public or semi-public buildings;
- (3) Multi-family dwellings;
- (4) Commercial or industrial buildings;
- (5) Home for the aged; or
- (6) Agricultural buildings. (*Ord. No. 129, 6/25/77*)

**§ 11-105.1 LOT FRONTAGE.**

(A) The front of a lot shall be constructed to be the portion nearest to and facing the street. In residential zoning areas, for the purpose of determining yard requirements on a corner lot, all sides of a lot adjacent to streets shall be considered frontage, and must meet the minimum front yard requirements. In R-1 areas developed before 2004, one (1) front yard, other than the apparent front yard, may be reduced in depth to conform with other existing residences (whether now in existence or which were destroyed by the May, 2004 storm), located on that side of the block, provided that the yard frontage shall not be less than ten (10) feet.

(B) Front yards in R-1 Residential zoning areas developed before 2004 which have existing residential structure (whether now in existence or which were destroyed by the May, 2004 storm), located with less than twenty-five (25) foot front yard minimum, may be reduced in depth to conform with the other existing residences located on that side of the block, provided that the yard frontage shall not be less than ten (10) feet. (*Ord. No. 04-016, 7/27/04*)

**§ 11-106 USE OF VACANT LAND.**

Where a lot is to be occupied for a permitted use without buildings, the side yards and front yard required for such lot shall be provided and maintained unless otherwise stipulated in this chapter, except that side yards shall not be required on lots used for garden purposes without buildings or structures nor on lots used for public recreation areas. The use of vacant land for a permitted use other than farming shall require a zoning permit. *(Ord. No. 129, 6/25/77)*

**§ 11-107 PERMITTED USES.**

(A) No building or tract of land shall be devoted to any use other than a use permitted hereinafter in the zoning district in which such building or tract of land shall be located, with the exception of uses lawfully established on the effective date of this chapter.

(B) Uses already established on the effective date of this chapter and rendered nonconforming by the provisions thereof shall be subject to the regulations of Article 9 (Non-Conforming Buildings, Structures, and Uses). *(Ord. No. 129, 6/25/77)*

**§ 11-108 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 evidence to the Village Board of Trustees or their designated agent that such changes will not be a detriment to the neighboring lands. *(Ord. No. 129, 6/25/77)*

**§ 11-109 LOT SIZE REQUIREMENTS.**

After the effective date of this chapter, any lot created shall meet the lot size and other minimum requirements as specified under each zoning district in the Schedule of Lot, Yard, and Bulk Requirements. *(Ord. No. 129, 6/25/77)*

**§ 11-110 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) The Planning Commission may permit a variation in front yard setbacks to allow new or relocated structures to conform to the average existing setback provided that:

(1) More than thirty (30%) percent of the frontage on one side of a street between intersecting streets is occupied by structures on the effective date of this chapter; and

(2) A minority of such structures have observed or conformed to an average setback line with a variation of no more than six (6) feet.

(D) Any side or rear yard in a residential district which is adjacent to any existing industrial use shall be no less than fifty (50) feet (15.24 meters) and shall contain landscaping and planting suitable to provide effective screening.

(E) (1) Any side or rear yard in a residential district which is adjacent to any existing industrial use shall be no less than fifty (50) feet (15.24 meters) and shall contain landscaping and planting suitable to provide effective screening.

(2) Any yard for an industrial use which is adjacent to any residential use or district shall be increased to seventy-five (75) feet (22.86 meters) and shall contain landscaping and planting suitable to provide effective screening. (*Ord. No. 129, 6/25/77*) (*Amended by Ord 08-021, 8/25/08*)

## **§ 11-111 PERMITTED OBSTRUCTIONS IN REQUIRED YARDS.**

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

(A) *All yards.* Open or screened porches, platforms or terraces not over three (3) feet above the average level of the adjoining ground, including a roofed-over terrace or porch; awnings and canopies, provided that they do not extend or project into the yard more than six (6) feet; steps four (4) feet or less above grade which are necessary for access to a permitted building or access to a lot from a street or alley; chimneys projecting twenty-four (24) inches or less into the yard; recreational and laundry drying equipment; approved free standing signs; arbors and trellises; flag poles; window air-conditioners projecting not more than eighteen (18) inches into the required yard; and fences or walls applicable to height restrictions are permitted in all yards.

(B) *Front yards.* One (1) story bay windows projecting three (3) feet or less into the yards; and overhanging eaves and gutters projecting three (3) feet or less into the yard are permitted.

(C) *Rear and side yards.* Open off-street parking spaces, balconies or outside elements of central air conditioning systems, extending not more than four (4) feet into the yard; breezeways and open porches; one-story bay windows projecting three (3) feet or less into the yard; and overhanging eaves and gutters projecting three (3) feet or less into the yard are permitted.

(D) *Open double frontage lots.* The required front yard shall be provided on each street.

(E) *Building groupings.* For the purpose of the side yard regulations, industrial buildings separated by a common party wall shall be considered as one (1) building occupying one (1) lot. (Ord. No. 129, 6/25/77)

## § 11-112 ACCESSORY BUILDINGS AND USES.

(A) No accessory building shall be constructed upon a lot for more than six (6) months prior to beginning construction of the principal building. No accessory building shall be used for more than six (6) 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 buildings shall occupy more than twenty-five (25%) percent of the area of a required yard.

(C) No detached accessory building or structure shall exceed the maximum permitted height of the principal building or structure.

(D) No accessory building shall be erected in or encroach upon the required side yard of a corner lot or the front yard of a double frontage lot.

(E) Detached accessory buildings or structures shall be located no closer to any principal (main) building than six (6) feet (1.83 meters).

(F) Regulation of accessory uses shall be as follows:

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

(2) Service station pumps and pump islands may occupy the required yards, provided, however, that they are not less than fifteen (15) feet from street lines.

(3) Accessory swimming pools, open and unenclosed, may occupy a required rear or side yard, provided they are not located closer than three (3) feet to a rear or an interior side lot line. A walk space at least three (3) feet wide shall be provided between pool walls and protective fences or barrier walls. All swimming pools shall be enclosed by an approved fence and lockable gate which shall be at least four (4) feet in height. A pool wall is acceptable over four (4) feet with removable ladder.

(4) Storage of a boat, boat trailer, camp trailer, or unlicensed vehicle shall not be permitted in a front yard or side yard.

(5) Accessory buildings which are not a part of the principal building, although they may be connected by an open breezeway, may be constructed in a rear yard, provided such accessory building does not occupy more than twenty-five (25%) percent of the area of the required rear yard and provided it is not located closer than ten (10) feet to the rear lot line or closer than five (5) feet to a side lot line.

(G) Accessory buildings or uses in any residential zoned area shall not exceed eighteen hundred (1,800) square feet (549 sq. meters) in area or fifteen (15) feet (4.57 meters) in height or have a door height exceeding thirteen and one-half (13.5) feet (4.11 meters). Accessory buildings or structures, in districts other than residential districts, must abide by the height restrictions in those districts. *(Ord. No. 129, 6/25/77) (Amended by Ord. Nos. 05-009, 11/7/05; 07-003, 4/07; 11-105.01, 12/08; 08-042, 12/1/08)*

### **§ 11-113 BULK REGULATIONS.**

The maintenance of yards and other open space and minimum lot area legally required for a building shall be a continuing obligation of the owner of such building or of the property on which it is located, as long as the building is in existence. Furthermore, no legally required yards, other open space, or minimum lot area allocated to any building shall by virtue or change of ownership or for any other reason, be used to satisfy yard, other open space, or minimum lot area requirements for any other building. *(Ord. No. 129, 6/25/77)*

### **§ 11-114 PERMITTED MODIFICATIONS OF HEIGHT REGULATIONS.**

The height limitations of this chapter shall not apply to:

Belfries	Public monuments/flag poles
Chimneys	Ornamental towers and spires
Church spires	Commercial radio and television towers less than 125 feet in height

Conveyors	Silos
Cooling towers	Smoke stacks
Elevator bulkheads	Stage towers or scenery lots
Fire towers	Tanks
Water towers and standpipes	Air pollution prevention devices

*(Ord. No. 129, 6/25/77)*

### **§ 11-115 REGULATIONS FOR UNIQUE USES; FENCES AND WALL HEDGES.**

Except as provided in § 11-111, fences, wall hedges or shrubbery may be erected, placed, maintained, or grown along a lot line to a height not exceeding six (6) feet above the ground level; except that no such fence, wall hedge, or shrubbery which is located in a required front or corner side yard shall exceed a height of three (3) feet, except four (4) feet of see-through design.

(A) Fences, walls and hedges to a height not to exceed six (6) feet (2.10 meters) above the ground on any part of a non-corner side yard and rear yard.

(B) Fences to a height not to exceed four (4) feet (1.21 meters) above the ground on any part of a front yard or corner side yard. Fences in any required front yard or corner side yard must be of an open weave or see-through design.

(C) Hedges and walls in the front yard or corner side yard of a height not to exceed four (4) feet (1.21 meters) will be allowed only as special exception use, upon application made as allowed by ordinance and approved by the Village Board.

(D) All fences must be erected with the intended "good (or finished) side" facing outward. *(Ord. No. 129, 6/25/77)* *(Amended by Ord. Nos. 11-110, 8/4/08; 08-018, 8/4/08)*

### **§ 11-116 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. *(Ord. No. 129, 6/25/77)*

**§ 11-117 STREET DEDICATION.**

No building or structure shall be erected or enlarged in any zoning district unless half the street adjacent to such lot has been dedicated to its comprehensive development plan width. The maximum area of land required to be so dedicated shall not exceed twenty-five (25%) percent of the area of such lot and the dedication shall not reduce such a corner lot below a width of fifty (50) feet or an area of five thousand (5,000) square feet. Any owner of such lot may submit an application for a variance in accordance with the procedure in Article 12, in the event an unreasonable hardship should occur due to such street dedication. *(Ord. No. 129, 6/25/77)*

**§ 11-118 OFF-STREET PARKING AND LOADING REQUIREMENTS.****(A) *General provisions.***

- (1) All buildings and structures erected and all uses of land in all districts established after the effective date of this chapter shall provide accessory parking and loading facilities as required under this section.
- (2) All off-street parking spaces required by this chapter shall be located on the same lot as the use it serves.
- (3) Owners of two (2) or more uses or parcels of land may agree to jointly utilize the same parking spaces provided that satisfactory legal evidence is presented in the form of deeds, leases, or contract documents to establish such a joint area of use.
- (4) All yard area including driveways, except the required front yard for residential uses, may be used for off-street parking. Garages and driveways may be considered as off-street parking spaces.
- (5) A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be met, shall accompany an application for a building certificate. The plan shall show all elements necessary to indicate that the requirements are being fulfilled.

**(B) *Off-street parking requirements.*** At the time of construction, alteration or enlargement of a structure or building, or change in the use of land, off-street parking spaces and loading areas shall be provided, constructed, and maintained for all uses as follows:

<b><i>Use</i></b>	<b><i>Minimum Number of Parking Spaces</i></b>
1. Residential	
Single-family, two-family dwelling	Two (2) per dwelling unit
Apartments	
Efficiency and one-bedroom	One (1) per dwelling unit
Two-bedrooms	One and one-half (1-1/2) per dwelling unit
Three or more bedrooms	Two (2) per dwelling unit
2. Mobile trailer park	Two (2) per trailer unit
3. Hotel and motel	One (1) per rental unit plus one for each four (4) employees
4. Hospitals, nursing homes, rest homes, or similar uses	One (1) for every two and one-half (2.5) patient beds and one (1) for each staff and employee on the largest shift
5. Places of public assembly such as auditoriums, theatres, stadiums, community hall, churches, and the like	One (1) for every four (4) seats
6. Bowling alley	Two (2) for each alley
7. Retail sales department stores, restaurants, taverns, grocery stores, and the like	One (1) per two hundred (200) square feet of floor area as determined by exterior wall dimensions
8. Professional office establishments	One (1) per five hundred (500) square feet of floor area as determined by exterior wall dimensions
9. Manufacturing, wholesale warehouse, and similar uses	One (1) for every two (2) employees on the largest working shift

(C) *Off-street loading requirements.* At the time of construction, alteration or enlargement of a structure or building, or change in the use of land, off-street parking spaces and loading areas shall be provided, constructed, and maintained for all uses as follows:

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

(Ord. No. 129, 6/25/77)

**§ 11-119 SIGNS.**

(A) *Purpose.* The intent of this section is to regulate signs as defined hereinafter, to protect the safety of users of the streets and highways, to assure compatibility with uses associated with signs, and to avoid adverse effects on adjacent property values and living conditions. This section shall include, as part of its provisions, those portions of existing codes and laws relating to the erection and maintenance of signs and outdoor advertising structures which are not in conflict with this chapter.

