

SCOTTS BLUFF COUNTY, NEBRASKA
ZONING REGULATIONS

A RESOLUTION ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR THE COUNTY OF SCOTTSBLUFF, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 23, LAWS OF NEBRASKA.

WHEREAS, Chapter 23, Laws of Nebraska, empowers the County to adopt zoning regulations and to provide for their administration, enforcement and amendment, and

WHEREAS, the Scotts Bluff County Board of Commissioners, pursuant to the provisions of Chapter 23, Laws of Nebraska, has appointed a Planning Commission, and

WHEREAS, the County Planning Commission has prepared a Comprehensive Development Plan for Scotts Bluff County, and has, after public hearings, submitted its specific recommendations for zoning regulations which are consistent with the Comprehensive Development Plan, and

WHEREAS, the County Board of Commissioners has held public hearings and adopted the County Comprehensive Development Plan, and

WHEREAS, all of the requirements of Chapter 23, Laws of Nebraska have been met;

NOW THEREFORE BE IT RESOLVED BY THE COUNTY BOARD OF COMMISSIONERS OF SCOTTS BLUFF COUNTY, NEBRASKA:

Section 1. TITLE AND PURPOSE

- 1.1 This resolution shall be known and may be cited and referred to as the Scotts Bluff County zoning regulation.
- 1.2 This zoning regulation is consistent with the Scotts Bluff County Comprehensive Development Plan and is designed for the purpose of promoting the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Scotts Bluff County, including, among others, such specific purposes as: (1) developing both urban and non-urban areas; (2) lessening congestion in the streets or roads; (3) reducing the waste of excessive amounts of roads; (4) securing safety from fire and other dangers; (5) lessening or avoiding the hazards to persons and damage to property resulting from the accumulation or run-off of storm or flood waters; (6) providing adequate light and air; (7) preventing excessive concentration of population and excessive and wasteful scattering of population or settlement; (8) promoting such distribution of population such as classification of land uses, and such distribution of land development as will assure adequate provisions for transportation, water flowage, water supply, drainage, sanitation, recreation, soil fertility, food supply, and other public requirements; (9) protecting the tax base; (10) protecting property against blight and depreciation; (11) securing economy in governmental expenditures; (12) fostering the state's agriculture, recreation, and other industries; (13) encouraging the most appropriate use of land in the county; and (14) preserving, protecting and enhancing historic buildings, places and districts.

Section 2. ESTABLISHMENT OF DISTRICTS; OFFICIAL ZONING DISTRICT MAP; INTERPRETATION OF DISTRICT BOUNDARIES

2.1 For the purposes of this zoning regulation, that portion of Scotts Bluff County, Nebraska, which is outside of the incorporated limits of any city or village and outside of any unincorporated area wherein a city or village has been granting zoning jurisdiction and is exercising such jurisdiction, is hereby divided into the following districts:

- A Agriculture
- RR Rural Residential
- RCR Recreation Residential
- C Commercial
- RCC Recreation Commercial
- I Industrial
- F Flood Plain Overlay Zone
- AP Airport Overlay Zone
- WP Wellhead Protection Overlay Zone

Any land disconnected from an incorporated city or village or for any other reason is within the zoning jurisdiction of Scotts Bluff County, shall be classified Agriculture (A) District until reclassified by amendment.

2.2 The boundaries of these districts are hereby established 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 regulation.

The Official Zoning Map shall be identified by the signature of the Chairman of the County Board attested to by the County Clerk, and bearing the seal of the county under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 2 of Scotts Bluff County, Nebraska", together with the date of the adoption of this regulation.

If, in accordance with the provisions of this regulation, changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map promptly after the amendment has been approved and adopted by the County Board.

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the office of the Building Administrator, shall be the final authority as to the current zoning status of land, water areas, buildings, and other structures.

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

Boundaries indicated as approximately following the center lines or right of way of streets, highways or alleys shall be construed to follow such center or right of way lines unless otherwise noted.

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

Boundaries indicated as approximately following city limits shall be construed as following city limits.

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

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

Boundaries indicated as parallel to or extensions of features indicated in the foregoing rules shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

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 the foregoing rules, the Board of Adjustment shall interpret the district boundaries.

Section 3. APPLICATION OF DISTRICT REGULATIONS

- 3.1 The regulations set by this regulation within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure, land, and particularly, except as hereinafter provided:
- 3.101 No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, relocated, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.
 - 3.102 No building or other structure shall hereafter be erected or altered:
 - (a) To exceed the height;
 - (b) To accommodate or house a greater number of families;
 - (c) To occupy a greater percentage of lot area;
 - (d) To have narrower or smaller rear yards, front yard, side yards, or other open spaces;Than herein required; or in any other manner contrary to the provisions of this regulation.
 - 3.103 No part of a yard, or other open spaces, or off-street parking or loading space required for or 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 similarly required for any other building
 - 3.104 No yard or lot existing at the time of passage of this regulation shall be reduced in dimension or area below the minimum requirements established by this regulation.
 - 3.105 No water or sewer facility shall be constructed, altered, connected or used unless in conformity with all of the regulations herein specified.
- 3.2 Whenever this regulation requires a greater width or size of yard, courts, or other open spaces, or requires a lower height of a building or less number of storage or requires a greater percentage of lot to be left unoccupied or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulation made under authority of said sections shall govern. Wherever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts, or other open space or require a lower height of building or a less number of stories or require a greater percentage of lot to be left unoccupied or impose other higher standards than are required by the regulations made under authority of said sections, the provisions of such statute or local ordinance or regulations shall govern.

Section 4. NON-CONFORMING LOTS, NON-CONFORMING USES OF LAND, NON-CONFORMING STRUCTURES, AND NON-CONFORMING USES OF STRUCTURES AND PREMISES.

- 4.1 Within the districts established by this regulation or amendments that may later be adopted there exist lots, structures, and uses of land and structures which were lawful before this regulation was passed or amended, but which would be prohibited, regulated or restricted under the terms of this regulation or future amendment.

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

A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land shall not be extended or enlarged after passage of this regulation by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this regulation shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this regulation and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent positions and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such as demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

4.2 Non-Conforming Uses of Land. Where, at the effective date of adoption or amendment of this resolution, lawful use of land exists that is made no longer permissible under the terms of this resolution 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 regulation.
2. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this regulation.
3. If any such non-conforming use of land, except agriculture and commercial feed lots, ceases for any reason for a period of more than 365 days, any subsequent use of such land shall conform to the regulations specified by this regulation for the district in which such land is located.

4.3 Non-Conforming Structures. Where a lawful structure exists at the effective date of adoption or amendment of this regulation that could not be built under the terms of this regulation by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such structure may be enlarged or altered in a way which increases its non-conformity.
2. Should such structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this regulation.
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
(a) Exception:

To avoid undue hardship, any existing nonconforming structure(s) damaged or destroyed by accidental fire or natural disaster shall be permitted to make repairs to replace such structure(s) without losing "Existing Nonconforming" designation.

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

1. No existing structure devoted to a use not permitted by this regulation in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this regulation, but no such use shall be extended to occupy any land outside such building.
3. If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming 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 non-conforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this regulation.

4. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed.
5. When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for twelve consecutive months, the structure or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.
6. Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

4.5 Repairs and Maintenance.

On any building devoted in whole or in part to any non-conforming use, work may be done in any period of twelve consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding 10 percent of the current replacement value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this regulation shall not be increased.

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

4.6. Uses Under Exception Provisions, Not Non-Conforming Uses.

Any use for which a conditional permit is issued as provided in this regulation shall not be deemed a non-conforming use, but shall without further action be deemed a conforming use in such district subject to conditions of the permit.

Non-Conforming Accessory Uses: No use which is accessory to a principal non-conforming use shall continue after the principal use shall cease or terminate unless the accessory use is permitted in the district.

Change of Ownership: A non-conforming use may be continued, but not increased, by a new owner of such property.

Non-Conforming Lot of Record: A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of these regulations, and the lot does not comply with the lot area or width requirements of the district in which it is located.

Non-Conforming Lots of Record: The Zoning Administrator may issue a building (zoning) permit for an undeveloped non-conforming lot of record provided that:

1. The lot is shown by a recorded plat or deed to have been owned or leased separately and individually from adjoining tracts of land at a time when the creation of a lot of the size and width at that location would have been prohibited by any zoning regulations.
2. The lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of the lot has been prohibited by any zoning regulations.
3. The lot can meet all yard regulations for the district in which it is located.

Section 5. DISTRICT REGULATIONS - In the following established districts, a structure, building or premise shall be used or occupied only for the following purposes and shall conform to the following regulations.

- 5.1. Agriculture (A) District. Intent:** This district is intended to satisfy the basic needs of the county's farming-ranching operations. Since agriculture is one of the county's primary industries, it is vital that agricultural operations be protected from encroachments of non-agricultural uses and potential nuisance situations. Therefore, the mixture of sporadically located intense residential and other urban uses within the agricultural district is not encouraged.

Some non-agricultural uses serving both rural and urban needs are, however, frequently found to exist in rural areas. With proper design and location these uses can co-exist without detriment to agricultural interests. These uses may be permitted by special review and approval of the Planning Commission and County Commissioners.

5.101 Permitted Uses

1. Agricultural and ranching activities, including the storage of chemicals and other farm associated products for sole use of the farm or ranch operator.
2. Single Family Dwellings as follows:
 - (a) One farm or ranch dwelling per farm for owner/operator.
 - (b) Accessory single family dwellings for persons customarily employed at or engaged in farming or ranching.
 - (c) Non-farm dwelling on a three (3) acre or larger lot existing at the time of adoption of this resolution, which lot has a previously identified parcel number and is NOT a government lot.
3. Bed & breakfasts and guest ranches.
4. Manufactured Home meeting the following requirements:
 - a. a minimum of 800 square feet of floor area.
 - b. a roof pitch with a minimum vertical rise of 2 ½ inches per foot of horizontal run.
 - c. exterior materials in compliance with existing site-built residential construction code.
 - d. a roof of non-reflective material that is or similar to asphalt or wood shingles, tile or rock.
 - e. all wheels, transporting lights, and towing apparatus removed; and
 - f. bears an appropriate seal which indicates that it was constructed in accordance with the with the standards of the U.S. Department of Housing & Urban Development.
5. Church, education facilities and parish house.
6. Existing Public school and private school having a curriculum equivalent to public schools.
7. Cemeteries.
8. Wildlife reserve.
9. Public park, playground, golf course and other recreational uses including campgrounds owned or under franchise of the county or state governments.
10. Beet dumps.
11. Public utilities.
12. **"Agricultural Special Use Area"**
 - a. The intent of this subsection (5.101-12) is not to encourage the creation of a large number of agricultural special use areas (ASUA), but such intent is to allow the "subdivision" or sale of a small area (the "special use area") for the purposes hereafter described, upon the following more specific requirements:
 - b. An ASUA shall be defined (for purposes of 5.101-12) as an area, less than twenty (20) acres, within a zoned Agriculture (A) District or Rural Residential (RR) district. The actual use of this ASUA shall be for one or more of the "Permitted Accessory Uses" as are set out in 5.104-1 through 13, or for one or more of the "Conditional Uses" as are set out in 5.102-1 through 21.
 - c. In the event that there is a situation, whereby a parcel of land could potentially be considered under either 5.101-12, ASUA, or 5.101-13, AEDS; then preference shall be given to AEDS.
 - d. Examples (only) of instances in which an ASUA would potentially be applicable, would be such as (without limitation): a conveyance of a small parcel of land between adjoining landowners, for convenience in agricultural pursuits (parcels separated by natural barriers, or such as irrigation facilities); a conveyance of a small parcel of land between adjoining landowners, for correction of title; a conveyance of a small parcel of land, for the use by the grantee for a facility, such as: a transmitter tower, a railroad installation, an electrical service device.
 - e. An ASUA shall be restrictively created, in other words, the creation of an ASUA is not preferred, but shall be approved only in the instance when interests of encouraging the most appropriate use of land in the county

shall be the result (see also Section 1.2 of the “Zoning Regulations” of Scotts Bluff County, Nebraska). In the event that a request for a subdivision (Section 3 and Section 4 of the “Subdivision Regulations” of Scotts Bluff County Nebraska) is preferable, then the “formal” subdivision approach shall be preferred.

