

**VILLAGE OF HUBBARD  
DAKOTA COUNTY, NEBRASKA**

**2021  
ZONING ORDINANCE  
and  
SUDIVISION REGULATIONS**

**Adopted by the Village of Hubbard, Nebraska**

**Date**

Prepared by:

***simpco***

Draft

# VILLAGE OF HUBBARD, NEBRASKA

## ZONING ORDINANCE and SUBDIVISION REGULATIONS

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# **Article 1: Title and Purpose**

## **Article I: Title and Purpose**

Section 1.01	Title
Section 1.02	Purpose
Section 1.03	Comprehensive Plan Relationship
Section 1.04	Relationship to Village Code
Section 1.05	Planning and Zoning Commission Recommendations
Section 1.06	District Regulations, Restrictions, Boundary Creation
Section 1.07	Jurisdiction
Section 1.08	Provisions of Ordinance Declared to be Minimum Requirements

### **Section 1.01 Title**

This Ordinance shall be known and may be cited and referred to as the Zoning Ordinance of the Village of Hubbard, Nebraska.

### **Section 1.02 Purpose**

This ordinance has been made in accordance with a comprehensive plan and to promote the health, safety, and general welfare of the community; to lessen congestion in streets; to secure safety from fire and other dangers; to provide adequate light and air; to promote the distribution of population, land classifications and land development to support provisions for adequate transportation, water flows, water supply, drainage, sanitation, recreation, and other public requirements; to protect property against blight and depreciation; and to secure economy in governmental expenditures.

### **Section 1.03 Comprehensive Plan Relationship**

These zoning ordinances are designed to implement various elements of the comprehensive plan as required by state statutes. Any amendment to the district ordinances or map shall conform to the comprehensive plan adopted by the governing body.

### **Section 1.04 Relationship to Village Code**

The use of buildings and land within the Village of Hubbard and its extraterritorial jurisdiction shall be subject to all applicable provisions of the Village Code and other ordinances, as well as this Zoning Ordinance, whether or not said provisions of any Code or Ordinance are specifically cross-referenced in this Ordinance. Cross-referencing to other Village provisions found in this Ordinance are provided for the convenience of the reader; lack of cross-referencing should not be construed as an indication that other provisions of the Village Code do not apply.

### **Section 1.05 Planning and Zoning Commission Recommendations**

Pursuant to Neb. Rev. Stat. §19-901, it shall be the purpose of the Planning and Zoning Commission to hold public hearings upon, and make recommendation

to the legislative body, regarding proposed amendments to the comprehensive plan and zoning regulations within the jurisdiction of the Village. The Planning and Zoning Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the Board of Trustees shall not hold its public hearings or take action until it has received the final report of the Planning and Zoning Commission.

#### **Section 1.06 District Regulations, Restrictions, Boundary Creation**

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

#### **Section 1.07 Jurisdiction**

The provisions of this Ordinance shall apply within the corporate limits of the Village of Hubbard, Nebraska, and within the territory beyond said corporate limits as now or hereafter fixed, for a distance of up to one mile, as established on the map entitled "The Official Zoning Map of the Village of Hubbard, Nebraska", and as may be amended by subsequent annexation.

#### **Section 1.08 Provisions of 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. Whenever the provisions of this Ordinance are in conflict with the provisions of any other ordinance or municipal law, the ordinance or municipal law with the most restrictive provisions shall govern.



## **Article 2: Rule, Abbreviations, and Acronyms**

### **Article 2: Rules, Abbreviations, and Acronyms**

Section 2.01 Rules

Section 2.02 Abbreviations and Acronyms

#### **Section 2.01 Rules**

For the purpose of this ordinance, the following rules shall apply:

**2.01.01.** Words and numbers used singularly shall include the plural. Words and numbers used in the plural shall include the singular. Words used in the present tense shall include the future.

**2.01.02.** The word "persons" includes a corporation, members of a partnership or other business organization, a committee, board, council, commission, trustee, receiver, agent or other representative.

**2.01.03.** The word "shall" is mandatory. The word "may" is permissive.

**2.01.04.** The word "and" indicates all connected items, conditions, provisions, or events shall apply. The word "or" indicates that one or more of the connected items, conditions, provisions, or events shall apply. The term "Either.... or" indicates that the connected items or provisions shall apply singly but not in combination.

**2.01.05.** The words "use", "used", "occupy" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged" or "designed" to be used or occupied.

**2.01.06.** The word "commission" shall refer to the Planning and Zoning Commission of Hubbard, Nebraska.

**2.01.07.** Undefined words or terms not herein defined shall have their ordinary meaning in relation to the context.

**2.01.08.** In the case of any real or apparent conflict between the text of the Ordinance and any illustration explaining the text, the text shall apply.

## **Section 2.02 Abbreviations and Acronyms**

For purposes of these Regulations this section contains a listing of abbreviations and acronyms and defining the abbreviations used throughout this document.

ADA	Americans with Disabilities Act
A.U.	Animal Unit
CFR	Code of Federal Regulations
DU	Dwelling Unit
DNR	Department of Natural Resources
FAA	Federal Aviation Administration
FCC	Federal Communication Commission
FEMA	Federal Emergency Management Agency
GFA	Gross Floor Area
HUD	US Department of Housing and Urban Development
KV	Kilovolt
KW	Kilowatt
NDEQ	Nebraska Department of Environmental Quality
NE DOT	Nebraska Department of Transportation
NEMA	Nebraska Emergency Management Agency
NHHS	Nebraska Department of Health and Human Services
NPDES	National Pollutant Discharge Elimination System
NRCS	Natural Resources Conservation Service
USC	United States Code
USACE	United States Army Corps of Engineers
USDA	United States Department of Agriculture

## **Article 3: Districts and Official Map**

### **Article 3: Districts and Official Map**

Section 3.01 Zoning Districts

Section 3.02 Provision for Official Zoning Map

#### **Section 3.01 Zoning Districts**

In order to regulate and restrict the height, location, size and type of buildings, structures and uses allowed on land in the Village and the area within one mile of the corporate boundaries, the Village is hereby divided into districts.

#### **Section 3.02 Provision for Official Zoning Map**

**3.02.01.** The Village is hereby divided into districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Chairman and attested by the Village Clerk and bearing the seal of the Village under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 3.02.02 of Ordinance No. ( ) of the Village of Hubbard, Nebraska", together with the date of the adoption of this Ordinance. If, in accordance with the provisions of this Ordinance, changes are made in the 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 of Trustees.

**3.02.02.** In the event that the Official Zoning Map becomes 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. 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 or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Chairman and attested by the Village Clerk and bearing 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 Ordinance No. ( ) of the Village of Hubbard Nebraska." Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

## Article 4: General Provisions

### Article 4: General Provisions

Section 4.01	Zoning Affects Every Building and Use	Section 4.11	Nonconforming, General Intent
Section 4.02	Lot	Section 4.12	Nonconforming, Lots of Record
Section 4.03	Reductions in Lot Area Prohibited	Section 4.13	Nonconforming Structures
Section 4.04	Obstructions to Vision at Street Intersections	Section 4.14	Nonconforming Uses
Section 4.05	Yard Requirements	Section 4.15	Repairs and Maintenance
Section 4.06	Drainage	Section 4.16	Rear Yard Setbacks Reduction
Section 4.07	Permitted Obstructions in Required Yards	Section 4.17	Recreational Vehicles, Trailers or Equipment
Section 4.08	Accessory Buildings and Uses	Section 4.18	Temporary Uses & Permits
Section 4.09	Permitted Modifications of and Height Regulations	Section 4.19	Prohibited Uses
Section 4.10	Occupancy of Basements and Cellars	Section 4.20	Fees
		Section 4.21	Through Lots
		Section 4.22	Mobile Home

### **Section 4.01 Zoning Affects Every Building and Use**

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

### **Section 4.02 Lot**

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

**4.02.02.** More than one principal building of a single permitted use may be located upon a lot or tract in the following instances if recommended by the Planning and Zoning Commission and approved by the Village Board of Trustees.

1. Institutional buildings
2. Public or semi-public buildings
3. Multiple-family dwellings
4. Commercial or industrial buildings
5. Home for the aged
6. Agricultural buildings
7. Planned Unit Developments

### **Section 4.03 Reductions in Lot Area Prohibited**

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

### **Section 4.04 Obstructions to Vision at Street Intersections**

On a corner lot, within the area formed by the center line of streets at a distance of 60 feet from their intersections, there shall be no obstruction to vision between a height of two and one-half feet and a height of 8 feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets. At the intersection of major or arterial streets, the 60-foot distance shall be increased to 90 feet for each arterial leg of the intersection. The requirements of this section shall not be deemed to prohibit any necessary retaining wall.

### **Section 4.05 Yard Requirements**

**4.05.01.** Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.

**4.05.02.** No part of a yard, or other open space, or off-street parking or loading space, required in connection with any building for the purpose of complying with this regulation, shall be included as part of a yard, open space, or off-street parking or loading space required for another building and or lot.

**4.05.03.** No yard or lot existing at the time of passage of this regulation shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this regulation shall meet the minimum requirements herein.

**4.05.04.** All accessory buildings when connected to the principal building (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.

**4.05.05.** The Zoning Administrator may permit a variation in front yard setbacks to allow new or relocated structures to conform to the average existing setback provided that 1.) More than 40 percent of the frontage on one side of a street between intersecting streets is occupied by structures on the effective date of this Ordinance, and 2.) A minority of such structures have observed or conformed to an average setback line.

**4.05.06.** Any side or rear yard in a residential district which is adjacent to any existing industrial or commercial use shall be no less than 25 feet and the industrial or commercial adjoining businesses shall install and maintain landscaping and planting suitable to provide effective screening.

#### **Section 4.06 Drainage**

No building, structure, or use shall be erected on any land and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage, that will obstruct, interfere with, increase the amount or rate of flow, or substantially change the drainage from such land to the detriment of neighboring lands. Anyone desiring to build or otherwise change the existing drainage situation shall be responsible for providing to the Village or its designated agent documentation signed by a licensed surveyor or engineer that such changes will not be a substantial detriment to the neighboring lands.

#### **Section 4.07 Permitted Obstructions in Required Yards**

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

##### **4.07.01. All Yards:**

1. Steps and accessibility ramps used for wheelchair and other assisting devices which are four feet or less above grade which will not exceed minimum requirements of the Americans with Disabilities Act are necessary for access to a permitted building or for access to a lot from a street or alley;
2. Chimneys projecting 24 inches or less into the yard;
3. Approved freestanding signs;
4. Flag poles;
5. Window air conditioners projecting not more than 18 inches into the required yard; and
6. Fences, hedges or walls subject to applicable height restrictions are permitted in all yards.

##### **4.07.02. Rear and Side Yards:**

1. Playground and other recreational equipment;
2. Clothes lines;
3. Arbors and trellises;
4. Open off-street parking spaces;
5. Outside elements of central air conditioning systems; and
6. Emergency egress systems for basements on an existing structure.

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

**4.07.04.** Building Groupings: For the purpose of the side yard regulation a group of business or industrial buildings separated by a common party wall shall be considered as one building occupying one lot.

**4.07.05.** In no event shall an accessory building be used as a dwelling unless otherwise allowed.

**4.07.06.** All Yards: In no event shall a portable storage container be used as a storage/accessory building within any residential district unless a temporary use permit is obtained.

#### **Section 4.08 Accessory Building and Uses**

**4.08.01.** No accessory building or structure shall exceed the maximum permitted height allowed in the individual district, unless otherwise provided.

**4.08.02.** No accessory building shall be constructed in the required front yard.

**4.08.03.** No accessory building shall be erected in or encroach upon the required front yard on a corner lot or the front yard of a double frontage lot.

**4.08.04.** No accessory building shall be constructed on a lot without a principal building or structure.

**4.08.05.** Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than 10 feet.

**4.08.06.** When a detached garage or other outbuilding is built within the required setback for a principal structure, the principal structure and detached building shall remain as separate structures and maintain the required separation distances found in Section 4.08.012.

**4.08.07.** In any zoning district, accessory buildings shall not occupy more than thirty percent (30%) of a rear yard. Residential accessory buildings shall be limited to a maximum of three (3) total buildings, including a garage; however, in the instance of small rear yards this regulation shall not prohibit the construction of at least one garage not to exceed six hundred (600) square feet of gross building area.

**4.08.08.** Accessory buildings shall not be used for dwelling purposes.

**4.08.09.** If a garage faces an alley, it shall be at least ten (10) feet from the rear property line. If garage has a side entrance, it shall be 5 feet from alley. If garage faces an alley, it shall be 20 feet from alley.

**4.08.010.** Accessory buildings shall not be permanently erected, placed, located or constructed on any required, permanent, or utility easement.

**4.08.10.** Detached private garages and outbuildings in the residential districts within the corporate limits of the Village for automobiles and/or storage use and other structures customary and appurtenant to the permitted uses and detached accessory garages shall be constructed of materials customarily used in residential construction, similar in color and style to the primary structure on the same lot.

1. Exception: Accessory buildings 120 square feet or less shall be exempt from the design standards above, however, they must be anchored to meeting the wind ratings.

**4.08.11.** Sheds shall be allowed in the designated zoning districts and shall meet the minimum requirements.

1. Sheds up to 120 square feet shall be anchored to the ground. Sheds between 120 square feet and 200 square feet shall be, at a minimum, anchored to a slab.
2. Sheds over 200 square feet shall follow current Village building codes.

**4.08.12.** Regulation of accessory uses shall be as follows:

1. Except as herein provided, no accessory building shall project beyond a required yard line along any street.
2. Service station pumps and pump islands may occupy the required yards, provided, however, that they are not less than 15 feet from street lines.
3. Parking of any vehicle, boat, boat trailer, camp trailer or other vehicle shall not be permitted in any required front yard except on designated driveway.
4. Vehicles including a boat, boat trailer, camp trailer may be placed on rock or concrete surfacing on side or rear yards.
5. No parking on right-of-way or from edge of pavement to property line.

#### **Section 4.09 Permitted Modifications of Height Regulations**

**4.09.01.** The height limitations of this Ordinance shall not apply to the following, provided that the appropriate yard setbacks are increased by one foot for every two feet in excess of the maximum height requirement for the given zoning district:

Air Pollution Prevention Devices	Meteorology Equipment
Belfries	Flag Poles
Chimney's	Ornamental Tower & Spires
Church Spires	Public Monuments
Conveyor's	Radio & Television Towers less than 125 ft. tall
Cooling Towers	Silo's & Grain Elevator's
Elevator Bulkheads	Smoke Stacks
Commercial Elevator	Storage Towers & Scenery Lots
Fire Towers	Tanks
Web Cameras	Water Towers & Standpipes



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

#### **Section 4.10 Occupancy of Basements and Cellars**

No basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed, and any required emergency egress requirements of the Village of Hubbard have been installed as required per state and life-safety codes.

#### **Section 4.11 Nonconforming, General Intent**

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

#### **Section 4.12 Nonconforming Lots of Record**

In any district, notwithstanding limitations imposed by other provision of this Ordinance, a primary structure and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both that are generally applicable in the district provided that the yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.

#### **Section 4.13 Nonconforming Structures**

**4.13.01.** *Authority to continue:* Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.

**4.13.02.** *Enlargement, Repair, Alterations:* Any such structure described in Section 4.13.01 may be enlarged, maintained, repaired or remodeled, provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure, except that as to structures

located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be in conformance with this section, and unless otherwise permitted by conditional use permit unless otherwise approved or as specified in the Residential District.

**4.13.03. *Damage or Destruction:*** In the event that any structure described in Section 4.13.01 is damaged or destroyed, by any means other than intentional destruction, to the extent of more than 50 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; provided that structures located on a lot that does not comply with the applicable lot size requirements in Section 4.12, shall not have a side yard of less than five feet. When a structure is damaged to the extent of less than 50 percent of its structural value, no repairs or restoration shall be made unless a building permit is obtained, and restoration has actually begun within one year after the date of such partial destruction and is diligently pursued to completion. Complete reconstruction of a nonconforming structure may be allowed through a Conditional Use Permit if the structure is damaged or destroyed by natural means and not through intentional destruction or actions of the property owner or tenant. Reconstructed structures shall not be allowed to increase the level of nonconformity with regard to setbacks or lot coverage.

**4.13.04. *Moving:*** No structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

#### **Section 4.14 Nonconforming Uses**

**4.14.01. *Nonconforming Uses of Land:*** Where at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;
2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.
3. If any such nonconforming use of land ceases for any reason for a period of more than 12 consecutive months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

**4.14.02. Nonconforming Uses of Structures:** If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:

1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building;
3. If no structural alterations are made, any nonconforming use of a structure or structures and premises may be changed to another nonconforming use provided that the board of adjustment either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguard in accord with the provisions of this ordinance;
4. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed;
5. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for 12 consecutive months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations.
6. Where nonconforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

#### **Section 4.15 Repairs and Maintenance**

**4.15.01.** On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing provided that the cubic content of the building as it existed at the time of passage of amendment of this ordinance shall not be increased.

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

#### **Section 4.16 Rear Yard Setbacks Reduction**

The rear yard setback may be the lesser of the required setback in a district or 20% of the depth of the lot.

#### **Section 4.17 Recreational Vehicles, Trailers, or Equipment.**

All vehicles, boats, camp trailer, or equipment expressly designated or used for recreational or seasonal use shall not be used for dwelling purposes on any lot except as may be authorized elsewhere within this Ordinance. Such vehicles, trailers, or equipment shall not be parked or maintained in the required front yard. See Section 4.08.013.

#### **Section 4.18 Temporary Uses and Permits**

**4.18.01.** The Zoning Administrator shall issue temporary permits for buildings to be constructed and used for storage incidental to construction of buildings on the property and for signs advertising a subdivision or tract of land or the lots thereon. The permits shall not exceed 180 days in duration unless the following conditions apply:

1. Model homes or apartments, if contained within the development to which they pertain.
2. Development sales offices. Such offices may remain in place until 90% of the lots or units within the development are sold and may not be located within a mobile home or manufactured home/structure.
3. Public assemblies, displays, and exhibits.
4. Christmas tree or other holiday-related merchandise sales lots, provided that such facilities are not located in a residential zoning district.
5. Construction site offices, if located on the construction site itself.
6. Outdoor special sales, provided that such sales operate no more than three days in the same week and five days in the same month; and are located in commercial or industrial zoning districts.
7. Construction Batch Plants provided that:
  - a. No plant may be located within 600 feet of a developed residential use, park, or school.
  - b. Hours of operation do not exceed 12 hours per day.
  - c. The duration of the plant's operation does not exceed 180 days, but may be extended by the Zoning Administrator if unforeseen circumstances have delayed the project.

#### **4.18.02. Required Conditions of All Temporary Uses**

1. Each site shall be left free of debris, litter, or other evidence of the use upon its completion or removal.
2. The Planning and Zoning Commission, or its designee, may establish other conditions which he/she deems necessary to ensure compatibility with surrounding land uses.

#### **4.18.03. Permit Application and Issuance**

1. An application to conduct a temporary use shall be made to the Zoning Administrator and shall include at a minimum a description of the proposed use; a diagram of its location; information regarding hours and duration of operation; and other information necessary to evaluate the application.
2. The Planning and Zoning Commission, or its designee, may authorize a temporary use only if he/she determines that:
  - a. The use will not impair the normal operation of a present or future permanent use on the site.
  - b. The use will be compatible with surrounding uses and will not adversely affect the public health, safety, and welfare.
3. The duration of the permit shall be explicitly stated on the permit.

#### **Section 4.19 Prohibited Uses**

All uses which are not specifically permitted or are not permissible as a Conditional Use throughout each district of this Ordinance are prohibited until such time as the Ordinance is amended accordingly.

#### **Section 4.20 Fees**

The payment of any and all fees for any zoning or subdivision related action or permit request shall be required prior to the issuance or investigation of any said action or permit request. Such fees shall be adopted and published by the Village Board of Trustees by separate Resolution.

#### **Section 4.21 Through Lots**

##### **4.21.01. Through Lots shall follow the following criteria:**

1. Where a through Lot abuts a major thoroughfare, such as a highway and access is made from the other frontage street and access along said thoroughfare is restricted, fences and screening devices shall meet all fence and screening requirements and shall be treated as if they were in a rear yard. The rear yard setback for primary and accessory buildings shall follow the prescribed set back within the zoning district.
2. Where a through lot is a part of a triple frontage lot and abuts a major thoroughfare, the rear yard shall meet the standards of number 1 above, while the other two frontages shall be treated as a corner lot with a front yard setback and a street side yard setback.
3. Where a through lot occurs, other than along a major thoroughfare, the following shall apply:
  - a. Where all principal structures in the development face the same frontage, then the rear yard setback for fences and screening shall be zero feet and all accessory buildings shall meet the prescribed setback within the zoning district. This shall apply similarly at triplet frontage lots, provided the remaining two frontages are treated like a typical corner lot.

- b. Where principal structures face different directions along both frontages, the setback for fences and screening to the rear of said structures shall be the same as any prescribed Front Yard setback within the zoning district. This shall apply similarly at triple frontage lots, provided the remaining two frontages are treated like a typical corner lot. All accessory buildings in this condition shall comply with a minimum Front Yard setbacks rather than the reduced setback allowed for accessory buildings.

#### **Section 4.22 Mobile Home**

Mobile Homes not allowed in the Village limits of the Village of Hubbard.

## Article 5: Zoning Districts

### Article 5: Zoning Districts

Section 5.01	Districts; Use	Section 5.06	(R-1) Single-Family Residential District
Section 5.02	Districts; Boundaries & Official Zoning Map	Section 5.07	(P) Public, Park & Open Public Spaces District
Section 5.03	Rules for Interpretation of District Boundaries on the Official Zoning Map	Section 5.08	(C-1) Downtown Mixed Commercial District
Section 5.04	Annexation and Conformance With the Land Use Plan	Section 5.09	(C-2) Highway Commercial District
Section 5.05	One-Mile Extraterritorial Zoning Boundaries	Section 5.10	(C-3) General Commercial District

### **Section 5.01 Districts; Use**

For the purpose of this Ordinance the Village is hereby divided into the zoning districts as follows:

1. Residential Single-Family District (R-1)
2. Public, Park & Open Spaces District (P)
3. Downtown Mixed Commercial District (C-1)
4. Highway Commercial District (C-2)
5. General Commercial District (C-3)

### **Section 5.02 Districts; Boundaries and Official Zoning Map**

1. *Boundaries.* The boundaries of the districts are hereby established as shown on the map entitled "Official Zoning Map of the Village of Hubbard, Nebraska." Said maps and all explanatory matter thereon accompany and are hereby made a part of this Ordinance as if fully written herein.
2. *Zoning Maps & Amendments.* Amendments, supplements, or changes of the boundaries of the districts as shown on the official zoning map shall be made by ordinance amending the Hubbard Zoning Ordinance. The amending ordinance shall refer to the official zoning map and shall set out the identification of the area affected by legal description and identify the zoning district as the same exists and the new district designation applicable to said property. Said ordinance shall, after adoption and publication, be recorded by the Village Clerk as other ordinances and a certified copy thereof be attached to the official zoning map. Such amendatory ordinance shall, however, not repeal or reenact said map, but only amend it. The Official Zoning District Map shall be identified by the signature of the Chairman and attested by the Village Clerk. No changes shall be made on the Zoning District Map except as may be required by amendments to this Ordinance. Such changes shall be promptly indicated on the Zoning District Map with the Ordinance number, nature of change, and date of change noted on the map.

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

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

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following Village limits shall be construed as following such Village limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
5. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line;
6. 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;
7. Boundaries indicated as parallel to or extensions of features indicated in subsections (1) to (6) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
8. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections (1) to (7) above, the Board of Adjustment shall interpret the district boundaries;
9. Where a district boundary line divides a lot, which was in single ownership at the time of passage of this Ordinance, The Board of Zoning Adjustment may permit the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.
10. When a district boundary line splits a lot, tract, or parcel that is in sole ownership, the zoning district with the most restrictive requirements may be extended over the entire property without amending the zoning map through the public hearing process.
11. When a lot, tract, or parcel is bisected by the extraterritorial jurisdiction boundary line, the jurisdiction with the greatest portion of the property shall have controlling interest.

### **Section 5.04 Annexation and Conformance with the Land Use Plan**

All territory which is hereafter annexed into the corporate limits of the Village of Hubbard after the effective date of this Ordinance shall be zoned to conform to the adopted Future Land Use Plan, until a time the annexed land may be reviewed by the Planning and Zoning Commission and recommended to the



Board of Trustees to approve a zoning classification that best depicts the zoning classification based on the current use of the land.

### **Section 5.05 One-Mile Extraterritorial Zoning Boundaries**

Except in those areas where a county zoning ordinance exists, the Village shall have the authority to extend zoning powers granted by the Nebraska Revised Statutes within the territory beyond said corporate limits as now or hereafter fixed, for a distance of up to one mile, as established on the map entitled "The Official Zoning Map of the Village of Hubbard, Nebraska", and as may be amended by subsequent annexation.

### **Section 5.06 Single-Family Residential District (R-1)**

#### **5.06.01. Intent:**

The intent of the Single-Family Residential District is to provide for low density residential development with a limited number of institutional and recreational facilities permitted. The following regulations shall apply to the Single-Family Residential District.

#### **5.06.02. Permitted Uses:**

Within the Single Family Residential District, unless otherwise provided, only the following uses and structures shall be permitted.

1. Single-Family Dwellings.
2. Government/public services.
3. Publicly owned and operated facilities.
4. Local utility services.
5. Family Child Care Home.

#### **5.06.03. Conditional Uses:**

The following uses are subject to any conditions listed in this Ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the Single-Family Residential District as recommended and approved by the Planning and Zoning Commission and approved by the Village Board of Trustees.

1. Public parks and recreation areas, playgrounds and conservation areas including flood control facilities.
2. Churches, temples, seminaries, convents, including residences for teachers and pastors.
3. Public utility main transmission lines including substations, distribution centers, regulator stations, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses.
4. Home Occupations (See Home Occupations).
5. Child Care Center.
6. Two-family residential home.
7. Relocated residential home.

8. Educational Facilities.
9. Floodplains, undeveloped or unimproved lands and water control structures, irrigation or retention basins.

#### **5.06.04. Permitted Temporary Uses:**

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.18.

#### **5.06.05. Permitted Accessory Uses and Structures:**

The following accessory uses are permitted in the Single-Family Residential District:

1. Private garages and carports.
2. Buildings and uses customarily incidental to the permitted uses.
3. Home Occupations as per Section 9.01.
4. Decks, gazebos, cabanas, elevated patios either attached or detached.
5. Private swimming pool, athletic courts, and other recreational facilities in conjunction with a residence.
6. Fences, Hedges and Walls as per Section 9.04.
7. Parking for permitted uses as per Article 8.
8. Signs allowed per Article 7.
9. Landscaping as required by Section 4.05.
10. Private greenhouses not operated for commercial purposes.
11. Radio, television, satellite dish, and other similar receiving antennas for residential purpose.
12. Temporary buildings incidental to construction work where such building or structures are removed upon completion or abandonment of construction, and in compliance with Section 4.18. No basement shall be occupied as living quarters, except that a basement may be so occupied for no more than one year while the owner is constructing a dwelling above it, provided that sanitary facilities are approved by the Zoning Administrator. After house construction, a basement may be used as living quarters.
13. Accessory uses and buildings in compliance with Section 4.08, and as determined by the Zoning Administrator to be appropriate, incidental and subordinate to the permitted and special exception uses and structures.

#### **5.06.06. Height and Lot Requirements:**

The following minimum requirements shall be provided for light and open space around permitted and conditional uses and structures in the Single-Family Residential District, and subject to the General Provisions in Article 4.

Lot Area	Single Family 5,000 square feet - minimum lot area
Lot Width	60 feet - minimum lot width, except at entry points off cul-de-sacs
Front Yard	25 feet - minimum required setback
Side Yard	7 feet - minimum required setback
Rear Yard	25 feet - minimum required setback
Street Side Yard (Corner Lot)	30 feet – minimum required setback
Height	35 feet - maximum height
Total Square Footage	900 square feet – minimum dwelling size
Residential Density	Not more than one (1) dwelling unit per lot, except for two family or duplex residential.

No minimum requirements for local utility facilities and essential services, except that buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum yard setback requirements. When a two-family dwelling can be divided by a common party wall, the front, rear, and side yard requirements shall apply to the total building and not be required for each individual housing unit.

## **Section 5.07 Public, Park and Open Spaces District (P)**

### **5.07.01. Intent:**

The intent of the (P) Public, Park and Open Spaces District is to establish a district within the Village that provides appropriate locations for parks, open spaces, public service uses, and transportation facilities. The District provides locations in the Village for necessary public services (e.g., Fire, EMS and Sheriff's Stations) and locations for natural resources, recreation and community gathering in close proximity to neighborhood residential.

### **5.07.02. Permitted Uses:**

Within the (P) Public, Parks and Open Spaces District, unless otherwise provided, only the following uses and structures shall be permitted.

1. Ballfields, public.
2. Campgrounds, public.
3. Community gardens.
4. Open spaces and trails.
5. Municipal improvements.
6. Parks.

7. Recreational areas, public.
8. Recreational vehicle parks, public.
9. Public buildings and facilities.
10. Storm water retention, detention and treatment facilities.
11. Water and waste water facilities (pump stations, treatment plants, water towers).
12. Satellite dishes and antennas, non-commercial.

#### **5.07.03. Conditional Uses:**

The following uses are subject to any conditions listed in this ordinance and are subject to other conditions relating to the placement of said use on a specific tract of ground in the Public, Parks and Open Spaces District as recommended and approved by the Planning and Zoning Commission and approved by the Village Board of Trustees.

1. Community Center.
2. Conference Center.
3. Golf course and driving range.
4. Radio and television towers.

#### **5.07.04. Permitted Temporary Uses:**

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.18.

#### **5.07.05. Permitted Accessory Uses and Structures:**

The following accessory uses are permitted in the Public, Parks and Open Spaces District:

1. Accessory buildings and structures, public.
2. Battery charging stations, public.
3. Emergency shelters.
4. Public parking garages.

#### **5.07.06. Height and Lot Requirements:**

The following minimum requirements shall be provided for light and open space around permitted and conditional uses and structures in the (P) Public, Park and Open Spaces District and subject to the General Provisions in Article 4:

Lot Area	No minimum required
Lot Width	No minimum required
Front Yard	20 feet – minimum required setback
Side Yard	10 feet – minimum required setback

Rear Yard	10 feet – minimum required setback
Street Side Yard	20 feet – minimum required setback
Height	35 feet - maximum height

No minimum requirements for local utility facilities and essential services, except that buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum yard setback requirements.

## **Section 5.08 Downtown Mixed Commercial District (C-1)**

### **5.08.01. Intent:**

The Downtown Mixed Commercial District is intended to establish standards that will foster and maintain an area within the district boundaries that will benefit the retail trade, business, cultural, and social activities of the entire community. In addition, this district prohibits all exterior storage by a primary use unless a separate Conditional Use Permit is requested for the use and granted by the Village.

### **5.08.02. Permitted Uses:**

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the Downtown Mixed Commercial District.

1. Medical/dental offices and business services including: attorneys, banks, insurance, real estate offices, postal stations, printing, credit services and investment services; but not including uses defined in Adult Establishment.
2. Child care center.
3. Dance studio, not including uses defined in Adult Establishment.
4. Meeting hall, not including uses defined in Adult Establishment.
5. Museum, art gallery.
6. Retail business or service establishment supplying commodities or performing services, such as, or in compatibility with and including the following:
  - a. Apparel shop.
  - b. Appliance store.
  - c. Antique store.
  - d. Automobile parts and supply store.
  - e. Bakery shop (retail).
  - f. Barber and Beauty shop.
  - g. Bicycle shop.
  - h. Book store, not including uses defined in Adult Establishment.
  - i. Brew-on premises store.
  - j. Camera store.
  - k. Clothing services, including dry cleaning, laundromats, etc.

- l. Communication services, including newspaper, radio, television, and photocopying.
  - m. Computer store.
  - n. Confectionery.
  - o. Dairy products sales.
  - p. Drug store.
  - q. Dry cleaning and laundry pickup.
  - r. Exercise, fitness and tanning spa, not including uses defined in Adult Establishment.
  - s. Floral shop.
  - t. Mortuary.
  - u. Food Sales (Limited) and Food Sales (General).
  - v. Furniture store or showroom.
  - w. Gift and curio shop.
  - x. Gunsmith.
  - y. Hardware store.
  - z. Hobby, craft, toy store.
  - aa. Jewelry store.
  - bb. Liquor store.
  - cc. Locksmith.
  - dd. Meat market, retail.
  - ee. Music retail store.
  - ff. Music studio.
  - gg. Newsstands, not including uses defined in Adult Establishment.
  - hh. Paint store.
  - ii. Pet shop.
  - jj. Photographer.
  - kk. Picture framing shop.
  - ll. Reservation center.
  - mm. Restaurants, cafes and fast food establishment.
  - nn. Second hand stores.
  - oo. Shoe store.
  - pp. Sporting goods.
  - qq. Stamp and coin stores.
  - rr. Tailors and dressmakers.
  - ss. Tanning salon.
  - tt. Travel agencies.
  - uu. Video store, not including uses defined in Adult Establishment.
- 7. Social club and fraternal organizations, not including uses defined in Adult Establishment.
  - 8. Telephone exchange.
  - 9. Telephone answering service.
  - 10. Theater, indoor, not including uses defined in Adult Establishment.
  - 11. Public overhead and underground local distribution utilities.

12. Publicly owned and operated facilities.
13. Tavern and cocktail lounge, not including uses defined in Adult Establishment.

#### **5.08.03. Conditional Uses:**

The following uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the Downtown Mixed Commercial District as recommended by the Planning and Zoning Commission and approved by the Board of Trustees.

1. Variety store, not including uses defined in Adult Establishment.
2. Amusement arcades.
3. Bowling center.
4. Brew Pubs.
5. Microbreweries when in conjunction with a restaurant.
6. Coffee Kiosks.
7. Automated Teller Machines when not within the interior of a primary use.
8. Business or trade school.
9. Garden Supply and retail garden center.
10. Commercial greenhouse.
11. Mail order services.
12. Pinball or video games business.
13. Convenience store with limited fuel sales.
14. Residences in conjunction with the principal use when located above the ground floor.
15. Churches, temples, seminaries, and convents including residences for teachers and pastors.
16. Retail building material sales; provided that the following minimum standards are present:
  - a. All lumber shall be enclosed with the primary structure.
  - b. All year-round landscaping materials shall be enclosed within the primary structure.
13. Hotels and motels.
14. Sales, rental, and display of automobiles, trucks, campers, recreational vehicles, mobile homes, boats and farm implements, provided that all servicing and maintenance shall be conducted within an enclosed building.
15. Car wash.
16. Tire store and minor automobile repair service.
17. Service station with minor automobile repair services.
18. Commercial Fuel Pumps.
19. Health clubs and health recreation facilities, not including uses defined in Adult Establishment.

#### **5.08.04. Permitted Temporary Uses:**

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.18.

1. Temporary greenhouses.
2. Temporary structures as needed for sidewalk and other outdoor sales events.
3. Buildings and uses incidental to construction work are permitted to remain until completion or abandonment of the construction work, at which time they shall be removed.
4. Temporary structure for festivals or commercial events.
5. Portable Storage Containers.
6. Mobile Food Units per Section 9.16.

#### **5.08.05. Permitted Accessory Uses and Structures:**

Refer to the definitions of Accessory Uses and Structures and Sections within Article 4 for more detail.

1. Buildings and uses customarily incidental to the permitted uses.
2. Parking as permitted in Article 8.
3. Signs allowed per Article 7.
4. Landscaping as required by Section 4.05.
5. Fireworks stands, provided the criteria are met as established by the Village through separate ordinances.
6. Radio and television satellite signal receiving antennas, provided such receiving units are situated in the rear yard or on the roof.

#### **5.08.06. Height and Lot Requirements:**

The following minimum requirements shall be provided for light and open space around permitted and conditional uses and structures in the Downtown Mixed Commercial District and subject to the General Provisions in Article 4:

Lot Area	700 square feet minimum required
Lot Width	20 feet minimum required
Front Yard	No minimum required
Side Yard	No minimum required, except ten (10) feet minimum setback if a side yard abuts a residential district
Rear Yard	No minimum required, except ten (10) feet minimum setback if a side yard abuts a residential district
Street Side Yard	No minimum required
Height	50 feet - maximum height



No minimum requirements for local utility facilities and essential services, except that buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum yard setback requirements.

**5.08.07. Use Limitations:**

1. When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within fifteen (15) feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Article 7. Off street parking and loading requirements shall be required for activities in the Downtown Commercial District in accordance with the provisions of Article 7 of this ordinance.
2. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
3. Sign regulations shall be required for activities in the Downtown Commercial District in accordance with the provisions of Article 6 of this ordinance.

**Section 5.09 Highway Commercial District (C-2)**

**5.09.01. Intent:**

The intent of the Highway Commercial District is designed to provide for establishments offering accommodations or services to motorists, retail, wholesale, service and repair activities which do not contribute to the creation of unattractive, congested and unsafe highway conditions. They are designed to promote:

1. Safe traffic circulation on and off and across the highway.
2. A high quality of design and site planning.
3. Flexibility in development in order to provide an attractive, viable employment corridor.

**5.09.02. Permitted Uses:**

The following principal uses are permitted in the Highway Commercial District provided the uses and/or structure meet the minimum bulk requirements of the District.

1. Medical/dental offices and business services including: attorneys, banks, insurance, real estate offices, postal stations, printing, credit services and investment services; but not including uses defined in Adult Establishment.
2. Child care center.
3. Dance studio, not including uses defined in Adult Establishment.
4. Meeting hall, not including uses defined in Adult Establishment.
5. Museum, art gallery.

6. Retail business or service establishment supplying commodities or performing services, such as, or in compatibility with and including the following:
- a. Apparel shop.
  - b. Appliance store.
  - c. Antique store.
  - d. Automobile parts and supply store.
  - e. Bakery shop (retail).
  - f. Barber and Beauty shop.
  - g. Bicycle shop.
  - h. Book store, not including uses defined in Adult Establishment.
  - i. Brew-on premises store.
  - j. Camera store.
  - k. Clothing services, including dry cleaning, Laundromats, etc.
  - l. Communication services, including newspaper, radio, television, and photocopying.
  - m. Computer store.
  - n. Confectionery.
  - o. Dairy products sales.
  - p. Drug store.
  - q. Dry cleaning and laundry pickup.
  - r. Exercise, fitness and tanning spa, not including uses defined in Adult Establishment.
  - s. Floral shop.
  - t. Mortuary.
  - u. Food Sales (Limited).
  - v. Food Sales (General).
  - w. Furniture store or showroom.
  - x. Gift and curio shop.
  - y. Gunsmith.
  - z. Hardware store.
  - aa. Hobby, craft, toy store.
  - bb. Jewelry store.
  - cc. Liquor store.
  - dd. Locksmith.
  - ee. Meat market, retail.
  - ff. Music retail store.
  - gg. Newsstands, not including uses defined in Adult Establishment.
  - hh. Paint store.
  - ii. Pet shop.
  - jj. Photographer.
  - kk. Picture framing shop.
  - ll. Reservation center.
  - mm. Restaurants, cafes and fast food establishments.

- nn. Second hand stores.
- oo. Service station with minor automobile repair services.
- pp. Shoe store.
- qq. Sporting goods.
- rr. Stamp and coin stores.
- ss. Tailors and dressmakers.
- tt. Tanning salon.
- uu. Tire store and minor automobile repair service.
- vv. Travel agencies.
- ww. Video store, not including uses defined in Adult Establishment.
- 7. Social club and fraternal organizations, not including uses defined in Adult Establishment.
- 8. Telephone exchange.
- 9. Telephone answering service.
- 10. Public overhead and underground local distribution utilities.
- 11. Publicly owned and operated facilities.
- 12. Automobile service stations, but not including major body repair, the dismantling or wrecking of vehicles or the storage of damaged or inoperable vehicles.
- 13. Sales, rental, and display of automobiles, trucks, campers, recreational vehicles, mobile homes, boats and farm implements, provided that all servicing and maintenance shall be conducted within an enclosed building.
- 14. Mortuaries.
- 15. Car Washes.
- 16. Garden supply and retail garden centers.
- 17. Churches.
- 18. Equipment and supply rental establishments and outdoor storage in conjunction with primary use.
- 19. Tavern and cocktail lounge, not including uses defined in Adult Establishment.
- 20. Health Clubs and Health Recreation facilities, not including uses defined in Adult Establishment.

#### **5.09.03. Conditional Uses:**

The following uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the Highway Commercial District as recommended and approved by the Planning and Zoning Commission and approved by the Village Board of Trustees.

- 1. Recreational establishments.
- 2. Department store.
- 3. Variety store, not including uses defined in Adult Establishment.
- 4. Amusement arcades.

