

## ZONING REGULATIONS

### Article 1 ESTABLISHMENT OF DISTRICTS

Section 1.01 District Establishment: Official Zoning Map. The Village and the area within its zoning jurisdiction thereof shall be divided into zones, or districts, as shown on the official zoning map, which is hereby adopted by reference and declared to be a part of this Ordinance. There shall be a map for the area located within the planning jurisdiction of the Village of Homer. The jurisdiction includes the rural and unincorporated areas within one mile of the Village of Homer and the areas within the corporate limits of the Village of Homer.

The Official Zoning Map for the Village of Homer and the extraterritorial area adjacent to and beyond the corporate limits of the Village of Homer, Nebraska, shall be identified by the signature of the chairman of the Village, attested by the village clerk, and bear the seal of the Village under the following words:

"This is to certify that this is the Official Zoning Map of the Village of Homer and the extraterritorial area adjacent to and beyond the corporate limits of the Village of Homer, Nebraska, referred to in Article 1, Section 1-101 of Ordinance No. 364 of the Village of Homer, Nebraska"; together with the date of the adoption of this Ordinance.

If, in accordance with the provisions of this ordinance and Chapter 19, Revised Statutes of Nebraska, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Village Board.

The official zoning map shall be signed by the chairman and attested by the village clerk. No amendment to this ordinance which involves matter portrayed on the Official Zoning Map shall become effective until such change and entry has been made on said map.

No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this ordinance and punishable as provided under Article 9, Section 9.03.

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the village clerk shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the Village and in the extraterritorial adjacent to and beyond the corporate limits.

Section 1.02 District Establishment; Replacement of Official Zoning Map. In the event that the Official Zoning map become damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Village Board may, by resolution, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map shall be identified by the signature of the Board Chairman, attested by the village clerk, and bear the seal of the Village under the following words:

"This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted June 7, 1972, as part of Ordinance No. 163 of the Village of Homer, Nebraska."

Unless the prior Official Zoning Map has been lost or has been totally destroyed, the prior map, or any significant part thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

Section 1.03 District Establishment; Interpretation of District Boundaries. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Maps, the following rules shall apply:

- A. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines;
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- C. Boundaries indicated as approximately following Village limits shall be construed as following such Village limits;
- D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- E. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line, shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines;
- F. Boundaries indicated as parallel to or extensions of features indicated in Subsections A through E above shall be so construed. Distances not specifically indicated on the Official Zoning Maps shall be determined by the scale of the maps;

- G. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Maps, or in other circumstances not covered by Subsections A through F above, the Board of Zoning Adjustment shall interpret the district boundaries;
- H. Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Board of Zoning Adjustment may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

Section 1.04 District Establishment; Application of District Regulations. The regulations set by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

- A. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
- B. No building or other structure shall hereafter be erected or altered:
  - 1. To exceed the height or bulk;
  - 2. To accommodate or house a greater number of families;
  - 3. To occupy a greater percentage of lot area;
  - 4. To have narrower or smaller rear yards, front yards or side yards or other open spaces;
  - 5. To exceed the maximum number of dwelling units per lot area;
  - 6. To provide fewer than the required number of off-street parking and off-street loading spaces; or than herein required; or in any other manner contrary to the provisions of this ordinance.
- C. No part of a yard, or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance, shall be included as a part of a yard, open space or off-street parking or loading space similarly required for any other building.
- D. No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.
- E. All land annexed to the Village of Homer shall retain the same zoning classification as established in the unincorporated area.

- F. Within one hundred and eighty (180) days of the annexation of land to the Village of Homer, zoning shall be established for that land incorporated into the one-mile extraterritorial jurisdiction. Zoning shall be established for said land by the same statutory procedure required for the amendment of the zoning regulations.
- G. Where appropriate County, State or Federal standards are more restrictive than those contained herein, the more restrictive standards shall apply.
- H. The following structures and uses shall be exempt from the provisions of these regulations:
  - 1. Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves, or other similar equipment for the distribution to consumers of telephone or other communications, electric, gas, or water, or the collection of sewage or surface water operated or maintained by a public utility, but not including substations located on or above the surface of the ground.
  - 2. Railroad track, signals, bridges, and similar facilities and equipment located on a railroad right-of-way, and maintenance and repair work on such facilities and equipment.
  - 3. Public signs.

Article 2  
NONCONFORMING USES

Section 2.01 Nonconforming Uses; Intent. Nonconformities are of three types: nonconforming lots of record, nonconforming structures, and nonconforming uses.

- A. Nonconforming Lot of Record: A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of zoning and/or subdivision regulations in the Village, and neither said lot nor parcel complies with the lot width or area requirements for any permitted uses in the district in which it is located.
- B. Nonconforming Structure: An existing structure which does not comply with the lot coverage, height or yard requirements which are applicable to new structures in the zoning district in which it is located.
- C. Nonconforming Use: An existing use of a structure or of land which does not comply with the use regulation applicable to new uses in the zoning district in which it is located.

Section 2.02 Nonconforming Lots of Record. The Zoning Administrator, appointed as such by the Village Board, may issue a Building Permit for any nonconforming lot of record that:

- A. Said lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations, and
- B. Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by any zoning regulations, and
- C. Said lot can meet all yard regulations for the district in which it is located.

Section 2.03 Nonconforming Structures.

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

- B. Enlargement, Repair, Alterations: Any nonconforming structure may be enlarged, maintained, repaired, remodeled, or rebuilt; provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure. Notwithstanding the above, a porch which is covered by a roof which extends into the front setback area may be enclosed but not in excess of the area covered by the existing roof.
  
- C. Damage or Destruction: In the event that any nonconforming structure is damaged or destroyed, by any means, to the extent of more than 60 percent of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of 60 percent or less, no repairs or restoration shall be made unless a building permit is obtained within six months, and restoration is actually begun one year after the date of such partial destruction and is diligently pursued to completion.
  
- D. Moving: No nonconforming structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

#### Section 2.04 Nonconforming Uses.

- A. Authority to Continue: Any lawfully existing nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use or land, may be continued, so long as otherwise lawful.
  
- B. Ordinary Repair and Maintenance:
  - 1. Normal maintenance and incidental repair, or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use.
  
  - 2. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of public official who is charged with protecting the public safety who declares such structure to be unsafe and orders its restoration to a safe condition.
  
- C. Extension: A nonconforming use shall not be extended, expanded, enlarged, or increased in intensity. Such prohibited activities shall include, without being limited to the extension of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of these Regulations

(or on the effective date of subsequent amendments hereto that cause such use to become nonconforming).

- D. Enlargement: No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.
  
- E. Damage or Destruction: In the event that any commercial or industrial structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, no repairs or restoration shall be made unless a building permit is obtained within six months and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion. When a residential structure is damaged to the extent of 60% or more, no repairs or restoration shall be made unless such use is in conformance with these Regulations.
  
- F. Moving: No structure that is devoted in whole or in part to a nonconforming use and no nonconforming use of land shall be moved in whole or in part for any distance whatever, to any location on the same or any other lot, unless the entire structure and the use thereof or the use of land shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.
  
- G. Change in Use: If no external structural alterations are made which will expand the area or change the dimensions of the existing structure, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the Village Board after receiving a recommendation from the Planning Commission, by making findings in the specific case, shall find that the proposed use is more appropriate to the district than the existing nonconforming use. More appropriate shall mean creating less traffic, noise, glare, odor or other characteristics of the proposed use. In permitting such change, the Village Board may require appropriate conditions and safeguards to protect surrounding areas and properties. Once such use has changed, it may no longer be returned to the original use or any other less appropriate use.
  
- H. Abandonment or Discontinuance: When a nonconforming use is discontinued or abandoned, for a period of twelve consecutive months, such use shall not thereafter be re-established or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.
  
- I. Nonconforming Accessory Uses: No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.

- J. Nonconforming Residential Uses: Any structure which is devoted to residential uses which is located in a business or industrial district, may be remodeled, extended, expanded, and enlarged up to forty percent (40%) of the present residential structure, but not rebuilt; provided that after any such remodeling, such structure shall not be used to accommodate a greater number of dwelling or lodging units than such structure accommodated prior to any such work.
- K. The storage of inoperable vehicles, or salvaged or junked materials not in conformance with these regulations and/or Village ordinances shall be discontinued, and said inoperable vehicles or salvaged or junked materials shall be removed within three months after the effective date of the Zoning Regulations.

Section 2.05 Status of Special Permitted or Conditional Uses.

- A. Status of Existing Permitted or Conditional Uses: Where a use exists at the effective or amendment date of these Regulations and is permitted by these Regulations only as a special or conditional use in the zoning district in which it is located, such use shall not be deemed to be a nonconforming use, but shall, without further action, be deemed a lawful conforming use in such zoning district, as provided by prior approval.
- B. Status of Future Special Permitted or Conditional Uses: Any use for which a special or conditional use permit has been issued, as provided in these Regulations, shall not be deemed to be a nonconforming use, but shall, without further action, be deemed lawful conforming use.



Article 3  
SCHEDULE OF DISTRICT REGULATIONS

Section 3.01 Schedule of District Regulations. District regulations shall be set forth in this Section, and in Section 3.02 of this ordinance, entitled "Supplementary District Regulations".

SCHEDULE OF DISTRICT REGULATIONS

1. AG/RES-AGRICULTURAL/RESIDENTIAL DISTRICT

- A. Intent: To preserve lands best suited for agricultural use from encroachment by incompatible uses.
  
- B. Permitted Principal Uses and Structures:
  - 1. Ranch and farm dwellings;
  - 2. Single-family dwellings (on tracts of 5 acres or more);
  - 3. Agricultural uses, excluding intensive feeding facilities;
  - 4. Public parks and recreation areas;
  - 5. Village-owned water treatment plant and sewage disposal plant;
  - 6. Greenhouses and nurseries;
  - 7. Animal clinics, animal hospitals and veterinarian services; and
  - 8. Child care home.
  
- C. Permitted Accessory Uses and Structures:
  - 1. Home occupations in conformance with Article 3, Section 1-302;
  - 2. Roadside stands; and
  - 3. Accessory uses and structures normally appurtenant to the permitted uses and structures when established within the area of the Agricultural District.
  
- D. Permitted Conditional Uses: A building or premises may be used for the following in conformance with the conditions prescribed herein:
  - 1. Utility Substation
    - a. Provide a fence of chain link type bordering the station with a minimum height of 6 feet with a barrier guard to prevent encroachment.

E. Special Permitted Uses (in accordance with Article 6 of this Chapter):

1. Cemeteries, crematories, mausoleum and columbaria;
2. Child care center;
3. Airport;
4. FCC Regulated Wireless Communications and Telecommunications;
5. Commercial recreational facilities;
6. Camping areas;
7. Country club, riding stables;
8. Places of worship such as churches, synagogues and temples;
9. Exploration and extraction of mineral resources;
10. Hospitals, penal institutions, sanitariums;
11. Nursing and care homes;
12. Wind generating systems;
13. Auto wrecking yards, junk yards;
14. Kennels
15. Intensive feeding facilities;
16. Warehousing and storage;
17. Public and private charitable institutions;
18. Pre-schools; and
19. Composting and recycling operations.

F. Prohibited Uses and Structures: All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the AG/RES Agricultural/Residential District.

G. Minimum Area Regulations:

Lot Requirement	5 acres; lots of record, 1 acre or more
Required Front Yard	50' from center of County/Township Road
Required Rear Yard	0' or 25' if adjacent residential district
Required Side Yard	10'
Lot Width	100'

H. Maximum Height of Structures: Thirty-five (35) feet; however, non-residential uses shall have no height limitations.

I. Maximum Dwelling Unit Density of Lot Area: One (1) dwelling unit per one (1) acre of lot area.

J. Parking Regulations: Parking within the AG/RES Agricultural/Residential District shall be in conformance with the provisions of Article 11, Section 11.01 of this ordinance.

- K. Sign Regulations: Signs within the AG/RES Agriculture/Residential District shall be in conformance with the provisions of Article 4, Section 1-403 of this ordinance.

2. R-75 RESIDENTIAL DISTRICT

A. Intent: To provide for medium to high density residential uses and several compatible supporting uses in a stable, pleasant environment which encourages family life.

B. Permitted Principal Uses and Structures:

1. Single family dwellings;
2. Two-family dwellings;
3. Multiple family dwellings
4. Townhouses;
5. Primary and Secondary education;
6. Public parks, buildings and grounds;
7. Golf courses and country clubs, except miniature golf courses and driving ranges not located within a golf course; and
8. Child care home.

No tourist and cabin camps or occupied recreational vehicles shall be permitted or allowed in any area included in said residential district. Mobile homes shall be allowed to be placed on individual lots, but only within the following designated part of said residential district: Blocks 1 and the East half of Block 6, in the Original Town of Homer, and Blocks 1, 2, 3, 4, and 5 of Smith's Addition to the Town of Homer. (Amended by Ord. 515, 6/12/08)

C. Permitted Accessory Uses and Structures:

1. Home occupations in accordance with Article 3, Section 1-302; and
2. Accessory uses and structures normally appurtenant to the permitted uses and structures, when established in conformance within the space limits of the district.

D. Permitted Conditional Uses: A building or premises may be used for the following in conformance with the conditions prescribed herein:

1. Bed and Breakfast Guest Home
  - a. Parking as required in Article 11, Section 11.01.
  - b. Signs as required in Article 4, Section 4.03.
  - c. A maximum of four (4) rooms or suites of rooms are made available for use as transient lodging.
  - d. The remainder of the dwelling shall be used and owned as a residence by the host family, or in lieu thereof, the owner of the premises may provide a non-patron staff person who shall remain on the premises overnight at all times that a room, or rooms, is rented to overnight guests.

For purposes of this provision, transient lodging shall refer to lodging offered to someone who rents an overnight room with breakfast included on a per-day basis for a period of no more than fourteen (14) days in succession.

- e. Annual Bed and Breakfast Operator's Permit is required. Such permit shall be granted by the City Clerk after inspection by the Zoning Administrator certifying that the premises are in compliance with requirements a through d.

2. Tea Room

- a. Parking as required in Article 11, Section 11.01
- b. Signs as required in Article 4, Section 4.03

3. Domestic Shelter

- a. The maximum number of occupants of such facility shall not exceed one (1) person per seven hundred fifty (750) square feet of lot area.

E. Special Permitted Uses (in accordance with Article 6 of this Chapter):

- 1. Nursing and care homes;
- 2. Utility substations;
- 3. Cemetery, crematory, mausoleum and columbaria;
- 4. Medical and other health services;
- 5. Off campus student boarding;
- 6. Telephone exchanges, branch;
- 7. Funeral homes and funeral chapels;
- 8. Communication, telecommunication, and utility equipment;
- 9. College and universities;
- 10. Places of worship such as churches, synagogues, and temples;
- 11. Child care center;
- 12. Wind generating systems; and
- 13. Preschools.

F. Prohibited Uses and Structures: All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the R-75 Residential District.

G. Height and Area Regulations: The maximum height and minimum area regulations shall be as follows:

(a) General requirements:

	Single family	Two family	Townhouse	Other permitted uses
Lot area (sq. ft.)	7,500	3,750/unit	3,750/unit	7,500
Lot width	50'	37.5'	75'	75'
Required front yard	30'	25'	25'	25'
Side yard	7 ½'	5'	10'	5'
Rear yard	25'	35'	35'	5'
Building height	25'	25'	25'	25'

- (b) There shall be a required front yard setback of twenty-five (25) feet on each street side of a double-frontage lot;
- (c) Building on corner lots shall provide a second frontage on the street side of not less than fifteen (15) feet; and provided that the buildable width need not be reduced to less than twenty-eight (28) feet, yards remaining shall be designated side yards each with a minimum of five (5) feet in depth.
- (d) Buildings or structures shall not exceed three (3) stories in height; and
- (e) The side yard setback between individual units of two family dwellings may be reduced to zero if the following conditions are met:
1. A one (1) hour fire rated construction common wall between units starting at the basement level and continuing through to the roofline is maintained.
  2. Covenants are submitted and approved to assure reasonable maintenance and proper and timely replacement of destroyed units and such covenants are filed with the deeds to such lots.

- H. Notwithstanding the above and foregoing requirements, the following regulations shall apply to the R-75 Residential District:

If an existing residential structure located upon any lot or tract as of June 2, 1993, has an existing attached front porch which is enclosed, such porch may be enclosed, although the line of the front of such porch, not including any steps furnishing access to such porch, is less than twenty-five (25') feet from the front line of the lot or tract, or the line of the side of said porch is less than five (5) feet from the side lot line. No structures including wooden patios or decks shall be constructed in designated side yards or front yards in violation of area regulations.

- I. Parking Regulations: Parking within the R-75 Residential District shall be in conformance with the provisions of Article 11, Section 11.01 of this ordinance.
- J. Sign Regulations: Signs within the R-75 Residential District shall be in conformance with the provisions of Article 4, Section 4.03 of this ordinance.

3. R-100 RESIDENTIAL DISTRICT

A. Intent: To provide for low density residential uses and several compatible supporting uses in a stable, pleasant environment which encourages family life.

B. Permitted Principal Uses and Structures:

1. Single family dwellings;
2. Two family dwellings;
3. Townhouses;
4. Primary and Secondary education;
5. Public parks, buildings and grounds;
6. Golf courses and country clubs, except miniature golf courses and driving ranges not located within a golf course; and
7. Child care.

No tourist and cabin camps, occupied recreational vehicles or mobile homes shall be permitted or allowed in any area included in said Residential District.

C. Permitted Accessory Uses and Structures:

1. Home occupations in conformance with Article 3, Section 3.02; and
2. Accessory uses and structures, when established in conformance within the space limits of this district.

D. Permitted Conditional Uses: A building or premises may be used for the following in conformance with the conditions prescribed herein:

1. Bed and Breakfast Guest Home
  - a. Parking as required in Article 11, Section 11.01.
  - b. Signs as required in Article 4, Section 4.03.
  - c. A maximum of four (4) rooms or suites of rooms are made available for use as transient lodging.
  - d. The remainder of the dwelling shall be used and owned as a residence by the host family.
2. Tea Room
  - a. Parking as required in Article 11, Section 11.01
  - b. Signs as required in Article 4, Section 4.03
3. Domestic shelter
  - a. The maximum number of occupants of such facility shall not exceed one (1) person per one thousand (1,000) square feet of lot area.



E. Special Permitted Uses (in accordance with Article 6):

1. Nursing and care homes;
2. Utility substations;
3. Cemetery, crematory, mausoleum and columbaria;
4. Telephone exchanges, branch;
5. Communication, telecommunication, and utility equipment;
6. Colleges and universities;
7. Places of worship such as churches, synagogues and temples;
8. Wind generating systems; and
9. Expansion of conditional use.

F. Prohibited Uses and Structures: All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the R-100 Residential District.

G. Height and Area Regulations: The maximum height and minimum area regulations shall be as follows:

(a) General requirements:

	Single family	Two family	Townhouse	Other permitted uses
Lot area (sq. ft.)	10,000	3,750/unit	3,750/unit	10,000
Lot width	70'	50'	75'	75'
Required front yard	30'	25'	25'	25'
Side yard	10'	7.5'	10'	5'
Rear yard	25'	35'	35'	5'
Building height	35'	35'	35'	35'

(b) There shall be a required front yard setback of twenty-five (25) feet on each street side of a double-frontage lot;

(c) Buildings on corner lots shall provide front yard setbacks of twenty-five (25) feet on both street frontages. The second street frontage front yard setback may be reduced to fifteen (15) feet only if further development cannot occur or that adjoining lots would have a setback greater than fifteen (15) feet; and designate remaining yards as one rear and one side yard;

- (d) Buildings and structures shall not exceed two and one-half stories in height; and
  - (e) The side yard setback between individual units of two-family dwellings may be reduced to zero. If the following conditions are met;
- H. Notwithstanding the above and foregoing requirements, the following regulations shall apply to R-100 Residential District:
- 1. If an existing residential structure located upon any lot or tract, as of September 1, 2002, has an existing attached front porch which is unenclosed, such porch may be enclosed, although the line of the front of such porch, not including any steps furnishing access to such porch, is less than twenty-five (25) feet from the front line of the lot or tract,
- I. Parking Regulations: Parking within the R-100 Residential District shall be in conformance with the provisions of Article 11, Section 11.01 of this ordinance.
- J. Sign Regulations: Signs within the R-100 Residential District shall be in conformance with the provisions of Article 4, Section 4.03 of the ordinance.

#### 4. B BUSINESS DISTRICT

A. Intent: This district is designed to provide for a wide range of retail, office, amusement and service uses normally found in a central business district. Highest density and intensity of use is permitted in this district.

B. Permitted Principal Uses and Structures:

1. Apartments above ground floors;
2. Automobile sales and/or services;
3. Automotive wash facilities;
4. Bakery;
5. Banks, savings and loan associations, credit union and finance companies;
6. Barbershops, beauty parlors and shoeshine shops;
7. Child care homes and centers, in conformance with Article 6, Section 6.03;
8. Commercial recreation facilities (bowling alleys, miniature golf courses and similar uses);
9. Convenience stores;
10. Detached banking facilities;
11. Dry cleaning or laundry establishments;
12. Food service, restaurants and taverns;
13. Food storage lockers;
14. Funeral homes and mortuaries;
15. Garden centers;
16. Laundry, self-service and laundromat;
17. Medical, dental and related health care and personal services, including legal, accounting and like professional services;
18. Post office;
19. Mortuaries;
20. Motels and hotels;
21. Museums and art galleries;
22. Office buildings;
23. Parking lots, parking garages and other off-street parking facilities;
24. Personal and professional services;
25. Photography studios;
26. Private schools, including but not limited to business or commercial schools, dance or music academies, and nursery preschools;
27. Public and private charitable institutions;
28. Public and quasi-public uses of an educational, recreational or religious type including pre-schools, public and parochial elementary schools and junior high schools, high schools; private non-profit schools, churches, parsonages, and other religious institutions; parks and playgrounds;
29. Public uses of an administrative, public service or cultural type including village, county, state or federal administrative centers and courts, libraries, police and fire stations and other public buildings, structures, and facilities;

30. Public utility facilities;
31. Real estate services;
32. Repair services including electrical, radio, television, clock, jewelry;
33. Sales and showrooms, including service facilities and rental of equipment, provided all displays and merchandise are within the enclosure walls of the buildings;
34. Service stations;
35. Single family dwelling;
36. Stores or shops for the sale of goods at retail;
37. Temporary shelter for homeless;
38. Theaters;
39. Mini-warehouse.

C. Permitted Accessory Uses: The following accessory uses and structures shall be permitted.

1. Accessory uses and structures normally appurtenant to permitted uses and structures, when established in conformance within the space limits of the district; and
2. Home occupations in conformance with Article 3, Section 3.02.

D. Permitted Conditional Uses: A building or premises may be used for the following in conformance with the conditions prescribed herein:

1. Single Family Dwelling;
  - a. Provided such dwelling meets maximum height and minimum area regulations in the R-75 Residential District. Mobile homes shall be a permitted conditional use when placed on individual lots, but only within the following designated part of the Business district: Blocks 2, 3, 4 and 5, in the Original Town of Homer. (Amended by Ord. 515, 6/12/08)
2. Two Family Dwelling;
  - a. Provided such dwelling meets maximum height and minimum area regulations in the R-75 Residential District.
3. Multiple Family Dwellings;
  - a. Provided such dwelling meets maximum height and minimum area regulations in the R-75 Residential District.
  - b. Provided a minimum of two off street parking spaces for each unit.