- f. Each ASUA shall be shaped and located so as to allow accurate plotting on the official zoning map of Scotts Bluff County (i.e.: abutting on lines identifiable as a segment of a section, such as a section line or a 1/4 section line, or upon other readily identifiable features). Additionally, each ASUA shall be subject to the provisions for preliminary plat procedure and requirements from Section 3 and Section 4 of the “Subdivision Regulations of Scotts Bluff County, Nebraska, if applicable.
- g. If approved, the ASUA parcel shall be noted by the Zoning Administrator for future reference.
- h. The procedure to obtain an ASUA shall be: an application for the same shall be presented by the owner(s) to the Scotts Bluff County Planning Commission. The application shall be reviewed by the Planning Commission at a regular meeting of the same, and, if approved, referred to the Scotts Bluff County Board of Commissioners for its approval. If approved by the Board of Commissioners, there shall then be prepared a “certificate” identifying the ASUA, which certificate shall be filed in the real estate records of the county.
- i. In the event that after approval, an ASUA is no longer actually used for a purpose in existence upon such approval (because of which purpose, such approval was given) then the approval granted by the Board of Commissioners shall automatically be revoked.
- j. Before any action can be taken, applicant shall submit a receipt from the Scotts Bluff County Treasurer’s Office showing that all current property taxes have been paid. (Resolution: February 7, 1983)

13. “Agricultural Estate Dwelling Site”

- a. The intent of this subsection (5.101-13) is not to encourage the creation of a large number of agricultural estate dwelling sites (AEDS) but such intent is to allow the “subdivision” or sale, of a portion of a larger tract of land, whereby the smaller parcel created is to be used primarily for dwelling site purposes, upon the following more specific requirements:
- b. The AEDS must consist of one or more of the following (1-3): (1) An existing farmstead site (an existing vacant home, and accessory unit of buildings, on farm-ranch land; (2) a parcel which would allow a conveyance of property to be used for dwelling purposes; (3) a parcel of marginal usage land (“marginal usage” defined as : “land with little, or relatively little, agricultural productivity capability”).
- c. Each AEDS with frontage on an existing dedicated public road, shall have a minimum width of 150 feet (as a “front lot” width). In the event such AEDS is of an interior-section type, it shall have a dedicated access road, as least 25 feet in width, to a dedicated public road. Access road(s) serving an AEDS shall be separated by a distance of no less than 1000 feet from another access road, along a dedicated public road. Exception: Less than 1000’ shall be approved by the State Department of Roads or Scotts Bluff County Department of Roads, whichever is applicable.
- d. Each AEDS shall be a minimum of 2.0 acres and a maximum of twenty (20).
- e. For each AEDS, the owner shall reserve the balance of the 80 acres of vacant or agricultural district land (such 80 acres may, however, have dwelling permitted by 5.101-2 (a-c) above). This reservation shall be required (reserved) for as long as the reserved land is zoned Agricultural (A) District. The County Planning Commission and the County Board of Commissioners, may permit the creation of an AEDS out of less than 80 acres of reserved land, in certain situations, in the event that the intent of this subsection (5.101-13) is maintained. Each 80 acre tract (or less) shall serve the reservation requirements of only one AEDS.
- f. Each AEDS shall be shaped and located so as to allow accurate plotting on the official zoning map of Scotts Bluff County (i.e.: abutting on lines identifiable as a segment of section, such as a section line or a 1/4 section line, or upon other readily identifiable features). Additionally, each AEDS shall be subject to the provisions for preliminary plat procedure and requirements, from Section 3 and Section 4 of the “Subdivision Regulations” of Scotts Bluff County, Nebraska.
- g. In reviewing an application for an AEDS, the Planning Commission and the Board of Commissioners shall take into consideration the effect of such an AEDS upon: utilities, roads, drainage, terrain, usage, zoning,

future subdividing, and so forth. If approved, the AEDS parcel, along with the reserved tract, shall be noted by the Zoning Administrator, for future reference.

- h. The procedure to obtain an AEDS shall be: an application for the same shall be presented by the owner(s) to the Scotts Bluff Planning Commission. The application shall be reviewed by the Planning Commission, at a regular meeting of the same, and if approved, referred to the Scotts Bluff County Board of Commissioners for its approval. If approved by the Board of Commissioners, there shall then be prepared a "Certificate" identifying the AEDS, which certificate shall be filed in the real estate records of the County.
- i. In the event that after approval an AEDS is no longer actually used for a purpose in existence upon such approval (because of which purpose, such approval was given) then the approval granted by the Board of Commissioners shall automatically be revoked.
- k. Each Agriculture Estate Dwelling Site shall be a minimum of Two (2) acres for each dwelling, (maximum of two (2) dwellings per site), excluding any and all easements and rights of ways with a maximum upwards of forty (40) acres.
- l. Before any final action can be taken, applicant shall submit a receipt from the Scotts Bluff County Treasurer's Office showing that all current property taxes have been paid. (Resolution: February 7, 1983)

14. "Confined Livestock Feeding"

a. Intent:

The intent of this subsection (5.101-14) is to encourage the location of confined livestock feeding operations in Scotts Bluff County, which recognizes that livestock feeding will promote agribusiness within the county; however, it is also recognized that livestock feeding must be considered along with other interests found in the county, such as residential uses found within certain areas of the county. Confined livestock feeding shall also mean "dairy".

b. Definitions:

1. "Agriculture (A) District relative to confined livestock feeding" shall include only the district regulation of "Agriculture" (commencing at Section 5.1 of the Scotts Bluff County Zoning Regulations) and no other district regulation found in the Scotts Bluff County Zoning Regulations (see Proviso); and in this regard, no other permitted or conditional uses found in any of the other district regulations except "Agriculture (A) District" shall be interpreted to allow confined livestock feeding (meaning the use as described in 5.101-14, for any purpose whatsoever). Incident to this definition is that "agricultural and ranching activities", as that term is used in various places in the Scotts Bluff County Zoning Regulations, shall be interpreted as allowing "confined livestock feeding" only as the same is permitted in this sub-section of the Scotts Bluff County Zoning Regulations (5.101-14). Provided additionally, that in Rural Residential (RR) District, under the general definition of Class I feeding, there shall be permitted livestock not to exceed 5 animals per acre for 4-H purposes, and any directly related purposes which are considered to be non-commercial in nature; but as to any such use, otherwise strict compliance is to be made with other applicable regulations and rules as there may be for such Rural Residential areas.
2. Beef Cattle Feeding. "Beef cattle feeding" shall mean confined livestock feeding of beef cattle on hoof, to include beef animals such as: cows, calves, yearlings, bulls; and to specifically exclude other domestic animals or fowl such as: swine, sheep, poultry, and other domestic animals or fowls which may be kept for feeding.
3. Confined Livestock Feeding. "Confined livestock feeding" as that term is applied in this subsection (5.101-14 (a) - (e)), shall refer to the feeding of beef cattle (see separate definition, thereof), in lots or pens or yards or other enclosures open to the air, in which a contiguous area is devoted to such feeding, in which contiguous area there are 25-300 head of beef cattle, Class I; or 25-1000 head of beef cattle, Class II; or more than 1000 head of beef cattle, Class III. The feeding of beef cattle as defined herein, shall be confined to situations of feeding in areas (lots or pens or yards or other enclosures open to the air) which are not normally used for the raising of crops or the grazing of animals; and furthermore, feeding of beef cattle which is "seasonal" in use, shall not be considered "confined livestock feeding" as defined herein.

4. Contiguous Area. “Contiguous area” shall mean an area devoted to the confined feeding of livestock, in which the lots or pens or yards or other enclosures open to the air are either immediately adjacent to each other, or are less than one-fourth of a mile apart (in other words, the various lots or pens or yards or other enclosures shall be considered as one “contiguous area”, assuming that all of such parts or any of such parts are within one-fourth of a mile of any other part). Also, the other portions of the feedlot, such as: feed storage areas, access roads and alleys, catch basins and lagoons, shall be included as a portion of the “contiguous area”.
5. Zoning Jurisdiction of Cities. “Zoning jurisdiction of cities” refers to the area beyond and adjacent to the corporate boundaries of first class cities, second class cities, and villages, located in Scotts Bluff County, which jurisdiction is more completely defined in Neb. Rev. Stat. 16-901 for first class cities, and Neb. Rev. Stat. 17-1001 for second class cities and villages. The two miles provided for first class cities, and one mile provided for second class cities and villages, is the area in which the cities and villages may exclusively render decisions on zoning regulations and other regulations free from the control of the county.

c. General Provisions:

1. Confined livestock feeding of beef cattle may be found only in Agriculture (A) or Rural-Residential (RR) District areas of the county that are so zoned (Section 5.1). This provision is intended to apply both to confined livestock feeding which is Class I, Class II, and Class III.
2. Confined livestock feeding may only be done in any portion of the Rural-Residential (RR) District of the county, which is Class I. Likewise, confined livestock feeding may only be done in any portion of the Agricultural (A) District of the county, which is Class II or Class III. This feeding may only be done outside the zoning jurisdiction of first class cities, second class cities, and villages. And this feeding can only be accomplished by permission for the same granted by the applicable zoning jurisdiction.
3. A single feeding operation is one conducted in a contiguous area, as herein defined; meaning that if the confined livestock feeding operation in a particular area involves lots or pens or yards or other enclosures which are not contiguous, then the noncontiguous parts thereof would be separate confined livestock feeding operations and therefore subject to the application of this regulation (5.101-14) to each separate part thereof.
4. Confined livestock feeding which is “permitted” shall be allowed only upon the following procedure:

An application for a “confined livestock feeding” operation, which is to be a Class I application in Agricultural-residential, shall be presented to the Planning Director of the County, which application the Planning Director shall review through the applicable requirements set out herein, and specifically, the requirements of 14 (d), hereafter. If the Director determines that the application meets the requirements of this subsection, Paragraph 14, then the application shall be granted and a permit to operate the confined livestock feeding operation shall be rendered. If disapproved, the applicant shall be entitled to have the matter of the applicant set for public hearing, first before the Scotts Bluff County Planning Commission for review, and then later before the Scotts Bluff County Board of Commissioners for action thereon. If disapproved by review through the Board of Commissioners, the applicant shall then be entitled to other remedies as provided for in the Scotts Bluff County Zoning Regulations, and applicable law. Approval shall be given of a Class I application for a permit, if there appears to be a substantial likelihood that the specific conditions of 14 (d) of this subsection will be met by the confined livestock feeding operation to be conducted. Upon the granting of the permit, either by the Planning Director or the Board of Commissioners after review by the Planning Commission, the specific conditions of 14(d) shall be made a part of the permit, in language, together with any variations thereto which may be considered, so that any enforcement upon the permit at a later time may address the specific conditions upon which the permit was granted.

An application for a “confined livestock feeding” operation, which is to be a Class II application in Agricultural, shall be presented to the Planning Director of the County, which application the Planning Director shall review through the applicable requirements set out herein, and specifically, the requirements of 14(d), hereafter. If the Director determines that the application meets the requirements of this subsection, paragraph 14, then the application shall be granted and a permit to operate the confined livestock feeding operation shall be rendered. If disapproved, the applicant shall be entitled to have the matter of the application set for public hearing, first before the Scotts Bluff Planning Commission for review, and then later before the Scotts Bluff County Board of Commissioners for action thereon. If disapproved by review through the Board of Commissioners, the applicant shall then be entitled to other

remedies as provided for in the Scotts Bluff County Zoning Regulations and applicable law. Approval shall be given of a Class II application for a permit if there appears to be a substantial likelihood that the specific conditions of 14(d) of this subsection will be met by the confined livestock feeding operation to be conducted. Upon the granting of the permit, either by the Planning Director or the Board of Commissioners, after review by the Planning Commission, the specific conditions of 14(d) shall be made a part of the permit, in language, together with any variations thereto which may be considered, so that any enforcement upon the permit at a later time may address the specific conditions upon which the permit was granted.

An application for a “confined livestock feeding” operation, which is to be a Class III application in Agricultural, shall be presented to the Planning Director of the County, which application the Planning Director shall review through the applicable requirements set out herein, and specifically, the requirements of 14(d), hereafter. After such review, the Planning Director shall set the matter of the application for public hearing, first before the Scotts Bluff County Planning Commission and then before the Scotts Bluff County Board of Commissioners.

If disapproved by the Board of Commissioners, the applicant shall then be entitled to other remedies as provided for in the Scotts Bluff County Zoning Regulations, and applicable law. Approval shall be given of a Class III application for a permit if there appears to be a substantial likelihood that the specific conditions of 14(d) of this subsection will be met by the confined livestock feeding operation to be conducted. Upon the granting of the permit by Board of Commissioners, the specific conditions of 14(d) shall be made a part of the permit, in language, together with any variations thereto which may be considered, so that any enforcement upon the permit at a later time may address the specific conditions upon which the permit was granted.

NOTE: All costs relative to proceeding through the Planning Commission and the Board of Commissioners, shall be paid by the applicant the same as in conditional use permit matters.

d. Specific Provisions:

1. The feedlot shall be located with recognition given to the prevailing winds in the area, so as to minimize the possibility of interference with nearby residential use.
2. The feedlot or any portion of it shall be located so as to provide adequate safeguards for the following:
 - i. Diversion of outside surface water from entering the feedlot.
 - ii. Adequate drainage within the feedlot, with the use of mounds as a suggested characteristic.
 - iii. Adequate provisions for debris basins to intercept total feedlot runoff.
 - iv. Adequate detention ponds designed to temporarily hold runoff from the feedlot.
 - v. Provide adequate means to dispose of runoff from the feedlot.
3. The feedlot shall demonstrate that it has a sufficient water supply for the number of head of livestock allowed by its permit to be enclosed.
4. There must be demonstrated that reasonable techniques will be employed in the operation of the feedlot to keep dust, odor, insects, and noise at a minimum.
5. Whenever it is possible in the opinion of the planning director or the planning Commission-Board of Commissioners, that livestock wastes from the feedlot would violate Nebraska Water Quality Standards, approval for the design and construction of waste control facilities of the feedlot must be approved by the Department of Environmental Control, such that the DEC is satisfied and will join in the permit granted by Scotts Bluff County to the extent permissible by law.

e. Enforcement:

1. The enforcement of this subsection of “confined livestock feeding” (5.101-14) shall fall under the general provision of Neb. Rev. Stat. 23-174 and Neb. Rev. Stat. 23-114.05; or, as those sections may be changed from time to time; together with other applicable law as there might be.
2. Additionally, the specific conditions of (d), above, shall apply to the permit which may be issued for confined livestock feeding, such that any violation of any of such provisions shall be cause for the

Planning Director to issue a notice of revocation of the permit. Notice of revocation of the permit shall be given in writing, allowing the applicant 15 days to make corrections as shall be deemed necessary to bring the permit into compliance (however, consideration shall be given to complications due to weather which would prohibit the applicant from making the corrections within the 15 day period); however, upon the passing of 15 days without corrections made to the satisfaction of the Planning Director, the revocation of the permit shall be final. The revocation shall be noted in the record of the Board of Commissioners to give final approval to the same. The applicant may, after the revocation of the permit by the Planning Director, first request that the Scotts Bluff County Planning Commission review and then the Scotts Bluff County Board of Commissioners make a decision of revocation, by requesting a public hearing before the Planning Commission and the Board of Commissioners; additionally, the applicant shall be entitled to other remedies provided in the Scotts Bluff Zoning Regulations and applicable law.