(B) *General requirements.*

(1) All signs and sign structures shall be kept in good repair and in a proper state of presentation. Signs which are abandoned and in a state of disrepair for a continuous period of one (1) year shall be removed within thirty (30) days after notice by registered mail from the Zoning Administrator.

(2) If any nonconforming sign is damaged exceeding two-thirds (2/3) of its replacement value, it shall not be rebuilt; provided, however, that nothing herein contained shall prevent maintenance, repairing, or posting of nonconforming signs.

(3) Any sign shall be classified as a special use and a special use permit shall be required before a sign may be erected.

(C) *Prohibited signs.*

(1) A sign which in any manner obscures or otherwise physically interferes with the effectiveness of an official traffic sign, signal, or device, or obstructs or physically interferes with the driver's view of approaching, merging, or intersecting traffic;

(2) A sign which contains or is an imitation of an official traffic sign or signal, or contains the words "stop", "go slow", "caution", "danger", "warning", or similar words;

(3) A sign which is of a size, location, movement, content, coloring, or manner of illustration which may be confused with or construed as a traffic control device or which hides from view any traffic or street sign or signal;

(4) A sign which contains or consists of banners, posters, pennants, ribbons, streamers, string of light bulbs, spinners, or other similarly moving devices;

(5) A sign which contains, includes, or is illuminated by any intermittent, revolving, rotating, or moving light or lights or moves or has any animated or moving parts, with the exception of lighted, animated, or moving parts providing public service information such as time, date, temperature, weather, or similar information;

(6) A sign which is not maintained in a neat, clean, and attractive condition and in good repair;

(7) Any sign having a beacon light, or blinking, flashing, or fluttering lights or other illuminating device which has a changing light intensity, brightness or color;

(8) Any lighted sign which is not so erected or maintained to effectively shield and prevent beams or rays of light from being directed at any portion of the traveled or primary highway; or

(9) A sign which is of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle or to otherwise interfere with any driver's operation of a motor vehicle.

*(D) Signs in agricultural zoning districts.*

(1) No sign structure shall have a sign surface greater than twelve (12) square feet in area. Signs permitted shall pertain to the lease, hire, or sale of a building or premise or to any material that is mined, manufactured, grown or treated; provided however, that such signs shall be located upon or immediately adjacent to the building or in the area in which such materials are treated, processed or stored.

(2) No sign shall be located within five hundred (500) feet of an adjoining residential district or within five hundred (500) feet of an existing residence.

*(E) Signs in residential zoning districts.*

(1) There shall be permitted temporary signs announcing sale of property by the owner of a new subdivision or development. In each such subdivision or original tract of ten (10) acres or less, only one (1) sign shall be permitted. Said sign shall not exceed one hundred (100) square feet; on an original tract of more than ten (10) acres but less than thirty (30) acres, no more than two (2) signs—said signs shall not exceed a composite size of one hundred fifty (150) square feet and no one (1) sign shall exceed one hundred (100) square feet in size; on an original tract of thirty (30) acres or more no more than three (3) signs—said signs shall not exceed a composite size of two hundred (200) square feet and no one (1) sign shall exceed one hundred (100) square feet.

(2) It shall be a temporary sign for which an annual permit can be renewed annually for the same fee; provided that the permitted signs for larger tracts must be reduced to the same number and size for subdivision signs permitted for smaller original tracts in division (E)(1) above when the unsold aggregate area of the original tract is reduced to the size of such smaller tracts.

(3) It shall be located only where a building can be constructed, and cannot be located in a front yard, side yard or rear yard.

(4) The height of such signs shall not exceed ten (10) feet, with the height to be determined by a measurement from the ground level at the lowest grade level within two (2) feet of either side of the sign.

(5) Illumination of such sign shall not be permitted.

(F) *Signs in commercial zoning districts.* Signs are prohibited except for the following:

(1) Temporary signs announcing sale, rent, or lease of property with a sign surface not exceeding twenty (20) square feet.

(2) Flat wall signs or signs on the face of a building or marquee relating only to the name and use of the store or premises for which they are erected. Any such sign attached to a building or marquee shall not project above the top of the building or marquee to which they are attached and shall be substantially parallel thereto and shall not project more than one (1) foot from the building face.

(3) All such signs shall not be flashing or intermittently illuminated.

(4) The area of signs advertising the name and use of the store or premises shall have an area not exceeding one (1) square foot for each lineal foot of street frontage of the street on which the sign faces.

(G) *Signs in industrial zoning districts.* Outdoor advertising shall be limited to one (1) sign on each street frontage of a lot, which sign shall be attached to a building, extending parallel, or substantially parallel thereto, and not more than one (1) foot from, but not above, the building; the contents of the sign to be limited to describing products or services sold or produced on the premises, or giving the name of the establishment; and the area of which is limited to one (1) square foot for each linear foot of street frontage of the street on which the sign faces; provided, however, that temporary signs not exceeding twenty (20) square feet in area and relating to the sale or lease of the premises may be located in a front yard. Flashing or intermittently illuminated signs shall be prohibited.

(H) *Signs in special and appended zoning districts.* No advertising signs shall be permitted in the Floodplain and Mobile Home Zoning District other than the signs allowed under the zoning district to which these districts are appended.

(I) *Signs along highways.* Signs along the National System of Interstate and Defense Highways and all federal aid primary roads shall meet all the requirements of the zoning district in which they are located as well as those adopted by the Nebraska Department of Roads.

(J) *Signs on lots over ten (10) acres.*

(1) Signs identifying or describing, the name of the building, the business or the services offered on the premises for uses which have received a special permit, shall be accessory and permitted although located in a district in which a sign is otherwise a prohibitive use. Two (2) signs only per use shall be permitted under the following conditions and requirements when the special permit use is on a lot of more than ten (10) acres.

(2) Each sign:

(a) Shall be not more than twenty (20) square feet in area;

(b) When the building is fifty (50) feet or less from the front property line, it shall be attached to the building. When any such sign is attached to the building it shall extend parallel, or substantially parallel thereto, and not more than one (1) foot from, but not above, the building;

(c) Need not be attached to the building when the building is more than fifty (50) feet from the front property line;

(d) Shall not be more than seven (7) feet in height if not attached to the building. The height of the sign shall be determined by a measurement from the ground level at the lowest grade level within two (2) feet of either side of the sign; and

(e) Shall be in keeping with the character of the area as much as feasible.

(K) *Structural requirements.* All signs shall be erected in conformity with:

(1) The Village Building Code;

(2) The Uniform Building Code; and

(3) The National Electric Code.

(L) *Requirements for a special use permit.* Application for a special use permit shall follow the same procedure described in Article 10 of this chapter. In addition, the following conditions shall be applied:

(1) No permit will be issued within six hundred sixty (660) feet of the right-of-way of the National System of Interstate and Defense Highways or Federal Aid Primary Highways unless a permit has been obtained by the Nebraska Department of Roads.

(2) A special use permit shall be required in addition to any building permit which may be required hereunder.

(3) Special use permits shall be issued for a maximum period of five (5) years. An application for renewal of a special use permit must be filed sixty (60) days prior to expiration of a current permit.

(4) Temporary signs advertising the sale, rent, or lease of building or premises shall not require a special permit if their sign surface does not exceed twelve (12) square feet in area. (*Ord. No. 129, 6/25/77*)

**§ 11-119.1 PERMITTED SIGNS; CHURCHES, SCHOOLS, AND COMMUNITY PLAYHOUSES.**

(A) In any zoning districts in which churches, schools and community playhouses are a permitted use, such church, school or community playhouse shall be permitted one (1) on-premises, internally illuminated, ground sign on each street frontage, not exceeding fifty (50) square feet of area and six (6) feet in height, for the sign or bulletin board and its supporting structure; and one (1) on-premises wall sign on each building facade, not exceeding twenty (20) square feet in sign area.

(B) When a school, church or community playhouse is located a minimum of two hundred (200) feet from any street frontage and is located in an AG or AGR District, said wall sign may be a maximum of one hundred (100) square feet in area. A permitted ground sign may be located in the required front yard of a school, church or community playhouse if it meets the following conditions, to wit:

(1) Signs may contain a maximum of fifty (50) square feet in area if non-illuminated and thirty-two (32) square feet if illuminated.

(2) The sign must be set back from the front lot line at least one-half (1/2) the distance of the required front yard.

(3) The sign must be set back from the side lot line at least fifty (50) feet if abutting a residential district.

(4) One temporary sign of up to thirty-two (32) feet may be allowed on premises for up to ten (10) days. *(Ord. No. 05-007, 10/3/05)*

**§ 11-120 MANUFACTURED HOMES; STANDARDS.**

(A) A manufactured home may be used as a residential structure in any zone in which residential uses are permitted if such manufactured home bears an appropriate seal which indicates that it was constructed in accordance with the standards of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, the Nebraska Uniform Standards for Modular Housing Units Act, or the United States Department of Housing and Urban Development.

(B) Manufactured homes permitted pursuant to this section shall be located and installed according to the following standards which are applicable to site-built, single-family dwellings:

(1) The home shall be located and installed on a permanent perimeter foundation;

(2) The home shall be installed with permanent utility connections;

(3) The home shall comply with all setback and lot requirements of the residential zone in which it is located; and

(4) The home shall comply with the minimum square footage requirements of the residential zone in which it is located.

(C) Manufactured homes shall also meet the following standards:

(1) The home shall have no less than nine hundred (900) square feet of floor area;

(2) The home shall have no less than an eighteen-foot (18) exterior width;

(3) The roof shall be pitched with a minimum vertical rise of two and one-half inches (2 1/2) for each twelve (12) inches of horizontal run;

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

(5) The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock; and

(6) The home shall have wheels, axles, transporting lights, and removable towing apparatus removed.

(D) Nothing in this section shall be deemed to supersede any valid restrictive covenants of record.

(E) For purposes of this section, **MANUFACTURED HOME** shall mean: (a) a factory-built structure 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, does not have permanently attached to its body or frame any wheels or axles, and bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 CFR 3280 *et seq.* promulgated by the United States Department of Housing and Urban Development; or (b) a modular housing unit as defined in section 71-1557 RS Neb., bearing a seal in accordance with the Nebraska Uniform Standards for Modular Housing Units Act. (*Ref. 19-902 RS Neb.*) (*Ord. No. 95-17, 6/5/95*) (*Amended by Ord. No. 99-07, 10/4/99*)

## § 11-121 FAMILY SWIMMING POOLS OR PONDS.

(A) *Definitions.* **FAMILY SWIMMING POOL, POND** and/or **HOT TUB** shall mean a swimming pool, pond and/or hot tub used or intended to be used solely by the owner, operator, or lessee thereof and their family and friends invited to use it without payment of any fee.