4. Motor vehicle repair service
- a. Provided that all outdoor storage of material and motor vehicles determined by the Zoning Administrator to be a safety hazard or visual blight shall be screened from public view and access from an adjacent arterial streets and all zoning district other than Business or Manufacturing Districts by a solid fence having a minimum height of six (6) feet.

E. Permitted Special Uses (in accordance with Article 6 of this Chapter):

1. Recycling center

F. Prohibited Uses and Structures: All uses and structures which are not specifically permitted as special uses shall be prohibited from the B Business District.

G. Height and Area Regulations: The maximum height and minimum area regulations shall be as follows:

- (a). General requirements:

	Lot Area (sq. ft.)	Lot Width	Required Front Yard	Required Side Yard	Required Rear Yard	Height
Dwelling, single-family	5,000'	50'	25'	5'	25'	35'
Dwelling, two-family	2,500' per family	25' per family	25'	5'0' if party wall	25'	35'
Dwelling, multiple	1,200' per unit	50' per unit	25'	5' or 10' if over 30' in ht.	25'	35'
Apartments above Ground Floor	1,200' per unit	25' per unit	0'	0'	25'	35' including ground floor
Other permitted uses	2,000'	25'	0'	0', 10' when abutting a residential district	25'	35'

H. Screening: All outdoor storage of equipment or merchandise, for a period of seven (7) days or more, other than that on display or sale, shall be screened from street view by a wall or fence at least six (6) but no more than eight (8) feet in height and having a density of at least 80% per square feet.

I. Parking Regulations: Parking within the B Business District shall be in conformance with the provisions of Article 11, Section 11.01 of this ordinance.

J. Sign Regulations: Signs within the B Business District shall be in conformance with the provisions of Article 4, Section 4.03 of this ordinance.

## 5. LM LIGHT MANUFACTURING

A. Intent: The intent of this district is to provide locations for those manufacturing industries and related manufacturing activities in which the finished product is generally produced from semi-finished materials and requires little or no outside material storage. The effect of the production process upon the surrounding areas is normally that of traffic generated by the receipt and delivery of materials and goods and generated by employees. Commercial uses permitted in this district are generally those which serve the convenience of manufacturing establishments and their employees.

### B. Permitted Principal Uses and Structures:

1. Agriculture, excluding the expansion of existing;
2. Animal hospitals;
3. Automotive wash facilities;
4. Bottling works;
5. Building material sales, except for ready-mix concrete plants and similar uses which emit particulate, odor or smoke;
6. Carpenter, cabinet, plumbing or sheet metal shops;
7. Carpet and rug cleaning and repair services;
8. Disinfecting and exterminating services;
9. Dry cleaning, laundering and dyeing services;
10. Dyeing and finishing textiles;
11. Educational and scientific research services;
12. Electrical sales and services;
13. Equipment rental and leasing services;
14. Farm machinery and equipment-retail;
15. Farm supplies-retail;
16. Feeds, grains and hay-retail;
17. Food lockers and storage services;
18. Freight forwarding services;
19. Furniture repair and reupholster services;
20. Fur repair and storage services;
21. Garden centers and nurseries;
22. Gas utility maintenance yard;
23. Light manufacturing operation, provided such use complies with the regulations set forth in Article 4, Section 4.01 of this ordinance;
24. Landscape sales and services;
25. Mobile and modular home sales;
26. Newspaper publishing plants and commercial printing;
27. Photoengraving;
28. Photofinishing services;
29. Public and quasi-public uses of recreational parks and playgrounds
30. Public utility and public service uses;
31. Radios, televisions, phonographs, recorders, tape players and other similar devices repair services;

32. Recycling centers;
33. Service stations;
34. Stores or shops for the sale of industry goods at retail;
35. Communication services;
36. Transportation warehousing;
37. Truck wash services;
38. Veterinarian services;
39. Warehousing and storage except for products of a highly explosive, combustible or volatile nature;
40. Wholesale establishments except those which handle products of a highly explosive, combustible or volatile nature;
41. Mini-warehouse; and
42. Food manufacturing, processing, and cold storage.

C. Permitted Accessory Uses and Structures: Accessory uses normally appurtenant to the permitted principal uses and structures when established in conformance within the space limits of this District.

D. Permitted Conditional Uses: A building or premises may be used for the following in conformance with the conditions prescribed herein:

1. Motor vehicle body shop;
  - a. Provided that all work shall be performed and all materials shall be stored in an enclosed building; and provided further that all operable or inoperable motor vehicles determined by the Zoning Administrator to be a safety hazard or visual blight shall be screened from public view and access by a solid fence having a minimum height of six (6) feet.
  - b. Provided that no more than four (4) wrecked, scrapped, or inoperable motor vehicles be on the premises for parts for sale or reuse at the same time.
2. Motor vehicle repair service;
  - a. Provided that all work shall be performed and all materials shall be stored in an enclosed building; and provided further that all operable or inoperable motor vehicles determined by the Zoning Administrator to be a safety hazard or visual blight shall be screened from public view and access by a solid fence having a minimum height of six (6) feet.
3. Temporary privately held recreation Areas;
4. Automobile sales and services;

E. Special Permitted Uses (in accordance with Article 6, Section 6.03):

1. Expansion of non conforming use
2. Kennels;
3. Mobile homes;
4. Bulk petroleum storage-wholesale;
5. Gravel and sand quarrying;
6. Water storage towers;
7. Preschools;
8. Child care center; and
9. Religious-type uses including churches, parsonages, and other religious institutions.

F. Prohibited Uses and Structures: Uses and structures which are not specifically permitted or not permissible as special use shall be prohibited from the I-1 Light Manufacturing District.

G. Height and Area Regulations: The maximum height and minimum area regulations shall be as follows:

(a). General requirements:

Permitted Uses	Lot Area (Sq. ft.)	Lot Width	Required Front Yard	Required Side Yard	Required Rear Yard	Height	Maximum Lot Coverage
	None	40'	25'	0', 10' when abutting or across an alley from residential district	0', 10'	50'	75%

H. Landscaping/Screening: A solid or semi-solid fence or wall at least six (6) feet, but not more than eight (8) feet high or a ten (10) foot landscape buffer consisting of trees, shrubs and evergreens, shall be provided adjacent to any adjoining residential district; however, in the event the adjacent residential district and the manufacturing district are separated by a street right-of-way, such fence, wall or landscape buffer shall not be required. All fences, walls, or buffers shall be maintained by the owner or owners of this property in the LM District.

I. Parking Regulations: Parking within the LM Light Manufacturing District shall be in conformance with the provisions of Article 11, Section 11.01 of this ordinance.

J. Sign Regulations: Signs within the LM Light Manufacturing District shall be in conformance with the provisions of Article 4, Section 4.03 of this ordinance.

K. Industrial Performance Standards: Physical appearance and environmental performance within the HM Heavy Manufacturing District shall be in conformance with the provisions of Article 4, Section 4.01 of this ordinance.



6. HM, HEAVY MANUFACTURING

A. Intent: The intent of this district is to provide locations for all manufacturing, warehousing and distribution industries. Commercial uses permitted in this district are generally those which serve the convenience of manufacturing establishments and their employees.

B. Permitted Uses and Structures:

1. Alfalfa dehydrating mills;
2. Agriculture, excluding the expansion of existing or development of new feedlots;
3. Animal care and hospitals;
4. Blacksmithing and welding shops;
5. Bottling water;
6. Building materials, storage and sales;
7. Carpenter, cabinet, plumbing and sheetmetal shops;
8. Cold storage plants;
9. Construction sales and services;
10. Disinfecting and exterminating services;
11. Dry cleaning and laundry plants;
12. Dyeing and finishing of textiles;
13. Electrical sales and services;
14. Farm machinery sales, service and storage;
15. Feed and seed stores;
16. Foundries;
17. Freight and truck services;
18. Frozen food lockers;
19. Furniture repair and reupholster services;
20. Fur repair and storage services;
21. Gas and petroleum field services;
22. Gas utility maintenance yard;
23. Harvesting services;
24. Irrigation equipment sales and manufacture;
25. Kennels -boarding and breeding;
26. Landscape sales and services;
27. Machinery sales and storage lots;
28. Manufacturing operation(s), provided such use complies with the regulations set forth in Article 4, Section 4.01;
29. Mobile and modular home sales and manufacturing;
30. Newspaper publishing plants and commercial printing;
31. Outdoor advertising services;
32. Photofinishing and engraving services;
33. Public utility and public service uses;
34. Radios, televisions, phonographs, recorders, tape layers and other similar devices repair services;
35. Recycling centers;

36. Road maintenance yards;
37. Seed cleaning and processing;
38. Service stations;
39. Stores or shops for the sale of manufacturing goods at retail;
40. Storage yards;
41. Communication services;
42. Transportation warehousing;
43. Truck wash services;
44. Veterinarian services;
45. Warehouses or storage houses;
46. Water well, drilling services; and
47. Wholesale sales and services.

C. Permitted Accessory Uses and Structure: Accessory uses normally appurtenant to the permitted principal uses and structures when established in conformance within the space limits of this district.

1. The retail sale of a product produced on the premise when the production is the principal activity on the site.

D. Permitted Conditional Use: A building or premises may be used for the following in conformance with the conditions prescribed herein:

1. Automobile and truck sales and service;
2. Motor vehicle storage yard (excluding salvage operations)
  - a. Provided that all vehicles shall be screened from public view and access from adjacent arterial streets and from all zoning districts other than manufacturing districts by a solid fence having a minimum height of six (6) feet.

E. Special Permitted Uses (in Accordance with Article 6, Section 6.03):

1. Agricultural chemicals manufacturing;
2. Animal rendering;
3. Bulk petroleum storage wholesale;
4. Expansion of nonconforming use;
5. Explosives -manufacturing;
6. Grain elevators;
7. Manufacturing wastes disposals;
8. Livestock -wholesale;
9. Manufacturing, fabricating or processing operations, not elsewhere listed which may be noxious or offensive reason of vibration, noise, dust, fumes, gas, odor or smoke;
10. Meat packing plants;
11. Mobile homes;
12. Petroleum and natural gas refining and processing;

- 13. Preschools;
- 14. Radio and television transmitting stations and tower;
- 15. Refuse incineration;
- 16. Ready mix concrete and asphalt mix plants;
- 17. Solid waste transfer stations;
- 18. Stockyards and slaughter houses;
- 19. Storage of bulk oil, gas and explosives; and
- 20. Child care center.

F. Prohibited Uses and Structures: Uses and structures which are not specifically permitted or not permissible as special use shall be prohibited from the Heavy Manufacturing District.

G. Height and Area Regulations: The maximum height and minimum area regulations shall be as follows:

(a). General requirements:

Permitted Uses	Lot Area (Sq. ft.)	Lot Width	Required Front Yard	Required Side Yard	Required Rear Yard	Height	Maximum Lot Coverage
	None	40'	25'	0", 10'	0', 10'	50'	75%

when abutting or across an alley from residential district

H. Landscaping/Screening: A solid or semi-solid fence or wall at least six (6) feet, but not more than eight (8) feet high or a ten (10) foot landscape buffer consisting of trees, shrubs and evergreens, shall be provided adjacent to any adjoining residential district; however, in the event the adjacent residential district and the manufacturing district are separated by a street right-of-way, such fence, wall or landscape buffer shall not be required. All fences, walls, or buffers shall be maintained by the owner or owners of this property in the HM District.

I. Parking Regulations: Parking within the HM Heavy Manufacturing District shall be in conformance with the provisions of Article 11, Section 11.01 of this ordinance.

J. Sign Regulations: Signs within the HM Heavy Manufacturing District shall be in conformance with the provisions of Article 4, Section 4.03 of this ordinance.

K. Industrial Performance Standards: Physical appearance and environmental performance within the HM Heavy Manufacturing District shall be in conformance with the provisions of Article 4, Section 4.01 of this ordinance.

7. F-1, FLOOD PLAIN DISTRICT

This zoning district is created to be appended to or overlaid on another primary zoning district for the purpose of meeting the needs of the watercourses and drain ways and the conveyance of flood waters in the Village and to minimize the extent of floods and reduce the height and violence thereof; to promote health, safety, and the general welfare of the Village, and to secure safety from floods.

A. Statutory Authorization. Findings of Facts and Purposes

1. Statutory Authorization: The Legislature of the State of Nebraska has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety and general welfare. The Legislature, in Sections 31-1001 to 31-1022, R.R.S. 1943, has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the county, city or village with zoning jurisdiction over the flood-prone area. Therefore, the Village Board of Homer, Nebraska, ordains as follows:

2. Findings of Fact:

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

b. General Causes of the Flood Losses: These flood losses are caused by: (1) the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, (2) the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others, which are inadequately elevated or otherwise unprotected from flood damages.

c. Methods Used to Analyze Flood Hazards: This ordinance uses a reasonable method of analyzing flood hazards, which consists of a series of interrelated steps.

(1) Selection of a regulatory flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood is selected for this ordinance. It is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to

this ordinance. It is in the general order of a flood which could be expected to have a one percent (1%) chance of occurrence in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study, and illustrative materials dated June 18, 1996 as amended, and any future revisions thereto.

- (2) Calculation of water surface profiles based on a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood.
- (3) Computation of the floodway required to convey this flood without increasing flood heights more than 1 foot at any point.
- (4) Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any water surface increase along the floodway profile.
- (5) Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but which still is subject to inundation by the base flood.

3. Statement of Purpose: It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section A.2.a by applying the provisions of this ordinance to:

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

## B. General Provisions

1. Lands to Which Ordinance Applies: This ordinance shall apply to all lands within the jurisdiction of the Village of Homer identified on the Flood Insurance Rate Map (FIRM) dated June 18, 1996, and any revisions

thereto, as numbered and unnumbered A Zones (including AE, AO and AH Zones) and within the Zoning Districts FW and FF established in Section D of this ordinance, or best available data as determined by more recent hydrologic and hydraulic studies completed or approved by the Village or other governmental agency. In all areas covered by this ordinance, no development shall be permitted except upon the issuance of a floodplain permit to develop, granted by the Homer Village Board or its duly designated representative under such safeguards and restrictions as the Village Board or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Sections E, F, and G. (Am. by Ord. No. 525, 4/14/11)

2. The Enforcement Officer: The Zoning Administrator of the community is hereby designated as the community's duly designated Enforcement Officer under this ordinance.
3. Rules for Interpretation of District Boundaries: The boundaries of the floodway and flood fringe overlay districts shall be determined by scaling distances on the official zoning map or on the Flood Insurance Rate Map or Floodway Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Enforcement Officer shall make the necessary interpretation. In such cases where the interpretation is contested, the Dakota County Zoning Board will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his/her case to the Dakota County Zoning Board and to submit his/her own technical evidence, if he/she so desires.
4. Compliance: Within identified special flood hazard areas of this community, no development shall be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.
5. Abrogation and Greater Restrictions: It is not intended by this ordinance to repeal, abrogate or impair any existent easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
6. Interpretation: In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limita-

tion or repeal of any other powers granted by state statutes.

7. Warning and Disclaimer of Liability: The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside floodway and flood fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This ordinance shall not create liability on the part of the Village or any officer or employee thereof for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.
8. Severability: If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.
9. Appeal: Where a request for a permit to develop or a variance is denied by Zoning Administrator the applicant may apply for such permit or variance directly to the Village of Homer Board of Trustees.

C. Development Permit

1. Permit Required: No person, firm or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in Section L.
2. Administration:
  - a. The Zoning Administrator is hereby appointed to administer and implement the provisions of this ordinance.
  - b. Duties of the Zoning Administrator shall include, but not be limited to:
    - (1) Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this ordinance have been satisfied.
    - (2) Review applications for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
    - (3) Notify adjacent communities and the Nebraska Natural

Resources Commission prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
  - (5) Verify, record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures in special flood hazard areas.
  - (6) Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which new or substantially improved structures have been floodproofed.
  - (7) When floodproofing is utilized for a particular structure the Zoning Administrator shall be presented certification from a registered professional engineer or architect.
3. Application for Permit: To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:
- a. Identify and describe the development to be covered by the floodplain development permit.
  - b. Describe the land on which the proposed development is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or development.
  - c. Indicate the use or occupancy for which the proposed development is intended.
  - d. Be accompanied by plans and specifications for proposed construction.
  - e. Be signed by the permittee or his/her authorized agent who may be required to submit evidence to indicate such authority.
  - f. Give such other information as reasonably may be required by the Zoning Administrator.



D. Establishment of Zoning Districts

Along watercourses where a floodway has been established, the mapped floodplain areas are hereby divided into the two following districts: A floodway overlay district (FW) and a flood fringe overlay district (FF) as identified in the Flood Insurance Study [and accompanying map(s)]. Within these districts all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited.

E. Standards for Floodplain Development

1. No permit for development shall be granted for new construction, substantial improvements and other development(s) including the placement of manufactured homes within all numbered and unnumbered A zones (including AE, AO, and AH zones) unless the conditions of this Section are satisfied.
2. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the base flood; however, the water surface elevation was not provided. The unnumbered A zones shall be subject to all development provisions of Section F. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation or floodway data currently available from federal, state or other sources.
3. Until a floodway has been designated, no development or substantial improvement may be permitted within special flood hazard areas unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one (1) foot at any location as shown on the Flood Insurance Study.
4. New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:
  - a. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  - b. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.

- c. Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- d. All utility and sanitary facilities be elevated or floodproofed up to the regulatory flood protection elevation.

5. Storage of Material and Equipment

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

6. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that: (a) all such proposals are consistent with the need to minimize flood damage, (b) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage, (c) adequate drainage is provided so as to reduce exposure to flood hazards, and (d) proposals for development (including proposals for manufactured home parks and subdivision) of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals the base flood elevation.

F. Flood Fringe Overlay District -Including AO and AH Zones:

- 1. Permitted Uses: Any use permitted in Section G shall be permitted in the Flood Fringe Overlay District. No use shall be permitted in the district unless the standards of Section E are met.
- 2. Standards For The Flood Fringe Overlay District:
  - a. Require new construction or substantial improvements of residential structures to have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation.
  - b. Require new construction or substantial improvements of non-residential structures to have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation or,

together with attendant utility and sanitary facilities, to be floodproofed so that below that level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Zoning Administrator as set forth in Section 3.2, B.

- c. Require for all new construction and substantial improvements that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be not higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- d. Within AH zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
- e. Manufactured Homes - All manufactured homes shall be anchored to resist floatation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
  - (1) Over-the-top ties be provided at each of the four comers of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;
  - (2) Frame ties be provided at each comer of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side;

- (3) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
  - (4) Any additions to the manufactured home be similarly anchored.
- f. Require that all manufactured homes to be placed or substantially improved within special flood hazard areas on the community's FIRM on sites:
- (1) Outside of a manufactured home park or subdivision,
  - (2) In a new manufactured home park or subdivision,
  - (3) In an expansion to an existing manufactured home park or subdivision, or
  - (4) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood,

be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above one (1) foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section F.2.e.

- g. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's FIRM that are not subject to the provisions of Section F.2.g be elevated so that either:
- (1) The lowest floor of the manufactured home is at or above one (1) foot above the base flood elevation, or
  - (2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section F.2.e.
- h. Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements

and the elevation and anchoring requirements for "manufactured homes" of this ordinance. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

- i. Located within the areas of special flood hazard established in Section B.1 are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones:
  - (1) All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
  - (2) All new construction and substantial improvements of non-residential structures shall:
    - (a) Have the lowest floor elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
    - (b) Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the official as set forth in Section C.2b(7).
- j. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

G. Floodway Overlay District

- 1. Permitted Uses: Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the Floodway District to

the extent that they are not prohibited by any other ordinance. The following are recommended uses for the Floodway District:

- a. Agricultural uses such as general farming, pasture, nurseries, forestry.
  - b. Residential uses such as lawns, gardens, parking and play areas.
  - c. Non-residential areas such as loading areas, parking and airport landing strips.
  - d. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.
2. Standards for the Floodway Overlay District: New structures for human habitation are prohibited. All encroachments, including fill, new construction, substantial improvements and other development must be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during occurrence of the base flood discharge. These uses are subject to the standards of Section E and F. In Zone A unnumbered, obtain, review and reasonably utilize any flood elevation and floodway data available through Federal, State or other sources or Section E.6(d) of this ordinance, in meeting the standards of this section.

#### H. Variance Procedures

1. The Village of Homer Board of Trustees as established by Village of Homer shall hear and decide appeals and requests for variances from the requirements of this ordinance.
2. The Village of Homer Board of Trustees shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this ordinance.
3. Any person aggrieved by the decision of the Village of Homer Board of Trustees or any taxpayer may appeal such decision to the District Court as provided in Nebraska State Statutes.
4. In passing upon such applications, the Village of Homer Board of Trustees shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:
  - a. The danger that materials may be swept onto other lands to the injury of others;

- b. The danger to life and property due to flooding or erosion damage;
- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- d. The importance of the services provided by the proposed facility to the community;
- e. The necessity to the facility of a waterfront location, where applicable;
- f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- g. The compatibility of the proposed use with existing and anticipated development;
- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (1) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and,
  - (2) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

5. Conditions For Variances:

- a. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (8.52-8.56 below) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- b. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum

necessary to preserve the historic character and design of the structure.

- c. Variances shall not be issued within any designated floodway if any increase in flood levels along the floodway profile during the base flood discharge would result.
- d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- e. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- f. The applicant shall be given a written notice over the signature of a community official that (1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

I. Nonconforming Use

- 1. A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:
- 2. If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the Zoning Administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of 12 months.
- 3. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.



4. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places, provided that the alteration shall not preclude its continued designation.
- J. Penalties for Violation: Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the (local unit) or other appropriate authority from taking such other lawful action as necessary to prevent or remedy any violation.
- K. Amendments: The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the Village of Homer At least 10 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Federal Emergency Management Agency. The regulations of this ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the 1983 Nebraska Flood Plain Management Act.
- L. Definitions: Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application:
- "Appeal" means a request for a review of the Zoning Administrator's interpretation of any provision of this ordinance or a request for a variance.
- "Area of Shallow Flooding" means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly

defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Base Flood" means the flood having one percent chance of being equaled or exceeded in any given year.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

"Existing Construction" means (for the purposes of determining rates) structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. "Existing construction" may also be referred to as "existing structures."

"Existing Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

"Flood Fringe " is that area of the floodplain, outside of the floodway, that on the average is likely to be flooded once every 100 years (i.e., that has a one percent chance of flood occurrence in any one year).

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Flood Insurance Study has delineated the Flood Hazard Boundaries and the zones establishing insurance rates applicable to the community.

"Flood Insurance Study" is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

"Floodplain" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

"Floodway" or "Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.

"Highest Adjacent Grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic Structure" means any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"New Construction" For floodplain management purposes, "new construction" means structures for which the "start of construction commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

"Overlay District" is a district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.

"Principally Above Ground" means that at least 51 percent of the actual cash value of the structure is above ground.

"Recreational Vehicle" means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Special Flood Hazard Area" is the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.