3. The remedies available for enforcement of this subsection (5.101-14), outlined above, are mutually exclusive, and in addition to other legal remedies as the law may provide.
4. Must provide a closure plan at the time of application. Shall comply with all Federal, State and local regulations at the time of closure.

5.102 Conditional Uses: The following conditional uses may be permitted in the "A" District upon approval of a permit in accordance with the requirements and procedures set forth in Section 10.

1. Airport or landing strip.
2. Asphalt or concrete batch plant and borrow pits used temporarily and exclusively for the completion of a public road improvement project.
3. Public buildings and facilities erected and established by any governmental agency.
4. Extraction and processing of sand, gravel, petroleum and other minerals.
5. Radio and television towers and transmitters; cellular towers.
6. Commercial and private recreational and tourist areas, including private country clubs, lodges, campgrounds and accessory motel, resort and incidental facilities.
7. Seasonal dwellings.
8. Confined livestock feeding without the use of straw or other similar material to eliminate mud, odor, flies and other objectionable environmental characteristics; and any confined livestock feeding of 1000 head or more; all subject to conform with all applicable State requirements.
9. Sanitary Land Fill.
10. Agricultural Service establishments primarily engaged in performing agricultural husbandry, or horticulture services on a fee or contract basis including:
 - A. Grain and/or feed elevators
 - B. Crop dusting or spraying operations facilities (including hangers, landing strips, fertilizer storage facilities, and offices accessory to the crop dusting or spraying operation)
 - C. Farm equipment sales, repair, and installation facilities.
 - D. Veterinary clinics and hospitals and related facilities.
 - E. Grain and Feed Sales.
 - F. Commercial Grain Storage and drying.
 - G. Fertilizer storage, mixing, blending, and sales.
 - H. Seed processing, storage, mixing, blending, and sales.
 - I. Sorting, grading and packing fruits and vegetables for the grower.
 - J. Livestock sales barns and processing facilities
 - K. Forage dehydration facilities.
 - L. Winery
11. Billboards (in accordance with Section 12).
12. Commercial trailer washout.
13. Kennels.
14. Home Occupation where business is carried on completely inside a building on the premises.
15. Power generating facilities and related uses.
16. Salvage Operation, Auto - possessing a Department of Motor Vehicles operating license.
17. Salvage Operation, Other - that can demonstrate processing and the sale of processed material is, or will, occur within the time limitation imposed as a condition of use.
18. Sewage and wastewater treatment operations.
19. Solid waste disposal sites and facilities.
20. Racetracks
21. Non-farm dwelling located on a non-conforming lot of record. (see non-conforming lot section)
22. Retail sales and services.
23. Tractor, trailer and/or truck storage, including maintenance facilities.
24. Commercial shooting range
25. Commercial uses as provided in Section 6.201 of these regulations.

5.103 Minimum Lot and Maximum Height Regulations (1)

Use	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Height
Farm	20 acres	-	50'	20'	20'	2 ½ stories or 35'
Farm and Ranch Dwelling	-	-	50'	20'	20'	2 ½ stories or 35'
Ag-Estate	2 acres	-	50'	20'	20'	2 ½ stories or 35'

- (1) Setbacks to comply with Section 9 and all other provisions in the Zoning & Subdivision Regulations

5.104 Permitted Accessory Uses

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Home Occupations with five or fewer employees.
3. Off-street parking and loading serving a principal use. All off-street parking shall be located on the same lot as the principal use.
4. Hunting and fishing shelters.
5. Signs as permitted in Section 8.13
6. Irrigation wells and associated buildings and equipment, customarily incidental to the principal use of the property.
7. Public utility and services infrastructure.
8. Television, radio receiving and transmitting equipment, and satellite dishes.
9. Temporary buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the work.
10. Temporary conduct of a real estate sales office which is necessary and incidental to, and located on the site of, a subdivision being developed into five or more lots.
11. Temporary construction, grading, and demolition activities which are necessary and incidental to the development of facilities on the same lot, or on another of several lots being developed at the same time.
12. Fences: Fences are not required to comply with the minimum setback and may be located on the property line.
13. Sight Triangle: All structures and landscaping shall conform to the requirements of the sight triangle as specified in Section 17.57.

5.2 Rural Residential (RR) District. The intent of this district is to provide the present and future residents of the County with low-density residential subdivisions in rural areas. However, no “residential zoning district” will be approved to locate within one mile of any existing Class I or higher livestock operation. Any new rural residential subdivisions shall be located with direct access to a paved road or have approval from the public works director when the subdivision involves a county road.

5.201 Permitted Uses

1. One (1) single family dwelling unit per lot.
2. Crop production, orchards, horticulture and truck farms.
3. Church, educational facilities, and parish houses.
4. Existing Public school and private school having curriculum equivalent to public schools.
5. Public park, playground, golf course and other recreational uses.
6. Guest home or bed & breakfast.
7. Horses and other livestock, provided however, that such animals are housed at least fifty (50’) feet from an adjacent residence or property line and that no more than one such animal be permitted for each 23,000 square feet of lot area.
8. Manufactured Home meeting the following requirements:
 - a. a minimum of 800 square feet of floor area.
 - b. a roof pitch with a minimum vertical rise of 2 ½ inches per foot of horizontal run.
 - c. exterior materials in compliance with existing site-built residential construction code.
 - d. a roof of non-reflective material that is or similar to asphalt or wood shingles, tile or rock.
 - e. all wheels, transporting lights, and towing apparatus removed; and
 - f. bears an appropriate seal which indicates that it was constructed in accordance with the standards of the U.S. Department of Housing & Urban Development.

5.202. Conditional Uses: The following conditional uses may be permitted in the "RR" District upon approval of a permit in accordance with the requirements and procedures set forth in Section 10.

1. Private country clubs, recreation areas, golf courses, tennis courts, swimming pool and accessory recreational uses, and uses customarily accessory thereto, except miniature golf, driving ranges and other similar activities operated as a commercial business.
2. Flood control facilities.
3. Home Occupations with two or fewer employees.
4. Wind-driven electric generators for household use only.
5. Mechanic Shop.

5.203 Minimum area, yard setbacks and height regulations (1)

Rural Residential Lots

Use	Lot Area Minimum	Lot Width	Front Yard	Side Yard	Rear Yard	Height
Single Family Home	3 acres	200’	50’	20’	20’	Section 7.103

(1) Setbacks to comply with Section 9 and all other provisions in the Zoning & Subdivision Regulations

5.204 Permitted Accessory Uses

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Barns, garages and sheds.
3. Off-street parking and loading serving a principal use. All off-street parking shall be located on the same lot as the principal use.
4. Hunting and fishing shelters.
5. Signs as permitted in Section 8.13
6. Irrigation wells and associated buildings and equipment, customarily incidental to the principal use of the property.
7. Public utility and services infrastructure.
8. Temporary buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the work.
9. Temporary conduct of a real estate sales office which is necessary and incidental to, and located on the site of, a subdivision being developed into five or more lots.
10. Temporary construction, grading, and demolition activities which are necessary and incidental to the development of facilities on the same lot, or on another of several lots being developed at the same time.
11. Fences: Fences are not required to comply with the minimum setback and may be located on the property line.
12. Sight Triangle: All structures and landscaping shall conform to the requirements of the sight triangle as specified in Section 17.57.

5.3 Recreation Residential (RCR) District. This district is intended to provide for higher density residential developments adjacent to recreational resources. Access to subdivisions within this district must be by paved road.

5.301 Permitted Uses

1. Single family dwelling.
2. Private and public park, playground and recreational facilities.
3. Manufactured Home meeting the following requirements:
 - a. a minimum of 800 square feet of floor area.
 - b. a roof pitch with a minimum vertical rise of 2 ½ inches per foot of horizontal run.
 - c. exterior materials in compliance with existing site-built residential construction code.
 - d. a roof of non-reflective material that is or similar to asphalt or wood shingles, tile or rock.
 - e. all wheels, transporting lights, and towing apparatus removed; and
 - f. bears an appropriate seal which indicates that it was constructed in accordance with the with the standards of the U.S. Department of Housing & Urban Development.

5.302 Conditional Uses: The following conditional uses may be permitted in the "RCR" District upon approval of a permit in accordance with the requirements and procedures set forth in Section 10.

1. Private country clubs, recreational areas, golf course, tennis courts, swimming pool and accessory recreational uses.
2. Home Occupations with two or fewer employees.

5.303 Minimum area, yard setbacks and height regulations

Use	Lot Area Minimum (1)	Lot Width	Front Yard (2)	Side Yard (3)	Rear Yard (4)	Height (5)
Single Family Home	2 acres	100'	25'	5' & 15'	5' & 15'	2 ½ stories or 35'

(1) Lots less than 2 acres in size but not less than one-half (1/2) acre may be allowed provided all Nebraska Department of Environmental Quality regulations can be met regarding sewage disposal and potable water systems. Such systems may be installed to function as shared community systems, occupy shared “community” space and must be installed so as not to limit the future replacement, upgrade or development of sewer and water systems on any adjoining lot or parcel.

(2) Not withstanding any other setback requirements in these regulations.

(3) One side setback may be 5 feet or more with the side setback being 15 feet.

(4) 5 feet when lot abuts on a public alley, otherwise the minimum rear yard setback will be 15 feet.

(5) To comply with all other provisions in these zoning and subdivision regulations.

5.304 Permitted Accessory Uses

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Off-street parking and loading serving a principal use. All off-street parking shall be located on the same lot as the principal use.
3. Signs as permitted in Section 8.13.
4. Irrigation wells and associated buildings and equipment, customarily incidental to the principal use of the property.
5. Public utility and services infrastructure.
6. Television, radio receiving and transmitting equipment, and satellite dishes.
7. Temporary buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the work.
8. Temporary conduct of a real estate sales office which is necessary and incidental to, and located on the site of, a subdivision being developed into five or more lots.
9. Temporary construction, grading, and demolition activities which are necessary and incidental to the development of facilities on the same lot, or on another of several lots being developed at the same time.
10. Fences: Fences are not required to comply with the minimum setback and may be located on the property line.
11. Sight Triangle: All structures and landscaping shall conform to the requirements of the sight triangle as specified in Section 17.57.

6.1 Recreation Commercial (RC) District. This district is intended to provide retail goods and services to the surrounding residential districts and recreation resource users/patrons.

6.101 Principle Permitted Uses

1. Retail stores and services.
2. Boat and recreational vehicle sales, repair and storage.
3. Dining and drinking establishments (joint facility).
4. Campgrounds.

6.102 Conditional Uses: The following conditional uses may be permitted in the "RC" District upon approval of a permit in accordance with the requirements and procedures set forth in Section 10.

1. Drinking establishments without food service.
2. Rental storage facilities.

6.103 Permitted Accessory Uses

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Off-street parking and loading serving a principal use. All off-street parking shall be located on the same lot as the principal use.
3. Signs as permitted in Section 8.13.
4. Irrigation wells and associated buildings and equipment, customarily incidental to the principal use of the property.
5. Public utility and services infrastructure.
6. Television, radio receiving and transmitting equipment, and satellite dishes.
7. Temporary buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the work.
8. Temporary conduct of a real estate sales office which is necessary and incidental to, and located on the site of, a subdivision being developed into five or more lots.
9. Temporary construction, grading, and demolition activities which are necessary and incidental to the development of facilities on the same lot, or on another of several lots being developed at the same time.
10. Fences: Fences are not required to comply with the minimum setback and may be located on the property line.
11. Sight Triangle: All structures and landscaping shall conform to the requirements of the sight triangle as specified in Section 17.57.

6.104 Minimum Lot and Maximum Height Regulations

Use	Lot Area (1)	Lot Width	Front Yard (2)	Side Yard (3)	Rear Yard (4)	Height (5)
Principle Structure	1 acres	100'	25'	5' & 15'	5' & 15'	2 ½ stories or 35'

- (1) All establishments must meet Department of Environmental Quality regulations concerning water and wastewater systems.
- (2) Notwithstanding any other setback requirements in these regulations.
- (3) One side setback may be 5 feet or more with the side setback being 15 feet.
- (4) 5 feet when lot abuts on a public alley, otherwise the minimum rear yard setback will be 15 feet.
- (5) To comply with all other provisions in these zoning and subdivision regulations.

6.2 Commercial (C) District. This district is intended to accommodate existing commercial establishments located within the county zoning jurisdiction that can not be accommodated within the Agriculture (A) zoning regulations. The presence of this district is not intended to allow the establishment of new commercial zoning districts within the county zoning jurisdiction.