**(B) *Enclosure.***

(1) Every family swimming pool, pond and/or hot tub (hereinafter called pool) having a depth of eighteen (18) inches or more shall be completely surrounded by a fence or wall not less than four (4) feet in height, (except hot tubs with latchable covers) which shall be so constructed as not to have openings, holes, or gaps larger than four (4) inches in any dimension except for doors and gates; and if a picket fence is erected or maintained, the horizontal dimension shall not exceed four (4) inches. A dwelling house or accessory building may be used as part of such enclosure. If the pool is constructed wholly or partially above ground level, that part of the pool wall which is out of the ground may be included as part of the fencing height requirement; provided, that the ground is level or slopes away from the pool for at least three (3) feet from the pool wall.

(2) All gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped.

(3) On above ground pools, where the pool wall makes up the pool enclosure, the entrance into the pool must either be enclosed in a fence with gate, both of which meet the requirements previously stated or the entrance to the pool must be use of a limited access ladder which has provisions for making entry to the pool inaccessible when the pool is not in use. (*Ord. No. 07-003, 4/2/07*)



## ARTICLE 2. DISTRICTS AND DISTRICT MAPS

### § 11-201 ESTABLISHMENT OF DISTRICTS.

The following zoning district(s) are hereby established in order to regulate, permit, prohibit, and determine the location and use of buildings, structures, and other premises for business, industry, residence, agriculture and other purposes; to regulate and restrict the location, bulk, height, and size of buildings hereafter erected, constructed, or structurally altered; and to regulate and restrict the areas and dimensions of yards and other open spaces.

<i>District Designation</i>	<i>District Name</i>
AGX	Exclusive Agricultural
AGR	Agricultural Rural
R-1	Single-Family Residential
MH	Mobile Home
C	Community Retail (Commercial)
I-1	General Industrial
I-2	Heavy Industrial
FP	Floodplain

*(Ord. No. 129, 6/25/77)*

### § 11-202 MAPS.

The location and boundaries of the districts established by this chapter are set forth on the zoning maps entitled "Village of Hallam Zoning District Map(s)," dated June 25, 1977, which are incorporated herein and hereby made a part of this chapter. This "Zoning District Map(s)," and all notations, dimensions, references, and symbols shown thereon pertaining to such districts shall be as much a part of this chapter as if fully described herein and shall be filed as part of this chapter. Said map shall be available for public inspection in the office of the Village Clerk. Such map shall be marked "Official Copy--Not to be Altered." This map together with subsequent applicable amendments shall be conclusive as to the current zoning status of land. *(Ord. No. 129, 6/25/77)*

**§ 11-203 INTERPRETATION OF ZONING BOUNDARIES.**

The following rules shall apply with respect to the boundaries of the various districts as shown on the zoning district maps:

(A) In cases where a boundary line is given a position within a street or alley, easement, canal, navigable or non-navigable stream, it shall be deemed to be in the center of the right-of-way, the street, alley, easement, canal, or stream, and if the actual location of such street, alley, easement, canal, or stream varies slightly from the location as shown on the district map, then the actual location shall control.

(B) District boundary lines are the center lines of highways, waterways, streets, alleys, and easements; or the right-of-way lines of railroads and expressways; or section, division of section, or tract; and lot lines; or such lines extended, unless otherwise indicated.

(C) In areas not subdivided into lots and blocks, wherever a district is indicated as a strip adjacent to and paralleling a street or highway, the depth of such strips shall be in accordance with dimensions shown on the maps measured at right angles from the center line of the street or highway, and the length of frontage shall be in accordance with dimensions shown on the map from section, quarter section, division lines, center lines of streets and highways, or railroad right-of-way lines unless otherwise indicated. Dimensions may be noted on the map or, if not, as scaled.

(D) Where a district boundary line divides a lot in single ownership on the effective date of this chapter, the Planning Commission, after due public hearing, may extend the regulations for either portion of such lot.

(E) All locations of district boundary lines which cannot be determined by one or a combination of the above rules shall be determined by the Board of Appeals.

(F) If because of error, omission or modification in the zoning district map(s), any property in the jurisdiction of this chapter is not shown as being in a zoning district, the classification of such property shall be classified "AGX-Agricultural" until changed by amendment. (*Ord. No. 129, 6/25/77*)

**§ 11-204 JURISDICTION.**

The Village Board of Trustees shall control and enforce the zoning of all land within the village limits of Hallam and the area within one (1) mile thereof. (*Ord. No. 129, 6/25/77*)

## § 11-205 REGULATION OF AREAS UNDER WATER.

All areas within the zoning jurisdiction of the village which are under water are considered to be within a zoning district and controlled by applicable district regulations. District boundaries over water areas are located by noted or scaled dimensions, by relation to physical features, by coincidence with the village limit line, or by a straight line projection of the district boundaries as indicated on the district maps. Straight line district boundaries over water areas shall be assumed to continue as straight lines until they intersect with each other or with the village limit line. (Ord. No. 129, 6/25/77)

## § 11-206 SCHEDULE OF LOT, YARD, AND BULK REGULATIONS.

The Schedule of Lot, Yard, and Bulk Regulations, together with all explanatory matter thereon, is hereby adopted and declared to be part of this chapter. Within each zoning district; the stated requirements shall apply unless otherwise specified.

<i>Schedule of Lot, Yard, and Bulk Regulations</i>									
<i>Zoning District</i>	<i>Minimum Lot Area</i>			<i>Minimum Yard Requirements</i>			<i>Maximum Height</i>		<i>Maximum Lot Coverage</i>
	Lot Area	Lot Width	Lot Depth	Front	Side	Rear	In Stories	In Feet	Percentage of Lot Area
AGX Exclusive Agricultural	20 acres	500 ft	660 ft	70 ft	25 ft	50 ft	2.5	35 ft	20%
AGR Agricultural Rural	3 acres	150 ft	200 ft	60 ft	40 ft	50 ft	2.5		20%
R-1 Single Family									
Residential	6,000 sf	50 ft	100 ft	25 ft	10 ft	25 ft	2.5		30%
Two-family	3,000 sf/du	50 ft	100 ft	25 ft	10 ft	25 ft	2.5		30%
Multiple	2,000 sf/du	50 ft	100 ft	25 ft	10 ft	25 ft	4		30%
Row	3,000 sf/du	20 ft	100 ft	25 ft	10 ft	25 ft	2.5		50%
C Community Retail	2,500 sf	25 ft	100 ft		10 ft*	10 ft*	4	50 ft	80%
I-1 General Industrial	10,000 sf	70 ft	100 ft	35 ft	25 ft	25 ft	4	50 ft	30%
I-2 Heavy Industrial	1 acre	200 ft	200 ft	50 ft	15 ft	35 ft	6	75 ft	
FP Floodplain	Subject to same regulations as the parent district to which it is appended								
Notes: * No side yard or rear yard setback required on Community Retail unless it abuts a residential district. sf = square feet du = dwelling unit									

(Ord. No. 129, 6/25/77) (Amended by Ord. Nos. 07-004; 08-017)



## **ARTICLE 3. AGRICULTURAL DISTRICT REGULATIONS**

### **§ 11-301 SCOPE.**

The following regulations shall apply to the agricultural districts of the village and are in addition to the requirements set forth in the Article 1, General Provisions, and other applicable requirements of this chapter. (*Ord. No. 129, 6/25/77*)

### **§ 11-302 GENERAL REQUIREMENTS FOR AGRICULTURAL DISTRICTS.**

(A) *Schedule of Lot, Yard, and Bulk Regulations.* The regulations for minimum lot dimensions, minimum yard requirements, maximum height, and maximum coverage are contained in the Schedule of Lot, Yard, and Bulk Regulations which is part of this chapter and adopted in § 11-206.

(B) *Signs.* Signs in agricultural districts shall be classified and permitted in accordance with the regulations contained in Article 1.

(C) *Off-street parking.* Minimum off-street parking spaces shall be required of each use in an agricultural district in accordance with the regulations in Article 1. (*Ord. No. 129, 6/25/77*)

### **§ 11-303 AGX EXCLUSIVE AGRICULTURAL DISTRICT.**

(A) *Purpose.* The AGX Exclusive Agricultural District is intended to provide for a full range of agricultural and horticultural uses and to protect these established uses from encroaching development which might depreciate the agricultural economy of the county. The districts are also intended to prevent premature urbanization in areas where public utilities, roads, and other public facilities are planned to meet rural needs only and where present public programs do not propose installations suitable for development at higher densities.

(B) *Permitted principal uses.*

(1) Agriculture, truck gardens, greenhouses, plant nurseries, orchards, other horticultural uses, grain storage facilities, and the usual agricultural farm buildings and structures; but excluding commercial feedlots;

(2) Farm dwellings;

(3) Roadside stands offering for sale agriculture products produced on the premises;

- (4) Public parks and recreation areas, playgrounds, forest and conservation areas;
- (5) Public overhead and underground local distribution utilities;
- (6) Railroads; and
- (7) Irrigation and flood control facilities.

**(C) *Permitted accessory uses.***

- (1) Buildings and uses customarily incidental to the permitted uses;
- (2) Temporary buildings and uses incidental to construction work which shall be removed upon the completion or abandonment of construction work;
- (3) General home occupations;
- (4) Private swimming pools, tennis courts, and other recreational facilities in conjunction with a farm residence; and
- (5) One-family residences including mobile home for farm residence or adjacent to farm residence for relatives of consanguinity and marriage or farm workers.

**(D) *Permitted special uses.***

- (1) Churches, temples, seminaries, and convents, including residences for pastors and teachers;
- (2) Public and parochial schools, colleges, and universities;
- (3) Publicly owned and operated buildings and facilities such as community centers, auditoriums, libraries, museums, and fire and police stations;
- (4) Private recreation areas and facilities, including lakes, ponds, country clubs, golf courses, and swimming pools;
- (5) Hospitals, nursing homes, and eleemosynary institutions;
- (6) Private and commercial kennels and facilities for raising, breeding and boarding of dogs and other small animals, provided all buildings and facilities are at least one hundred (100) feet from the property line and one thousand (1,000) feet from any residential district;
- (7) Extraction of natural resources;

- (8) Commercial feedlots which are at least one-half mile from any residential district;
- (9) Sanitary sewage treatment facilities;
- (10) Cemeteries, provided mausoleums, columbariums, cinerariums, crematories, and other similar structures shall be located at least one hundred (100) feet from the property lines;
- (11) Public utility and public service structures including electric transmission lines and distribution substations, gas regulator stations, communications towers and equipment buildings, public service pumping stations, and/or elevated pressure tanks, and reservoirs; and
- (12) Wind energy conversion systems (WECS) and commercial wind energy conversion systems (CWECS). *(Ord. No. 129, 6/25/77) (Amended by Ord. Nos. 13-09, 7/1/13; 10-016)*

#### **§ 11-304 AGR AGRICULTURAL RURAL DISTRICT.**

(A) *Purpose.* The AGR Agricultural Rural District is intended to provide low density residential development in selected rural areas within the jurisdiction of the village that is compatible with the environment and natural features of the area in which it locates. The district is also intended to maintain existing agricultural activities in the district and provide low-density development opportunities in areas where a full range of public facilities is not planned.

(B) *Permitted principal uses.*

- (1) Agriculture including the raising of crops, horticultural uses, animal husbandry, poultry husbandry, but excluding commercial feedlots;
- (2) Public parks, playgrounds, forests, wildlife preserves, and conservation areas;
- (3) Bulk grain storage, both publically or privately owned or managed;
- (4) Roadside stands offering for sale agricultural products produced on the premises;
- (5) Irrigation and flood control projects;
- (6) Public overhead and underground local distribution utilities;
- (7) Single-family dwellings; and
- (8) Railroads.

**(C) Permitted accessory uses.**

- (1) Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special use;
- (2) One-family residences including mobile home for farm residence or adjacent to farm residence for relatives of consanguinity and marriage or farm workers; and
- (3) Home occupations.