"Start of Construction" [for other than new construction or substantial improvements under the coastal Barrier Resources Act (Pub. L. 97-348)] includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

"Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

"Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"Variance" is a grant of relief to a person from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

### Section 3.02 Supplementary District Regulations

#### A. Accessory Buildings and Uses:

1. Building and structures may be erected and land may be used for purposes which are clearly incidental, subordinate to, and customarily associated with the main permitted use of the same zone lot. Such accessory building and uses shall be so constructed, maintained and conducted as to not product noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthful, or distributing to adjacent property or the users thereof and shall be on the premises of the main use. Such accessory activities shall be controlled in the same manner as the main use except as otherwise expressly provided for hereinafter. The determination of the eligibility of a proposed use as an accessory use shall be made by the Zoning Administrator and appeal can be made from his/her decision as set out in Article 7, Board of Adjustment.
2. No accessory buildings shall be erected in any required front or side yard and no detached accessory building shall be erected closer than five (5) feet to any other building. Accessory buildings may be located in the rear yard but shall not be closer than three (3) feet to the rear lot line and shall not be closer to the side lot line than the required side yard setback of the district, except that if the building has a vehicular alley entrance, the sum of the width of the alley and the setback of that structure shall not be less than the length of the garage plus five (5) feet, or fifteen (15) feet, whichever is greater. The aggregate square feet of any accessory building shall not exceed the square feet of the main floor of the principal structure, or 1200 square feet, whichever is less. The height of any accessory building shall not exceed that of the principal structure, or twenty (20) feet, whichever is less. Accessory buildings larger than 100 square feet must be of conventional construction using the same or similar materials

as used in the principal structure and be built to match or closely resemble the principal structure's exterior finish, roofing materials and pitch. No roll-offs, trailers, vehicles, shipping or storage containers, commercial boxes, pole sheds or similar structures shall be permitted or modified to be used as accessory buildings. (Am. by Ord. Nos. 514, 4/10/08; 523, 8/5/10)

3. An accessory building of one hundred (100) square feet or less in size may be located in the required rear yard and shall not be nearer than two (2) feet to any side or rear lot line not more than 15 feet in height. No accessory building or structure shall be erected across public utilities easements of record.
  4. None of the following shall be permitted as an accessory use:
    - a. Outdoor storage or overnight parking in a residential district of commercial trucks or buses over a one (1) ton manufacturer rated hauling capacity but not including pick-up trucks.
    - b. Outdoor storage, except as specifically permitted in the district regulations.
- B. Erection of More Than One Principal Structure on a Lot: In any nonresidential district, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this ordinance shall be met for each structure as though it were on an individual lot.
- C. Parking, Storage or Use of Major Recreational Equipment: For purposes of these regulations, major recreational equipment is defined as including boars and boat trailers, travel trailer, pick-up campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers and like, and cases or boxes used for transportation of recreational equipment whether occupied by such equipment or not. During the period November 15 to March 1 of each year, no major recreation equipment shall be parked or stored on any lot in a residential district except in a carport or enclosed building or behind the nearest portion of a building to a street, provided, however, that such equipment may be parked anywhere on the residential premises for a period of time not to exceed 72 hours during loading and unloading activities. No such equipment shall be used at any time for living, sleeping or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.
- D. Storage of Goods and Equipment: Goods, equipment, supplies, materials, machinery and parts thereof shall not be stored on any residentially zoned property, except as provided under Section 1.04 and Article 2 of this Chapter, other than in completely enclosed buildings or in spaces screened by solid fencing of at least six (6) but not more than eight (8) feet and/or evergreen shrubbery providing at least an 80% screen and mature height of at least six (6) feet.
- E. Lot Width: The minimum lot width shall be measured at the minimum front yard setback line.

F. Height Regulations:

1. Chimneys, cooling towers, elevator head houses, fire towers, flag poles, grain elevators, monuments, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers and spires, church steeples, radio and television towers, or necessary mechanical appurtenances.

G. Yard Regulations:

1. Front Yards: The front yards heretofore established shall be adjusted in the following cases:
  - a. Where 40% or more of the frontage on one side of a street between two intersecting streets is developed and the buildings on this side of a block have observed a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the average front yard so established by the existing buildings provided that no building shall be required to have a front yard setback of more than 50 feet.
  - b. Where 40% or more of the frontage on one side of a street between two intersecting street is developed with buildings that have a front yard less than the required, new buildings shall not be erected closer to the street than the nearest building on the block.
2. Structural Projections: The ordinary projections of chimneys and flues, buttresses, eaves, overhangs, open-unenclosed steps of stoops up to 5' in height may extend into required yards for a distance of not more than two (2) feet in the required side yard and not more than five (5) feet in the required front yard.

H. Fences: Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of fences:

1. No fence shall be constructed which will constitute a traffic hazard.
2. No fence shall be constructed in such manner or be of such design as to be hazardous or dangerous to persons or animals.
3. No fence in a residential district, except fences erected upon public or parochial school grounds or in public parks and in public playgrounds, shall be constructed of height greater than six (6) feet; except in the required front yard where no fence may be constructed on a height greater than four (4) feet; provided, however, that the Board of Adjustment may, as an exception, authorize the construction of a higher fence if the Board finds the public welfare is preserved. Fences should be constructed of wood, plastic, vinyl or chain link materials. Woven wire, livestock panels, barbed wire or other agricultural-type fences are prohibited. (Amended 4/10/08, Ord. No. 511)

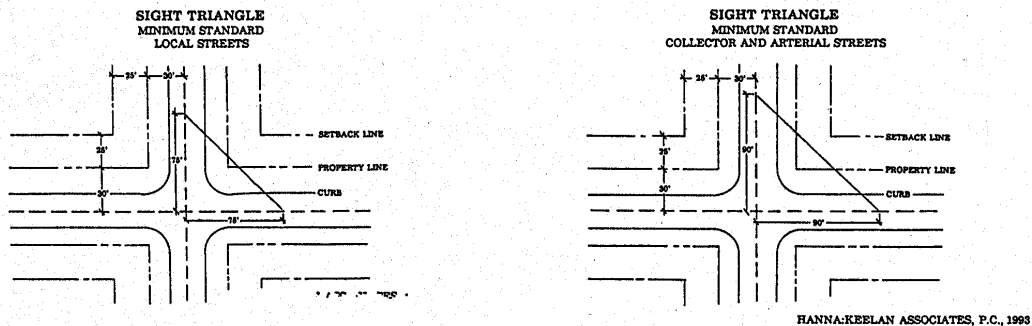
- I. Sight Triangle: On a corner lot in all districts except B Business District, continuous unobstructed sight distance shall be provided for safe traffic operations. No obstruction, including fences, hedges, walls, shrubbery or other manmade or natural obstructions, shall exist between a height of two and one-half (2½) and ten (10) feet within sight triangle. The following diagram depicts a “sight triangle” in which obstructions are prohibited:

Local Streets

[75' from centerline of intersecting street]

Collector and Arterial Streets

[90' from centerline of intersecting streets]



- J. Home Occupation: A home occupation may be carried on within a dwelling unit or accessory building under the following conditions:

1. Restriction and Limitations:
  - a. No person other than members of the family residing on the premises shall be engaged in such occupation.
  - b. The use of the dwelling unit for the one occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. The maximum allowable area that may be utilized in conducting such home occupation shall be equal to 25% of the floor area of the dwelling unit.
  - c. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding three (3) square foot in area, non-illuminated and mounted flat against the wall of the principal building.
  - d. The maximum allowable area that may be utilized in conducting a home occupation in an accessory building shall not exceed 200 square feet.
  - e. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential



neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

- f. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or auditable interference in any radio or television receivers off the premises or causes fluctuation in the line voltage off the premises.
- g. No outdoor storage of material or equipment used in the home occupation shall be permitted.

2. Particular Home Occupations Permitted: Customary home occupations include, but are not limited to, the following list of occupations; provided, however, that each listed occupation is subject to the requirements of paragraph 1:

- a. Art, dancing, and music schools, provided that instruction is limited to five (5) pupils at one time.
- b. Professional offices for architects, engineers, planners, lawyers, accountants, bookkeepers, and similar professions.
- c. Offices for realtors, insurance agents, brokers, sales representatives, and manufacturing representatives when no exchange of tangible goods is made on the premises.
- d. Radio, television, phonograph, recorded, computer, and small appliance repair services.
- e. Home crafts and hobbies such as model making, rug waving, lapidary work, cabinet making, etc.
- f. Tailoring, alterations, and seamstresses.
- g. Saw filing.
- h. Beauty parlor or barber services.

3. Particular Home Occupations Prohibited: Permitted home occupations shall not in any event be deemed to include:

- a. Mortuaries or funeral home.
- b. Restaurants.
- c. Stables or kennels.
- d. Antique shop.
- e. Physicians, dentists or other licensed medical practitioners.
- f. Auto repair.
- g. Small engines/engine repair.

4. Exception Procedure: In the event a home occupation exceeds the restrictions and limitations identified in Section 3.02 J.1 or is an identified prohibited use in Section 3.02 J.3, an applicant may apply for a special use permit in conformance with Article 6 of this chapter.

K. Temporary Uses Permitted:

1. Contractor's Office: Contractor's office and equipment sheds (containing no sleeping or cooking accommodations) accessory to a construction project and to continue only during the duration of such project.
2. Real Estate Office: Real estate offices (containing no sleeping or cooking accommodations unless located in a model dwelling unit) incidental to a new housing development to continue only until the sale or lease of all dwelling units in the development.
3. Seasonal Sales: Seasonal sale of farm produce grown on the premises in an agricultural district. Structures incidental to such sale need not comply with the applicable front yard requirements if the structures are removed or moved back of the required front yard setback line at the end of the season during which they are used.
4. Carnivals and Circuses: A carnival or circus, but only in a nonresidential or in an agricultural district, and then only for a period that does not exceed three (3) weeks. Carnivals and circuses shall be approved by the Village Board. Such use is not required to comply with the front yard requirements, provided that structures or equipment which might block the view of operators of motor vehicles on the public streets shall conform to the requirements of the sight triangle as defined by these regulations.
5. Garage or Yard Sales: The sale of personal items on an infrequent basis at a residential use. Sales shall be limited to no more than three (3) days in anyone month period and no more than three (3) sales per year. Sales shall be conducted on the owner's or renter's property and not on or within the public right-of-way.

Article 4  
SPECIAL STANDARDS

Section 4.01 Industrial Performance Standards. The Industrial Performance Standards indicated shall be considered minimum standards in those districts for which they are specified.

1. Physical Appearance: Storage and similar operations shall be shielded from view from streets and from adjacent properties in another district by means of a sturdy, sight obscuring fence in good repair. All other operations shall be carried on within enclosed buildings, except that new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles for sale or the storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment in operable condition.
2. Fire Hazard: No operation shall involve the use of highly flammable gases, acid, liquids, grinding processes, or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gases when handled in accordance with other ordinances of the Village.
3. Noise: No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise shall be measured at the property line and, when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include categorizations into a reasonable number of frequency ranges. All noises shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness.
4. Sewage and Liquid Wastes: No operation shall be carried on which involves the discharge into a sewer, watercourse or the ground, of liquid wastes of any radioactive nature or liquid wastes of a chemical nature which are detrimental to normal sewage plant operations or corrosive and damaging to sewer pipes and installations.
5. Air Contaminants: There shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public in general or to endanger the comfort, repose, health or safety to any such considerable number of persons or have a natural tendency to cause injury or damage to business, vegetation or property.
6. Odor: The emission of odors that are generally agreed to be obnoxious to any considerable number of persons shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to

classification of odor, it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this ordinance.

7. Glare and Heat: All glare, such as welding arcs and open furnaces, shall be shielded so that they shall not be visible from the lot line. No heat from furnaces or processing equipment shall be sensed at the lot line to the extent of raising the temperature of air or materials more than five (5) degrees Fahrenheit.

Section 4.02 General Requirements, Signs.

1. It shall be unlawful for any person to erect, move, alter, change, repair, place, suspend, or cause or permit to be erected, moved, altered, changed, repaired, placed, suspended or attached any sign in violation of this zoning ordinance and this Article.
2. It shall be unlawful for any person or persons to fasten, paste, place, post, paint or attach in any way any sign, handbill, poster, advertisement or notice of any kind or sort, whether political or otherwise, or to cause the same to be done, in or upon any curbstone, lamp post, telephone, telegraph or electric light pole, tree or bridge. It shall be unlawful to paste, place, paint or attach any sign on any building, street or property of the Village; provided, however, that any property owner or the occupant of any property abutting on any public street in the Village or the Planning Area may paint or stamp the address of such property upon the curbing directly in front of the building or to have same painted thereon.

Section 4.03 District Sign Regulations.

Signs shall be permitted in the various districts as follows:

1. Sign regulations for AG, R-75, R-100:
  - A. Non-illuminated nameplates subject to the following restrictions:
    1. The nameplate shall not exceed two (2) square feet in area;
    2. The nameplate shall show only the name and/or address of the occupant;
    3. There shall be no more than one nameplate for each dwelling unit;
    4. The nameplate shall be affixed to the principal building, flat against the wall.
  - B. In the "R-75" district, multiple family dwellings shall be allowed:
    1. One on-premises wall sign or ground sign, not to exceed six (6) square feet of sign area, non-illuminated and non-reflecting, identifying the name and use of the building; and

2. One on-premises wall sign or ground sign, not to exceed one (1) square foot in sign area, non-illuminated and non-reflecting, identifying the quarters of an on-premises building manager or custodian.
- C. In the R-75 and R-100 districts, bed and breakfast guest homes shall be allowed:
1. Only one sign per establishment;
  2. Sign shall be non-illuminated;
  3. Sign face shall not exceed three (3) square feet;
  4. Sign shall be located no closer than five (5) feet from any property line and shall not obstruct the view of traffic approaching a street intersection nor extend onto public right-of-way;
  5. A wall or projecting sign affixed to a building shall not have the top of said sign project higher than ten (10) feet from grade; and freestanding or pole signs shall not exceed four (4) feet in height from the top of said sign to grade.
- D. Non-illuminated "For Sale" and "For Rent" single- or double-faced business signs shall be subject to the following regulations:
1. Only one sign shall be permitted per lot;
  2. No sign shall exceed four (4) square feet in area, except in the AG district where no sign shall exceed thirty-two (32) square feet in area.
  3. Signs shall be located no closer than five (5) feet from any property line and shall not obstruct the view of traffic approaching a street intersection.
  4. When said sign is affixed to a building, it shall not project higher than ten (10) feet above the ground level.
  5. Ground signs shall not project higher than four (4) feet above ground grade.
- E. Bulletin boards and signs for churches and other public institutions shall be subject to the following regulations:
1. One sign or bulletin board shall be permitted on each street side if located on the same site as the principal building;
  2. If sign or bulletin board is illuminated, the lights shall be directed away from adjoining residential uses;
  3. No sign or bulletin board shall exceed twenty-four (24) square feet in area;
  4. No sign shall be located closer than eight (8) feet from any side or rear property line;
  5. A sign or bulletin board located in the front yard shall be no closer to the street line than one-half the required front yard;

6. A sign or bulletin board, affixed to a building, shall not project higher than ten (10) feet above the ground level;
7. Ground signs shall be permanently anchored to the ground and shall not exceed a height of six (6) feet above normal grade;
8. Buildings constructed on the property line prior to the adoption of this ordinance shall be allowed one identification sign providing said sign is a flat wall sign and permanently attached to the building; and
9. On corner lots, no sign shall be constructed or located that will obstruct the view of traffic approaching the street intersection.

2. Sign regulations for the B Business District:

- A. Where buildings or structures are established or are hereafter established on the property line, in B District, advertising and business signs shall conform with the following requirements, providing they are constructed and maintained in accordance with the building code of the Village.
  1. Signs used to identify individual business shall be monument (ground), wall or projection signs;
  2. Lights on all signs within one hundred fifty (150) feet of a residential district zone shall be so arranged that they will not reflect or shine into the residential area;
  3. Flashing signs shall be allowed only upon approval of the zoning administrator, provided it is first determined that the sign will in no way create a traffic hazard or confusion with traffic lights or with lights on emergency vehicles;
  4. The gross surface area, in square feet, on one side of any side of an advertising or business sign shall not exceed three (3) times the lineal feet of separate frontage of the lot occupied by the building; each side of the lot which abuts upon a street shall be considered as a separate frontage, and the gross surface area of all signs located on each side of a building shall not exceed three (3) times the lineal feet in the separate frontage. The total surface area shall not exceed four hundred (400) square feet for each face of the sign;
  5. Any sign located within three (3) feet of a driveway or parking area or within fifty (50) feet of the intersection of two (2) or more streets shall have the lowest elevations at least ten (10) feet above the curb level; a
  6. A maximum of two signs shall be allowed for each business or profession conducted on the premises.
  7. Plans for all signs shall be submitted to the building official to determine compliance with this regulation and with applicable village ordinances before construction will be permitted.

3. Sign regulations for LM Light Manufacturing and HM Heavy Manufacturing Districts.

- A. No signs shall be allowed in the LM and HM industrial districts except those in conformance with the following:
  - 1. Flashing signs shall be permitted only upon approval of the zoning administrator providing it is first determined that the location and colors will in no way create a traffic hazard or confusion with traffic lights and with lights on emergency vehicles and that the direct rays of the sign will not be directed into any residential district;
  - 2. Non-flashing signs shall be permitted, providing that where the sign is illuminated by a light or lights reflected upon it, direct rays of lights shall not beam upon any residential building, or into any residential district or into any street;
  - 3. Lighted signs in direct vision of a traffic signal shall not be in red, green or amber illumination;
  - 4. The gross surface area, in square feet on one side of any business sign on a lot shall not exceed three (3) times the lineal feet of frontage of the building; each side of a lot which abuts upon a street shall be considered as a separate frontage, and the gross surface area of all signs shall not exceed four hundred (400) square feet;
  - 5. Any sign located within three (3) feet of a driveway or parking area or within fifty (50) feet of the intersection of two (2) or more streets shall have its lowest elevation at least ten (10) feet above curb level;
  - 6. A maximum of two (2) signs other than wall signs shall be allowed for a business or profession conducted on the premises; and
  - 7. No sign shall project over any alley, road, street or highway right-of-way.
  - 8. Plans for all signs shall be submitted to the building official to determine compliance with this regulation and with applicable Village ordinances before construction will be permitted.

4. Billboard Advertising Signs

- A. Billboard advertising signs will be permitted in the B business district, LM light manufacturing district AG agricultural district and the HM heavy manufacturing district if they conform to the following provisions:
  - 1. The owner shall agree, at the time of issuance of the permit, to place and maintain on such billboard the name of the person owning, in charge of or in control of said billboard;
  - 2. No billboard shall be erected, altered, constructed, reconstructed or moved until an application and plans shall have been filed with the zoning administrator and shall have been approved by the zoning administrator as to size, location and construction;

3. Billboards shall not exceed twenty-five (25) feet in height above ground;
  4. The owner, lessee and manager of such billboard and the owner of the sign shall maintain and keep the ground area around the sign clean, sanitary, inoffensive and free and clear of weeds and noxious substances;
  5. No billboard shall project beyond the front, side or rear of building line established for the district as set forth in the zoning ordinance;
  6. No billboard shall exceed five hundred (500) square feet in area (on a single face);
  7. It shall be unlawful to construct or maintain, or cause to be constructed or maintained, any billboard in such a manner as to:
    - a. Obstruct the view of street crossing or railroad crossings.
    - b. Be unable to stand a pressure of a least-forty (40) pounds per square foot of advertising surface.
    - c. Be dangerous to the public by falling or blowing down.
    - d. Increase the danger of loss by fire or to increase fire insurance rates.
    - e. Approach nearer than five (5) feet from any building, unless attached to the building.
  8. Billboards hereafter erected, constructed, reconstructed, altered or moved in the Village and the Planning Area shall be constructed in such a manner and of such material that they shall be safe and substantial;
  9. Billboard supported by the ground shall have all posts set in concrete;
  10. Stacked billboard signs shall be prohibited; and
  11. Billboard signs shall be spaced a minimum of one thousand (1,000) feet along any street frontage.
5. In any zoning district, a subdivision promotion sign for the original sale of lots shall be permitted in conformance with the following requirements:
- A. The original subdivision must include a minimum of five (5) acres;
  - B. Only one non-illuminated sign shall be permitted; and
  - C. The gross square footage of the sign shall not exceed seventy-five (75) square feet in area.
6. In any zoning district, two temporary sign shall be permitted at a construction site to identify the nature of the construction and those persons or firms associated with it, including contractors, architects, finance companies and owners. Such sign shall not exceed sixteen (16) square feet in area when located in residential districts. In any other zoning districts, such signs shall not exceed forty (40) square feet of area, and shall be removed within fifteen days of completion of project.



7. Banners or mobile or temporary signs will be permitted in the B business district if they conform to the following provisions:
  - A. The sign must only identify special sales and/or openings;
  - B. The sign must be located on the premises of the commercial establishments for no more than sixty (60) days in any calendar year;
  - C. The gross square footage of the sign shall not exceed sixty (60) square feet in area;
  - D. The sign shall not exceed ten (10) feet in height; and
  
8. Non-illuminated "For Sale" and "For Rent" signs shall be permitted in the B, LM, and HM districts if they conform to the following provisions: Only one sign; shall be permitted per lot or structure;
  - A. No sign shall exceed thirty-two (32) square feet in area;
  - B. Signs shall be located no closer than five (5) feet from any property line and shall not obstruct the view of traffic approaching a street intersection;
  - C. When said sign is affixed to a building, it shall not project higher than ten (10) feet above ground level; and
  - D. Ground signs shall not project higher than four (4) feet above ground grade.

#### Section 4.04 Permits and Fees Required.

1. A permit shall be required for the erection, construction or alteration of any sign in the Village and the Planning Area.
2. Application for permits by other than the property owner shall be accompanied, in each instance, by either a letter authorizing the placement of a sign on the land or building, signed by the owner or his/her duly authorized agent, or accompanied by a lease showing the right of the applicant. Such application shall conform to the regulations herein provided and no signboard shall be erected or painted on any area until the application is acted upon and granted.
3. A fee shall be determined by resolution of the Village Board.
4. If a sign for which a permit is granted is not erected within sixty (60) days from the date of the permit, the permit shall, unless renewed, become void.
5. Advertising painted or placed on a structure shall be deemed subject to these regulations if permanent.
6. All signs shall be constructed, located and placed in accordance with local ordinances and the laws of the State of Nebraska.
7. Permits are issued for the life of the sign so long as it is kept in good condition, and changing conditions do not make it a hazard or undesirable to adjoining property owners. In such case, the Village may direct its removal.
8. For sale signs and garage sale signs, as indicated in Section 4.03.I.D. and Section 4.03.10, shall be excluded from permit and fee requirements.

Section 4.05 Nonconforming Sign.

The lawful use of land for advertising, business signs or bulletin boards which are not installed or maintained in accordance with this article and other Village, County, State and Federal requirements pertaining to construction, location and size which existed prior to the effective date of this ordinance, shall be removed within fifteen (15) days after the sign becomes obsolete due to construction deterioration or when the advertised business, service or event ceases operation.

Section 4.06 Removal of Signs.

All signs be removed within ninety (90) days when a business ceases operation. This includes advertising, sandwich, business, billboard, pole, temporary, and mobile signs. Signs located on vacant buildings shall be removed by the property owner or his authorized agent within ninety (90) days after said premises are vacated.