6.201 Permitted Uses

1. Automobile, truck and camper service, repair and/or sales establishment.
2. Motel and hotel.
3. Campground.
4. Warehousing/shipping facilities.
5. Implement dealer.
6. Public utility facilities and offices.
7. Sign shop
8. Tack shop

6.202 Conditional Uses: The following conditional uses may be permitted in the "C" District upon approval of a permit in accordance with the requirements and procedures set forth in Section 10.

1. Stock car race track.
2. Conditional Uses as provided in Section 5.102.

6.203 Permitted Accessory Uses

1. Buildings and uses customarily incidental to the permitted and conditional uses.
2. Off-street parking and loading serving a principal use. All off-street parking shall be located on the same lot as the principal use.
3. Signs as permitted in Section 8.13.
4. Irrigation wells and associated buildings and equipment, customarily incidental to the principal use of the property.
5. Public utility and services infrastructure.
6. Television, radio receiving and transmitting equipment, and satellite dishes.
7. Temporary buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the work.
8. Temporary conduct of a real estate sales office which is necessary and incidental to, and located on the site of, a subdivision being developed into five or more lots.
9. Temporary construction, grading, and demolition activities which are necessary and incidental to the development of facilities on the same lot, or on another of several lots being developed at the same time.
10. Fences: Fences are not required to comply with the minimum setback and may be located on the property line
11. Sight Triangle: All structures and landscaping shall conform to the requirements of the sight triangle as specified in Section 17.57.

6.204 Minimum Lot and Maximum Height Regulations

Use	Lot Area Minimum (1)	Lot Width	Front Yard (2)	Side Yard (3)	Rear Yard (4)	Height (5)
Principle Uses				5' & 15'	5' & 15'	35'
Signs			30'			50'
Accessory Uses			50'	10'	50'	35'

- (1) Lots less than 1 acre in size may be allowed provided all Nebraska Department of Environmental Quality regulations can be met regarding sewage disposal and potable water systems. Such systems may be installed to function as shared community systems, occupy shared "community" space and must be installed so as not to limit the future replacement, upgrade or development of sewer and water systems on any adjoining lot or parcel.
- (2) Notwithstanding any other setback requirements in these regulations.
- (3) One side setback may be 5 feet or more with the side setback being 15 feet.
- (4) 5 feet when lot abuts on a public alley, otherwise the minimum rear yard setback will be 15 feet.
- (5) To comply with all other provisions in these zoning and subdivision regulations.

Section 6.3 "I" INDUSTRIAL DISTRICT

Intent: Although most industrial uses are encouraged to be located within the zoning jurisdictions of the county's incorporated communities where adequate public infrastructure is present, it is understood that certain businesses due to their specific nature may need to locate outside these boundaries. Therefore, the intent of this district is to provide for those activities which due to their nature require distance separation from more urbanized and/or residential land uses, or which must be located outside of urban areas due to special land volume requirements - and/or are required to be located adjacent to railroad and air transportation facilities due to the nature of the business.

6.301 Principle Permitted Uses:

1. Commercial storage units and warehousing.
2. Light indoor manufacturing or fabrication establishments which are not noxious or offensive by reason of vibration, noise, dust, fumes, gas, odor or smoke.
3. Manufacturing or storage of bulk oil or gas.
4. Offices.
5. One dwelling unit is permitted for use exclusively by a watchman or custodian.
6. Public utility and public service uses as follows:
 - a. Telephone exchange, telephone transmission buildings and electric power plants.
 - b. Public utility storage yards.
7. Truck Terminal.

6.302 Conditional Uses: The following conditional uses may be permitted in the "I" District upon approval of a permit in accordance with the requirements and procedures set forth in Section 10.

1. Billboards in accordance with Section 12.
2. Commercial transmitting towers.
3. Manufacturing or fabrication establishments which are not allowed as a permitted use.

6.303 Minimum Lot and Maximum Height Regulations

Use	Lot Area Minimum (1)	Lot Width	Front Yard (2)	Side Yard	Rear Yard	Height (2)
Principle Uses			50'	10'	20'	45'
Signs			10'		20'	70'
Accessory Uses			50'	10'	20'	45'

(1) Lots less than 1 acre in size may be allowed provided all Nebraska Department of Environmental Quality regulations can be met regarding sewage disposal and potable water systems. Such systems may be installed to function as shared community systems, occupy shared "community" space and must be installed so as not to limit the future replacement, upgrade or development of sewer and water systems on any adjoining lot or parcel.

(2) To comply with all other provisions in these zoning and subdivision regulations.

6.304 Permitted Accessory Uses.

1. Food service and vending machines for tenants only, private garages for motor vehicles, apartment for maintenance personnel, low-level exterior lighting, flagpoles, cooling towers, and other similar uses.
2. Irrigation wells and associated buildings and equipment, customarily incidental to the principal use of the property.
3. Off-street parking and loading serving a principal use. All off-street parking shall be located on the same lot as the principal use.
4. Signs subject to additional regulations Section 8.13.
5. Storage of goods sold by a principal commercial activity, or used in or produced by a principal manufacturing activity engaged in by the same firm on the same lot.
6. Temporary conduct of a real estate sales office which is necessary and incidental to, and located on the site of, a subdivision being developed into five or more lots.
7. Temporary construction, grading, and demolition activities which are necessary and incidental to the development of facilities on the same lot, or on another of several lots being developed at the same time.
8. Fences: Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of fences:
 - a. No fence shall be constructed which will constitute a traffic hazard.
 - b. No person shall erect or maintain any fence which shall adversely affect the public health, safety and welfare.
 - c. Fences may be constructed on the property line as long as the fence complies with all street/road, utility, and other applicable easements.
9. Sight Triangle: All structures and landscaping shall conform to the requirements of the sight triangle as specified in Section 17.57.

6.305 Performance Standards

1. Noise. All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness and, as measured at any property line, shall not exceed the following intensity in relation to sound frequency.

Octave Band in Cycles Per Second

0-50	75 Decibels
150-300	67
300-600	60
600-1200	55
1200-2400	50
2400-4800	43
Above 4800	40

Such sound levels shall be measured with a sound level meter and an octave band analyzer conforming with specifications of the American Standards Association.

2. Air Pollution. The density of emission of air contaminants and smoke shall be less dark than designated #2 on the Ringleman Chart, as published by the United States Bureau of Mines, except that smoke of a density designated as #2 shall be permitted for one 5-minute period in each hour. Light colored contaminants of such opacity as to obscure an observer's view to a degree equal or greater than the aforesaid shall not be permitted. Any finely divided liquid or solid matter capable of being air - or gas-borne, as measured at the point of emission, shall not be emitted in excess of .2 grains per cubic foot, as corrected to a temperature of 500 degrees Fahrenheit, except for a period of 5 minutes in any one hour period, at which time it may be equal but not exceeding .6 grains per cubic foot, as corrected to a temperature of 500 degrees Fahrenheit. In any case, there shall not be discharged from any sources whatsoever such quantities of air contaminants, smoke or detriment, nuisance or annoyance to any considerable number of persons or to the public in general or to endanger the comfort, health or safety of any such considerable number of persons or have a natural tendency to cause injury or damage to business, vegetation or property.
3. Odor. The emission of odorous matter in such quantities as to be readily detectable at any point along lot lines or to produce a public nuisance or hazard beyond lot lines is prohibited.
4. Glare, Heat or Radiation. Every use shall be so operated that there is no emission of heat, glare or radiation visible or discernable beyond the property line.
5. Vibration. Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on the property line.
6. Sewage and Liquid Wastes. No operation shall be carried on which involves the discharge into a sewer, watercourse, river or the ground of liquid wastes of any radioactive nature, or liquid wastes of chemical nature, which are detrimental to normal sewage plant operations or corrosive or damaging to sewer pipes and installations.
7. Fire Hazard. All flammable substances involved in any activity or use, shall be handled in conformance with the standard of the National Board of Fire Underwriters and any additional regulations that may from time to time be adopted by the County Board of Supervisors.
8. Physical Appearance. Except for the display of operable or new merchandise and parking areas, the required front yard shall be landscaped with grass, trees and shrubs.

Section 7. AIRPORT ZONING

This article shall be known as “Airport Zoning Regulations”. These regulations are intended to provide for the safe operation of aircraft into and out of Western Nebraska Regional Airport, William G. Heilig Field.

7.1 Definitions

1. Airport. Western Nebraska Regional Airport, William G. Heilig Field, Scottsbluff, Nebraska
2. Airport Elevation. William G. Heilig: 3,944 feet MSL.
3. Airport Encroachment. Any structure, tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at Western Nebraska Regional Airport, William G. Heilig Field, or is otherwise hazardous to the operation of aircraft.
4. Airport Encroachment Area. Any area of land or water upon which an airport hazard might be established if not prevented by this article.
5. Departure Limit. The horizontal line perpendicular to the runway center line, established as the as the beginning of the usable takeoff runway.
6. Landing Area. The area of the airport intended for use for the landing, taking off or taxiing of aircraft.
7. Landing Threshold. A horizontal line, perpendicular to the runway center line, established as the beginning of the usable landing runway.
8. Mean Sea Level. The United States Coast and Geodetic Survey zero datum plane, abbreviated “MSL”.
9. Non-conforming Use. Any Structure, tree or use of land which does not conform to the requirements of this article, or an amendment thereto, as of the effective date of this article or amendment.
10. Person. Any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee or other similar representatives thereof.
11. Runway. That portion of the landing area intended for the landing and/or taking off of aircraft.
12. Structure. Any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines.
13. Tree. Any object of natural growth, except farm crops which are cut at least once a year, and except shrubs, bushes or plants which do not grow to a height of more than five feet.
14. Zoning Reference Point. The point of intersection of the center line of William B. Heilig Field, Runway 12/30 with the center line of William B. Heilig Field, Runway 5/23.
15. Locations and Borders. Vicinity of the airport located in Sections 16, 17, 20 and 21, Township 22, Range 54 West, Scottsbluff County, Nebraska.

7.2 Adoption of Western Nebraska Regional Airport, Airport Layout Plan

In order to define the dimensions of the zones established by these regulations, the County of Scotts Bluff hereby adopts the Airport Project No. 3-31-0072-22, Airport Layout Plan, dated May 16, 1994. All subsequent adopted Airport Layout Plans are hereby incorporated by reference.

7.3 Airport Encroachment Area

There is hereby created an airport encroachment area which consist of runway area zones, approach departure zones, transition zones, horizontal zone, and conical zone, which are shown on the airport zoning map and defined as follows.

1. Runway Area Zones. Runway area zones are established along the runways, having a width of 1,000 feet symmetrically located along both sides of the center line of the runway and all other area between parallel runways, and extended longitudinally 200 feet beyond the outmost landing threshold, departure limit, or departure limit, or departure threshold at each end of the runway.
2. Approach-Departure Zones. Approach-departure zones are established beyond and outward from the landing thresholds and departure limits of the runway, having a width of 1,000 feet at their beginning, and a distance of 200 feet outward from the landing thresholds and departure limits, symmetrically located along both sides of the extend center line of the runway, and widening uniformly to a width of 16,00 feet at the outer limit of the zone, a distance of 50,000 feet outward from the landing thresholds and departure limits.
3. Transition Zones. Transition zones are established along both sides of all runways, and adjacent to the runway area zone, extending laterally outward therefrom for varying distances to a line formed by the locus of the points where the height limits of the transition zones equal the height limit of the horizontal zone or equal the transition zone of runway area zones, and being between the beginning of the approach-departure zones at each end of the runway.

Further, transition zones are established along both sides of all approach-departure zones, and extending laterally outward therefrom for varying distances to a line formed by the locus of the points where the height limits of the transition zone equal the height limits of the horizontal zone or the height limits of the conical zone, or for a distance of 5,000 feet, whichever is less. Transition zones so established extend longitudinally between the inner and outer limits of the approach-departure zones, which is a distance of 50,000 feet.

4. Horizontal Zone. A horizontal zone is established which has as its outer boundary a line which is at all times 10,000 feet beyond the landing area and 150 feet above airport elevation.
5. Conical Zone. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

7.4 Height Limits

No structure, tree or other use of land shall be permitted which exceeds the height limit set forth by this section. The following height limits are established for each of the zones, as follows:

1. Runway Area Zones. The height limit for runway area zones shall be level with the runway center line, measured perpendicularly therefrom, except in the areas between a landing threshold or departure limit and the beginning of its related approach-departure zone, where the height limit will be level with the centerline of the runway as it exists at the landing threshold or departure limit.
2. Approach-Departure Zones. The height limit for approach-departure zones shall be one (1) foot in height for each (50) feet in horizontal distance, beginning at the inner limit of the zone at the elevation of the related landing threshold or departure limit, and extending longitudinally along the extended runway centerline, to the outer limit of the zone.
3. Transition Zones. The height limit for transition zones established adjacent to runway area zones shall be one (1) foot in height for each seven (7) feet in horizontal distance, beginning at the inner limit of the zone and at the height limit of the runway area zone, and extending laterally, measured perpendicular to the runway center line, to the outer lateral limit of the zone. For such zones established adjacent to the lateral limits of the approach-departure zones, the height limit shall be one (1) foot in height for each seven (7) feet in horizontal distance, beginning at the inner limit of the zone and at the height limit of the adjacent approach-departure zone, and extending laterally, measured perpendicular to the runway centerline, to the outer lateral limits of the zone.
4. Horizontal Zones. The height limit for horizontal zones shall be 150 feet above the airport elevation.