**(D) Permitted special uses.**

- (1) Single-family dwelling subdivisions;
- (2) Nursing homes;
- (3) Veterinary clinics and animal hospitals;
- (4) Public and private open recreational facilities, operated for profit or otherwise, including golf courses, country clubs and appurtenant; pro shops, including liquor sales subject to local resolutions (ordinances), golf driving ranges, archery ranges, swimming pools, riding academies, commercial stables, parks , community centers, but not including enclosed uses such as a bowling alley;
- (5) Public utility and public service structures including electric transmission lines and distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and/or elevated pressure tanks, and reservoirs;
- (6) Public and quasi-public uses of an educational or religious type including public and parochial elementary schools, junior high schools, high schools and colleges; nursery schools; private nonprofit schools and colleges, churches, parsonages and other religious institutions;
- (7) Public and private charitable institutions, hospitals, sanitariums and rest homes;
- (8) Public uses of an administrative, recreational, public service or cultural type including city, county, state or federal administrative centers and courts, libraries, museums, art galleries, police and fire stations and other public buildings, structures and facilities;
- (9) Commercial day or boarding camps;
- (10) Cemeteries, provided mausoleums, columbariums, cinerariums, crematories, and other similar structures shall be located at least one hundred (100) feet from all property lines;

- (11) Extraction of natural resources;
- (12) Greenhouses and nurseries, including sales;
- (13) Sanitary landfills;
- (14) Sanitary sewage treatment facilities;
- (15) Private noncommercial clubs and lodges;
- (16) Mobile home parks in accordance with regulations in Article 4; and
- (17) Wind energy conversion systems (WECS) and commercial wind energy conversion systems (CWECS).

(E) *Additional requirements for granting special uses.*

- (1) No residential structure other than that of the owner, operator, or employee shall be located within one thousand (1,000) feet of an existing feedlot.
- (2) All single-family dwelling subdivisions and mobile home parks shall be provided with common water distribution and common sewage collection and treatment systems which meet the minimum requirements of the Nebraska Department of Health and Environmental Control Quality (NDEQ) and the Lincoln City-Lancaster County Health Department. *(Ord. No. 129, 6/25/77) (Amended by Ord. Nos. 10-017, 7/12/10; 13-11, 7/1/13)*



## **ARTICLE 4. RESIDENTIAL DISTRICT REGULATIONS**

### **§ 11-401 SCOPE.**

The following regulations shall apply to the residential districts of the village and are in addition to the requirements set forth in Article 1, General Provisions, and other applicable requirements of this chapter. (*Ord. No. 129, 6/25/77*)

### **§ 11-402 GENERAL REQUIREMENTS FOR RESIDENTIAL DISTRICTS.**

(A) *Schedule of Lot, Yard, and Bulk Regulations.* The regulations for minimum lot dimensions, minimum yard requirements, maximum height, and maximum coverage are contained in the Schedule of Lot, Yard, and Bulk Regulations which is part of this chapter and adopted in § 11-206.

(B) *Signs.* Signs in residential districts shall be classified and permitted in accordance with the regulations contained in Article 1.

(C) *Off-street parking.* Minimum off-street parking spaces shall be required of each use in a residential district in accordance with the regulations in Article 1. (*Ord. No. 129, 6/25/77*)

### **§ 11-403 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT.**

(A) *Purpose.* The R-1 Single-Family Residential District is intended to provide a low-density residential development in areas where this pattern of development has been previously established and where public water and wastewater disposal and other public facilities are available or planned for the immediate future.

(B) *Permitted principal uses.*

- (1) Single-family dwellings;
- (2) Modular dwellings;
- (3) Public and parochial schools;
- (4) Churches, temples, seminaries, convents, including residences for teachers and pastors;

(5) Publicly owned parks, playgrounds, golf courses, swimming and tennis facilities, forest preserves, fire stations, community centers, libraries and auditoriums; and

(6) Public overhead and underground local distribution utilities.

(C) *Permitted accessory uses.* Uses and structures which are customarily accessory and incidental to any permitted use shall be permitted in the district provided that they are clearly subordinate to the principal use.

(1) Buildings and uses customarily incidental to the permitted uses;

(2) Limited home occupations;

(3) Temporary buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work; and

(4) Private swimming pools, tennis courts, and other recreational facilities in conjunction with a residence.

(D) *Permitted special uses.*

(1) Two-family dwellings;

(2) Multiple-family dwellings;

(3) Nursing homes, rest homes, sanatoriums, convalescent homes, or similar uses;

(4) Hospitals, colleges, universities, and eleemosynary institutions;

(5) Agricultural and horticultural uses such as crop farming, nurseries, greenhouses, and the usual agricultural buildings, except for those activities or operations involving a concentration of areas and buildings for livestock or other intensive animal or poultry production shall be excluded;

(6) Public utility main transmission lines including substations, distribution centers, regulator stations, pumping stations, treatment facilities, storage, equipment buildings, garages, towers, and similar public service uses;

(7) Detached accessory buildings in or encroaching upon the required side yard of a corner lot or the required front yard of a double frontage lot;

(8) Mobile home parks that meet the following requirements, to wit:

(a) The park has a minimum site area of two (2) acres (.81 hectares). Site conditions, such as soils, ground water level, drainage, and topography shall not create any hazards to the health and safety of the public. Each lot shall be serviced with public water and wastewater utilities and each trailer lot shall front on a hard surfaced road;

(b) The park complies with all licensing procedures, health, zoning, plumbing, electrical, building, fire prevention and all other applicable ordinances and regulations of the village;

(c) A minimum distance of twenty-five (25) feet (7.62 meters) shall be maintained between mobile homes in all horizontal directions;

(d) No mobile home shall be located closer than fifty (50) feet (15.24 meters) to any exterior property line;

(e) The request for this use shall specify the location and legal description of such proposed mobile home park and a plan of the park to include property dimensions, interior road, proposed mobile home sites, sanitary utility lines and other improvements;

(f) The park is properly landscaped, in the opinion of the Planning Commission, so as not to constitute a nuisance to other residents; and

(g) Not less than twenty percent (20%) of the gross site area shall be devoted to open space and recreation facilities generally provided in a central location. In larger developments recreation facilities can be decentralized. Recreation areas may include open space; and

(9) Wind energy conversion systems (WECS). (*Ord. No. 129, 6/25/77*) (*Amended by Ord. Nos. 05-010, 11/7/05; 13-10, 7/1/13*)



## ARTICLE 5. COMMERCIAL DISTRICT REGULATIONS

### § 11-501 SCOPE.

The following regulations shall apply to the commercial districts of the village and are in addition to the requirements set forth in Article 1, General Provisions, and other applicable requirements of this chapter. (*Ord. No. 129, 6/25/77*)

### § 11-502 GENERAL REQUIREMENTS FOR COMMERCIAL DISTRICTS.

(A) *Schedule of Lot, Yard, and Bulk Regulations.* The regulations for minimum lot dimensions, minimum yard requirements, maximum height, and maximum coverage are contained in the Schedule of Lot, Yard, and Bulk Regulations which is part of this chapter and adopted by § 11-206.

(B) *Signs.* Signs in commercial districts shall be classified and permitted in accordance with the regulations contained in Article 1.

(C) *Off-street parking.* Minimum off-street parking spaces shall be required of each use in a commercial district in accordance with the regulations in Article 1. (*Ord. No. 129, 6/25/77*)

### § 11-503 REQUIRED CONDITIONS.

(A) All business, services, or processing shall be conducted wholly within a completely enclosed building, except for sale of automotive fuel, lubricants, and fluids at service stations, off-street automobile parking and loading areas, public utility uses, taxi stands, and garden shops.

(B) *Site plans required.* For any commercial structure erected, reconstructed, or altered after the effective date of this chapter, a site plan shall first be filed with the Planning Commission. No building permits shall be issued until the site plan is reviewed and approved by the Planning Commission. The Planning Commission shall act upon the required site plan within thirty (30) days from application and may impose additional standards and requirements to safeguard the public interest.

(C) Goods shall consist primarily of new or reconditioned merchandise or of bona fide antiques.

(D) Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter, or water-carried waste. (*Ord. No. 129, 6/25/77*)

**§ 11-504 TRANSITIONAL YARD REQUIREMENT.**

(A) Whenever a side lot line in any commercial district coincides with a side or rear lot line in an adjacent residential district, a transitional yard equal to the dimensions of the minimum side yard required for the residential district shall be provided along such side lot line.

(B) Whenever a rear lot line in any commercial district coincides with a side lot line or rear lot line in an adjacent residential district, a transitional yard equal to the dimensions of the minimum rear yard required for the residential district shall be provided along such side or rear lot line.

(C) All transitional yards adjacent to residential districts shall be provided with a minimum buffer area of not less than fifteen (15) feet which shall be landscaped and screened to protect the adjacent residential district and shall be unoccupied by any building, structure, parking or loading area. Such plan for the landscape screen shall be submitted to the Planning Commission for approval. (*Ord. No. 129, 6/25/77*)

**§ 11-505 RESERVED.****§ 11-506 RESERVED.****§ 11-507 COMMUNITY RETAIL DISTRICT.**

(A) *Purpose.* The Community Retail District is intended primarily to serve as a central trading district for the entire village and of necessity includes all the uses customarily provided in the Convenience Retail and Service and Highway Commercial Districts.

(B) *Permitted principal uses.* The following uses are permitted in the Community Retail District:

(1) Any retail business or service establishment supplying commodities or performing services such as:

- (a) Auto sales and services not including open air display of new or used cars;
- (b) Bakery;
- (c) Barber shop;
- (d) Bank;
- (e) Beauty shop;

- (f) Clinics;
- (g) Café (enclosed);
- (h) Commercial school;
- (i) Department store;
- (j) Drug store;
- (k) Frozen food locker;
- (l) Furniture store;
- (m) Grocery store;
- (n) Gift shop;
- (o) Hardware store;
- (p) Laundry pick-up and delivery stations;
- (q) Lumber yard;
- (r) Mortuaries;
- (s) Offices, business and professional;
- (t) Outdoor advertising signs;
- (u) Parking garage;
- (v) Parking lot;
- (w) Plumbing shop;
- (x) Printing shop;
- (y) Restaurants (enclosed);
- (z) Self-service laundry;

- (aa) Taverns;
- (bb) Telephone exchange;
- (cc) Theatre, indoor;
- (dd) Variety store; and
- (ee) Living quarters used by watchmen or custodians of the commercially used property; and

(2) Any use determined by the Planning Commission and Zoning Administrator to similar in character and which would be appropriate in a Community Retail District.

(C) *Permitted accessory uses.* Uses and structures which are customarily accessory and incidental to any permitted use shall be permitted in the district provided that they are clearly subordinate to the principal use.

(D) *Permitted special uses.*

- (1) Service stations, excluding automotive repair services not included in the definition of service station provided that all operations, except the sale of gasoline and oil, shall be conducted in a building enclosed on at least two (2) sides;
- (2) Electrical distribution substations and gas regulator stations;
- (3) Churches and other religious institutions;
- (4) Amusement parks; carnivals, circuses and other transient amusement enterprises; pony riding rings; riding stables; skating rinks; sports arenas and sports stadiums;
- (5) Private clubs and lodges;
- (6) Public buildings and grounds;
- (7) Residential uses, provided that such uses shall be prohibited from occupying the first or ground floor or basement of any structure;
- (8) Wind energy conversion systems. (*Ord. No. 129, 6/25/77*) (*Amended by Ord. No. 13-12, 7/1/13*)

## **ARTICLE 6. INDUSTRIAL DISTRICT REGULATIONS**

### **§ 11-601 SCOPE.**

The following regulations shall apply to the industrial districts of the village and are in addition to the requirements set forth in Article 1, General Provisions, and other applicable requirements of this chapter. *(Ord. No. 129, 6/25/77)*

### **§ 11-602 GENERAL REQUIREMENTS FOR INDUSTRIAL DISTRICTS.**

(A) *Schedule of Lot, Yard, and Bulk Regulations.* The regulations for minimum lot dimensions, minimum yard requirements, maximum height, and maximum coverage are contained in the Schedule of Lot, Yard, and Bulk Regulations which is part of this chapter and adopted by § 11-206.