Article 5  
ADMINISTRATION AND ENFORCEMENT

Section 5.01 Administration and Enforcement; Generally. A Zoning Administrator designated by the Village Board shall administer and enforce this ordinance. The Zoning Administrator may be provided with the assistance of such other persons as the chairman and Board may direct.

If the Zoning Administrator shall find that any of the provisions of this ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of this violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

Section 5.02 Schedule of Filing Fees. Until all application fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

- A. All fees and charges shall be determined by resolution of the Village Board and shall accompany each application for filing an appeal or request to the Board of Adjustment, rezoning and special use permits.
- B. Special Use Permits. For the purpose of wholly or partially defraying the cost of special use permit hearings, including publication costs, mailing of notices, etc., the applicant, upon filing of the application shall pay to the Zoning Administrator a fee determined by the Village Board. Promptly upon the filing of any such application, the Zoning Administrator shall refer the application to the Planning Commission for study and recommendation, and shall report to the Village Board concerning the nature of the application and that said application has been referred to the Planning Commission.

Section 5.03 Occupancy Permits. No structure or addition thereto constructed, built, moved, remodeled or reconstructed after the effective date of these regulations shall, be occupied or used for any purpose; and no land vacant on the effective date of these regulations shall be used for any purpose; and no use of land or structure shall be changed to any other use, unless an occupancy permit shall first have been obtained from the Zoning Administrator certifying that the proposed use of occupancy complies with all the provisions of these Zoning Regulations.

- A. Application for Occupancy. Every application for a building permit shall be deemed to be an application for an occupancy permit. Every application for an occupancy permit for a new or changed use of land or structures where no building permit is required shall be filed with the Zoning Administrator and be in such form and contain such information as the Zoning Administrator shall provide by general rule.
- B. Issuance of Occupancy Permit. No occupancy permit for a structure or addition thereto constructed, built, moved, remodeled or reconstructed after the effective

date of these regulations shall be issued until such work has been completed and the premises inspected and certified by the Zoning Administrator to be in full and complete compliance with the Plans and Specifications upon which the building permit was issued. No occupancy permit for a new use of any structure or land shall be issued until the premises have been inspected and certified by the Zoning Administrator to be in full and complete compliance with all the applicable regulations for the zoning district in which it is located. Pending the issuance of a permanent occupancy permit, a temporary occupancy permit may be issued to be valid for a period not to exceed six (6) months from its date pending the completion of any addition or during partial occupancy of the premises. An occupancy permit shall be issued, or written notice shall be given to the applicant stating the reasons why a permit cannot be issued, within ten (10) days after the receipt of any application therefore, or after the Zoning Administrator is notified in writing that the structure or premises are ready for occupancy.

Article 6  
SPECIAL USES

Section 6.01 Special Uses; Purposes. The Village Board of the Village of Homer may authorize by special permit after public hearing, any of the following buildings or uses designated in this ordinance as special permitted uses.

Section 6.02 Special Uses: Procedure. The applicant for a special use permit shall submit at least four (4) copies of a site plan for the proposed use. The site plan shall show the location of all existing and proposed buildings, landscaping, parking areas and individual spaces, points of egress and ingress, fencing, lot dimensions, adjoining streets and structures, and all water courses and flood designated areas. Upon receipt of such application, the Zoning Administrator shall forward the application to the Planning Commission for its recommendation. Upon hearing, the Planning Commission shall forward its recommendation to the Village Board as soon as is practicable. Upon hearing, the Village Board may allow or deny the application in whole or in part, or prescribe conditions for such use of the property. No special use permit shall become effective until after separate public hearings are held by both the Planning Commission and the Village Board in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the purpose, time and place of such hearing shall be given by publication thereof in a paper of general circulation. (Ref. 19-904 R S. Neb.).

In addition to the publication of the notice herein prescribed, a notice of the purpose, time and place of the hearing shall be posted in a conspicuous place on or near the property on which such action is pending. The notice shall be placed at least ten (10) days prior to the date of each hearing. If the record title owners of any lots included in such proposed change be nonresidents of the municipality, then a written notice of such hearing shall be mailed by certified mail to them addressed to their last known address at least ten (10) days prior to such hearing. (Ref. 19-905 R.S. Neb.).

Section 6.03 Special Permitted Uses; Standards.

- A. The Village Board and the Planning Commission in considering an application for a special use may consider, among other things, the most appropriate use of the land; the conservation and stabilization of the value of property; adequate open space for light and air; concentration of population; congestion of public streets; and the promotion of public safety, health, convenience and comfort. The Village Board, upon recommendation of the Planning Commission, may stipulate and require such conditions and restrictions upon the special use and operation deemed necessary for the protection of the public interest and to secure compliance with this ordinance.

The special permitted uses shall conform to the intent and purpose of this ordinance and the following requirements:

1. The use shall in all other respects conform to the applicable regulations of the district in which it is located.

2. The use shall conform to all other applicable ordinances, laws, and regulations of any governmental jurisdiction.
  3. The use shall have adequate water, sewer and drainage facilities approved by the Village Board.
  4. The use shall not interfere with permitted agricultural uses in the surrounding area.
  5. The use shall be in harmony with the character of the area and the most appropriate use of the land.
- B. In case of protest against such special use permit, signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the side and in the rear thereof extending three hundred (300) feet therefrom, and of those directly opposite thereto extending three hundred (300) feet from the street frontage of such opposite lots, such special use permit shall not become effective except by the favorable vote of three-fourths of all members of the Village Board. (Ref. 19-905 R.S. Neb.).
- C. Special conditions shall be required for the following uses:
1. Child Care Center/Pre-Schools:
    - a. The application shall be accompanied by the following information:
      - (1) Number and ages of children to be cared for at facility;
      - (2) Number of full-time and part-time staff members;
      - (3) Physical description and layout of facility, including proposed improvements and alterations to existing facility; parking spaces, loading and unloading area(s), proposed traffic flow including ingress and egress, fence, play area and floor plan.
    - b. Shall provide at least one hundred (100) square feet of open space per child. This open space shall be one hundred percent (100%) enclosed by a solid fence or wall at least four (4) feet, but not more than six (6) high, and having a density of not less than eighty percent (80%) per square foot. Open space/play area shall be readily accessible to the main facility, free from hazards and set away from main street.
    - c. Shall provide the parking and loading spaces as required in Article 12, Section 12.01.

- d. Shall conform with all requirements of the State of Nebraska and shall acquire a State of Nebraska day care center license or a State of Nebraska preschool license.
- e. The use of mobile homes for such facility is prohibited.

2. Public/Private Swimming Pools:

- a. Shall be located at least ten (10) feet from the nearest property line.
- b. Shall be walled or fenced as to prevent uncontrolled access by children from the street or any adjacent property.
- c. Shall be screened by a solid or semi-solid wall or fence at least six (6) feet, and having a density of not less than eighty percent (80%) per square foot, where the property on which the pool is located abuts a residential district.
- d. Shall conform to the National Electric Safety Code and all applicable Village Codes.

3. Kennels (breeding and boarding):

- a. The minimum lot size shall be not less than two (2) acres.
- b. No kennel buildings or runs shall be located nearer than seventy-five (75) feet to any property line.
- c. All kennel runs or open areas shall be screened around such areas or at the property lines to prevent the distraction or excitement of the dogs. Such screening may be mature, dense deciduous foliage (double row), solid masonry, brick, or stone wall, louvered wood, stockade, or chain-link fence with aluminum strip intertwined, or other equivalent fencing, providing a sight barrier to the dogs.

5. Funeral, Mortuary or Crematory Services:

- a. Shall be located on a collector or arterial street as shown in the Comprehensive Plan.

Article 7  
BOARD OF ADJUSTMENT

Section 7.01 Board of Adjustment; Establishment. The Village of Homer Board of Trustees shall serve as the Zoning Board of Adjustments for the Village of Homer.

Section 7.02 Board of Adjustment; Proceedings. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this ordinance. Meetings shall be held at the call of the chairperson and at such other times as the Board may determine. The chairperson or, in his/her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact and shall keep records of its examination and other official actions, all of which shall be immediately filed in the office of the Board and shall be of public record.

Section 7.03 Board of Adjustment; Hearing Appeals, Notice. Appeals to the Board of Adjustment may be taken by any person aggrieved, or by any officer, department, board or bureau of the Village affected by any decision of the Zoning Administrator. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and, with the Board of Adjustment, a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

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

Section 7.04 Board of Adjustment; Stay of Proceedings. An appeal stays all proceedings in the furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and due cause shown.

Section 7.05 Board of Adjustment; Powers. The Board of Adjustment shall have only the following powers:

- A. Administrative Review: To hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by any Zoning Administrator or agency based on or made in the enforcement of this ordinance or any regulation relating to the location or soundness of structures.



- B. Interpretation; Special Questions: To hear and decide, in accordance with the provisions of this ordinance, requests for interpretation of any map, requirement, or provision of the Homer Zoning ordinance.
- C. Variances; Conditions Governing Applications; Procedures: Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of this ordinance, or by reason of exceptional topographical conditions or other extraordinary and exceptional situations or conditions of such piece of property, the strict practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this ordinance.

No such variance shall be authorized by the Board unless it finds that:

1. The strict application of this ordinance would produce undue hardship;
2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
3. 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;
4. The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice;
5. Such hardship does not result from the actions of the owner of such property;
6. The granting of such variance will not confer on the owner of such property any special privilege that is denied by this ordinance to other lands, structures or buildings in the same district.

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 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 ordinance.

No non-conforming use of neighboring land, structures or buildings in the same district and no permitted or non-conforming use of lands, structures or buildings in other districts shall be considered grounds for issuance of a variance.

A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:

1. A written application for a variance is submitted indicating the terms of this ordinance under which the variance is sought, stating the ground on which it is requested, and the specific variance requested;
2. Notice shall be given at least ten (10) days in advance of public hearing. The owner of the property for which variance is sought or his agent shall be notified by mail. Notice of such hearing shall be posted on the property for which variance is sought, at the Village Hall and in one other public place, at least ten (10) days prior to the public hearing;
3. The public hearing shall be held. Any party may appear in person, or by agent or attorney;
4. The Board of Adjustment shall make a finding that the reasons set forth in the application justify the granting of the variance under the terms of this ordinance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure; and
5. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 9.03 of this ordinance.

Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved or any use expressly or by implication prohibited by the terms of this ordinance in said district.

In exercising the above-mentioned powers, the Board may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end, shall have all the powers of the officer from whom the appeal is taken.

The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance or to effect any variation in the application of this ordinance.

Section 7.06 Board of Adjustment; Appeals From. Any persons or persons, or any board, taxpayer, department, board or bureau of the Village aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the State and particularly by Chapter 119, Revised Statutes of Nebraska within fifteen (15) days of the filing of the decision of the Board.

Section 7.07 Board of Adjustment; Appeals; Duties of Municipal Officials. It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator and recourse from the decision of the Board of Adjustment shall be to the courts as provided by law and particularly by Chapter 19, Revised Statutes of Nebraska.

Article 8  
AMENDMENTS

Section 8.01 Amendments. The regulations, restrictions and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed; provided, however, that no such action may be taken until the proposed amendment has been referred to the Planning Commission for its study and recommendation, after public hearing, and the Village Board has held a public hearing thereon.

An amendment may be initiated by the Village Board, by a motion of the Planning Commission or when involving a map change, by a written petition of any property owner addressed to the Village Board. The Village Board shall act on such petitions within ninety (90) days of receipt.

All proposed amendments (except those initiated by the Planning Commission) shall be submitted to the Planning Commission for study and recommendation. The Planning Commission shall study the proposals to determine:

- A. The need and justification for the change;
- B. When pertaining to a change in the district classification of property, the effect of the change, if any, on the property and on surrounding properties;
- C. When pertaining to a change in the district classification of property, the amount of undeveloped land in the general area and in the Village having the same district classification as requested; and
- D. The relationship of the proposed amendment to the purposes of the general planning program, with appropriate consideration as to whether the proposed change will further the purpose of this ordinance and the Comprehensive Plan.

Within forty-five (45) days from the date that any proposed amendment is referred to it (unless a longer period shall have been established by mutual agreement between the Village Board and the Planning Commission) the Planning Commission shall make their recommendation which shall be advisory only and shall not be binding on the Village Board. If the Planning Commission does not submit its report within the prescribed time, the Village Board may proceed to act on the amendment without further awaiting the recommendations of the Planning Commission.

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

In addition to the publication of the notice therein prescribed, a notice shall be posted in a conspicuous place on or near the property on which action is pending. Such notice shall not be less than eighteen (18) inches in height and twenty-four (24) inches in width with a white or yellow background and black letters not less than 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 nearest the same and shall be so posted at least ten (10) days prior to the date of such hearing. It shall be

unlawful for anyone to remove, mutilate, destroy or change such posted notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor. If the record title owner of any lots included in such proposed change be non-residents of the Village, then a written notice of such hearing shall be mailed by certified mail to them addressed to their last known addresses at least ten (10) days prior to such hearing. In addition, the owners or occupants of the real estate to be zoned or rezoned and all real estate located within three hundred (300) feet of the real estate to be zoned or rezoned shall be mailed a written notice thereof at least ten (10) days prior to the date of the hearing. The provisions of the Section in reference to notice shall be mailed to such owners or occupants addressed to their last known addresses at least ten (10) days prior to such hearing. The provisions of this Section in reference to notice shall not apply (1) in the event of a proposed change in such regulations, restrictions or boundaries throughout the entire area of an existing zoning district or of such municipality; or (2) in the event additional or different types of zoning districts are proposed, whether or not such additional different districts are made applicable to areas, or parts of areas, already within a zoning district of the Village, but only the requirements of Section 19-904 of the Revised Statutes of Nebraska shall be applicable.

In case of protest against such change, signed by the owners of twenty percent (20%) or more of the area of the lots included in such proposed change, or of those immediately adjacent on the sides and in the rear thereof extending three hundred (300) feet therefrom, and of those directly opposite thereto extending three hundred (300) feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of three-fourths (3/4) of all members of the Village Board.

Prior to submitting a recommendation for a change of these regulations, the Village Planning Commission shall hold a public hearing. Notice of the time and place of such hearing shall be given by publication thereof in a paper of general circulation in the Village at least one time ten (10) days prior to such hearing.

#### Section 8.02 Zoning District Classification.

- A. Zoning District Classification. Applicants should first discuss the proposed use of the property with the Zoning Administrator to ensure that the proper zoning district classification can be established.
- B. Petition for Zoning Change. Applicants shall complete a petition for zoning change and file it with the Zoning Administrator prior to the Planning Commission meeting. The petition must be signed by the owner of the property, contain the reason for rezoning, the legal description of the property to be rezoned, a plat or drawing, and the current and requested zoning district classifications.
- C. Filing fee. A non-refundable filing fee of \$250.00 for existing subdivisions and a \$350.00 fee for unplatted tracts shall be paid at the time the petition is filed.
- D. Public Hearings Required. Upon receipt of a completed application and filing fee, the Zoning Administrator shall place the matter on the agendas of the Planning Commission and the Village Board for public hearings and inform the applicant

of the time, place and date of said meetings. It is recommended that the applicant or a representative shall attend all meetings to answer any questions that may arise. Notice of said public hearings shall be given as required in Section 8.01 of the Municipal Zoning Ordinances.

- E. Planning Commission Recommendation. The Planning Commission shall study and review the proposed amendment to determine:
1. The need and justification for the change;
  2. The effect of the change, if any, on the property and on surrounding properties;
  3. The amount of the undeveloped land in the general area and in the Village having the same district classification as requested; and
  4. The relationship of the proposed amendment to the purposes of the general planning program, with appropriate consideration as to whether the proposed change will further the purpose of the Zoning Ordinances of the Village and the Comprehensive Plan.

Within 45 days from the date that any proposed amendment is referred to it (unless a longer period shall have been established) by mutual agreement between the Village Board and the Planning Commission, the Planning Commission shall make its recommendation to the Village Board to adopt or deny the requested change. Said recommendation shall be advisory only and shall not be binding on the Village Board. If the Planning Commission does not submit its report within the prescribed time, the Village Board may proceed to act on the amendment without further awaiting the recommendations of the Planning Commission.

- F. Village Board Decision. The Village Board shall review and study the written recommendation of the Planning Commission. The Board may adopt the proposed change, deny the proposed change, or send the matter back to the Planning Commission for further review. If the Board denies the request, the Board shall submit a written denial to the applicant and Planning Commission that states the reason for the denial. The Board shall act on such petition within 90 days of receipt.

- G. Protest. In the case of protest against such change, signed by the owners of 20% or more of the area of the lots included in such proposed change, or of those immediately adjacent on the sides and in the rear thereof extending 300 feet therefrom, and of those directly opposite thereto extending 300 feet from the street frontage of such opposite lots, such amendments shall not become effective except by favorable vote of 3/4 of all members of the Village Board.

(Added June 8, 2006, Ord. No. 500)

## Article 9 VIOLATIONS

Section 9.01 Violations; Ordinance Declared to be Minimum Requirements. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals or general welfare. Wherever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive, or that imposing the higher standards, shall govern.

Section 9.02 Violations; Complaints Regarding Violations. Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. He/she shall record properly such complaint, immediately investigate and take action thereon as provided by this ordinance.

Section 9.03 Violations; Penalties. Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined as determined by the Village Board for any one offense, recoverable with cost or by imprisonment in the county jail for a term not to exceed thirty (30) days. Each day such violation continues after notice of violation is given to the offender may be considered a separate offense.

The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this ordinance or other regulations, the Board may institute any appropriate action or proceedings to prevent such lawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

Section 9.04 Violations; Separability; Clause. Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

Article 10  
DEFINITIONS

Section 10.01 Definitions. For the purposes of this ordinance, certain terms or words used herein shall be interpreted as; follows:

The word "structure" shall include the word "building".

The word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

The word "shall" is mandatory; the word "may" is permissive.

The words "used" or "occupied" include the words "intended," "designed," or "arranged to be used or occupied".

The word "lot" includes the words "plot" or "parcel".

The word "he" shall mean "he," "she" or "they."

The *Standard Land Use Coding Manual* of the U.S. Department of Housing and Urban Development was used for guidance in the terminology and classification of communication and utility uses, cultural, entertainment and recreational uses, educational services, medical services and trade and service uses, in formulating these groups as defined herein. The same publication should be consulted for assistance should questions of interpretation arise.

ABUTTING: Abutting shall mean adjacent or contiguous and shall include property separated by an alley.

ACCESSORY BUILDING: The term "Accessory Building" shall mean a separate subordinate building the use of which is incidental to that of the main building.

ACCESSORY USE: An accessory use is one which is incidental to the main use of the premises.

AGRICULTURE: Agriculture shall mean the use of land for the purpose of raising and harvesting crops; or for the raising, breeding, or management of livestock poultry, or honeybees; or for dairying, truck gardening, forestry, nurseries, or orchards; or for the non-commercial on-farm storage or processing of agriculture products; or for other similar agricultural horticultural, or agricultural, excluding:

- A. Commercial feed lots.
- B. Feeding or holding of more than three hundred (300) animals in an area having a density of more than six (6) animals per acre.



C. Livestock sales or auction yards.

ALLEY: Alley shall mean a public or private thoroughfare which affords only a secondary means of access to property abutting thereon.

ANIMAL HOSPITAL OR CLINIC: An establishment where animals are admitted principally for examination, treatment, board or care by a doctor of veterinary medicine. This does not include open kennels or runs.

APARTMENT: See multiple dwelling unit.

ATM: Automatic Telling Machine used for the dispensing of currency or used for banking transactions.

BASEMENT: Basement shall mean that portion of a building between floor and ceiling which is partly below and partly above grade but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling. A basement shall be counted as a story if less than 1/2 of its depth is below grade.

BED AND BREAKFAST GUEST HOME: A dwelling in which no more than four (4) rooms or suites are made available for use as transient lodging. The remainder of the dwelling is used solely as a principal residence of the host family who shall be owners of the dwelling, or in lieu thereof, is staffed by a non-patron staff person provided by the owner who remains on the premises overnight at all times that a room, or rooms, is rented to overnight guests. Breakfast is the only meal served and it is served only to overnight guests.

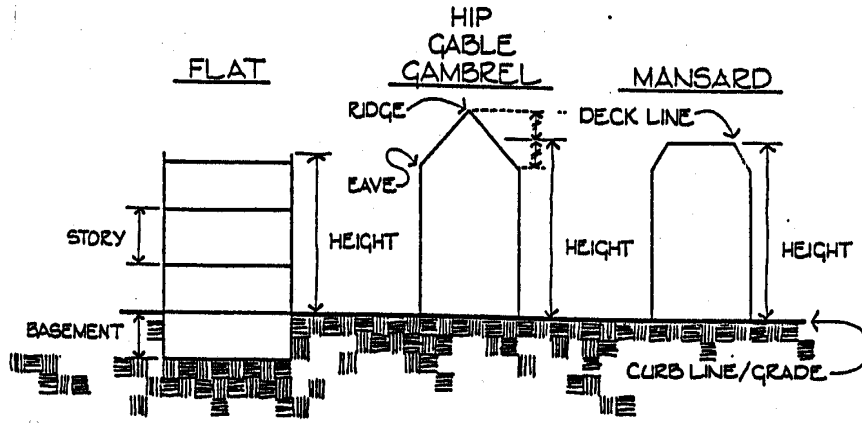
BILLBOARD: An outdoor advertisement sign which directs attention to a business commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the premises where such sign is located or to which it is affixed.

BOARDING, ROOMING OR LODGING HOUSE: A building other than a hotel or motel where, for compensation and by prearrangement for definite periods, meals, or lodging, and meals are provided for three (3) or more persons.

BOARD OF ADJUSTMENT: The legally appointed municipal board empowered to hear and decide appeals from, and to provide interpretations of, the terms of the zoning ordinance and official map as defined within this ordinance and in accordance with the laws of the State of Nebraska.

BUILDING: Any structure designed or intended for the enclosure, shelter or protection of persons, animals or property. When a structure is separated by a division wall without openings, each portion shall be deemed a separate building.

**BUILDING HEIGHT:** The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of a flat roof, to the deck line of a mansard roof, and to the average height between the plate and ridge of a gable, hip or gambrel roof.



**BUILDING LINE:** The term "building line" means a line parallel or nearly parallel, to either the street line or the lot line not abutting the street and at specified distance from the street or lot line which marks the minimum distance from either line that a building may be erected. In the case of cul-de-sac the building line shall be measured around the curvature of the street line.

**BUILDING, PRINCIPAL:** A non-accessory building in which is conducted a principal use of the zoning lot on which it is located.

**BUSINESS:** The word "business" or the word "commerce" shall mean the engaging in the purchase, sale, barter or exchange of good, wares or merchandise; and the maintenance or operation of offices or recreational or amusement enterprises.

**CAMPSITE:** Campsite shall mean a parcel of land intended for temporary occupancy by any of the following: tent; tent trailer; or recreational vehicle.

**CARPORT:** The term "carport" shall mean a roofed structure or part of a structure open on at least two sides and used for the shelter of private vehicles. (Amended 4/10/08, Ord. No. 510)

**CELLAR:** Cellar shall mean that portion of a building between floor and ceiling which is wholly or partly below grade and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling.