5. Conical Zone. A conical zone is established as the area that slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
6. Conflicts of Height Limits. Where an area is subject to more than one height limit, the most restrictive limit shall apply

7.5 Use Regulations

Notwithstanding any other provision of this section, no use may be made of any land within any runway area zone, approach-departure zone, horizontal zone, conical zone, or transition zone in any manner as to create electrical interference with the radio or radar communication or navigation aids between the airport and aircraft; make it difficult for air crews to distinguish between airport lights and others; result in glare in the eye of air crews using the airport, impair visibility in the vicinity of the airport; or otherwise endanger the landing, taking off or maneuvering of a aircraft within these zones.

7.6 Non-conforming Uses

1. Continuation of Lawful Non-conforming Uses. Any land use lawfully existing on the effective date of this chapter may continue, subject to the provisions of this section.
2. Enlarging Degree of Non-conformance. No non-conforming structure or tree shall be built, replaced, altered, replanted or allowed to grow to a height that increases the degree of non-conformance or that violates the height limits established by this section.
3. Damage or Destruction. (a) Should a structure occupied by a lawful non-conforming use be damaged to the extent that the cost of restoration exceeds 50 percent of the replacement cost of the structure, the non-conforming use shall no longer be permitted; (b) Any non-conforming tree which has been damaged or decayed to the extent of 50 percent or more shall be removed.
4. Abandonment. If any structure or property containing a lawful non-conforming use becomes vacant or unused for a continuous period of six months or longer, any subsequent use must conform to all airport zoning regulations.
5. Unlawful non-conforming Uses. These provisions shall not be interpreted as authorization for or approval of the continuation of any structure, use or tree in violation of any zoning regulations in effect on or before the effective date of this chapter.

7.7 Administration and Enforcement of Article

7.701 Enforcement by Appropriate Subdivision. The location of various encroachment areas is within the zoning authority of Scotts Bluff County, or City of Scottsbluff, or the City of Gering, or the Village of Minatare, or the City of Terrytown. In order to properly enforce the Airport Zoning Regulations and protect air traffic at Western Nebraska Regional Airport, the city council for the Village of Minatare does hereby grant to the Scotts Bluff County Building & Zoning Department authority to act as administrative agency and enforcement agency, and does further appoint Scotts Bluff County Board of Commissioners as the Board of Adjustment on behalf of the Village of Minatare as it pertains to the enforcement of these Airport Zoning Regulations only.

In order to properly enforce the Airport Zoning Regulations and protect air traffic at Western Nebraska Regional Airport, the city council for the City of Terrytown does hereby grant to the City of Scottsbluff Zoning Department authority to act as administrative agency and enforcement agency, and does further appoint the City Council of the City of Scottsbluff or its designee as the board of Adjustment on behalf of the City Terrytown as it pertains to the enforcement of these Airport Zoning Regulations only.

- 7.702 Administrative Agency. It shall be the duty of the Scotts Bluff County Department of Building & Zoning, or the City of Scottsbluff Zoning Department, or the City of Gering Zoning Department, as the case may be, to enforce this section, and the appropriate political subdivision is hereby appointed the “administrative agency” provided for in R.R.S., 1943, §3-319. The appropriate administrative agency shall have all the powers and perform all duties as provided by the Airport Zoning Act.
- 7.703 Permit Applications. Applications for permits shall be made to the Scotts Bluff County Building & Zoning Department, or the City of Scottsbluff Zoning Department, or the City of Gering Zoning Department, as the case may be, upon a form furnished by it. Any application shall be promptly considered and granted or denied. Applications for action by the zoning Board of Adjustment shall be transmitted in accordance with the applicable provisions of this “Airport Zoning Regulations”, appropriate city and/or county ordinances, and/or state law.

7.8 Appeals

- 1. Designation of Board of Adjustment. The Scotts Bluff County Board of Commissioners or its designee, or the City Council for the City of Scottsbluff, or the City Council for the City of Gering, shall be the Board of Adjustment with respect to this section, and shall have and exercise the powers conferred by R.R.S. 1943, §3-320, and such other powers and duties as are conferred and imposed by law. Any person aggrieved or affected by any decisions or actions made in administration of this article may appeal such decision or action to the appropriate Board of Adjustment. Any appeal taken pursuant to this section shall be by the procedure established by law.
- 2. Powers of the Zoning Board of Adjustment. The Scotts Bluff County Board of Commissioners or its designee, or the City Council for the City of Scottsbluff or its designee, or the City Council for the City of Gering or its designee, as the case may be, shall have the following powers:
 - (1) To hear and decide appeals from any order, requirement or decision made by the permits and inspections division in the enforcement of this section.
 - (2) To hear and decide any special exemptions to the terms of this section which such board may be required to pass under this section.
 - (3) To hear and decide specific variances under R.R.S. 1943, §3-312.
- 3. Appeal from the decisions of Board of Adjustment. Any person aggrieved or affected by a decision of the Board of Adjustment may appeal to the District Court for Scotts Bluff County, Nebraska, in the manner provided in R.R.S. 1943, §3-324 et seq.

COUNTY OF SCOTTS BLUFF, NEBRASKA
A Political Subdivision

Dated: _____

By _____
Mark J. Masterton, Chairman of the
Board of Commissioners

ATTESTED:

Vera Dulaney, Scotts Bluff County Clerk

Section 8. SUPPLEMENTARY REGULATIONS

- 8.1 Projections from Buildings.** Cornices, eaves, canopies, belt courses, sills, ornamental features and other similar architectural features may project not more than two feet into any required yard or into required open spaces.
- 8.2 General Exception to Building Height Limitations.** Except as to avoid a conflict with Section 7.103 herein, the following types of structure or structural parts are not subject to the building height limitations of this regulation; chimney's, cupolas, tanks, church spires, belfries, domes, derricks, monuments, fire and hose towers, observation towers, transmission towers, smokestacks, flagpoles, radio and television towers, masts, aerials, cooling towers, water towers, elevator shafts, windmills, conveyors, and other similar projections.
- 8.3 Front Yard.** In all Districts irrespective of which way the building faces, one street-side yard shall comply with the front yard setback requirements of the district.
- 8.4 Deleted (5/07/2007)**
- 8.5 Floor Area of New Dwelling Units.** No single family dwelling unit shall have less than 750 square feet of livable floor space, nor 450 square feet for any individual multiple family dwelling unit.
- 8.6 Street Frontage.** No lot shall contain any building used for any purpose other than agriculture unless such lot abuts on a street or unless it has an exclusive unobstructed private easement of access or right of way at least 20 feet in width to a street provided there shall not be more than one single family dwelling for such easement.
- 8.7 Fences.** In the RR district no solid fence shall be erected except at the rear of a lot to height of more than four (4) feet above ground. At the rear of lots, solid fences or walls shall not exceed a height of six (6) feet above ground; provided if the lot is a corner lot the part of the fence between the building line nearest the street that the rear lot line intersects, and the street line of that street shall not exceed forty-two (42) inches in height. Partition fences on the lot line between two lots may be erected to maximum height of six (6) feet; provided the part of the fence exceeding four (4) feet in height shall not be of solid construction, and the total height of the part between the front setback line and the front lot line shall not exceed three and one-half (3½) feet. On any other corner lot no fence that is more than three feet in height above the established curb grade at such corner shall be erected within the triangular area bounded by the boundary line of the two intersecting streets and by a line connecting a point on each of such street boundary lines respectively, that is twenty (20) feet from the point of intersection of such boundary lines.
- 8.8 No basement or cellar shall be used as a separate dwelling unit.**
- 8.9 Erection of More Than One Principal Structure on a Lot.** In any commercial or industrial district more than one structure housing a permitted or permissible principal use may be erected on a single lot provided that yard and other requirements of this regulation shall be met for each structure as through it were on an individual lot.
- 8.10 Parking, Storage or Use of Major Recreation Equipment.** No major recreation equipment such as boats, boat trailers, travel trailers, pick-up campers or coaches, tent trailers, and the like, shall be parked or stored on any lot in a residential district except in a carport or enclosed building or behind the nearest portion of a building to the street, provided however, that such equipment may be parked anywhere on residential premises for not to exceed twenty-four hours during loading or unloading. No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.
- 8.11 Parking and Storage of Certain Vehicles.** Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored in any residential district for over forty-eight hours, other than in completely enclosed buildings, except in permitted auto salvage yards.
- 8.12 Water and Sewer Facilities.** In all districts where a building, structure, or use hereafter established requires the use of water and sewage disposal facilities, and any water or sewage disposal facilities are hereafter provided for an existing building, structure or use, such facilities shall be provided in accordance with this regulation. The location, construction, connection and use of all water and sewage disposal facilities hereafter provided, except those to be used for livestock or other non-human purposes, shall be approved and comply with all county and state codes and regulations.

8.13 Signs. All signs in all districts shall conform to the following requirements.

1. All signs and sign structures shall be kept in good repair and in a proper state of presentation. Signs which are abandoned shall be removed within thirty days following abandonment.
2. No sign or sign structure shall be erected at any location where it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or is a hazard to traffic. Beacon and flashing signs are prohibited.
3. If any non-conforming sign is damaged exceeding two-thirds of its replacement value, it shall not be rebuilt; provided, however, that nothing herein contained shall prevent maintenance of non-conforming signs.
4. No sign or attachment thereof shall be located closer than ten feet to any property line or dedicated right-of-way.

8.14 Deleted (5/07/2007)

Section 9. SETBACK BUILDING LINES

9.1 Notwithstanding any other setback requirements in this regulation, in no case shall a building be hereafter erected or structurally altered within a tract, the distance to the centerline of the right-of-way as follows:

County Roads (Local or Below Designation)	60 feet
Scotts Bluff County Highway System	80 feet
State Highways	100 feet
Irrigation District System Canals	50 feet (1)

(1) Distance to the nearest high water mark

Provided, however, the setback for lots of record in a duly approved and recorded plat at the time of adoption of this regulation shall conform to the setback required in the district in which it is located.

Section 10. CONDITIONAL USES

10.1 Purpose

In order to provide for the most appropriate use of land throughout the district and giving the maximum consideration to the character of the district and its peculiar suitability for particular uses in the area affected by this regulation which is predominately agriculture, having low density and a wide range of topographic characteristics, special exceptions in the form of conditional uses are hereby established.

10.2 Procedure

The County Board may, by special permit after review and recommendation from the Planning Commission and public hearing as described in Section 15, authorize the establishment of special exceptions in the form of conditional uses designated in the district regulations if it is found that the location and characteristics of the use will not be injurious to the health, safety, morals and general welfare of the area.

10.3 Standards

The conditional uses shall conform to the intent and purpose of this regulation and the following requirements.

- 10.301 The use shall in all other respects conform to the applicable regulations of the district in which it is located.
- 10.302 The use shall conform to all other applicable ordinances, laws and regulations of any governmental jurisdiction.
- 10.303 The use shall have adequate water, sewer and drainage facility approved by the County Board.
- 10.304 Ingress and egress shall be so designed as to minimize traffic congestion on the public roadways.
- 10.305 The use shall be in harmony with the character of the area and the most appropriate use of the land.
- 10.306 The density of livestock as permitted in Section 5.102 may be varied due to special conditions involving such factors as:
 - (1) Soil composition
 - (2) Slope
 - (3) Potential pollution of adjacent drainage ways or water courses.
 - (4) Wind Direction
 - (5) Proximity to urban development and residences
 - (6) Ground water

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

Section 11. OFF STREET PARKING AND LOADING REQUIREMENTS

11.1 Off-Street Parking Requirements

At the time of erection of a structure or building, or at the time of enlargement, or change in use of a structure, building or land, off-street parking spaces shall be provided and maintained for all uses as follows.

Use	Area or Parking Spaces
Dwelling and Mobile Home	One space per dwelling unit
Bowling Alley	Six spaces for each alley
Hotel and Motel	One space per each guest room
Hospitals, Nursing Homes, Sanitariums	One space for each two beds
Places of public assembly (auditorium) such as churches, theaters, community buildings, etc.	One space for each four seats
Offices	One space for each 400 sq. ft. of floor area
Retail sales and service uses such as stores, eating establishments, clinics, taverns, banks, drive-ins, etc.	One space per 250 sq. ft. of gross floor area
Schools - Elementary or Junior	One space per classroom or one space for each six seats in the auditorium, whichever is greater.
High School	One space for each six students or one space for each six seats in the auditorium, whichever is greater.
Manufacturing, wholesale, warehouses, industrial.	One space for each three employees on the maximum working shift.

11.2 Off-Street Loading Requirements

At the time of erection of a structure or building, or at the time of enlargement, of a structure or building having gross floor area of 10,000 square feet or more, off-street loading berths shall be provided and maintained for all uses as follows:

Number of Berths	Gross Floor Area
1 (250 sq. ft.)	20,000 to 50,000 sq. ft.
1 (250 sq ft)	For each 30,000 sq. ft. or fraction thereof.

11.3 Location

All yard areas except the front yard required for residential uses may be used for parking purposes. All parking spaces required by this regulation shall be located on or within 300 feet of the lot it serves or adjacent to the use intended to be served.

11.4 Interpretation

In the case of any building, structure or land, the use of which is not specifically mentioned herein, the provisions for a use which is so mentioned and to which said use is similar, shall apply.