(B) *Signs.* Signs in industrial districts shall be classified and permitted in accordance with the regulations contained in Article 1.

(C) *Off-street parking.* Minimum off-street parking spaces shall be required of each use in an industrial district in accordance with the regulations in Article 1.

(D) *Site plan.* For every industrial structure and use erected, reconstructed, or altered after the effective date of this chapter, a site plan shall be filed with the Planning Commission. No building permits shall be issued until said site plan is approved by the Planning Commission. The Planning Commission may recommend and the Village Board of Trustees may require additional standards as are necessary and requirements for the maximum protection of the environment and the health and safety of the citizens of the village. *(Ord. No. 129, 6/25/77)*

### **§ 11-603 PERFORMANCE STANDARDS.**

(A) Any industrial use established after the effective date of this chapter shall be so operated as to meet the performance standards established hereafter. Any use already established on the effective date of this chapter shall be permitted to continue provided that no alteration, expansion, enlargement, or modification shall be permitted which does not meet the herein performance standards or which effectively increases the degree of nonconformity to which existed prior to any alteration, expansion, enlargement, or modification, as determined by the village and the Lincoln City-Lancaster County Health Department.

(B) Points of measurement to determine compliance with the performance standards shall be the property line or lot line nearest the source which is the subject of measurement.

(C) *Physical appearances.* All operations shall be carried on or 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 division 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.

(D) *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 the village.

(E) *Noise.* No operation shall be carried on which involves noise to the receiving land use in excess of the following table:

<b><i>Receiving: Land-use</i></b>	<b><i>1 Hour Energy (Leq) Average</i></b>
Residential	55
Commercial	65
Industrial	75

Note: Leq in the energy average, not the arithmetic average.

(F) *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. The final approval and the permit issued by the Lincoln City-Lancaster County Health Department indicating that the proposed use meets the environmental standards will be required before a building permit is issued.

(G) *Air contaminants.* The final approval and the permit issued by the Lincoln City-Lancaster County Health Department indicating that the proposed use meets the environmental standards and County Resolution 5069 will be required before a building permit is issued.

(H) *Odor.* The emissions of odors shall conform to the regulations of County Resolution 5069.

(I) *Gasses.* The emission of gasses shall conform to the regulations of County Resolution 5069.

(J) *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 0.05 inches/second RMS vertical velocity and the regulations of County Resolution 5069.

(K) *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 (5) degrees Fahrenheit.

(L) *Conformance with state and federal regulations.* The performance standards applicable to industrial uses will include all adopted air pollution, water pollution, noise, health, or other relevant federal, state and local laws and regulations. (*Ord. No. 129, 6/25/77*)

## **§ 11-604 GENERAL INDUSTRIAL DISTRICT.**

### **(A) Purpose.**

(1) The I-1 General Industrial District is intended to provide an environment suitable for industrial activities that do not create appreciable nuisances, hazards or threats to the natural environment or surrounding development.

(2) This district is intended to provide for a variety of industrial operations which are capable of meeting modern performance and environmental standards.

(B) *Permitted principal uses.* The following uses are permitted in the I-1 General Industrial District provided they are designed to meet the performance standards established in § 11-603:

(1) Research, experimental, testing, and development activities;

(2) Manufacture, processing, fabrication, assembly, distribution of products such as scientific and precision instruments, photographic equipment, communication, computation equipment, drugs, medicines, pharmaceuticals, household appliances, toys, sporting and athletic goods, die-cut paperboard and cardboard, glass products made of purchased glass, electric lighting and wiring equipment, service industry machines, lithographic and printing processes, industrial controls, radio and TV receiving sets, watches and clocks, bags and containers, sanitary paper products, optical goods, electrical machinery, mobile homes, prefabricated and modular housing and components, dairy products, feed and grain, baked and confectioners' goods, farm machinery, fruit and vegetable processing, canning, and storage;

(3) Petroleum products storage and fuel storage yards;

(4) Agriculture;

- (5) Wholesale, distribution, and warehousing including motor freight terminals;
- (6) Manufacture of concrete and ceramics, products storage of contractor's equipment and materials, commercial sawmills and lumberyards, provided such use shall be located at least four hundred (400) feet from any residential district boundary;
- (7) Public utility buildings and structures;
- (8) Blacksmith, welding and machine shops;
- (9) Building materials sales and storage;
- (10) Frozen food processing and packaging plants;
- (11) Dyeing and cleaning establishments;
- (12) Office buildings related to industrial facilities;
- (13) Private educational and training facilities; and
- (14) Any similar use that is determined by the Village Board of Trustees after referral to and recommendation by the Planning Commission to be of an industrial nature similar to the above listed uses.

(C) *Permitted accessory uses.* Uses and structures which are customarily accessory and incidental to any permitted use shall be permitted in the district provided that they are clearly subordinate to the principal use.

(D) *Permitted special uses.* Uses and structures which are customarily accessory and incidental to any which are customarily accessory and incidental to any:

- (1) Airports and heliports including landing fields, runways, flight strips, hangars, and auxiliary buildings;
- (2) Governmental buildings or structures;
- (3) Public utility structures such as sewage disposal, water treatment plants, and utility transmission lines, including substations, distribution centers and pumping stations;
- (4) Junk yards and auto salvage yards (screened);
- (5) Offices, retail stores and medical, safety, and security facilities accessory to the principal use;
- (6) Watchman's residence in conjunction with the principal uses; and

- (7) Wind energy conversion systems.

(E) *Landscaping.*

(1) All areas not devoted to buildings or structures, off-street parking, and loading and internal circulation shall be landscaped with trees, grass, and shrubbery.

(2) A minimum of twenty (20%) percent of the total lot area shall be landscaped, and a landscape plan shall be submitted to and approved by the Planning Commission. (*Ord. No. 129, 6/25/77*) (*Amended by Ord. No. 13-13, 7/1/13*)

## **§ 11-605 I-2 HEAVY INDUSTRIAL DISTRICT.**

(A) *Purpose.* The I-2 Heavy Industrial District is intended to provide the widest range of industrial operations which conform to reasonable environmental specifications for pollution and nuisance free operations, and meet the minimum requirements specified by the Environmental Protection Agency and other state agencies concerned with the health and environment.

(B) *Permitted special uses.* Any special use permitted in the I-1 General Industrial District. Uses and structures which are customarily accessory and incidental to any permitted use shall be permitted in the district provided that they are clearly subordinate to the principal use.

- (1) Any use permitted in the I-1 General Industrial District;
- (2) Stone, rock, gravel and sand stationary plant;
- (3) Fertilizer storage or processing;
- (4) Ammonia, bleaching powder or chlorine manufacture;
- (5) Asphalt manufacturing or refining;
- (6) Cement, lime, gypsum, or plaster-of-Paris manufacture;
- (7) Coke ovens;
- (8) Fat rendering;
- (9) Fireworks or explosives manufacture;
- (10) Glue, size, or gelatin manufacture;

- (11) Gunpowder manufacture or storage;
- (12) Incinerator or reduction of garbage, dead animal, offal, or refuse;
- (13) Iron, steel, brass or copper foundries;
- (14) Smelter;
- (15) Sulfuric, nitric, or hydrochloric acid manufacture;
- (16) Tanning, curing, or storage of rawhides or skins;
- (17) Boiler works;
- (18) Burlap manufacture;
- (19) Coal and coke yards;
- (20) Coal tar products manufacture;
- (21) Creosote treatment or manufacture;
- (22) Meat products manufacture;
- (23) Manufacture, fabrication, or treatment of sheet or shaped metal products including such industries as construction materials and machinery, heating, ventilating, and plumbing equipment;
- (24) Fabrication, manufacture and treatment of lumber or wood products;
- (25) Abattoirs;
- (26) Alfalfa dehydrating plants;
- (27) Oiled, rubber, or leather goods manufacture;
- (28) Packing houses;
- (29) Vinegar manufacture;
- (30) Yeast plants;
- (31) Junk, salvage, auto wrecking operations;

- (32) Wind energy conversion systems; and
- (33) Any similar use that is determined by the Village Board of Trustees after referral to and recommendation by the Planning Commission to be of a heavy industrial nature similar to the above listed uses.

(C) *Additional standards.* In addition to the performance standards established in § 11-603, the following requirements shall apply:

(1) *Appearance.* Junk, salvage, auto wrecking and similar operations shall be shielded from view from streets and from adjacent properties in another zone by means of a solid wall or fence (including solid entrance and gates) not less than six (6) feet in height.

(2) *Fire hazard.* All flammable substances involved in any activity established in this zone shall be handled in conformance with the standards of the National Board of Fire Underwriters and any additional regulations of the village, National Fire Protection Association (NFPA), and State Fire Marshal.  
*(Ord. No. 129, 6/25/77) (Amended by Ord. No. 13-13, 7/1/13)*



## **ARTICLE 7. PUBLIC USE DISTRICTS REGULATIONS**

### **§ 11-701 PUBLIC USE DISTRICTS.**

(A) *Intent.* This District is intended to provide a district essentially for mapping purposes, which will identify real property owned and used by any governmental entity, including local, state or federal governmental units, and put to some form of public use. This District is not intended to be applied to land that is used by governmental entities on an easement or leased basis if title to the land is in private ownership. The regulations set forth in this article or set forth elsewhere in this chapter when referred to in this chapter are the regulations in the P-1 Public Use District.

(B) *Permitted principal uses.* A building or premises owned by any governmental entity, including local, county, state, or federal government units and their subdivisions, and in some form of public use, shall be permitted to be located in the P-1 Public Use District. The provisions of this article shall not apply to land in private ownership, even if leased to or the subject of an easement to a government entity, or the subject of an easement to a governmental entity, or to describe the future location of such public uses.

(C) *Application of supplemental regulations.* Off-street parking and loading regulations and any lot, yard and bulk regulations shall not apply to any public use in a P-1 Public Use District.

(D) Wind energy conversion systems are added to list of special exception uses for this District. (*Ord. No. 09-001, 2/2/09*) (*Amended by Ord. No. 13-14, 7/1/13*)



## **ARTICLE 8. SPECIAL AND APPENDED DISTRICT REGULATIONS**

### **§ 11-801 SCOPE.**

The following district regulations shall apply to all special and appended districts of the village and are in addition to the requirements set forth in Article 1, General Provisions, and other applicable requirements of this chapter. (*Ord. No. 129, 6/25/77*)

### **§ 11-802 GENERAL REQUIREMENTS FOR SPECIAL, MODIFIED AND APPENDED DISTRICTS.**

(A) *Schedule of Lot, Yard, and Bulk Regulations.* The regulations for minimum lot dimensions, minimum yard requirements, maximum height, and maximum coverage are contained in the Schedule of Lot, Yard, and Bulk Regulations, and for appended districts shall be the same as those in the parent district of which the appended district is a part.

(B) *Signs.* Signs in these districts shall be classified and permitted in accordance with the regulations contained in Article 1 and for appended districts shall be the same as those in the parent district of which the appended district is a part.