**CHILD CARE CENTER:** A facility which is or should be licensed by the Nebraska Department of Social Services under the authority of Sections 71-1908 through 71-1918, Revised Statutes of Nebraska, as provided and defined under the Title 474 of the Nebraska Administrative Code, Chapter 6, Section 002.

CHILD CARE HOME: A private home providing care (for children) for compensation which is or should be licensed by the Nebraska Department of Social Services.

CLINIC, MEDICAL, DENTAL OR HEALTH: Any building designed for use by one or more persons lawfully engaged in the diagnosis, care and treatment of physical or mental diseases or ailments of human beings; including, but not limited to, doctors of medicine, dentists, chiropractors, osteopaths, optometrists, psychiatrists, and podiatrist, and in which no patients are lodged overnight.

CLUB: Club shall mean a building or facility owned or operated by persons associated for social, educational, or recreational purpose, not operated primarily for profit nor to render a service which is customarily carried on as a business, and which is generally restricted to members and their guests using the facility for the purpose for which they have associated; this shall not include a church building, or the occasional accessory use of a private residence as a meeting place.

CLUSTER HOUSING DEVELOPMENT: The term "cluster housing development" means a housing development comprising a group of tracts of real estate the areas of which are not required to comply individually within minimum lot area requirements, and which, for the purpose of compliance with minimum area requirements, may include the areas of common areas. Residential structures in such a development may have common walls, but the term does not include multi-story apartment type developments. Shall be limited to P.U.D.'s.

CONDITIONAL USE: A use which is allowed in a zone when specified conditions have been complied with as identified for each district as a conditional use. A conditional use permit is reviewed and issued by the zoning administrator.

COUNTRY CLUB: This shall include golf courses, par 3 golf courses, swimming pools, tennis clubs and neighborhood clubhouses. Sleeping facilities other than quarters for one caretaker or manager and his family shall be prohibited. Clubs operated solely as restaurants, cocktail lounges, card rooms, taverns, bowling alleys, pool and billiard parlors and similar activities normally carried on as a business shall be excluded from the definition of a country club.

COURT: The word "court" shall mean an open, unoccupied space, bounded on two (2) or more sides by the walls of the building. An inner court is a court entirely within the exterior walls of a building or walls and side lot line; all other courts are outer courts.

DISTRICT: A section or sections of the board and the one (1) mile area for which the regulations governing the use of buildings and premises, the height of buildings, the size of yards and the intensity of use are uniform.

DOG: Any canine species over six (6) months of age.

DOMESTIC SHELTER: Domestic shelter shall mean a temporary shelter for individuals affected by domestic violence. Such use shall be operated by a public or non-profit entity and may provide temporary boarding, lodging, counseling and support services.

DRIVE-IN ESTABLISHMENT: Any establishment such as: restaurant, financial institution or product vending enterprise where the patron does not enter and remain within a building during the transaction of his business. Food vending establishments where the food is not normally consumed within a building, or where numerous facilities are provided for eating outside a building, shall be included in this definition.

DWELLING: Dwelling shall mean any building or portion thereof which is designed and used for residential purposes.

EARTH STATION OR DISH ANTENNA: Earth station shall mean a combination of 1) antenna or dish antenna whose purpose is to receive communication or other signals from orbiting satellites and other extraterrestrial sources; 2) a low-noise amplifier (LNA) which is situated at the focal point of the receiving component and whose purpose is to carry the signals into the interior of the building.

ENCLOSED COMMERCIAL RECREATIONAL FACILITIES: Enclosed commercial recreational facilities shall mean facilities which are enclosed in a building and used for physical fitness and athletic activities including but not limited to: golf, racquetball, tennis and other court games, fitness centers, bowling, skating or swimming.

FAMILY: One or more persons, related or unrelated, living together as a single housekeeping unit with or without domestic servants, caregivers, foster children and supervisory personnel in a group living arrangement. The term "family" shall not include occupancy of a residence by persons living in fraternities, sororities, clubs or transient or permanent commercial residential facilities catering to the general public. Also excluded are nursing and convalescent homes.

FENCE, SOLID: Solid fence shall mean a fence of wood, metal or masonry construction which is designed to obstruct the public view. Such fence may utilize materials having openings or perforations for decorative or functional purposes, but such openings or perforations shall not exceed fifteen (15) percent of the total external face area, or be so arranged as to permit an unobstructed public view at any point.

FLOOD PLAIN: Flood Plain shall mean those lands which are subject to a one percent (1%) or greater chance of flooding in any given year.

FLOOR AREA: Floor Area shall mean the total number of square feet of floor space within the outside of the exterior walls of a building not including cellars, basements and garages.

GARAGE PRIVATE: An accessory building or portion of a main building designed or used for the storage of not more than four (4) vehicles owned and used by the occupants of the building to which it is accessory.

GARAGE, PUBLIC: A building or portion thereof, other than a private or storage garage, designed or used for equipping, repairing, hiring, servicing, selling or storage of vehicles.

GARDEN CENTER: Garden center shall mean a building or premises used primarily for the retail sale of items useful in the culture, display, or decoration of lawns, gardens, or indoor

plants; including books, appliances and tools, but not including power tools or tractors.

**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 street;
- C. For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent the exterior walls of the building.

Any wall approximately parallel to and not more than five (5) feet from a street line is considered as adjoining the street and where no sidewalk exists, the sidewalk grade shall be established by the chairman.

**GREENHOUSE:** A building or premises used for growing plants, preparation of floral arrangements for off-site delivery to customers, cold storage of flowers or dry storage of materials used for agricultural or horticultural purposes, provided no retail sales shall be conducted on such premises.

**HEALTH CARE FACILITIES:** A building or structure licensed or approved by the State or an appropriate agency; if required, used as any of the following:

- (a) Hospital.
- (b) Convalescent or nursing home.
- (c) A facility in which sixteen (16) or more people reside while receiving therapy, counseling, or rehabilitation for physical, emotional, or mental disease or disability.
- (d) A facility for outpatient physical, occupational or vocational therapy or rehabilitation.
- (e) Public health clinics and facilities.
- (f) Ambulatory surgical care center which does not allow for overnight stay by patients.

**HOME OCCUPATION:** A business, occupation or profession carried on within a residential dwelling or an accessory building by the resident thereof, which is incidental and secondary to the residential occupancy and does not change the residential character thereof. The regulations pertaining to home occupations are included in Section 3.02.J of this ordinance.

**HOTEL:** Any building containing six or more guest rooms intended or designed to be used or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests, with provisions for individual bath facilities for each guest room and no provisions made for cooking in any individual room.

INTENSIVE LIVESTOCK FACILITIES/OPERATIONS: Shall mean the confinement of horses and food animals in building lots, pens, pools, or ponds or ponds which normally are not used for raising crops or grazing animals. Facilities/operations shall mean a lot, or portion of a lot, used for the enclosing and feeding of livestock for markets.

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

KENNEL: Any building or buildings or land designed or arranged for the care of four or more dogs.

LAUNDRY: An establishment where commercial laundry and dry cleaning work is undertaken.

LAUNDRY, SELF-SERVICE: An establishment equipped with and its primary use is to provide individual coin-operated washing, drying and/or dry-cleaning machines.

LOT MEASUREMENTS:

- A. Lot, Depth of: The mean horizontal distance between the front and rear lot lines.
- B. Lot Width: The width of a lot measured at the building line and at right angles to its depth.
- C. Lot Minimum Area: The minimum square footage of land area occupied, or to be occupied by a single principal building and accessory buildings as applicable to designated zoning districts.

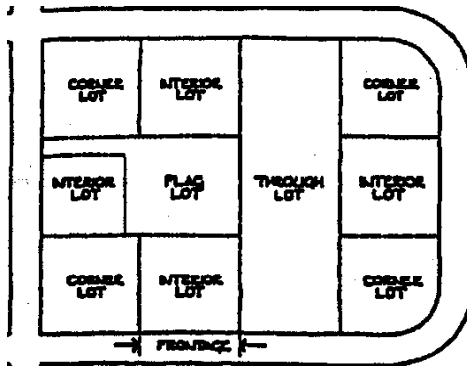
LOT PLATTED: Platted lot shall mean a lot which is part of a subdivision the plat of which, or the appropriate permit for which, has been legally approved and recorded in the office of the Register of Deeds for Dakota County.

LOT OF RECORD: A lot which is both part of a subdivision recorded in the office of the Register of Deeds for Dakota County, and having been owned separately and individually from adjoining lots or tracts of land prior to June 2, 1993.

LOT, CORNER: A lot abutting upon two (2) or more streets at their intersection.

LOT, INTERIOR: A lot other than a corner lot which has frontage on one street only.

LOT, THROUGH: A lot other than a corner lot fronting on more than one (1) street.



MANUFACTURE: Any method of processing, developing, fabricating, assembling, either raw materials, semi-finished materials or parts into a semi-finished product.

MANUFACTURED HOME: Mobile home shall mean any single family permanent living quarters, designed and built to be towed on its own chassis. Each mobile home shall be at least eight (8) feet in width and forty (40) feet in length.

MINI-WAREHOUSE: A storage facility designed to serve families and small businesses on a fee basis.

MOBILE HOME: Mobile home shall mean any single family permanent living quarters, designed and built to be towed on its own chassis. Each mobile home shall be at least eight (8) feet in width and forty (40) feet in length.

MOBILE HOME PARK: A tract of land not less than two (2) acres which has been developed, subdivided, planned and improved for the placement of mobile homes for non-transient use, but shall not include mobile home sales lots for display inspection sales or storage.

MODULAR HOME: A dwelling structure designed to be transported after fabrication and located as a permanent addition to, and becoming part of, the real property. Such a structure must meet Board building requirements, have UBC Certification Seal and set on a permanent foundation and connected to public utilities.

MULTIPLE DWELLING UNIT: A building or portion thereof used for occupancy by three or more families living independently of each other and containing three or more dwelling units.

OCCUPANCY: The term "occupancy" means the actual possession or use of a building, structure, lot or tract of land.

OUTDOOR ADVERTISING BUSINESS: The provision of outdoor displays or display space on a lease or rental basis only, and in conformity with the outdoor advertising standards.

PARKING LOT: Parking lot shall mean an area consisting of six or more parking spaces for the storage of motor vehicles, together with a driveway connecting the parking area with a street or alley and permitting ingress and egress, provided that there shall be no storage of vehicles for the purpose of sale or resale.

PARKING SPACE: Parking space shall mean 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.

PORCH, UNENCLOSED: A roofed or unroofed open structure projecting from the front, side or rear wall of a building, and having no enclosed features or glass, wood, or other material more than thirty inches (30") above the floor thereof, except wire screening and the necessary columns to support the roof.

PUBLIC UTILITY: Any business which furnishes the general public telephone service, telegraph services, electricity, natural gas or water, and any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the state.

PRE-SCHOOL: An establishment, other than a public or parochial school, which provides regular day care with specific educational curriculum for unrelated pre-school age children.

PREMISES: A tract of land, consisting of one platted lot or irregular tract, or more than one platted lot or irregular tract, provided such lots or tracts are under common ownership and contiguous.

PROFESSIONAL OFFICE: Any building or part thereof used by one or more persons engaged in the practice of law, medicine, accounting, architecture, engineering or other occupation customarily considered as a profession.

RECREATIONAL VEHICLE: A vehicular unit not exceeding forty (40) feet in overall length, eight (8) feet in width, or twelve (12) feet in overall height, primarily designed as temporary living quarters for recreational camping or travel use having either its own motive power or designed to be mounted on or drawn by an automotive vehicle. Recreational vehicle include motor home, truck camper, travel trailer, camping trailer and fifth wheel. This definition shall include a boat mounted on a trailer, together not exceeding forty (40) feet in body length, eight (8) feet in width, or twelve (12) feet in overall height.

RECYCLING CENTER: A facility which accepts salvage material limited to paper, aluminum foil, containers made of glass, plastic, metal, aluminum, paper, and similar household wastes; no hazardous material as defined by state and federal law is accepted; there is no wrecking or dismantling of salvage material and no salvage material is held outside a building.

SANITARY LANDFILL: A lot or parcel of land used primarily for the disposal, abandonment, dumping, burial or burning of garage, sewage, trash, refuse, junk, discarded machinery or motor vehicles, or parts thereof, or other waste, and which is in conformance with the requirements of the Nebraska Department of Health.



**SCHOOL:** A public or parochial or private facility which is under direction and control of the State, includes elementary, secondary education. A college, university or incorporated academy providing general academic instruction equivalent to the standards prescribed by the State Board of Education. Dormitories, fraternity houses, sorority houses and other student housing which are constructed on campus shall be considered accessory buildings.

**SERVICE STATION:** Any building or premises used for the dispensing or sale of automobile fuels, lubricating oils or grease, tires, batteries or minor automobile accessories. Services offered may include the installation of tires, batteries greasing or washing of individual automobiles. Automobile service stations shall not include premises offering major automobile repairs, automobile wrecking, or automobile sales. In connection with automobile service stations, fuels offered for sale shall be stored only in underground tanks located wholly within the lot lines.

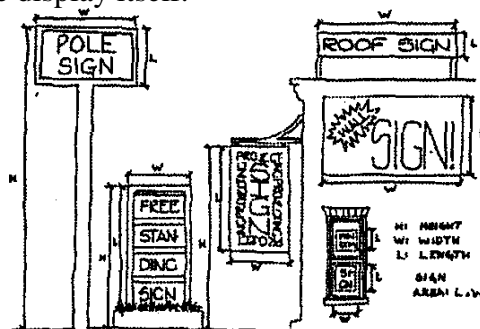
**SERVICE STATION/LIMITED REPAIRS:** Limited automobile repair facility shall mean any building or premises which provides for the retail sale and installation of mufflers, shocks, transmission, oil, tires, batteries, and other parts and accessories for motor vehicles and for certain motor vehicle services, including washing, tire changing (repair service), battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting of automotive parts, provided, however, that no rebuilding of engines, spray paint operations, or body or fender repair shall be permitted.

**SETBACK LINE:** "Setback line" means a line, as shown on a recorded plat or otherwise established by the Village Board, beyond which no part of a main exterior wall of a building or structure may project.

**SETBACK LINE, SIDE:** "Setback line, side" means the setback at the side of the lot.

**SETBACK LINE, REAR:** "Setback line, rear" means the setback line at the rear of the lot.

**SIGNS:** Any device designed to inform or attract the attention of persons not on the premises on which the sign is located. The area of a sign face (which is so the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.



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

**STABLE, PUBLIC:** A stable with a capacity for more than four (4) horses.

**STABLE, PRIVATE:** A stable that houses only the property owner's own horses and no boarding of other than owner's horse(s) is allowed.

**STORY:** Story shall mean that portion(s) of a building including between the upper surface of any floor and the upper surface of the floor next above, except that the top-most story shall be that portion of the building included between the upper surface of the topmost floor and the ceiling or roof above. If finished floor level directly above a basement, cellar, or unused under floor space is more than six (6) feet above grade for more than fifty (50) percent of the total perimeter or is more than twelve (12) feet above grade at any point, such basement, cellar, or unused under-floor space shall be considered as a story.

**STREET:** Street shall mean a public or private thoroughfare, including avenues, which affords principal means of access to abutting property.

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

**STRUCTURAL ALTERATION:** Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders, or any complete rebuilding of the roof or the exterior walls.

**STRUCTURE:** Structure shall mean anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground.

**SUBDIVISION:** The division of a tract of land into two or more lots or parcels for the purpose of transfer of ownership or building development, or if a new street is involved, any division of a parcel of land. The term subdivision includes resubdivision and shall include any further subdivision of a lot or parcel of land previously subdivided for sale, use or other purpose.

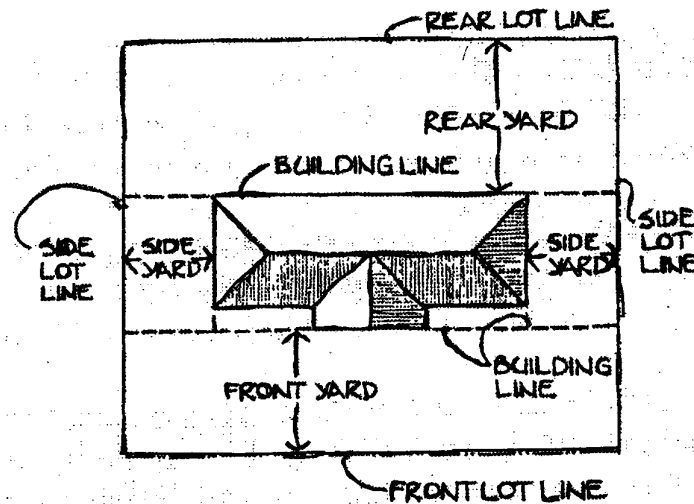
**TEA ROOM:** Often located in a house, therefore it is often located in a residential area. A house or residence lends a certain ambiance important to a tea room setting. The fare can be lunches and/or dinners. Menu items will be light and will not be the regular fare of hamburgers, hot dogs and french fries often served in restaurants or cafes. Menu items tend to be limited - such as two to four selections of soup, salad, entree, dessert or any combination of the above. Beverages to be served may include tea, coffee, soft drinks, wine, beer and alcoholic beverages. Complete menus and menu items tend to change often.

TOWNHOUSE: Townhouse shall mean one of a group or row of not less than three (3) or more than twelve (12) attached, single family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately. For the purpose of the side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

YARD, FRONT: The front yard shall extend across the front of a lot between side lot lines. There shall be a required front yard on each street side of a corner lot. Through lots shall require frontages on both streets.

YARD, REAR: A yard extending across the rear of the lot between side lot lines.

YARD, SIDE: A yard extending between the front yard line and rear yard line.



ZONING ADMINISTRATOR: The person or persons designated by the Village Board to administer this zoning ordinance. Until said designation is made by the Board, the chairman of the Board shall serve as Zoning Administrator.

ZONING DISTRICT: The term "zoning district" means an area delineated on a zoning map for which uniform use regulations are specified.

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

OFFICIAL ZONING MAP

Article 11  
OFF-STREET PARKING AND LOADING

Section 11.01 Off-Street Parking and Loading; Requirements. The following off-street parking requirements and spaces are hereby established and required for all new construction for which building permits are required for new structures located inside of the Village of Homer, Nebraska. Such requirements shall be and constitute the minimum off-street parking or loading requirements and shall not prevent the Village Board from requiring additional parking spaces for new structures if the minimum off-street parking requirements are insufficient to provide adequate parking of vehicles.

Uses and Structures	Minimum Off-Street Parking Requirements (Applicable in all zoning districts to the uses or structure indicated)	Minimum Off-Street Loading Requirements (Applicable in all districts to the uses or structures indicated)
Residential Structures (including mobile home dwellings and multiple-family dwellings)	2 spaces per single-family dwelling unit; 1.5 spaces for multiple-family dwellings per dwelling unit	None required
Mobile Home Park	2 spaces per dwelling unit	None required
Lodging and Boarding Houses	1 space per each rental unit	None required
Nursery and Primary Educational Services	Parking spaces equal to 20% of capacity of students	2 spaces per structure
All other Educational Services	Parking spaces equal to 40% of capacity of students	2 spaces per structure
Libraries	1 space per 500 sq. ft. of floor area	1 space per structure
Hospitals	1 space per 2 beds	3 spaces per structure
Medical Clinics	5 spaces per staff doctor or dentist	None required

Uses and Structures	Minimum Off-Street Parking Requirements (Applicable in all zoning districts to the uses or <u>structure indicated</u> )	Minimum Off-Street Loading Requirements (Applicable in all districts to the uses or structures indicated)
Veterinary Establishments	3 spaces per staff doctor	Non required
Sanitariums, Convalescent and Rest Home Services	1 space per 3 beds plus 1 space per employee	1 space per establishment
Funeral Homes and Chapels	8 spaces per reposeing room	2 spaces per establishment
Churches, Synagogues And Temples	1 space per 4 seats in main unit of worship	Non required
Private Clubs and Lodges	1 space per 3 seats	1 space per establishment
Hotels	1 space per each rental unit	1 space per establishment
Motels	1 space per each rental unit	None required
Retail Sales Establishments	1 space per 200 sq. ft. of gross floor area	1 space per establishment
Service Establishment (including office buildings)	1 space per 200 sq. ft. of gross floor area	1 space per establishment
Eating and Drinking Places	Parking spaces equal to 30% of capacity in person	2 spaces per establishment
Theaters, Auditoriums And Places of Assembly	1 space per 3 people in designed capacity	1 space per establishment
Bowling Alleys	4 spaces per alley	

Uses and Structures	Minimum Off-Street Parking Requirements (Applicable in all zoning districts to the uses or <u>structure indicated</u> )	Minimum Off-Street Loading Requirements (Applicable in all districts to the uses or structures indicated)
Roadside Stands	4 spaces per establishment	None required
Wholesaling and Distribution Operations	1 space per 2 employees on largest shift	2 spaces per establishment
Uses permitted by virtue of complying with the industrial performance standards	1 space per 2 employees on largest shift	2 spaces per establishment
Bed and Breakfast Guest Home	1 space per rental guest room	None required
Child Care Centers	1 space per employee	1 space per 10 children
Domestic Shelters	1 space for every 4 residents plus 1 space per 2 employees	None required

General Conditions. The following general conditions shall apply, except as otherwise noted in this Chapter.

- A. Parking spaces are permitted in the required front and rear yards in all districts.
- B. No parking space is permitted in the required side yard.
- C. Any parking requirement resulting in a partial parking space shall be rounded up to the next whole number.

Section 11.02 Off-Street Parking and Loading; Building Permits. No building permit for new structures shall be granted unless the minimum parking and minimum loading requirements as set forth in Section 11.01 of this ordinance are met and provided for in the plan or plans and specifications for the construction of the structure for which the building permit is applied. The Board may require additional parking and loading space requirements if the minimum parking and loading requirements set forth are insufficient for the structure for which the building permit is applied for and may require that the plan or plans and specifications for each new structure provide for such additional off-street parking or loading requirements in addition to the minimum off-street parking and loading requirements set forth in Section 11.01 of this

ordinance. All parking spaces shall be at least 19 feet by 8 feet 6 inches in size and be provided adequate driveways.

Section 11.03 Off-street Parking; On Streets. Where the site of any new construction of any structure for which a building permit has been applied for is located on any street of the platted width of not less than eighty (80) feet and the site of the structure to be built borders or adjoins such street, the Board may permit off-street parking between curb or outside ditch line and the sidewalk or property line, provided such street is not an arterial or collector street as designated in the Comprehensive Plan, and such parking is not located in the sight triangle as defined by these regulations. In granting such permit, the Board may specify such requirements as to the construction of such off-street parking as in its determination, will provide an adequate and proper off-street parking facility.

Section 11.04 Off-Street Parking; Multiple-Dwelling Units. Multiple-dwelling units containing four (4) family units or more, constructed within any zoned district, shall be required to provide minimum off-street parking of one and one-half (1-1/2) spaces for each dwelling unit, whether located inside or outside the fire limits of the Village. A minimum of one (1) accessible stall of parking per dwelling unit shall be located on the owner's property. The Board may require additional parking requirements if insufficient for the structure for which the building permit is applied.