5. Brew Pubs.
6. Coffee Kiosks.
7. Microbreweries when in conjunction with a restaurant.
8. Automated Teller Machines when not within the interior of a primary use.
9. Theater, indoor, not including uses defined in Adult Establishment.
10. Bowling center.
11. Business or trade school.
12. Commercial greenhouse.
13. Mail order service.
14. Pinball or video games business.
15. Animal hospital.
16. Self-storage units, provided:
  - a. Storage unit is an extension of an existing self-storage unit or facility.
  - b. The topography and access of the property will limit the development of identified commercial uses.
  - c. No outdoor storage.
  - d. Unit or facility provides perimeter fencing in accordance with this ordinance and a vegetative screen of at least six (6) feet in height and twenty (20) feet in width to any adjacent residential zoned property.
  - e. Lighting on site shall not be directed at or allowed to shine on any residential zoned property.
  - f. Applications for self-storage units under the terms of this Section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan defining the areas to be developed with buildings and/or structures, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls and fences, the location and type of landscaping, and the location, size and number of signs.
  - g. Such use shall not be located adjacent to the intersection of two or more arterial streets.
  - h. The property shall have at least one boundary line that is adjacent to other property that is zoned Industrial.
  - i. Such use shall not include storage of explosives or hazardous materials and shall be in accordance with the intent, purpose, and spirit of this Ordinance and the Village's Comprehensive Development Plan.
17. Event center, provided:
  - a. A conditional use permit would need to include specifics to the design and operation of the proposed center and individual activities, including, but not limited to, a detailed site plan and floor plan, a complete list of appointed or designated managers for each event at the center, and a complete description and duration of

- each event submitted to the Village prior to each event.
- b. Lighting on site shall not be directed at or allowed to shine on any residential zoned property.
  - c. Buildings utilized as event centers shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan defining the areas to be developed with buildings and/or structures, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls and fences, the location and types of landscaping, and the location, size and number of signs.
  - d. All signage shall comply with the Village's established regulations.
- 18. Convenience store with limited fuel sales.
  - 19. Hotels and motels, including restaurants, convention and meeting facilities and other related uses, not including uses defined in Adult Establishment.
  - 20. Shopping centers and retail trade centers.
  - 21. Commercial Strip Shopping Center.
  - 22. Outlet Shopping Center.
  - 23. Commercial recreation activities such as golf putting courses and driving ranges, drive-in movie theaters, and other similar outdoor recreational uses.
  - 24. Recreation vehicles parks and campgrounds.
  - 25. Truck stops with complete truck services.
  - 26. Retail sales of agriculture supplies requiring outdoor storage of such agricultural supplies.
  - 27. Trucking terminals.
  - 28. Motor vehicle body shops.
  - 29. Retail building material sales; provided that the following minimum standards are present:
    - a. All lumber shall be enclosed with the primary structure.
    - b. All year-round landscaping materials shall be enclosed within the primary structure.
  - 30. Lawn Care.

#### **5.09.04. Permitted Temporary Uses:**

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.18.

#### **5.09.05. Permitted Accessory Uses and Structures:**

- 1. Buildings and uses customarily incidental to the permitted uses.
- 2. Parking as allowed in Article 8.
- 3. Signs allowed in Article 7.
- 4. Landscaping as required by Section 4.05.

5. Fireworks stands provided the criteria are met as established by separate ordinances.
6. Radio and television satellite signal receiving antennas, provided such receiving units are situated in the rear yard or on the roof.

**5.09.06. Height and Lot Requirements:**

The following minimum height and setback requirements shall be provided for light an open space around permitted and conditional uses and structures in the Highway Commercial District, and subject to the General Provisions in Article 4:

Lot Area	10,000 square feet
Lot Width	75 feet – minimum side yard setback
Front Yard	40 feet - minimum front yard setback
Side Yard	10 feet – minimum side yard setback
Rear Yard	20 feet – minimum rear yard setback
Street Side Yard	40 feet – minimum setback
Height	50 feet - maximum height

No minimum requirements for local utility facilities and essential services, except that buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum yard setback requirements.

**5.09.07. Use Limitations**

When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within fifteen (15) feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Article 7. Off street parking and loading requirements shall be required for activities in the Highway Commercial District in accordance with the provisions of Article 8 of this ordinance.

**Section 5.10 General Commercial District (C-3)**

**5.10.01. Intent:**

The intent of the General Commercial District to is to apply parcels throughout the community. These areas are commercial in nature; however, the area does not fall into the typical uses found in the downtown area or along highways in the community.

#### **5.10.02. Permitted Uses:**

Permitted Uses are allowed outright provided the uses and/or structure meet the minimum bulk requirements of the District.

1. Assembly, fabrication and processing of products inside an enclosed building, except hazardous or combustible materials.
2. Laboratories.
3. Manufacture and assembly of electrical and electronic appliances.
4. Manufacturing, compounding, processing, packaging, or treatment of articles or merchandise from previously prepared materials.
5. Manufacture of light sheet metal products including heating and ventilation equipment.
6. Printing and publishing business.
7. Stone and monument works.
8. Public local distribution and main transmission utilities.
9. Warehouses and wholesale businesses.
10. Building materials yards with enclosed and screened storage areas.
11. Highway maintenance yards or buildings.
12. Self-storage units and outdoor storage facilities.
13. Veterinary clinic and animal hospitals.
14. Publicly owned and operated facilities.
15. Special and vocational educational and training facilities.
16. Construction and heavy equipment sales and service.
17. Farm implement sales and service.
18. Truck terminal and dock facilities to include truck washing.
19. Auto body repair.
20. Car wash.
21. Service station with minor automobile repair services.
22. Tire store and minor automobile repair service.
23. Food locker plants.
24. Utility substations, terminal facilities, and reservoirs.
25. Auction Sales.
26. Live-in quarters used by live-in watchman or custodians during periods of construction or when necessary as an accessory to permitted use.
27. Cabinetry millwork.
28. Indoor recreational facility.
29. Mobile Food Units.

#### **5.10.03. Conditional Uses:**

The following uses are subject to any conditions listed in this section as well as any conditions relating to the placement of said use on a specific tract of ground in the General Commercial District as recommended by the Planning and Zoning Commission and approved by the Village Board of Trustees.

1. Radio, television and communication towers and transmitters, as per Section 9.03.

2. Fertilizer transmission lines, research facilities and storage containers.
3. Research facilities.
4. Storage Containers.

#### **5.10.04. Temporary Uses:**

Temporary uses may be permitted provided a Temporary Use Permit is obtained and said temporary use is eliminated at the expiration of the permit. See Section 4.18.

#### **5.10.05. Permitted Accessory Uses and Structures:**

Refer to the definitions of Accessory Uses and Structures in Section 4.08 and Sections within Article 4 for more detail.

1. Buildings and uses customarily incidental to the permitted uses, including general offices, sales rooms, medical and recreational facilities associated with commercial use.
2. Parking as permitted in Article 8.
3. Signs allowed per Article 7.
4. Temporary buildings and uses incidental to construction work that will be removed upon completion or abandonment of the construction work.
5. Landscaping as required by Section 4.05.

#### **5.10.06. Height and Lot Requirements:**

The height and minimum lot requirements shall be as follows unless otherwise noted in the General Commercial District, and subject to the General Provisions in Article 4:

Lot Area	10,000 square feet
Lot Width	75 feet - minimum required setback
Front Yard	40 feet - minimum required setback
Side Yard	10 feet – minimum required setback
Rear Yard	20 feet – minimum required setback
Street Side Yard	40 feet – minimum required setback
Height	50 feet - maximum height

No minimum requirements for local utility facilities and essential services, except that buildings or other above ground structures or devices constructed in support of utilities or essential services must comply with minimum yard set back

#### **5.10.07. Use Limitations:**

1. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.



2. Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light on any property located in a residential or mobile home district.
3. Motor vehicle, boat, or trailer rental or sales lots shall be drained and surfaced with crushed rock or pavement, except in those portions of the lot maintained as landscape area.
4. When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within fifteen (15) feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Article 7. Off street parking and loading requirements shall be required for activities in the Highway Commercial District in accordance with the provisions of Article 7 of this ordinance.

## **Article 6: Conditional Use Permit Changes**

### **Article 6: Conditional Use Permit Changes**

Section 6.01	General Provisions
Section 6.02	Application for Conditional Use Permit
Section 6.03	Public Hearing
Section 6.04	Decisions
Section 6.05	Transferability
Section 6.06	Revocation
Section 6.07	Standards

### **Section 6.01 General Provisions**

The Planning and Zoning Commission may authorize and permit a conditional use as designated in the use regulations of each district, after holding a Public Hearing.

Approval or denial shall be based on findings that the location and characteristics of the use will not be detrimental to the health, safety, morals, and general welfare of the area.

Allowable uses may be permitted, enlarged, or altered upon application for a conditional use permit in accordance with the rules and procedures of this ordinance. The Planning and Zoning Commission may grant or deny a conditional use permit in accordance with the intent and purpose of this ordinance.

In granting a Conditional Use Permit, the Planning and Zoning Commission may:

1. Authorize the use, and
2. Shall prescribe and impose appropriate conditions, safeguards, and a specified time limit for the implementation of the identified conditional use permit.

### **Section 6.02 Application for Conditional Use Permit**

A request for a conditional use permit or modification of a conditional use permit may be initiated by a property owner or his or her authorized agent by filing an application with the Village upon forms prescribed for the purpose.

The application shall be accompanied by a drawing or site plan and other such plans and data showing the dimensions, arrangements, descriptions data, and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in relation to the provisions set forth herein. A plan as to the operation and maintenance of the proposed use shall also be submitted. The application shall be accompanied with a non-refundable fee as established by the Village Board of Trustees. A Preliminary Review of the Conditional Use Permit will be made by the Zoning Administrator.

### **Section 6.03 Public Hearing**

Before issuance of any Conditional Use Permit:

1. The Planning and Zoning Commission shall hold a public hearing after proper and legal notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in the Village, one time at least 10 days prior to such hearing.
2. The Planning and Zoning Commission will consider the application for the Conditional Use Permit.

### **Section 6.04 Decisions**

A majority vote of the Planning and Zoning Commission shall be necessary to grant a Conditional Use Permit. The applicant shall have 12 months from the approval of the Conditional Use Permit to commence the use, unless the Planning and Zoning Commission specifically grants a longer period of time. If the use stated within the Conditional Use Permit has not been commenced within 12 months, or approved time period, said Permit shall become invalid and any activity shall be required to apply for a new Conditional Use Permit.

All decisions by the Planning and Zoning Commission shall be required to provide findings of fact for their decision for either approval or denial.

### **Section 6.05 Transferability**

Any approved Conditional Use Permit is automatically transferable upon sale of the property from the original applicant to another party. However, the new owner shall assume the responsibility for complying with:

1. The conditions of the granted permit.
2. The use shall not change or be expanded unless a new Conditional Use Permit is approved.
3. Failure to comply with the conditions of the permit shall subject the new owner to the revocation process of this Article.

### **Section 6.06 Revocation**

Any approved Conditional Use Permit may be revoked for failure to comply with the conditions approved by the Planning and Zoning Commission. Revocation shall require that the Village notify the applicant of any noncompliance, in writing, and provide the applicant 30 days to correct the issue(s).

Failure to comply with the notice shall cause a Public Hearing to be scheduled by the Planning and Zoning Commission, to review the permit and the approved conditions and the failure to act by the applicant. If the applicant is found to be noncompliant with the issued permit and conditions, the Planning and Zoning Commission shall revoke the permit and order the use to cease and desist.

Failure to follow a Cease and Desist order shall cause action to be filed by the Village Attorney in District Court.

Revocation may also occur, if the Village documents that the use has ceased operations for 12 consecutive months. The Village shall notify the applicant of the revocation in writing. The permit shall become invalid within 30 days.

### **Section 6.07 Standards**

No Conditional Use Permit shall be granted unless the Planning and Zoning Commission has found:

1. The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the community.
2. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.
5. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
6. The use shall not include noise, which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
7. The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.
8. The use shall not involve any malodorous gas or matter, which is discernible on any adjoining lot or property.
9. The use shall not involve any direct or reflected glare, which is visible from any adjoining property or from any public street, road, or highway.
10. The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
11. The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

## Article 7: Sign Regulations

### Article 7: Sign Changes

Section 7.01	Intent
Section 7.02	Sign Definitions
Section 7.03	Sign Area Computation
Section 7.04	Sign Schedules
Section 7.05	Signs, Special Conditions

### **Section 7.01 Intent**

This Article is established to protect and promote health, safety, general welfare and order within the Village through the establishment of uniform standards, regulations and procedures governing the type, number, size, structure, location, height, lighting, erection, use or display of devices, signs, or symbols serving as a visual media to person situated within or upon public rights-of-way or private properties. Hereafter, no sign shall be erected, re-erected, constructed, altered or maintained, except a permit shall not be required for the following temporary or exempt signs as noted in Section. All signs constructed, erected, modified or moved after the effective date of this Ordinance shall comply with the regulations herein, unless expressly exempted.

### **Section 7.02 Sign Definitions**

For the purpose of this ordinance, certain terms, phrases, words and their derivatives shall be construed as specified in this Article or as specified in the zoning ordinance. Where terms are not defined, they shall have their ordinarily accepted meanings within the contest in which they are used. Words in the singular include the plural and the plural the singular.

**ABANDONED SIGN** shall mean a sign which no longer correctly directs any person, advertises a bona fide business, lessor, owner, product, or activity conducted on the premises where such sign is displayed.

**ADVERTISING SIGN** shall mean a sign which directs attention to any product, activity, or service; provided, however, that such sign shall not be related or make reference to the primary use, business activity, or service conducted on the premises.

**ANIMATED SIGN** shall mean any sign that uses movement or change of lighting to depict action or create a special effect or scene.

**ARCHITECTURAL CANOPY SIGN** shall mean an enclosed, illuminated or non-illuminated structure that is attached to the wall of a building with the face of the sign approximately parallel to the wall and with the sign's area integrated into its surface.

**AWNING OR CANOPY SIGN** shall mean any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

**BANNER SIGN** shall mean any sign of lightweight fabric or similar material that is permanently mounted to a pole or building by a permanent frame at one or more edges. National flags, state or municipal flags, or official flag of any institution or business shall not be considered banners.

**BILLBOARD SIGN** shall mean and include all structures, regardless of the materials used, that are erected, maintained or used for public display of posters, painted signs, or wall signs, whether the structure be placed on the wall or attraction which is not carried on, manufactured, grown or sold on the premises where said signs or billboards are located and shall mean a sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

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

**BUILDING MARKER SIGN** shall mean any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

**CHANGEABLE COPY SIGN** shall mean a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without, altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this ordinance. A sign on which the only copy changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this ordinance.

**CLOSED SIGN** shall mean a sign in which more than 50 percent of the entire area is solid or tightly closed or covered.

**COMMERCIAL MESSAGE SIGN** shall mean any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

**DESTINATION SIGN** shall mean a sign used to inform and direct the public to important public places and buildings, landmarks, and historical sites in the simplest, direct, and concise manner possible.

**ELECTRONIC MESSAGE BOARD SIGN** shall mean a sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

**ERECT** shall mean to build, construct, attach, hang, or suspend; and includes the painting of wall signs.

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

**FREESTANDING SIGN** shall mean any sign supported by uprights or braces placed on or in the ground, which is used principally for advertising or identification purposes and is not supported by any building.

**GROUND SIGN** shall mean a sign mounted directly to the ground with a maximum height not to exceed six feet.

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

**INCIDENTAL SIGN** shall mean a sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.

**MARQUEE SIGN** shall mean any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

**NAMEPLATE SIGN** shall mean a sign not exceeding 2 square feet for each dwelling.

**NON-CONFORMING SIGN** shall mean any sign that does not conform to the requirements of this ordinance.

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

**OFF-PREMISES SIGN** shall mean a sign including the supporting sign structure which directs the attention of the general public to a business, service, or activity not usually conducted, or a product not offered or sold, upon the premises where such sign is located.

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

**OPEN SIGN** shall mean a sign attached to or hung from a marquee, canopy, or other covered structure, projecting from and supported by the building and extending beyond the building wall, building line, or street lot line.

**PENNANT SIGN** shall mean any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

**POLE SIGN** shall mean a sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is six feet or more above grade.

**PORTABLE SIGN** shall mean a sign, usually of a temporary nature, not securely anchored to the ground or to a building or structure and which obtains some or all of its structural stability with respect to wind or other normally applied forces by means of its geometry or character. Examples are: menu and sandwich board signs, balloons used as signs, umbrellas used for advertising, and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

**PROJECTING SIGN** shall mean a projecting sign attached to a building in such a manner that its leading edge extends more than eight inches beyond the surface of such building or wall.

**ROOF SIGN** shall mean a sign identifying the name of a business, enterprise, or the product sold on the premises and erected on and over the roof of a building and extending vertically above the highest portion of the roof.

**ROOF (INTEGRAL) SIGN** shall mean any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.



**SIGN** shall mean any identification, description, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure, or land and which directs attention to a product, place, activity, person, institution or business.

- a. *Address Sign*: shall mean a sign identifying street address only, whether written or numerical form.
- b. *Awning Sign*: shall mean a device made of cloth, metal, or other material affixed to and projecting from a building in such a manner that the device is either permanently fixed or so erected as to allow it to be raised or retracted and return to a flat position against the building when not in use. Awning signs shall not encroach more than four (4) feet out in front of the building. Permanent awnings may be lighted (from the backside); however, awning signs shall not have any flashing, strobe, or otherwise intermittent light emitting from the awning sign.
- c. *Campaign Sign*: shall mean signs or posters announcing the candidate seeking political office, advertising political issues or the date a pertinent thereto. These signs shall remain for no longer than forty-five (45) days prior and one (1) day after the election for which they were intended and shall be removed by the owner of the property on which they are located. All signs shall be confined to private property and shall not be attached to trees, utilities or rocks.
- d. *Construction Sign*: shall mean a sign placed at construction site identifying the project or the name of the architect, engineer, contractor, financier or other involved parties.
- e. *Combination Sign*: shall mean a sign incorporating any combination of the features of pole, projecting and roof signs.
- f. *Directional Sign*: shall mean a sign erected on public or private property which bears the address and name of a business, institution, church, or other use or activity plus directional arrows or information on location.
- g. *Electric Sign*: shall mean a sign containing electrical wiring, but not including signs illuminated by an exterior light source.
- h. *Flashing Sign*: shall mean any illuminated sign that has artificial light or color that is not maintained at a constant intensity or color when such sign is in use. A sign providing public service information, such as time, weather, date, temperature or similar information shall not be considered a flashing sign.
- i. *Free Standing Sign*: shall mean any sign or sign structure, not securely attached to the ground or to any other structure. This shall not include trailer signs as defined in this section.
- j. *Governmental Sign*: shall mean a sign which is erected by a governmental unit.
- k. *Ground Sign*: shall mean a billboard or similar type of sign that is supported by one or more uprights, poles or braces in or upon the ground other than a combination sign or pole sign, as defined by this ordinance.

- l. *Illuminated Sign*: shall mean any sign that has character, letter, figure, designs or outline illuminated by electric lights or luminous tubes as a part of the sign proper.
- m. *Information Sign*: shall mean any sign giving information to employees, visitors or delivery vehicles, but containing no advertising or identification.
- n. *Joint Identification Sign*: shall mean a free-standing sign which identifies a subdivision, a multiple residential complex consisting of three (3) or more structure, a shopping center consisting of three (3) or more separate business concerns, an industrial area, an office complex consisting of three (3) or more structures or any combination of the above.
- o. *Non-Conforming Sign*: shall mean a sign which lawfully existed at the time of the passage of this Ordinance but which does not conform to the regulations of this Ordinance.
- p. *Pole Sign*: shall mean a sign wholly supported by a sign structure in the ground.
- q. *Projecting Sign*: shall mean a sign, other than a wall sign, which projects from and is supported by a wall of a building or structure.
- r. *Real Estate Sign*: shall mean a business sign placed upon a property advertising that particular property for sale.
- s. *Roof Sign*: shall mean a sign erected upon or above a roof or parapet of a building or structure.
- t. *Swinging Sign*: shall mean a sign installed on an arm or spar that is not, in addition, permanently fastened to an adjacent wall or upright pole.
- u. *Trailer Sign*: shall mean a sign mounted on a vehicle normally licensed by the State of Nebraska as a trailer and used for advertising or promotional purposes.
- v. *Wall Sign*: shall mean a sign attached to or erected against the wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of said wall.

**SIGN AREA** shall mean the entire area including the background of a sign on which copy can be placed but not including the minimal supporting framework or bracing.

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

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

**SUSPENDED SIGN** shall mean a sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

**TEMPORARY SIGN** shall mean a sign constructed of cloth, fabric, or other material with or without a structural frame intended for a limited period of display, including displays for holidays or public demonstrations. Temporary signs shall include portable signs as defined in this section.

**WINDOW SIGN** shall mean any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes of glass and is visible from the exterior of the window.

### **Section 7.03 Sign Area Computation**

#### **7.03.01. Computation of Area of Individual Signs**

The area of a sign 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 regulations and is clearly identical to the display itself.

#### **7.03.02. Computation of Height**

The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, parcel, or tract of land, whichever is lower. When a sign is placed on a berm, the height of the sign shall include the height of the berm above grade level at the base of the berm.

### **Section 7.04 Sign Schedules**

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

<b>TYPE</b>	<b>P</b>	<b>R-1</b>	<b>C-1</b>	<b>C-2</b>	<b>C-3</b>
Animated	NP	NP	PER	PER	PER
Architectural Canopy	PER	PER	PER	PER	PER
Changeable Copy	PER	NP	PER	PER	PER
Electronic Message Board	PER	NP	PER	PER	PER
Flashing	NP	NP	NP	NP	NP
Freestanding	T	NP	T	T	T
Ground	C	C	PER	PER	PER

TYPE	P	R-1	C-1	C-2	C-3
Illuminated	C	NP	PER	PER	PER
Incidental	PER	PER	PER	PER	PER
Marquee	NP	PER	PER	PER	PER
Nameplate	PER	PER	PER	PER	PER
Off-Premises (Billboard)	C	NP	C	C	C
On-Premises (Billboard)	PER	NP	PER	PER	PER
Pennant	PER	NP	PER	PER	PER
Pole	PER	NP	PER	PER	PER
Projecting	PER	NP	PER	PER	PER
Portable	T	T	T	T	T
Roof	PER	NP	PER	PER	PER
Roof-Integrated	PER	NP	PER	PER	PER
Subdivision	C	C	C	C	C
Suspended	PER	NP	PER	PER	PER
Temporary	T	T	T	T	T
Wall	PER	NP	PER	PER	PER
Window	PER	NP	PER	PER	PER

PER: Permitted      NP: Not permitted      C: Conditional Use      T: Temporary

**7.04.02.** Signs shall be permitted in the various districts at the listed square footage and heights according to the following schedule:

1. Wall/Window signs shall not exceed 10 percent of the total wall area or the number indicated whichever is greater.
2. Ground signs may be increased from 32 square feet in area to 50 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual ground sign for every use/storefront.
3. Ground signs may be increased from 50 square feet in area to 75 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual ground sign for every use/storefront.
4. Pole signs may be increased from 100 square feet in area to 150 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual pole sign for every use/storefront.
5. Pole signs may be increased from 200 square feet in area to 300 square feet in area when all uses/storefronts within a development are included on one sign as opposed to each having an individual pole sign for every use/storefront.
6. One Incidental sign per 40 lineal feet of storefront.

7. One Canopy per window – canopy shall meet all minimum height requirements for accessibility. NA = Not Applicable – Refer to specific structural sign types.

**7.04.03.** A building or use having frontage on a second street may install a sign on the second street side no greater in size than 20 percent of the total allowed on one facade.

### **Section 7.05 Signs, Special Conditions**

**7.05.01. Billboard Signs.** Billboards, signboards, and other similar advertising signs shall be subject to the same height and location requirements as other structures in the district and shall also be subject to the following conditions and restrictions.

1. No billboard, signboard, or similar advertising signs shall be located at intersections so as to obstruct vision, hearing, or interfere with pedestrian or vehicular safety.
2. No billboard, signboard, or similar advertising signs shall be located within 50 feet of any lot in a residential district.
3. No billboard, signboard, or similar advertising signs shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property.

### **7.05.02. Stand-alone ATM's may have the following:**

1. One wall sign on each exterior wall provided each wall sign does not exceed 10 percent of the applicable exterior wall and the total shall not exceed 40 square feet in size.
2. Where a canopy is integrated into the ATM, a canopy sign may be placed on each face of the ATM, provided the overall height of the canopy and sign do not exceed 24 inches. In addition, the overall size of all canopy signs shall not exceed 40 square feet.
3. Directional signage shall be contained on the ATM, painted within a drive lane or in any curbing defining a drive lane.
4. All signs are subject to the required permitting process of these Regulations.
5. Said signage may be incorporated with lighting plan and backlit in order to provide for greater security on the premises.

### **7.05.03. Coffee Kiosks and other Kiosks may have the following:**

1. One wall sign on each exterior wall not used for drive-up service, provided each wall sign does not exceed 10 percent of the applicable exterior wall and the total shall not exceed 40 square feet in size.
2. Where a canopy is integrated into the Coffee Kiosks/Kiosks, a canopy sign may be placed on each face of the Coffee Kiosk/Kiosks, provided the overall height of the canopy and sign do not exceed 24 inches. In addition, the overall size of all canopy signs shall not exceed 40 square feet.

3. Directional signage shall be contained on the Coffee Kiosk/Kiosk, painted within a drive lane or in any curbing defining a drive lane
4. Window signs limited to menu boards and daily specials shall not require a sign permit.
5. All signs are subject to the required permitting process of these Regulations, unless otherwise noted.

#### **7.05.04. Hanging Signs**

Signs hung from canopies and awnings shall maintain 80 inches of clear space, as measured from the bottom edge of the sign to the grade below.

#### **7.05.05. Temporary Signs**

Temporary signs for which a permit has been issued shall be issued only for signs meeting the following criteria:

1. Temporary signs may be for a continual period. Said temporary signs shall not be in place for more than four days prior to the event and shall be removed within 36 hours of the conclusion of said event.
2. Temporary signs may be allowed in a manner where they are put in place during certain periods of time (set up in the morning and taken down in the evening) without a specific end date to the permit and these signs may advertise an off-premises business and/or organization.

#### **7.05.06. Emergency Signs (Permitted)**

Emergency warning signs erected by a governmental agency, Public Utility Company or a contractor doing authorized or permitted work within the public right-of-way.

#### **7.05.07. Other Signs Forfeited**

Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. In addition, to other remedies hereunder, the Village shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

#### **7.05.08. Signs Exempt from Regulation under this Ordinance**

The following signs shall be exempt from regulation under this ordinance, except no sign in this provision shall create an obstruction to vision, as per Section 4.04 of this Ordinance and/or a collision hazard to the public:

1. Any public notice or warning required by a valid and applicable federal, state, or local law, regulation or ordinance;
2. Any religious symbol;
3. Construction signs when equal to six square feet or less;
4. Any sign identifying a public facility or public/civic event;

5. Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the lot line of the zone lot or parcel on which such sign is located
6. Holiday lights and decorations with no commercial message;
7. Traffic control signs on private property, such as Stop, Yield, and similar signs, the face of which meets the Manual on Uniform Traffic Control Devices standards and which contain no commercial message of any sort.

#### **7.05.09. Signs Prohibited Under These Regulations**

All signs not expressly permitted in these regulations or exempt from regulation hereunder in accordance with the previous section are prohibited in the Village. Such signs include, but are not limited to:

1. Beacons and Audible Signs;
2. Marquee signs;
3. Roof signs;
4. Suspended signs;
5. Strings of lights not permanently mounted to a rigid background, except those exempt under the previous section;
6. Permanent off-premises signs;
7. Animated signs; and
8. Audible signs.

## **Article 8: Parking Requirements**

### **Article 8: Parking Requirements**

Section 8.01	Purpose
Section 8.02	Off-Street Automobile Storage Parking for all Districts
Section 8.03	Schedule of Minimum Off-Street Parking and Loading Requirements
Section 8.04	Off-Street Parking: Shared Parking Requirements
Section 8.05	Off-Street Parking: Parking for Individuals with Disabilities
Section 8.06	Off-Street Parking Design Criteria

### **Section 8.01 Purpose**

The Off-Street Parking Regulations require that developments provide parking in proportion to the need created by each use. The regulations further establish standards for the functional design of parking facilities. These regulations are intended to accommodate vehicles in a functionally satisfactory manner and to minimize external effects on neighboring properties.

### **Section 8.02 Off-Street Automobile Storage Parking for all Districts**

**8.02.01.** Off-street automobile storage or standing space shall be provided on any lot on which any of the following uses are hereafter established.

**8.02.02.** Off-street automobile storage or standing space shall be provided with vehicular access to a street or an alley.

**8.02.03.** For purposes of computing the number of parking spaces available in a given area, the ratio of 250 square feet per parking space shall be used. Where calculations in accordance with the foregoing list results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.

**8.02.04.** All parking spaces for single-family, two-family, and multi-family dwellings, rooming and boarding houses, and convalescent homes shall be either paved with asphalt or concrete.

**8.02.05.** In Single-Family Residential Districts (R-1) required off-street parking for residential uses shall be provided on the lot on which the use is located. In all other Districts, if the vehicle storage space or standing space required in Section 8.03 cannot be reasonably provided on the same lot on which the principal use is conducted in the opinion of the Planning and Zoning Commission and Village Board of Trustees, the Village may permit such space to be provided on another off-street property, provided such space lies within 400 feet of an entrance to such principal use. Such vehicle standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.



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

**8.02.07.** Some uses may require two different use types to be calculated together in order to determine the total parking requirement, i.e. primary schools may require one calculation for classrooms and another for assembly areas.

**8.02.08.** The parking requirements herein do not apply to the Downtown Mixed Commercial District.

**8.02.09.** All off-street parking conditions shall meet the ADA requirements in Section 8.05 of this Ordinance.

### **Section 8.03 Schedule of Minimum Off-Street Parking and Loading Requirements**

<b>Uses</b>	<b>Parking Requirements</b>	<b>Loading Requirements</b>
<b>Commercial and Office including but not limited to:</b>		
Adult Entertainment Establishments	1 space per 2 persons of licensed capacity	None required
Agricultural Sales/Service	1 space per 500 S.F. of gross floor area	1 space/establishment
Assisted Living Facilities	1 space per dwelling unit plus 1 per employee on largest shift	1 space/rental unit
Auto Body Repair	3 spaces per repair stall	None required
Automotive Car Wash	3 spaces per car wash bay	1 space/establishment
Automotive Rental/Sales	1 space per 500 S.F. of gross floor area	1 space per establishment
Automotive Servicing	3 spaces per repair stall	None required
Banks and Business Offices	1 space per 200 S.F. of gross floor area up to 1000 S.F.; then 1 /400 S.F. of Addl. Gross Floor Space	1 space/establishment
Bars, Taverns, Nightclubs	Parking equal to 30 percent of licensed capacity	2 spaces per establishment
Boarding Houses/Bed and Breakfasts	1 space per rental unit	None required
Bowling Alleys	4 spaces per alley plus 1 space per 2 employees	1 space/establishment
Campground	1 space per camping unit	None required
Child Care Centers	1 space per employee + 1 space or loading stall per 5 persons of licensed capacity	None required
Churches, Synagogues, and Temples	1 space per 4 seats in main worship area	None required

Clubs, including Fraternal Organizations	1 space per 500 S.F. of gross floor area	None required
Commercial Recreation	1 space per 4 persons of licensed capacity	1 space/establishment
Communication Services	1 space per 500 S.F. of gross floor area	1 space/establishment
Construction Sales/Service	1 space per 500 S.F. of gross floor area	1 space/establishment
Convalescent, Nursing Home Services	1 per 3 beds plus 1 per employee on largest shift	2 spaces per structure
Duplex	2 per dwelling unit	None required
Educational Uses, Primary Facilities	2 spaces/classroom	2 spaces/structure
Educational Uses, Secondary Facilities	8 spaces/classroom + 1 space/employee on largest shift	2 spaces/structure
Equipment Rental/Sales	1 space/500 S.F. of gross floor area	1 Space/establishment
Food sales	1 space/200 S.F. of gross floor area	2 spaces/establishment
Funeral Homes, Mortuaries and Chapels	8 spaces/reposing room	2 spaces/establishment
Furniture and Appliance Stores	1 space/800 S.F. of floor area	1 space/establishment
General retail sales establishments	1 space/200 S.F. of gross floor area	1 space/establishment
Guidance Services	1 space/300 S.F. of gross floor area	None required
Hospitals	1 space rental unit plus 1 per employee on largest shift	None required
Hotels and Motels	1 space/rental unit + 1 space/each 200 S.F. of public meeting area	1 space/establishment
Libraries	1 space/400 S.F. of gross floor area + 1 space/ 2 employees	1 space/structure

Uses	Parking Requirements	Loading Requirements
<b>Residential/Housing including but not limited to:</b>		
Assisted-living facilities	1 space per dwelling unit	1 space/structure
Convalescent & Nursing Home Services	1 space/4 beds + 1/employee on the largest shift	2 space/structure
Duplex	2 spaces per dwelling unit	None required
Group Care Facility	1 space/4 persons of licensed capacity	2 space/structure

Group Home	1 space/4 persons of licensed capacity	2 space/structure
Multi-Family / Apartments	1 space per sleeping unit – spaces to be sited in the general proximity of where the sleeping units are located	None required
Mobile Home Park	2 spaces/dwelling unit	None required

Uses	Parking Requirements	Loading Requirements
<b>Industrial Uses including but not limited to:</b>		
General Manufacturing	.75 times the maximum number of employees during the largest shift	2 spaces/establishment
Manufacturing Uses, Research and Testing Laboratories, Creameries, Bottling Establishments, Bakeries, Canneries, Printing and Engraving Shops, Etc.	1 space/2 employee on maximum shift + 1 space/company vehicle	2 spaces/establishment
Wholesaling / Distribution Operations	1 space/2 employee on the largest shift	2 spaces/establishment

#### **Section 8.04 Off-Street Parking: Shared Parking Requirements**

Notwithstanding the provisions of Section 8.03, in cases where parking and building patterns are such that overlapping uses of a majority of the total number of parking spaces in a common parking lot is likely to occur, compliance with the standard parking ratios may be decreased by the Planning and Zoning Commission and Village Board of Trustees.

#### **Section 8.05 Off-Street Parking: Parking for Individuals with Disabilities**

**8.05.01.** In conformance with the Americans with Disabilities Act (ADA) and the Nebraska Accessibility Guidelines, if parking spaces are provided for self-parking by employees or visitors, or both, then accessible spaces shall be provided in each parking area in conformance with the table in this Section. Spaces required by the table need not be provided in the particular lot. They may be provided in a different, if equivalent or greater accessibility, in terms of distance from an accessible entrance, cost and convenience, is ensured.

Total Parking Spaces	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 50	5
151 to 200	6
Total Parking Spaces	Required Minimum Number of Accessible Spaces
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of the total
1,001 and over	20 plus 1 for each 100 over 1,000

**8.05.02.** Access aisles adjacent to accessible spaces shall be 60 inches wide at a minimum. Source: <http://www.ada.gov/adastd94.pdf>

1. One in every eight accessible spaces, but not less than one, shall be served by an access aisle 96 inches wide minimum and shall be designated "van accessible" as required by Section 8.05.04 of this Ordinance. The vertical clearance at such spaces shall comply with 8.05.05 of this Ordinance. All such spaces may be grouped on one level of a parking structure.
2. Parking access aisles shall be part of an accessible route to the building or facility entrance. Two accessible parking spaces may share a common access aisle.
3. Parked vehicle overhangs shall not reduce the clear width of an accessible route.
4. Parking spaces and access aisles shall be level with slopes not exceeding two percent in all directions.
5. If passenger-loading zones are provided, then at least one passenger loading zone shall comply with 8.05.06 of this Ordinance.
6. At facilities providing medical care and other services for persons with mobility impairments, parking spaces complying with 8.05 of this Ordinance shall be provided in accordance with 8.05.01 of this

Ordinance: except as follows:

- a. Outpatient units and facilities: 10 percent of the total number of parking spaces provided serving each such outpatient unit or facility;
  - b. Units and facilities that specialize in treatment or services for persons with mobility impairments: 20 percent of the total number of parking spaces provided serving each such unit or facility.
7. Valet parking: valet parking facilities shall provide a passenger loading zone complying with 8.05.06 of this Ordinance located on an accessible route to the entrance of the facility. Sections 8.05.01, 8.05.02 (1), and 8.05.02 (3) of this Ordinance do not apply to valet parking.

**8.05.03.** Location of accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance.

1. In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.
2. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closest to the accessible entrances.

**8.05.04.** Signage of accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Spaces complying with Section 8.05.02 (1) shall have an additional sign stating the stall is "Van Accessible" mounted below the symbol of accessibility. Such signs shall be located so they cannot be obscured by a vehicle parked in the space.

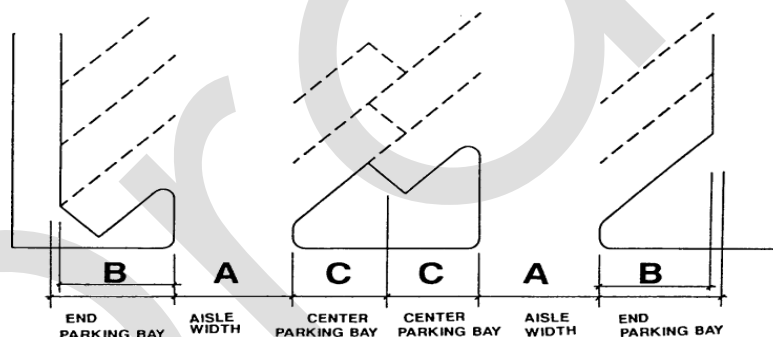
**8.05.05** Minimum vertical clearance of 114 inches at accessible passenger loading zones and along at least one vehicle access route to such areas from site entrance(s) and exit(s). At parking spaces complying with 8.05.02 (1), provide minimum vertical clearance of 98 inches at the parking space and along at least one vehicle access route to such spaces from site entrance(s) and exit(s).

**8.05.06** Passenger Loading Zones shall provide an access aisle at least 60 inches wide and 240 inches long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with accessibility standards shall be provided. Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding two percent in all directions.

## **Section 8.06 Off-Street Parking Design Criteria**

**8.06.01.** Standard parking stall dimensions shall not be less than 10 feet by 18 feet, plus the necessary space for maneuvering into and out of the space. Where the end of the parking space abuts a curbed area at least five feet in width (with landscaping or sidewalk), an overhang may be permitted which would reduce the length of the parking space by two feet. Such overhang shall be measured from the face of the curb. For standard parking lots, minimum dimensions shall be as follows:

<b>Parking Configuration</b>	<b>90-degree</b>	<b>60-degree</b>	<b>45-degree</b>
<b>Aisle Width (A)</b>			
One-way traffic	-----	18 feet	14 feet
Two-way traffic	24 feet	20 feet	20 feet
<b>End Parking Bay Width (B)</b>			
Without overhang	18 feet	20 feet	19 feet
With overhang	16 feet	18 feet	17 feet
<b>Center Parking Bay Width (C)</b>			
	18 feet	18 feet	16 feet



**8.06.02.** Minimum dimensions for a parallel parking space shall be nine feet by 23 feet.

**8.06.03.** Minimum parking dimensions for other configurations or for parking lots with compact car spaces shall be determined by the Planning and Zoning Commission and Village Board of Trustees upon recommendation of the Village Engineer.

**8.06.04.** Parking facilities shall be designed to provide visibility of and between pedestrians and vehicles when circulating within or entering or leaving the facility; and shall not create blind, hidden, or hazardous areas.

**8.06.05.** Circulation patterns shall be designed in accord with accepted standards of traffic engineering and safety.

**8.06.06.** All parking facilities shall be maintained to assure the continued usefulness and compatibility of the facility. Acceptable maintenance includes keeping the facility free of refuse, debris, and litter; maintaining parking surfaces in sound condition; and providing proper care of landscaped areas.

**8.06.07.** Lighting:

1. Any lighting used to illuminate any off-street parking area shall be arranged to direct light away from adjoining properties in any residential district.
2. Lighting standards shall not exceed 22 feet in height and shall be equipped with top and side shields when necessary to prevent glare onto adjacent properties.
3. The average maintained lighting levels for multi-family units shall not exceed 10 foot-candles at buildings, parking lots and other areas within a residential district. The maximum to average ratio shall not exceed 2.5 to 1.

## Article 9: Supplemental Regulations

### Article 9: Supplemental Regulations

Section 9.01	Home Occupations & Home-Based Businesses in Residential Districts	Section 9.10	Solar Panels
Section 9.02	Height Modifications	Section 9.11	Self-Storage Units (Mini-Warehouses)
Section 9.03	Radio, Television and Wireless Communications Towers	Section 9.12	Bed and Breakfasts
Section 9.04	Fences, Hedges & Walls	Section 9.13	Salvage Services
Section 9.05	Performance Standards for Industrial Uses	Section 9.14	Cargo Containers
Section 9.06	Small Wind Energy Systems	Section 9.15	Sand, Gravel, Mineral, Stone, Rock, Soil Extraction and Quarries
Section 9.07	Commercial/Utility Grade Wind Energy Systems	Section 9.16	Mobile Food Units
Section 9.08	Junk Yards or Salvage Yards	Section 9.17	Amateur Radio Towers and FCC Pronouncements
Section 9.09	Biofuels and Distillation Facilities	Section 9.18	Roadside Stands
		Section 9.19	Adult Entertainment Establishments
		Section 9.20	Solar Farms

### **Section 9.01 Home Occupations and Home-Based Businesses in Residential Districts**

#### **9.01.01. Intent:**

A home occupation or home-based business shall be permitted when said occupation or business is conducted on residentially used and/or zoned property and is considered customary, traditional, and incidental to the primary use of the premises as a residence and shall not be construed as a business.