(C) *Off-street parking.* Minimum off-street parking spaces shall be required of each use in an industrial district in accordance with the regulations in Article 1, and, for appended districts, shall be the same as those in the parent district of which the appended district is a part. (*Ord. No. 129, 6/25/77*)

### **§ 11-803 FP FLOODPLAIN DISTRICT.**

#### **(A) Purpose.**

(1) The FP Floodplain Districts are intended for application in those areas which have been defined by the Natural Resources Commission as being Commission Floodways or which by reason of historical documentation and other data are subject to periodic flooding of magnitude which would present a hazard to life and property. The regulations are intended to accomplish the following:

- (a) Minimize the extent of floods and reduce the height and violence thereof;
- (b) Minimize the hazard of lives and property caused by floods;

(c) Secure safety from floods through the confinement of floods through reasonable limits by regulating and restricting development along or in natural watercourses and drainways.

(2) This Floodplain District is created to be appended to certain districts and established along certain watercourses and drainways with regulations of the use of land, obstructions, and construction in the floodplain.

(B) *Minimum standards; selected floodway.* Within the limits of the Floodplain District the Village Board of Trustees shall recognize the degree of hazard from flooding by referring to a "Selected Floodway Map", the purpose of which is to permit the greatest, reasonable and wise use of the floodplains and to prevent encroachment which would unduly increase flood heights and endanger life and property. Generally, the limits of the selected floodway shall be those limits where the extent of permitted encroachment would not raise the estimated level of the flood of one hundred (100) year frequency in excess of one (1) foot as computed in the water surface profiles.

(C) *Permitted uses.*

(1) *Permitted uses in selected floodways.* In the selected floodways as defined above, the following uses are permitted if they do not unduly increase the flood heights of the one hundred (100) year flood by a significant amount, generally considered one (1) foot, and endanger life and property:

(a) Open space uses not requiring a closed building, such as agricultural cropland, livestock feeding and grazing, (in compliance with the public health standards) or open type public and private recreation areas;

(b) Fences (especially wire fences for agricultural purposes), walls or other appurtenances may be constructed which would not constitute an obstruction or debris-catching obstacle to the passage of floodwaters;

(c) Storage yards for equipment and material properly anchored, to prevent moving into bridges or other debris-catching areas of removable objects within limited time available after flood warning or not subject to major flood damage. The storage of explosive, buoyant, or flammable-liquid materials in large quantities shall not be permitted;

(d) Railroads, streets, bridges and public utility wire, and pipelines for transmission and local distribution;

(e) Commercial excavation of materials from pits, strips, or pools, provided that no stockpiling of materials, products, or overburden shall create a restriction to the passage of flood flows;

(f) Nonrestrictive improvements in stream channel alignment, cross section and capacity in the normal maintenance thereof;

(g) Uses of a type not appreciably damaged by floodwaters, provided no structures for human habitation shall be permitted; and

(h) Structures permitted that are designed to have a minimum effect upon the flow of water and are firmly anchored to prevent the structure from floatation.

(2) *Permitted uses for lands outside selected floodways.* Authorized use of lands lying outside of the selected floodway but within the Floodplain District shall be subject to the following regulations:

(a) Buildings or structures may be located and existing buildings or structures may be altered provided the first floors of said buildings or structures are placed one (1) foot above the elevation of the one hundred (100) year flood;

(b) Foundations of all structures shall be designed and constructed to withstand flood conditions at the proposed construction site;

(c) Basements, lower floors, or appurtenances located below the elevation of the one hundred (100) year flood shall be designed and constructed to prevent passage of water into the building or structure and withstand flood conditions, including hydrostatic pressures of elevated watertables and the momentum of flood flows. Materials for construction shall be of the type not deteriorated appreciably by water. Windows, doorways, and other openings into the building or structure that are located below the elevation of the one hundred (100) year flood shall be designed and constructed incorporating adequate floodproofing;

(d) All electrical equipment, circuits, and installed electric appliances shall be located as to not be subject to flooding or shall be floodproofed to prevent damage resulting from inundation by the one hundred (100) year flood;

(e) Sanitary and storm sewer drains shall be equipped with valves capable of being closed manually or automatically, to prevent backup of sewage and storm waters into the building or structure. Gravity draining of basements may be eliminated by mechanical devices;

(f) Chemical storage, explosive, buoyant and flammable liquid storage shall be located above the one hundred (100) year flood level or shall be adequately floodproofed to prevent floatation of tanks or other appreciable damage or escape into the floodwaters of toxic materials;

(g) Land may be filled provided such fill extends fifteen (15) feet beyond the limits of any building or structure erected thereon; and

(h) Structures located wholly or partially within the Floodplain District which have been destroyed or damaged by flooding to the extent of fifty (50%) percent or more of the fair market value and repairs are contemplated, said repairs shall constitute alterations and not maintenance of such structure.

(3) *Special uses.* No building, structure, or obstruction shall be hereafter erected or established in any area designated a Floodplain District unless the same shall have been approved by the Village Board of Trustees. Applications for permission to erect buildings, structures, obstructions, and regulate land use shall be made in the same manner as applications for special uses in these regulations. No permit shall be issued until after a public hearing finds and determines that such building, structure, obstruction, or land use in the place specified will not be injurious to the public health, safety, convenience and general welfare, and not in conflict with the intent and purpose of this regulation.

(4) *Special use application procedure.*

(a) Any application for the aforementioned special use shall include an existing and proposed grade plan and hydrologic study based on the method now called the Log-Pearson Type III distribution (with the log-normal as a special case) or by alternate studies as outlined in the United States Water Resources Council Bulletin No.15 "A Uniform Technique for Determining Flood Flow Frequencies." This study shall be done by a registered professional engineer and shall include but not be limited to the following:

1. Area and volume of obstruction;

2. Elevation of top of obstruction, in relation to the U.S.G.S. mean sea level datum; and

3. Evidence that the proposed obstruction will not adversely affect any officially approved channel widening project, will not retard the flow of water in the event of overbank flooding, and will not reduce the net volume of overbank water storage.

(b) Prior to public hearing by the Village Board of Trustees and Planning Commission, the application shall be forwarded to the applicable state officials for their review and approval.

(c) If approved by the Village Board of Trustees, the proposed development shall be located, constructed, and maintained in accordance with the plans approved by that governing body and all other applicable zoning and building regulations.

(d) The granting of approval of any structure or use shall not constitute a representation, guarantee, or warranty of any kind or nature by the Village Board of Trustees or the Planning Commission, or by any officer or employee of either thereof, of the practicability or safety of any structure or use proposed, and shall create no liability upon or cause action against such public body, officer, or employee for any damage that may result pursuant thereto.

(D) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**A FLOOD OF ONE HUNDRED (100) YEAR FREQUENCY.** A flood magnitude expected to recur on the average of one (1) every one hundred (100) years, or a flood magnitude which has a one (1%) percent chance of occurring in any given year.

**ARTIFICIAL OBSTRUCTION.** Any obstruction which is not a natural obstruction.

**CHANNEL.** The geographical area within either the natural or artificial banks of a watercourse or drainway.

**COMMISSION FLOODWAY.** A floodway whose limits have been designated and established by order of the Nebraska Natural Resources Commission as indicated in §§ 2-1506.01 through 2.1506.27 R.R.S. Supp. 1967.

**DRAINWAY.** Any depression two (2) feet or more below the surrounding land serving to give direction to a current of water less than nine (9) 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.

**FLOOD.** The water of any watercourse or drainway which is above bank or outside the channel and banks of such watercourse or drainway.

**FLOODPLAIN.** The area adjoining the watercourse or drainway which has been or may hereafter be covered by flood water.

**FLOODWAY.** The channel of a watercourse or drainway and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge the flood water of any watercourse or drainway.

**FLOODWAY-ENCROACHMENT LINES.** The lines limiting a floodplain district.

**LOCATE.** Construct, place, insert, or excavate.

**NATURAL OBSTRUCTION.** Any rock, tree, gravel, or analogous natural matter that is an obstruction and has been located within the floodway by a non-human cause.

**OBSTRUCTION.** Any dam, wall wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel, rectification, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, or other analogous structure or matter in, along, across, or projecting into any floodway which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the natural flow of the water would carry the same downstream to the damage or detriment of either life or property.

**OWNER.** Any person who has dominion over, control of, or title to an obstruction.

**WATERCOURSE.** Any depression two (2) feet or more below the surrounding land serving to give direction to a current of water at least nine (9) months of the year, having a bed and well-defined banks; provided, that it shall, upon order of the Village Board of Trustees, also include any particular depression which would not otherwise be within the definition of watercourse. (*Ord. No. 129, 6/25/77*)

## **ARTICLE 9. NONCONFORMING BUILDINGS, STRUCTURES, AND USES**

### **§ 11-901 STATEMENT OF PURPOSE.**

(A) This chapter establishes separate districts, each of which is an appropriate area for the location of the uses which are permitted in that district. It is necessary and consistent with the establishment of those districts that those nonconforming buildings, structures, and uses which substantially and adversely affect the orderly development and taxable value of other property in the district not be permitted to continue without restriction.

(B) The purpose of this article is to provide for the regulation of nonconforming uses buildings, and structures and to specify those circumstances and conditions under which those nonconforming buildings, structures, and uses shall be permitted to continue. (*Ord. No. 129, 6/25/77*)

### **§ 11-902 AUTHORITY TO CONTINUE NONCONFORMING BUILDINGS, STRUCTURES, AND USES.**

Any nonconforming building, structure, or use which existed lawfully at the time of the adoption of this chapter and which remains nonconforming, and any such building, structure, or use which shall become nonconforming upon the adoption of this chapter, or of any subsequent amendments thereto, may be continued subject to the regulations which follow. (*Ord. No. 129, 6/25/77*)

### **§ 11-903 RESTRICTIONS ON NONCONFORMING BUILDINGS, STRUCTURES AND USES..**

(A) *Repairs and alterations.* Repairs and alterations may be made to a nonconforming building or structure, provided that no structural alteration which increases the nonconformity shall be made except those required by law, or except to make the building or structure and the use thereof conform to the regulations of the district in which it is located.

(B) *Additions and enlargements.* A nonconforming building or structure shall not be added to or enlarged in any manner unless such additions or enlargements are made to conform to all of the regulations of the district in which it is located, however, upon application, the Board of Zoning Appeals may approve the structural alteration of a nonconforming building or structure which does not comply with area and height requirements, provided such alteration or repairs do not exceed fifty (50%) percent of the floor area existing on the effective date of this chapter.

(C) *Relocation of building or structure.* No building or structure shall be moved wholly or in part to any other location on the same or any other lot unless every portion of such structure or building is made to conform to all of the regulations of the district in which it is to be located.

(D) *Restoration of damaged building or structure designed or intended for a nonconforming use.* A nonconforming building or structure which is damaged by fire, windstorm, flood, explosion, or other casualty or act of God, to the extent of more than sixty (60%) percent of its fair market value, shall not be restored except in conformity with the regulations of the district in which the building is located. Should the building be damaged to a less extent than described above, no repairs or reconstruction shall be made unless a zoning permit is obtained and such restoration is started within one (1) year of said calamity and diligently brought to completion, the building or structure shall be removed and the area cleared.

(E) *Discontinuance of a nonconforming use.* If the nonconforming use of a building, structure, or premises is discontinued for a continuous period of one (1) year, it shall not be renewed, and any subsequent use of the building, structure, or premises shall conform to the use regulations of the district in which such building, structure or premises is located. However, a nonconforming use which has been discontinued for more than one (1) year may be used for a nonconforming use if the applicant can demonstrate that there is no feasible conforming use, and such reuse is approved by the Planning Commission.

(F) *Expansion of nonconforming use.*

(1) *Change in nonconforming use.* The use of a nonconforming building or structure may be changed to a use of the same or more restricted classification provided no structural alterations are made. However, if a use of a nonconforming building or structure is changed to a more restricted classification, it shall not thereafter be changed to a use of a less restricted classification.

(2) *Vacant buildings.* A vacant nonconforming building or structure may be occupied by a use for which the building or structure was designed or intended, if so occupied within one (1) year from the effective date of this chapter.