In the event several uses occupy a single building or parcel of land, the total requirement for off-street parking shall be the sum of the requirements of the several uses computed separately.

Section 12. Billboards: All billboards erected after the adoption of this Resolution shall comply with the following regulations:

1. Billboards shall only be allowed as a conditional use in the A, C, and I Districts.
2. No Billboard shall be erected without a conditional use permit from the County Board. The County Commissioners shall consult the recommendation of the Planning Commission when issuing a conditional use for a billboard.
3. Any billboard that is not kept in good condition shall either be repaired or removed at owners expense.
4. The County Board may implement conditions upon a billboard to minimize the environmental or scenic impact of a billboard.

Section 13. ADMINISTRATION AND ENFORCEMENT

13.1 Building Inspector.

A Building Inspector designated by the County Board shall administer and enforce this regulation. He may be provided with the assistance of such other persons as the County Board may direct.

13.2 Building Permit Required.

It shall be unlawful to commence or do any excavating, erecting, constructing, reconstructing, enlarging, altering, or moving of any building or structure or to use or occupy or permit the use or occupancy of any building, land or premise, or construction or connection to water or sewer facilities or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a building permit shall have been issued therefore by the Building Administrator or Inspector stating that the proposed use of the building or land conforms to this regulation.

Notwithstanding any provisions contained herein, farm buildings and structures, except farm dwellings, are exempt from the requirements of applying for and receiving building permits provided such buildings and structures must conform to all applicable provisions of this regulation.

The Building Administrator or Inspector may issue a temporary building permit for uses in any district for the purpose of uses and buildings incidental and required in the construction of a principal permitted use in the district in which it is located and highway construction, provided that such use be of a temporary nature and does not involve the erection of substantial buildings. Such permit shall be granted in the form of a temporary and revocable permit for not more than six months subject to conditions as will safeguard the public health, safety, and general welfare.

13.3 Application for Building Permit.

Written applications on forms prescribed and furnished by the Building Administrator or Inspector stating such information as may be required for the enforcement of this regulation shall be submitted and shall be accompanied by plans in duplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon or to be changed in its use, in whole or in part, the exact location, existing and intended use of each building or structure or part thereof, the number of families or housekeeping units the building is designed to accommodate and when no buildings are involved, the location of the present use and proposed use to be made of the lot, existing and proposed water and sanitary sewer facilities, as may be necessary to determine and provide for the enforcement of this regulation. One (1) copy of such plans shall be returned to the owner when such plans have been approved by the Building Administrator or Inspector together with such building permits as may be granted. All dimensions shown on these plans relating to the location and size of the lot to be built upon, shall be based on actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

The Building Administrator or Inspector shall issue a written permit, or denial, thereof, with reasons in writing within fifteen (15) days from the date of the acceptance of the application. Appeal may be made in accordance with Section 14 of this regulation.

Except where an extension has been obtained in writing from the Building Administrator or Inspector, permits issued shall expire within ninety (90) days if the work described in the permit has not begun or the use applied for has not been established and within one year if the work has not been completed.

13.4 Certificate of Occupancy

No structure or land shall be hereafter used or the use changed thereof until a Certificate of Occupancy shall have been issued by the Building Administrator or Inspector.

A Certificate of Occupancy for a new building, or for the alteration of an existing structure shall be applied for coincident with the application for a building permit and shall be issued within ten days after the erection or alteration of such building is completed in conformity with this regulation.

No Certificate of Occupancy shall be issued for residential purposes for a partially completed or portion of a building. No structure shall be used as a temporary residence.

Application for a change of use of land or existing structure shall be made on forms provided by the Building Administrator or Inspector and shall state the proposed use is in conformity with this regulation.

13.5 Enforcement by Building Inspector

It shall be the duty of the Building Inspector to enforce this regulation in accordance with its provisions. All departments, officials and public employees of Scotts Bluff County which are vested with the duty or authority to issue permits or licenses, shall conform to the provisions of this regulation and shall issue no permit or license for any use, building or purpose, if the same would be in conflict with the provisions of this regulation.

The erection, construction, reconstruction, alteration, repair, conversion, maintenance or use of any building, structure, water or sewer facility, automobile trailer, house trailer or land in violation of this regulation is hereby declared to be a violation of this regulation.

Section 14. BOARD OF ADJUSTMENT

14.1 A Board of Adjustment is hereby established and it is resolved that the Scotts Bluff County Board shall constitute the Scotts Bluff County Board of Adjustment.

14.2 The Board of Adjustment shall adopt rules in accordance with the provisions of this regulation. Meetings of the Board shall be held at the call of the chairman and at such other times and the Board may determine. The Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep record of its examinations and other official actions all of which shall be immediately filed with the County Clerk and shall be a public record.

The Board of Adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of said sections in harmony with their general purpose and intent, and in accordance with the general or specific rules therein contained.

14.3 An appeal to the Board of Adjustment may be taken by any person or persons aggrieved, or by any officer, department, board or bureau of the County affected by any decision of an administrative officer or planning commission. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board of Adjustment, by filing with the Board a notice of appeal specifying the grounds thereof. The officer or agency from whom the appeal is taken shall transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Any party may appeal at the hearing in person, by agency, or by attorney.

14.4 The Board of Adjustment shall have the following powers.

14.401 To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, decision, or refusal made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures.

14.402 To hear and decide, in accordance with the provisions of any regulation, requests for interpretation of any map, or for decisions upon other special questions upon which the Board of Adjustment is authorized by any such regulation to pass, and

14.403 Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this act would result in peculiar and exceptional practical difficulties to, or exceptional 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 any resolution, but no such variance shall be authorized unless the Board of Adjustment finds that: (a) the strict application of the resolution would produce undue hardship; (b) such hardship is not shared generally by other properties in the same zoning district and the same vicinity; (c) the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and

(d) the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.

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 the resolution.

In exercising the above mentioned powers, the Board of Adjustment may, in conformity with the provisions of this act, reverse, or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as shall be proper, and to that end shall have the power of the officer or agency from whom the appeal is taken. The concurring vote of 2/3 of the 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 any such resolution or to effect any variation in such resolution.

- 14.5** Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any officer, department, board, or bureau of the county, may present to the district court for the county, a petition, duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be presented to the court within fifteen days after the filing of the decision in the office of the Board of Adjustment.

Section 15. AMENDMENTS

- 15.1** This regulation and zoning map may be amended, supplemented or changed from time to time by the Board on its own motion or on petition from the Planning Commission or a property owner. An application for an amendment shall be submitted to the Board on forms obtained in the office of the Building Administrator. No change or amendment shall become effective until after submission to and report from the Planning Commission and a public hearing by the Board, notice of the time and place of such hearing shall be given by the publication thereof in the legal newspaper of Scotts Bluff County one time at least ten days prior to such hearing. If no report is received from the Planning Commission in sixty days, it may be assumed that said Commission has approved the amendment.

In case, however, of a protest against such change, signed by the owners of twenty percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent to the rear thereof extending one hundred feet there from, or of those directly opposite thereto extending one hundred feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of two-thirds majority of the Board.

Section 16. SCHEDULE OF FEES AND CHARGES

- 16.1** The County Board shall establish a schedule of fees and charges and a collection procedure for building permits, certificates of occupancy, appeals, amendments, and other matters pertaining to this regulation. The schedule of fees shall be posted in the office of the Building Administrator and may be altered or amended only by the Board.
- 16.2** Until all applicable fees and charges have been paid in full, no action should be taken on any application or appeal.

Section 17. DEFINITIONS

- 17.1** For the purpose of this regulation certain terms and words are herewith defined. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular. The word “shall” is mandatory.
1. Accessory Use or Structure. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
 2. Agriculture: The employment of the land for the purpose of obtaining a profit in money by the raising, harvesting, and selling of crops and the grazing, feeding, breeding, management and sale of livestock, poultry, fur-bearing animals, or honey bees, by dairying and the sale of dairy products, animal kennels, and use of the land for fee hunting, but not including the confined feeding of livestock.
 3. Adjacent. Near, close, or abutting; across a street or highway.
 4. Animal Unit. One animal unit, for the purposes of these regulations, shall be interpreted as follows:

One unit = one cow/calf combination, or one slaughter/feeder cattle, or one horse, or one mature dairy cow, or one animal of similar weight and size.

Two swine of 55 pounds or more, or two sows with litters, or two sheep, or a number of animals similar weight and number to those described.

Five chickens, or five ducks or five turkeys, or five animals of similar weight and size.
 5. Airport. Any area which is used or is intended to be used for the taking off and landing of aircraft, including helicopters, and any appurtenant areas which are used or are intended to be use for airport building facilities, including open space, taxiways and tie-down areas.
 6. Apartment House. Same as dwelling, multiple family.
 7. Automobile Salvage Yard. Same as junk yard.
 8. Basement. That portion of a building between floor and ceiling, so located that the vertical distance from grade to floor below is greater than the vertical distance from grade to ceiling. A basement shall not be counted n computing the number of stories.
 9. Billboard. A sign that direction attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.
 10. Boarding or Rooming House. A building containing a single dwelling unit and provisions for not more than five guests, where lodging is provided with or without meals for compensation.
 11. Board of Adjustment. Scotts Bluff County Board of Adjustment.
 12. Building Inspector. Scotts Bluff County Building Inspector.
 13. Building. A structure designed or intended for the support, enclosure, shelter or protection of persons, animals, or property of any kind.
 14. Building, Height of. The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to (a) the highest point of a flat roof, (b) the deck line of a mansard roof, or (c) the average height between the eaves and ridge for gable, hip, and gambrel roofs.
 15. Campground. Areas used and designed to accommodate two or more transit camping parties, including tents or other camping outfits and travel trailers, but not including mobile home parks or permanent mobile homes.
 16. Comprehensive Development Plan. A general plan for the improvement of Scotts Bluff County, Nebraska as adopted by the County Board of Scotts Bluff County, Nebraska.

17. Club or Lodge. Building or facilities owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.
18. Confined Livestock Feeding. The process and area used for the enclosing of livestock whereby the feed provided is not grown within the confined area on which the livestock are located and involves more than 300 head at a given time.
19. County. Scotts Bluff County, Nebraska.
20. County Board. County Board of Commissioners, Scotts Bluff County, Nebraska.
21. District. A zoning district established by this regulation.
22. Duplex. Same as dwelling, two family.
23. Dwelling. A building or portion thereof designed exclusively for residential occupancy.
24. Dwelling Unit. A group of rooms or a single room with kitchen facilities occupied or intended for occupancy as separate living quarters by a family or other group of persons living together, or by a person living alone.
25. Dwelling, Single Family. A detached building designed exclusively for occupancy by one family.
26. Dwelling, Two -Family. A detached building designed exclusively for occupancy by two families living independent of each other, under one roof.
27. Dwelling, Multiple-Family. A building or portion thereof designed for occupancy by three or more families living independent of each other, but under one roof.
28. Dwelling, Farm. A dwelling located on a farm or ranch and occupied by the owner, tenant or employee of the farm or ranch.
29. Exotic Animal: Any vertebrate animal except fishes and amphibians that is not defined herein as livestock or a household pet.
30. Family. One or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house or hotel.
31. Fence. A tangible barrier or obstruction or any material, or a line of obstacles above the surface of the ground on each side thereof, interposed along a line between two portions of land with the purpose or intent, or having the effect of preventing passage or view across the fence line.
32. Farm. A tract of land, including structures there on, utilized for agricultural purposes containing forty acres or more which produces \$1000 or more of farm products each year.
33. Feed Lot. Same as confined livestock feeding.
34. Frontage. That portion of a parcel of property which abuts a public right-of-way.
35. Highway, State and Federal. Highways which are so designated by the State of Nebraska.
36. Highway, County. Highways so designated by the County Board of Scotts Bluff County.
37. Home Occupation: A business, profession, service or trade conducted for gain or support entirely within a principle building or its accessory structures.
38. Junk Yard. Any area where waste, junk, discarded or salvaged materials are bought, sold, stored, exchanged, baled or packed, disassembled or handled, including dismantling or "wrecking" of automobiles or to other vehicles or machinery, house wrecking, and structural steel materials and equipment.
39. Kennel. A commercial establishment in which dogs or domestic animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation.