#### **9.01.02. Procedure:**

1. Home Occupations: An application for a home occupation, within residentially zoned areas shall be made to the Zoning Administrator on a form provided. Said application shall be approved, provided the performance criteria are met.
2. Home Based Businesses: An application for a home-based business, within residentially zoned areas shall be made to the Zoning Administrator on a form provided. Said application shall be approved, provided the performance criteria are met.

#### **9.01.03. Permitted home occupations:**

1. Workrooms for dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, jewelry making, custom home furnishings work, carpentry work, and furniture repair.
2. Offices for professionals such as, but not limited to, attorneys, architects, engineers, planners, real estate agents, insurance, notary public, manufacturer's representative, clergy, journalists, painters, photographers, draftspersons, insurance agents, accountants, editors, publishers, contract management, graphic design, construction contractors, landscape design, surveyors, cleaning services, salespersons, and travel agents.



3. Child Nurseries or Child Care.
4. Personal services, including Barber and Beauty Shops (limited to one chair), manicure and pedicure shops, pet grooming, catering, and chauffeuring services.
5. Instructional services, including music, dance, art and craft classes and tutoring.
6. Repair services, including watch and clock, small appliances, computers, electronic devices, lawnmowers including engines (limited to garage areas).
7. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
8. Offices for services provided outside the home such as lawn care, snow removal, and other similar uses.
9. Kennels, stables, veterinarian clinics/hospitals.

**9.01.04. Prohibited Home Occupations:**

1. Entertainment Uses

**9.01.05. Performance Standards for Home Occupations:**

1. The primary use of the structure or dwelling unit shall remain residential and the operator of the home occupation shall remain a resident in the dwelling unit.
2. The operator conducting the home occupation shall be the sole entrepreneur, and the operator shall not employ any other person other than a member of the immediate family residing on the premises.
3. No structural additions, enlargements, or exterior alterations changing the residential appearance to a business appearance shall be permitted.
4. No more than 25 percent of the floor area of any one story of the dwelling unit shall be devoted to such home occupation.
5. Such home based business shall be conducted entirely within the primary building or dwelling unit used as a residence. Home based businesses may also be located with an existing Accessory Building.
6. Additional and/or separate entrance(s) that do not match the residential structural design shall not be constructed for the purpose of conducting the home occupation or home-based business.
7. Additional off-street parking or loading facilities, including additional driveway construction, other than the requirements for the permitted residence, shall be permitted.
8. The display of goods and/or external evidence of the home occupation shall not be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two sq. ft. in total surface area.

9. No retail sales are permitted from the site other than incidental sales related to services provided.
10. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
11. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.
12. All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Nebraska State Statutes.

**9.01.06. Permitted Home-Based Businesses:**

1. Workrooms for custom home furnishings work, carpentry work, and furniture repair.
2. Offices for professionals such as, but not limited to, attorneys, architects, engineers, planners, real estate agents, insurance, notary public, manufacturer's representative, clergy, journalists, painters, photographers, draftspersons, insurance agents, accountants, editors, publishers, contract management, graphic design, construction contractors, landscape design, surveyors, cleaning services, salespersons, and travel agents.
3. Personal services, including Barber and Beauty Shops (limited to two chairs), manicure and pedicure shops, pet grooming, catering, and chauffeuring services.
4. Repair services, including watch and clock, small appliances, computers, electronic devices, lawnmowers including engines (limited to garage areas).
5. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
6. Offices for services provided outside the home such as lawn care, snow removal, and other similar uses.
7. Child Nurseries or Child Care
8. Kennels, stables, veterinarian clinics/hospitals.

**9.01.07. Prohibited Home Based Businesses:**

1. Medical and dental clinics, hospitals.
2. Restaurants, clubs, drinking establishments.
3. Motor vehicle / small engine repair.
4. Adult Entertainment Uses.

**9.01.08. Performance Standards for Home Based Businesses:**

1. The primary use of the structure or dwelling unit shall remain residential and the operator of the home-based business shall remain a resident in the dwelling unit.

2. The operator conducting the home-based business shall be the sole entrepreneur. However, the operator may employ immediate family members residing on the premises, as well as, an additional two unrelated individuals for purposes of conducting business.
3. Structural additions, enlargements, or exterior alterations may be completed in order to provide space for the home-based business. Any alterations and additions are limited to a one-time expansion and shall be limited to 25 percent of the floor area of the main floor at the time of application. All alterations and additions shall meet all building and zoning criteria of the Village.
4. No more than 25 percent of the floor area of any one story of the dwelling unit shall be devoted to such home based business.
5. Such home based business shall be conducted entirely within the primary building or dwelling unit used as a residence. Home based businesses may also be located within an existing Accessory Building.
6. Home based businesses conducted within an Accessory Building shall be confined to the structure of the said Accessory Building. In addition, the applicant must prove that the Accessory Building meets all Life Safety Codes including electrical compliance for a commercial business.
7. All alterations and additions shall be completed in a manner that matches the existing structure and shall have a residential appearance to the exterior. All separate entrance(s) shall be discrete and match the residential design.
8. Additional off-street parking or loading facilities, beyond the parking provided for the residence, shall be provided and shall meet the following standards:
  - a. Two additional spaces for the unrelated employees;
  - b. Two additional spaces to be used for client/visitor parking;
  - c. The additional parking required in items (a) and (b) shall not be provided in any required Front, Side or Rear Yard setback;
  - d. All additional parking and loading spaces shall be screened using landscaping materials and opaque privacy fencing not more than six feet in height;
  - e. Applicant shall not relocate parking for the residence into any Front, Side or Rear Yard Setback in order to provide the additional parking;
  - f. All new off-street parking is encouraged to be toward the rear yard portion of the property and screened from view from the street.
9. The display of goods and/or external evidence of the home-based business shall not be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two sq. ft. in total surface area.

10. No retail sales are permitted from the site other than incidental sales related to services provided.
11. No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
12. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.
13. All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Nebraska State Statutes.

**9.01.09. Revocation:**

1. Conditions. A home occupation and home-based business permit granted in accordance with the provisions of this section may be terminated if the Zoning Administrator makes any of the following findings:
  - a. That any condition of the home occupation or home-based business permit has been violated;
  - b. That the use has become detrimental to the public health or safety or is deemed to constitute a nuisance;
  - c. That the permit was obtained by misrepresentation or fraud;
  - d. That the use for which the permit was granted has ceased or has been suspended for six consecutive months or more; and
  - e. That the condition of the premises, or the district of which it is a part, has changed so that the use may no longer be justified under the purpose and intent of this section.
2. Appeal. Within five working days of a revocation, an appeal may be made to the Board of Adjustment. The Zoning Administrator within ten working days of the receipt of an appeal of his or her revocation shall report his or her findings of fact and decision to the Board of Adjustment. The Board of Adjustment shall determine the facts and may revoke, modify or allow to remain unchanged the home occupation or home-based business permit in accordance with the Board of Adjustment's final determination.
3. Nontransferable. A home occupation or home-based business permit granted in accordance with the provisions of this article shall not be transferred, assigned, nor used by any person other than the permittee, nor shall such permit authorize such home occupation at any location other than the one for which the permit is granted.

**Section 9.02 Height Modifications**

Chimneys, church steeples, cooling towers, elevator bulkheads, fire towers, stacks, tanks, water towers, grain elevators, farm buildings, stage towers or scenery lofts, ornamental towers, flagpoles, wind generators, or other wind powered electrical devices and similar mechanical apparatuses may be erected to a height not in conflict with any other applicable regulations. These

buildings, structures or accessories may be erected to a height approved by the Board of Adjustment, provided however, all towers or structures exceeding height requirements shall not be permitted to extend into approach zones, clear zones other restricted air space required for the protection of the flying public. Radio or television towers may be erected to a height in accordance with Village, state and federal regulations.

Public, semi-public, government buildings, hospitals or schools when permitted in a district may be erected to a greater height than otherwise permitted in the district if the building is set back from each property line at least one foot (1') in addition to the minimum yard requirements, for each two feet (2') of additional building height limit otherwise provided in the district in which the building is constructed.

### **Section 9.03 Radio, Television and Wireless Communication Towers**

#### **9.03.01. Intent:**

Based upon the Communications Act of 1934, as amended by the Telecommunications Act of 1996 and the Spectrum Act of 2012 (the Act) grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunication services. This section is intended to regulate towers, telecommunications facilities and antennas in the Village in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunication service. Telecommunication facilities, towers and antennas in the 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/collocation of towers and other antenna support structures rather than the construction of additional single use towers, to avoid potential damage to property caused by towers, telecommunications facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed when no longer used or are determined to be structurally unsound and to ensure that towers and antennas are compatible with surrounding land uses.

#### **9.03.02. Definitions:**

All terms in this Section which are not specifically defined herein shall be construed in accordance with the Communications Act of 1934, the Telecommunications Act of 1996, the Spectrum Act of 2012 and the Rules and Regulations of the Federal Communications Commission (FCC). As used in this Section, the following terms shall have the following meanings:

**Base Station** shall mean a structure that supports or houses an antenna, transceiver, or other associated equipment that constitutes part of a base station at the time of the application is filed.

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

**Collocation** shall mean the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

**Conforming Commercial Earth Station** shall mean a satellite dish which is two meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this regulation.

**Eligible Facilities Request** shall mean any request for modification of an existing wireless tower or base station that involves (a) collocation of new transmission equipment; (b) removal of transmission equipment; or (c) replacement of transmission equipment.

**In Writing** shall mean the means in which an applicant for a telecommunications tower is notified. The "in writing" clause has been defined to include the minutes of the governing body's proceedings including findings of fact.

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

**Replacement** shall mean the removal and upgrade of transmission equipment and not the structure on which it is located.

**Specific and Absolute Timeframe** shall mean the timeframe allowed for processing a telecommunication application under Section 6409 (a) of the Spectrum Act of 2012.

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

**Telecommunications Facilities** shall mean 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 meters or less in diameter. b. Any earth station antenna or satellite dish antenna of one meter or less in diameter.

**Tower** shall mean any structure built for the sole or primary purpose of supporting any Commission-licensed or authorized antennas and their associated facilities.

**Tower Owner** shall mean any person with an ownership interest of any nature in a proposed or existing tower.

**Transmission Equipment** shall mean any equipment that facilitates transmission for any Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas and other relevant equipment associated with and necessary to their operation, including coaxial or fiber-optic cable, and regular and backup power supply.

#### **9.03.03. Tower Construction Standards**

Listed below are tower construction standards.

1. Towers shall be permitted conditional uses of land in only those zoning districts where specifically listed and authorized in this regulation.
2. No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the Village prior to approval of its application for a Conditional Use Permit by the Village Board of Trustees and issuance of the permit by the Village.
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, County, federal, and state law and applicable American National Standards Institute (ANSI). Upon completion of construction of a tower and prior to the commencement of use, an engineer's certification that the tower is structurally sound and in conformance with all the aforementioned applicable regulatory standards shall be filed with the Zoning Administrator.

#### **9.03.04. Application to Develop a Tower**

Prior to commencement of development or construction of a tower, an application shall be submitted to the Zoning Administrator for a 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 address of the tract of land on which the tower is to be located.
3. The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one-mile radius of the proposed tower, including publicly and privately- owned towers and structures.
4. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicants' telecommunications facilities on a tower or useable antenna support or written technical evidence from an engineer that the applicants' telecommunications facilities cannot be installed or collocated on another tower or useable antenna support structure.
5. Written technical evidence from an engineer that the proposed tower will meet the established Building Code, and all other applicable construction standards set forth by the Village Board of Trustees and federal and state and ANSI standards.
6. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residentially used and / or zoned property and nearest roadway, street or highway.
7. Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufacturers literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.
8. The application, based upon the specific and absolute timeframe established by the FCC, shall be processed and decided within 60 days of the application becoming completed. However, the 60-day application processing period may be extended only:
  - a) By mutual agreement between the Village and the applicant, or
  - b) By Village's determination that the application is incomplete.
    - i. If the Village deems the application to be incomplete, the Village shall notify the applicant of the incompleteness within 30 days of the initial filing.
    - ii. The Village shall clearly and specifically delineate writing the missing information
    - iii. The clock shall resume when the information is provided but may tolled again if the Village notifies the applicant within 10 days that the application remains incomplete.
    - iv. The Village shall not request new information beyond what is already required.
  - c) If the application is not acted upon within 60 days, the application shall be deemed to be approved by the governing body.



#### **9.03.05. Setbacks and Separation or Buffer Requirements**

Listed below are setbacks and separation requirements for towers and exception to height restrictions of towers.

1. All towers up to 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 feet in height shall be set back one additional foot for each foot of tower height in excess of 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. Freestanding and guyed towers shall be located so that the distance from the base of the tower to any adjoining property line or the supporting structure of a separate neighboring tower is a minimum of 100 percent of the tower height. The Planning and Zoning Commission and Board of Trustees reduce the setback with a Conditional Use Permit if it determines that such reduction does not constitute a hazard to safety or property on adjacent properties or rights-of-way.
3. Towers exceeding 100 feet in height may not be located in any residentially zoned district and must be separated from all residentially zoned districts and occupied structures other than those utilized by the tower owner, by a minimum of 200 feet or 100 percent of the height of the proposed tower, whichever is greater.
4. Towers of 100 feet or less in height may be located in residentially zoned districts provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the tower owner, by a minimum of one hundred percent (100%) of the height of the tower.
5. 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 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 1,500 feet.
6. Towers shall be held to all height requirements as prescribed in the Airport Hazard Area District.
7. As part of its conditional use approval process, the Planning and Zoning Commission and Village Board of Trustees may, after public notice and hearing, permit the tower to exceed the height restrictions otherwise allowable in the district.

#### **9.03.06. 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 Regulations.

#### **9.03.07. Illumination and Security Fences**

1. Towers shall not be artificially lighted except as required by the FAA. Any tower subject to this Section that is required to be lit under FAA requirements and using a strobe light shall be equipped with dual mode lighting. In no case, shall said tower be allowed to operate a strobe lighting system after sunset and before dawn.
2. All self-supporting lattice or guyed towers shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which will preclude to the extent practical, unauthorized climbing of said structure.

#### **9.03.08. Exterior Finish**

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

#### **9.03.09. Landscaping**

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

#### **9.03.10. Prohibitions**

According to the FCC, "[A] state or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station."

#### **9.03.11. Substantial Change**

The Village may only require an amended Conditional Use Permit for changes/modifications on a telecommunication tower/system that are defined by the FCC as substantial.

1. **Substantial Change** shall mean any of the following:
  - a) Towers outside the public right-of-way, a "substantial change":
    - increases the height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, or
    - Protrudes from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater.
  - b) Towers in the right-of-way, and all base stations, a "substantial change";
  - c) Increases the height of the tower or base station by more than 10% or 10 feet, whichever is greater, or
    - protrudes from the edge of the structure more than 6 feet;
  - d) All Towers and base stations," a substantial change":
    - involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets;
    - entails any excavation or deployment outside the current site of the tower or base station;
    - defeats the existing concealment elements of the tower or base station; or
    - does not comply with conditions associated with the prior approval of construction or modification of the tower or base station unless the non-compliance is due to any of the "substantial change" thresholds identified above.
2. **Changes in Height**
  - a) Changes in height are to be measured from the original support structure in cases where the deployments are or will be separated horizontally.
  - b) In other circumstances, changes in height are to be measured from the dimensions of the original tower or base station and all originally approved appurtenances, and any modifications approved prior to the passage of the Spectrum Act.
  - c) Note, the changes are measured cumulatively; otherwise a series of small changes could add up to a cumulative change that exceeds the "substantial change" threshold.

#### **9.03.12. Inspections**

The Village reserves the right to conduct inspection of towers, antenna support structures, telecommunications facilities and antenna upon reasonable notice to the tower owner or operator to determine compliance with this Section and to prevent structural and equipment failures and accidents which may cause damage, injuries or nuisances to the public. Inspections may be made to

determine compliance with the Village's Zoning Regulations, Subdivision Regulations, and any other construction standards set forth by the Village, federal, and state law or applicable ANSI standards. Inspections shall be made by either an employee of Village's Planning and Zoning Office, or a duly appointed independent representative of the Village.

#### **9.03.13. Maintenance**

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

#### **9.03.14. Abandonment**

If any tower shall cease to be used for a period of one year, the Zoning Administrator shall notify the tower owner that the site will be subject to determination by the Zoning Administrator that the site has been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, the tower owner shall have 30 days to show 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 has been in use or under repair during the relevant period, the Zoning Administrator shall issue a final determination of abandonment of the site and the tower owner shall have 75 days thereafter to dismantle and move 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 and a written request shall be directed to the Village Attorney to proceed to abate said public nuisance pursuant to authority of the Revised Nebraska State Statutes and the Village's 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.

#### **9.03.15. Approval Denial Procedures for Tower Development Permit**

1. Any decision to deny an application to place, construct or modify a wireless facility must be "in writing" and supported by substantial evidence contained in a written record;
2. The regulation of placement, construction, and modification of personal wireless services facilities by the Village shall not unreasonably discriminate among providers of functionally equivalent services;
3. The regulation of the placement, construction, and modification of personal wireless service facilities by the Village shall not prohibit or have the effect of prohibiting the provision of personal wireless services; and
4. The Village shall not regulate the placement, construction, or modification of personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such emissions comply with FCC regulations.

## **Section 9.04 Fences, Hedges and Walls**

**9.04.01.** No fence or wall shall be constructed within the zoning jurisdiction of the Village unless a permit is approved and issued by the Zoning Administrator and is constructed in conformance with the following requirements:

1. Fences and walls shall not exceed more than four (4) feet in any required front yard, subject to further restrictions listed in Section 4.05 Yard Requirements. Fences less than four (4) feet in height may be located in any part of a lot. Except as otherwise provided above, fences or walls shall not exceed six (6) feet in height in any required side or rear yards, subject to further restrictions herein. Fences, hedges and walls placed on lot lines must have the express written permission of the adjoining property owner and Zoning Administrator. In the event the permission of the adjoining Property owner is not obtained, fences, hedges and walls shall be no closer than two (2) feet from the lot or property line and four (4) feet from the alley line.
2. Fences in excess of six (6) feet will be allowed in the cases of tennis courts and swimming pools, subject to the Board of Adjustment approval. For private swimming pools in any residential district refer to Village building codes. Such fence or wall shall be non-climbable and shall be constructed sufficiently strong and of such structural design as to make the pool inaccessible to small children.
3. Fences shall not be constructed of corrugated tin, metal, or fiberglass; sheet metal or fiberglass, or non-treated wood products. Fences may be constructed from treated wood products; non-decomposing natural wood products such as cedar, redwood, etc.; chain link, molded plastic or other manufactured fence products. The Board of Adjustment may approve other materials as presented. Fences should be constructed in an orderly and neat manner as to accent and compliment the natural landscape of the property. The finished surfaces of any fence shall face toward adjacent properties and street frontage.
4. All fences and walls shall be subject to a completed and approved zoning permit.
5. Determining maximum height for fences and walls shall be made by measuring from the natural grade of the lot adjacent to the fence to the top of the finished fence structure.
6. If one side of the fence is considered less attractive because of structural members, etc., the less desirable side of the fence shall be directed toward the developing property or away from the public thoroughfare. In all cases, access shall be provided to the unenclosed property to rights-of-way for maintenance purposes.
7. Disputes between two adjacent property owners concerning plantings, trees, bushes or hedges obstructing views, sunlight or air shall be considered a civil matter between parties and shall be resolved in a court of law as a civil proceeding.

8. Unless otherwise provided, no fence or wall shall be built on any lot or tract outside the surveyed lot lines, or adjacent to any municipal property, excluding public streets.
9. Unless otherwise provided, any fence built on residential property within required front yard shall contain openings constituting no less than 50 percent of the surface area of the fence and be no more than 42 inches in height.
10. No solid fence permitted or required by this Regulation shall be built within a triangle formed by the adjacent side lines of two intersecting streets and a line connecting points 40 feet on each leg from their point of intersection; or otherwise in any manner to create a traffic hazard or obstruction to visibility.
11. Security perimeter fencing around a plant or building located in an area zoned as a Commercial District may be constructed to a height of eight feet; higher fences may be approved by through a Conditional Use Permit.
12. Fences constructed along and parallel to a lot line separating a residential lot from property located in a Commercial or Industrial District shall not exceed eight feet in height.
13. Fences constructed along and parallel to rear and side lot lines adjoining arterial streets, as designated by the Nebraska Department of Roads, shall not exceed eight feet in height.

**9.04.02.** No fence or vegetation shall be situated or constructed in such a way as to obstruct the vehicular traffic or otherwise create a traffic safety hazard.

**9.04.03.** The use of barbed wire in the construction of any fence is prohibited except:

1. Perimeter security fencing of buildings constructed in an Industrial District. The plans and specifications for any such fencing must be approved by the Village before commencement of construction.

**9.04.04.** All fences shall be maintained in good repair.

**9.04.05. Electric Fences.** No electric fence, except for underground invisible fence for animal control, shall be constructed or maintained within the Village or within its extraterritorial zoning jurisdiction. An owner or lessee of such property may, upon application to the Village and approval by the Zoning Administrator, maintain electrified fencing provided same shall not be energized to the extent that it is capable of causing bodily harm to persons, be they children or adults, or to animals. Before the Zoning Administrator shall approve any electrified fencing, it shall be determined that non-electrified fencing will not adequately protect the owner's property and the owner's application for approval of electrified fencing shall set forth in detail the reasons why non-electrified fencing will not adequately protect his property.

## **Section 9.05 Performance Standards for Commercial and Industrial Uses**

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

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

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

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

### **9.05.05. Air Contaminants**

1. Air contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one four-minute period in each one-half hour. Light colored contaminants of such a capacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted.
2. Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths (0.2) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit, except for a period of four minutes in any one-half hour, at which time it may equal but not exceed six tenths (0.6) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit.

3. Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public in general; or to endanger the comfort, repose, health, or safety of any such considerable number of persons or to the public in general, or to cause, or have a natural tendency to cause injury or damage to business, vegetation, or property.
4. **Odor** The emission of odors that are generally agreed to be obnoxious to any considerable numbers of persons, shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of these Regulations.
5. **Gasses** The gasses sulphur dioxide and hydrogen sulphide shall not exceed five parts per million (5ppm), carbon monoxide shall not exceed five parts per million (5ppm). All measurements shall be taken at the zoning lot line.
6. **Vibration** All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousandths of an inch (0.003") measured at the zoning lot line. The use of steam or broad hammers shall not be permitted in this zone.
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 zoning lot line. No heat from furnaces or processing equipment shall be sensed at the zoning lot line to the extent of raising the temperature of air or materials more than five degrees Fahrenheit.

#### **9.05.06. Maximum Permitted Sound Levels Adjacent to Residential Zoning Districts**

Displays the maximum permitted sound levels that may be generated by uses in the C-2 or C-3 zoning districts where adjacent to residential zoning districts. All measurements shall be taken at or within the boundary between the originating district and the adjacent residential zoning district with a sound level meter meeting ANSI specification for a Type II or better general purpose sound level meter. The A-weighted response shall be used.



## Maximum Permitted Sound Levels at Residential Boundaries:

Originating Zoning District	Time	Maximum One Hour Leq*
C-2 & C-3	7:00 a.m. - 10:00 p.m.	<u>(dba)</u> 65
	10:00 p.m. - 7:00 a.m.	55

- \* Leq is the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound. It is the average sound level and accurately portrays the sound the human ear actually hears.

### **Section 9.06 Small Wind Energy Systems**

#### **9.06.01. Purpose**

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

#### **9.06.02. Definitions**

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

**Small Wind Energy System** shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

**Tower Height** shall mean the height above grade of the first fixed portion of the tower, excluding the wind turbine itself.

#### **9.06.03. Requirements**

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

1. Tower Height
  - a. For property sizes between ½ acre and one acre the tower height shall be limited to 80 feet.
  - b. For property sizes of one acre or more, there is no limitation on tower height, except as imposed by FAA regulations.
2. Setbacks
  - a. No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site.
3. Noise
  - a. Small wind energy systems shall not exceed 60 dBA, as measured at the closest neighboring inhabited dwelling unit.

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

**All towers shall adhere to the setbacks established in the following table:**

<b>Wind Turbine – Non-Commercial Wind Energy Conversion System (WECS)</b>	
Property Lines	One times the total height
Neighboring Dwelling Units	One times the total height
Road Rights-of-Way*	One times the tower height.

Other Rights-of-Way	One times the tower height.
Wildlife Management Areas and State Recreational Areas	NA
Wetlands, USFW Types III, IV, and V	NA
Other structures adjacent to the applicant's sites	NA
Other existing WECS not owned by the applicant	NA
River Bluffs	NA

- \* The setback shall be measured from any future Rights-of-Way if a planned change or expanded Right-of-Way is known.
- \* NA – means not applicable.

## **Section 9.07 Commercial/Utility Grade Wind Energy Systems**

### **9.07.01. Purpose**

It is the purpose of this Regulation to promote the safe, effective and efficient use of commercial/utility grade wind energy systems within the zoning jurisdiction of the Village.

### **9.07.02. Definitions**

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

**Aggregate Project** shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.

**Commercial WECS** shall mean a wind energy conversion system of equal to or greater than 100 kW in total name plate generating capacity.

**Fall Zone** shall mean the area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of a structural failure. This area is less than the total height of the structure.

**Feeder Line** shall mean any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.

**Meteorological Tower** shall mean, for purposes of this regulation, a tower which is erected primarily to measure wind speed and directions plus other data relevant to siting a Wind Energy Conversion System. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Roads, or other applications to monitor weather conditions.

**Micro-Wind Energy Conversion System** shall mean a Wind Energy Conversion System of 1 kW nameplate generating capacity or less and utilizing supporting towers of 40 feet or less.

**Public Conservation Lands** shall mean land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations, Public conservation lands will also include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

**Rotor Diameter** shall mean the diameter of the circle described by the moving rotor blades.

**Small Wind Energy System** shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

**Substations** shall mean any electrical facility to convert electricity produced by wind turbines to a voltage greater than 35,000 (35,000 KV) for interconnection with high voltage transmission lines.

**Total Height** shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.

**Tower** shall mean the vertical structures that support the electrical, rotor blades, or meteorological equipment.

**Tower Height** shall mean the total height of the Wind Energy Conversion System exclusive of the rotor blades.

**Transmission Line** shall mean the electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

**Wind Energy Conservation System** shall mean an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

**Wind Turbines** shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture the wind.

#### **9.07.03. Requirements**

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

1. The name(s) of project applicant.
2. The name of the project owner.
3. The legal description and address of the project.
4. A description of the project including: number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.
5. Site layout, including the location of property lines, wind turbines, electrical grid, and all related accessory structures. This site layout shall include distances and be drawn to scale.
6. Engineer's certification.
7. Documentation of land ownership or legal control of the property.
8. The latitude and longitude of individual wind turbines.
9. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other Wind Energy Conversion System, within 10 rotor distances of the proposed Wind Energy Conversion System.
10. Location of wetlands, scenic, and natural areas (including bluffs) within 1,320 feet of the proposed Wind Energy Conversion System.
11. An Acoustical Analysis.
12. FAA permit.
13. Location of all known communication towers within two miles of the proposed Wind Energy Conversion System.
14. Decommissioning Plan.
15. Description of potential impacts on nearby Wind Energy Conversion Systems and wind resources on adjacent properties.

#### **9.07.04. Aggregated Projects**

1. Aggregated projects may jointly submit a single application and be reviewed under joint proceedings, including notices, public hearings, reviews and as appropriate approvals.
2. Permits may be issued and recorded separately.
3. Joint projects will be assessed fees as one project.

### 9.07.05. Setbacks

All towers shall adhere to the setbacks established in the following table:

	Wind Turbine Commercial/Utility WECS	– Meteorological Towers
Property Lines	1.5 times the total height	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or 1.1 times the total height
Neighboring Dwelling Units*	2,000 feet	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or 1.1 times the total height
Road Rights-of-Way**	1.5 times the height	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height
Other Rights-of-Way	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or 1.5 times the total height	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height
Public conservation lands	1,000 feet	600 feet
Wetlands, USFW Types III, IV, & V	600 feet	600 feet
Other structures	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or 1.5 times the total height	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height
Other existing WECS	To be considered based on: <input type="checkbox"/> Relative size of the existing and proposed WECS <input type="checkbox"/> Alignment of the WECS relative to the predominant winds <input type="checkbox"/> Topography <input type="checkbox"/> Extent of wake interference impacts on existing WECS	

	<input type="checkbox"/> Property line setback of existing WECS <input type="checkbox"/> Other setbacks required waived for internal setbacks in multiple turbine projects including aggregated projects	
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\* The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System.

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

#### **9.07.06. Special Safety and Design Standards**

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

1. No WECS shall be allowed to be constructed within any Airport Approach Hazard or Turning Area.
2. Clearance of rotor blades or airfoils must maintain a minimum of 12 feet of clearance between their lowest point and the ground.
3. All Commercial/Utility WECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information.
4. All wind turbines, which are a part of a commercial/utility WECS, shall be installed with a tubular, monopole type tower.
5. Consideration shall be given to painted aviation warnings on all towers less than 200 feet.
6. Color and finish:  
All wind turbines and towers that are part of a commercial/utility WECS shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matte or non-reflective.
7. Lighting:  
Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations. Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds. Red pulsating incandescent lights should be avoided.
8. Other signage:  
All other signage shall comply with the sign regulations found in these regulations.
9. Feeder Lines:  
All communications and feeder lines, equal to or less than 34.5 kV in capacity, installed as part of a WECS shall be buried, where feasible. Feeder lines installed as part of a WECS shall not be considered an essential service.
10. Waste Disposal:  
Solid and Hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and

lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.

11. Discontinuation and Decommissioning:

A WECS shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed to ground level within 90 days of the discontinuation of use. Each Commercial/Utility WECS shall have a Decommissioning Plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon being discontinued use. The cost estimates shall be made by a competent party; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for decommissioning and removal of the WECS and accessory facilities.

12. Noise:

No Commercial/Utility WECS shall exceed 50 dBA at the nearest structure or use.

13. Interference:

The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. The applicant shall notify all communication tower operators within five miles of the proposed WECS location upon application to the Village/County for permits.

14. Roads:

Applicants shall:

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

15. Drainage System:

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



### **Section 9.08 Junk Yards or Salvage Yards**

Junk Yards and salvage of materials may be allowed in identified districts; provided the following minimum conditions are met (additional conditions may be required depending upon the operation and the proposed location:

1. Construction and operation shall comply with the Village's Regulations and any other applicable codes or requirements.
2. Receiving areas for junk or salvage material shall be designed to avoid the depositing of junk or salvage material outside a building or outside screened (solid fence) storage areas.
3. Junk yards and salvage of materials shall contain a minimum of two acres and shall not be located within a designated 100-year floodplain area as identified by the Corps of Engineers.
4. Junk or salvage material kept outside a building or buildings shall not be located closer than 500 feet from any designated state or federal highway. Or locally designated expressway, major arterial, and other arterial as per the State of Nebraska Department of Roads or subsequent successor agency.
5. Junk material kept outside a building or buildings shall not be located in the required front yard.
6. Junk or salvage material kept outside a building or buildings shall be at least 100 feet from the boundaries of the ( C-3) General Commercial District and shall be at least 500 feet from the any residential district or use.
7. All motor vehicles shall have all fluids drained prior to placement within the facility.

### **Section 9.09 Biofuels and Distillation Facilities**

The following conditions shall be met when locating a biofuels facility within the zoning jurisdiction of the Village. The standards are intended to protect the health, safety, and general welfare of the residents of the Village and the surrounding region.

1. Access to the facility shall be paved and connect to a hard-surfaced street/road classified as an arterial.
2. If access is onto a county road or village street, the applicant must provide evidence that the paving of such highway, road or street is sufficient to carry, without damage to the roadway, the weight and size of the loads of grain and liquid and any by-product entering or leaving the facility by truck.
3. If the road or street is not capable of carrying the weight and size of the loads, then the applicant shall be required to make any necessary upgrades to the paving in order for the pavement to handle the size and weight of the loads.
4. The applicant shall be required to construct and acquire right-of-way for all turning lanes and signals necessary to handle the increase in truck traffic.

5. The facility if located adjacent to a railroad line shall have sufficient area to provide for sidings for loading and unloading raw or finished product. The sidings shall be constructed at the applicant's expense.
6. The facility shall not be located in an area where winds and other climatic events disperse odor, steam, smoke and other discharges into the corporate limits of the Village.
7. The facility shall not be located in an area where topography impairs the dispersal of steam, smoke, or other discharges from the facility.
8. Water supply wells for the facility shall not be located within the 20-year time of travel of any municipal well.
9. The facility shall be designed to recycle, in a manner compliant with all Village and state rules and regulations, a minimum of 75 percent of the water used by the facility including water used for distillation.
10. All fuel storage tanks shall be located in a manner that will not allow for contamination of any groundwater or surface water.
11. Total equipment height limited to the requirements of the zoning district.
12. All fuel storage tanks shall be within an impermeable containment levy system.
13. Site plan review required.
14. Lighting must be compliant with all applicable regulations.
15. Noise produced by facility must comply with noise ordinance regulations.

### **Section 9.10 Solar Panels**

No solar panel shall be constructed within the residential zoning jurisdiction of the Village unless a Zoning Permit therefore is approved and issued by the Zoning Administrator and is constructed in conformance with the state building codes and the following requirements. For those devices that include electrical, plumbing and heating constructions, the applicable permits shall also be obtained. Solar panels shall meet the following requirements.

#### **9.10.01. Lot and Height Requirements:**

Solar panels shall conform to the required front, side and rear lot setback requirements except as provided herein:

1. A solar panel which is attached to an integral part of the principal building may project two feet into the front yard; two feet into the rear yard; and two feet into the side yard.
2. A solar panel which is freestanding may be located only in the required rear yard provided it does not exceed 16-feet in height and is located not less than five feet from the rear lot line and not closer than one foot to any existing easement as measured from the closest point of the structure including its foundation and anchorage's.
3. No freestanding solar panel shall be located in the required side yard or front yard.

**9.10.02. Structural Requirements:**

The physical structure and connections to existing structures shall conform to the applicable state building codes.

**9.10.03. Plot Plan:**

The application for a permit shall be accompanied by a plot plan drawn to scale showing property lines, existing structures on the lot, proposed solar panel location with respect to property lines, and dimensions of the proposed solar panel.

**9.10.04. Preexisting Solar Panels:**

Notwithstanding noncompliance with the requirements of this section, a solar panel erected prior to the adoption of these Regulations, pursuant to a valid building permit issued by the Village, may continue to be utilized so long as it is maintained in operational condition.

**Section 9.11 Self-Storage Units (Mini-Warehouses)**

1. Minimum lot size of the self-storage facility shall be 5,000 square feet.
2. Activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.
3. All driveways, parking, loading and vehicle circulation areas shall be surfaced with concrete, asphalt, asphaltic concrete, crushed rock or other approved rock other than gravel. All driveways within the facility shall provide a hard surface with a minimum width of 25 feet.
4. All storage must be within enclosed buildings and shall not include the storage of hazardous materials.
5. No storage may open into the front yards.
6. The total area covered by buildings shall not exceed 50 percent of the site.
7. The storage of hazardous, toxic, or explosive substances, including, but not limited to, hazardous waste, industrial solid waste, medical waste, municipal solid waste, septage, or used oil.
8. Facilities must maintain landscape buffer yards of 50 feet adjacent to any public right-of-way and 20 feet adjacent to other property lines, unless greater setbacks are required, a total of 35 percent of all yards shall be landscaped.
9. Site development shall include provisions for storm water management in accordance with the Regulations of the Village.
10. Height limitations shall require a maximum height of 20 feet for any structure in the facility.

**Section 9.12 Bed and Breakfasts****9.12.01 Bed and Breakfasts shall meet the following requirements:**

1. Maintain a residential exterior appearance.

2. Rooms may not be rented for more than 7 consecutive days and no more than 14 days per person in any 30 day period.
3. Breakfast must be served on premises and included within the room charge for guest of the facility and shall be the only meal provided.

### **Section 9.13 Salvage Services**

1. Screening:
  - a. The perimeter of each new facility shall be fully enclosed by opaque, freestanding fencing or screen walls. Minimum height of this enclosure shall be eight feet. Any such enclosure shall be constructed behind required landscaped buffer yards.
  - b. Each existing salvage services facility shall be screened from public right-of-way as provided above within one year of the effective date of this Ordinance.
2. Storage of materials within any salvage services facility may not be higher than the height of the surrounding screen fence or wall.
3. No salvage services use may be established within 500 feet of the nearest property line of a residential use or of any pre-established civic use, or within 1,000 feet of the nearest property line of an R-1 or P District.

### **Section 9.14 Cargo Containers**

1. Storage Containers are subject to the regulations outlined for Accessory Buildings in Article 4,
2. Cargo containers shall not be permanently or temporally placed on any street.
3. Cargo containers, when temporary, may be placed in the front of any property.
4. Cargo containers shall not be placed on a piece of property in any manner that they restrict the line of sight of any vehicles entering in any direction on that street.
5. All permanently placed cargo containers shall be secured to the ground.
6. Temporary cargo containers shall be limited to 30 days.
7. No permanently placed cargo container shall be allowed in any front or side yard.

### **Section 9.15 Sand and Gravel, Mineral, Stone, Rock, Soil Extraction and Quarries**

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

1. When soil is sold, removed, and transported to be used for public roadway purposes, it shall be the responsibility of the property owner to meet the following conditions:
  - a. The application shall include a grading map showing contours, proposed extraction contours, and proposed final grade contours;

- b. The applicant shall identify the effect of the extraction on the groundwater table of the adjoining properties;
  - c. Erosion controls, including retention and sediment basins shall be provided during extraction to prevent a change in the character of runoff onto adjacent land;
  - d. The application shall identify proposed vehicle and equipment storage areas;
  - e. The surface shall be maintained in such a manner that surface waters do not collect or pond, unless specifically approved. Underground drainage may be supplied if it connects to an existing facility;
  - f. Topsoil shall be collected and stored for redistribution on the site at termination of the operation;
  - g. Excavation shall be conducted in such a way as not to constitute a hazard to any persons, nor to the adjoining property. All cuts shall be returned to a slope of less than 3:1 as soon as possible. Safety screening shall be required at the outer boundary of the site and visual screening will also be required where said boundary is adjacent to residential or recreational land;
  - h. Within one year after completion of the excavation on any portion of the site, the topography and soils shall be stabilized, and the land shall be graded, seeded, and sodded so as to prevent erosion and siltation, and to protect the health, safety, and general welfare of the public;
  - i. The owner of the property shall obtain adequate insurance to cover any of the damages, which may occur as a result of this operation and shall assume all liability for any damages. A copy of such insurance or other proof of such insurance shall be submitted to the Zoning Administrator's office prior to issuing a Conditional Use Permit;
  - j. To assure that all of these conditions are met by the owner, a bond contingent on the size of the operation, removal, or extraction may be required to be posted with the Village and County.
2. Exceptions
- a. Sections 9.15 (1) (A-J) do not apply to removals, extractions, and operations that remove less than 100 cubic yards from a given location.
  - b. Sections 9.15 (1) (A-J) do not apply to owners who donate soil to a municipality, county, or state. Further, this section does not apply to sand and gravel quarries, or the commercial removal of soil not used for road purposes.

### **Section 9.16 Mobile Food Units**

Mobile Food Units are allowed in specific zoning districts; however, these uses shall be required to abide by the following requirements:

1. All units shall be located on vacant lots or on a business lot except in the C-1 Downtown Mixed Commercial District where on-street parking may be permitted. On-street parking shall only be allowed during times of operation.
2. All units shall only operate during hours identified on the temporary permit. In no case shall a unit be open for more than one hour after the legal closing time of local bars.
3. All refuse shall be transported off-site unless an agreement with the property owner is submitted to the Village identifying an alternate.
4. All units shall not be allowed to use intense lights in order to attract customers.
5. During non-operation hours, these units shall be stored on a vacant lot or in an enclosed structure.

#### **Section 9.17 Amateur Radio Towers and FCC Pronouncements**

1. Radio towers, antennas and other appurtenances operated by licensed amateur radio operators, where permitted and when, may not exceed 75 feet in height. This height has been determined by the Village to reasonably accommodate amateur service communications, and further represents the minimum practicable regulation to accomplish legitimate municipal land use regulation purpose, as recognized under published guidelines of the Federal Communications Commission.
2. Special instances may require that amateur radio tower heights exceed 75 feet to achieve effective and reliable communications. In such cases, the Village Board of Trustees may grant a Conditional Use Permit to a licensed amateur radio operator for a specific tower height that exceeds 75 feet. In determining whether to grant such permission, the Village Board of Trustees shall first consider the federal guidelines contained in PRB-1 (Amateur Radio Preemption, 101 FCC 2d (1985); codified at C.F.R. Section 97.15(e).
3. Such radio towers shall not be located within any front yard of the primary use.

#### **Section 9.18 Roadside Stands**

1. A roadside stand is a facility used on a temporary or seasonal basis for the retail sale of produce grown largely on adjacent or surrounding agricultural lands.
2. A roadside stand may be located within a required front yard but no closer than 40 feet to the edge of a traveled roadway.
3. A roadside stand may operate for a maximum of 180 days in any one year.