Section 11.05 Parking Lots: Parking lots consisting of twelve (12) or more parking spaces located in any zoning district except for nonpermanent lots that are allowed for no more than a period of two years, and lots for the purpose of sale, resale or servicing of vehicles shall be constructed in accordance with the following requirements:

- A. Design Standards: All parking lots authorized by this chapter shall be constructed pursuant to and in conformance with the design standards adopted by the Village and on file with the village clerk.
- B. Entrances and exits: The location and design of all entrances and exits shall be subject to the approval of the Village.
- C. Lighting: If lighting is used to illuminate parking lots, it shall be so arranged as to reflect lighting away from the adjacent properties and public street.
- D. Signs: Only one sign, not to exceed three (3) square feet in area and not located on public right-of-way, is permitted at each entrance and/or exit designating that entrance or exit and may state conditions of use of the parking lot. No other signs except as otherwise permitted in the zoning district shall be permitted except for signs for parking spaces for the handicapped.



E. Waiver of surfacing requirement: Upon application to the Village Board, the owner of a parking lot may be relieved of the surfacing requirements of his/her section if the Board finds:

- (1) The parking lot is (a) to be used in conjunction with nonprofit, religious, educational or philanthropic institution; (b) in excess of the parking required by the provisions of this ordinance and not paid parking; or used for employee parking and located wholly livithin an industrial district; and
- (2) Alternative materials or techniques shall be utilized which provide reasonable control of dust, runoffs and safe circulation; and
- (3) (a) The location of the parking lot is a sufficient distance from surrounding uses that it will not adversely affect the surrounding uses or (b) The frequency of use of the parking lot is so low that compliance with the surfacing requirement would cause undue hardship upon the owner as compared with minimal impact upon surrounding uses.

Article 12  
TOWERS AND WIND TURBINES

Section 12.01 Towers and Wind Turbines; Intent. Based on the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act), grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunications services. This selection is intended to regulate towers, telecommunications facilities, satellite dishes and antennas in the Village in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunications services. Telecommunications facilities, towers and antennas in the Village, to protect residential areas and land uses from potential adverse impact of installation of towers and antennas through careful design, siting, and camouflaging, to promote and encourage shared use / collection of towers and other antenna support structures rather than the construction of additional single use towers, to avoid potential damage to property caused by towers, telecommunications facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed when no longer used or are determined to be structurally unsound and to ensure that towers and antennas are compatible with surrounding land uses.

Section 12.02 Towers and Wind Turbines; Definitions. All terms in this Section which are not specifically defined herein shall be constructed in accordance with the Communications Act of 1934, the Telecommunications Act of 1996 and the Rules and Regulations of the Federal Communications Commission (FCC). As used in this Section, the following terms shall have the following meanings:

1. Antenna: A device, designed and intended for transmitting or receiving television, radio, or microwave signals, direct satellite service (including direct-to-home service), and/or video programming services via multi-point distribution services.
2. Antenna Support Structure: Any building or structure other than a tower which can be used for location of telecommunications facilities.
3. Application: A process by which the owner of a tract of land within the zoning jurisdiction of the Village submits a request to develop, construct, modify, or operate a tower upon such tract of land. The term application includes all written documentation, verbal statements, and representations, in whatever formal forum, made by an applicant to the Village concerning such request.
4. Conforming Commercial Earth Station: A satellite dish which is two meters or less in the diameter and is located in an area where commercial or industrial uses are generally permitted under this regulation.
5. Engineer: Any engineer qualified and licensed by any state or territory of the United States of America.
6. Owner: Any person with a fee simple title or a leasehold exceeding ten (10) years in duration to any tract of land within the zoning jurisdiction of the Village who desires to develop, construct, modify or operate a tower upon such tract of land.

7. Person: Any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or non-profit.
8. Satellite Dish Antenna: An antenna consisting of a radiation element intended for transmitting or receiving television, radio, microwave, or radiation signals and supported by structure with or without a reflective component to the radiating dish, usually circular in shape.
9. Stealth: Any telecommunications facility, tower, or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements and towers designed to look other than a tower, such as light poles, power poles and trees.
10. Telecommunication Facilities: Any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:
  - a. Any Conforming Commercial Earth Station antenna two (2) meters or less in diameter which is located on real estate zoned AG, AR, B, RR or RC.
  - b. Any earth station antenna or satellite dish antenna of one (1) meter or less in diameter, regardless of zoning applicable to the location of the antenna.
11. Tower: A self-supporting lattice, guyed, or monopole structure that supports Telecommunications Facilities. The term tower shall not include non-commercial amateur radio operators' equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively.
12. Tower Owner: Any person with an ownership interest of any nature in a proposed or existing tower following the issuance of a Conditional Use Permit.

### Section 12.03 Towers and Wind Turbines; Towers and Antenna Support Structures

#### A. Location of Towers and Construction Standards are as follows:

1. Towers shall be permitted conditional uses of land in only those zoning districts where specifically listed or authorized in this regulation.
2. No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the Village prior to approval of its application for a Conditional Use Permit by the Village Board and issuance of the permit by the Village. Applicants shall submit their application for a Conditional Use Permit to the Zoning Administrator.
3. All towers, telecommunications facilities and antennas on which construction has commenced within the zoning jurisdiction of the Village after the effective date of this regulation shall conform to the Building Codes and all other construction standards set forth by the Village, federal, and state law and applicable American National Standards

Institute (ANSI), Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Energy Information Administration (EIA) and Telecommunications Industry Association (TIA) and any other . Upon completion of construction of a tower prior to the commencement of use, and engineer's certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed with the Zoning Administrator.

B. Application to develop a tower is as follows:

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

1. Name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. The application shall be executed by all applicants.
2. The legal description and addresses of the tract of land on which the tower is located.
3. The application shall identify proposed vehicle and equipment storage areas.
4. The application shall include a map showing contours, proposed excavation and grading contours, and proposed final grade contours.
5. The names, addresses, and telephone numbers of all owners of other towers or useable antenna support structures within one (1) mile radius of the proposed tower, including publicly and privately owned towers and structures.
6. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicant's telecommunications facilities on a tower or useable antenna support or written technical evidence from an engineer that the applicant's telecommunications facilities cannot be installed or collocated on another tower or useable antenna support structure and reason why to be approved by the Village Board.
7. Written technical evidence from an engineer that the proposed tower will meet established Building Codes, and all other applicable construction standards set forth by the Village Board and federal and state and ANSI standards.
8. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed for the nearest residentially used and/or zoned property and nearest roadway, street or highway.
9. Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufacturer's literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons

reviewing the application to understand the kind and nature of the proposed facility. Towers shall be designed to carry the antennas of at least three providers.

10. A copy of any lease between the applicant and the owner of the land where the tower is constructed must be delivered to the Village of Homer Road Department Superintendent prior to constructing the tower. The landowner shall have the ability to enter into leases with other telecommunications carriers for co-location. A binding agreement of the landowner to lease space to other telecommunications providers shall be a fair market cost. The landowner shall be responsible for the removal of the tower structure or facility in the event the lessee fails to remove it upon abandonment.

11. Excavating and Grading requirements of land and soil must be completed according to:

A. The faces of cut and fill slopes shall be prepared and maintained to control soil erosion. Where necessary, vegetative plantings, check dams, cribbing, riprap or other devices or methods shall be employed to control erosion and provide safety.

B. All drainage provisions shall be designed to carry surface waters to the nearest natural watercourse approved by the Village Planning and Zoning Committee.

C. Setbacks:

1. Cut and fill slopes shall be set back from site boundaries in accordance with this section. Setback dimensions shall be horizontal distances measured perpendicular to the site boundary.

2. The setback from a site boundary line for the top of a cut section or the toe of a fill section which does not involve a professionally designed retaining wall structure shall be determined as:  $B = H (1 - S/4)$ , where B is the setback required, H is the height of the cut or fill section and S is the horizontal element of the slope ration (e.g.  $S = 4$  for a 4:1 slope). For a slope steeper than 3:1, the setback shall not be less than 5 feet.

3. The setback for a retaining wall structure designed by a registered professional engineer, architect or landscape architect shall be sufficient to contain any of the structure of the retaining wall and to assure the adjoining property owner will not be deprived of rights to build.

4. The setback may be reduced to zero if a recorded easement of the adjoining property for construction and maintenance of the cut or fill section equal in width to the reduction of the setback required by the provisions of subsection b. or c. above is secured.

5. The minimum setback may be increased as a result of a determination by the Village planning and zoning committee that it is necessary to support a load on adjacent properties or that special site conditions warrant increased setbacks.

6. Where a cut or fill slope is to be located near the site boundary, special precautions shall be incorporated in the work as the city engineering division deems necessary to protect the adjoining property from damage. These precautions may include but are not limited to:
  - a. Additional setbacks.
  - b. Provisions for retaining walls or drainage channels.
  - c. Mechanical or chemical treatment of the fill slope to minimize erosion.
  - d. Other provisions for the control of surface waters.
  
- D. The Village Planning and Zoning Committee may require or approve alternate setbacks, investigation and recommendations by a registered professional engineer experienced in soil mechanics or an engineering geologist to demonstrate that the intent of this section has been satisfied.
  
- E. No grading shall allow earthen materials to be deposited upon, or to roll, flow or wash upon or over the premises of another without the explicit written consent of the owner of such premises so affected, or upon or over any public street, walk, place or way; not so close to the top of a bank of a channel as to create the possibility of bank failure and sliding.
  
- F. No cut or fill materials shall be transported to or from a site in such a manner as to permit it to be deposited upon any public street or road. In the event cut or fill materials is deposited or tracked upon the public streets, the landowner shall clean it up by the end of each working day or the Village may clean it up and assess the costs of the cleanup to the landowner. Costs for damage to the Village roads or bridges used for access to the site which requires additional maintenance or repair for the normal Village maintenance or repair as a result of additional traffic generated shall be the responsibility of the owner of the property from which the soil is being removed. The determination of the costs and the method of repair and maintenance shall be prescribed by the Village of Homer Road Department Superintendent. The property owner may appeal the Superintendent's decision to the Village of Homer Board of Trustees within thirty (30) days after receiving the Superintendent's decision.
  
- G. Fill material shall be obtained from approved sources which shall be free of vegetative matter and deleterious materials such as broken concrete, asphalt and large rocks unless prior approval is obtained from the Village planning and zoning committee.
  
- H. Minimum standards of excavations and fills:
  1. In general, excavations and fills should have a finished slope of three horizontal to one vertical; however, steeper excavations and fills may be made subject to the following design certifications:

2. An excavation or fill steeper than a 3:1 slope that is less than 20 feet in height must be based upon a design prepared and certified by an architect, landscape architect, or professional engineer registered in the state of Nebraska.
  3. An excavation or fill steeper than a 3:1 slope that is more than 20 feet in height must be based upon a design prepared and certified by a registered professional engineer experienced in soil mechanics with substantiation by a soils investigative report.
  4. The face of the cut or fill shall be stabilized by a vegetative land cover, retaining wall or other means provided in the approved design.
  5. The top of the cut or fill or any terrace created shall be shaped in such a manner that no surface water is allowed to flow over the edge. The top surface shall be stabilized by vegetation or other non-erodible surface.
- J. Within one (1) year after completion of the excavation or grading on any portion of the site, the topography and soils shall be stabilized and the land shall be graded, seeded, and sodded so as to prevent erosion and siltation, and to protect the health, safety, and general welfare of the public;

C. Setbacks and Separation or Buffer Requirements.

Setbacks and Separation or Buffer Requirements are as follows:

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

- A: Monopole tower structures shall be separated from all other towers, whether monopole, self supporting lattice, or guyed by a minimum of seven hundred fifty (750) feet.
- B. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of one thousand five hundred (1,500) feet.

D. Structural Standards for Towers

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

E. Illumination and Security Fences

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

F. Exterior Finish

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

G. Maintenance, Repair or Modification of Existing Towers

All towers constructed or under construction on the date of approval of this regulation may continue in existence as a non-conforming structure and may be maintained or repaired without complying with any of the requirements of this Section. Nonconforming structures or uses may not be enlarged or the degree of nonconformance increased without complying with this Section, including applying for and obtaining a Conditional Use Permit. Any modification or reconstruction of a tower constructed or under construction on the date of approval of this regulation shall be required to comply with the requirements of this Section including applying for and obtaining a Conditional Use Permit. Said application shall



describe and specify all items which do not comply with this Section and may request, subject to final review and approval of the Village Board, and exemption from compliance as a condition of the Conditional Use permit.

H. Inspections

Telecommunications towers shall be inspected by a qualified tower inspector once every 36 months by the owner, operator, or his/her representative to assess the structural condition of the tower and support equipment. An inspection report shall be delivered to the Village of Homer Road Department Superintendent within 30 days of the inspection. Said report shall certify that the tower and support equipment continues to meet or exceed the current published Federal Communications Commission, Federal Aviation Association, Energy Information Association and Telecommunications Industry Association structural standards and is in sound and safe operating condition.

I. Maintenance

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

J. Abandonment

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

K. Satellite Dish Antennas, Regulation

1. Upon adoption of this regulation, installation of satellite dish antennas shall be permitted within the zoning jurisdiction of Village of Homer only upon compliance with the following criteria.
2. In residentially zoned districts, satellite dish antennas may not exceed a diameter of (10) feet.

3. Single family residences may not have more than one (1) satellite dish antenna over three (3) feet in diameter.
4. Multiple family residences with ten (10) or less dwelling units may have no more than one (1) satellite dish antenna over three (3) feet in diameter. Multiple family residences with more than ten (10) dwelling units may have no more than two (2) satellite dish antennas over three (3) feet in diameter.
5. In residential zoning districts, satellite dish antennas shall not be installed in the required front yard setback or side yard set back area.
6. All satellite dish antennas installed within the zoning jurisdiction of \*Dixon Village, upon adoption of this regulation, shall be of a neutral color such as black, gray, brown, or such color as will blend with the surrounding dominant color in order to camouflage the antenna.

Section 12.04 Towers and Wind Turbines ; Wind Energy & Wind Turbines.

A. Wind Energy/Turbine Installation

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

<i>SETBACK TABLE</i>	
Rotor Diameter	Setback Distance
5 feet	100 feet
10 feet	165 feet
15 feet	220 feet
20 feet	270 feet
25 feet	310 feet
30 feet	340 feet
35 feet	365 feet
40 feet	385 feet

2. The distance from any wind energy/turbine support base to any wind energy/turbine support base of another wind energy device under the ownership shall be a minimum of five (5) rotor distances figured by the size of the largest rotor.
3. The wind energy system operation shall not cause interference to the radio and television reception on adjoining property.
4. To limit climbing access to the wind energy device, a fence six (6) feet high with a locking portal shall be placed round the wind energy/turbine base or the wind energy/turbine climbing apparatus shall be limited to no more that twelve (12) feet from the ground.

5. Data pertaining to the machine's turbine safety and stability shall be filed with the application. Such data shall include turbine safety and acceptance results from tests conducted by a qualified individual or organization based upon standards set by the U.S. Department of Energy (DOE), Electric Power Research Institute (EPRI) Utility Wind Turbine Verification Program.
6. The application shall provide covenants, easements, or similar documentation from the abutting owners providing access to wind sufficient for its adequate operation, unless adequate accessibility to the wind is provided on the site.
7. Costs for damage to the village roads or bridges used for access to the site which requires additional maintenance or repair for the normal village maintenance or repair as a result of additional traffic generated shall be the responsibility of the owner of the property from which the soil is being removed. The determination of the costs and the method of repair and maintenance shall be prescribed by the Village of Homer Road Department Superintendent. The property owner may appeal the Superintendent's decision to the Village of Homer Board of Trustees within thirty (30) days after receiving the Superintendent's decision.

B. Location of Wind Energy/Turbines and Construction Standards

1. Wind energy/turbines shall be permitted conditional uses of land in only those zoning districts where specifically listed or authorized in this regulation.
2. No person shall develop, construct, modify or operate a wind energy/turbine upon any tract of land within the zoning jurisdiction of the Village prior to approval of its application for a Conditional Use Permit by the Village Board and issuance of the permit by the Village. Applicants shall submit their application for a Conditional Use Permit to the Zoning Administrator.
3. All wind energy/turbines on which construction has commenced within the zoning jurisdiction of the Village after the effective date of this regulation shall conform to the Building Codes and all other construction standards set forth by the Village, federal, and state law and applicable American National Standards Institute (ANSI), Federal Aviation Administration (FAA), Federal Communications Commission (FCC), Energy Information Administration (EIA) and Telecommunications Industry Association (TIA) and any other . Upon completion of construction of a tower prior to the commencement of use, and engineer's certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed with the Zoning Administrator.

C. Application to develop a wind energy/turbine

Prior to the commencement of development or construction of a wind energy/turbine, and application shall be submitted to the Zoning Administrator for the Conditional Use Permit and shall include the following:

1. Name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. The application shall be executed by all applicants.
2. The legal description and addresses of the tract of land on which the wind energy/turbine is located.
3. The application shall identify proposed vehicle and equipment storage areas.
4. The application shall include a map showing contours, proposed excavation and grading contours, and proposed final grade contours.
5. The names, addresses, and telephone numbers of all owners of other wind energy/turbines or useable antenna support structures within one (1) mile radius of the proposed wind energy/turbine, including publicly and privately owned wind energy/turbines and structures.
6. Written technical evidence from an engineer that the proposed wind energy/turbine will meet established Building Codes, and all other applicable construction standards set forth by the Village Board and federal and state and ANSI standards.
7. Color photo simulations showing the proposed location of the wind energy/turbine with a photo-realistic representation of the proposed wind energy/turbine as it would appear viewed for the nearest residentially used and/or zoned property and nearest roadway, street or highway.
8. Descriptions and diagrams of the proposed wind energy/turbine, telecommunications facilities and/or antenna, manufacturer's literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.
9. A copy of any lease between the applicant and the owner of the land where the wind energy/turbine is constructed must be delivered to the Village of Homer Road Department Superintendent prior to constructing the wind energy/turbine. The landowner shall have the ability to enter into leases with other telecommunications carriers for co-location. A binding agreement of the landowner to lease space to other telecommunications providers shall be a fair market cost. The landowner shall be responsible for the removal of the tower structure or facility in the event the lessee fails to remove it upon abandonment.
10. Excavating and Grading requirements of land and soil must be completed according to:
  - A. The faces of cut and fill slopes shall be prepared and maintained to control soil erosion. Where necessary, vegetative plantings, check dams, cribbing,

riprap or other devices or methods shall be employed to control erosion and provide safety.

B. All drainage provisions shall be designed to carry surface waters to the nearest natural watercourse approved by the Village Planning and Zoning Committee.

C. Setbacks:

1. Cut and fill slopes shall be set back from site boundaries in accordance with this section. Setback dimensions shall be horizontal distances measured perpendicular to the site boundary.
2. The setback from a site boundary line for the top of a cut section or the toe of a fill section which does not involve a professionally designed retaining wall structure shall be determined as:  $B = H(1 - S/4)$ , where B is the setback required, H is the height of the cut or fill section and S is the horizontal element of the slope ration (e.g.  $S = 4$  for a 4:1 slope). For a slope steeper than 3:1, the setback shall not be less than 5 feet.
3. The setback for a retaining wall structure designed by a registered professional engineer, architect or landscape architect shall be sufficient to contain any of the structure of the retaining wall and to assure the adjoining property owner will not be deprived of rights to build.
4. The setback may be reduced to zero if a recorded easement of the adjoining property for construction and maintenance of the cut or fill section equal in width to the reduction of the setback required by the provisions of subsection b. or c. above is secured.
5. The minimum setback may be increased as a result of a determination by the Village planning and zoning committee that it is necessary to support a load on adjacent properties or that special site conditions warrant increased setbacks.
6. Where a cut or fill slope is to be located near the site boundary, special precautions shall be incorporated in the work as the city engineering division deems necessary to protect the adjoining property from damage. These precautions may include but are not limited to:
  - a. Additional setbacks.
  - b. Provisions for retaining walls or drainage channels.
  - c. Mechanical or chemical treatment of the fill slope to minimize erosion.
  - d. Other provisions for the control of surface waters.

D. The Village Planning and Zoning Committee may require or approve alternate setbacks, investigation and recommendations by a registered professional engineer experienced in soil mechanics or an engineering geologist to demonstrate that the intent of this section has been satisfied.

- E. No grading shall allow earthen materials to be deposited upon, or to roll, flow or wash upon or over the premises of another without the explicit written consent of the owner of such premises so affected, or upon or over any public street, walk, place or way; not so close to the top of a bank of a channel as to create the possibility of bank failure and sliding.
- F. No cut or fill materials shall be transported to or from a site in such a manner as to permit it to be deposited upon any public street or road. In the event cut or fill materials is deposited or tracked upon the public streets, the landowner shall clean it up by the end of each working day or the Village may clean it up and assess the costs of the cleanup to the land owner. Costs for damage to the Village roads or bridges used for access to the site which requires additional maintenance or repair for the normal Village maintenance or repair as a result of additional traffic generated shall be the responsibility of the owner of the property from which the soil is being removed. The determination of the costs and the method of repair and maintenance shall be prescribed by the Village of Homer Road Department Superintendent. The property owner may appeal the Superintendent's decision to the Village of Homer Board of Trustees within thirty (30) days after receiving the Superintendent's decision.
- G. Fill material shall be obtained from approved sources which shall be free of vegetative matter and deleterious materials such as broken concrete, asphalt and large rocks unless prior approval is obtained from the Village planning and zoning committee.
- H. Minimum standards of excavations and fills:
  - 1. In general, excavations and fills should have a finished slope of three horizontal to one vertical; however, steeper excavations and fills may be made subject to the following design certifications:
  - 2. An excavation or fill steeper than a 3:1 slope that is less than 20 feet in height must be based upon a design prepared and certified by an architect, landscape architect, or professional engineer, registered in the state of Nebraska.
  - 3. An excavation or fill steeper than a 3:1 slope that is more than 20 feet in height must be based upon a design prepared and certified by a registered professional engineer experienced in soil mechanics with substantiation by a soils investigative report.
  - 4. The face of the cut or fill shall be stabilized by a vegetative landcover, retaining wall or other means provided in the approved design.
  - 5. The top of the cut or fill or any terrace created shall be shaped in such a manner that no surface water is allowed to flow over the edge. The top surface shall be stabilized by vegetation or other non-erodible surface.

- J. Within one (1) year after completion of the excavation or grading on any portion of the site, the topography and soils shall be stabilized and the land shall be graded, seeded, and sodded so as to prevent erosion and siltation, and to protect the health, safety, and general welfare of the public;

D. Structural Standards for towers adopted

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

E. Illumination and Security Fences

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

F. Exterior Finish

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

G. Maintenance, Repair or Modification of Existing Towers

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

subject to final review and approval of the Village Board, and exemption from compliance as a condition of the Conditional Use permit.

H. Inspections

Telecommunications towers shall be inspected by a qualified tower inspector once every 36 months by the owner, operator, or his/her representative to assess the structural condition of the tower and support equipment. An inspection report shall be delivered to the Village of Homer Road Department Superintendent within 30 days of the inspection. Said report shall certify that the tower and support equipment continues to meet or exceed the current published Federal Communications Commission, Federal Aviation Association, Energy Information Association and Telecommunications Industry Association structural standards and is in sound and safe operating condition.