(3) *Land.* The nonconforming land use which does not involve a building or structure, shall not be expanded or extended beyond the area it occupied nor changed to any other use not permitted in the district in which the land is located.

(G) *Nonconforming lots.* The following regulations shall apply to all lots of record:

(1) A single-family residential dwelling unit may be erected on a lot of record, regardless of the minimum lot area, lot width, or lot depth, provided the minimum yard requirements, maximum height, and maximum lot coverage of the zoning district in which the lot in question is located are met, and other provisions of this chapter are met.

(2) In the event all of the minimum yard requirements cannot be provided on a lot of record, the Zoning Administrator may permit the erection of a single-family residential dwelling unit provided the minimum yard requirements conform to the prevailing front yard, side yard, and rear yard setbacks of the dwelling units adjacent to the lot in question; the minimum yard requirements shall conform to the most applicable zoning district established within this chapter.

(3) However, where two (2) or more contiguous substandard lots are in common ownership and area of such size as to constitute a conforming zoning lot, such adjoining or portions thereof shall be joined, developed, and used for the purpose of forming a conforming zoning lot.

(4) Contiguous substandard lots of record which are in common ownership shall, for zoning purposes, be considered as being maintained in common ownership after the effective date of this chapter. When such contiguous substandard lots of record are conveyed, they shall be conveyed as a conforming lot in the zoning district in which they are located or conveyed under the provisions of division (G)(2) or (3) above. (*Ord. No. 129, 6/25/77*)

#### **§ 11-904 IDENTIFICATION AND REGISTRATION OF NONCONFORMING USES AND BUILDINGS.**

(A) The Zoning Administrator shall be responsible for identifying and recording nonconforming uses, buildings, and structures. He/she shall notify in writing the owner and/or manager of such properties. The written notification shall cite the circumstances that establish nonconformance and shall include a request for the information hereunder specified.

(B) No later than six (6) months after notification by the Zoning Administrator of this requirement, the owner or his agent may certify in writing on a prescribed form, to the office of the Zoning Administrator, that such nonconforming use did exist on the adoption date of this chapter. In order that the exact nature and extent of such nonconforming use may be determined, a survey plat prepared by a professional engineer or registered surveyor may accompany the prescribed form. (*Ord. No. 129, 6/25/77*)

#### **§ 11-905 TERMINATION OF NONCONFORMING USES.**

(A) *Open storage.* Where land within the residential districts contained no principal buildings as distinguished from necessary buildings and fences, and was used solely for open storage at the time of passage of this chapter, use of such land for open storage shall be discontinued within two (2) years.

(B) *Signs.* When land within the residential and business districts contained no principal buildings as distinguished from accessory buildings and fences and was used solely for signs at the time of the passage of this chapter, use for such land for signs shall be discontinued and the signs removed within two (2) years, unless the sign(s) is at least five hundred (500) feet distance from any residence. (*Ord. No. 129, 6/25/77*)

**§ 11-906 SPECIAL USE, NOT NONCONFORMING USES.**

Any use which is permitted as a "special use" in a zoning district under the terms of this chapter shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use. Any expansion of such use, however, shall require a special use permit. (*Ord. No. 129, 6/25/77*)

## **ARTICLE 10. SPECIAL USES**

### **§ 11-1001 PURPOSE.**

(A) The development and execution of this chapter are based upon the division of the village into districts within which the use of land and buildings and the bulk and locations of buildings and structures in relation to the land are substantially uniform. It is recognized however, that there are certain uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.

(B) The purpose of this article is to establish procedures and minimum standards to be used as guidelines for the consideration and authorization of those uses classified as special uses under the respective district regulations. (*Ord. No. 129, 6/25/77*)

### **§ 11-1002 INITIATION OF SPECIAL USES.**

Any property owner or other person with an enforceable legal interest in property may file an application to use such land for one or more of the special uses provided in the zoning district in which the land is located. (*Ord. No. 129, 6/25/77*)

### **§ 11-1003 APPLICATION FOR SPECIAL USE.**

Such application for special use shall be filed with the Zoning Administrator on a form prescribed by the Zoning Administrator. The application shall be accompanied by such plans and/ or data prescribed by the Planning Commission or specified herein, and shall include a statement in writing by the applicant and adequate evidence showing that the proposed special use will conform to the standards hereinafter set forth. Such application shall be forwarded from the Zoning Administrator to the Planning Commission for review and recommendation within thirty (30) days of receipt of the application by the Zoning Administrator. The Planning Commission shall, within thirty (30) days of receipt of the application from the Zoning Administrator, render a recommendation on the special use application and within thirty (30) days of the recommendation, the Village Board of Trustees shall approve, deny or modify the special use application. (*Ord. No. 129, 6/25/77*)

**§ 11-1004 HEARING ON APPLICATION.**

(A) The Board of Trustees shall hold a public hearing on each application for a special use in accordance with the provisions of section 19-904 RS Neb., and at such time and place as shall be established by the Village Board of Trustees. The hearing shall be conducted and a record of such proceedings shall be preserved in such a manner as the Village Board of Trustees shall, by rule, prescribe from time to time.

(B) The Village Board of Trustees shall fix a reasonable time for hearing on the special use and shall give at least ten (10) days notice of the time and place of such hearing in an official newspaper of general circulation in the municipality. (*Ord. No. 129, 6/25/77*)

**§ 11-1005 AUTHORIZATION.**

For each application for a special use, the Planning Commission shall, within thirty (30) days of receipt of the application, conduct its public hearing and report its findings and recommendations, including the stipulations or additional conditions and guarantees deemed necessary for the protection of the public interest. (*Ord. No. 129, 6/25/77*)

**§ 11-1006 STANDARDS; GENERAL.**

No special use shall be recommended by the Planning Commission or approved by the Village Board of Trustees unless they consider and find:

(A) That the establishment, maintenance, or operation of this special use will not be detrimental or endanger the public health, safety, convenience, morals, order, or general welfare;

(B) That the special use will not be injurious to the use and enjoyments of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;

(C) That the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

(D) That the exterior architectural appeal and functional plan of any proposed structure will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district, as to cause a substantial depreciation in the property values within the neighborhood;

(E) That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided;

(F) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;

(G) That the proposed special use will not impair existing conditions in its vicinity or defeat the purpose of the comprehensive development plan; and

(H) That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located or to the special requirements of the district in which it is located or to the special requirements established for the specific use. (*Ord. No. 129, 6/25/77*)

### **§ 11-1007 CONDITIONS AND GUARANTEES.**

Prior to granting of any special use, the Village Board of Trustees may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance, operation, and a specified time limit for the performance of the special use as deemed necessary for the protection of the public interest and to secure compliance with reasonable standards and requirements. In all cases in which special uses are recommended, the Village Board of Trustees shall require such evidence and guarantees as it may deem necessary as proof that the conditions with, including, but not limited to, plans, covenants agreements, bonds, escrows and assessments. (*Ord. No. 129, 6/25/77*)

### **§ 11-1008 EFFECT OF DENIAL OF A SPECIAL USE.**

No application for a special use, which has been denied wholly or in part by the Board, shall be resubmitted for a period of one (1) year from the date of said order of denial, except on the grounds of new evidence of proof of change of conditions found to be valid by the Planning Commission. (*Ord. No. 129, 6/25/77*)

### **§ 11-1009 REVOCATION.**

In the event an approved special use is not initiated within one (1) year after the date of approval, the special use may be revoked. (*Ord. No. 129, 6/25/77*)

**§ 11-1010 WRITTEN NOTICE.**

In the event said use is revoked, written notice shall be given the applicant stating reasons for revocation. Applicant shall have sixty (60) days from date of written intent to revoke authorization to file an appeal of said notice. (*Ord. No. 129, 6/25/77*)

**§ 11-1011 SUBDIVISIONS IN PROCESS.**

Any subdivider as defined in the Subdivision Ordinance of the Village of Hallam who, in good faith, and prior to the passage of this chapter, has secured preliminary approval for a subdivision under the provisions of theforesaid Subdivision Ordinance, and who has complied at the time of application for a special use permit, and continues to comply in the future with all relevant time limits prescribed by the Village Subdivision Ordinance, shall be entitled, if the passage of this chapter has worked a financial hardship on him, to a rebuttable presumption in favor of the granting of such a special use permit for the said subdivision as preliminary approval under the provisions of the Subdivision Ordinance. (*Ord. No. 129, 6/25/77*)

## **ARTICLE 11. ADMINISTRATION AND ENFORCEMENT**

### **§ 11-1101 ZONING ADMINISTRATOR.**

This chapter shall be administered and enforced by a Zoning Administrator who shall be appointed or designated by the Village Board of Trustees. (*Ord. No. 129, 6/25/77*)

### **§ 11-1102 AUTHORITY OF ZONING ADMINISTRATOR.**

The Zoning Administrator shall have all necessary authority on behalf of the Village Board of Trustees to administer and enforce the provisions of this chapter, including the ordering in writing of the remedying of any conditions found in violation of this chapter, and the bringing of legal action to insure compliance with this chapter, including injunctions, abatement, or other appropriate action or proceeding. (*Ord. No. 129, 6/25/77*)

### **§ 11-1103 ENFORCEMENT OF MINIMUM REQUIREMENTS.**

(A) In enforcing the minimum requirements and standards of this chapter and assuring compliance with Board and Zoning Appeals decisions, the Zoning Administrator shall notify by certified and/or registered mail any person responsible for an alleged violation.

(B) The notification shall state the reasons why it is believed that a violation exists in fact and the action necessary to correct said violation, and it shall require the said person to either: (a) notify the Zoning Administrator in writing that the violation has been corrected and to state in detail the manner in which such correction has been made; or (b) deny in writing that the violation exists. If the person responsible for the alleged violation denies that a violation exists he may appeal the decisions of the Zoning Administrator to the Board of Zoning Appeals in the manner provided in Article 12, on forms provided by the Zoning Administrator for that purpose.

(C) Failure to reply in writing to the Zoning Administrator within thirty (30) days of receipt of such notice shall be deemed as cause for action, whereupon the Zoning Administrator shall proceed with enforcement as provided in this article and in Article 14. (*Ord. No. 129, 6/25/77*)

### **§ 11-1104 ZONING PERMIT.**

(A) No building, structure, or land or any part thereof shall hereafter be used, created, erected, changed, converted, or enlarged until a zoning permit has been issued by the Zoning Administrator.

(B) (1) The procedure governing the application for and granting of zoning permits as required by this chapter shall be as follows:

(2) The applicant who shall be a record owner, or a contract owner with written approval of owner, of land involved (if a contract owner, copy of said contract shall be filed with and made a part of application), shall make application for the zoning permit to the Zoning Administrator on the form provided for the purpose, giving all information required by such form, including such other information which the Zoning Administrator may deem necessary. If the purposed building or use is in conformity with the provisions of this chapter a zoning permit shall be issued to the applicant by the Zoning Administrator.

(C) The issuance of a zoning permit shall:

(1) Not afford protection to any owner who is found to be in violation of this chapter or any other applicable law, ordinance, or regulation;

(2) Does not waive provisions of other laws, ordinances, or requirements; and

(3) Is null and void if issued in conflict with the provisions of this chapter. (*Ord. No. 129, 6/25/77*)

## **§ 11-1105 CERTIFICATE OF OCCUPANCY.**

(A) *Required for changed or new occupancy.* Subsequent to the effective date of this chapter, no change in the use or occupancy in any existing building other than for single-family dwelling purposes shall be made, nor shall any new building be occupied until a certificate of occupancy shall state that the new occupancy complies with the provisions of this chapter.

(B) *Required for excavation or building permit.* No permit for excavation for, or the erection or alteration of, any building shall be issued before the application has been made and approved for a certificate of occupancy and compliance, and no building or premises shall be occupied until such certificate and permit is issued.