## **Section 9.19 Adult Entertainment Establishments**

### **9.19.01. Purpose; Findings and Rationale**

1. Purpose. It is the purpose of this resolution to regulate adult establishments in order to promote the health, safety, and general welfare of the citizens of the Village, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of adult establishments within the Village. The provisions of this resolution have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this resolution to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this resolution to condone or legitimize the distribution of obscene material.
2. Findings and Rationale. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Village Board of Trustees, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); *Sewell v. Georgia*, 435 U.S. 982 (1978); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *City of Dallas v. Stanglin*, 490 U.S. 19 (1989); and *Farkas v. Miller*, 151 F.3d 900 (8th Cir. 1998); *Jakes, Ltd. v. City of Coates*, 284 F.3d 884 (8th Cir. 2002); *BZAPS, Inc. v. City of Mankato*, 268 F.3d 603 (8th Cir. 2001); *SOB, Inc. v. County of Benton*, 317 F.3d 856 (8th Cir. 2003); *Scope Pictures v. City of Kansas City*, 140 F.3d 1201 (8th Cir. 1998); *ILQ Invs. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *City of Lincoln v. ABC Books, Inc.*, 470 N.W.2d 760 (Neb. 1991); *Xiong v. City of Moorhead*, 2009 WL 322217 (D. Minn. Feb. 2, 2009); *Entm't Prods., Inc. v. Shelby County*, 721 F.3d 729 (6th Cir. 2013); *Lund v. City of Fall River*, 714 F.3d 65 (1st Cir. 2013); *Imaginary Images, Inc. v. Evans*, 612 F.3d 736 (4th Cir. 2010); *LLEH, Inc. v. Wichita County*, 289 F.3d 358 (5th Cir. 2002); *Ocello v. Koster*, 354 S.W.3d 187 (Mo. 2011); *84 Video/Newsstand, Inc. v. Sartini*, 2011 WL 3904097 (6th Cir. Sept. 7, 2011); *Plaza Group Properties, LLC v. Spencer County Plan Commission*, 877 N.E.2d 877 (Ind. Ct. App. 2007); *Flanigan's Enters., Inc. v. Fulton County*, 596 F.3d 1265 (11th Cir. 2010); *East Brooks Books, Inc. v. Shelby County*, 588 F.3d 360 (6th Cir. 2009); *Entm't Prods., Inc. v. Shelby County*, 588 F.3d 372 (6th Cir. 2009); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003);

*Peek-a-Boo Lounge v. Manatee County*, 630 F.3d 1346 (11th Cir. 2011); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Heideman v. South Salt Lake City*, 348 F.3d 1182 (10th Cir. 2003); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *Jacksonville Property Rights Ass'n, Inc. v. City of Jacksonville*, 635 F.3d 1266 (11th Cir. 2011); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); *Fantasy Ranch, Inc. v. City of Arlington*, 459 F.3d 546 (5th Cir. 2006); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Richland Bookmart, Inc. v. Knox County*, 555 F.3d 512 (6th Cir. 2009); *Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *Richland Bookmart, Inc. v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *DCR, Inc. v. Pierce County*, 964 P.2d 380 (Wash. Ct. App. 1998); *City of New York v. Hommes*, 724 N.E.2d 368 (N.Y. 1999); *Taylor v. State*, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); *Fantasyland Video, Inc. v. County of San Diego*, 505 F.3d 996 (9th Cir. 2007); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *Z.J. Gifts D-4, L.L.C. v. City of Littleton*, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); *People ex rel. Deters v. The Lion's Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); *Reliable Consultants, Inc. v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); *Major Liquors, Inc. v. City of Omaha*, 188 Neb. 628 (1972); *DLH Inc. v Nebraska Liquor Control Commission*, 266 Neb. 361 (2003); *Village of Winslow v Sheets*, 261 Neb. 203 (2001), and based upon reports concerning secondary effects occurring in and around adult establishments, including, but not limited to, "Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD," *Journal of Urban Health* (2011); "Does the Presence of Sexually Oriented Businesses Relate to Increased Levels of Crime? An Examination Using Spatial Analysis," *Crime & Delinquency* (2012) (Louisville, KY); Metropolis, Illinois – 2011-12; Manatee County, Florida – 2007; Hillsborough County, Florida – 2006; Clarksville, Indiana – 2009; El Paso, Texas – 2008; Memphis, Tennessee – 2006; New Albany, Indiana – 2009; Louisville, Kentucky – 2004; Fulton County, GA – 2001; Chattanooga, Tennessee – 1999-2003; Jackson County, Missouri – 2008; Ft. Worth, Texas – 2004; Kennedale, Texas – 2005; Greensboro, North Carolina – 2003; Dallas, Texas – 1997; Houston, Texas – 1997, 1983; Phoenix, Arizona – 1995-98, 1979; Tucson, Arizona – 1990; Spokane, Washington – 2001; St. Cloud, Minnesota – 1994; Austin, Texas – 1986; Indianapolis, Indiana – 1984; Garden Grove, California – 1991; Los Angeles, California – 1977; Whittier, California – 1978; Oklahoma City, Oklahoma – 1986; New York, New York Times Square – 1994; the Report of the Attorney General's Working Group On The Regulation Of Adult



establishments, (June 6, 1989, State of Minnesota); Dallas, Texas – 2007; “Rural Hotspots: The Case of Adult Businesses,” 19 Criminal Justice Policy Review 153 (2008); “Strip clubs According to Strippers: Exposing Workplace Sexual Violence,” by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; “Adult establishments: An Insider’s View,” by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; Sex Store Statistics and Articles; and Law Enforcement and Private Investigator Affidavits (Adult Cabarets in Forest Park, GA and Sandy Springs, GA), McLeary and Weinstein; Do “Off-Site Adult Businesses Have Secondary Effects? Legal Doctrine, Social Theory and Empirical Evidence, Law and Policy, Vol. 31, No. 2 (April 2009), Adult Business Study: Town and Village of Ellicottville, Cattaraugus County, New York (January 1998), the City Council finds:

- a. Adult establishments, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation. Alcohol consumption impairs judgment and lowers inhibitions, thereby increasing the risk of adverse secondary effects.
- b. Adult establishments should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other adult establishments, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of adult establishments in one area.
- c. Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing and/or abating. Additionally, the City's interest in regulating adult establishments extends to preventing future secondary effects of either current or future adult establishments that may locate in the City. The City finds that the cases and documentation relied on in this resolution are reasonably believed to be relevant to said secondary effects. The City Council hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of adult establishments, including the judicial opinions and reports related to such secondary effects.

#### **9.19.02. Definitions**

**Adult Bookstore Or Adult Video Store** shall mean a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video

cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas." A "principal business activity" exists where the commercial establishment meets any one or more of the following criteria:

1. At least 35% of the establishment's displayed merchandise consists of said items, or
2. At least 35% of the retail value (defined as the price charged to customers) of the establishment's displayed merchandise consists of said items, or
3. At least 35% of the establishment's revenues derive from the sale or rental, for any form of consideration, of said items, or
4. The establishment maintains at least 35% of its floor area for the display, sale, and/or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are rented or sold, shall be included in "floor area" maintained for the display, sale, or rental of said items); or
5. The establishment maintains at least 500 square feet of its floor area for the display, sale, and/or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are rented or sold, shall be included in "floor area" maintained for the display, sale, or rental of said items); or
6. The establishment regularly offers for sale or rental at least 2,000 of said items; or
7. The establishment maintains an "adult arcade," which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or "specified anatomical areas."

**Adult Cabaret** shall mean a nightclub, bar, juice bar, restaurant, bottle club, lounge, or similar commercial establishment that regularly features live conduct characterized by semi-nudity. No establishment shall avoid classification as an adult cabaret by offering or featuring nudity.

**Adult Establishment** shall mean an "adult bookstore or adult video store," an "adult cabaret," an "adult motion picture theater," or an "adult paraphernalia store."

**Adult Motion Picture Theater** shall mean a commercial establishment to which the public is permitted or invited wherein an image-producing device is regularly maintained to show images to more than five persons at any one time, and where the images so displayed are characterized by their emphasis upon "specified sexual activities" or "specified anatomical areas."

**Adult Paraphernalia Store** shall mean a commercial establishment that regularly offers 100 or more sexual devices for sale. This definition shall not be construed to include any establishment located within an enclosed regional shopping mall. For purposes of this definition, "sexual device" means any three-dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. "Sexual device" shall not be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

**Employee of an Adult Establishment** shall mean any person who performs any service on the premises of an adult establishment, on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, lessee, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

**Enclosed Regional Shopping Mall** means a group of retail and other commercial establishments that is planned, developed, and managed as a single property, with on-site parking provided around the perimeter of the shopping center, and that is generally at least forty acres in size and flanked by two or more large anchor stores, such as department stores. The common walkway or mall is enclosed, climate controlled and lighted, usually with an inward orientation of the stores facing the walkway.

**Nudity** means the showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

**Operator of Adult Establishment** means any person on the premises of an adult establishment who manages, supervises, or controls the business or a portion thereof. A person may be found to be an operator regardless of whether such person is an owner, part owner, or licensee of the business.

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

**Specified Anatomical Areas** shall mean less than completely and opaquely covered human genitals, pubic region, buttock, and/or female breast below a point immediately above the top of the areola.

**Specified Sexual Activities** shall mean intercourse, oral copulation, masturbation or sodomy.

#### **9.19.03. Performance Standards**

1. No person shall establish, operate, or cause to be operated an adult establishment in Village within:
  - a. 500 feet of another adult establishment;
  - b. 300 feet of a business licensed to sell alcohol at the premises; or
  - c. 500 feet of a residential district, residential use, residence, church, educational institution, park, or recreational facility.
  - d. For the purpose of this section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of the structure containing the adult establishment to the closest point on a property boundary of another adult establishment, a business licensed to sell alcohol at the premises, a residential district, a residential use, a residence, a church, an educational institution, park, or a recreational facility.
2. No adult establishment shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day.
3. No patron, employee of an adult establishment, or any other person shall knowingly or intentionally, in an adult establishment, appear in a state of nudity or engage in a specified sexual activity.
4. No person shall knowingly or intentionally, in an adult establishment, appear in a semi-nude condition unless the person is an employee of an adult establishment who, while semi-nude, remains at least six feet from all patrons and on a stage at least 18 inches from the floor in a room of at least 600 square feet.
5. No employee of an adult establishment who appears semi-nude in an adult establishment shall knowingly or intentionally touch a customer or the clothing of a customer on the premises of an adult establishment. No customer shall knowingly or intentionally touch such an employee of an adult establishment or the clothing of such an employee of an adult establishment on the premises of an adult establishment.

6. No person shall possess alcoholic beverages on the premises of an adult establishment.
7. No person shall knowingly or recklessly allow a person under the age of 18 years to be or remain on the premises of an adult establishment.
8. No operator of an adult establishment shall knowingly or recklessly allow a room in the adult establishment to be simultaneously occupied by any patron and any employee of an adult establishment who is semi-nude or who appears semi-nude on the premises of the adult establishment, unless an operator of the adult establishment is present in the same room.
9. A person who operates or causes to be operated an adult establishment which exhibits in a booth or viewing room on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.
  - a. The operator of the adult establishment shall, within one week of opening the adult establishment for business, submit to the Zoning Administrator a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain equipment for displaying films, video cassettes, digital video discs, or other video reproductions. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches.
  - b. It shall be the duty of the operator of the adult establishment, and of any employees of the adult establishment present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
  - c. The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five-foot candles as measured at the floor level. It shall be the duty of the operator of an adult establishment, and of any employees of an adult establishment present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.

- d. It shall be the duty of the operator of an adult establishment, and of any employees of an adult establishment present on the premises, to ensure that no specified sexual activity occurs in or on the licensed premises.
- e. It shall be the duty of the operator of an adult establishment to post conspicuous signs in well- lighted entry areas of the business stating all of the following:
  - i. That the occupancy of viewing rooms less than 150 square feet is limited to one person.
  - ii. That specified sexual activity on the premises is prohibited.
  - iii. That the making of openings between viewing rooms is prohibited.
  - iv. That violators will be required to leave the premises.
  - v. That violations of these regulations are unlawful.
- f. It shall be the duty of the operator of an adult establishment to enforce the regulations articulated in 9.19.03.
- g. The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator of the adult establishment's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed 32 square feet of floor area. If the premises have two or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator of an adult establishment to ensure that at least one employee of an adult establishment is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator of an adult establishment, and it shall also be the duty of any employees of an adult establishment present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.
- h. It shall be the duty of the operator of an adult establishment to ensure that no porous materials are used for any wall, floor, or seat in any booth or viewing room.
- i. It shall be unlawful for a person having a duty under subsections 9.19.03 (9)(a) through 9.19.03 (a-l) to knowingly or recklessly fail to fulfill that duty.

- j. No patron shall knowingly or recklessly enter or remain in a viewing room less than 150 square feet in area that is occupied by any other patron.
  - k. No patron shall knowingly or recklessly be or remain within one foot of any other patron while in a viewing room that is 150 square feet or larger in area.
  - l. No person shall knowingly or recklessly make any hole or opening between viewing rooms.
10. It shall be the duty of the operator of an adult establishment to ensure that the interior premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five foot candles as measured at the floor level and the illumination must be maintained at all times that any customer is present in or on the premises.
11. Unless a culpable mental state is otherwise specified herein, a showing of a reckless mental state shall be sufficient to establish a violation of a provision of this section 9.19.03.

### **Section 9.20 Solar Farms**

No solar farm shall be installed or constructed within the zoning jurisdiction of the Village of Hubbard unless the proper permits have been obtained from the Village and the following regulations met. All solar units shall be constructed in conformance with the electrical, building, and fire codes adopted by the State. For those devices that include electrical, plumbing and/or heating constructions, the applicable permits shall also be obtained. Solar panels shall meet the requirements found in this section.

#### **9.20.01. General Solar Definitions**

**ACCESSORY SOLAR ENERGY SYSTEM** shall mean any photovoltaic, concentrated solar thermal, or solar hot water devices that are accessory to, and incorporated into the development of an authorized use of the property, and which are designed for the purpose of reducing or meeting on-site energy needs.

**CONCENTRATED SOLAR POWER** shall mean a solar conversion system (SCS) that generates power by using mirrors or lenses to concentrate a large area of sunlight, or solar thermal energy, unto a small area. These include but are not limited to the following technologies: Parabolic trough, Solar power tower, enclosed trough, Fresnel reflectors and Dish Stirling.

**COMMUNITY SOLAR** shall mean any form of solar conversion system that serves more than one individual property or property owner.

**DEVELOPMENT** shall mean any plat, subdivision, or planned unit development created under the Village's subdivision and zoning regulations.

**ELECTRIC UTILITY** shall mean the public electric utility providing retail service to a given area.

**NET METERING** shall mean a system of metering electricity in which a local distribution utility:

- (A) Credits a customer-generator at the applicable retail rate for each kilowatt-hour produced by a qualified facility during a billing period up to the total of the customer-generator's electricity requirements during that billing period. A customer-generator may be charged a minimum monthly fee that is the same as other noncustomer-generators in the same rate class but shall not be charged any additional standby, capacity, demand, interconnection, or other fee or charge; and
- (B) Compensates the customer-generator for Net Excess Generation during the billing period at a rate equal to the electric utility avoided cost of electric supply over the billing period. The monetary credits shall be applied to the bills of the customer-generator for the preceding billing period and shall offset the cost of energy owed by the customer-generator. If the energy portion of the customer-generator's bill is less than zero in any month, monetary credits shall be carried over to future bills of the customer-generator until the balance is zero. At the end of each annualized period, any excess monetary credits shall be paid out to coincide with the final bill of that period.

**SOLAR ACCESS** shall mean the ability to receive sunlight across real property for any solar energy device.

**SOLAR ACCESS EASEMENT** shall mean a right, expressed as an easement, covenant, condition, restriction or other property interest in any deed, will or other instrument executed by or on behalf of any landowner or in any order of taking, appropriate to protect the solar skyspace of a solar collector at a particularly described location to forbid or limit any or all of the following where detrimental to access to solar energy: structures on or above ground; vegetation on or above ground; or other activities. Such right shall specifically describe a solar skyspace in three-dimensional terms in which the activity, structures or vegetation are forbidden or limited or in which such an easement shall set performance criteria for adequate collections of solar energy at a particular location.

**SOLAR CONVERSION SYSTEM (SCS)** shall mean an assembly, structure, or design, including passive elements, used for gathering, concentrating or absorbing direct or indirect solar energy, specifically designed for holding a substantial



amount of useful thermal energy and to transfer that energy to a gas, solid or liquid or to use that energy directly; this may include, but is not limited to, a mechanism or process used for gathering solar energy through thermal gradients, or a component used to transfer thermal energy to a gas, solid or liquid or to convert into electricity.

**SOLAR CONVERSION SYSTEM, COMMERCIAL** shall mean a solar conversion system (CSCS) is a series of solar panels and equipment connected together in order to commercially supply the converted energy to a community and/or power grid. A CSCS shall have a one-way connection to the power grid.

**SOLAR CONVERSION SYSTEM, GROUND-MOUNTED** shall mean any SCS which is directly supported and attached to the ground.

**SOLAR CONVERSION SYSTEM, INDIVIDUAL** shall mean a solar conversion system (ISCS) shall be for the specific use of an individual residential, commercial, public or industrial use.

**SOLAR CONVERSION SYSTEM, NEIGHBORHOOD** shall mean a solar conversion system (NSCS) is a series of solar panels and equipment connected together in order to supply converted energy to a specific neighborhood and its uses.

**SOLAR FARM** shall mean any solar conversion system deemed to be a community solar system, commercial solar system, or a neighborhood solar system.

**SOLAR SKYSPACE** shall mean the maximum three-dimensional space extending from a solar collector to all positions of the sun necessary for efficient use of the collector.

- (A) Where a solar energy system is used for heating purposes only, solar skyspace shall mean the maximum three-dimensional space extending from a solar energy collector to all positions of the sun between nine o'clock (9:00) A.M. and three o'clock (3:00) P.M. local apparent time from September 22 through March 22 of each year.
- (B) Where a solar energy system is used for cooling purposes only, solar skyspace shall mean the maximum three-dimensional space extending from a solar collector to all positions of the sun between eight o'clock (8:00) A.M. and four o'clock (4:00) P.M. local apparent time from March 23 through September 21 of each year.

**SOLAR ORIENTED SUBDIVISION** shall mean a subdivision in which a minimum of 65 percent of the lots are solar-oriented lots.

### **9.20.02. General Provisions Applying to NSCS, and/or CSCS**

The following provisions shall apply, typically, to two or more of the different solar conversion systems in this Section:

1. For commercial and neighborhood SCS: Applicant shall provide evidence that the project meets commonly-accepted management practices for avian, wildlife, and environmental protections in place at the time of application.
2. For all SCS's: Applicant shall comply with specific requirements of the Hubbard Fire Department or the appropriate Rural Fire District.
3. Maintenance: All system and components shall be kept in operational condition, including appearance of all components; plus, the ground beneath the SCS shall be kept in a presentable manner, free of weeds based upon the ground cover decided.
4. Decommissioning: All systems when they are no longer generating power and will no longer be used shall follow a decommissioning plan that has been agreed to upon by the Village, the electric utility, and the owner/developer.
5. Repowering: If any SCS is no longer operating for purposes of Repowering, replacement, or maintenance, Decommissioning provisions will not apply for up to six months. However, an SCS that is not operating or is operating at a substantially reduced capacity for more than six months will be considered abandoned and decommissioning provisions will apply.
6. Repowering does not require a new Conditional Use permit or permit amendment if the footprint of the SCS is the same or reduced. Any increase in the footprint of the facility will require a permit amendment.
7. Any applicant for a SCS project shall meet with and shall indicate they have met the requirements of the electric utility and have in place an interconnection agreement with the electric utility.
8. All NSCS and CSCS operations shall have located at key access points signage stating specific language as outlined by the electric utility.
9. SCS may be installed in the floodway fringe subject to Section 4.06, as may be amended from time to time, given that all components are installed a minimum of one foot (1') above base flood elevation and subject to written authorization of the Floodplain Administrator.
10. No SCS shall be constructed in the identified Floodway.
11. Concentrated Solar Power (CSP) systems are prohibited within the Village and the Extraterritorial Jurisdiction (ETJ) boundary.
12. Financial assurances shall be in place as part of the Decommissioning Plan.

## **Article 10: Board of Adjustment**

### **Article 10: Board of Adjustment**

Section 10.01 Appeals to Board, Record of Appeal, Hearings and Stays

Section 10.02 Powers and Jurisdiction on Appeal

Section 10.03 Appeals to District Court

### **Section 10.01 Appeals to Board of Adjustment, Record of Appeal, Hearings and Stays**

As provided in Neb. Rev. Stat. §19-909 (R.R.S. 1997): 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 administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board of Adjustment, by filing with the officer from whom 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 of Adjustment all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in 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 the appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his 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 in application on notice to the officer from whom the appeal is taken and on due cause shown. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties, in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.

### **Section 10.02 Powers and Jurisdiction on Appeal**

The Board of Adjustment shall have the following powers:

1. 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; and
2. To hear and decide, in accordance with the provisions of this Ordinance, requests for interpretation of any map, or for decisions upon other special questions upon which the Board of Adjustment is authorized by this Ordinance to pass; and
3. To grant variances, where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of this Ordinance, or by reason of exceptional topographic

conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional 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 the Ordinance would produce undue hardship; and
2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
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; and
4. 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. No variance shall be authorized unless the Board of Adjustment finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.
5. In exercising the above-mentioned powers, the Board of Adjustment may 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 members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to affect any variation in this Ordinance.

### **Section 10.03 Appeals to District Court**

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may appeal as provided by Neb. Rev. Stat. §19-912, (R.R.S.1997).

## Article 11: Amendments and Application Process

### Article 11: Amendments and Application Process

Section 11.01	Purpose	Section 11.06	Zoning Permits
Section 11.02	Initiation of Amendments	Section 11.07	Certificate of Zoning Compliance
Section 11.03	Amendment Application Requirements	Section 11.08	Penalties
Section 11.04	Amendment Procedures	Section 11.09	Remedies
Section 11.05	Zoning Administrator		

#### **Section 11.01 Purpose**

The Amendment Article describes the methods by which changes may be made in the text of the Zoning Ordinance (text amendment) and/ or the official boundaries of zoning districts (rezoning).

#### **Section 11.02 Initiation of Amendments**

##### **1. Text Amendments**

Text amendments may be initiated by an applicant, the Planning and Zoning Commission, or the Village Board of Trustees.

##### **2. Map amendments**

Map amendments may be initiated by a property owner or authorized agent, the Planning and Zoning Commission, or the Village Board of Trustees

#### **Section 11.03 Amendment Application Requirements**

An application for a Rezoning may be filed by the owner(s) of a property or the owners' authorized agent with the Planning and Zoning Commission. The application must be filed, and all plans must be submitted, at least 14 days prior to the scheduled meeting of the Planning and Zoning Commission at which the application is to be heard. The application shall include the following information:

1. Name and address of the applicant.
2. Owner, address and legal description of the property.
3. A description of the reason for the rezoning application and the nature and operating characteristics of the proposed use.
4. Any graphic information, including site plans, elevations, other drawings, or other materials determined.
5. By the Planning and Zoning Commission to be necessary to describe the proposed use to approving agencies. The site plan, should be drawn to scale sufficient to permit adequate review and dimensioned as necessary, showing at least the following information:
  - a. The date, scale, north point, title, name of owner, and name of person preparing the site plan.
  - b. The location and dimensions of boundary lines, easements, and required yards and setbacks of existing and proposed buildings and site improvements.

- c. The location, size, and use of proposed and existing structures on the site.
- d. The location of all proposed site improvements, including parking and loading areas, pedestrian and vehicular access, sewers, sidewalks, utilities, service areas, fencing, screening, landscaping, and lighting.
- e. Location of any major site feature, including drainage and contours at no greater than five-foot intervals.

#### **Section 11.04 Amendment Procedures**

Regulations, restrictions, and boundaries authorized to be created pursuant to Neb. Rev. Stat. §§ 19-901 to 19-915 may from time to time be amended, supplemented, changed, modified, or repealed.

1. Public Hearing.

The Planning and Zoning Commission and Village Board of Trustees shall each hold a public hearing on any proposed amendment. The Public Hearings shall be held at a reasonable hour and place for such public hearing, and they shall hold said hearings at the next regular meeting after proper notification of adjacent property owners.

2. Planning and Zoning Commission Review.

No amendment, supplement, change or modification of this Ordinance, including the boundaries of any zoning district, shall be made by the Village Board of Trustees without first the consideration by the Planning and Zoning Commission. The Planning and Zoning Commission shall submit in writing its recommendations on each amendment, supplement, change or modification to the Village Board of Trustees. Said recommendations shall include approval, disapproval, or other suggestions and the reasons thereof, and a discussion of the effect of each amendment, supplement, change or modification on the Comprehensive Plan. Said recommendations shall be of an advisory nature only.

3. Notice of Hearings.

Public notice of hearing on a proposed amendment shall be published once in the official Village newspaper and at least 10 days shall elapse between the date of publication and the date set for such hearing. Such notice shall state the date, time and place of the hearing and shall contain a statement regarding the proposed change in regulations or restrictions or the zoning classification or zoning district boundaries of the property.

The provisions of Neb. Rev. Stat. §19-904 relative to public hearings and official notice shall apply equally to all changes or amendments. 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 18 inches in height

and 24 inches in width with a white or yellow background and black letters not less than one and one-half inches (1-1/2) 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 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 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 addresses at least ten days prior to such hearing.

At the option of the legislative body of the municipality, in place of the posted notice provided above, the owners or occupants of the real estate to be zoned or rezoned and all real estate located within 300 feet of the real estate to be zoned or rezoned may be personally served with a written notice thereof at least 10 days prior to the date of the hearing, if they can be served with such notice within the Village where such real estate is located. Where such notice cannot be served personally upon such owners or occupants in the Village where such real estate is located, a written notice of such hearing shall be mailed to such owners or occupants addressed to their last-known addresses at least 10 days prior to such hearing.

4. Protests.

In case of a protest against such change, signed by the owners of 20 percent or more either 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 there from, and of those directly opposite thereto extending 300 feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths (3/4) of all the members of the legislative body of such municipality.

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 or different districts are made applicable to areas, or parts of areas, already within a zoning district of the municipality, but only the requirements of Neb. Rev. Stat. § 19-904 shall be applicable.

### **Section 11.05 Zoning Administrator**

The provisions of this Ordinance shall be administered and enforced by a Zoning Administrator as appointed by the Village Board of Trustees, who shall have the power to make inspection of buildings or premises necessary to carry out his or her duties in the enforcement of this Ordinance.

### **Section 11.06 Zoning Permits**

The following shall apply to all new construction and all applicable renovations and remodels within the Village's Zoning Jurisdiction:

1. It shall be unlawful to commence the excavation for the construction of any building, or any accessory buildings, or to commence the moving or alteration of any buildings, including accessory buildings, until the Zoning Administrator has issued a zoning permit for such work.
2. Issuance of a zoning permit. In applying to the Zoning Administrator for a zoning permit, the applicant shall submit a dimensioned sketch or a scale plan indicating the shape, size and height and location of all buildings to be erected, altered or moved and of any building already on the lot. He shall also state the existing and intended use of all such buildings, and supply such other information as may be required by the Zoning Administrator for determining whether the provisions of this Ordinance are being observed. If the proposed excavation or construction as set forth in the application is in conformity with the provisions of this Ordinance, and other Ordinances of the Village then in force, the Zoning Administrator shall issue a zoning permit for such excavation or construction. If a zoning permit is refused, the Zoning Administrator shall state such refusal in writing, with the cause, and shall immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application. The Zoning Administrator shall grant or deny the permit within a reasonable time from the date the application is submitted. The issuance of a permit shall, in no case, be construed as waiving any provisions of this Ordinance. A zoning permit shall become void 12 months from the date of issuance unless substantial progress has been made by that date on the project described therein.

### **Section 11.07 Certificate of Zoning Compliance**

No land or building or part thereof hereafter erected or altered in its use or structure shall be used until the Zoning Administrator shall have issued a certificate of zoning compliance stating that such land, building or part thereof, and the proposed use thereof, are found to be in conformity with the provisions of this Ordinance. Within three days after notification that a building or premises is ready for occupancy or use, it shall be the duty of the Zoning Administrator to make a final inspection thereof and to issue a Certificate of Zoning Compliance if the land, building, or part thereof and the proposed use thereof are found to conform with the provisions of this Ordinance, or, if such certification is refused,



to state refusal in writing, with the cause, and immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application.

### **Section 11.08 Penalties**

Pursuant to Neb. Rev. Stat. §19-913, 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 violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or 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 (100) dollars for any one offense. Each day of non-compliance with the terms of this Ordinance shall constitute a separate offense.

### **Section 11.09 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 Neb. Rev. Stat. §§19-901 to 19-914, or this Ordinance, or any regulation made pursuant to said sections, 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 12 Definitions

### A

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

**ABUT, ABUTTING** shall mean to border on, be contiguous with or have common property or district lines, including property separated by a public street or alley.

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

**ACCESSORY BUILDING** shall mean a subordinate building portion of the principal building, of which incidental to that of the principal is building.

**ACCESSIBILITY RAMP** shall mean a slope surface used for moving individuals with disabilities from one level to the next; provided the slope of the ramp meets the requirements found in the American's with Disabilities Act. Said ramp may be attached to any type of land use.

**ACCESSORY STRUCTURE** shall mean a detached subordinate building or structure located on the same lot with the principal building or structure, the use of which is incidental and accessory to that of the principal structure. Customary accessory buildings and structures include farm buildings, garages, carports, and storage sheds but not portable storage containers.

**ACCESSORY USE** shall mean a use which is:

- Incidental to the principal use of the premises;
- Is subordinate in area, extent, or purpose to the principal use served;
- Contributes to the comfort, convenience, or necessity of occupants of the principal use; and
- Is located on the same zoning lot as the principal building or use.

**ACREAGE** shall mean any tract or parcel of land, used for single-family residential purposes, that does not qualify as a farm or farmstead.

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

**ADVERTISING STRUCTURE** shall mean any structure used as an outdoor display, regardless of size and shape, for the purposes of making anything known, the origin or place of sale of which is not on the property with such Advertising Structure.

**AGENT** shall mean any person showing written verification that he/she is acting for, and with the knowledge and consent of, a property owner.

**AGRICULTURE** shall mean the use of land for agricultural purposes, for obtaining a profit by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products, or any other agricultural or horticultural use.

**AGRICULTURAL COOPERATIVE PRODUCTION/DISTRIBUTION FACILITY** shall mean any facility owned and operated by a cooperative or other corporation for the purpose of manufacturing, distributing, and storage of fertilizers, herbicides and grain. This includes the offices, scales and parking areas necessary for trucks and other vehicles.

**AGRICULTURAL OR FARM BUILDINGS AND STRUCTURES** shall mean any building or structure which is necessary or incidental to the normal conduct of a farming operation, including but not limited to, residence of hired persons, barns, buildings and sheds for housing livestock, poultry and farm machinery, buildings for the storage or shelter of grain, hay and other crops, silos, windmills and water storage tanks.

**AGRICULTURAL INDUSTRIES** shall mean establishments or uses engaged in the large-scale storage or initial processing of agricultural products and supplies that cannot be otherwise categorized as light, general, or heavy industries, some of which may involve storage of potentially hazardous materials. Typical uses include grain elevators and anhydrous ammonia storage facilities.

**AGRICULTURAL OPERATIONS** shall mean a farmstead of 20 acres or more which produces \$1,000 or more of farm products each year.

**AGRICULTURAL SALES AND SERVICE** shall mean establishments or places of business engaged in sale from the premises of feed, grain, fertilizers, farm equipment, pesticides and similar goods or in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include nurseries, hay, farm implement dealerships, feed and grain stores, and tree service firms.

**AGRITOURISM ENTERPRISE** shall mean activities conducted on a working farm or ranch and offered to the public for the purpose of recreation, education, or active tourism related involvement in the farm or ranch operation. These activities must be incidental to the primary agricultural operation on the site or related to natural resources present on the property. This term includes farm tours, hayrides, corn mazes, pumpkin patches, classes related to agricultural products or skills, picnic and party facilities offered in conjunction with the above. An agritourism enterprise does not include accommodation uses or retail sales.

**ALL-TERRAIN VEHICLE** shall mean any motorized off-highway vehicle which (i) is fifty inches or less in width, (ii) has a dry weight of nine hundred pounds or less, (iii) travels on three or more low-pressure tires, (iv) is designed for operator use only with no passengers or is specifically designed by the original manufacturer for the operator and one passenger, (v) has a seat or saddle designed to be straddled by the operator, and (vi) has handlebars or any other steering assembly for steering control.

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

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

**AMENDMENT** shall mean a change in the wording, context, or substance of this Ordinance, or an addition, deletion or change in the district boundaries or classifications upon the Official Zoning Map.

**ANIMAL, DOMESTIC** see Household Pet.

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

**ANIMAL CONFINEMENT BUILDING** shall mean walled facilities where animals have been, are, or will be stabled or confined, fed and maintained.

**ANIMAL HOSPITAL** shall mean a place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

**ANIMAL UNIT** shall mean any farming operation or the feeding, farrowing, or raising cattle, swine, sheep, poultry, or other livestock, in a confined area where grazing is not possible, and where the confined area is for more than 6 months in

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

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

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

One (1) A.U. = One-half Horse;

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

One (1) A.U. = Two and One-Half Swine (55 lbs. or more);

One (1) A.U. = Twenty-Five Weaned Pigs (less than 55 lbs.);

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

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

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

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

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

**ANIMAL WASTE** shall mean any animal excrement, animal carcass, feed waste, animal water waste, or any other waste associated with animals.

**ANIMAL WASTE WATER** shall mean any liquid, including rainfall, which comes into contact with any animal excrement, manure, litter, bedding or other raw material or intermediate or final material or product used in or resulting from the production of animals or from products directly or indirectly used in the operation of a Concentrated Animal Feeding Operation (CAFO), or any spillage or overflow from animal watering systems, or any liquid used in washing, cleaning or flushing pens, barns, or manure pits, or any liquid used in washing or spraying to clean animals, or any liquid used for dust control on the premises of a CAFO.

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

**ANTIQUE SHOPS** shall mean a place offering primarily antiques for sale. An antique for the purpose of this ordinance shall be a work of art, piece of furniture, decorative object, or the like, that is at least 30 years old.

**APARTMENT** shall mean a room or a suite of rooms within an apartment house or multiple family dwelling arranged, intended or designed as a place of residence for a single family or group of individuals living together as a single housekeeping unit, including culinary accommodations. Also, see Dwelling Unit.

**APARTMENT COMPLEX** shall mean a building or buildings containing apartments used as a place of residence for more than two households.

**APARTMENT HOUSE** see Dwelling, Multiple.

**APPEARANCE** shall mean the outward aspect visible to the public.

**APIARY** shall mean a place where bee colonies are kept.

**APPLICANT** shall mean the owner or duly designated representative of land proposed to be subdivided, or for which a special use permit, conditional use permit, temporary use permit, zoning amendment, variance, appeal, building permit, or certificate of occupancy and other similar administrative permits has been requested. Consent shall be required from the legal owner or his legal representative in writing except for building permits.

**APPROPRIATE** shall mean fitting the context of the site and the whole community.

**APPURTENANCES** shall mean the visible, functional objects accessory to and part of buildings.

**AQUACULTURE** shall mean land devoted to the hatching, raising, and breeding of fish or other aquatic plants or animals for sale or personal use.

**AQUIFER** shall mean a geologic formation, group of formations, or part of a formation capable of yielding, storing, or transmitting a usable amount of groundwater to wells or springs for domestic or animal use.

**AQUIFER, CONFINED (ARTESIAN)** shall mean aquifers found between layers of clay, solid rock, or other material of very low permeability. Water in confined aquifers is often under pressure because the aquifer is confined between impermeable layers and is usually recharged at a higher elevation than the top confining layer.

**AQUIFER, UNCONFINED (OR WATER TABLE)** shall mean an aquifer where the top of the aquifer is identified by the water table. Above the water table, known as the zone of aeration, interconnected pore spaces are open to the atmosphere. Also, known as a water table aquifer.

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

**ARBORIST** shall mean an individual trained in arboriculture, forestry, landscape architecture, horticulture, or related fields and experienced in the conservation and preservation of native and ornamental trees.

**ARCHERY RANGE** shall mean an outdoor or indoor facility that may include buildings or structures used for target practice with bows and arrows.

**AREA** shall mean a piece of land capable of being described with such detail that its location may be established, and boundaries ascertained.

**AREAS OF CONTRIBUTION** shall mean the upland recharge area and cone of depression from which well water is drawn.

**AREAS OF INFLUENCE** shall mean the two-dimensional area (as viewed on a map) of water table drawdown created by a pumping well.

**ARTISAN PRODUCTION SHOP** shall mean a building or portion thereof used for the creation of original handmade works of art or craft items by more than three but less than six artists or artisans, as either a principal or accessory use.

**ARTIST STUDIO** shall mean a place designed to be used, or used as, both a dwelling place and a place of work by an artist, artisan, or craftsman, including persons engaged in the application, teaching, or performance of fine arts such as, but not limited to, drawing, vocal or instrumental music, painting, sculpture, and writing.

**ASPHALTIC CONCRETE** shall mean a dark brown to black cement-like material in which the predominating constituents are bitumen, which occur in nature or are obtained in petroleum processing. Asphalt is a constituent in varying proportions of most crude petroleum and used for paving, roofing, industrial and other special purposes.

**ASSISTED LIVING FACILITY** shall mean a special combination of housing, supportive services, personalized assistance, and health care designed to respond to the individual needs of those who need help with activities of daily living. A facility with a central or private kitchen, dining, recreational, and other facilities, with separate bedrooms or living quarters, where the emphasis of the facility remains residential.

**ATTACHED** shall mean a foundation, wall or roof of a building or structure which is connected to and supported by the foundation, wall, or roof of another building or structure.

**ATTACHED PERMANENTLY** shall mean something attached to real estate in such a way as to require dismantling, cutting away, unbolting, from a permanent foundation or structure in order to relocate to another location or remove permanently.

**AUTO BODY REPAIR** shall mean the repair, painting, or refinishing of the body, fender, or frame of automobiles, trucks, motorcycles, motor homes, recreational vehicles, boats, tractors, construction equipment, agricultural implements, and similar vehicles or equipment. Typical uses include body and fender shops, painting shops, and other similar repair or refinishing garages.

**AUTO SERVICES** shall mean the provision of fuel, lubricants, parts and accessories, and incidental services to motor vehicles and washing and cleaning and/or repair of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include service stations, car washes, muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, and similar repair and service activities but exclude dismantling, salvage, or body and fender repair services.

**AUTOMATIC TELLER MACHINE (ATM)** shall mean an automated device that performs banking or financial functions at a location remote from the controlling financial institution.

**AUTOMOBILE RENTAL AND SALES** shall mean sale or rental of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles or boats, including incidental storage, maintenance, and servicing. Typical uses include new and used car dealerships, motorcycle dealerships and boat, trailer, and recreational vehicle dealerships.

**AUTOMOBILE WRECKING YARD** shall mean any lot, or the use of any portion of a lot, for the dismantling or wrecking of automobiles, tractors, farm machinery, or other motor vehicles, or for the storage or keeping for sale of parts and equipment resulting from such dismantling or wrecking.

**AUTOMOTIVE AND MACHINERY REPAIR SHOP** shall mean a building used for the repair of motor vehicles or machinery; when such repair shall be wholly within a completely enclosed building. This definition also includes body repair and painting.



**AUTOMOTIVE SALES AREA** shall mean an open area, other than a street, used for display or sale of new or used motor vehicles and trailers by one required to be licensed as a motor vehicle dealer by the State of Nebraska, and where no repair work is done except minor incidental repair of motor vehicles or trailers to be displayed and sold on the premises.

## **B**

**BALLROOM** shall mean a place or hall used for dancing, reunions, weddings and receptions and not for Adult Cabaret.

**BAR** shall mean any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises. Also, see Nightclub and Tavern.

**BASE FLOOD** shall mean the flood, from whatever source, having a one percent chance of being equaled or exceeded in any given year, otherwise referred to as the 100-year flood.

**BASE FLOOD ELEVATION** shall mean that elevation, expressed in feet above mean sea level, to which flooding can be expected to occur on a frequency of once in every 100 years, or which is subject to a one percent or greater chance of flooding in any given year.

**BASE ZONING DISTRICT** shall mean a district established by this Ordinance that prescribes basic regulations governing land use and site development standards.

**BASEMENT** shall mean the substructure or foundation of a building; the lowest habitable story of a building, usually below ground level. A basement used for independent dwelling or business purposes shall be considered a story for the purposes of height measurement.

**BEACON** shall mean any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

**BED AND BREAKFAST INN** shall mean a dwelling that is used for the purpose of offering overnight lodging and meals to travelers for a fee which dwelling has unique structural and/or site characteristics which create the appearance of an Inn type setting. Such dwelling shall have a maximum of six guest rooms available for travelers lodging and no more than 12 guests may stay at any time. Guests who stay at the bed and breakfast shall not remain for a period of more than 30 consecutive days.

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

**BEER GARDEN** shall mean a permanent establishment which includes any area out-of-doors and not completely contained within a building in which alcoholic beverages or food is served.

**BEGINNING OF CONSTRUCTION** shall mean that site grading is the beginning of construction.

**BERM** shall mean a raised form of earth to provide screening or to improve the aesthetic character.

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

**BILLBOARD** see Sign, Billboard.

**BIO-FUELS MANUFACTURING** shall mean a facility constructed for the purpose of processing a natural product such as corn and soybeans into an alcohol-based fuel/additive.