40. Livestock: All cattle, bison, horses, mules, burros, sheep, goats, swine, poultry, llamas, ostriches, and elk shall be considered livestock. Additionally, any other animal or fowl which are being produced primarily for use as food or food products for human consumption shall be considered livestock.
41. Lot. A parcel of land shown on a subdivision map or a record of survey map or on a subdivision recorded in the office of the County Recorder, or a parcel described by metes and bounds, or a building site in one ownership having an area for each main building.
42. Manufactured Home. A) 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 is engineered to be at least 18' wide when coupled together, 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 the "National Manufactured Home Construction and Safety Standards" promulgated by the U.S. Department of Housing and Urban Development (HUD); or B) a modular housing unit as defined in the statutes (Neb.Rev.Stat. 71-1557), bearing the seal of the Nebraska Department of Health and Human Services-Regulation and Licensure.
43. Mobile Home. A movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed without a permanent foundation for year-around living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but engineered to be at least 18' wide when coupled together into one integral unit.
44. Mobile Home Court. A parcel of land which has been planned and improved for the placement of two or more mobile homes which conforms to this regulation.
45. Modular (or Factory Built) Home. A home built in a factory in sections, transported to the site upon a non-permanent moving device, placed upon a permanent foundation, the construction of which meets local building code regulations, and is generally indistinguishable from site-built homes.
46. Non-Conforming Use. Any use, whether of a building, other structure, lot, or tract of land, which does not conform to the use regulations for the district in which such non-conforming use is located, either at the effective date of this regulation or as a result of subsequent amendments which may be incorporated into this regulation.
47. Parking Space. A surfaced area, enclosed or unenclosed, sufficient in size to store one automobile not less than nine feet wide and twenty feet long, together with a driveway connecting the parking space with a street, road or alley and permitting ingress and egress of that automobile without the necessity of moving another automobile.
48. Planning Commission. Scotts Bluff County Planning Commission.
49. Residence. A building used, designed, or intended to be used as a home or dwelling place, for one or more families.
50. Recreational Area, Commercial. A non-governmental recreational area open to the public with an admission fee, intended to be a commercial profit making activity.
51. Recreational Area, Private. A non-governmental recreational area open only to members of a non-profit organization or association.
52. Retail Sales & Services. Building materials, motor vehicles, marine craft, farm and garden supplies, general convenience items, groceries, and other similar approved uses.
53. Road. Same as street.
54. Sanitary Land Fill. A type of operation in which garbage and refuse or garbage or refuse is deposited by a plan on a specified portion of land, 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 refuse or garbage or refuse, which are closed at the end of each day, and to a depth of at least twenty-four inches over the finished landfill.
55. Sign. Any device containing elements or symbols, organized or related, which is designed to inform or to attract the attention of persons not on the premises on which the sign is located, provided, however, that mailbox numbers or name, government flags or insignia, legal notices, governmental identification, information or directional signs shall not be included in the application of these regulations.

56. Sign, On-Site. A sign relating in its subject matter to the premises on which it is located, or to the products, accommodations, services, or activities on the premises, or to the construction, sale, lease or rental of the premises. On-site signs do not include outdoor advertising signs or billboards.
57. Signs, Off-site. A sign other than an on-site sign and includes an outdoor advertising sign, or device and billboard not relating in its subject matter to the use or activity of the premises on which the sign is located.
58. Sight Triangle: An area at a street intersection in which no buildings shall be erected or placed and no trees, bushes or shrubs shall be planted in a manner which impedes vision between a height of 2-1/2 feet and 10 feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of inter-section of the centerline of the streets, 50 feet in each direction along the centerline of the streets. At the intersection of major arterial streets, the 50-foot distance shall be increased to 100 feet for each leg of the intersection.
59. Site-built Home: A home fabricated primarily on the job site but which may incorporate wall panels and components fabricated elsewhere.
60. Story. That portion of a building included between the surface of a floor and the surface of the floor next above it, or if there is no floor above it, then the space between such floor and the ceiling next above it.
61. Street. Any thoroughfare or public way which has been dedicated to the public or deeded to the county or state for street or road purposes not less than fifty feet in width.
62. Street Center Line. The center line of a street right-of-way as established by official surveys.
63. Structure. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things structures include buildings, mobile homes, walls, but not signs or fences as otherwise defined herein.
64. Trailer Home. Same as mobile home.
65. Trailer, Travel. A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation use and is permanently identified Travel Trailer by the manufacturer on the trailer. When factory equipped for the road, it has a body width of not exceeding eight feet, and body length not exceeding thirty-two feet.
66. Yard. A required open space which is unobstructed from the ground upward except as otherwise provided in this regulation.
67. Yard, Front. An open space extending between side lot lines and measured horizontally from the front lot line at right angles to the nearest point of the structure.
68. Yard, Side. An open space between a structure and the side lot line extending from the rear line of the required front yard measured horizontally and at right angles from the side lot line to the nearest point of the building.
69. Yard, Rear. An open space between a structure and side yard line measured horizontally and at right angles from the rear lot line to the nearest point of the structure.
70. Zoning District. Same as District.

Section 18. VIOLATIONS AND PENALTY

- 18.1 The erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use of any building, structure, automobile, manufactured home, or land in violation of this regulation shall be a misdemeanor. Any person, partnership, association, club, or corporation violating the provisions of this regulation or erecting, constructing, reconstructing, altering, or converting any structure without having first obtained a permit as required by the provisions of this regulation shall, upon conviction, be fined in any sum not exceeding two hundred and fifty dollars for each offense, and the costs of prosecution, or may hereby be confined in the county jail for a term not to exceed thirty days. In addition to other remedies, the Board or the proper county authorities of Scotts Bluff County, as well as any owners of real estate within the district effected by the regulations, may institute any appropriate action or proceedings to prevent such unlawful construction, erection, reconstruction, alteration, repair, conversion, maintenance, or use to restrain, correct or abate such violation, or to prevent the illegal act, conduct, business, or use in or about the premises. Any tax payer or tax payers of Scotts Bluff County ay institute proceedings to compel specific performance, by the proper official or officials, or any duty imposed by the provisions of this regulation.

Section 19. VALIDITY

- 19.1 Should any part of this regulation, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this regulation. All regulation or parts of regulations passed and approved prior to the passage and approval of this regulation and in conflict therewith are hereby repealed.

SECTION 21.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSES

21.1 STATUTORY AUTHORIZATION

The Legislature of the State of Nebraska has in Neb. Rev. Stat. 23-114 delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the health, safety, and general welfare. Therefore, the County Board of Commissioners of Scotts Bluff County, Nebraska, ordains as follows:

21.2 FINDINGS OF FACT

21.21 Flood Losses Resulting Periodic Inundation.

The flood hazard areas of Scotts Bluff County, Nebraska, are subject to inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare.

21.22 General Causes of These Flood Losses

These flood losses are caused by: (1) The cumulative effect of obstruction in floodways causing increases in flood heights and velocities, (2) The occupancy of flood hazard areas are by uses vulnerable to floods or hazardous to others which are inadequately elevated or otherwise protected from flood damages.

21.23 Methods Used to Analyze Flood Hazards

This ordinance uses a reasonable method of analyzing flood hazards which consists of series of interrelated steps.

(1) Selection of a base flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this ordinance is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this ordinance. It is in the general order of a flood which could be expected to have a one percent (1%) chance of occurrence in any one year, as delineated in the official flood plain study, and illustrative materials dated June 18, 1990, as amended.

(2) Calculations of water surface profiles based upon a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood.

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

(4) Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any increase in flood height.

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

21.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize those losses described in Section 21.21 by applying the provisions of the ordinance to:

21.31 Restrict or prohibit uses which are dangerous to health, safety, of property in time of flooding or causes undue increases in flood heights or velocities.

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

21.33 Protect individuals from buying lands which are not suitable for intended purposes because of flood hazard.

21.34 Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program when identified by the Federal Insurance Administration as a flood prone community.

SECTION 22.0 GENERAL PROVISIONS

22.1 LANDS TO WHICH ORDINANCE APPLIES

This ordinance shall apply to all lands within the jurisdiction of the Scotts Bluff County, of Nebraska (local unit name) identified on the Flood Insurance Rate Map (FIRM) as numbered and unnumbered A Zones and/or within the Zoning Districts FW and FF established in Section 24.0 of this ordinance. In all areas covered by this ordinance, no development shall be permitted except upon a permit to develop, granted by the governing body of its duly designated representative under such safeguards and restriction as they may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Sections 25.0, 26.0, and 27.0.

22.2 THE ENFORCEMENT OFFICER

The County Zoning Administrator of the Community is hereby designated as the Council's duly designated Enforcement Officer under this Ordinance.

22.3 RULED FOR INTERPRETATION OF DISTRICT BOUNDARIES

The boundaries of the floodway and floodway fringe overlay districts shall be determined by scaling distances on the official zoning map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, as for example, where there appears to be a conflict between a mapped boundary and actual field conditions, the Enforcement Officer shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of Zoning Appeals will resolve the dispute. The base flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence, if he so desires.

22.4 COMPLIANCE

No development located within known flood hazard of the community shall be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

22.5 ABROGATION AND GREATER RESTRICTIONS

It is not intended by this ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinance inconsistent with this ordinance is hereby repealed to the extent of the inconsistency only.

22.6 INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

22.7 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside floodway and floodway fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damages. This ordinance shall not create liability on the part of Scotts Bluff County or any officer or employee thereof for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made there-under.

22.8 SEVERABILITY

If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

22.9 APPLICATION FOR APPEAL

Where a request for a permit to develop or a variance is denied by the County Zoning Administrator, the applicant may apply for such a permit or variance directly to the Board of Adjustment. The Board of Adjustment may grant or deny such request by appropriate resolution adopted within 30 days, or as long as 60 days, after the date of such application to the Board of Adjustment.

SECTION 23. DEVELOPMENT PERMIT

23.1 PERMIT REQUIRED

No person, firm or corporation shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in Section 23.3.

23.2 ADMINISTRATION

- A. The County Zoning Administrator is hereby appointed to administer and implement the provisions of this ordinance.
- B. Duties of the County Zoning Administrator (local Administrator) shall include, but not be limited to:
 - (1) Review all development permits to assure that sites are reasonably safe from flooding and that permit requirements of this ordinance have been satisfied.
 - (2) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
 - (3) Notify adjacent communities and the Nebraska Natural Resources Commission, Flood Plain Management Section, prior to any alteration or relocation of a watercourse, and shall submit evidence of such notification to the Federal Insurance Administration when participating in the National Flood Insurance Program.
 - (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
 - (5) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures.
 - (6) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood proofed.
 - (7) When flood proofing is utilized for a particular structure, the County Zoning Administrator (local Administrator) shall be presented certification from a registered professional engineer or architect.

23.3 APPLICATION FOR PERMIT

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

23.31 Identify and describe the work to be covered by the permit.

23.32 Describe the land on which the proposed work is to be done by lot, block, tract, and house and street address, or similar description that will readily identify and definitely locate the proposed building or work.

23.33 Indicate the use or occupancy for which the proposed work is intended.

23.34 Be signed by the permitted or his authorized agent who may be required to submit evidence to indicate such authority.

23.35 Give such other information as reasonably may be required by the County Zoning Administrator (official).

SECTION 24. ESTABLISHMENT OF FLOODWAY DISTRICTS

The mapped flood plain areas with the jurisdiction of this ordinance are hereby divided into the two following districts: A floodway overlay district (FW) and a floodway fringe overlay district (FF) as identified in the official Flood Plain Study. Within these districts all uses not meeting the standards of this ordinance and those standards do the underlying zoning districts shall be prohibited. These zones shall be consistent with the numbered and unnumbered A Zones as identified on the official FIRM when identified in the Flood Insurance Study provided by the Federal Insurance Administration.

SECTION 25.0 STANDARDS FOR THE FLOODWAY OVERLAY DISTRICT AND THE FLOODWAY FRINGE OVERLAY DISTRICT

- 25.1 No Permit for development shall be granted for new construction, substantial improvement and other improvements, including the placement of manufactured homes within the identified flood plain unless the conditions of this Section are satisfied.
- 25.2 All areas identified as unnumbered A Zones by the Federal Insurance Administration are subject to inundation of the 100 year flood; however, the water surface elevation was not provided. The unnumbered A Zones shall be subject to all development provisions of this ordinance. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation data currently available within its area of jurisdiction.
- 25.3 New construction, subdivision proposals, substantial improvement, prefabricated buildings, placement of manufactured homes and other developments shall require:
- 25.31 Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy.
 - 25.32 New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.
 - 25.33 Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - 25.34 All utility and sanitary facilities be elevated or flood-proofed one foot above the base flood elevation.
 - 25.35 That until a floodway has been designated, no development including landfill, may be permitted within the identified flood plain unless the applicant for the land use has demonstrated reasonably anticipated uses, will not increase the water surface elevation of the 100-year flood more than one (1) foot on the average cross-section of the reach in which the development or landfill is located, as shown in the official flood plain study incorporated by reference; Section 21.23 (1) of this ordinance.
 - 25.36 Storage of Material and Equipment
 - (1) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
 - (2) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
 - 25.37 Subdivision proposals and other proposed new development, including manufactured home parks or subdivision, be required to assure that; (a) all such proposals are consistent with the need to minimize flood damage, (b) all public utilities and facilities, such as; sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage, (c) adequate drainage is provided so as to reduce exposure to flood hazards, and (d) proposals for development (including proposals for manufactured home parks and subdivisions) of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals the regulatory flood elevation.

SECTION 26.0 FLOODWAY FRINGE OVERLAY DISTRICT

26.1 PERMITTED USES

Any use permitted in Section 27.0 shall be permitted in the Floodway Fringe Overlay District. No use shall be permitted in the district unless the standards of Section 25.0 are met.

26.2 STANDARDS FOR THE FLOODWAY FRINGE OVERLAY DISTRICT

- 26.21 Require new construction or substantial improvements of residential structures to have the lowest floor, including basement elevated one foot above the base flood elevation.
- 26.22 Require new construction or substantial improvements of non-residential structure to have the lowest floor, including basement, elevated one foot above the lowest floor elevation or, together with attendant utility and sanitary facilities, to be floodproofed so that below such a level the structure is water-tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 23.2, B(7).
- 26.23 Require for all new construction and substantial improvements that fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net areas of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- 26.24 Within AH zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
- 26.25 Manufactured homes
- A. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchored are used, the following specific requirements (or their equivalent) shall be met:
1. Over-the-top ties be provided at each of the four corners of the manufactured home with two additional ties per side at intermediate locations, and manufactured homes less than 50 feet long requiring one additional tie per side.
 2. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, and manufactures homes less than 50 feet long requiring four additional ties per side.
 3. All components of the anchoring system be capable of carrying a force of 4800 pounds.
 4. Any additions to manufactures home be similarly anchored.
- B. Require that all manufactured homes to be placed within Zones A1-30, AH, and AE on the community's FIRM, be elevated on a permanent foundation such that the lowest floor of the manufactured home is one foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provision of Section 26.25A.