I. Maintenance

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

J. Abandonment

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



Article 13  
SUBDIVISION DESIGN STANDARDS

Section 13.01 Subdivision Design Standards; General. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, erosion or other menace. If, following adequate investigation conducted by all public agencies concerned, it is determined that land to be subdivided cannot be used without endangering the health, safety, welfare or prosperity of the community, or would necessitate an excessive expenditure of public financial resources for sewage and water facilities or other public facilities and streets, then the subdivision plat shall not be approved unless the sub-divider formulates adequate methods for meeting such problems.

Subdivisions shall be in harmony with the Comprehensive Plan. All required improvements shall be constructed or installed to conform to the provisions of this ordinance and Village specifications.

Section 13.02 Subdivision Design Standards; Streets. The arrangement, character, extent, width, grade and location of all streets shall conform to the Comprehensive Plan and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

A. STREET EXTENSIONS. The street layout of the proposed subdivision shall provide for the continuation or appropriate projection of streets and alleys already existing in areas being subdivided. In addition, streets and alleys of the proposed subdivision shall correspond in direction and width to existing streets and alleys to be continued. Where, at the determination of the Board of Village Trustees, it is desirable to provide street access to adjoining properties, proposed streets shall be extended by dedication to the boundaries of such properties. Where the Board of Village Trustees deems it necessary, such dead end streets shall be provided with a temporary turnaround having a radius of at least fifty (50) feet. The street system for the proposed subdivision shall provide for extending existing streets at the same or greater width, but in no case shall a street extension be of less width than the minimum width required in these regulations for a street in its category.

B. DEDICATION OF RIGHT-OF-WAY FOR NEW STREETS. The dedication of right-of-way for new streets measured from lot line to lot line shall be as shown on the Comprehensive Plan, or, if not shown thereon, shall meet the following standards:

<b>Street Type</b>	<b>Minimum Dedicated Right-of-Way Width</b>
Parkway	150 feet
Arterial Streets	80-120 feet
Collector Streets	80 feet
Minor Streets	60 feet
Marginal Access Streets	60 feet
Alleys	20 feet

All streets classified as arterial streets by the Comprehensive Plan shall have all points of access streets approved by the Board of Village Trustees.

C. DEDICATION OF RIGHT-OF-WAY FOR EXISTING STREETS. Subdivisions platted along existing streets shall dedicate additional right-of-way if necessary to meet the minimum street width requirements set forth in the table above. The entire minimum right-of-way width shall be dedicated where the subdivision is on both sides of an existing street. When the subdivision is located on only one side of an existing street, one-half (1/2) of the required right-of-way width, measured from the centerline of the existing roadway, shall be dedicated. Dedication of one-half (1/2) of the right-of-way for proposed streets along the boundaries of land proposed for subdivision shall be prohibited.

D. INTERSECTIONS. Streets shall intersect as nearly as possible at an angle of ninety (90) degrees, and no intersection shall be at an angle of less than sixty (60) degrees. Street curb intersections shall be rounded by radii of at least twenty (20) feet. When the smallest angle of street intersection is less than seventy-five (75) degrees, the Board of Village Trustees may require curb radii of greater length. Wherever necessary to permit the construction of a curb having a desirable radius without reducing the sidewalk at a street corner to less than normal width, the property line at such street corner shall be rounded or otherwise set back sufficiently to permit such curb construction.

No lot or other parcel of land which abuts on and has access to either a collector or a minor street shall have a service drive, curb cut or other means of access to an arterial street within seventy-five (75) feet of the right-of-way of any street which intersects such arterial street on the side on which such lot or parcel is located.

E. HORIZONTAL AND VERTICAL STREET CURVES. A tangent at least one hundred (100) feet long shall be introduced between reverse curb on arterial and collector streets. Where there is a deflection angle of more than ten (10) degrees in the alignment of a street, a curve with a radius adequate to insure safe sight distance shall be made. The minimum radii of curves shall be:

<b>Street Type</b>	<b>Minimum Curve Radius</b>
Arterial Streets	300 feet
Collector Streets	300 feet
Minor Streets	100 feet

Every change in grade shall be connected by a vertical curve constructed so as to afford a minimum sight distance of two hundred (200) feet, said sight distance being measured from a driver's eyes, which are assumed to be four and one-half (4 1/2) feet above the pavement surface, to an object four (4) inches high on the pavement.

F. STREET GRADES AND ELEVATIONS. Street grades shall conform to the following:

<b>Street Type</b>	<b>Present Grade</b>
Arterial Streets	5 %
Collector Streets	7 %
Minor Streets	12 %

All streets shall be designed so as to provide for the discharge of surface water from the pavement and from the right-of-way by grading and drainage. For adequate drainage, the minimum street grade shall be not less than one-half (1/2) of one (1) percent. The Board of Village Trustees shall not approve streets which will be subject to inundation or flooding. All streets must be located at elevations which will make them flood-free in order that portions of the subdivision will not be isolated by floods. Fill may be used in areas subject to flooding in order to provide flood-free streets if such fill does not increase flood heights. Drainage openings shall be designated so as not to restrict the flow of water and thereby increase flood heights.

G. STREET GRADES AND ELEVATIONS. Where a subdivision abuts or contains an existing or proposed arterial street, the Board of Village Trustees may require access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

H. STREET JOGS. Street jogs with centerlines offsets of less than one hundred twenty-five (125) feet shall be prohibited.

I. CUL DE SACS. Minor terminal or dead end streets or courts which are designed so as to have one end permanently closed shall not be longer than five hundred (500) feet and shall be provided at the closed end with a turnaround having a radius at the outside of the pavement of at least fifty (50) feet and a radius at the outside of the right-of-way of at least sixty (60) feet.

J. STREET NAMES. Proposed streets which are in alignment with other already existing and named streets shall bear the names of such existing streets. The name of a proposed street which is not in alignment with an existing street may not duplicate the name of any existing street, irrespective of the use of the street, avenue, boulevard, drive, place court, land, road, pike, highway, parkway or similar suffix.

K. PRIVATE STREETS AND RESERVE STRIPS. There shall be no private streets platted within a subdivision. There shall be no reserve strips in a subdivision, except where their control is definitely vested in the Village or County under condition approved by the Board of Village Trustees as authorized in these regulations.

Section 13.03 Subdivision Design Standards; Alleys. Alleys shall be provided to give access to the rear of all lots used for commercial and industrial purposes. The minimum width of an alley shall be twenty (20) feet. Alley intersections and sharp changes in alignment shall be avoided, but, where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

Dead end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate facilities at the dead end as determined by the Board of Village Trustees. Alleys shall not be provided in residential areas except in cases where the sub-divider produces evidence of the need for alleys which is satisfactory to the Board of Village Trustees.

Section 13.04 Subdivision Design Standards; Blocks. The lengths, widths and shapes of blocks shall be determined with due regard to the provisions of adequate building sites suitable to the special needs of the type of use contemplated; zoning requirements as to lot sizes and dimensions; needs for convenient access circulation, control and safety of street traffic and limitations and opportunities of topography.

Block lengths shall not exceed twelve hundred (1,200) feet or be less than three hundred (300) feet, except as the Board of Village Trustees considers necessary to secure efficient use of land or desired features of street layout.

Blocks shall be wide enough to allow two (2) tiers of lots of minimum depth, provided that where this would require lots to front on an arterial street or highway or where topographical conditions or the size of the property prevent two (2) tiers of lots, the Board of Village Trustees may approve a single tier of lots of minimum depth.

Section 13.05 Subdivision Design Standards; Lots. The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

Lot dimensions shall conform to the requirements of the zoning regulations. Corner lots for residential use shall have extra width to permit appropriate building setback from an orientation to both streets.

The subdividing of the land shall be such as to provide, by means of a public street, each lot with satisfactory access to an existing public street.

Double frontage and reverse frontage lots shall be avoided, except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages or topography and orientation. A planting screen easement of at least ten (10) feet, and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

Side lot lines shall be substantially at right angles or radial to street lines.

A. FLOOD HAZARDS. Land subject to flooding and land deemed to be topographically unsuitable for residential development shall not be platted for residential use or for any other use which may increase the danger to health, life or property or aggravate erosion or flood hazards. Such land within the subdivision shall be set aside on the plat for such uses as will not be endangered by periodic or occasional inundation contrary to the public welfare. To insure that lots will be located only where they will provide flood-free house sites, the Board of Village Trustees may require the sub-divider to provide elevation and flood profiles sufficient to demonstrate that the house sites will be completely free from the danger of flooding.

If a stream flows through or adjacent to the proposed subdivision, the plat plan shall provide for an easement or right-of-way along the stream for a floodway. For the smaller streams, the plan shall also provide for channel improvement to enable them to carry all reasonable floods within banks. The floor elevations of houses shall be high enough to be well above the extraordinary flood. The floodway easement shall be wide enough to provide for future enlargement of the stream channel as adjacent areas become more highly developed and run-off rates are increased.

Section 13.06 Subdivision Design Standards; Off-Street Loading and Parking Facilities. In commercial and industrial subdivisions, in the portions of residential subdivisions reserved for commercial or industrial uses, and in the lots or parcels platted for commercial or industrial uses, lots

or parcels platted for commercial or industrial sites shall be large enough for off-street loading and unloading facilities and off-street parking facilities.

Section 13.07 Subdivision Design Standards; Easements. Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least twelve (12) feet wide.

Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse and of such further width or construction, or both, as will be adequate for the purpose. Parallel streets or parkways may be required in connection therewith.

Section 13.08 Subdivision Design Standards; Community Assets. In all subdivisions due regard shall be shown for natural features such as large trees, unusual rock formations and water courses; for sites which have historical significance; and for similar assets which, if preserved, will add attractiveness and value to the subdivision and to the area. The Board of Village Trustees may prepare a list of all such features within its Area of Planning Jurisdiction which it deems worthy of preservation.

Section 13.09 Subdivision Design Standards; Conformance with Other Regulations. No Final Plat of land within the area of force and effect of existing zoning regulations will be approved unless it conforms to such regulations. Whenever there is a variance between the minimum standards set forth in these regulations and those contained in the building code or other official regulations, the highest standards shall apply.

Section 13.10 Subdivision Design Standards; Public Sites and Open Spaces. Where a proposed park, recreation, school or other public use shown in a Comprehensive Plan is located in whole or in part in a subdivision, the Board of Village Trustees may require the dedication or reservation of such area within the subdivision in those cases in which the Board of Village Trustees deems to be reasonable.

Where deemed by the Board of Village Trustees, upon consideration of the particular type of development proposed in the subdivision, and especially in Planned Developments not anticipated in the Comprehensive Plan, the Board of Village Trustees may require the dedication or reservation of such other areas or sites of a character, extent and location suitable to the needs created by such development for parks, schools, recreation and other public purposes.

Section 13.11 Subdivision Design Standards; Large Tracts or Parcels. When land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow for the opening of future streets and logical re-subdivision.

Article 14  
REQUIRED SUBDIVISION IMPROVEMENTS PRE-REQUISITE TO  
FINAL PLAT APPROVAL

Section 14.01 Required Subdivision Improvements; Monuments. Concrete monuments at least thirty-six (36) inches long and four (4) inches square with a suitable center point shall be set at each street intersection on the street right-of-way line and at all corners on the plat. Except in cases where it is deemed clearly unreasonable or unfeasible by the Board of Village Trustees, these monuments shall be described in relation to the located section corners of the Coordinate System of the State of Nebraska. Solid iron pin monuments three-fourths (3/4) inch in diameter and twenty-four (24) inches long or suitable concrete markers shall be placed at all points on boundary lines where there is a change of direction and at all corners.

Section 14.02 Required Subdivision Improvements; Streets.

A. GRADING SPECIFICATIONS. All streets, roads and alleys shall be graded to their full widths by the sub-divider so that street pavements and sidewalks can be constructed on the same level plane. Deviation from this standard due to special topographical conditions will be allowed only with the approval of the Village Board of Trustees.

Before grading is started, the entire right-of-way area shall be cleared of all tree stumps, roots, brush and other objectionable materials and of all trees not intended for preservation. The sub-grade shall be properly shaped, rolled and uniformly compacted to conform to the accepted cross-section and grades. In cuts, all tree stumps, boulders, organic material, soft clay, spongy material and other objectionable materials shall be removed to a depth of at least two (2) feet below the graded surface. Rock, when encountered, shall be scarified to a depth of at least twelve (12) inches below the graded surface.

In fills, all tree stumps, boulders, organic materials, soft clay, spongy material and other objectionable material shall be removed to a depth of at least two (2) feet below the natural ground surface. This objectionable matter, as well as similar matter from cuts, shall be removed from the right-of-way area and disposed of in such a manner that it will not become incorporated in fills or hinder proper operation of the drainage system.

B. MINIMUM PAVEMENT WIDTHS. Pavement widths shall be measured between curbs. Minimum pavement widths to be provided are:

<b>Street Type</b>	<b>Minimum Pavement Widths</b>
Parkways	12 feet for each lane
Arterial Streets	11 feet for each lane
Collector Streets	40 feet
Minor Streets	27 feet
Marginal Access Streets	18 feet
Alleys, Industrial and Commercial Streets	12 feet

C. STREET PAVEMENT. Street pavement shall be provided for all streets according to

current Nebraska State Department of Highways standard specifications for either Portland cement concrete pavement, bituminous concrete pavement or low grade bituminous (armor coat), as deemed necessary by the Board of Village Trustees. Such pavement shall be designed to be appropriate for the location of the street and for the type of development and use contemplated.

D. CURB AND GUTTER. Curb and gutter shall be provided in all subdivisions. Curbs shall not be less than six (6) inches in height and shall be constructed of Portland cement or bituminous concrete. Back fill shall be higher than the curb and shall slope toward the curb in order to insure that surface water drains into the storm drainage system.

E. SIDEWALKS. For the safety of pedestrians in residential and commercial subdivisions, sidewalks constructed of Portland cement concrete shall be constructed on each lot two (2) feet outside the property line on both sides of the street to meet the following specifications:

<b>Type of Development</b>	<b>Sidewalk Specifications</b>
Single Family or Duplex Housing	4 feet wide and 4 inches thick
Multiple Family or Group Housing	5 feet wide and 4 inches thick
Commercial	8-10 feet wide and 4 inches thick

(Am. Ord. No. 536, 6/12/14)

Section 14.03 Required Subdivision Improvements; Utility and Drainage Facilities.

A. GENERAL. Sanitary sewer, storm sewer, water distribution, electrical, gas, telephone and communications, cable and all other utility lines shall be installed in rear lot easements wherever practical. Where it is impractical to install such utility lines in rear lot easements, they shall be installed within the unpaved portions of the street right-of-way, except for sanitary and storm sewer lines, which may be installed in the paved portion of the street right-of-way if it is impossible to install them in the unpaved portion.

When it is impossible to install sanitary and storm sewer lines in the unpaved portion of the street right-of-way, all such utility lines, including service connections shall be completely installed, and inspected and approved by the Village Engineer, following the grading of the street and prior to the application of any pavement base.

Where sanitary and storm sewer lines are to be installed in the unpaved portion of the street right-of-way, the installation of service connections may be delayed; provided that at such time as these service connections are installed, they may be installed without breaking or weakening the existing pavement. Where rock is known to exist beneath the pavement area at such depth as to interfere with the installation of service connections, the complete installation of service connections shall be required prior to the application of any pavement base.

B. WATER SUPPLY IMPROVEMENTS. Where the public water supply is reasonably accessible or available to the proposed subdivision, as determined by the Board of Village Trustees, a complete water distribution system which shall serve adequately all lots, which shall include appropriately spaced fire hydrants and which shall be connected properly to the public water supply system, shall be installed.

Where a public water supply system is not reasonably accessible to the subdivision, alternate water supply facilities, approved by the Board of Village Trustees, shall be installed. Where individual lot wells are to be installed, lot dimensions shall meet the approval of the Board of Village Trustees. In any case, water supply facilities shall be installed as required by standards and specifications as approved by the Board of Village Trustees.

C. SANITARY SEWER IMPROVEMENTS. Where the public sanitary sewer system is reasonably accessible or available to the proposed subdivision, as determined by the Board of Village Trustees, a complete sanitary sewer system, which shall serve adequately all lots and which shall be properly connected to the public sanitary sewer system, shall be installed.

Where the public sanitary sewer system is not reasonably accessible to the subdivision, alternate sanitary sewer facilities, which shall be approved by the Board of Village Trustees, shall be installed. In any case, sanitary sewer facilities shall be installed as required by standards and specifications as approved by the Board of Village Trustees.

D. STORM DRAINAGE. An adequate drainage system, including necessary open ditches, pipes, culverts, intersectional drains, drop inlets and bridges, for the proper drainage of all surface water shall be installed. Cross drains shall be provided to accommodate all natural water flow, and they shall be of sufficient length to permit full width roadways and the required slopes.

Section 14.04 Required Subdivision Improvements; Street Name Signs. The Board of Village Trustees shall require the installation of durable street name signs at all intersections; all structures shall display designated address numbers or so-called "house numbers," as assigned by the Board of Village Trustees.

Section 14.05 Required Subdivision Improvements; Requirements For Approval Of Final Plat. No Final Plat of any subdivision shall be approved unless:

1. The improvements listed above have been made and installed in a satisfactory manner and approved by the Board of Village Trustees prior to Final Plat approval;
2. The sub-divider shall enter into a contract with the Village to insure completion of the improvements listed in Section 18.03 and 18.04 of this ordinance by the sub-divider within one (1) year. The performance of said contract shall be secured by the sub-divider filing with the Village a performance surety bond in an amount equal to one and one-quarter (1 1/4) times the cost of making such improvements, as estimated by the Village, conditioned upon the payment of all construction costs incurred in making such improvements by the sub-divider and all expense incurred by the Village for engineering and legal fees and other expense in connection with the making of such improvements in order to insure the construction of the improvements in a satisfactory manner; or
3. The sub-divider agrees with the Village that the Village may construct those improvements listed in Sections 18.03 and 18.04 of this ordinance and assess the costs thereof against the property benefited.



Article 15  
SUBDIVISION APPROVAL PROCEDURE

Section 15.01 Subdivision Approval Procedure; General. The procedure for review and approval of a subdivision plat shall consist of three separate steps, in sequence:

1. An informal discussion meeting with the Village Planning Commission;
2. Preparation and submission of a Preliminary Plat of the proposed subdivision;
3. Preparation and submission of a Final Plat of the proposed subdivision.

Section 15.02 Subdivision Approval Procedure ; Advisory Meeting With The Village Planning Commission. Whenever the owner of any tract or parcel of land within the jurisdiction of this ordinance intends to make a subdivision of the same, the sub-divider, before preparing a Preliminary Plat, shall consult informally with the Planning Commission to ascertain the location of proposed major streets, parks, playgrounds, school sites and other planned projects which may affect the property being considered for subdivision.

At the same meeting the sub-divider shall review with the Village Planning Commission the minimum standards of subdivision design set forth in Article 17 of this ordinance. This informal review should prevent unnecessary and costly revisions in the layout and development of the subdivision. Formal application or filing of a plat with the Land Use Administrator is not required for this informal advisory meeting.

Section 15.03 Subdivision Approval Procedure; Preliminary Plat Approval. After meeting informally with the Village Planning Commission, the sub-divider shall prepare a Preliminary Plat prior to the making of any street improvements or the installation of any utilities.

Section 15.04 Subdivision Approval Procedure; Preliminary Plat Content. The Preliminary Plat shall meet the standards of design as set forth in Article 17 and shall show the following information:

1. Scale of two hundred (200) feet to one (1) inch or larger;
2. Name of subdivision, names and addresses of the owners, the engineer or surveyor and the owners of adjacent property;
3. Vicinity sketch at a scale of four hundred (400) feet or less to one (1) inch;
4. Date, approximate magnetic and true north point and graphic scale;
5. Acreage of land to be subdivided;
6. Contours at an interval of not greater than five (5) feet or at a lesser interval if deemed necessary by the Board of Village Trustees;
7. Boundary lines of area to be subdivided and their bearings and distances;
8. Existing and proposed easements and their locations, widths and distances;
9. Streets on and adjacent to the tract and their names, widths, approximate grades and other dimensions as may be required;

10. A diagram of the profiles, section or elevations of all streets to be platted, showing the natural and finished grade drawn to scale;
11. Utilities on and adjacent to the tract, showing proposed connections to existing utility systems and rear easements for utilities;
12. Lot lines and lot numbers;
13. Sites and their acreage, if any, to be reserved or dedicated for parks, playgrounds, schools or other public uses; Sites, if any, for semi-public, commercial or multi-family uses;
14. Minimum building setback lines;
15. Copies of proposed deed restrictions, if any.

Section 15.05 Subdivision Approval Procedure; Preliminary Plat Procedures. Eleven (11) copies of the Preliminary Plat and the required supplementary material shall be filed with the Land Use Administrator, who shall transmit three (3) copies to the chairperson of the Village Planning Commission. Such filing shall take place at least ten (10) days prior to the meeting of the Village Planning Commission at which time it is to be considered.

The Village Planning Commission shall study the said Preliminary Plat to see if it conforms to the minimum standards and requirements outlined in Article 17 and Article 18 of this ordinance. Following a public hearing before and due consideration by the Village Planning Commission, the Commission shall transmit all copies of the Preliminary Plat to the Board of Village Trustees together with its recommendations. Transmittal to Board of Village Trustees shall take place within forty-five (45) days after receipt of the Preliminary Plat. Said recommendations shall include approval, disapproval or suggestions for modification and the reasons thereof, and a discussion of the effect of said plat on the Comprehensive Plan. Said recommendations shall be of an advisory nature only. If the Village Planning Commission does not act within forty-five (45) days, the Preliminary Plat shall be deemed to have received a favorable recommendation in all respects and shall receive due consideration by the Board of Village Trustees.

Following a public hearing and due consideration of the Preliminary Plat, the Board of Village Trustees shall approve, disapprove or modify the recommendations of the Village Planning Commission and may impose those requirements or grant those variances in conformance with this ordinance deemed necessary and appropriate for final approval. One copy shall be returned to the sub-divider and the others shall be retained by the Land Use Administrator.

Approval of the Preliminary Plat by the Board of Village Trustees shall not constitute acceptance of the Final Plat. The approval of the Preliminary Plat shall lapse unless a Final Plat based thereon is submitted within one (1) year from the date of such approval. The sub-divider may apply for and the Board of Village Trustees may grant an extension of time.

Section 15.06 Subdivision Approval Procedure; Subdivision of A Portion Of A Larger Tract. Whenever part of a tract is proposed for subdivision and it is the owner's intention to subdivide additional parts of the tract in the future, the sub-divider shall submit to the Land Use Administrator a sketch plan of the entire tract with the Preliminary Plat of the first part to be platted.

Section 15.07 Subdivision Approval Procedure; Plat Review Fee. A fee shall be levied for the examination and determination of every plat reviewed by the Board of Village Trustees. At the time the Preliminary Plats are filed with the Land Use Administrator, the sub-divider shall pay to the Administrator a fee of ten dollars (\$10) for each plat and one dollar (\$1) for each lot shown on such plat. Fees will correspond to a schedule of fees established by the Board of Village Trustees and posted in the office of the Land Use Administrator.

Section 15.08 Subdivision Approval Procedure; Final Plat. The Final Plat shall conform substantially to the Preliminary Plat as approved. It may constitute only a portion of the Preliminary Plat which the sub-divider proposes to record and develop.