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

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

**BOARD OF ADJUSTMENT** shall mean the Board of Trustees that has been created by the Village and which has the statutory authority to hear and determine appeals from, interpretations of, and variances to the zoning regulations.

**BOARDING OR ROOMING HOUSE** shall mean a building other than a hotel or motel but containing a single dwelling unit and provisions for three but not more than 20 guests, where lodging is provided with or without meals for compensation.

**BREW-ON PREMISES STORE** shall mean a facility that provides the ingredients and equipment for a customer to use to brew malt liquor at the store. Brew-on-premises stores do not include the sale of intoxicating liquor, unless the owner of the brew-on-premises store holds the appropriate liquor license.

**BREW PUB** shall mean a restaurant or hotel which includes the brewing of beer as an accessory use. The brewing operation processes water, malt, hops, and yeast into beer or ale by mashing, cooking, and fermenting. By definition, these

establishments produce no more than 10,000 barrels of beer or ale annually. The area, by definition, used for brewing, including bottling and kegging shall not exceed 25 percent of the total floor area of the commercial space. Also see Brewery, Craft.

**BREWERY** shall mean a facility for brewing ales, beers, meads and/or similar beverages on site. Breweries are classified as a use that manufactures more than 20,000 barrels of beverage (all beverages combined) annually.

**BREWERY, CRAFT** shall mean a brew pub or a microbrewery.

**BREWERY, MICRO** shall mean a facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail or wholesale, on or off premises, with a capacity of not more than 20,000 barrels per year. The development may include other uses such as standard restaurant, bar, or live entertainment as otherwise permitted in the zoning district.

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

**BUFFER AREA** shall mean an open and unobstructed ground area of a plot in addition to any no building zones or street widening around the perimeter of any plot where required.

**BUFFERYARD** shall mean a landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

**BUILDABLE AREA** shall mean that part of a zoning lot not included within the required yards or subject to other restrictions herein required.

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

**BUILDING CODE** shall mean the various codes of the Village that regulates construction and requires building, electrical, mechanical, plumbing and other permits to as well as other codes adopted by the Village that pertain to building construction.

**BUILDING COVERAGE** shall mean the area of a site covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features.

**BUILDING ENVELOPE** shall mean the three-dimensional space within which a structure is permitted to be built on a lot after all zoning and other applicable municipal requirements have been met.

**BUILDING HEIGHT** shall mean the vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest point of a gable, hip, or shed roof, measured from the highest adjoining sidewalk or ground surface within a five feet horizontal distance of the exterior wall of the building.

**BUILDING LINE** shall mean the outer boundary of a building established by the location of its exterior walls.

**BUILDING OFFICIAL** shall mean the designee of the Village Board of Trustees, responsible for the enforcement of the building and land use regulations of the Village of Hubbard.

**BUILDING PERMIT** shall mean a document issued by the Building Inspector or designee prior to erecting, constructing, enlarging, altering, repairing, moving, improving, removing, converting, or demolishing any building or structure regulated by this Ordinance or any other applicable Village Code.

**BUILDING SETBACK LINE** shall mean the required zoning distance between a building and the lot line.

**BULK REGULATIONS** shall mean regulations controlling the size and relationship of structures and uses to each other and to open areas and lot lines. Bulk regulations include regulations controlling: (1) maximum height (2) maximum lot coverage and (3) minimum size of yard and setbacks.

**BUSINESS** shall mean activities that include the exchange or manufacture of goods or services on a site.

**BUSINESS CENTER** shall mean a building containing more than one commercial business, or any group of nonresidential buildings within a common development, characterized by shared parking and access.

**BUSINESS SERVICES** shall mean uses providing services to people, groups, businesses, dwellings and other buildings. Business services shall include janitorial services, carpet and upholstery cleaning, painting and decorating, building maintenance, swimming pool maintenance, security service, graphics/advertising agency, photocopying/duplication, quick print shops, printing, blueprinting, sign painting, non-vehicle equipment rental, photographic studios.

**BUSINESS SUPPORT SERVICES** shall mean establishments or places of business primarily engaged in the sale, rental or repair of equipment, supplies and materials or the provision of services used by office, professional and service establishments to the firms themselves but excluding automotive, construction and farm equipment; or engaged in the provision of maintenance or custodial services to businesses. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms, janitorial services, photography studios, and convenience printing and copying.

**BULK STORAGE** shall mean the storage of materials for distribution to other locations and not for use or consumption on the same lot.

## C

**CABIN** shall mean a small one-story house built and designed for temporary use.

**CABIN, HUNTING AND FISHING** Buildings used only during hunting and fishing season as a base for hunting and fishing, and outdoor recreation.

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

**CARPORT, PERMANENT** shall mean a permanent roofed structure attached to the primary structure and acting as an extension of said primary structure. Permanent carports structural supports shall be attached to a permanent footing.

**CARPORT** shall mean a permanent roofed structure with not more than two enclosed sides used or intended to be used for automobile shelter and storage.

**CARPORT, PORTABLE/TEMPORARY** shall mean a manufactured structure intended to be used for cover of vehicles, trailers, boats, and similar devices.

**CAR WASH** shall mean a building or structure or an area of land with machine or hand operated facilities for the cleaning, washing, polishing, or waxing of motor vehicles.

**CAR WASH, INDUSTRIAL** shall mean a mechanical facility for the washing, waxing and vacuuming of heavy trucks and buses.

**CELLAR** shall mean a building space having less than one-half of its height below the average adjoining grade lines.

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

**CERTIFICATE OF OCCUPANCY** shall mean an official certificate issued by the Building Official or designee, upon finding of conformance with the zoning regulations and other applicable ordinances of the Village and authorizing legal use of the premises for which it is issued.

**CHANGE OF USE** shall mean the replacement of an existing use by a new use.

**CHANNEL** shall mean the geographical area located within either the natural or the artificial banks of a watercourse or drainage way.

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

**CHILD CARE CENTER** shall mean an establishment other than a public or parochial school, which provides day care, play groups, nursery schools or education for nine or more children under age 13, at any one time, from families other than that of the provider. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.

**CHILD CARE HOME** shall mean an operation in the provider's place of residence, which serves at least four, but not more than eight children at any one time from families other than that of the provider. A Family Child Care Home provider may be approved to serve no more than two additional school-age children during non-school hours. In addition to these regulations, Child Care Homes shall meet all requirements of the State of Nebraska.

**CHURCH** shall mean a place where religious worship is conducted including accessory uses as schools, day care centers, bingo parlors, and halls.

**CHURCH, STOREFRONT** shall mean a religious facility contained within a store or similar structure not typically used for religious activities that are now used as a meeting place for a congregation, including but not limited to, barns, stores, warehouses, old public buildings, and single-family dwellings.

**CLEAR VIEW ZONE** shall mean the area of a corner lot closest to the intersection that is kept free of visual impairment to allow full view of both pedestrian and vehicular traffic.

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

**CLUSTERED DEVELOPMENT** shall mean a development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.

**CODE** shall mean the Village Code of the Village of Hubbard, Nebraska.

**COFFEE KIOSK** shall mean a retail food business in a freestanding building that sells coffee, or other nonalcoholic beverages, and pre-made bakery goods from a drive-through window to customers seated in their automobiles for consumption off the premises and that provides no indoor or outdoor seating.

**COMMISSION** shall mean the Planning and Zoning Commission of Hubbard, Nebraska.

**COMMON AREA OR PROPERTY** shall mean a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the Owners of the individual building sites in a Planned Development or condominium development.

**COMMON DEVELOPMENT** shall mean a development proposed and planned as one unified project not separated by a public street or alley.

**COMMON OPEN SPACE** shall mean land within or related to a development that is not individually owned or dedicated for public use, designed and generally intended for the common use of the residents of the development.

**COMMUNICATION SERVICES** shall mean establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms but excludes those classified as utilities. Typical uses include television studios, telecommunication service centers, telegraph service offices, or film and sound recording facilities.

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

**COMPATIBILITY** shall mean harmony in the appearance of two or more external design features in the same vicinity.

**COMPATIBLE USE** shall mean the degree to which two or more different land use types are able to exist together in close proximity, with no one use having significant negative effects on any other use.

**COMPOST** shall mean decomposed organic material resulting from the composting process. Used to enrich or improve the consistency of soil.

**COMPOSTING** shall mean processing waste in a controlled environment to produce a stable product by microbiologically degrading organic matter under aerobic conditions.

**COMPREHENSIVE DEVELOPMENT PLAN** shall mean the Comprehensive Development Plan of Hubbard, Nebraska as adopted by the Board of Trustees, setting forth policies for the present and foreseeable future community welfare as a whole and meeting the purposes and requirements set forth in the Neb. Rev. Stat. §19-903.

**CONDITIONAL APPROVAL** shall mean approval of a subdivision which requires the subdivider to take certain specified action in order to secure approval of the subdivision. The resolution approving a subdivision shall specify the condition to be met and the time by which the condition is to be met.

**CONDITIONAL USE** shall mean a use allowed by the district regulations that would not be appropriate generally throughout the entire zoning district without special restrictions. However, said use if controlled as to number, size, area, location, relation to the neighborhood or other minimal protective characteristics would not be detrimental to the public health, safety, and general welfare.

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

**CONDOMINIUM** shall mean real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions, pursuant to the Nebraska Condominium Act, as set forth in Neb. Rev. Stat. §§ 76-825 to 76-894.

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



**CONGREGATE HOUSING** shall mean a residential facility for four or more persons aged 55 years or over and their spouses, providing living and sleeping facilities including meal preparation, dining areas, laundry services, room cleaning and common recreational, social, and service facilities for the exclusive use of all residents including resident staff personnel who occupy a room or unit in the residential facility. Also, see Life Care Facility.

**CONSERVATION** shall mean the management of natural resources to prevent waste, destruction, or degradation.

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

**CONSERVATION DEVELOPMENT** shall mean a development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.

**CONSERVATION EASEMENT** shall mean as defined by Nebraska §76-2,111 a right, whether or not stated in the form of an easement, restriction, covenant, or condition in any deed, will, agreement, or other instrument executed by or on behalf of the owner of an interest in real property imposing a limitation upon the rights of the owner or an affirmative obligation upon the owner appropriate to the purpose of retaining or protecting the property in its natural, scenic, or open condition. Assuring its availability for agricultural, horticultural, forest, recreational, wildlife habitat, or open space use, protecting air quality, water quality, or other natural resources, or for such other conservation purpose as may qualify as a charitable contribution under the Internal Revenue Code.

**CONSERVATION SUBDIVISION** shall mean wholly or in majority, a residential subdivision that permits a reduction in lot area, setback, or other site development regulations, provided 1) there is no increase in the overall density permitted for a conventional subdivision in a given zoning district, and 2) the remaining land area is used for common space.

**CONSTRUCTION AND DEMOLITION WASTE** shall mean waste which results from land clearing, the demolition of buildings, roads, or other structures, including but not limited to, beneficial fill materials, wood (including painted and treated wood), land clearing debris other than yard waste, wall coverings (including wall paper, paneling, and tile), drywall, plaster, non-asbestos insulation, roofing

materials, plumbing fixtures, glass, plastic, carpeting, electrical wiring, pipe and metals. Such waste shall also include the above listed types of waste that result from construction projects. Construct and demolition waste shall not include friable asbestos waste, special waste, liquid waste, hazardous waste and waste that contains polychlorinated biphenyl (PCB), putrescible waste, household waste, industrial solid waste, corrugated cardboard, appliances, tires, drums, and fuel tanks as described herein or otherwise within NDEQ Title 132.

**CONSTRUCTION BATCH PLANT** shall mean a temporary demountable facility used for the manufacturing of cement, concrete, asphalt, or other paving materials intended for specific construction projects.

**CONSTRUCTION YARDS** shall mean establishments housing facilities of businesses primarily engaged in construction activities, including incidental storage of materials and equipment on lots other than construction sites. Typical uses are building contractor's yards.

**CONTIGUOUS** shall mean the same as "Abut" or "Abutting" or "Adjacent".

**CONVALESCENT SERVICES** shall mean a use providing bed care and inpatient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease. Typical uses include nursing homes.

**CONVENIENCE STORE** shall mean a one-story, retail store designed and stocked to sell primarily food, beverages, and other household supplies, and may also sell gasoline, to customers who purchase only a relatively few items (in contrast to a "supermarket.") It is dependent on, and is designed to attract and accommodate large volumes of stop-and-go traffic.

**CONVENTIONAL SUBDIVISION** shall mean a subdivision which literally meets all nominal standards of the Land Development Ordinance for lot dimensions, setbacks, street frontage, and other site development regulations.

**CORPORATE LIMITS** shall mean all land, structures and open space that has been annexed into the Village's jurisdiction. This does not include the extraterritorial jurisdiction of the Village.

**COUNTRY CLUB** shall mean buildings and facilities owned and operated by a corporation or association of persons for social and recreational purposes, but not operated for a profit. The affairs and management, of such club, are conducted by a board of directors, executive committee, or similar body chosen by the members. It is designed to serve food and alcoholic beverages on such premises to members and their guests, provided that the serving of food and

alcoholic beverages is secondary to some other principal purpose of the association or corporation. Customary country clubs include, but are not limited to: swimming, tennis, and golf course country clubs.

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

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

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

**COURTYARD** shall mean an open, unoccupied space, bounded on two or more sides by the walls of the building.

**COVER CROP** shall mean a close-growing crop grown to protect and improve soils between periods of regular crops.

**CREATIVE SUBDIVISION** shall mean a subdivision that, while complying with the Subdivision Ordinance, diverges from nominal compliance with site development regulations in the Land Development Ordinance. Creative subdivisions imply a higher level of pre-planning than conventional subdivisions. They may be employed for the purpose of environmental protection or the creation of superior community design. Types of Creative Subdivisions include Cluster Subdivisions and New Urban Residential Districts.

**CROP PRODUCTION** shall mean the raising and harvesting of tree crops, row crops for field crops on an agricultural or commercial basis. This definition may include accessory retail sales under certain conditions.

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

**CULTURAL SERVICES** shall mean a library, museum, or similar registered nonprofit organizational use displaying, preserving and exhibiting objects of community and cultural interest in one or more of the arts and sciences.

## D

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

**DATE OF SUBSTANTIAL COMPLETION** shall mean the date certified by the local building inspector or zoning administrator when the work, or a designated portion thereof is sufficiently complete, so the owner may occupy the work or designated portion thereof for the use for which it is intended.

**DEAD ANIMAL DISPOSAL** shall mean the disposal of dead animals by methods authorized by law such as rendering, composting, burial, and incineration.

**DECIDUOUS SCREEN** shall mean landscape material consisting of plants which lose their leaves in winter and eventually will grow and be maintained at six feet in height, at least.

**DECK** shall mean a flat, floored, roofless structure. Roofless does not include a roll-out awning or a canopy provided that all the vertical sides, other than the residential structure are open.

**DEDICATION** shall mean the intentional appropriation of land by the owner to some public use.

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

**DENTENTION BASIN** shall mean a facility for the temporary storage of storm water runoff.

**DENTENTION FACILITY** shall mean a publicly or privately operated or contracted use providing housing and care for individuals legally confined, designed to isolate those individuals from the community.

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

**DEVELOPMENT** shall mean any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations for which necessary permits may be required.

**DEVELOPMENT CONCEPT PLAN** see Site Plan.

**DEVELOPMENT IMPACT FEE** shall mean a fee imposed on developers to pay for the costs to the Village of providing services to a new development based upon the impact of the development.

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

**DISTRICT OR ZONE** shall mean a section or sections of the Zoning Area for which uniform regulations governing the use of land, the height, use, area, size, and intensity of use of buildings, land, and open spaces are established.

**DOG** shall mean any canine specie over 12 months of age; a dog younger than 12 months is a puppy.

**DOG KENNEL** see Kennel, Boarding or Training, and Kennel, Commercial.

**DOG DAY CARE FACILITY** shall mean a facility providing such services as canine day care for all or part of a day, obedience classes, training, grooming, or behavioral counseling, provided that overnight boarding is not permitted.

**DOG PARK** shall mean a specifically designated and fenced off for the exercise of canines and other domestic animals.

**DOMESTIC ANIMALS** see Household Pet.

**DOWNZONING** shall mean a change in zoning classification of land to a less intensive or more restrictive district, such as from commercial district to residential district or from a multiple family residential district to single family residential district.

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

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

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

**DUMP** shall mean a place used for the disposal, abandonment, discarding by burial, incineration, or by any other means for any garbage, sewage, trash, refuse, rubble, waste material, offal or dead animals. Such use shall not involve any industrial or commercial process.

**DUPLEX** see Dwelling, Two Family.

**DWELLING** shall mean any building or portion thereof, which is designed and used exclusively for single family residential purposes, excluding mobile homes.

**DWELLING, MANUFACTURED HOME** shall mean a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with standards promulgated by the United States Department of Housing and Urban Development.

**DWELLING, MOBILE HOME** shall mean any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially a complete condition and mounted on wheels, skids or rollers, jacks, blocks, horses, skirting or a permanent or temporary foundation or any prefabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motor power or other means. The term mobile home shall include trailer home and camp car, but the definition shall not apply to any vehicle lawfully operated upon fixed rails.

- a. Permanently Attached: Attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent continuous foundation or structural change in such mobile home in order to relocate it on another site in accordance to manufacturers recommendations.
- b. Permanent Foundation: Base on which building rests, to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of 42 inches below the final ground level.

**DWELLING, MODULAR** shall mean any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units not fabricated on the final site for the dwelling unit, which units are movable or portable until placed on a permanent foundation and connected to utilities, pursuant to the Nebraska Uniform Standards for Modular Housing Units Act, as set forth in Neb. Rev. Stat. §§ 71-1557 to 71-1568.01 (Cum.Supp.2000). Further, such dwelling must also meet or be equivalent to the construction criteria set forth in the Nebraska Uniform Standards for Modular Housing Units Act. Such dwelling is considered to be a conventional type single-family dwelling, and those that do not meet the above criteria shall be considered a mobile home.

**DWELLING, MODULAR (HOME SEAL)** shall mean a device or insignia issued by the Nebraska Department of Health to be displayed on the exterior of the modular housing unit to evidence compliance with departmental standards.

**DWELLING, MULTIPLE** shall mean a building or buildings designed and used for occupancy by three or more families, all living independently of each other and having separate kitchen and toilet facilities for each family.

**DWELLING, SINGLE FAMILY** shall mean a building having accommodations for or occupied exclusively by one family. In addition, all "double-wide" mobile or manufactured homes meeting the following standards shall be considered a single-family dwelling.

1. The home shall have no less than 800 square feet of floor area, above grade, for single story construction;
2. The home shall have no less than an 18 feet exterior width;
3. The roof shall be pitched with a minimum vertical rise of two and one-half inches for each 12 inches of horizontal run;
4. The exterior material shall be of a color, material and scale comparable with existing site-built, single family residences;
5. The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, or rock. However, standing seam roofs are allowable provided it's non-reflective;
6. The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed, and the home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district;
7. The home shall have a permanent foundation, to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of 42 inches below the final ground level.

**DWELLING, SINGLE FAMILY ATTACHED** shall mean a portion of a residential building having accommodations for and occupied exclusively by one family, and which is located on a separate lot of record apart from the remaining portions of the building. Each such dwelling may be sold independently of other portions.

**DWELLING UNIT, SPECIAL TYPES** shall mean any dwelling type consisting of single-family detached; single-family attached, multi-family, mobile home that is not the typical construction style of traditional stick framed structures.

1. **Cargo Container Dwelling:** a dwelling unit constructed of one or more new or used cargo containers used for multi-modal shipping and meeting the definition of dwelling unit above.
2. **Grain Bin Dwelling Unit:** A dwelling unit constructed of one or more grain bins, new or used meeting the definition of Dwelling Unit above.
3. **Shouse:** A combination of a dwelling unit and machine shed under a common or connect roofing system. For purposes of a Shouse, these structures when on a farm, agricultural operation, or acreage shall not be classified as a farm building. In addition, the residence portion of the facility shall meet the definition of Dwelling Unit above.
4. **Quonset home:** A home constructed beneath and in a structure referred to as a Quonset.

5. **Tiny House:** A structure containing living spaces including sleeping and kitchen areas which measure 500 square feet or less in area. Tiny houses can be either portable, on wheels similar to a recreational vehicle, or on a permanent foundation.
6. **Tree House:** A dwelling unit where the primary structure of the unit is based on one or more tree clusters.

**DWELLING, TOWNHOUSE** shall mean a one-family dwelling in a row of at least two such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical wall(s).

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

**DWELLING UNIT** shall mean one or more rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or lease on a weekly, monthly, or longer basis, and physically separate from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, toilet and sleeping facilities.

## E

**EARTHEN HOME** shall mean a home built into a berm or hillside covered by earth on three sides and on the roof.

**EASEMENT** shall mean a grant, made by a property owner, to the use of his or her land by the public, a corporation, or persons, for specific purposes, such as access to another property or the construction of utilities, drainage ways or roadways.

**EDUCATIONAL INSTITUTION** shall mean a public or nonprofit institution or facility which conducts regular academic instruction at preschool, kindergarten, elementary, secondary, and collegiate levels, including graduate schools, universities, junior colleges, trade schools, nonprofit research institutions and religious institutions. Such institutions must either:

1. Offer general academic instruction equivalent to the standards established by the State Board of Education; or
2. Confer degrees as a college or university or undergraduate or graduate standing; or
3. Conduct research; or



4. Give religious instruction. Private schools, academies, or institutes incorporated or otherwise, which operate for a profit, and commercial or private trade schools are not included in this definition.

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

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

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

**ELEEMOSYNARY INSTITUTION** shall mean an institution supported by charity and designed to assist persons, for example; those recovering from mental or emotional illness.

**EMERGENCY SHELTER MISSION** shall mean a facility which provides temporary housing for one or more individuals who are indigent, needy, homeless or transient.

**EMERGENCY RESIDENTIAL SERVICES** shall mean a facility or use of a building to provide a protective sanctuary for victims of crime or abuse, including emergency housing during crisis intervention for victims of rape, abuse, or physical beatings.

**ENCLOSED** shall mean a roofed or covered space fully surrounded by walls.

**ENCROACHMENT** shall mean an obstruction or illegal or unauthorized intrusion into a delineated floodway, right-of-way, or adjacent property.

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

**ENVIRONMENTALLY CONTROLLED HOUSING** shall mean any livestock operation meeting the definition of a Livestock Feeding Operation (LFO) and is contained within a building which is roofed and may or may not have open sides and contains floors which are hard surfaced, earthen, slatted or other type of floor. The facility is capable of maintaining and regulating the environment in which the livestock are kept.

**EQUESTRIAN CENTER** shall mean commercial horse, donkey, and mule facilities including: horse ranches, boarding stables, riding schools and academies, horse exhibition facilities, pack stations. This land use includes barns, stables, corrals, and paddocks accessory and incidental to the above uses.

**EQUIPMENT RENTAL AND SALES** shall mean the sale or rental of trucks, tractors, construction equipment, agricultural implements, mobile homes, and similar heavy equipment, including incidental storage, maintenance, and servicing. Typical uses include truck dealerships, construction equipment dealerships, and mobile home sales establishments.

**EQUIPMENT REPAIR SERVICES** shall mean the repair of trucks, tractors, construction equipment, agricultural implements, and similar heavy equipment. Typical uses include truck repair garages, tractor and farm implement repair services, and machine shops, but exclude dismantling, salvage, or body and fender repair services.

**ERECTED** shall mean constructed upon or moved onto a site.

**ETHANOL PLANT** shall mean a facility where the conversion of biomass into an alcohol fuel product is undertaken. The facility also includes the processing of certain by-products resulting from the fermentation and distillation process.

**EVERGREEN OR CONIFEROUS SCREEN** shall mean landscape material consisting of plants which retain leaves or needles throughout the year which eventually will grow and be maintained at six feet in height, at least.

**EXISTING AND LAWFUL** shall mean the use of a building, structure, or land was in actual existence, operation, and use, as compared to the use being proposed, contemplated, applied for, or in the process of being constructed or remodeled. In addition, the use must have been permitted, authorized, or allowed by law or any other applicable regulation prior to the enactment of a zoning regulation when first adopted or permitted, authorized or allowed by the previous zoning regulation prior to the adoption of an amendment to that zoning regulation.

**EXTRATERRITORIAL JURISDICTION** shall mean the area beyond the corporate limits of the Village, in which the State has granted the Village the power to exercise zoning jurisdiction and building regulations.

# F

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

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

**FAMILY** shall mean one or more persons living together and sharing common living, sleeping, cooking, and eating facilities within an individual housing unit, no more than four of whom may be unrelated. The following persons shall be considered related for the purpose of this title:

1. Persons related by blood, marriage, or adoption.
2. Persons residing with a family for the purpose of adoption.
3. Not more than eight persons under 19 years of age, residing in a foster house licensed or approved by the State of Nebraska.
4. Not more than eight persons 19 years of age or older residing with a family for the purpose of receiving foster care licensed or approved by the State of Nebraska.
5. Person(s) living with a family at the direction of a court.

**FAMILY CHILD CARE HOME I** shall mean a child care operation in the provider's place of residence which serves between four and eight children at any one time. A Family Child Care Home I provider may be approved to serve no more than two additional school-age children during non-school hours. In addition to these regulations, a Child Care Home shall meet requirement of the State of Nebraska.

**FAMILY CHILD CARE HOME II** shall mean a child care operation either in the provider's place of residence or a site other than the residence, serving twelve or fewer children at any one time. In addition to these regulations, a Child Care Home shall meet requirement of the State of Nebraska.

**FARM** shall mean an area containing at least 20 acres or more which is used for growing or storage of the usual farm products such as vegetables, fruit, and grain, as well as for the raising thereon of the usual farm poultry and farm animals, and which produces 1,000 dollars or more per year of farms products raised on the premises. The term farming includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce and the feeding of livestock as hereinafter prescribed provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.

**FARMER'S MARKET** shall mean an occasional or periodic market held in an open area or in a structure where groups of sellers offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages (but not to include second hand goods) dispensed from booths located on-site.

**FARMING** shall mean the planting, cultivating, harvesting and storage of grains, hay or plants commonly grown in Nebraska with the necessary accessory uses for treating or storing the produce and the feeding of livestock as prescribed hereunder, provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.

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

**FEDERAL** shall mean the federal government of the United States of America.

**FEEDLOT, COMMERCIAL** shall mean a lot or building, or combination of lots and buildings intended to be used for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetation cover cannot be maintained in the enclosure. This definition does not include the pasturing of livestock.

**FEEDER LINE** shall mean any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.

**FENCE** shall mean a structure serving as an enclosure, barrier or boundary above ground.

**FENCE, INVISIBLE** shall mean an electronic pet containment system that includes the burying of wire and the use of transmitters for complete enclosure of a yard or creating sectional areas within a yard.

**FENCE, OPEN** shall mean a fence, including gates, which has 50 percent or more of the surface area in open spaces, which affords direct views through the fence.

**FENCE, SOLID** shall mean any fence, which does not qualify as an open fence.

**FINANCIAL SERVICES** shall mean the provision of financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are provided on site. Typical uses include banks, savings and loan associations, savings banks, and loan companies.

**FINISH PIG** shall mean to feed a pig until it reaches market weight, 250–260 pounds.

**FIREWORKS** shall mean any substance or combination of substances or articles prepared for the purpose of producing a visible or an audible effect by combustions, explosion, deflagration or detonation, and includes blank cartridges, toy pistols, toy cannons, toy canes, or toy guns which explosives other than toy paper caps are used, firecrackers, torpedoes, sky rockets, Roman candles, Dayglo bombs, sparkers, or other fireworks containing any explosive or flammable compound, or any tablet or other device containing any explosive substance or flammable compound, or any tablet or other device containing any explosive substance. Nothing in this regulation shall be construed as applying to toy paper caps construed not more than 0.25 of a grain (16.20 milligrams) of explosive composition per cap.

**FIREWORKS STAND** shall mean any tent used for the retail sale of fireworks, on a temporary basis.

**FIREWORKS STORAGE** shall mean any permanent building and/or structure where fireworks are stored for any portion of a year provided there is no retail sales made from the storage location. Said storage facility may also be used for the delivery and distribution of fireworks on a wholesale basis.

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

**FLOOD** shall mean a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) The overflow of inland or tidal waters, or (2) The unusual and rapid accumulation of runoff of surface waters from any source.

**FLOODPLAIN** shall mean any land area susceptible to being inundated by water from any source.

**FLOOD PROOFING** shall mean any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY** shall mean the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**FLOOR AREA** shall mean the square feet of floor space within the outside line of the walls, including the total of all space on all floors of the building. Floor area shall not include porches, garages, or spaces in a basement, cellar, or attic.

**FOOD SALES** shall mean establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.

**FOUNDATION** shall mean that part of a building or wall, wholly or partly below grade, that constitutes a structural base for such building or wall.

**FREESTANDING CANOPY** shall mean a permanent, freestanding, unenclosed roof structure, typical of gas stations and financial institutions, designed to provide patrons shelter from the elements.

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

**FRONTAGE ROAD** shall mean a minor street parallel to and adjacent to arterial streets and highways, which reduce the number of access points to the arterial street or highway for the purpose of increased traffic safety.

**FUEL STATION** shall mean a designated facility offering the sale of gasoline, diesel fuel and propane.

**FUEL STORAGE** shall mean tanks used to storage fuel either above- or below-ground as part of an agricultural operation.

**FUNERAL HOME** shall mean a building or part thereof used for human funeral services. Such building may contain space and facilities for:

1. A funeral chapel;
2. Embalming and the performance of other services used in preparation of the dead for burial;

3. The performance of autopsies and other surgical procedures;
4. The storage of caskets, funeral urns, and other related funeral supplies; and
5. The storage of funeral vehicles; and (6) facilities for cremation.

## G

**GARAGE, PORTABLE** shall mean a pre-manufactured structure for the purpose of storing vehicles and similar devices. Portable garages are typically transported to the site and set on the ground.

**GARAGE, PRIVATE** shall mean a detached accessory building on the same lot as a dwelling, used to house vehicles of the occupants of the dwelling. Private garages shall not have any sort of repair service facilities or function as a location where motor vehicles are kept for rental or sale.

**GARAGE, PUBLIC** shall mean any garage other than a private garage designed or used for equipment, repairing, hiring, servicing, selling, or storing motor driven vehicles.

**GARAGE, REPAIR** shall mean a building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work. Also, see Service Station.

**GARAGE, STORAGE** shall mean a detached accessory building over 1,000 S.F., on the same lot as a dwelling, used to house vehicles, recreational vehicles, and other consumables owned by the occupants of the dwelling.

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

**GARDEN CENTER** shall mean a place of business where retail and whole-sale products and produce are sold to the consumer. These centers, which may include a nursery and/or greenhouse, import most of the items sold, and may include plants, nursery products and stock, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm variety tools and utensils.

**GENERAL OFFICES** shall mean the use of a site for business, professional, or administrative offices. Typical uses include real estate, insurance, management, travel, or other business offices, organization and association offices, banks or financial offices and professional offices.

**GEOTHERMAL HEAT PUMP SYSTEM** shall mean a well, constructed for the purpose of utilizing the geothermal properties of the earth.

1. Open Loop Heat Pump well shall mean a well that transfers heat via pumped ground water which is discharged above and/or below ground. For below ground discharge, refer to NDEQ Title 122.
2. Closed Loop Heat Pump well shall mean a well, constructed for the purpose of installing the underground closed loop pipe necessary to recirculate heat transfer fluid.
3. Horizontal Closed Loop means a trench or pit essentially parallel to the horizon and into which a closed loop pipe is placed for the purpose of heat transfer.
4. Vertical Closed Loop means a borehole essentially perpendicular to the horizon into which a closed loop pipe is placed for the purpose of heat transfer.

**GOVERNING BODY** shall mean the Village of Hubbard, Nebraska.

**GOVERNMENT FACILITY** shall mean a building or structure owned, operated, or occupied by a governmental agency to provide a governmental service to the public.

**GRADE** shall mean the horizontal elevation of the finished surface of ground, paving, or sidewalk adjacent to any building line.

1. For buildings having walls facing one street only, the grade shall be the elevation of the sidewalk at the center of the wall facing the street.
2. For buildings having walls facing more than one street, the grade shall be the average elevation of the grades of all walls facing each street.
3. For buildings having no walls facing a street, the grade shall be the average level of the finished surface of the ground adjacent to the exterior walls of the building.

**GRAIN HANDLING SYSTEMS** shall mean the moving, transferring, handling, storing, aerating and/or drying of grains by mechanical or natural means, which may include, but not limited to, stationary storage units (i.e. grain bins, hoppers, silos) grain-dump pits, fans, dryers, conveyors, augers, leg systems, and /or catwalks.

**GRAPHIC ELEMENT** shall mean a letter, illustration, symbol, figure, insignia, or other device employed to express and illustrate a message or part thereof.

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



**GREENHOUSE, NONCOMMERCIAL** shall mean a building constructed primarily of glass, plastic or similar material in which temperature and humidity can be controlled for the cultivation of fruit, herbs, flowers, vegetables or other plants intended for private use and not for sale.

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

**GROSS FLOOR AREA** shall mean the total enclosed area of all floors of a building, measured to the inside surfaces of the exterior walls. This definition excludes the areas of basements, elevator shafts, airspaces above atriums, and enclosed off-street parking and loading areas serving a principal use.

**GROUND COVER** shall mean plant material used in landscaping which remains less than 12 inches in height at maturity.

**GROUNDWATER** shall mean water naturally occurring beneath the surface of the ground that fills available openings in the rock or soil materials such that they may be considered saturated.

**GROUP CARE HOME** shall mean a home, which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home which is designed to provide 24-hour care for individuals in a residential setting.

**GROUP HOME** shall mean a dwelling with resident staff shared by four or more handicapped persons who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. As used herein, the term "handicapped" shall mean having: (1) A physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently; or (2) A record of having such an impairment.

**GROUP HOME FOR THE HANDICAPPED** shall mean a dwelling with resident staff shared by four or more handicapped persons who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. As used herein, the term "handicapped" shall mean having:

1. A physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently; or
2. A record of having such impairment.

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

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

**GUN CLUB** shall mean any organization whether operated for profit or not, and whether public or private, which caters to or allows the use of firearms.

**GUN RANGE** shall mean an outdoor area designated for the firing of firearms at stationary or mobile targets within the area.

## H

**HABITABLE** shall mean the state of a structure that allows for human occupation. Indications of habitability include, without limitation, heat in the winter months, no infestation or vermin, roaches, termites, or mold, and access to potable water.

**HALF-STORY** shall mean a story under a sloped roof which has the intersection of the roof line and exterior wall face not more than three feet above the floor of such story.

**HALFWAY HOUSE** shall mean a licensed home for individuals on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, living together as a single housekeeping unit, wherein supervision, rehabilitation and counseling are provided to mainstream residents back into society, enabling them to live independently.

**HAZARDOUS SUBSTANCES** shall mean any substance or materials that, by reason of their toxic, caustic, corrosive, abrasive, or otherwise coming into contact with such material or substance.

**HAZARDOUS WASTE** shall mean any discarded material, refuse, or waste products, in solid, semisolid, liquid, or gaseous form, that cannot be disposed of through routine waste management techniques because they pose a present or

potential threat to human health, or to other living organisms, because of their biological, chemical, or physical properties.

**HEALTH CARE FACILITIES** shall mean a facility licensed or approved by the state or an appropriate agency, if required. Health Care Facility may be any of the following:

1. Hospitals including offices or medical societies, offices of charitable public health associations, and private office space for the practice of medicine and dentistry under a license from the Department of Health of the State of Nebraska; provided, that any such private offices for the practice of medicine and dentistry shall be occupied only by those on the staff of the hospital;
2. Convalescent or nursing home;
3. A facility for outpatient physical, occupational, or vocational therapy or rehabilitation;
4. Public health clinics and facilities; and
5. Ambulatory surgical care center which does not allow for overnight stay by patients. Unless an exception is made, health care facilities do not include doctors', or dentists', professional offices and private clinics.

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

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

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

**HELIPORT** shall mean any landing area used for the landing and taking off of helicopters, including all necessary passenger and cargo facilities, fueling, and emergency service facilities.

**HELISTOP** shall mean an area designed to be used for the landing or takeoff of one helicopter, the temporary parking of one helicopter, and other facilities as may be required by federal and state regulations, but not including operation facilities such as maintenance, storage, fueling, or terminal facilities.

**HIGHWAY, MAJOR INTER-REGIONAL** shall mean a "U.S." or "State" designated highway with 100 feet right-of-way or more on which partial control of access and geometric design and traffic control measures are used to expedite the safe movement of through vehicular traffic.

**HIGHWAY SETBACK LINE** shall mean the future right-of-way line or plan lines of any highway.

**HOLDING POND** shall mean an impoundment made by constructing an excavated pit, dam, embankment or combination of these for temporary storage of liquid livestock wastes, generally receiving runoff from open lots and contributing drainage area.

**HOME-BASED BUSINESS** shall mean an accessory use of a single-family or two-family residential structure which does not meet the definition of a home occupation. A home-based business would consist of service-oriented uses and typically be more intense than a home occupation, due to factors such as intensity of use or clients coming to the residence. A Home-based Business typically will allow a minimum amount of employment from outside the individuals residing on the property.

**HOME OCCUPATION** shall mean an “in-home” or “home based” or entrepreneurial business operating from a residential dwelling within Hubbard. Any portion of a residential property, including a home phone, computer, mailing address, etc., used in deriving income or sales, will require a resident to obtain a Home Occupation Permit. Child Care Homes and Child Care Centers are not considered a Home Occupation.

**HOMEOWNERS ASSOCIATION** shall mean a private, nonprofit corporation or association of homeowners of properties in a fixed area, established for the purpose of owning, operating, and maintaining various common properties and facilities.

**HOOP BUILDING** shall mean a freestanding building erected for the purpose of housing livestock. Floors are typically compacted dirt or concrete covered with dry bedding.

**HORTICULTURE** shall mean the growing of horticultural and floricultural specialties, such as flowers, shrubs, or trees intended for ornamental or landscaping purposes. This definition may include accessory retail sales under certain conditions. Typical uses include wholesale plant nurseries and greenhouses.

**HOSPICE** shall mean a facility serving as a medical and residential facility for end of life treatment, providing inpatient services and support services for families of the residents and patients.

**HOSPITAL, ANIMAL** shall mean a place where animals or pets are given medical or surgical treatment and are cared for during the time of treatment. Use as a

kennel shall be limited to short-time boarding and shall be only incidental to such hospital use.

**HOTEL or MOTEL** shall mean a building or portion thereof, or a group of buildings, offering transient lodging accommodations on a daily rate to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities. The word "hotel" includes but is not limited to motel, inn, automobile court, motor inn, motor lodge, motor court, tourist court, and motor hotel.

**HOUSEHOLD PET** shall mean an animal that is customarily kept for personal use or enjoyment within the home. Household pet shall include but not be limited to domestic dogs, domestic cats, domestic tropical birds, fish, and rodents.

**HOUSING FOR THE ELDERLY** shall mean a building or group of buildings containing dwellings in which each dwelling unit is occupied by at least one person of 55 years of age or more. This does not include developments containing convalescent or nursing facilities. (Also, see Congregate Housing.)

**HOUSING FOR THE PHYSICALLY HANDICAPPED** shall mean a building containing a dwelling or a group of dwellings in which each occupied dwelling unit is occupied by at least one physically handicapped person with a mobility impairment which requires certain construction design features for ingress, egress, and freedom of movement within the premises.

I

**IMPERVIOUS COVERAGE** shall mean the total horizontal area of all buildings, roofed or covered spaces, paved surface areas, walkways and driveways, and any other site improvements that decrease the ability of the surface of the site to absorb water, expressed as a percent of site area. The surface water area of pools is excluded from this definition.

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

**IMPROVEMENTS** shall mean street grading, street surfacing and paving, curbs and gutters, street lights, street signs, sidewalks, crosswalks, water mains and lines, water meters, fire hydrants, sanitary sewers, storm drainage facilities, culverts, bridges, public utilities, or other such installation as designated by the Village or its specific approving authority.

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

**INDUSTRIAL, GENERAL** shall mean enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment or fabrication of materials and products from prepared materials or from raw materials without noticeable noise, odor, vibration, or air pollution effects across property lines.

**INDUSTRIAL, HEAVY** shall mean enterprises involved in the basic processing and manufacturing of products, predominately from raw materials, with noticeable noise, odor, vibration, or air pollution effects across property lines; or a use or process engaged in the storage of or processes involving potentially or actually hazardous, explosive, flammable, radioactive, or other commonly recognized hazardous materials.

**INDUSTRIAL, LIGHT** shall mean establishments engaged in the manufacture or processing of finished products from previously prepared materials, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution. These establishments are characterized by having no major external environmental effects across property lines and include no unscreened or unenclosed outdoor storage. Typical uses include commercial bakeries, dressed beef processing plants, soft drink bottling, and apparel assembly from fabrics, electronics, manufacturing, print shops and publishing houses.

**INDUSTRIAL PARK** shall mean a planned, coordinated development of a tract of land with two or more separate industrial buildings. The development is planned, designed, constructed, and managed on an integrated and coordinated basis with an enforceable master plan and/or covenants, conditions, and restrictions with special attention to on-site vehicular circulation, parking, utility needs, building design, and orientation and open space.

**INDUSTRIAL USES** shall mean the manufacture, fabrication, processing, reduction or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof, and any storage facilities operated in conjunction with an industrial use or for a fee, including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.