(C) *Required for nonconforming uses.* A certificate of occupancy shall be required of all lawful nonconforming uses of land or buildings created at the time of the passage of this chapter. Application for such certificates of occupancy for nonconforming uses shall be filed with the Building Inspector by the owner or lessee of the land or building occupied by such nonconforming use within two (2) years from the effective date of this chapter. It shall be the duty of the Building Inspector to issue a certificate of occupancy or a lawful nonconforming use, but failure to apply for such certificate of occupancy for nonconforming use, or failure of the Building Inspector to issue such certificate of occupancy for nonconforming use, may be considered evidence that such nonconforming did not lawfully exist at the effective date of this chapter.

(D) *Record of certificates of occupancy to be kept.* A record of all certificates of occupancy shall be kept on file in the office of the Building Inspector, and copies shall be furnished on request to any person having a proprietary or tenancy interest in land or building affected by such certificate of occupancy. (*Ord. No. 129, 6/25/77*)

**§ 11-1106 RECORDS OF ZONING ADMINISTRATOR.**

The Zoning Administrator shall keep all records of all zoning permits and certificates of occupancy issued under this chapter; maintain permanent and current records related to the chapter, including zoning maps, amendments, special uses, variances, and appeals; and make annual reports and recommendations to the Planning Commission and the Village Board of Trustees on matters pertaining to this chapter. (*Ord. No. 129, 6/25/77*)



## ARTICLE 12. APPEALS AND VARIANCES

### § 11-1201 THE BOARD OF ZONING APPEALS.

The Board of Adjustment shall consist of five (5) regular members plus one (1) additional member designated as an alternate, who shall attend and serve only when one (1) of the regular members is unable to attend for any reason. (*Ord. No. 129, 6/25/77*) (*Amended by Ord. Nos. 160; 96-12*)

### § 11-1202 POWERS AND DUTIES OF THE BOARD OF ZONING APPEALS.

The Board of Zoning Appeals shall have the following powers and duties:

(A) *Relative to administrative review.* To hear and decide appeals where it is alleged that there is an error in any order, requirements, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or relating to the location or soundness of structures or to interpret any map.

(B) *Relative to exceptions.* Upon appeal, the Board is hereby empowered to recommend the following exceptions:

(1) To permit the extension of a district where the boundary line of a district divides a lot in single ownership as shown of record;

(2) To permit reconstruction of a nonconforming building which has been destroyed or partially destroyed by fire or act of God where the Board shall find some compelling public necessity requiring the continuance of the nonconforming use;

(3) To permit the erection and use of a building or the use of premises in any location for a public service corporation for public utility purposes which the Board deems reasonably necessary for the public convenience or welfare. Such uses lawfully existing on the effective date of this chapter shall be deemed to have received such a permit; shall be provided with such a permit by the Village Zoning Administrator upon request and shall not be nonconforming uses; provided, however that a permit shall be required for enlargement, extension or relocation of any of these existing uses; and

(4) To interpret the provision of this chapter where the street layout actually on the ground varies from the street layout as shown on the zoning district map fixing the several districts, which map is made part of this chapter.

(C) *As administrative officer on appeals; reversing decision of administrative officer.* In exercising the above mentioned powers, the Board of Zoning Appeals may reverse or affirm, wholly or partially, or modify the order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

(D) *Relative to variances.* To hear and decide upon petitions for variances, and, subject to such standards, principals and procedures provided in this resolution, to vary the strict application of the height, area, parking or density requirements to the extent necessary to permit the owners a reasonable use of this land in those specified instances where there are peculiar, exceptional and unusual circumstances in connection with a specific parcel of land, which circumstances are not generally found within the locality or neighborhood concerned. (Ord. No. 129, 6/25/77)

### **§ 11-1203 APPEALS.**

(A) An appeal to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer, department, board or bureau affected by any decision of the Zoning Administrator. Such appeal shall be taken within a reasonable time after the decision appealed from by filing with the Village Zoning Administrator, and with the Board, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon the action appealed from is taken.

(B) *Stay of proceedings on appeal.* An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Zoning Appeals, after the notice of the appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed unless the Board of Zoning Appeals or a court of record grants a restraining order for due cause shown, upon application and with notice to the Zoning Administrator of the applicable municipality.

(C) *Proceedings.*

(1) The Board shall meet at the call of the Chairperson, subject to the receipt of an appeal(s), and shall fix a reasonable time for the hearing of the appeal(s), give public notice thereof as well as due notice to the parties in interest and decide the same within sixty (60) days of the initial advertisement for the public hearing. In exercising its powers the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. The concurring vote of four (4) members shall be necessary to reverse any order, requirement, decision, or determination of an administrative officer or to decide in favor of the appellant on any matter upon which it is required to pass under this chapter or to effect any variance from this chapter.

(2) If due to the absence of one or more members of the Board any proposition put to a vote shall fail to receive four (4) or more votes either for or against, said proposition shall be deemed to have received neither approval nor disapproval. The Board shall keep minutes of its proceedings and other official actions which shall be files in the office of the Board and shall be public records. The Chairperson of the Board, or in his or her absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses.

(D) *Fees.* An appeal requiring advertising for public hearing shall be accompanied by a certified check for \$100 payable to the Municipal Clerk for deposit in the General Fund. (*Ord. No. 129, 6/25/77*)

## **§ 11-1204 VARIANCES.**

(A) No variance shall be authorized by the Board of Zoning Appeals unless it finds:

- (1) That the strict application of this chapter would produce undue hardship;
- (2) That such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
- (3) That 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
- (4) That 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.

(B) No variance shall be authorized except after notice and hearing as required by section 19-904 RS Neb.

(C) No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.

(D) In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to insure the conditions imposed are being and will continue to be complied with.

(E) The provision of a variance shall not be construed as granting the Board of Zoning Appeals the power to rezone property.

(F) *Application for variance.* An application for a variance shall be filed in writing with the Zoning Administrator and shall contain such information as the Board of Zoning Appeals may, by rule, require. *(Ord. No. 129, 6/25/77)*

**§ 11-1205 CERTIORARI TO REVIEW DECISION OF BOARD OF ZONING APPEALS.**

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer or any office, department, board or bureau of the village, may present to the Lancaster County District Court a petition duly verified, specifying the grounds on which aggrieved, within fifteen (15) days after filing of the decision in the office of the Board, in accordance with section 19-912 RS Neb. *(Ord. No. 129, 6/25/77)*

## **ARTICLE 13. DISTRICT CHANGES AND AMENDMENTS**

### **§ 11-1301 AUTHORITY FOR AMENDMENT.**

The Village Board of Trustees may, from time to time, supplement, change, modify or repeal the regulations, requirements, or district boundaries herein established by ordinance or petition of the owner(s) or contract owner(s) of the property proposed for change. (*Ord. No. 129, 6/25/77*)

### **§ 11-1302 APPLICATION FOR AMENDMENT.**

(A) Any application to amend, supplement, modify or repeal any portion of this chapter shall be filed with the Zoning Administrator in such form and accompanied with a fee of one hundred dollars (\$100) payable to the Village of Hallam for deposit in the fund.

(B) No deposit of money shall be required when the action is initiated and recommended by the Village Board of Trustees or the Planning Commission.

(C) Any application for a zoning amendment shall contain specific information setting forth the basis for the granting of the request. Any application must disclose the names and addresses of all persons having legal or equitable interest in the property which is the subject of the amendment, including shareholders owning more than five (5%) percent of the stock in a corporation that has any interest in land involved in the application, excepting those corporations which are listed and regularly traded on a recognized stock exchange.

(D) Upon determination by the Zoning Administrator that the application is complete in accordance with the herein requirements, the application shall be promptly submitted to the Planning Commission for its recommendation and report, such report shall be made within thirty (30) days thereafter. Said report shall contain the findings of the Commission regarding the effect of the proposed amendment, supplement, change, modification, or real upon adjacent property and upon the comprehensive development plan of the village. (*Ord. No. 129, 6/25/77*) (*Amended by Ord. No. 14-17*)

### **§ 11-1303 HEARING ON APPLICATION.**

(A) After the recommendations and report of the Planning Commission have been filed, the Village Board of Trustees, shall, before enacting any proposed amendment, supplement, change, modifications or repeal, hold a public hearing in relation thereto, giving notice of the time and place of such hearing.

(B) If twenty (20%) percent or more of the owners included in such proposed change are opposed to such change, or of those immediately adjacent on the sides and in the rear thereof extending three hundred (300) feet therefrom, and those directly opposite thereto extending three hundred (300) feet from the street frontage of such opposite lots, such change or amendment to this chapter shall not become effective except by the favorable vote of three-fourths (3/4) of all members of the Village Board of Trustees.

(C) In the event the proposed amendment or change is denied by the Village Board of Trustees, no new request shall be made for the same or substantially similar amendment or change within one (1) year of said denial thereof.

(D) *Notice of hearing.* Hearings required under Article 10, 12, and 14 of this chapter shall not be held until notice thereof has been given in compliance with the following provisions.

(1) A notice shall be posted in a conspicuous place on or near the property upon which action is pending. Such notice shall be not less than eighteen (18) inches in height and twenty-four (24) inches in width with a yellow background and black letters one and one-half (1-1/2) inches in height. Such posted notice shall be so placed upon such premises that it is easily visible from the street and shall be so posted at least ten (10) days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice prior to such hearing.

(2) At least ten (10) days before the date of the hearing the Village Board of Trustees shall have published in a daily newspaper having general circulation in the village and Lancaster County, a notice of the time, place and subject matter of such hearing.

(3) All proposals regarding zoning or rezoning shall be submitted by the Village Board of Trustees to the Board of Education within which the district in which the land concerned is located. Said proposals shall be submitted at least ten (10) days prior to the meeting of the Planning Commission and shall notify the Board of Education of the said meeting date.

(4) It shall not be necessary to give further notice of adjourned or continued meetings. (*Ord. No. 129, 6/25/77*)

## **§ 11-1304 RECORD.**

(A) The record in all zoning cases shall include the application, all documents or communications submitted regarding the application, the recorded testimony received at the hearing, any reports or communications to or from any public officials or agency concerning the application, and the final decision of the Village Board of Trustees. The record shall be open to public inspection.

(B) The burden of proof for any zoning change shall be upon the applicant. (*Ord. No. 129, 6/25/77*)

## **ARTICLE 14. FEES AND PENALTIES**

### **§ 11-1401 FEES.**

The Village Board of Trustees may establish by Ordinance a schedule of fees and charges to cover the cost of making inspections, issuing permits, advertising of notices and other expenses incidental to the administration of this chapter or to the filing or processing of any appeal or amendment hereto. (*Ord. No. 129, 6/25/77*)

### **§ 11-1402 PENALTIES.**

(A) Any person, firm or corporation, whether as principal, agent employee or otherwise , violating, causing, or permitting violation of any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction, thereof, may be confined in jail not more than thirty (30) days or shall be fined not less than one hundred dollars (\$100) or, in the discretion of the jury or the court trying the case without a jury, punished by both such fine and imprisonment. Such person , firm or corporation shall be deemed to be guilty of a separate offense for each and every day during which any portion of any of this chapter is committed, continued, or permitted by such person, firm or corporation and shall be punishable as herein provided.

(B) The Village Administrator, Zoning Administrator, or other proper officer of the village may institute any appropriate action or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, repair or conversion of any building or structure, or the unlawful use of land, to restrain, correct or abate such violation, to prevent any illegal act, conduct business or use in or about such premises; in the event that any such action or other named agents shall prevail in any such action, the court may assess against the defendant the costs expended by the plaintiff together with a reasonable attorney's fee. (*Ord. No. 129, 6/25/77*) (*Amended by Ord. No. 14-17*)