Section 15.09 Subdivision Approval Procedure; Final Plat Content. The Final Plat shall give the following information:

1. The plat shall be at a scale of one hundred (100) feet to one (1) inch or larger;
2. Date, title, name and location of subdivision, graphic scale and magnetic and true north line;
3. All dimensions, angles, bearings and similar data on the plat shall be tied to primary control points. Location and descriptions and said control points shall be given. Except where deemed clearly unfeasible by the Board of Village Trustees, these control points shall be the located section corners of the Coordinate System of the State of Nebraska;
4. Tract boundary lines, right-of-way lines of streets, easements and other rights-of-way, and property lines of residential lots and other sides with accurate dimensions to the nearest one hundredth (100th) of a foot; bearings of deflection angles, radii, arcs and central angles of all curves with dimensions to the nearest minute;
5. Name and right-of-way width of each street, easement or other right-of-way;
6. Lot numbers, lot lines and frontage dimensions;
7. Purpose for which sites other than residential lots are dedicated or reserved;
8. Minimum building setback lines;
9. Location and description of monuments;
10. Names and locations of adjoining subdivisions and streets, the location of adjoining unplatted properties, and the names and addresses of the owners of adjoining unplatted properties;
11. Certification on plat of title showing that the applicant is the owner, that the making of the plat receives his consent and is in accordance with his desires, and a statement by such owner dedicating streets, rights-of-way and any other sites for public use;
12. Certification on plat by registered engineer as to the accuracy of survey and plat;
13. Certification of approval by the Land Use Administrator, when individual sewerage disposal or water systems are to be installed;
14. If applicable, certification that the sub-divider has complied with one of the following alternatives:
  - (a) All the improvements have been installed in accordance with the requirements of this ordinance, or

- (b) a surety bond has been posted with the Village in sufficient amount to assure such completion of all required improvements;
- 15. Cross-sections, profiles and grades of streets, curbs, gutters and sidewalks showing locations of in-street utilities and drawn to Village standard scales and elevations shall be attached to the Final Plat;
- 16. Protective covenants shall either be placed directly on the Final Plat or attached thereto in form for recording;
- 17. Certification on plat by the Board Chair, the Land Use Administrator and the Planning Commission Chairman that the plat has been approved for recording in the office of the Register of Deeds.

Section 15.10 Subdivision Approval Procedure; Final Plat Procedure. Six (6) copies of the Final Plat and the required supplementary material shall be filed with the Land Use Administrator, who shall transmit them to the Chairperson of the Village Planning Commission. Such filing shall take place at least ten (10) days prior to the meeting of the Village Planning Commission at which it is to be considered.

One (1) copy of the Final Plat may be transmitted to a registered engineer to be selected by the Board of Village Trustees. The engineer may check said Plat as to computations, certifications, monuments, etc., and that all the required improvements have been completed to the satisfaction of the Village officials having jurisdiction, or, in the case a surety bond has been posted, that such is sufficient to cover the cost of the required improvements. If found satisfactory, he/she will return the copy of the Final Plat to the Village Planning Commission with his approval certified thereon within ten (10) days of receipt thereof.

The Village Planning Commission shall study the said Final Plat to see if it conforms to the minimum standards and requirements as provided in Articles 17, 18 and 19 of this ordinance and as required by the Board of Village Trustees. Following a public hearing before and due consideration by the Village Planning Commission, the Commission shall transmit all copies of the Final Plat to the Board of Village Trustees, together with its recommendations within thirty (30) days after receipt thereof. Said recommendations shall include approval, disapproval or suggestions for modifications and reasons thereof, and a discussion of the effect of said plat on the Comprehensive Plan. Said recommendations shall be of an advisory nature only. If the Village Planning Commission does not act within thirty (30) days, the Final Plat shall be deemed to have received favorable recommendation in all respects and shall then receive due consideration by the Board of Village Trustees.

The Final Plat shall be approved or disapproved within sixty (60) days after submission thereof to the Land Use Administrator; otherwise such plat shall be deemed to have been approved and a certificate to that effect shall be issued by the Board of Village Trustees on demand; provided, however that the applicant for approval may waive this requirement and consent to the extension of such period. The ground for disapproval of any plat shall be stated in the records of the Board of Village Trustees.

The Final Plat shall be approved or disapproved within sixty (60) days after submission thereof to the Land Use Administrator; otherwise such plat shall be deemed to have been approved and a

certificate to that effect shall be issued by the Village Board of Trustees on demand; provided, however, that that applicant for approval may waive this requirement and consent to the extension of such period. The grounds for disapproval of any plat shall be stated in the records of the Village Board of Trustees.

Any plat submitted for approval shall contain the name and address of a person to whom notice of hearing may be sent; and no plat shall be acted upon by the Board of Village Trustees without affording a hearing thereon. Notice of the time and place shall be sent by mail to said address not less than five (5) days before the date fixed therefore. The approval of the Final Plat by the Board of Village Trustees shall not be deemed to constitute or affect an acceptance by the municipality or public of the dedication of any street or other ground shown on the Final Plat.

When the Village Board of Trustees has approved the Final Plat, one (1) copy shall be returned to the sub-divider with the approval of the Board of Village Trustees certified thereon, for filing with the County Register of Deeds as an official plat of record. Another copy certified by the Board of Village Trustees shall be transmitted to the Land Use Administrator for his/her records. With the exception of those improvements required by Article 17, no work shall be done on the subdivision and no lots shall be sold before the Final Plat is accepted and recorded.

Section 15.11 Subdivision Approval Procedure; Procedural Variance. Where a proposed subdivision would contain five (5) or fewer parcels or plots of land and no new streets, the preparation of a Preliminary Plat may be waived by the Board of Village Trustees.

Section 15.12 Subdivision Approval Procedure; Vacation of Plat. Any such plat may be vacated by the proprietor thereof according to the State law.

Article 16  
ADMINISTRATIVE PROCEDURE AND ENFORCEMENT

Section 16.01 Administrative Procedure & Enforcement; Duties of Administrative Official, Board of Zoning Adjustment, Board of Village Trustees, and Courts on Matters Of Appeal. It is the intent of this ordinance that questions of interpretation and enforcement of the zoning ordinance shall be presented first to the Land Use Administrator, and that such questions shall be presented to the Board of Zoning Adjustment only on appeal from the decision of the Land Use Administrator, and that recourse from the decisions of the Board of Zoning Adjustment shall be to the Courts as provided by law.

It is further the intent of this ordinance that the duties of the Board of Village Trustees in connection with this ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this ordinance. Under this ordinance, the Board of Village Trustees shall have only the duties of considering and adopting or rejecting proposed amendments or the repeal of this ordinance, as provided by law, and of establishing a schedule of fees and charges as stated below.

Section 16.02 Administrative Procedure & Enforcement; Administration and Enforcement. An administrative official, who shall be known as the Land Use Administrator and who shall be designated by the Board of Village Trustees, shall administer and enforce this ordinance. The Administrator may be provided with the assistance of such other persons as the Board of Village Trustees may direct.

If the Land Use Administrator shall find that any of the provisions of this ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Land Use Administrator shall order discontinuance of illegal uses of land, building or structures; removal of illegal buildings, structures or illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of its provisions.

Section 16.03 Administrative Procedure & Enforcement; Building Permits Required. With the exception of improvements of less than five thousand dollars (\$5,000) in actual value in Agricultural (AG) Districts of the unincorporated area of the County, provided such structure is located a minimum of five hundred (500) feet from any township, county, state or federal road, no building or other structure shall be erected, moved, added to or structurally altered without a permit therefore, issued by the Land Use Administrator.

The Land Use Administrator shall issue no building permit except in conformance with the provisions of this ordinance, unless he/she receives a written order from the Board of Zoning Adjustment in the form of an administrative review or variance or is instructed to issue a conditional use permit by the Planning Commission, as approved by this ordinance.

Section 16.04 Administrative Procedure & Enforcement; Application For Building Permit. All applications for building permits shall be accompanied by plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Land Use Administrator, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and to provide for the enforcement of, this ordinance.

The Land Use Administrator shall return to the applicant a copy of the plans, having marked such copy either as approved or disapproved and having attested to same by his/her signature on such copy. If a building permit is refused, the Land Use Administrator shall state in writing the reasons for such refusal. The Land Use Administrator shall retain one copy of the plans, similarly marked. The issuance of a building permit shall, in no case, be construed as waiving any provision of this ordinance.

The building permit shall be visible from the street at the beginning of construction until final inspection by the Building Inspector.

Section 16.05 Administrative Procedure & Enforcement; Certificates of Zoning Compliance For New, Altered, Or Non-Conforming Uses. Any changes in the use of a building or premises and any enlargements or additions to structures require a certificate of zoning compliance issued by the Land Use Administrator. It shall be unlawful to use or occupy or permit such use or occupancy of any building and/or premises or part thereof hereafter created, erected, changed converted or wholly or partly altered or enlarged in its use or structure until such a certificate is issued.

No non-conforming structure or use shall be maintained, renewed, changed or extended until a certificate of zoning compliance shall have been issued by the Land Use Administrator. The certificate of zoning compliance shall state specifically wherein the non-conforming use differs from the provisions of this ordinance, provided, that upon enactment or amendment of this ordinance, owners or occupants of non-conforming uses or structures shall have six (6) months to apply for certificates of zoning compliance. Failure to make such application within six (6) months shall be presumptive evidence that the property was in conforming use at the time of enactment or amendment of this ordinance.

The Land Use Administrator shall maintain a record of certificates of zoning compliance, and a copy shall be furnished upon request to any person. Failure to obtain a certificate of zoning compliance shall be a violation of this ordinance and punishable under Section 18.02 of this ordinance.

None of the requirements outlined in this section applies to improvements of less than five thousand dollars (\$5,000.00) in actual value in Agricultural (AG) Districts of the unincorporated area of the County, provided such structure is located a minimum of five hundred (500) feet from any township, county, state or federal road.

Section 16.06 Administrative Procedure & Enforcement; Expiration of Building Permit. If the work described in any building permit has not begun within ninety (90) days from the date of issuance thereof, said permit shall expire; it shall be canceled by the Land Use Administrator and written notice thereof shall be given to the persons affected.

If the work described in any building permit has not been substantially completed within two (2) years of the date of issuance thereof, said permit shall expire and be canceled by the Land Use Administrator. Written notice of cancellation shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building permit has been obtained.

Section 16.07 Administrative Procedure & Enforcement; Construction and Use To Be Provided In Applications, Plans, Permits, and Certificates Of Zoning Compliance. Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the Land Use Administrator authorize only the use, arrangement and construction set forth in such approved plans and applications and no other use, arrangement or construction. Use, arrangement or construction at variance with that authorized shall be deemed a violation of this ordinance and punishable as provided by Section 18.02 thereof.

Section 16.08 Administrative Procedure & Enforcement; Schedule of Fees, Charges, and Expenses. The Village Board of Trustees shall establish a schedule of fees, charges and expenses and collection procedure for building permits, certificates of zoning compliance, appeals and other matters pertaining to this ordinance. The schedule of fees shall be posted in the office of the Land Use Administrator and may be altered or amended by resolution by the Village Board. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal. (Am. by Ord. 537, 7/10/14)

Section 16.09 Administrative Procedure & Enforcement; Subdivision Regulation Enforcement. No plat or plan of a subdivision of land located within the jurisdiction of this ordinance shall be admitted to the records of the County or received or recorded by the County Register of Deeds until said plat has received final approval in writing by the Village Board of Trustees.

Section 16.10 Administrative Procedure & Enforcement; Improvements on Non-Platted Streets. The Village or other public authority shall not accept, lay out, open, improve, grade, pave or light any street or lay or authorize the laying of water mains, sewers, connections or other facilities or utilities in any street within the Village unless:

1. Such street shall have been accepted or opened as, or shall have otherwise received the legal status of, a public street; or
2. Such street corresponds in its location and lines with a street shown on a subdivision plat approved by the Village Board of Trustees or on a street plat made by and adopted by the Village Planning Commission;
3. Provided, however, the Village Board, in the case of a street within the Village, may locate and construct or may accept any other street if the ordinance for such location and construction or for such acceptance be first submitted to the Village Planning Commission for its approval. If the Planning Commission disapproves such location or construction, the Village Board may, by not less than two-thirds



vote of the members, override the disapproval, and the street shall have the status of an approved street as fully as any other approved street in the Village.

Section 16.11 Administrative Procedure & Enforcement; New Building on Unapproved Streets.

No building permit shall be issued for, or no building shall be erected on, any lot within the jurisdiction of this ordinance unless:

1. The street giving access to the lot upon which said building is proposed to be placed shall be accepted as opened as, or shall have otherwise received the legal status of, a public street prior to that time; or
2. Such street corresponds in its location and lines with a street shown on a subdivision plat approved by the Village Board of Trustees or on a street plat made and adopted by the Village Planning Commission; or
3. Such street corresponds in its location and lines with a street shown on a street plat made and accepted by the Village Board after submission to the Village Planning Commission, and in case of said Planning Commission's disapproval, by the favorable vote required in this ordinance.

Any building erected in violation of this section shall be deemed an unlawful structure, and the Village may bring action to enjoin such erection or cause it to be vacated or removed.

Article 17  
APPEALS, PERMITTED CONDITIONAL USES AND VARIANCES

Section 17.01 Appeals, Permitted Conditional Uses, & Variances; Members, Term, Meetings, Rules. A Board of Zoning Adjustment is hereby established and shall consist of five (5) members, each to be appointed by the Board Chair, with the approval of the Board of Village Trustees, for staggered terms of three (3) years and removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

One (1) member of the Board of Zoning Adjustment shall be appointed from the membership on the Village Planning Commission, and the loss of membership on the Village Planning Commission by such member shall also result in his immediate loss of membership on the Board of Zoning Adjustment and the appointment of another planning commissioner to the Board of Zoning Adjustment.

The members of the Board of Zoning Adjustment shall select one of their number as chairman, another as vice chairman, who shall act as chairman in the chairman's absence, and another as secretary. Each shall serve one (1) year and until his/her successor has been selected.

Meetings of the Board of Zoning Adjustment shall be held at the call of the chairman and at such other times as the Board shall determine. Such chairman, or in his/her absence the acting chairman, may administer oaths and compel the attendance of witnesses.

All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, noting absences or failure to vote, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Land Use Administrator and shall be a public record.

The Board shall adopt from time to time, subject to the approval of the Board of Village Trustees, such rules and regulations as it may deem necessary to carry into effect the appropriate provisions of this ordinance.

Section 17.02 Appeals, Permitted Conditional Uses, & Variances; Appeals To Board, Record of Appeal, Hearing, and Stays. Appeals to the Board of Zoning Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the Village affected by any decision of the administrative officer. Such appeal shall be taken within fifteen (15) days, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board of Zoning Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board of Zoning Adjustment all the papers constituting the record upon which the action under appeal was taken.

The notice of appeal stays all proceedings in furtherance of the action under appeal, unless the officer from whom the appeal is taken certifies to the Board of Zoning Adjustment that, by reason of facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property.

In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Zoning Adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown.

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

Section 17.03 Appeals, Permitted Conditional Uses, & Variances; Powers and Jurisdiction Relating To Administrative Review. The Board of Zoning Adjustment shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures.

Section 17.04 Appeals, Permitted Conditional Uses, & Variances; Powers and Jurisdiction Relating To Permitted Conditional Uses. The Village Planning Commission shall have the power to hear and decide, in accordance with the provisions of this ordinance, requests for permitted conditional use or for decisions upon other special questions upon which the Village Planning Commission is authorized by this ordinance to pass.

The Village Planning Commission, in determining a question of permitted conditional use, may:

1. Grant a permitted conditional use;
2. Grant a permitted conditional use with such conditions and safeguards as are appropriate under this ordinance; or
3. Deny a permitted conditional use when such use is not in harmony with the purpose and intent of this ordinance. A permitted conditional use shall not be granted by the Village Planning Commission unless and until:
  - (a) A written application for a permitted conditional use is submitted, indicating the section of this ordinance under which the permitted conditional use is sought and stating the grounds on which it is requested;
  - (b) Notice shall be given at least ten (10) days in advance of public hearing. The owner of the property for which permitted conditional use is sought or his/her agent shall be notified by mail. Notice of such hearings shall be posted on the property for which permitted conditional use is sought, at the Village Hall, and in one (1) other public place at least ten (10) days prior to the public hearing;
  - (c) The public hearing shall be held. Any party may appear in person or by agent or attorney;

- (d) The Village Planning Commission shall make a finding that it is empowered to grant the permitted conditional use under the section of this ordinance described in the application for permitted conditional use and that the granting of the permitted conditional use will not adversely affect the public interest;
- (e) Before any permitted conditional use shall issue, the Village Planning Commission shall make written findings certifying compliance with the specific rules governing individual permitted conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
  - (I) Ingress and egress to property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
  - (II) Off-street parking and loading areas where required, with particular attention to the items in subsection (I) above and the economic, noise, glare or odor effects of the permitted conditional use on adjoining properties and properties generally in the district;
  - (III) Refuse and service areas, with particular reference to the items in subsections (I) and (II) above;
  - (IV) Utilities, with reference to locations, availability and compatibility;
  - (V) Screening and buffering, with reference to type, dimension and character;
  - (VI) Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;
  - (VII) Required yards and other open space;
  - (VIII) General compatibility with adjacent properties and other property in the district.

Section 17.05 Appeals, Permitted Conditional Uses, & Variances; Powers and Jurisdiction Relating To Variances. The Board of Zoning Adjustment shall have the power, upon an appeal relating to a property, to grant a variance from strict application of any zoning regulation under this ordinance in cases where such strict application would result in peculiar and exceptional practical difficulties or exceptional and undue hardships upon the owner of such a property. These difficulties or hardships may be due to extraordinary and exceptional situation or condition of such piece of property existing at the time of the enactment of this ordinance. The Board of Zoning Adjustment may grant a variance if such relief may be grant without substantial detriment to the public good and without substantially impairing the intent and purpose of this ordinance. The following conditions shall apply:

1. No such variance shall be authorized by the Board of Zoning Adjustment unless it finds the following four (4) criteria:
  - (a) That the strict application of the ordinance would produce undue hardship;
  - (b) That such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
  - (c) 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
  - (d) 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.
2. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this ordinance.
3. No variance from the terms of the zoning regulations of this ordinance shall be granted by the Board of Zoning Adjustment unless and until a written application for a variance is submitted demonstrating the following four (4) conditions:
  - a. that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district;
  - b. that literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this ordinance;
  - c. that the special conditions and circumstances do not result from the actions of the applicant; and
  - d. that granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same zoning district.
4. No non-conforming use of neighboring lands, structures or buildings in the same district and no permitted or non-conforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

5. Notice of public hearings shall be given as outlined in Section 17.04 above and the public hearing shall be held. Any party may appear in person or by agent or by attorney. The Board of Zoning Adjustment shall make findings that the requirements of this section have been met by the applicant for a variance and further shall make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
6. In granting such variance, the Board of Zoning Adjustment may prescribe appropriate conditions and safeguards in conformance with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 18.02 of this ordinance.
7. Under no circumstances shall the Board of Zoning Adjustment grant a variance to allow a use not permissible under the terms of the zoning regulations of this ordinance in the district involved or any use expressly or by implication prohibited by the terms of this ordinance in said district.

Section 17.06 Appeals, Permitted Conditional Uses, & Variances; Board Has Powers Of Administrative Officer On Appeals; Reversing Decision of Administrative Officer. In exercising the above-mentioned powers, the Board of Zoning Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination under appeal and may make such 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.

The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such officer or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance or to effect any variation in this ordinance.

Section 17.07 Appeals, Permitted Conditional Uses, & Variances; Appeals To A Court Of Record. Any person or persons, jointly or severally aggrieved by a decision of the Board of Zoning Adjustment, or any taxpayer or any officer, department, board or bureau of the Village may appeal as provided by Chapter 19-912 of the Revised Statutes of Nebraska, 1943. Said appeal must be filed within 15 days of the filing of the Board's decision.

Section 17.08 Appeals, Permitted Conditional Uses, & Variances; Subdivision Regulation Variance. The Board of Village Trustees shall have the power to authorize a variance from the strict application of the provisions of this ordinance relating to subdivision regulation where, by reason of the unusual shape of a specific piece of property, or where, by reason of exceptional topographical conditions, the strict application of the provisions of this ordinance relating to subdivision regulation would result in extreme practical difficulties and undue hardship upon the owner of the property. The Board of Village Trustees may grant a variance if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the provisions of this ordinance relating to subdivision regulation.

Article 18  
COMPLAINTS, PENALTIES, REMEDIES

Section 18.01 Complaints, Penalties, Remedies; Complaints Regarding Violations. Whenever a violation of this ordinance occurs or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Land Use Administrator. The Administrator shall record properly such complaint, investigate immediately, and take action thereon as provided by this ordinance.

Section 18.02 Complaints, Penalties, Remedies; Penalties. The owner or agent of a building or premises in or upon which a violation of any provisions of this ordinance has been committed or shall exist or lessee or tenant of an entire building or entire premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed one hundred dollars (\$100.00) for any one offense recoverable with costs, together with judgments or imprisonment until the amount of said fine and costs shall be paid. Each and every day that such violation continues after notification shall constitute a separate offense.

Any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Whoever, being the owner or agent of the owner of the land located within the jurisdiction of this ordinance, knowingly, with intent to fraud, transfers or sells or agrees to sell or negotiates to sell such land by reference to or exhibition or by other use of subdivision of such land before such plat has been approved by the Board of Village Trustees and recorded in the office of the Register of Deeds, shall forfeit and pay a penalty of not more than one hundred dollars (\$100.00) for each lot so transferred or sold or agreed or negotiated to be sold; and the description by meter and bounds in the instrument or transfer or other document used in the process of selling or transferring shall not except the transaction from such penalties. The County may enjoin such transfer, sale, lease or other disposition by action for injunction brought in any court of record. The Village may enjoin such transfer or sale or agreement by action for injunction or may recover the said penalty by civil action.

Section 18.03 Complaints, Penalties, Remedies; Remedies. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this ordinance, the appropriate authorities of the Village may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

Article 19  
AMENDMENT

Section 19.01 Amendment; General. The provisions of this ordinance may, from time to time, be amended, supplemented, changed, modified or repealed; provided that such modification or repeal shall, in each instance, be proposed in an ordinance presented to the Board of Village Trustees for adoption in the same manner and upon the same notice as required for the adoption of this ordinance.

Section 19.02 Amendment; Planning Commission Review. No amendment, supplement, change or modification of this ordinance shall be made by the Board of Village Trustees without first the consideration of each by the Planning Commission. Following a public hearing before and consideration by the Planning Commissions, the Commission shall submit in writing to the Board of Village Trustees its recommendations on each amendment, supplement, change or modification within thirty (30) days after receipt thereof. Said recommendations shall include approval, disapproval or other suggestions and the reasons thereof, and a discussion of the effect of each amendment, supplement, change or modification. Said recommendations shall be of an advisory nature only.



Article 20  
LEGAL STATUS PROVISIONS

Section 20.01 Legal Status Provisions; Separability. Should any article, section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 20.02 Legal Status Provisions; Repeal of Conflicting Ordinances. All ordinances or parts of ordinances in conflict with this ordinance or inconsistent with the provisions of this ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect.

Section 20.03 Legal Status Provisions; Effective Date. This ordinance shall take effect and be in force from and after its passage and publication according to law.