**INFILL DEVELOPMENT** shall mean the construction of a building or structure on a vacant parcel located in a predominantly built up area.

**INFILL SITE** shall mean any vacant lot, parcel or tract of land within developed areas of the Village and where water, sewer, streets, schools, and fire protection have already been constructed or are provided a predominately built up area.

**INFRASTRUCTURE** shall mean facilities and services needed to sustain industry, residential, commercial, and all other land-use activities, including water lines, sewer lines, and other utilities, streets and roads, communications, and public facilities such as fire stations, parks, schools, etc.

**INOPERABLE MOTOR VEHICLE** shall mean any motor vehicle which: (1) Does not have a current state license plate; or, (2) Which is disassembled or wrecked in part or in whole or is unable to move under its own power; or, (3) is not equipped as required by Nebraska State Law for operation upon streets or highways. A vehicle that is wholly or partially dismantled shall not be considered inoperable when said vehicle is inside a completely enclosed building.

**INSTITUTIONAL BUILDING/USE** shall mean a nonprofit or quasi- public use and building, such as a religious institution, library, public, or private school, cemetery, hospital, or government- owned or government-operated structure or land used for public purpose.

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

**INTENT AND PURPOSE** shall mean that the Planning and Zoning Commission and Village of Hubbard by the adoption of these regulations, have made a finding that the health, safety, and welfare of the community will be served by the creation of the regulations prescribed therein.

## **J**

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

**JUNK YARD** shall mean any lot, land parcel, building, or structure or part thereof for storage, collection, purchase, sale, salvage, or disposal of machinery, farm machinery, and including motor vehicles, parts and equipment result from dismantling or wrecking, or keeping of junk, including scrap metals or other scrap materials, with no burning permitted. For motor vehicles, see "Automobile Wrecking Yard".

## K

**KENNEL, BOARDING, or TRAINING** shall mean a use on any lot or premises in which dogs, cats or any other household pets, at least four months of age, are raised, boarded, bred, or trained.

**KENNEL, COMMERCIAL** shall mean an establishment where three or more dogs or cats, or any combination thereof, other household pets, or non-farm/non-domestic animals at least four months of age, excluding vicious animals, are raised, bred, boarded, trained, groomed or sold as a business.

**KENNEL, PRIVATE** shall mean an establishment where three or more dogs or cats, or combination thereof, other household pets, or non-farm/non-domestic animals at least four months of age, excluding vicious animals, are raised, bred, or boarded.

**KITCHEN FACILITIES** shall mean a room or area equipped for the preparation and cooking of food when it has all of the following:

1. Kitchen sink.
2. Burner, cook stove, or microwave oven.
3. Refrigerator.

## L

**LABORATORY, MEDICAL** shall mean an establishment which provides bacteriological, biological, medical, x-ray, pathological and other similar analytical or diagnostic services.

**LAGOON** shall mean a wastewater treatment facility that is a shallow, artificial pond where sunlight, bacterial action, and oxygen interact to restore wastewater to a reasonable state of purity. This includes both human and livestock wastes. All lagoons shall meet the minimum design criteria established by the NDEQ and the NHHS. All lagoons shall have the proper permits approved prior to starting construction.

**LANDFILL, CONSTRUCTION MATERIAL** shall mean the use of a site as a depository for solid wastes that do not readily undergo chemical or biological breakdown under conditions normally associated with land disposal operations. Typical disposal material would include ashes, concrete, paving wastes, rock, brick, lumber, roofing materials and ceramic tile.



**LANDFILL, SOLID WASTE** shall mean the use of a site as a depository for any solid waste except hazardous and toxic waste as defined by the EPA and/or the State of Nebraska. Typical disposal material would include non-putrescible wastes; and putrescible wastes such as vegetation, tree parts, agricultural wastes (garbage) and manure.

**LANDSCAPE** shall mean plant materials, topography, and other natural physical elements combined in relation to one another and to man-made structures.

**LANDSCAPED AREA** shall mean the area within the boundaries of a given lot, site or common development consisting primarily of plant material, including but not limited to grass, trees, shrubs, vines, ground cover, and other organic plant materials; or grass paver masonry units installed such that the appearance of the area is primarily landscaped.

1. Perimeter Landscaped Area: Any required landscaped area that adjoins the exterior boundary of a lot, site or common development.
2. Interior Landscaped Area: Any landscaped area within a site exclusive of required perimeter landscaping.

**LANDSCAPING** shall include the original planting of suitable vegetation in conformity with the requirements of this Regulation and the continued maintenance thereof.

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

**LAW ENFORCEMENT CENTER** shall mean a governmental facility working directly with the enforcement of laws through a municipality or county. A law enforcement center may be the base of operations for a sheriff, police department, or state agency, or it may be an incarceration facility (temporary or long-term), or a combination of all.

**LEAPFROG DEVELOPMENT** shall mean new development separated from existing development by substantial vacant land.

**LEASED CAMPGROUND** shall mean a single tract of land with or without individually leased lots used for camping by the lease holders only. No transient camping is allowed.

**LEED** shall mean a professional credential that means Leadership in Energy and Environmental Design as administered and regulated by the United States Green Building Council.

**LIFE CARE FACILITY** shall mean a facility for the transitional residency of the elderly and/or disabled persons, progressing from independent living to congregate apartment living where residents share common meals, culminating in full health, and continuing care nursing home facility. Also, see Congregate Housing.

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

**LIGHT CUT-OFF ANGLE** shall mean an angle from vertical, extending downward from a luminaire, which defines the maximum range of incident illumination outward at the ground plane.

**LIQUID MANURE** shall mean that type of livestock waste that is in a liquefied state, collected in manure pits or lagoons in order to be sprayed/applied on the surface or injected beneath the surface.

**LIQUID MANURE STORAGE PITS** shall mean earthen, concrete or lined pits located wholly or partially beneath a semi or totally housed (ECH) livestock animal feeding operation or at some removed location used to collect waste production.

**LIQUID WASTE MANAGEMENT SYSTEM** shall mean a system where the majority of the animal waste in the lots, pens and/or buildings of a LFO is removed by flushing out such waste with water.

**LIQUOR SALES** shall mean establishments or places of business engaged in retail sale for off-premise consumption of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales of liquor, beer or wine for off-site consumption.

**LIVESTOCK** shall mean cattle, buffalo, horses, sheep, goats, swine, poultry, and other animals or fowl, which are being produced primarily for use as food or food products for human consumption.

**LIVESTOCK FEEDING OPERATION (LFO)** shall mean any farming operation in a confined area where grazing is not possible, and where the confined area is for more than six months in any one calendar year, and where the number of animals so maintained exceeds 300 Animal Units as defined below. The confined area of the LFO shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds, and related facilities. Two or more LFO's under common ownership are deemed to be a single LFO if they are adjacent to each other and utilize a common area of system for the disposal of livestock wastes.

**LIVESTOCK LAGOON** see “Waste Handling System”.

**LIVESTOCK PASTURING OPERATION** shall mean any livestock operation that uses pasture, as defined under this regulation, as the primary source of feed for the animals.

**LIVESTOCK SALES YARD** shall mean an enclosure or structure designed or used for holding livestock for purposes of sale or transfer by auction, consignment, or other means.

**LIVESTOCK SALES** shall mean the use of a site for the temporary confinement and exchange or sale of livestock. Typical uses include sale barns.

**LIVESTOCK WASTES** shall mean animal and poultry manure including associated feed losses, bedding, spillage, or overflow from watering systems, wash and flushing waters, sprinkling waters from livestock cooling, precipitation polluted by falling on or flowing onto a livestock operation, and other materials polluted by livestock or their direct product.

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

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

**LONG-TERM CARE FACILITY** shall mean a facility as defined in Title 15, Chapter 3 Nebraska Department of Health and Human Services. These facilities include:

1. Nursing Facilities;
2. Boarding Home;
3. Adult Care Home;
4. Assisted Living Facility;
5. Center for the Developmentally Disabled;
6. Group Residence;
7. Swing Bed; and
8. Adult Day Care.

**LOT** shall mean a parcel or tract of land which is or may be occupied by a use herein permitted, together with yards, and other open spaces herein required, that has frontage upon an improved street, and is a part of a recorded subdivision plat or has been recorded prior to the adoption of the Regulation, or a parcel of real property delineated on an approved record of survey, lot-split or sub-parceling map as filed in the office of the Dakota County Register of

Deeds and abutting at least one improved public street or right-of-way, two thoroughfare easements, or one improved private road.

**LOT, CORNER** shall mean a lot located at the intersection of two or more streets at an angle of not more than 135 degrees. If the angle is greater than 135 degrees, the lot shall be considered an "Interior Lot". The setbacks for a front yard shall be met on all abutting streets.

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

**LOT, FLAG** shall mean an interior lot, the majority of which has frontage and access provided by means of a narrow corridor.

**LOT, INTERIOR** shall mean a lot other than a corner lot.

**LOT, NONCONFORMING** shall mean a lot having less area or dimension than that required in the district in which it is located and which was lawfully created prior to the zoning thereof whereby the larger area or dimension requirements were established, or any lot, other than one shown on a plat recorded in the office of the Dakota County Register of Deeds, which does not abut a public road or public road right-of-way and which was lawfully created prior to the effective date of this Regulation.

**LOT, PLATTED** shall mean a lot which has been legally platted as part of a subdivision.

**LOT, TRIPLE FRONTAGE** shall mean a lot which is bounded on three sides by a dedicated street and its associated right-of-way.

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

**LOT COVERAGE** shall mean the portion of a lot or building site which is occupied by any building or structure, excepting paved areas, walks and swimming pools, regardless of whether said building or structure is intended for human occupancy or not.

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

**LOT FRONTAGE** shall mean the side of a lot abutting on a legally accessible street right-of-way other than an alley or an improved street. For the purposes of this definition, on corner lots, all sides of a lot adjacent to streets or roads shall be considered frontage.

**LOT IMPROVEMENT** shall mean any building, structure, or other object or improvement of the land on which they are situated constituting a physical betterment of real property.

**LOT LINE** shall mean the property line bounding a lot.

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

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

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

**LOT OF RECORD** shall mean a lot or parcel of land, the deed to which has been recorded in the records of the Dakota County Register of Deeds at the time of the passage of a regulation establishing the zoning district in which the lot is located.

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

## M

**MACHINE SHOP** shall mean a work shop, including tool and die shops that turns, shapes, planes, laser metal cutting, mills or otherwise reduces or finishes metal by machine-operated tools.

**MAIL ORDER SERVICE** shall mean an establishment primarily engaged in the retail sale of products by television, telemarketing, internet, catalog, and mail order. Such a use may include warehousing, shipping, and receiving of merchandise intended for retail sale.

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

**MAJOR RECREATIONAL EQUIPMENT** shall mean boats and boat trailers, travel trailers, pickup campers or coaches, designed to be mounted on automotive vehicles, motorized dwellings, tent trailers and the like and recreational vehicles.

**MANUFACTURED HOME** (see Dwelling, Manufactured Home).

**MANUFACTURING** shall mean the mechanical or chemical transformation of materials or substances into new products. Manufacturing uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Assembling component parts of manufactured products is also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of material such as lubricating oils, plastics, resins, or liquors. Manufacturing production is usually carried on for the wholesale market, for interplant transfer, or to order for industrial users, rather than for direct sale to the domestic consumer.

**MANUFACTURING, CUSTOM** shall mean an establishment primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving:

1. The use of hand tools, or
2. The use of domestic mechanical equipment not exceeding two (2) horsepower, or
3. A single kiln not exceeding 8 KW or equivalent.

This category also includes the incidental direct sale to consumers of only those goods produced on site. Typical uses include ceramic studios, custom jewelry manufacturing, and candle making shops.

**MANURE** shall mean any fecal and urinary defecations of livestock and poultry; may include spilled feed, bedding, or soil.

**MAP, OFFICIAL ZONING DISTRICT** A map delineating the boundaries of zoning districts which, along with the zoning text, is officially adopted by the Hubbard Board of Trustees for the Village of Hubbard, Nebraska.

**MASSAGE ESTABLISHMENT** shall mean any building, room, place, or establishment other than a regularly licensed and established hospital or dispensary where non-medical or non-surgical manipulative exercises or devices are practiced upon the human body manually or otherwise by any person other than a licensed physician, surgeon, dentist, occupational and/or physical therapist, chiropractor, or osteopath with or without the use of therapeutic, electrical, mechanical, or bathing device. Said establishment shall comply with all state regulations as per Massage Therapy Practice Act, State of Nebraska 2017 38-17014 through 38125.

**MASSAGE THERAPY** shall mean an establishment other than a regularly licensed and established hospital or dispensary where non-medical manipulative exercises or devices are practiced upon the human body manually or otherwise by any person other than a licensed physician, surgeon, dentist, occupational or physical therapist, chiropractor or osteopath with or without the use of therapeutic, electrical, mechanical, or bathing devices. Also, see Adult Uses.

**MASTER FEE SCHEDULE** shall mean a fee schedule maintained by the Village of Hubbard and passed, and amended periodically, which establishes the required fees to be collected for specific planning, zoning, and subdivision activities.

**MECHANICAL EQUIPMENT** shall mean equipment, devices, and accessories, the use of which relates to water supply, drainage, heating, ventilating, air conditioning, and similar purposes.

**MEDICAL OFFICES** shall mean the use of a site for facilities which provide diagnoses and outpatient care on a routine basis, but which does not provide prolonged, in-house medical or surgical care. Medical offices are operated by doctors, dentists, or similar practitioners licensed for practice in the State of Nebraska.

**MICRO-DISTILLERY** shall mean a distillery located in Nebraska that is licensed to distill liquor on the premises of the distillery licensee and produces ten thousand or fewer gallons of liquor annually.

**MINI-STORAGE OR MINI-WAREHOUSE** see Self-Service Storage Facility.

**MINING AND MINERAL EXTRACTION** shall mean the extraction of minerals, including solids, such as coal and ores; liquids, such as crude petroleum; gases, such as natural gas. Mining also includes quarrying; groundwater diversion; soil removal; milling, such as crushing, screening, washing, and floatation; and other preparation customarily done at the mine location or as part of a mining activity.

**MISCELLANEOUS STRUCTURES** shall mean structures, other than buildings, visible from public ways. Examples are memorials, staging, antennas, water tanks and towers, sheds, shelters, fences, and walls, kennels, and transformers.

**MIXED USE** shall mean properties where various uses, such as office, commercial, institutional, and residential are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design.

**MIXED USE BUILDING** shall mean a building or structure that incorporates two or more use types within a single building or structure, provided that each use type is permitted within the individual Base Zoning District in which the building or structure is to be located.

**MIXED USE DEVELOPMENT** shall mean a single development that incorporates complementary land use types into a single development.

**MOBILE FOOD UNIT** shall mean a temporary food service establishment that is a vehicle-mounted and is designed to be readily movable.

**MOBILE HOME** (see Dwelling, Mobile Home).

**MOBILE HOME PARK** shall mean a parcel of land under single ownership that has been planned and improved for the placement of manufactured or mobile housing used or to be used for dwelling purposes and where manufactured or mobile home spaces are not offered for sale or sold. The terms "manufactured home park" or "mobile home park" do not include sales lots on which new or used manufactured or mobile homes are parked for the purposes of storage, inspection, or sale. The terms "manufactured home park" or "mobile home park" shall include the term "trailer camp", as defined in the Village Code.

**MOBILE HOME SUBDIVISION** shall mean a parcel of land that has been subdivided and used or intended to be used for the purpose of selling lots for occupancy by manufactured or mobile homes.

**MONASTERY** shall mean a building or group of buildings designed to provide group housing for persons under religious vows or orders.

**MONOTONY** shall mean repetitive sameness, lacking variety and variation, and or reiteration.

**MONUMENT** shall mean an identification marker established by a certified land survey and set by a registered land surveyor at each section corner, angle point, block corner, street centerline, or other point.

**MOTEL** (see Hotel).

**MOTOR FREIGHT TERMINAL** shall mean a building or area in which freight brought by motor truck is received, assembled or stored and dispatched for routing by motor truck which may include motor truck storage.

**MOTOR VEHICLE** shall mean every self-propelled land vehicle, not operated upon rails, except self-propelled wheel chairs.



# N

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

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

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

**NONCONFORMING BUILDING/DEVELOPMENT** shall mean a building or portion thereof which was lawful when established but which does not conform to subsequently established zoning or zoning regulations.

**NONCONFORMING LOT** shall mean a lot which was lawful prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance. No action can be taken which would increase the non-conforming characteristics of the lot.

**NONCONFORMING SIGN** shall mean a sign that was legally erected prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance.

**NONCONFORMING STRUCTURE** shall mean a structure which was lawful prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance. No action can be taken which would increase the nonconforming characteristics of the structure.

**NONCONFORMING USE** shall mean any use existing and lawful at the time of adoption of these regulations occupying a building, structure or land but is no longer allowed.

**NON-FARM BUILDINGS** shall mean all buildings except those buildings utilized for agricultural purposes on a farm

**NUISANCE** shall mean anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses such as noise, dust, odor, smoke, gas, pollution, congestion, lighting, and litter.

**NURSERY** shall mean the use of a premises for the propagation, cultivation, and growth of trees, shrubs, plants, vines, and the like from seed or stock, and the sale thereof, and including the sale of trees, shrubs, plants, vines, and the like purchased elsewhere and transplanted into the soil of the premises. In connection with the sale of plants, such fungicides, insecticides, chemicals, peat moss, humus, mulches, and fertilizers as are intended to be used in preserving the life and health of the plants may be sold.

**NURSING HOMES OR CONVALESCENT HOMES** shall mean an institution or agency licensed by the State of Nebraska for the reception, board, care, or treatment of three or more unrelated individuals, but not including facilities for the care and treatment of mental illness, alcoholism, or narcotics addiction.

O

**OCCUPIED DWELLING** shall mean any residence, church, school and/or business, which has been in use at any time during the prior 12-month period.

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

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

**OFFICIAL ZONING DISTRICT MAP** shall mean a map delineating the boundaries of zoning districts which, along with the zoning text, is officially adopted by the Hubbard Village Board of Trustees.

**OFF-STREET PARKING AREA** shall mean all off-street areas and spaces designed, used, required, or intended to be used for parking, including driveways or access ways in and to such areas.

**OPEN LOTS** shall mean pens or similar concentrated areas, including small shed-type areas or open-front buildings, with dirt, or concrete (or paved or hard) surfaces, wherein animals or poultry are substantially or entirely exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed-type areas.

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

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

**OPERATING PERMIT** shall mean an operating permit as required for an LFO by the NDEQ.

**OUTDOOR ADVERTISING** see Advertising Structure and Sign.

**OUTDOOR STORAGE** shall mean the storage of materials, parts, or products that are related to the primary use of a site for a period exceeding three days.

**OVERLAY DISTRICT** shall mean a district in which additional requirements are imposed upon a use, in conjunction with the underlying zoning district. The original zoning district designation does not change.

**OWNER** shall mean an individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

## **P**

**PACKAGE LIQUOR STORE** shall mean an establishment in which alcoholic beverages in original containers are sold for consumption off the premises.

**PAINTBALL COURSE** shall mean a commercial recreational park containing obstacle courses for the purpose of staging paintball battles. Said facility generally collects a fee, either as membership or on a visit by visit basis that allows individuals to participate in paintball activities.

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

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

**PARKING AREA, PRIVATE** shall mean an area, other than a street, used for the parking of automotive vehicles capable of moving under their own power and restricted from general public use.

**PARKING AREA, PUBLIC** shall mean an area, other than a private parking area or street used for the parking of vehicles capable of moving under their own power, either free or for remuneration.

**PARKING FACILITY** shall mean an area on a lot and/or within a building, including one or more parking spaces, along with provision for access circulation, maneuvering, and landscaping, meeting the requirements of these Zoning Regulations. Parking facilities include parking lots, private garages, and parking structures.

**PARKING LOT** shall mean an area consisting of one or more parking spaces for motor vehicles together with a driveway connecting the parking area with a street or alley and permitting ingress and egress for motor vehicles.

**PARKING SPACE, AUTOMOBILE** shall mean an area, other than a street or alley, reserved for the parking of an automobile, such space having a dimension not less than nine feet by 20 feet, plus such additional area as is necessary to afford adequate ingress and egress.

**PASTURE** shall mean an area where crops, vegetative forage growth, post-harvest residues are sustained for the purpose of grazing animals in that area.

**PAUNCH MANURE** shall mean partially digested material taken from an animal at the time of slaughter.

**PAVED** shall mean permanently surfaced with poured concrete, concrete pavers, or asphalt.

**PEDESTRIAN WAY** shall mean a right-of-way or easement dedicated to public use, which cuts across a block to facilitate pedestrian access to adjacent streets and properties.

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

**PERMANENT FOUNDATION** shall mean a base constructed from either poured concrete or laid masonry rock or brick and placed on a footing located below ground level to a point below the frost line upon which a building or structure is permanently attached.

**PERMANENT STORAGE** shall mean the long-term storage on-site within an accessory building or structure.

**PERMANENTLY ATTACHED** shall mean attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent foundation or structural change in such structure in order to relocate it to another site.

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

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

**PERSONAL SERVICES** shall mean uses providing human services exclusively to private individuals as the ultimate consumer. Personal services shall not be limited to but including grocery shopping services, tailoring and alterations, hair salons, spas, nail salons, barber shops, private household services and temporary personal in-home care.

**PET SHOP** shall mean a retail establishment primarily involved in the sale of domestic animals, such as dogs, cats, fish, birds, and reptiles, excluding exotic animals and farm animals.

**PETROLEUM DISTRIBUTION PIPELINE** shall mean transportation facilities for the conveyance of: crude petroleum, refined petroleum products such as gasoline and fuel; natural gas; mixed, manufactured, or liquefied petroleum gas; or the pipeline transmission of other commodities. Also includes pipeline surface and terminal facilities, including pumping stations, bulk storage, and surge and storage tanks.

**PIPELINE** shall mean a pipe used to transport, transmit, convey, or store liquid or gas for hire in Nebraska interstate commerce other than a major oil pipeline, a gathering pipeline, distribution pipeline, or service line.

**PIPELINE, MAJOR OIL** shall mean a pipeline which is larger than six inches in inside diameter and which is constructed in Nebraska for the transportation of petroleum, or petroleum components, products or wastes, including crude oil or any fraction of crude oil, within, through, or across Hubbard and its zoning jurisdiction.

**PIT SYSTEM** shall mean a concrete floor and masonry or concrete side walls, is constructed 2–6 feet below the ground. The animal cages are then built 8 feet or more above the pit floor. Because the pit is built below ground level, care must be taken to ensure that surface and groundwater are not contaminated. Foundation drains and external grading to direct surface water away to help to

keep manure dry, so that natural composting might occur. The most important benefit of the deep-pit is that manure can be stored for several months or more.

**PIT (SHALLOW)** shall mean the most frequently used pit system. The concrete pit is 4–8 inches deep and is located 3–6 feet below the cages. The manure and other waste is mechanically scraped or flushed out with water to a storage area, or directly loaded into a spreader for direct field application.

**PLANNED UNIT DEVELOPMENT** shall mean a zoning district providing flexible land development when planned and designed under the provisions of these regulations as a unit containing one or more land uses.

**PLANNING AND ZONING COMMISSION** shall mean the Planning and Zoning Commission of Hubbard, Nebraska.

**PLANT MATERIALS** shall mean trees, shrubs, vines, ground covers, grass, perennials, annuals, and bulbs and other such vegetation.

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

**POLE BUILDING** shall mean a structure built with no foundation or footings, using poles embedded directly in the ground as its primary support to hold metal, plastic, fiberglass or wood covering to form the building.

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

**PORCH, UNENCLOSED** shall mean a roofed or unroofed open structure projecting from an exterior wall of a building and having no enclosed features more than thirty inches above its floor other than wire screening and a roof with supporting structure.

**PORTABLE TEMPORARY CLASSROOM** shall mean a temporary building, either stick-built or pre-manufactured (built off-site), installed on the grounds of a state approved school to provide additional classroom space where there is a shortage of capacity. The classroom, as it is temporary (not permanent) and portable is subject to a time limitation as determined by the Village. It does not need to be on a permanent foundation but must be properly anchored to the Village's building codes. It must also meet any other building code or Zoning Regulation criteria.

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

**PREMISES** shall mean a tract of land, consisting of one lot or irregular tract, or more than one lot or irregular tract, provided such lots or tracts are under common ownership, contiguous, and used as a single tract. A building or land within a prescribed area.

**PRESCHOOL** shall mean an early childhood program which provides primarily educational services, where children do not nap and where children are not served a meal.

**PRESERVATION** shall mean the act of protecting an area, parcel of land, or structure from being changed or modified from the present character to another that is not representative of a specific period or condition.

**PRINCIPAL STRUCTURE** shall mean the main building or structure on a lot, within which the main or primary use of the lot or premises is located.

**PRINCIPAL USE** shall mean the main use of land or structure, as distinguished from an accessory use.

**PRIVATE CLUB** shall mean a non-profit association of persons who are bona fide members paying dues, which owns, hires or leases a building or premises, or portion thereof, the use of such building or premises being restricted to members and their guests. The affairs and management of such private clubs are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting. A private club may include the serving of food and meals on said premises while providing adequate dining room space and kitchen facilities. A private club may include the sale of alcoholic beverages to members and their guests provided the activity is secondary and incidental to the promotion of some common objective by the organization; and, said sale of alcoholic beverages is in complete compliance with all municipal, state and federal laws.

**PRIVATE WELL** shall mean a well that provides water supply to less than 15 service connections and regularly serves less than 25 individuals.

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

**PROFESSIONAL OFFICE** shall mean 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.

**PROMOTIONAL DEVICE** shall mean any sign intended to be displayed either with or without a frame, with or without characters, letters, illustrations, or other material, on a fabric of any kind. National flags, flags of political subdivisions, or symbolic flags of any institutions or business shall be considered a promotional device for the purpose of this definition. Banners, pennants, inflatable characters, streamers, or fringe- type ribbons or piping shall be considered as a promotional device.

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

**PUBLIC CONSERVATION LANDS** shall mean land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this Regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations, Public conservation lands will also include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

**PUBLIC IMPROVEMENT** shall mean any drainage facility, roadway, street, sidewalk, sewer or water facility or other improvement for which the government body may ultimately assume the responsibility of maintenance and operation.

**PUBLIC UTILITY** shall mean any business which furnishes the general public telephone service, telegraph service, electricity, natural gas, water and sewer, or any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the state or federal government.

**PUBLIC WATER SUPPLY** shall mean a water supply system designed to provide public piped water fit for human consumption, if such system has at least 15 service connections or regularly serves at least 25 individuals. This definition shall include:

1. Any collection, treatment, storage, or distribution facilities under the control of the operator of such system and used primarily in connection with such system; and
2. Any collection or pretreatment storage facilities not under such control which are used primarily in the connection with such system.



## Q

**QUARRY** shall mean an open pit from which building stone, sand, gravel, mineral, or fill is taken to be processed for commercial purposes.

## R

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

**RAILROAD RIGHT-OF-WAY** shall mean a strip of land with tracks and auxiliary facilities for track operation, but not including freight depots or stations, loading platforms, train sheds, warehouses or car yards.

**RECREATION, ACTIVE** shall mean leisure-time activities, usually of a formal nature and often performed with others, requiring equipment and taking place at prescribed places, sites or fields.

**RECREATION EQUIPMENT** shall mean play apparatus such as swing sets and slides, sand-boxes, poles for nets, picnic tables, lawn chairs, barbecue stands, and similar equipment or structures including tree houses, swimming pools, playhouses, or sheds utilized for storage of equipment.

**RECREATIONAL FACILITY** shall mean facilities for the use by the public for passive and active recreation including tennis, handball, racquetball, basketball, track and field, jogging, baseball, soccer, skating, swimming, or golf. This shall include country clubs and athletic clubs, but not facilities accessory to a private residence used only by the owner and guests, nor arenas or stadiums used primarily for spectators to watch athletic events. In addition, recreational facilities shall mean museums, amphitheaters, race tracks (including all motor-powered vehicles) and wildlife conservation areas (used for public viewing), and theme parks.

**RECREATION, INDOOR** shall mean a facility for relaxation, diversion, amusement or entertainment where such activity occurs within a building or structure.

**RECREATION, OUTDOOR** shall mean a facility for relaxation, diversion, amusement or entertainment in which some or all of the activities occur on the exterior but within the property of the facility.

**RECREATION, PASSIVE** shall mean leisure-time activities that involve relatively inactive or less energetic activities, such as walking, sitting, picnicking, card games, chess, checkers and similar table games. This includes open space for nature, and areas for nature walks and observation.

**RECREATIONAL VEHICLE (RV)** shall mean a vehicular unit primarily designed as a temporary living quarters for recreational camping or travel use having either its own power or designed to be mounted on or drawn by a motor vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, camping trailer, and fifth wheel.

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

**RECREATIONAL VEHICLE (RV) PARK COMPLEX** shall mean a tract of land under single ownership developed for recreational use. The complex shall accommodate a minimum of seventy-five or more recreational vehicle sites established and maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes. Complex may include the following services; restaurant, liquor sales, marina, RV and boat repair, fuel sales and convenience store.

**RECYCLING CENTER** shall mean a building in which used material is separated and processed prior to shipment to others who will use those materials to manufacture new products. The facility is not a junkyard.

**RECYCLING COLLECTION POINT** shall mean a collection point for small refuse items, such as bottles and newspapers, located either in a container or small structure.

**RECYCLING PROCESSING** shall mean any site which is used for the processing of any postconsumer, nondurable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.

**REDEVELOPMENT** shall mean the act of preserving and/or rehabilitating existing buildings. In extreme cases, a building or structure could be demolished for the purpose of a new use or building.

**REGULATION** shall mean a specific requirement set forth by these Zoning Regulations which must be followed.

**REMODELING** shall mean any change in a structure (other than incidental repairs and normal maintenance) which may prolong its useful life; or the construction of any addition to, or enlargement of, a structure; or the removal of any portion of a structure.

**REMOTE PARKING** shall mean a supply of off-street parking at a location not on the site of a given development.

**RENEWABLE ENERGY** shall mean energy sources including wind, solar power, biomass, and hydropower, that can be regenerated and that is much less polluting than nuclear or fossil fuels.

**RENEWABLE RESOURCE** shall mean a natural resource that is able to regenerate, either by itself or with human assistance, over a short to moderate time period, including food crops and trees.

**RESEARCH LABORATORY OR CENTER** shall mean a building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, and not including manufacture or sale of products, except as incidental to the main purpose of the laboratory.

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

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

**RESTAURANT, ENTERTAINMENT** shall mean a restaurant establishment where food and drink are prepared, served, and consumed, within a building or structure that integrally includes electronic and mechanical games of skill, simulation, and virtual reality, play areas, video arcades or similar uses, billiards, and other forms of amusement.

**RESTAURANT, FAST FOOD** shall mean an establishment whose principal business is the sale of food and/or beverages in ready-to-consume individual servings, for consumption either within the establishment, for carry-out, or drive-in; and where foods are/or beverages are usually served in paper, plastic, or other disposable containers.

**RESOURCE EXTRACTION** shall mean a use involving on-site extraction of surface or subsurface mineral products or natural resources, excluding the grading and removal of dirt. Typical uses are quarries, borrow pits, sand and gravel operations, mining.

**RETAIL SALES** shall mean establishments engaged in selling of goods or merchandise to the general public for personal or household consumption.

**RETAIL SERVICES** shall mean establishments engaged in selling of goods or merchandise including household cleaning and maintenance products; drugs, cards, stationery, notions, books, tobacco products, cosmetics, and specialty items; flowers, plants, hobby materials, toys, and handcrafted items; apparel jewelry, fabrics and like items; cameras, photograph services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wallpaper, hardware, carpeting and floor covering; interior decorating services; office supplies; mail order or catalog sales; bicycles; and automotive parts and accessories (excluding service and installation).

**RETAIL SERVICES, GENERAL** shall mean establishments providing retail services, occupying facilities of more than 5,000 square feet for any single establishment or more than 10,000 square feet for a multi-tenant facility. Typical establishments provide for general purpose retailing oriented to Hubbard and its immediate vicinity.

**RETAIL SERVICES, LIMITED** shall mean establishments providing retail services, occupying facilities of 5,000 square feet or less for any single establishment or 10,000 square feet or less for a multi-tenant facility. Typical establishments provide for specialty retailing or retail oriented to the Village and a local market.

**RETAIL TRADE** shall mean uses primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of goods. Uses engaged in retail trade sell merchandise to the general public or to households for personal consumption.

**RETENTION BASIN** shall mean a pond, pool, or basin used for the permanent storage of storm water runoff.

**RETIREMENT RESIDENCE** shall mean a building or group of buildings which provide residential facilities for more than four residents of at least sixty-two years of age, or households headed by a householder of at least sixty-two years of age. A retirement residence may provide a range of residential building types and may also provide support services to residents, including but not limited to food service, general health supervision, medication services, housekeeping services, personal services, recreation facilities, and transportation services. The retirement residence may accommodate food preparation in independent units or meal service in one or more common areas. Retirement residences may include additional health care supervision or nursing care.

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

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

**RIGHT-OF-WAY** shall mean a strip of land, generally linear, occupied or intended to be occupied by a system that conveys people, traffic, fluids, utilities, or energy from one point to another. Rights-of-way may include streets and roads, crosswalks, bicycle paths, recreational trails, railroads or fixed guideway transit, electric transmission lines, gas pipelines, water mains, or sewer mains.

**ROAD, PRIVATE** shall mean a way, other than driveways, open to vehicular ingress and egress established for the benefit of certain, adjacent properties. Also, see Right-of-Way and Street.

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

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

**ROOM** shall mean an un-subdivided portion of the interior of a dwelling unit, excluding bathroom, kitchen, closets, hallways, and service porches.

**RUNOFF** shall mean that part of precipitation, snow melt, or irrigation water that runs off the land into streams or other surface-water. It can carry pollutants from the air and land into receiving waters.

## S

**SALVAGE SERVICES** shall mean places of business engaged in the storage, sale, dismantling or other processing of used or waste materials which are not intended for reuse in their original forms.

**SAND OR GRAVEL PIT** shall mean land used for the extraction of sand and/or gravel for public and/or commercial use.

**SANITARY LANDFILL** shall mean a type of operation in which garbage and refuse, or garbage, or refuse is deposited by a plan on a specified portion of land, and is compacted by force applied by mechanical equipment, and then is covered by compacted suitable covering material to a depth of at least six to twelve inches over individual cells of garbage and/or refuse, which are closed at the end of each day, and to a depth of at least twenty-four inches over the finished land fill.

**SANITARY TRANSFER STATION** shall mean a collection point for temporary storage of refuse. No processing of refuse would be allowed. The transfer station must be in conformance with the requirements of all State and Federal Agencies.

**SATELLITE DISH ANTENNA** shall mean a round, parabolic antenna incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, or cone and used to transmit and/or receive radio or electromagnetic waves. Also, see Antenna.

**SCHOOL, BUSINESS OR TRADE** shall mean a use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university, or public or private educational facility.

**SCHOOL, DAY, PRE-, OR NURSERY** shall mean a school or center for children under school age, whether licensed as a day care center or not. Such shall be approved by the Nebraska State Fire Marshall as being in conformance with safety provisions pursuant to the National Fire Protection Association, Pamphlet 101, known as the Life Safety Code and shall be approved by the Nebraska Department of Health and Welfare as meeting their health and welfare standards.

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

**SCREENING** shall mean a structure or planting that conceals from public view the area behind such structure or planting.

**SELF-SERVICE STATION** shall mean an establishment where motor fuels are stored and dispensed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products.

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

**SEMI-SOLID MANURE** shall mean little bedding and usually no extra water added. In most cases, little drying occurs before handling. During wet weather the manure scraped from open lots can also be semi-solid in nature.

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

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

**SERVICE STATION** shall mean buildings and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and motor vehicle accessories and where light maintenance activities such as engine tune-ups, lubrications, and washing may be conducted, but not including heavy maintenance and repair such as engine overhauls, painting, and body repair.

**SETBACK** shall mean the minimum distance, as prescribed by this regulation, measured from the edge of the eave or other similar building component located closest to the lot line.

**SETBACK LINE, FRONT YARD** See Yard, Front.

**SETBACK LINE, REAR YARD** See Yard, Rear.

**SETBACK LINE, SIDE YARD** See Yard, Side.

**SHOOTING RANGE, OUTDOOR** shall mean the use of land for archery and/or the discharging of firearms for the purposes of target practice, skeet and trap shooting, mock war games, or temporary competitions, such as turkey shoots. Excluded from this use type shall be general hunting and unstructured and nonrecurring discharging of firearms on private property with the property owner's permission.

**SHRUB** shall mean a multi-stemmed woody plant other than a tree.

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

**SIGHT TRIANGLE** shall mean an area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two and one-half feet and 8 feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets, along the centerline of the streets. At the intersection of major or other arterial streets, the 60 foot distance shall be increased to 90 feet for each arterial leg of the intersection.

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

*Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations; Flags and insignia of any government except when displayed in connection with commercial promotion; Legal notices: Identification, informational, or directional signs erected or required by governmental bodies; Integral decorative or architectural features of buildings, except letter, service marks, trademarks, moving parts, or moving lights; Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.*

**SIMILAR USE** shall mean the use of land, buildings, or structures of like kind or general nature with other uses within a zoning district as related to bulk, intensity of use, traffic generation and congestion, function, public services requirements, aesthetics or other similarities.

**SITE** shall mean the parcel of land to be developed or built upon. A site may encompass a single lot; a portion of a lot; or a group of lots developed as a common development under the special and overlay districts provisions of this ordinance.

**SITE PLAN** shall mean a plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, drives, parking, drainage, landscape features, and other principal site development improvements for a specific parcel of land.

**SKATE, IN-LINE** shall mean a boot-type device, which is placed on an individual's feet. In-line skates contain wheels on the bottom of the boot, which are attached in linear fashion.

**SKATE PARK** shall mean a recreational facility containing skateboard ramps and other obstacle courses and devices for the use with skateboards and in-line skates.

**SKATEBOARD** shall mean a foot board mounted upon four or more wheels and is usually propelled by the user who sometimes stands, sits, kneels, or lies upon the device while it is in motion.



**SKATEBOARD or HALF PIPE** shall mean an outdoor structure that is shaped into a half circle or oval that is designed and principally intended to permit persons on skateboards to move continuously from one side to the other.

**SKATEBOARD RAMP** shall mean an outdoor structure with an upward inclined surface, essentially one of the sides of a pipe, which are designed and principally intended to permit persons on skateboards to move from horizontal to vertical and back to horizontal.

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

**SOLAR UNITS** shall mean a device designed and used for the purpose of collecting solar energy and utilizing the energy to heat space or water, or for some other use, within a structure.

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

**SPOT ZONING** shall mean an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and primarily promotes the private interest of the owner rather than the general welfare. Spot zoning usually results from an up-zoning to a more intensive use classification.

**STABLE AND/OR RIDING ACADEMIES** shall mean the buildings, pens and pasture areas used for the boarding and feeding of horses, llamas, or other equine not owned by the occupants of the premises. This use includes instruction in riding, jumping, and showing or the riding of horses/equine for hire.

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

**STOCKPILING** shall mean the accumulation of manure in mounds, piles, or other exposed and non-engineered site locations for storage or holding purposes for a period of not more than one year.

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

**STORAGE CONTAINERS, ON-SITE** shall mean a fully enclosed, detached, and self-supporting structure, by itself incapable of motion or movement and not exceeding 8 feet in width, 12 feet in height, and 40 feet in length or a total enclosed floor area of 320 square feet. The unit must be

manufactured/assembled off-site and transportable, by means other than its own, to a location where it is set into place on a graded surface of concrete, asphalt, or gravel and not upon a foundation or wheels. It shall be made of metal or a similar stable, durable, and acceptable material and shall not include a foundation, electricity, plumbing, or other mechanical systems as part of its assembly or use.

**STORAGE CONTAINER, PORTABLE** shall mean any container that can be loaded onto the chassis of a semi- trailer for the purpose of hauling materials and commodities. Portable storage containers are intended to be used as a load on-site and haul-off for storage off-site. Another name for these containers is Portable on Demand Storage.

**STORM DRAIN** shall mean a conduit that carries natural storm and surface water drainage but not sewage and industrial wastes, other than unpolluted cooling water.

**STORMWATER DETENTION** shall mean any storm drainage technique that retards or detains runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells, or any combination thereof.

**STORMWATER MANAGEMENT** shall mean the collecting, conveyance, channeling, holding, retaining, detaining, infiltrating, diverting, treating, or filtering of surface water, or groundwater, and/or runoff, together with applicable managerial (non-structural) measures.

**STORMWATER RETENTION AREA** shall mean an area designed by a licensed professional engineer and approved by the Village to retain water to control the flow of storm water.

**STORMWATER RUNOFF** shall mean surplus surface water generated by rainfall that does not seep into the earth but flows over land to flowing or stagnant bodies of water.

**STORY** shall mean a space in a building between the surface of any floor and the surface of the floor above, or if there is not floor above, then the space between such floor and the ceiling or roof above.

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

**STREET, ARTERIAL** shall mean a street designed with the primary function of efficient movement of through traffic between and around areas of a Village or county with controlled access to abutting property.

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

**STREET, COURT** shall mean an approved private right-of-way which provides access to residential properties and meets at least three of the following conditions:

1. Serves twelve or fewer housing units or platted lots.
2. Does not function as a local street because of its alignment, design, or location.
3. Is completely internal to a development.
4. Does not exceed 600 feet in length.