- 26.26 Located within the areas of special flood hazard established in Section 22.1 are areas designed as AO Zones. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined Channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones:
- A. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
 - B. All new construction and substantial improvements of nonresidential structure shall:
 - 1. Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as one foot above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - 2. Together with attendant utility and sanitary facilities be completely flood-proofed one foot above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the official as set forth in Section 23.2B(7).
 - C. Adequate drainage paths around structures on slopes shall be required in order to guide floodwater around and away from proposed structures.

SECTION 27.0 FLOODWAY OVERLAY DISTRICT

27.1 PERMITTED USES

Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance and provided they do not require structures, fill, or storage of materials or equipment. No use shall increase the flood levels of the base flood elevation. These uses are subject to the standards of Section 25.0 and 26.0.

27.11 Agricultural uses, such as: general farming, pasture, nurseries, forestry.

27.12 Residential uses, such as: lawns, gardens, parking and play areas.

27.13 Nonresidential area, such as: loading areas, parking, airport landing strips.

27.14 Public and private recreation uses, such as: golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves. New placement of residential structures, including manufactured homes is prohibited within the identified floodway (FW) area.

27.15 Replacement of manufactured homes in existing manufactured home parks and subdivision is prohibited unless the conditions of 26.25 and 27.1 are met.

27.16 In Zone A unnumbered, obtain, review and reasonably utilize any floodway data available through Federal, State or other sources or Section 25.37(d) of this ordinance, in meeting the standards of this section.

SECTION 28.0 VARIANCE

28.1 The County Board of Adjustment (appeal board) as established by Scotts Bluff County (local unit) shall hear and decide appeals and requests for variances from the requirements of this ordinance.

28.2 The County Board of Adjustment (appeal board) shall hear and decide appeals when it is alleged that there is an error in any requirements, decision, or determination made by the County Zoning Administrator (local Administrator) in the enforcement or administration of this ordinance.

28.3 Any person aggrieved by the decision of the County Board of Adjustment (appeal board) or any taxpayer may appeal such decision to the District Court for Scotts Bluff County (name of the appropriate court) as provided in Neb. Rev. Stat. 23-168.04 (statute).

28.4 In passing upon such applications, the County Board of Adjustment (appeal board) shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:

28.41 the danger that materials may be swept onto other lands to the injury of others;

28.42 the danger to life and property due to flooding or erosion damage;

28.43 the susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

28.44 the importance of the services provided by the proposed facility to the community;

28.45 the necessity to the facility of a waterfront location, where applicable;

28.46 the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

28.47 the compatibility of the proposed use with existing and anticipated development;

28.48 the relationship of the proposed use with existing and anticipated development;

28.49 the safety of access to the proposed use to the comprehensive plan and flood plain management program for that area;

(a) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, excepted at the site; and

(b) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities, such as: sewer, gas, electrical, and water systems, and streets and bridges.

28.5 CONDITIONS FOR VARIANCES

28.51 Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (28.52-28.56 below) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

28.52 Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

28.53 Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

28.54 Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

28.55 Variances shall be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

28.56 Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

SECTION 29.0 NON-CONFORMING USE

- 29.1 A structure or the use of structure or premises which was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:
- 29.11 No such use or substantial improvement of that use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.
- 29.12 If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the County Zoning Administrator in writing of instances of non-conforming uses where utility services have been discontinued for a period of 12 months.
- 29.13 Uses or adjuncts thereof, which are or become nuisances, shall not be entitled to continue as non-conforming uses.
- 29.2 If any residential non-conforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred within those areas identified as floodway (FW). This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
- 29.3 If any nonresidential non-conforming use of structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred, except that if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

SECTION 30. PENALTIES FOR VIOLATION

Violation of the provision of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a Class III misdemeanor as defined in Neb. Rev. Stat. 23-114.05. Any person who violated this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be punished as this section, 23-114-05, provide; and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the Scotts Bluff County or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 31. AMENDMENTS

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days notice of the time and place such hearing shall be published in a newspaper of general circulation in Scotts Bluff County, including the territory of 3 miles, all this defined in Neb. Rev. Stat. 23-164.

SECTION 32. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application.

“Actuarial Rates” or “Risk Premium Rates” – Are those rates established by the Federal Insurance Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with 42 U.S.C. 4014 and accepted actuarial principles. Actuarial rates include provisions for operating costs and allowances.

“Appeal” – A request for a review of the County Zoning Administrator’s interpretation of any provision of this ordinance or a request for a variance.

“Area of Special Flooding” – A designated AO or AH zone on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

“Area of Special Flood Hazard” – The land in the flood plain within a community subject to one percent of greater chance of flooding in any given year.

“Base Flood Elevation” – Elevation indicated in the official flood plain study as the elevation of the 100-year flood.

“Base Flood Protection Elevation” – An elevation one foot higher than the water surface elevation of the base flood.

“Channel” – A natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow, thus, is that water which is following within the limits of a defined channel.

“Community” – Any state or area or political subdivision thereof, which has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction.

“Development” – Any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

“Existing Construction” – (For the purposes of determining rates) structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRM’s effective before that date.

“Existing Construction” may also be referred to as “existing structures”.

“Flood or Flooding” – A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

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

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

“Flood Plain Management” – The operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to emergency preparedness plan, flood control works, and flood plain management regulations.

“Flood Protection System” – Those physical structural works constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a “special flood hazard”. Such a system typically includes levees or dikes. These specialized modifying works are those constructed in conformance with sound engineering standards.

“Flood-Proofing” – Any combination of structural and non-structural additions, changes or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

“Floodway (FW)” – The channel of a river or other watercourse and the adjacent portion of the flood plain that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot at any point assuming equal conveyance reduction outside the channel from the two sides of the flood plain.

“Floodway Fringe (FF)” – That area of the flood plain, outside of the floodway, that on an average is likely to be flooded once every 100 years (i.e. : that has a one percent chance of the flood occurrence in any one year).

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

“Highest Adjacent Grade” – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

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

“Manufactured Home” - 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 is engineered to be at least 18’ wide when coupled together, 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 the “National Manufactured Home Construction and Safety Standards” promulgated by the U.S. Department of Housing and Urban Development (HUD); or B) a modular housing unit as defined in the statutes (Neb.Rev.Stat. 71-1557), bearing the seal of the Nebraska Department of Health and Human Services-Regulation and Licensure.

“Manufactured Home Park Or Subdivision” – A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“New Construction” – Structures for which the “start of construction or substantial improvement” is commenced on or after the effective date of the FIRM.

“Overlay District” – A district which acts in conjunction with the underlying zoning district or districts.

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

“Structure” - A walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

“Substantial Improvement” – Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, either; (a) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose 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 either; (1) any project for improvement of a structure to comply with existing, state or local health, sanitary, or safety code specifications, which are solely necessary to assure safety living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

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

“100-Year Flood” – The base flood having a one percent chance of annual occurrence.

SECTION 40. WELLHEAD PROTECTION OVERLAY DISTRICT

41.01 INTENT

The Wellhead Protection Overlay District is intended to assist with the protection of public water supplies utilized by municipalities, and other entities, meeting the definition of public water systems as defined in Nebraska State Statutes. These regulations are intended to provide protection for such public water supply wells to maintain the health, safety and general welfare of Scotts Bluff County residents, the residents of adjacent counties, and the residents of non-adjacent counties participating in regional water systems in which Scotts Bluff County residents or communities are also a participant. In order to afford such protection the regulation of land uses having the potential for contamination of groundwater sources is necessary within a specified boundary of public wells.

41.02 PREREQUISITE REQUIREMENTS FOR APPLICATION OF THIS DISTRICT:

Prior to the establishment of a Wellhead Protection Overlay District to any lands in Scotts Bluff County, the entity which maintains and operates public water supply well(s) as described in Section 41.01 shall make application to the County seeking the establishment of a Wellhead Protection Overlay District and shall demonstrate that it has complied with all other requirements of the Wellhead Protection Act (Neb. Rev. Stat. 46-15-1 through 46-1509). These requirements include but are not limited to the following:

1. Delineation of the Wellhead Protection Area based upon a twenty (20) year time of travel recharge zone,
2. Approval of such Wellhead Protection Area by the Nebraska Department of Environmental Quality,
3. Completion and mapping of an inventory of potential contamination sources within the Wellhead Protection Area.
4. Formulation of emergency/contingency/long-range plans in the event of disruption of supply of water from the wells in the Wellhead Protection Area,
5. Formulation of and ability to implement on on-going Public Involvement/Education Program to permit public comment in the establishment of the Wellhead Protection Program and to provide information to the public regarding the program and voluntary cooperation with said program,
6. Development of a program to install and maintain Wellhead Protection Area signs on roadways around the Wellhead Protection Area,
7. Willingness to execute and interlocal agreement with Scotts Bluff County for the administration and enforcement of the regulations of this Wellhead Protection District; willingness to accept the regulations set forth in this District; willingness to pay an administrative fees to the County which the parties involved agree; willingness to provide legal council to address any legal question or legal challenge to the Wellhead Protection District regulations, together with other terms and conditions which are acceptable to the parties involved in such agreement.

41.03 LIMITATION ON APPLICATION OF THIS DISTRICT: This district may be applied only to Wellhead Protection Areas officially approved by the Nebraska Department of Environmental Quality. In the event the boundaries of any such official approved Wellhead Protection Area do not follow easily identifiable boundaries such as roads, rivers creeks, section, quarter section or quarter-quarter section lines, the boundaries of such area shall be expanded to the nearest such lines to avoid confusion and added administrative costs associated with in-field determination of such boundaries.

41.04 AMENDMENT TO OFFICIAL ZONING MAP: Whenever the requirements of Section 41.02 of the Article have been complied with and the County board has approved the application of this overlay zoning district on land within the County, in accordance with the procedures for amendment of the Official Zoning Map set forth in this resolution, the boundaries of such overlay district shall be indicated on said Official Zoning Map.

41.05 ALLOWABLE USES AND STRUCTURES: Any use or structure indicated as an allowable use, a permitted use, a conditional use, or an accessory use in the primary zoning district to which this overlay district is applied shall be allowed or permitted in accordance with the zoning requirements of the primary zoning district, except when specifically prohibited by Section 41.06 of the Article, and provided all such uses further comply with the additional wellhead protection restrictions set forth in Section 41.07 of this Article.

41.06 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not permitted in the underlying districts either as a permitted use, accessory use or conditional use are prohibited. Furthermore, the following uses and/or structures shall be specifically prohibited:

1. The expansion of existing or development of new livestock confinement facilities/ operations of more than 299 animal units without a Conditional Use Permit as specified in Section 5.101-14.
2. Landfills and other types of waste handling facilities.
3. Commercial or industrial uses which utilize or generate any materials determined by the United States Environmental Protection Agency as hazardous materials including commercial or industrial uses which store petroleum products, agricultural chemicals, anhydrous ammonia or other fertilizers in excess of fifty (50) gallons.
4. Domestic, irrigation and any other water wells closer than one-thousand (1,000) feet to the water wells being protected in this Wellhead Protection District.

41.07 WELLHEAD PROTECTION RESTRICTIONS: The following restrictions shall apply to uses within any area of land on which this overlay district is applied:

1. The expansion of existing or development of new livestock confinement facilities/ operations of 299 animal units or less shall conform to the requirements of Section 5.101-14 of this Resolution.
2. On-farm storage of gasoline or diesel fuel in excess of one-thousand one-hundred (1,100) gallons per above-ground storage tank for five hundred (500) gallons per underground storage tank shall be prohibited.
3. Fuel storage associated with irrigation well motors shall be equipped with a containment area in accordance with the National Fire Protection Association Code 30.
4. No fuel storage, except when associated with Item 3 (above) shall be permitted within one-thousand (1,000) feet of any water well protected under this overlay district.
5. No septic tank or tile field associated with any residential, commercial, industrial, or other type of use shall be permitted within one-thousand (1,000) feet of any municipal water well protected under this overlay district.
6. Domestic, irrigation and any other water well shall not be located closer than one-thousand (1,000) feet to any water well protected under this overlay district.
7. All storage tanks not expressly prohibited by this section shall be operated safely and maintained in an operable and serviceable condition.

41.08 ADDITIONAL RESTRICTIONS: All other restrictions imposed by the Scotts Bluff County Zoning Resolution, as may be amended from time to time, and not in conflict with the provisions of this section shall apply.

41.09 PERMITS AND INSPECTIONS: All storage tanks permitted by Section 41.07 with a capacity of at least three hundred (300) gallons shall receive a Storage Tank Permit before being placed into service. There shall be no fee for said permit, which shall be acquired from the Zoning Administrator. The Zoning Administrator, County Emergency Manager, or their designee shall inspect all storage tanks located within a Wellhead Protection District that have a capacity of at least two thousand (2000) gallons no less than once every two (2) years to verify compliance with the provisions of this Article.