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

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

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

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

**STREET, PRIVATE** shall mean an open, unoccupied space, other than a street or alley dedicated to the public, but permanently established as the principal means of vehicular access to abutting properties. The term "private street" includes the term "place".

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

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

**STREET FRONTAGE** shall mean the distance for which a lot line of a zone lot adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.

**STREET, FRONTAGE ACCESS** shall mean a street parallel and adjacent to a major street, major inter-regional highway, or major collection road and primarily for service to the abutting properties, and being separated from the major street by a dividing strip.

**STREET HARDWARE** shall mean man-made objects other than buildings that are part of the streetscape. Examples include but are not limited to lamp posts, utility poles, traffic signs, benches, litter containers, planting containers, letter boxes, and fire hydrants.

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

**STREETSCAPE** shall mean the scene as may be observed along a public street or way composed of natural and man-made components, including buildings, paving, plantings, street hardware, and miscellaneous structures.

**STRUCTURE** shall mean anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming and wading pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts, and similar recreation areas.

**STRUCTURE, TEMPORARY** shall mean a structure without any foundation or footing and removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

**STRUCTURAL ALTERATION** shall mean any change in the support members of a building, such as in a bearing wall, column, beam or girder, floor or ceiling joists, roof rafters, roof diaphragms, foundations, piles, or retaining walls or similar components.

**SUBDIVISION** shall mean the division of land, lot, tract, or parcel into two or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future. The term shall also include the division of residential, commercial, industrial, agricultural, or other land whether by deed, metes, and bounds description, lease, map, plat, or other instrument.

**SUBSTANTIAL IMPROVEMENT** shall mean any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either,

1. Before the improvement or repair is started, or
2. If the structure has been damaged and is being restored before the

damage occurred. For purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any alteration to comply with existing state or local health, sanitary, building or life safety codes or regulations.

**SUBSTATIONS** shall mean any electrical facility to convert electricity produced by wind turbines to a voltage greater than 35,000 (35,000 KV) for interconnection with high voltage transmission lines.

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

**SURPLUS SALES** shall mean businesses engaged in the sale of used or new items, involving regular, periodic outdoor display of merchandise for sale. Typical uses include flea markets and factory outlets or discount businesses with outdoor display.

**SWIMMING POOL, PRIVATE** shall mean a pool which is an accessory use to a residence and for the exclusive use of the occupants of the residential building and their guests.

## T

**TANNING STUDIO** shall mean any business that uses artificial lighting systems to produce a tan on an individual's body. These facilities may be either a stand-alone business or as an accessory use in spas, gymnasiums, athletic clubs, health clubs, and styling salons. This use is not included with any type of adult establishment.

**TATTOO PARLOR/BODY PIERCING STUDIO** shall mean an establishment whose principal business activity is the practice of tattooing and/or piercing the body of paying customers.

**TAVERN** see Bar.

**TAXIDERMY SERVICES** shall mean an operation conducted solely within an enclosed building to include on-site preparation, stuffing, and mounting of heads and skins of animals. Exterior storage or processing of carcasses or parts of animals shall be prohibited.

**TEMPORARY STRUCTURE** shall mean a structure without any foundation or footing and removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

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

**TERRACE** shall mean a raised earthen embankment with the top leveled. A terrace may be supported by a retaining wall.

**THEATER** shall mean a building or structure used for dramatic, operatic, motion pictures, or other performance, for admission to which entrance money is received and limited audience participation or meal service.

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

**TOWNHOUSE** shall mean a one-family dwelling unit, with a private entrance in a group of three or more units where the unit and land are in the ownership of the same owner, which part of a structure whose dwelling units are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall to be used for access, light, and ventilation.

**TRACT** shall mean a lot or contiguous group of lots in single ownership or under single control, usually considered a unit for purposes of development.

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

**TRANSFER STATION** shall mean a fixed facility where solid waste from collection vehicles is consolidated and temporarily stored for subsequent transport to a permanent disposal site. This does not include an infectious waste incineration facility.

**TRANSITIONAL HOUSING** shall mean a project that is designed to provide housing and appropriate supportive services to homeless persons to facilitate movement to independent living. The housing is short-term, typically less than 24 months. In addition to providing safe housing for those in need, other services are available to help participants become self-sufficient.

**TRANSITIONAL USE** shall mean a permitted use or structure that, by nature or level and scale or activity, acts as a transition or buffer between two or more incompatible uses.

**TRANSMISSION LINE** shall mean the electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

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

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

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

**TRUCK WASH** shall mean a mechanical facility for the washing, waxing and vacuuming of heavy trucks and buses.

**TURNAROUND** shall mean a space on private property that permits the turning around of any passenger vehicle without the necessity of using any public right-of-way to turn around.

## U

**UPPER STORY HOUSING** shall be defined as one or more dwelling units located above the first floor where allowed within a commercial district.

**UPZONING** shall mean a change in zoning classification of land to a more intensive or less restrictive district such as from residential district to commercial district or from a single-family residential district to a multiple family residential district.

**USABLE OPEN SPACE** shall mean that part of the ground area of a lot or development devoted to outdoor recreational space, but excluding private or public roadways, accessory off-street parking and loading and other uses and structures.

**USE** shall mean the purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

**USE, BEST** shall mean the recommended use or uses of land confined in an adopted comprehensive plan. Such use represents the best use of public facilities, and promotes health, safety and general welfare.

**USE, HIGHEST** shall mean an appraisal or real estate market concept that identifies the use of a specific tract of land that is most likely to produce the greatest net return on investment.

**USE, PRINCIPAL** shall mean the main use of land or structure, as distinguished from an accessory use.

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

**UTILITARIAN STRUCTURE** shall mean a structure or enclosure relating to mechanical or electrical services to a building or development.

**UTILITY EASEMENT** see Easement.

**UTILITY HARDWARE** shall mean devices such as poles, cross arms, transformers and vaults, gas pressure regulating assemblies, hydrants, and buffalo boxes that are used for water, gas, oil, sewer, and electrical services to a building or a project.

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

**UTILITIES, OVERHEAD OR UNDERGROUND "TRANSMISSION LINE, SUPPLY LINE, WHOLESALE CARRIER OR TRUNK LINE, MAIN FEEDER LINE"**, or other applicable designation shall mean the main supply or feeder line serving a local distribution system of utilities and shall include but is not limited to pumping stations,



substations, regulating stations, generator facilities, reservoirs, tank farms, processing facilities, terminal facilities, towers, and relay stations, and treatment plants.

**UTILITY SERVICE** shall mean any device, including wire, pipe, and conduit, which carries gas, water, electricity, oil and communications into a building or development.

**UTILITY-TYPE VEHICLE** shall mean any motorized off-highway vehicle which (A) is seventy-four inches in width or less, (B) is not more than one hundred eighty inches, including the bumper, in length, (C) has a dry weight of two thousand pounds or less, (D) travels on four or more non-highway tires.

## V

**VALUE** shall mean the estimated cost to replace a structure in kind, based on current replacement costs.

**VARIANCE** shall mean a relief from or variation of the provisions of this chapter, other than use regulations, as applied to a specific piece of property, as distinct from rezoning.

**VEGETATION** shall mean trees, shrubs, and vines.

**VEHICLE** shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved solely by human power or used exclusively upon stationary rails or tracks.

**VEHICLE, MOTOR** see Motor Vehicle.

**VEHICLE STORAGE** shall mean storage of operating or non-operating vehicles for a period of no more than 21 days. Typical uses include storage of private parking tow-away or impound yards but exclude dismantling or salvage.

**VEHICLE STORAGE, LONG TERM** shall mean storage of operating or non-operating vehicles for a period exceeding 21 days. Typical uses include storage of private parking tow-a-ways or impound yards but exclude dismantling or salvage.

**VENDING MACHINE** shall mean any unattended self-service device that, upon insertion of a coin, coins, tokens, debit and/or credit cards or by similar means, dispenses food, beverage, goods, rental materials, wares, merchandise, or services.

**VENDING MACHINE, REVERSE** shall mean an automated mechanical device that accepts at least one or more types of empty beverage containers, including but not limited to aluminum cans and glass or plastic bottles and that issues a cash refund or a redeemable credit, provided that the entire process is enclosed within the entire machine. A reverse vending machine may be designed to accept more than one container at a time, paying by weight instead of the container.

**VETERINARY SERVICES** shall mean services and hospitals for animals. Typical uses include pet clinics, dog and cat hospitals, pet cemeteries, and veterinary hospitals for livestock and large animals.

**VILLAGE ATTORNEY** shall mean the Attorney of the Village of Hubbard or his/her authorized deputy, agent or representative.

**VILLAGE BOARD OF TRUSTEES** shall mean Governing Board or the Board of Trustees of Hubbard, Nebraska.

**VILLAGE ENGINEER** shall mean the Engineer as hired or appointed by the Chairman, and Board of Trustees or his/her authorized deputy, agent or representative.

**VILLAGE LIMITS** shall mean the established corporate boundary of the Village of Hubbard.

**VISUAL OBSTRUCTION** shall mean any fence, hedge, tree, shrub, wall or structure exceeding two feet in height, measured from the crown of intersecting or intercepting streets, alleys or driveways, which limit the visibility of persons in motor vehicles on said streets, alleys, or driveways. This does not include trees kept trimmed of branches below a minimum height of eight feet.

## W

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

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

**WAREHOUSING (ENCLOSED)** shall mean uses including storage, warehousing, distribution, and handling of goods and materials within enclosed structures. Typical uses include wholesale distributors, storage warehouses, and van and storage companies.

**WAREHOUSING (OPEN)** shall mean uses including open air storage, distribution, and handling of goods and materials. Typical uses include monument yards, materials yards, open storage.

**WASTE HANDLING SYSTEM** shall mean any and all systems, public or private, or combination of said structures intended to treat human or livestock excrement and shall include the following types of systems.

1. **Holding pond** shall mean an impoundment made by constructing an excavated pit, dam, embankment or combination of these for temporary storage of liquid livestock wastes, generally receiving runoff from open lots and contributing drainage area.
2. **Lagoon** shall mean an impoundment made by constructing an excavated pit, dam, embankment or combination of these for treatment of liquid livestock waste by anaerobic, aerobic or facultative digestion. Such impoundment predominantly receives waste from a confined livestock operation.
3. **Liquid manure storage pits** shall mean earthen or lined pits located wholly or partially beneath a semi or totally housed livestock operation or at some removed location used to collect waste production.
4. **Sediment** shall mean a pond constructed for the sole purpose of collecting and containing sediment.
5. **Human disposal systems** shall comply with the requirements of Title 124 at the Nebraska Department of Environmental Quality or subsequent agencies.

**WASTE, INDUSTRIAL** shall mean any material resulting from a production or manufacturing operation having no net economic value to the source producing it.

**WASTEWATER LAGOON** see Lagoon.

**WATERSHED** shall mean the surrounding land area that drains into a lake, river or river system.

**WATERCOURSE** shall mean natural or once naturally flowing water, either perennially or intermittently, including rivers, streams, creeks, and other natural waterways. Includes waterways that have been channelized, but does not include manmade channels, ditches, and underground drainage and sewage systems.

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

**WATER TABLE** shall mean the upper limit of the portion of the soil that is completely saturated with water. The seasonal high-water table is the highest level to which the soil is saturated.

**WELL** shall mean a device set into the subgrade for purposes of extracting water from the aquifer or water table.

**WELLFIELD** shall mean a tract of land that contains a number of wells supplying water.

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

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

**WHOLESALE TRADE** shall mean the selling of merchandise to retailers; to industrial, commercial, institutional, farm or professional business users; or to other wholesalers; or buyers acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. The principal types of establishments included are: merchant wholesalers; sales branches and sales offices (but not retail stores) maintained by manufacturing enterprises apart from their plants for the purpose of marketing their products; agents, merchandise or commodity brokers, and commission merchants; petroleum bulk storage, assemblers, buyers, and associations engaged in cooperative marketing of farm products. The chief functions of uses in wholesale trade are selling goods to trading establishments, or to industrial, commercial, institutional, farm and professional; and bringing buyer and seller together. In addition to selling, functions frequently performed by wholesale establishments include maintaining inventories of goods; extending credit; physically assembling, sorting and grading goods in large lots, breaking bulk and redistribution in smaller lots; delivery; refrigeration; and various types of promotion such as advertising and label designing.

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

## X

**XERISCAPING** shall mean landscaping characterized by the use of vegetation that is drought-tolerant or a low water use in character.

## Y

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

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

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

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

## Z

**ZONED LOT** shall mean a parcel of land in single ownership that is of sufficient size to meet minimum zoning requirements for area, coverage, and use, and that can provide such yards and other open spaces as required by these Zoning Regulations.

**ZONING ADMINISTRATOR** shall mean the person or persons authorized and empowered by the Village to administer and enforce the requirements of this chapter.

**ZONING DISTRICT** see District.

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

**ZONING PERMIT** shall mean any permit required by the Village and issued by the Zoning Administrator, to be obtained by any person engaged in any activity governed by the regulations set forth in these Regulations.

**ZONING REGULATIONS** shall mean the term zoning regulations or this or these regulations shall mean the requirements stipulated in the regulations herewith attached.

Draft

## Article 13: Legal Status Provisions

### Article 13: Legal Status Provisions

Section 12.01 Severability

Section 12.02 Purpose of Catch Heads

Section 12.03 Repeal of Conflicting Ordinances

Section 12.04 Effective Date

#### **Section 13.01 Severability**

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 13.02 Purpose of Catch Heads**

The catch heads appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this Ordinance.

#### **Section 13.03 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 13.04 Effective Date**

This Ordinance shall take effect and be in force from and after its passage and publication according to law.

ADOPTED AND APPROVED by the Governing Body of Hubbard, Nebraska, This\_ \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Seal)

ATTEST:

\_\_\_\_\_  
Village Clerk

\_\_\_\_\_  
Chairman



**2021**

**VILLAGE OF HUBBARD  
DAKOTA COUNTY, NEBRASKA**

**SUBDIVISION REGULATIONS**

**ADOPTED BY THE VILLAGE OF HUBBARD, NEBRASKA**

Prepared by:  
***simpco***





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## **Article 1: Title and Purpose**

### **Section 1.01 Name and Citation of Titles**

These regulations shall be known, referred to and cited as "The Subdivision Regulations of the Village of Hubbard, Nebraska."

### **Section 1.02 Purpose**

The purpose of these regulations is to provide for the orderly development of Hubbard and its jurisdiction. This will be done through prescribed rules and standards establishing functional arrangements of street layouts; open spaces; and adequate community facilities and utilities. These Subdivision Regulations will coordinate development with the Village's transportation, land use and capital facilities plans, and will provide conditions favorable for the health, safety and convenience of the community, in accordance with applicable State Statutes.

### **Section 1.03 Rules**

For the purpose of this ordinance the following rules shall apply:

Words and numbers used singularly shall include the plural. Words and numbers used in the plural shall include the singular. Words used in the present tense shall include the future.

The word "persons" includes a corporation, members of a partnership or other business organization, a committee, Board, commission, trustee, receiver, agent or other representative.

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

The words "use," "used," "occupy," or "occupied" as applied to any land or building shall be construed to include the words "intended," "arranged," or "designed" to be used or occupied.

The words "Planning and Zoning Commission" shall refer to the Planning and Zoning Commission of the Village of Hubbard, Nebraska.

Undefined words or terms not herein defined shall have their ordinary meaning in relation to the context.

Each gender shall include the other.

## **Article 2: General Provisions**

### **Section 2.01 Jurisdiction**

The provisions of these regulations shall apply to all land located within the legal boundaries of the Village of Hubbard, as the same may be amended by subsequent annexation, and shall also include all land lying within one mile of the corporate limits of the Village, and not located in any other municipality.

### **Section 2.02 Powers**

No plat of a subdivision of land lying within the jurisdiction of the Village shall be filed or recorded until it shall have been submitted to and a report and recommendation thereon made by the Planning and Zoning Commission to the Village Board of Trustees and the Village Board of Trustees has approved the Final Plat.

It shall be unlawful for the owner, agent, or person having control of any land within the corporate limits of the Village, or within the area shown on the Official Zoning Map, to subdivide land except in accordance with Neb. Rev. Stat. §19-916 and the provisions of that title; provided, however, that any subdivision of land caused by the acquisition of land by the federal government, the State of Nebraska, any County, the Village, or any Village incorporated or unincorporated, within the jurisdiction of the Village, shall be deemed to have received approval pursuant to Neb. Rev. Stat. §19-916.

### **Section 2.03 Applicability**

Any plat, hereafter made, for each subdivision or each part thereof lying within the jurisdiction of this ordinance, shall be prepared, presented for approval, and recorded as herein prescribed. The regulations contained herein shall apply to the subdivision of a lot, tract, or parcel of land into two or more lots, tracts, or other division of land for the purpose of sale or development, whether immediate or future, including the subdivision or replatting of land or lots, except that the division of land when the smallest parcel created is more than 10 acres in area shall be exempt from these regulations. Further, the regulations set forth by this ordinance shall be minimum regulations, which shall apply uniformly throughout the jurisdiction of this ordinance except as hereinafter provided.

### **Section 2.04 Exemptions**

These regulations shall not apply in the following instances: 1) The division of land for agricultural purposes into parcels or tracts of more than ten acres, 2) A change in the boundary between adjoining lands which does not create an additional or substandard lot but only after review and approval by the governing body, 3) Land used for street or railroad right-of-way, a drainage

easement or other public utilities subject to local, state or federal regulations, where no new street or easement of access is involved, and 4) Any transfer by operation of law.

### **Section 2.05 Interpretation**

In interpreting and applying these regulations, they shall be held to be minimum requirements for the promotion of the public health, convenience, comfort, morals, prosperity and general welfare.

### **Section 2.06 Conflict**

No Final Plat of land shall be approved unless it conforms to the Subdivision Regulations contained herein. Whenever there is a discrepancy between minimum standards or dimensions noted herein and those contained in the Zoning Regulations, Building Regulations, or other official regulations or ordinances, the most restrictive shall apply.

### **Section 2.07 Zoning Permits**

Unless a tract shall have been platted in accordance with the provisions of this Article, no zoning permit shall be issued.

### **Section 2.08 Amendments**

Any provisions of these regulations may from time to time be amended, supplemented, changed, modified, or repealed by the governing body; provided, however, that such amendments shall not become effective until after a study by the Planning and Zoning Commission; and a public hearing in relation thereto has been held, public notice of which shall have been published in a newspaper of general circulation at least one time, 10 days prior to such hearing.

### **Section 2.09 Modifications**

Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this regulation would result in extraordinary hardship to the subdivider because of unusual topography, or other such non-self-inflicted conditions, or that these conditions would result in inhibiting the achievement of the objectives of these regulations, the Village Board of Trustees, after report from the Planning and Zoning Commission, may vary, modify, or waive the requirements so that substantial justice may be done and the public interest secured; provided, however, that: such, modifications or waiver will not adversely affect the development, the character of which shall be in conformance with recommended platting and development practices in the general area of the proposed subdivision; will not have the effect of nullifying the intent and purpose of the regulations; and, will not interfere with carrying out the Comprehensive Development Plan of the Planning Area of the Village. The standards and requirements of these regulations may be modified by the

Governing Body after report by the Planning and Zoning Commission in the case of a planned development or a redevelopment project involving the re-subdividing and rebuilding of blighted or slum areas; provided, however, that the placement of structures within the area is shown on the development plan and becomes a part of the recorded plat.

### **Section 2.10 Fees**

All fees regarding the subdivision procedure shall be set by a separate ordinance. The developer shall be responsible for all review and inspection fees regarding a subdivision.

### **Section 2.11 General Provisions Applicable to all Subdivision Requests**

**2.11.01. General.** The provision of this Article shall apply to all subdivision requests regardless of the procedure used to secure approval, unless otherwise specifically noted.

**2.11.02. Zoning and Occupancy Permits.** No official of the Village shall issue either a zoning permit or occupancy permit on any property which does not comply with the zoning and subdivision regulations of the Village of Hubbard. The issuance of any zoning permit or occupancy permit does not relieve the owner thereof from compliance with all of the terms and conditions of the Subdivision Regulations, including improvements and subdivision design. It is the duty and obligation of the owner of the property to ensure compliance with the Ordinances of the Village.

**2.11.03. Improvements Warranty and Guarantee.** Upon approval of the subdivision, and prior to filing the subdivision with the Dakota County Register of Deeds, the subdivider shall provide a warranty to the Village for all workmanship and materials used for one year from the date of acceptance, and a guarantee for the construction for all improvements required by this Ordinance.

**2.11.04. Performance Bond.** Upon approval of the subdivision, and prior to filing the subdivision with the Dakota County Register of Deeds, the subdivider shall surrender to the Village possession of a performance bond. Said bond shall be in an amount adequate to cover 110 percent of the cost of the design, construction, and installation of all improvements shown on the Final Plat, as established by the subdivider and accepted by the Village Board of Trustees upon recommendation of the Village Engineer. No officer of the Village is authorized to sign any document indicating approval of any subdivision application until the filing and acceptance of a satisfactory performance bond. Said performance bond shall be either issued by a reputable insurance company licensed to issue such bonds in the State of Nebraska, or a cash bond. Where a cash bond is used, the subdivider or owner may present a Certificate of Deposit issued in the subdivider's or owner's name and federal identification

number for a term not to exceed six months, which shall be endorsed payable to the Village of Hubbard, Nebraska and which shall be attached to a bond form.

**2.11.05. Time for Construction of Improvements.** Regardless of the subdivision procedure utilized, unless otherwise specified in the document approving the subdivision, required improvements will be constructed as follows:

1. Prior to the issuance of any zoning permit for any land within the subdivision, all streets, sanitary sewer mains, water supply mains, natural gas mains, electricity and telephone trunk lines and cable television trunk lines, street signs, permanent survey monuments, bench marks, and street lights shall be installed and completed by the subdivider, operating and approved as provided in the Subdivision Regulations.
2. Prior to the issuance of an occupancy permit for any structure within the subdivision, all sidewalks, street trees, and storm drainage shall be installed and completed by the subdivider, operating and approved as provided in the Subdivision Regulations, provided that if storm drainage on other property is required in order to provide proper functioning of storm drainage on the property in question, such additional storm drainage shall also be completed prior to the issuance of an occupancy permit.

**2.11.06. Title and Taxes.** At the time of the filing of the application for a subdivision, the subdivider shall provide evidence of title and evidence that all taxes and special assessments have been paid on the land which is the subject of the subdivision application.

**2.11.07. Approval Resolution.** Passage of the Resolution approving any subdivision request requires a majority of the Village Board of Trustees. The resolution of approval shall contain a statement of all improvements required and the schedule by which improvements are to be completed if different in any way from the schedule set forth in the Subdivision Regulations. The type of bond posted to secure design and construction of required improvements shall also be identified.



## **Article 3: Procedures**

### **Section 3.01 Procedure for Filing Pre-application Plans and Data**

**3.01.01.** Prior to the filing of an application for approval of a Preliminary Plat the subdivider shall submit to the Planning and Zoning Commission plans and data in sketch form showing ideas for the proposed subdivision of land. The sketch plan shall include:

1. The proposed tentative layout of streets, lots and other features in relation to existing streets, utilities, topography and other conditions.
2. A general location map showing the proposed subdivision and its relationship to existing abutting subdivisions and community facilities in the area, such as streets, alleys, schools, parks, commercial areas and other data supplementing the plans which outline or describe all of the proposed development as it relates to existing conditions.

**3.01.02.** Pre-application plans and data shall not require a formal application fee. After discussion with the subdivider and review of the data, the Planning and Zoning Commission will inform the subdivider whether such plans and data submitted meet the objectives of these regulations and shall describe any inconsistencies with the requirements of this Ordinance. With the concurrence of the developer, a Public Hearing date will be set for the consideration of the Preliminary Plat.

### **Section 3.02 Procedure for Approval of Preliminary Plat**

Before any subdivider or agent contracts for the sale or offers to sell any subdivision of land or any part thereof, which is wholly or partly within the Village or which is within a one mile limit of the Village or which is proposed to be annexed, the subdivider or his agent shall file a Preliminary Plat of said subdivision with the Planning and Zoning Commission. The Preliminary Plat shall be prepared in accordance with the regulations set forth herein, and shall be submitted to the Planning and Zoning Commission prior to the completion of final surveys of streets and lots and before the start of grading or construction work upon the proposed streets and lots and before any map of said subdivision is made in a form suitable for recording. The Planning and Zoning Commission shall determine whether the plat is in proper form and shall not receive and consider such plat as filed until it is submitted in accordance with the requirements hereof. The street layout shall be in conformity with a plan for the most advantageous development of the entire neighboring area and in conformity with the Comprehensive Development Plan.

All plats, preliminary and final, shall be prepared in conformance with the provisions of these Regulations and in conformance with the Comprehensive Development Plan and Zoning Ordinance. The subdivider shall be responsible for such conformance.

A total of 20 copies of the Preliminary Plat and required supplementary material as specified in Section 3.03 of these regulations shall be submitted to the Village Clerk at least 21 days prior to the meeting at which it is to be considered unless being submitted to Dakota County. The Village Clerk shall distribute one copy of the Preliminary Plat with a request for comments to each of the following: Village Engineer, School Board, Fire District, County Sheriff, Dakota County if the subdivision is located outside the corporate limits, and to whomever else deemed necessary by the Planning and Zoning Commission.

The Planning and Zoning Commission will consider the Preliminary Plat at a public hearing, after proper notice, and will (1) review the Preliminary Plat and other material submitted for conformity to these regulations and (2) review any recommendations of the Village Engineer, School Board, Fire Department, Sheriff's Department, Dakota County and other Agencies and (3) recommend to the subdivider changes deemed advisable and the kind and extent of improvements to be made by subdivider. The Planning and Zoning Commission shall act on the plat as submitted. The Planning and Zoning Commission may (1) approve with no conditions and forward to the Village Board of Trustees, (2) conditionally approve and state the conditions of such approval, or (3) disapprove and state the reasons for such disapproval.

The action of the Planning and Zoning Commission shall be noted on or attached to two copies of the Preliminary Plat. One (1) copy shall be returned to the subdivider and the other retained by the Planning and Zoning Commission.

Upon a Planning and Zoning Commission recommendation of approval or disapproval, the Village Clerk shall set a date and time for a public hearing before the Village Board of Trustees along with proper notice thereof. The notice must be published at least 10 days prior to the hearing in a paper of general circulation in the Village of Hubbard. The Board of Trustees shall act on the Preliminary Plat as submitted and may (1) concur with the Planning and Zoning Commission's recommendation; (2) reverse the Planning and Zoning Commission's recommendation; or (3) refer the Preliminary Plat back to the Planning and Zoning Commission for reconsideration with specific instructions.

Procedure for approval of Preliminary Plats of land within one mile of the corporate limits shall be the same, except that one copy of the Preliminary Plat shall be referred to Dakota County with a request for their recommendations to be submitted to the Planning and Zoning Commission. The Planning and Zoning Commission shall not take final action on the Plat prior to receiving recommendations from Dakota County. If no recommendation is received within 30 days, the Preliminary Plat shall be deemed approved by Dakota County.

Conditional approval of a Preliminary Plat shall not constitute an acceptance of the plat, but shall be deemed an expression of approval of the layout submitted on the Preliminary Plat, as modified by any required conditions. Approval of a Preliminary Plat shall not constitute approval of the Final Plat. Rather, the Preliminary Plat shall be deemed an expression of approval of the general design concept and serves as an acceptable guide for the preparation of the Final Plat. Approval of the Preliminary Plat shall become void after 12 months from the date of such approval.

### **Section 3.03 Preliminary Plat Specifications**

The Preliminary Plat shall be drawn to a scale of one inch to 100 feet; shall be plainly marked "Preliminary Plat" and shall include, show, or be accompanied by the following information:

1. A location map showing the general location of the proposed subdivision in relation to surrounding developments with a north arrow, scale and legend.
2. The proposed name of the subdivision, designated as "\_\_\_\_ Addition to the Village of Hubbard, Nebraska". Said name shall not be as similar to an existing subdivision as to cause confusion.
3. The names and addresses of the owner and subdivider, and any engineer, surveyor, or landscape architect responsible for the Preliminary Plat.
4. The legal description of the area being platted, boundary lines and dimensions, the location of monuments found or set, section lines, and the approximate acreage of the proposed development.
5. The width and location of platted streets and alleys within or adjacent to the property.
6. The physical features of the property, including location of water courses, ravines, bridges, culverts, present structures and other features affecting the subdivision; contours with intervals of five feet or less; the location of all existing utilities with their sizes indicated, as well as flow lines; elevations of existing sanitary and storm sewer, the outline of wooded areas (the location of important individual trees may be required), and any floodway, floodplain, and flood fringe areas.
7. The proposed lot layout, lot and block numbers, and approximate lot dimensions and square footage and grounds proposed to be dedicated for public use.
8. The location and width of proposed streets, easements, building setback lines, rights-of-way, pavement widths and type, sidewalks, alleys, location of all proposed improvements including: sanitary sewers (including proposed flow lines), water mains, storm water drainage and other features and improvements required by these regulations.
9. The existing and proposed zoning classification and proposed uses of land within and adjacent to the proposed subdivision.

10. The subdivider shall submit a complete list of the names and mailing addresses of all owners of record of all land within 300 feet of the perimeter of the property being proposed for subdivision.
11. Names of adjacent subdivisions together with arrangement of streets and lots.
12. One draft copy of the Subdivision Agreement including any requests for waivers from the requirements of this Ordinance.
13. The subdivider or subdivider's representative shall be in attendance at the Planning and Zoning Commission meeting when Preliminary Plat is discussed.
14. Two copies of the following, prepared by a registered professional engineer, to be delivered to the Village Engineer for review:
  - a. A sanitary sewer plan.
  - b. A drainage plan, pursuant to Section 4.06.
  - c. A street profile plan with a statement of proposed street improvements.
  - d. A water distribution plan.
  - e. A traffic impact analysis.

### **Section 3.04 Procedure for Approval of Final Plat**

The Final Plat shall conform to the Preliminary Plat as approved and may be comprised of only that portion of the approved Preliminary Plat which the subdivider proposed to record and develop at the time. The Final Plat shall be submitted to the Planning and Zoning Commission for approval at least 21 days prior to the meeting at which it is to be considered. One original and 20 copies of the original shall be prepared as specified in these regulations. The Final Plat shall be submitted to the Board of Trustees for approval and adoption prior to the start of construction. The Board of Trustees shall consider the Final Plat at their regular meeting, in a public hearing advertised by published notice at least 10 days prior to the hearing in a paper of general circulation in the Village. Final approval by the Board of Trustees shall be by Ordinance only after receiving the recommendation of the Planning and Zoning Commission together with a letter stating that the subdivider has complied with the requirements of this Ordinance. Upon approval of the Final Plat, a certification of approval by the Board of Trustees shall be endorsed thereon by the Village Clerk, and the original shall be filed with the Dakota County Clerk, the reproducible copy shall be filed with the Village Clerk.

### **Section 3.05 Final Plat Specifications**

After approval of the Preliminary Plat by the Planning and Zoning Commission, the subdivider shall prepare and submit to the Planning and Zoning Commission a Final Plat prepared by a registered land surveyor. The Final Plat, in conformance with the approved Preliminary Plat, shall include:

1. The name of subdivision.
2. The date and a north arrow and graphic scale.
3. An accurate boundary survey of the property, with bearings and distances, referenced to section lines and/or adjacent subdivisions. The boundary survey shall meet or exceed the "Minimum Standards for Surveys", as established by the Professional Surveyors Association of Nebraska.
4. A legal description of the perimeter of the subdivision.
5. The location and names of adjacent subdivisions, streets, alleys and any easements.
6. Location and names or numbers of lots, streets, easements, public highways, alleys and other features, with accurate bearings and distances. At a minimum all curves shall be identified with the following data; radius, arc distance, chord distance and chord bearing. It is intended that enough information be shown, so the subdivision can be reestablished on the ground.
7. Location and description of all permanent monuments set. At a minimum all monuments shall be made of iron pipe or iron rod, or some other material capable of being detected by commonly used magnetic locators. Monuments shall have a minimum diameter of five- eighths (5/8) inch and minimum length of 24 inches.
8. A notarized owner's certification statement signed and acknowledged by all parties having any titled interest in, or lien upon the land to be subdivided, consenting to the Final Plat, including the dedication of parts of the land for streets, easements, and other purposes, pursuant to Article 5 of this document.
9. A notarized surveyor's statement signed and acknowledged by a registered land surveyor, pursuant to Sections 9.01 and 9.02.
10. A signature block for the Dakota County Treasurer stating there are no regular or special taxes due or delinquent against the platted land, pursuant to Section 9.07.
11. A signature block for the approval of the Planning and Zoning Commission, pursuant to Section 9.03.
12. A signature block for the approval of the Board of Trustees, to be signed by the Chairman and attested to by the Village Clerk, pursuant to Section 9.04.
13. A signature block for the Dakota County Register of Deeds, pursuant to Section 9.05.
14. A signature block for the Dakota County Surveyor, pursuant to Section 9.06.
15. A performance bond pursuant to Section 2.11.04.
16. One copy of any private restrictions or covenants affecting the subdivision or any part thereof, if applicable.
  1. One copy of any construction plans and specifications.

2. Three original copies of the Subdivision Agreement with a signature block for the Chairman and attestation of the Village Clerk.
3. Two copies of the following, prepared by a registered professional engineer, to be delivered to the Village Engineer for review:
  - a. A sanitary sewer plan.
  - b. A drainage plan, pursuant to Section 5.06.
  - c. A street profile plan with a statement of proposed street improvements.
  - d. A water distribution plan.
  - e. A traffic impact analysis.

### **Section 3.06 Vacation of Plat**

**3.06.01. Applicability:** An owner or owners of a plat may make application to the Planning and Zoning Commission to vacate any plat under the following conditions:

1. The Plat to be vacated is a duly recorded Final Plat or Replat.
2. The vacation of the subdivision will not interfere with development of, nor deny access via public thoroughfare to, adjoining properties or utility services or other improvements.

**3.06.02. Procedures:** The owner or owners shall present a proposal to the Planning and Zoning Commission, containing the legal description of the subdivision and calling for vacation thereof. The Planning and Zoning Commission shall study the proposal and shall send recommendations to the Village Board of Trustees. The Village Board of Trustees shall approve or deny the proposal. If the proposal is approved (approved by ordinance), it shall then be recorded in the office of the Dakota County Register of Deeds. The subdivider shall pay all fees for the recording of such vacation. If the proposal is disapproved, the Board of Trustees shall state which of the reasons stated in Section 3.06.01 require such disapproval. The applicant shall be allowed to submit a new application upon a showing that the reason or reasons for disapproval have been corrected.

### **Section 3.07 Replats**

**3.07.01.** Whenever a Replat of an existing subdivision results in 10 or fewer lots, the Planning and Zoning Commission may waive the separate submission requirements for the Preliminary and Final Plats to expedite the subdivision review process if, in the judgment of the Planning and Zoning Commission, separate submission will not serve the public interest and will not conflict with the intent of these regulations. Concurrent Plats shall:

1. Be discussed with the Planning and Zoning Commission at a scheduled pre-application Conference pursuant to Section 3.01.
2. Be submitted to the Village Clerk at least 21 days prior to the next regular meeting of the Planning and Zoning Commission at which request is to be heard.

3. Be accompanied by the applications fees and completed application forms as required.
4. Follow the procedure set forth for herein and contain the required Preliminary and Final Plat information.
5. Include a drainage plan showing how run-off generated by the proposed development impacts drainage on downstream drainage systems.

**3.07.02. Disapproval of Replats shall be based on the following guidelines:**

1. A new street or alley is needed or proposed.
2. Vacations of streets, alleys, setback lines, access control or easements are required or proposed.
3. Such action will result in significant increases in service requirements, e.g., utilities, schools, traffic control, streets, etc.: or will interfere with maintaining existing service levels, e.g., additional curb cuts, repaving, etc.
4. There is less street right-of-way than required by this Ordinance or the Comprehensive Development Plan unless such dedication can be made by separate instrument.
5. All easement requirements have not been satisfied.
6. Such action taken during a replat will result in a tract without direct access to a street.
7. A substandard-sized lot or parcel will be created.

**3.07.03.** Changes required by the Planning and Zoning Commission, during the Planning and Zoning Commission's public hearing, shall be made prior to submission to the Board of Trustees. Replats shall be submitted to the Village Clerk prior to the start of construction and at least 15 days prior to the next regular meeting of the Board of Trustees. The Board of Trustees shall review and act on the Replat at a public hearing. Notice for such hearing shall be posted at least 10 days prior to the hearing in a paper of general circulation in the Village. The Board of Trustees shall, in writing; either approve the Replat with or without conditions or disapprove the Replat and state the reasons thereof.

**Section 3.08 Administrative Plats**

**3.08.01.** The intent of this section is to provide for lots splits, lot combinations, and boundary adjustments which result in lots divided or combined into not more than two tracts without having to re-plat said lot, provided that the resulting lots shall not again be divided without re-platting. The Zoning Administrator shall review the administrative plat application and make a final determination. The Zoning Administrator may approve or disapprove administrative plats in accordance with the following regulations.

**3.08.02.** Requests for an Administrative Plat approval shall be made by the owner or a designated representative of the land to the Zoning Administrator. Two copies of the Administrative Plat shall include the following:

1. A survey of the lot(s).
2. Location and precise nature of any structures located thereon, if any.
3. Location and dimensions of the proposed administrative plat.
4. A notarized surveyor's statement signed and acknowledged by a registered land surveyor, pursuant to Sections 9.01 and 9.02.
5. A signature block for the Dakota County Register of Deeds, pursuant to Section 9.05.
6. A signature block for the Dakota County Surveyor, pursuant to Section 9.06.
7. A signature block for the Dakota County Treasurer stating there are no regular or special taxes due or delinquent against the platted land, pursuant to Section 9.07.
8. A signature block for the approval and signature of the Zoning Administrator and the Chairman and attested to by the Village Clerk, pursuant to Section 9.08.

**3.08.03.** Disapproval of administrative plats shall be based on the following guidelines:

1. A new street or alley is needed or proposed.
2. Vacations of streets, alleys, setback lines, access control or easements are required or proposed.
3. Such action will result in significant increases in service requirements, e.g., utilities, schools, traffic control, streets, etc.: or will interfere with maintaining existing service levels, e.g., additional curb cuts, repaving, etc.
4. There is less street right-of-way than required by this Ordinance or the Comprehensive Development Plan unless such dedication can be made by separate instrument.
5. All easement requirements have not been satisfied.
6. Such action taken during an administrative plat will result in a tract without direct access to a street.
7. A substandard-sized lot or parcel will be created.
8. The lot has been previously split in accordance with this Ordinance.

**3.08.04.** No Administrative Plats shall be approved unless all required public improvements have been installed, no new dedication of public right-of-way or easements is involved, and such subdivision complies with the ordinance requirements concerning minimum areas and dimensions of such lots.



**3.08.05.** Prior to the approval of the administrative plat, the subdivider shall provide a statement from the County Treasurer's office showing there are no tax liens against said land within the proposed subdivision or any part thereof. The subdivider shall also provide a statement from the County Treasurer's office showing that all special assessment installment payments are current as applied to said proposed subdivision or any part thereof. All taxes shall be paid in full on all real property dedicated to a public use.

**3.08.06.** The Zoning Administrator shall, in writing; either approve the Administrative Plat with or without conditions, or disapprove the Administrative Plat and state the reasons thereof, within a reasonable time of application.

**3.08.07.** The filing fee for Administrative Plats shall be set in accordance with Section 2.10.

**3.08.08.** After approval from the Zoning Administrator all copies must be certified by all applicable parties and two copies filed with the Village prior to the issuance of a zoning permit.

## **Article 4: Design Standards**

### **Section 4.01 General**

No subdivision shall be approved unless it is in conformance with the requirements of these regulations and the Comprehensive Development Plan.

In subdividing property, consideration shall be given to suitable sites for schools, parks, playgrounds, and other common areas for public use so as to best conform to any recommendations of the Comprehensive Development Plan. Any provisions for schools, parks, and playgrounds should be indicated on the Preliminary Plat in order that it may be determined when and in what manner such areas will be provided or acquired by an appropriate agency.

Land which the Planning and Zoning Commission has found to be unsuitable for subdividing, due to flooding, poor drainage, steep slopes, rock formation, or other features likely to be harmful to the safety, welfare or health of the future residents, shall not be subdivided unless adequate methods for subdivision are formulated by the developer and approved by the Planning and Zoning Commission that would eliminate or substantially reduce such hazards.

The Planning and Zoning Commission may require all contiguous land under common ownership to be submitted with the Preliminary Plan in order to evaluate overall development patterns and conformity with the Comprehensive Development Plan and issue proper extension of future roads and services.

### **Section 4.02 Streets**

The arrangement, character, extent, width, grade and location of all streets shall conform to the Comprehensive Development 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 land to be serviced by such streets. All streets shall meet applicable AASHTO standards and shall conform to the minimum design standards set by the Nebraska Board of Public Roads Classification and Standards. See Section 4.25 Schedule A for Minimum Street Standards.

The street layout of the proposed subdivision shall provide for the continuation or appropriate projection of streets and alleys already existing in areas adjacent to the area being subdivided. Where, at the determination of the Planning and Zoning Commission, it is desirable to provide street access to adjoining properties, proposed streets shall be extended by dedication to the boundaries of the subdivision. Where the Planning and Zoning Commission deems it necessary, such dead-end streets shall be provided with a temporary turnaround having a right-of-way radius of at least 50 feet and a paved radius (usually crushed rock) of 30 feet, or other approved design.

### **Section 4.03 Dedication of Rights-of-Way for New Streets**

The dedications of rights-of-way for new streets measured from lot line to lot line shall be shown on the plat and shall meet the right-of-way requirements as stated in Schedule A of this Ordinance. The Village shall approve access to lots located on arterials.

Where a subdivision fronts on an arterial street, the Planning and Zoning Commission shall, where possible, require frontage roads. Where lots back up to an arterial street and such lots have access by means other than the arterial street, a frontage road may not be required.

### **Section 4.04 Dedication of Rights-of-Way for Existing Streets**

Subdivisions platted along existing streets shall dedicate additional right-of-way or easements if necessary to meet the minimum street width requirements set forth in this Ordinance. 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 of the required right-of-way width, measured from the centerline of the existing roadway, shall be dedicated along with any proposed easements.

### **Section 4.05 Frontage Roads**

Where a front or side yard abuts railroad, limited access freeway, or principal highway or arterial street rights-of-way, a marginal access street or frontage road may be required parallel and adjacent to the boundary of such rights-of-way when necessary for adequate protection of properties from the arterial street and to protect and preserve the safety and traffic handling capabilities of the arterial street. The distance from said rights-of-way shall be determined, with due consideration to minimum distance required for approach connections to future grade-separated intersections. In the case of lots where the rear yard is adjacent to an arterial street and such lots have access other than off the arterial street frontage, a frontage road may not be required.

### **Section 4.06 Intersections**

Streets shall intersect as nearly as possible at an angle of 90 degrees, and no intersection shall be constructed at an angle of less than 60 degrees. Street curb intersections shall be rounded by radii of at least 20 feet. Larger intersection radii may be required in industrial or commercial area or when directed by the Village Engineer. When the smallest angle of street intersection is less than 75 degrees, the Planning and Zoning Commission may require curb radii of greater length.

Access onto any street intersecting an arterial street shall be located no closer to the right-of-way of such arterial street than 75 feet, or more at the discretion of the Village Engineer.

Consideration shall be given to street and right-of-way widths such that minimum sidewalk requirements are maintained.

#### **Section 4.07 Curves in Streets; Horizontal and Vertical**

A tangent of at least 100 feet in length shall be introduced between reversed curves on arterial and collector streets. Where there is a deflection angle of more than 10 degrees in the horizontal alignment of a street, a curve shall be installed with a radius adequate to ensure safe sight distances. Maximum requirements shall conform to the standards in Section 4.25 Schedule A of this Ordinance. Minimum sight distances shall meet applicable AASHTO standards and shall conform to the minimum design standards set by the Nebraska Board of Public Roads Classifications and Standards.

#### **Section 4.08 Street Grades and Elevations**

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. The minimum street grade shall not be less than four tenths of one percent (0.4%). Minimum grades for gutters and ditches shall be four tenths and five tenths of one percent (0.4% and 0.5%), respectively. The Village may allow lesser slopes if approved by the Village Engineer. Fill may be used in areas subject to flooding in order to elevate streets and building pads provided such fill will not increase flood elevations more than one foot. Street grades shall conform to the maximum requirements provided in Schedule A of this Ordinance.

#### **Section 4.09 Access Control**

In the interest of public safety and for the preservation of the traffic-carrying capacity of the street system, the Planning and Zoning Commission and Board of Trustees shall have the right to restrict and regulate points of access to all property from the public street system. Such restrictions shall be indicated on the Final Plat.

#### **Section 4.10 Street Jogs**

Street jogs with centerline offsets of less than 150 feet at intersections shall be prohibited.

#### **Section 4.11 Cul-de-sac Streets**

Cul-de-sacs shall not be longer than 500 feet and shall provide a turnaround having a radius at the outside of the pavement of at least 50 feet and a radius at the right-of-way of at least 110 feet. Alternative designs for temporary turnarounds may be approved by the Village. Streets dead- ending or terminating in a temporary turnaround shall not have a length greater than 500 feet or a radius at the right-of-way less than 60 feet. Cul-de-sac and temporary turnarounds shall be measured from the center of the cul-de-sac or temporary turnaround to the nearest right-of-way line of the intersecting street.

#### **Section 4.12 Street Names**

Proposed streets, which are in alignment with other existing streets, shall bear the name of such other existing streets. The name of a proposed street which is not in alignment with an existing street shall not be named so similarly to the name of any existing street as to cause confusion. To avoid duplication and confusion, the proposed names of all streets shall be approved by the Board of Trustees prior to such names being assigned or used.

#### **Section 4.13 Private Streets and Reserve Strips**

New private streets may be created provided such streets are specifically authorized by the Planning and Zoning Commission and Board of Trustees as an exception to the terms of the Ordinance. There shall be no reserve strips in a subdivision except where their control is definitely vested in the municipality under conditions of approval by the Planning and Zoning Commission as authorized in these regulations.

#### **Section 4.14 Alleys**

Alleys may be required in commercial, industrial, and residential areas. Dead-end alleys shall be avoided, however, where a dead-end alley cannot be avoided, a dead-end alley shall be provided with adequate turnaround capacity at the dead-end. Alleys should be avoided in residential areas except where an existing alley of an adjoining subdivision would dead-end at the boundary of the proposed subdivision.

#### **Section 4.15 Water Lines and Hydrants**

All water mains within a subdivision shall be a minimum of six inches in diameter. All water mains and/or shall be looped, unless a dead-end is approved by the Village Engineer. Hydrant shall be placed on the corners of each block or with a maximum spacing not exceed 400 feet.

#### **Section 4.16 Water Mains and Sewer Mains**

Except for good cause, all water mains and sewer mains shall be located within the street right-of-way, but not under the pavement located thereon. Further, all manholes shall not be placed in the proposed driveways of residential subdivisions.

#### **Section 4.17 Sidewalks**

All sidewalks within a subdivision shall have a minimum pavement width of four feet and shall be located one foot into the street right-of-way adjacent to the residential lot line unless otherwise approved.

#### **Section 4.18 Blocks**

In determining the lengths, widths and shapes of blocks, consideration shall be given to the provision of adequate access and circulation, the suitability of

building sites to the needs of the use contemplated, and the zoning requirements regarding minimum lot sizes, widths and frontages of the anticipated zoning district. Except in unusual circumstances approved by the Village, block lengths shall not exceed 600 feet. Pedestrian easements 10 feet wide shall be provided through or near the center of blocks more than 600 feet long in order to provide for adequate pedestrian circulation.

#### **Section 4.19 Lots**

The size, width, depth, shape and orientation of lots shall conform to the regulations of the applicable zoning district for the type of development and use contemplated. All lots shall be developed such that surface drainage is diverted to plot lines and not across adjacent properties. Corner lots for residential uses shall be designed with adequate width to permit appropriate building setback distances and orientation to both streets. The subdividing of land shall be such as to provide each lot with satisfactory vehicular access from a public street or an approved private street. Side lot lines shall be designed as close as possible to be perpendicular to street right-of-way lines or radial to cul-de-sac center points.

#### **Section 4.20 Through Lots**

Through lots shall be avoided, except where essential to provide separation of residential development from arterial streets or to overcome specific disadvantages of topography. Where such lots are used in relation to an arterial street, a landscape screen easement of at least 10 feet in width shall be provided along the property line of such lots abutting such arterial street. Within this easement, the subdivider shall install trees, shrubbery or fences or a combination thereof to screen the residential development from the arterial street and dampen the noise generated by traffic on the arterial street.

#### **Section 4.21 Easements**

Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least 16 feet in width. When located on a lot line, said easement shall be centered so that there is 8 feet of easement on each side of lot line. In those zoning districts that require 5 feet side yard setbacks, the required easement shall be at least 10 feet in width, centered upon the lot line so that there is 5 feet of easement on each side of the side property line.

Where a subdivision is traversed by a water course, there shall be provided a storm water drainage easement substantially following the width of such water course. The width of the easement shall be adequate for maintenance purposes and shall be determined by the Village Engineer as part of the Preliminary Plat.

### Section 4.22 Storm Sewer System

Provisions shall be made to limit the peak rate of storm water discharge from the subdivision. Post development runoff shall not exceed pre-development runoff by more than five percent, based upon a 10-year storm event or as determined by the Village Engineer. Pre-development shall be the condition prior to improvements being completed. In determining the size or type of the storm sewer system to be used, the design shall be sufficient to handle all computed runoff from the proposed development. For large drainage areas, natural drainage ways shall be maintained, and the Village may require cross drainage structures such as culverts, bridges, etc.

### Section 4.23 Flood Hazards

Land subject to flooding and land deemed to be topographically unsuitable for residential or other development shall not be platted for such purposes. Such land may be set aside on the plat for such uses compatible with the hazards associated with flooding or erosion. All development shall conform to the flood hazard zoning provisions of the Zoning Ordinance.

### Section 4.24 Conformance with Other Regulations

No Final Plat of land within the Village or its jurisdictional area shall be approved unless it conforms to existing zoning regulations. Whenever there is a conflict between the standards set forth in these regulations and those contained in other regulations the highest standard shall govern.

### Section 4.25 Schedule A: Minimum Street Standards

	Minimum Right-of-Way (ft.)	Minimum Pavement Width (ft.) (5)	Minimum No. of Traffic Lanes	Maximum Grade (%)	Minimum Centerline Radius (ft.)
Major Arterial (1)	100	45	4	6	510
Other Arterial (2)	100	45	4	6	510
Collector (3)	80	39	2	8	200
Local (4)	60	25	2	10	100
Frontage	50	25	2	10	100
Cul-de-sac or Turnaround	110(6)	50 (6)	2	10	200
Alleys	20	20	2	-	-

- (1) Major Arterial streets shall generally consist of extensions of the rural major arterials which provide continuous service through municipalities for long-distance rural travel. They are the arterial streets used to transport products into and out of municipalities.

- (2) Other Arterial streets shall consist of two categories: Municipal Extensions of Rural Other Arterials, and Arterial Movements Peculiar to a Municipality's Own Complex, that is streets which interconnect major areas of activity within a municipality, such as shopping centers, the central business district, manufacturing centers, and industrial parks.
- (3) Collector streets shall consist of a group of streets which collect traffic from residential streets and move it to smaller commercial centers or to higher arterial systems.
- (4) Local streets shall consist of the balance of streets in each municipality, principally residential access service streets and local business streets. They are characterized by very short trip lengths, mostly limited to vehicles desiring to go to or from an adjacent property.
- (5) Pavement width measured from back of curb to back of curb.
- (6) Minimum right-of-way radius for the cul-de-sac turnaround shall be 110 feet; the minimum pavement radius for the cul-de-sac turnaround shall be 50 feet.



## **Article 5: Required Improvements**

### **Section 5.01 General**

The subdivider shall design and construct improvements using standards not less than the standards outlined in this Ordinance. The Planning and Zoning Commission and Board of Trustees upon recommendation of the Village Engineer shall approve all such plans.

The work shall be done under the supervision and inspection of the Village and shall be completed within the time limitations established herein. The minimum requirements for materials shall be in accordance with specifications approved by the Village. Standards applicable to health and sanitation as required by the Nebraska Department of Environmental Quality and the Nebraska Department of Health and Human Services shall be the minimum standards required thereof. All inspection costs and costs for required tests shall be paid by the subdivider.

### **Section 5.02 Monuments and Markers**

**5.02.01.** Monuments and markers placement shall be located at all quarter section points or other reference points tied to the federal land survey on the boundaries of or within the area being platted.

**5.02.02. Monument Construction.** Monument construction shall meet or exceed the "Minimum Standards for Surveys," as the same may be amended from time to time, as adopted by the Professional Surveyors Association of Nebraska. These standards are as follows:

The surveyor shall establish or confirm the prior establishment of permanent monuments at each corner on the boundary lines of the parcel being surveyed. Monuments shall be solid and substantially free from movement. In such cases where the placement of a permanent monument at the true corner is impractical because of instability or is likely to be destroyed, the surveyor shall set a corner accessory monument and show its relationship by dimension to the true corner.

The monuments set shall be constructed of material capable of being detected by commonly used magnetic locators. These monuments shall consist of an iron pipe or steel rod with a minimal diameter of five-eighths (5/8) inch and minimal length of 24 inches. When extenuating circumstances dictate, the surveyor may use monuments (i.e., nail and washer) that have a probability of permanence. Where a corner or a line falls on or within a wall, column line or other physical feature and the placement of a monument is not feasible, the wall, column line or physical feature shall become the monument by reference thereto. In addition, monuments shall be set at all block corners, lot corners, deflection points and points of curvature, except in cases where it is deemed clearly unreasonable or infeasible by the Village Board of Trustees.

### **Section 5.03 Street Grading Construction and Surface Type**

**5.03.01.** All streets shall be graded to a minimum distance 15 feet from the back of the curb or edge of pavement and to within six inches of the street grade established in the approved Final Plat construction plans and specifications.

Design standards for the excavation and preparation of the road bed shall be approved by the Village Engineer. Where unusual soil conditions, extra-ordinary traffic volumes, or other abnormal characteristics exist, the Village Engineer may approve alternate design standards to address such condition, if possible.

**5.03.02.** Concrete curbs and gutters shall be required for all streets within the boundaries of the subdivision unless accepted by the Planning and Zoning Commission and Village Board of Trustees in accordance with the terms of this Ordinance.

**5.03.03.** All streets shall be poured-in-place using Portland cement concrete. Concrete shall be Class "47B-3, 625," and shall conform to Division 600 of the Nebraska State Standard Specifications. Minimum compressive strength shall be 3,625 psi in 28 days. To verify compressive strength of the concrete, a set of three all concrete test cylinders shall be made according to ASTM C-31 and C-39. One set of concrete cylinders shall be required for each day's concrete placement or for each 100 cubic yards of concrete placed if, more than 100 cubic yards are placed in one day. The concrete cylinders shall be tested by an approved testing laboratory and results of the testing furnished to the Village Engineer. Testing shall be conducted at seven days and 28 days from the date of cylinder casting.

**5.03.04.** All materials used shall conform to Nebraska State Standard Specifications for Highway Construction, Division 1000, and Material Details. Curing shall be accomplished with a continuous coating of white pigmented curing compound conforming to the requirements of Section 1012 of the Nebraska State Standard Specifications.

### **Section 5.04 Street Signs, Lighting and Electrical Power**

**5.04.01.** At least one street sign shall be installed at each street intersection within or on the perimeter of the subdivision and shall be located in the northeast corner thereof, whenever possible, and within the area between the street and sidewalk at a point approximately six inches from said sidewalk or its intended location.

**5.04.02.** The developer shall provide and install street lights at each entrance (street or sidewalk) into a subdivision and at each street intersection within the subdivision and at such intermediate points as necessary, as specified by Nebraska Public Power District and/or the Village Engineer.

**5.04.03.** New subdivision lighting and electrical power shall be installed underground. The location of easements for such wiring shall be indicated on the Preliminary and Final Plats. All underground wiring shall conform to installation specifications required by the Nebraska State Electrical Code.

### **Section 5.05 Landscape Screens**

Landscape screens as required by the Village shall be installed at the subdivider's expense as a buffer for the protection of residential properties along arterial and collector streets, state and federal highways, county roads, railroad rights-of-way, and land uses which are substantially different from that proposed in the subdivision.

### **Section 5.06 Drainage**

**5.06.01.** A drainage management system shall be designed and constructed by the subdivider to provide for the proper drainage of surface water within the subdivision.

1. Preliminary Plat Report shall include:
  - a). Preliminary estimates of the quantity of storm water entering the subdivision both naturally and once there has been full development of lots within the subdivision.
  - b). An analysis of existing conditions of the watershed that may affect the proposed subdivision, such as soil type, drainage channels, and obstructions to water flow.
  - c). A preliminary grading plan illustrating the proposed drainage management system.
2. Final Plat Drainage Report shall contain:
  - a). Calculations of the quantity of storm water entering the subdivision naturally and estimates of the quantity of storm water entering the subdivision once there has been full development of the lots within the subdivision based on the proposed zoning.
  - b). Quantities of flow at each pick-up point.
  - c). Estimates and type of temporary erosion control measures necessary to control erosion during construction.
  - d). A description of an adequate drainage management system within the subdivision and its design capacities based on a 10-year storm.
  - e). An evaluation of the ability of the proposed water courses, drainage tiles, storm sewers, culverts and other improvements pertaining to drainage or flood control within the subdivision to handle the run-off which would be generated by the development of the land within and above the subdivision and the impacts of such drainage on downstream drainage systems.

**5.06.02. Drainage Requirements.** The drainage management system designed by the subdivider shall include culverts and storm sewers whenever necessary or required by the Village Engineer. Where storm sewers are not required, all open ditches shall be graded and all pipes, culverts, intersection drains, drop inlets, bridges, headwalls, gutters and similar or related installations necessary to provide adequate surface water drainage shall be constructed and installed in accordance with plans approved by the Village Engineer.

**5.06.03. Drainage System Standards.**

1. All streets shall be provided with an adequate storm drainage system of curbs, gutters and storm sewers or open ditches.
2. Curb drainage inlets shall be provided at appropriate intervals along streets having curbs and gutters. Where inlets connect to storm sewers, a drain inlet structure and a protective grating shall be installed.
3. Where storm water flows across the intersections of streets having curbs and gutters, concrete cross gutters shall be installed at such intersections.
4. All off-street drainage swales and ditches shall be protected by drainage easements noted on the Preliminary and Final Plats. Where water courses would cross lots diagonally, the subdivider shall straighten such course and shall substantially follow lot lines.

**Section 5.07 Sanitary Sewers.**

A sanitary sewer system shall be designed and constructed by the subdivider for all lots in the proposed subdivision. The following requirements shall apply:

**5.07.01.** Within the corporate limits, a sanitary sewer collection system including all pipes and manholes shall be provided and said collection system shall be connected to the public sewage system in accordance with plans acceptable to the Planning and Zoning Commission and Village Board of Trustees.

**5.07.02.** Within the jurisdictional areas of the Village but outside the corporate limits, if a proposed subdivision is so located with regard to adequate public sewer, either existing or to be existing within one year from the date of application for final plat approval, or that said sewer is located within 500 feet of the proposed subdivision or can be reached if the cost of installing lateral and connecting sewers from all lots shown upon said plat, exclusive of connections from individual structures; is equal to or less than 150 percent of the cost of installing a private sewage collection and disposal system for all lots, then adequate lateral and connecting sewers to said public sewer system shall be constructed.

**5.07.03.** If the subdivision is not located relative to a public sewer system, a private collection and treatment system acceptable to the Village Board of Trustees and appropriate to the Nebraska Department of Health and Human

Services and the Nebraska Department of Environmental Quality (or successor agencies) may be used. However, the Village may require the developer to provide a plan for future expansion of utilities including permanent easements. If on-site disposal is proposed, the subdivider shall document acceptable percolation rates on each lot and such lots shall be adequately sized to allow for the installation and safe operation of such systems in conjunction with any proposed water supply or well location.

**5.07.04. Standards.** When applicable, improvement plans for a permanent sewage system shall be provided showing pipe sizes, gradients, type of pipe, invert and finished grade elevations, location and type of manholes, treatment facilities, if applicable, and the location, type and size of all lift or pumping stations.

Design Standards of said system shall be subject to the approval of the Village in accordance with the following standards:

1. At least 8-inch sewer lines will be installed.
2. At least 4-inch service connections from the sewer line to the property line of each lot will be installed with the location marked.
3. Manholes will be provided at all interceptor and lateral junctions, at the end of each line, and at all changes in direction, grade, and size.

Design standard of said system shall be in general compliance with the requirements of the Nebraska Department of Environmental Quality (or successor agencies).

## **Section 5.08 Water Mains.**

A water distribution system shall be designed and constructed by the sub-divider to provide adequate water service to all lots in the proposed subdivision. The following requirements shall apply:

**5.08.01. Type of Improvement.** Within the corporate limits, a water distribution system including all pipes, fire hydrants, valves and other appurtenances shall be provided and said distribution system shall be connected to the public water system in accordance with plans acceptable to the Planning and Zoning Commission and Village Board of Trustees .

Within the jurisdictional area of the Village but outside the corporate limits, if a proposed subdivision is so located with regard to an adequate public water supply line, either existing or proposed within one year from the date of application for Final Plat approval or that said water line is located within 500 feet of the proposed subdivision or can be reached if the cost of connecting to said water line and installing an adequate distribution system to all lots shown upon said plat, exclusive of connections from individual structures, is equal to or less than 150 percent of the cost of installing an individual water system for all

lots, then adequate connecting lines to said public water system shall be constructed.

If the subdivision is not so located relative to a public water line, the Village may authorize a community well system. In addition, the Village may require a plan for future extension of such utilities, including permanent easements, for utilities throughout the proposed subdivision.

**5.08.02. Standards.** When applicable, improvement plans for a permanent water system shall be provided showing pipe sizes, type of pipe, locations of fire hydrants and valves and, if applicable supply facilities, booster pumps, elevated or ground level storage tanks and other appurtenances.

Design Standards of said system shall be subject to the approval of the Village in accordance with the following standards:

1. The minimum main or pipe size shall be determined by the type of uses to be served and the provision of adequate fire flow capacities. Generally, water lines shall be a minimum of 6-inches in diameter.
2. All hydrants will be located on the corner of each block or at a maximum of 400-foot intervals, unless otherwise authorized by the Village. The layout and flow design must meet the minimum requirements as set forth by the Village.
3. Gate valves on cross-connecting water lines shall be so located that no single break in the distribution system shall require more than 400 feet to be out of service in any zoning district.

Valves or cross-connecting mains shall be so located that a break in the secondary distribution system will not necessitate shutting down major distribution lines.

Design standards of the water distribution system shall be in compliance with the requirements of the Nebraska Department of Health and Human Services (or successor agencies).

### **Section 5.09 Cost of Over-size Improvements.**

Minimum street pavement widths for streets shall conform to the standards established in Section 4.25 of this Ordinance. Minimum utility sizes shall be determined by the standards of the Village with regard to providing service to the subdivision in question.

Where pavement widths or larger pipe or main sizes are deemed necessary by the Planning and Zoning Commission and Village Board of Trustees, the Village may choose to bear the extra cost of providing such greater width or larger pipe or main sizes. The subdivider shall be required to pay for that part of the

construction costs for the Arterial streets, trunk sewers, or water mains which are serving the proposed subdivision as determined by the Planning and Zoning Commission and Village Board of Trustees. The Village shall pay the remainder of the costs.

#### **Section 5.10 Extension to Boundaries.**

The subdivider may be required to extend all necessary improvements to the boundaries of the proposed subdivision at his/her expense to allow for services to future anticipated developments on the adjoining lands, as determined by the Planning and Zoning Commission and Village Board of Trustees.

#### **Section 5.11 Off-site Extensions.**

If streets or utilities are not available at the boundary of the proposed subdivision or within the distances or costs established in this Article and the Planning and Zoning Commission determines that extensions across undeveloped areas are not warranted, the subdivider, if he/she wishes to proceed with the development, shall pay the cost of such off-site improvements and provide for appropriate off-site easements prior to the approval of the Final Plat. Such improvements shall be available for connections by subdivider's of adjoining lands subject to Village approval.

#### **Section 5.12 Land Preparation.**

Any cut or fill and compaction of land within, and if applicable, adjacent to the subdivision, shall be accomplished in accordance with design standards of the Village or as approved by the Village Engineer. To control erosion and sedimentation during and after land preparation, the subdivider, any successors and assigns shall provide for disturbing only the areas needed for construction; removing only those trees, shrubs and grasses that must be removed by construction; installing required sediment basins and diversion dikes before disturbing the land that drains into them; and temporary stabilizing each segment of graded or otherwise disturbed land by seeding and mulching or by other approved methods.

As land preparation is completed, the subdivider, any successors and assigns shall permanently stabilize each segment with perennial vegetation and structural measures. Diversion dikes and sediment basins shall be leveled after areas that drain into them are stabilized, and permanent vegetation shall be established on those areas. Sediment basins that are to be retained for storm water detention shall be seeded to permanent vegetation no later than nine months after completion of the sediment basins and shall be permanently maintained by the subdivider or any successors and assigns.

## **Article 6: Dedications and Reservations on Public Land**

### **Section 6.01 Dedication**

As a condition of Final Plat approval, the subdivider shall dedicate to the public all streets and alleys as may be required by the Planning and Zoning Commission and Board of Trustees. If such streets and alleys are not to be dedicated and are to be developed as private streets, the subdivider shall make adequate provision for an owner's association with direct responsibility to and control by the property owners of the subdivision, to provide for the maintenance of all such private streets and alleys and the removal of debris and snow there from so as to maintain adequate access at all times for fire, sheriff, sanitation, utility and emergency vehicles. Legal assurances shall be provided which show that the association is self-perpetuating and has the authority to collect assessments from owners of property within the subdivision to accomplish these and other related purposes.

Such provisions shall also provide for agreement of the property owners that if the Village is requested or required to perform any maintenance or snow removal from such streets in order to maintain adequate access, said owners shall pay the costs thereof to the Village and that if not paid, the same shall become a lien upon the properties until such costs are paid in full.



## **Article 7: Waivers and Annexations**

### **Section 7.01 Granting of Waivers (Exceptions) and Conditions**

In addition to the exceptions contained in this Ordinance, the Planning and Zoning Commission may recommend, and the Village Board of Trustees may grant waivers from the provisions of these regulations, but only after determining that:

1. There are unique circumstances or conditions affecting the property that are not the result of actions by the subdivider.
2. The waivers are necessary for the reasonable and acceptable development of the property in question.
3. The granting of the waivers will not be detrimental to the public or injurious to adjacent and nearby properties.

### **Section 7.02 Subdivision; Annexation of Adjoining or Contiguous Properties**

All subdivisions or additions laid out adjoining or contiguous to the corporate limits of Hubbard may be included within the same and become a part of the Village of Hubbard upon approval of and acceptance by Ordinance. Such annexation shall only occur after the Board of Trustees has voted to approve said inclusion by a separate vote from that approving the Final Plat. Further, such annexation shall occur prior to approval of the Final Plat for the subdivision.

When the intent of the Planning and Zoning Commission and Board of Trustees is to annex said subdivision or addition upon approval of the Final Plat; the following procedures shall be taken:

1. Notice of the time and place of separate public hearings for the Planning and Zoning Commission to recommend and the Board of Trustees to approve the annexation shall be provided pursuant to Neb. Rev. Stat. §19-904.
2. The Public Hearings listed above shall be held separate from the public hearings held to recommend and approve the Final Plat of the subdivisions or additions.

### **Section 7.03 Amendments**

Any provision of these Regulations from time to time may be amended, supplemented, changed, modified or repealed by the Village Board of Trustees according to law; provided, however, that such amendments, supplements, changes, modifications or repealed provisions shall not become effective until after public hearing and report by the Planning and Zoning Commission.

## **Article 8: Administration and Enforcement**

### **Section 8.01 General**

**8.01.01.** It shall be the duty of the Zoning Administrator to enforce these regulations and to bring to the attention of the Planning and Zoning Commission and Village Council any violation or lack of compliance herewith.

**8.01.02.** No owner or agent of an owner, of any parcel of land located in a proposed subdivision shall transfer or sell any parcel before a Final Plat of such subdivision has been approved by the Planning and Zoning Commission and Village Board of Trustees in accordance with the provisions of these regulations and filed for record with Dakota County Register of Deeds.

**8.01.03.** The subdivision or replat of any lot or any parcel by the use of metes and bounds description for the purpose of sale, transfer or lease which would evade these regulations shall not be permitted. All such subdivisions shall be subject to all the requirements contained in these regulations.

**8.01.04.** No zoning permit shall be issued for the construction of any building or structure located on a lot or parcel subdivided, sold, transferred or leased in violation of the provisions of these regulations.

### **Section 8.02 Amendments**

Any provision of this Ordinance may be amended, supplemented, changed, modified, or repealed from time to time by the Board of Trustees according to law, provided however, that such amendments, supplements, changes, modification or repealed provisions shall not become effective until after the study, written report and recommendation by the Planning and Zoning Commission to the Board of Trustees.

### **Section 8.03 Violation and Penalties**

Any person, firm or corporation who fails to comply with the provisions of these regulations shall, upon conviction thereof, be guilty of a misdemeanor. Such conviction shall carry a fine of up to 100 dollars plus the cost of prosecution for each violation. The non-payment of such fine and costs shall subject the guilty party to imprisonment in the county jail for a period of time not to exceed the lesser of 1) 30 days, or 2) the time necessary to pay such fine and costs in full. Each day a violation exists or continues shall constitute a separate offense.

## Article 9: Certification and Dedication Statements

## Section 9.01 Notary Public Acknowledgment

STATE OF NEBRASKA

( ) COUNTY OF DAKOTA )

The forgoing instrument was acknowledged before me this \_\_\_\_ day, of \_\_\_\_\_ 20\_\_ by \_\_\_\_\_ who personally appeared before me and whose name is affixed to this plat and who acknowledge the execution thereof to be his/her voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above mentioned.

Notary Public (SEAL)

My Commission Expires: \_\_\_\_\_

## Section 9.02 Surveyor's Certification

### SURVEYORS CERTIFICATION:

I hereby certify that I am a professional land surveyor, registered in compliance with the laws of the State of Nebraska, and that this plat correctly represents a survey conducted by me or under my direct supervision on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, that any changes from the description appearing in the last record transfer of the land contained in the Final Plat are so indicated, that all monuments shown thereon actually exist as described or will be installed and their position is correctly shown and that all dimensional and geodetic data is correct.

\_\_\_\_\_  
Surveyor, RLS #

\_\_\_\_\_  
Date

(SEAL)

### **Section 9.03 Approval of Hubbard Planning and Zoning Commission**

APPROVAL OF THE PLANNING AND ZONING COMMISSION OF HUBBARD,  
NEBRASKA

This plat of \_\_\_\_\_

was approved by the Hubbard Planning and Zoning Commission on this \_\_\_\_ day  
of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Chairman, Hubbard Planning and Zoning Commission

#### **Section 9.04 Acceptance by Hubbard Board of Trustees**

ACCEPTANCE BY THE VILLAGE BOARD OF TRUSTEES OF HUBBARD, NEBRASKA

This plat of \_\_\_\_\_

was approved by the Board of Trustees of the Village of Hubbard, Nebraska

on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in accordance with the State  
Statutes of Nebraska.

Village of Hubbard, Chairman  
(SEAL)

ATTEST:

\_\_\_\_\_  
Village Clerk

## Section 9.05 Acceptance by Dakota County Register of Deeds

### ACCEPTANCE BY DAKOTA COUNTY REGISTER OF DEEDS

This plat of \_\_\_\_\_

was recorded on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at book # \_\_\_\_\_

\_\_\_\_\_  
Dakota County Register of Deeds (SEAL)

## **Section 9.06 Review of Dakota County Surveyor**

### REVIEW OF DAKOTA COUNTY SURVEYOR

This plat of \_\_\_\_\_

was reviewed by the office of Dakota County Surveyor on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Dakota County Surveyor  
(SEAL)



## Section 9.07 Dakota County Treasurer's Certifications

### DAKOTA COUNTY TREASURER'S CERTIFICATIONS

This is to certify that I find no regular or special taxes due or delinquent against the property described in the Surveyor's Certificate and embraced in this plat as shown by the records of this office.

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Dakota County Treasurer

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Date (SEAL)

## Section 9.08 Administrative Plat Approval

### APPROVAL OF ADMINISTRATIVE PLAT

This Administrative Plat was approved by the Village of Hubbard, NE on this \_\_\_\_ day  
of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Village Clerk

\_\_\_\_\_  
Chairman

Zoning Administrator (Village of Hubbard)  
(SEAL)

**Section 9.09 Owners Certification**  
OWNERS CERTIFICATION

I/we, the undersigned owner(s) of the real estate shown and described herein, do hereby certify that I/we have laid out, platted and subdivided, and do hereby lay out, plat and subdivide, said real estate in accordance with this plat.

This subdivision shall be known and designated as\_\_an addition to the Village of Hubbard, Nebraska (delete previous phrase if the subdivision is located outside of the corporate limits and will not be annexed to the Village). All streets and alleys shown and not heretofore dedicated are hereby dedicated to the public unless specifically noted herein. Other public lands shown and not heretofore dedicated are hereby reserved for public use.

Clear title to the land contained in this plat is guaranteed. Any encumbrances or special assessments are explained as follows:

There are strips of ground shown on this plat and marked easement, reserved for the use of public utilities and subject to the paramount right of a public utility or the Village to install, repair, replace and maintain its installations.

(Additional covenants or restrictions and enforcement provisions therein may be inserted here or attached to the plat).

\_\_\_\_\_  
Signature of Owner

\_\_\_\_\_  
Signature of Owner

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## Article 10: Definitions

For the purpose of these regulations, certain words used herein are defined as follows:

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

**APPLICANT** shall mean the owner or duly designated representative of land proposed to be subdivided, or for which a special use permit, conditional use permit, temporary use permit, zoning amendment, variance, appeal, building permit, or certificate of occupancy and other similar administrative permits has been requested. Consent shall be required from the legal owner or his legal representative in writing except for building permits.

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

**BOND** shall mean any form of security including a cash deposit, security bond, collateral, property, or instrument of credit in an amount and form satisfactory to the Village Board of Trustees which meets the intent of such security required by this Ordinance.

**BOUNDARY ADJUSTMENT** shall mean the transfer of property by deed to a respective owner or owners of contiguous property for the purpose of adjusting a boundary line and not for the purpose of creating an additional lot or parcel.

**BUILDING SETBACK LINE** shall mean the required zoning distance between a building and the lot line.

**COMPREHENSIVE DEVELOPMENT PLAN** shall mean the Comprehensive Development Plan of Hubbard, Nebraska as adopted by the Village Board of Trustees, setting forth policies for the present and foreseeable future community welfare as a whole and meeting the purposes and requirements set forth in the Neb. Rev. Stat. §19-903.

**CONDITIONAL APPROVAL** shall mean approval of a subdivision which requires the subdivider to take certain specified action in order to secure approval of the subdivision. The Resolution approving a subdivision shall specify the condition to be met and the time by which the condition is to be met.

**CUL-DE-SAC** shall mean a short public way with one end open to traffic and the other end terminated by a vehicular turn-around.

**DEAD END STREET** shall mean a public way which has only one outlet for vehicular traffic and does not terminate in a vehicular turn-around.

**DEDICATION** shall mean the intentional appropriation of land by the owner to some public use.

**DESIGN** shall mean the location of streets, alignment of streets, grades and widths of streets, alignment of easements, grades and widths of easements, alignment and rights-of-way for drainage and sanitary sewers, topographical changes and the designation of minimum lot area, width and length.

**DEVELOPER** See "Subdivider".

**EASEMENT** shall mean a grant, made by a property owner, to the use of his or her land by the public, a corporation, or persons, for specific purposes, such as access to another property or the construction of utilities, drainage ways or roadways.

**FLOOD** shall mean a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) The overflow of inland or tidal waters, or (2) The unusual and rapid accumulation of runoff of surface waters from any sources.

**FLOOD PLAIN** shall mean any land designated by the Nebraska Natural Resources Commission, or the Federal Emergency Management Agency that is susceptible to being inundated by water from any source.

**FLOODWAY** shall mean the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**FRONTAGE ROAD** shall mean minor streets parallel to and adjacent to arterial streets and highways, which reduce the number of access points to the arterial street or highway for the purpose of increased traffic safety.

**IMPROVEMENTS** shall mean street grading, street surfacing and paving, curbs and gutters, street lights, street signs, sidewalks, crosswalks, water mains and lines, water meters, fire hydrants, sanitary sewers, storm drainage facilities, culverts, bridges, public utilities, or other such installation as designated by the Village Board of Trustees or its specific approving authority.

**LOT** shall mean a parcel or tract of land which is or may be occupied by a use herein permitted, together with yards, and other open spaces herein required, that has frontage upon an improved street, and is a part of a recorded subdivision plat or has been recorded prior to the adoption of the Regulation, or a parcel of real property delineated on an approved record of survey, lot-split or sub-parceling map as filed in the office of the Dakota County Register of Deeds and abutting at least one improved public street or right-of-way, two thoroughfare easements, or one improved private road.

**LOT, CORNER** shall mean a lot located at the intersection of two or more streets at an angle of not more than 135 degrees. If the angle is greater than 135 degrees, the lot shall be considered an "Interior Lot". The setbacks for a front yard shall be met on all abutting streets.

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

**LOT, FLAG** shall mean an interior lot, the majority of which has frontage and access provided by means of a narrow corridor.

**LOT, INTERIOR** shall mean a lot other than a corner lot.

**LOT CONSOLIDATION** shall mean a method for approval of lot boundary adjustments which reduces the number of lots to not greater than two.

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

**LOT FRONTAGE** shall mean the side of a lot abutting on a legally accessible street right-of-way other than an alley or an improved county road. For the purposes of this definition, on corner lots, all sides of a lot adjacent to streets or roads shall be considered frontage.

**LOT LINE** shall mean the property line bounding a lot.

**LOT, MINIMUM AREA** shall mean 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, NONCONFORMING** shall mean a lot having less area or dimension than that required in the district in which it is located and which was lawfully created prior to the zoning thereof whereby the larger area or dimension requirements were established, or any lot, other than one shown on a plat recorded in the office of the Dakota County Register of Deeds, which does not abut a public road or

public road right-of-way and which was lawfully created prior to the effective date of this Regulation.

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

**LOT COMBINATION** shall mean a method for approval of lot boundary adjustments or lot reductions, which reduces the number of lots to not greater than two.

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

**LOT SPLIT** shall mean a subdivision of land involving the division of one lot into two lots.

**LOT WIDTH** shall mean the minimum street frontage measured along the front street property line except when a lot fronts on the inside or concave side of a horizontal curvilinear alignment of a street or on a corner lot; in which case, the minimum lot width shall be measured along the front building line of the principal use structure extended to both lot property lines.

**MONUMENT** shall mean an identification marker established by certified land survey and set by a registered land surveyor at each section corner, angle point, block corner, street centerline, or other point.

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

**PEDESTRIAN WAY** shall mean a right-of-way or easement dedicated to public use, which cuts across a block to facilitate pedestrian access to adjacent streets and properties.

**PLANNING AND ZONING COMMISSION** shall mean the Planning and Zoning Commission of Hubbard, Nebraska.

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

**PLAT, FINAL** shall mean the Final Plat of the plat, subdivision or dedication of land prepared for filing or recording in conformance with these regulations.

**PLAT, PRELIMINARY** shall mean the preliminary plan of the plat, subdivision or dedication prepared in accordance with the requirements of these regulations.

**PLAT OF RECORD** shall mean a map prepared in accordance with the provisions of these regulations and any other applicable local regulations to be placed on record in the office of the Register of Deeds of Dakota County.

**REPLAT** shall mean the further subdivision of a lot or parcel of land previously subdivided, whether the re-subdivision results in more lots or fewer lots.

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

**STREET, ARTERIAL** shall mean a street designed with the primary function of efficient movement of through traffic between and around areas of a Village or county with controlled access to abutting property.

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

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

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

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

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

**STREET, PRIVATE** shall mean an open, unoccupied space, other than a street or alley dedicated to the public, but permanently established as the principal means of vehicular access to abutting properties. The term "private street" includes the term "place".



**SUBDIVIDER** shall mean any person, group, corporation, partnership, or other entity, or any agency thereof, dividing or proposing to divide land so as to constitute a subdivision.

**SUBDIVISION** shall mean the division of a lot, tract, or parcel of land into two or more lots, sites, or other divisions of land for the purpose, of transfer of ownership or building development, whether immediate or future, provided that the smallest lot created by the division is 10 acres or less in size.

**SUBDIVISION AGREEMENT** shall mean an agreement between a subdivider and the Village that clearly establishes the subdivider's responsibility regarding project phasing, the provision of public and private facilities and improvements, and any other mutually agreed to terms and requirements.

**TURNAROUND** shall mean a space on private property that permits the turning around of any passenger vehicle without the necessity of using any public right-of-way to turn around.

**VILLAGE BOARD OF TRUSTEES** shall mean the Board of Trustees for the Village of Hubbard.

**VILLAGE CLERK** shall mean the Village Clerk of the Village of Hubbard, Nebraska.

**VILLAGE ENGINEER** shall mean the Engineer as hired or appointed by the Chairman and Village Board of Trustees or his/her authorized deputy, agent or representative.

**WAIVER** shall mean permission to depart from the requirements of an ordinance with respect to the submission of required documents.

**ZONING DISTRICT** shall mean an area delineated on a zoning map for which uniform use regulations are specified.

**ZONING ORDINANCE** shall mean the Zoning Ordinance of the Village of Hubbard, as amended from time to time.

**ZONING PERMIT** shall mean any permit required by the Village and issued by the Zoning Administrator, to be obtained by any person engaged in any activity governed by the regulations set forth in this Ordinance.

## Article 11: Legal Status Provisions

### Section 11.01 Severability

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 11.02 Purpose of Catch Heads

The catch heads appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this Ordinance.

### Section 11.03 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 11.04 Effective Date

This Ordinance shall take effect and be in force from and after its passage and publication according to law.

ADOPTED AND APPROVED by the Village Board of Trustees of Hubbard, Nebraska, This \_\_\_ day of \_\_\_\_\_, 20\_\_.

(Seal)

ATTEST: \_\_\_\_\_  
Village Clerk

\_\_\_\_\_  
Chairman