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ARTICLE 1 – GENERAL PROVISIONS

1.1 TITLE

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

1.2 INTENT AND PURPOSE

This Zoning Ordinance is adopted to preserve, protect and promote the public health, safety, peace, comfort, convenience, prosperity and general welfare. More specifically, this Zoning Ordinance is adopted in order to achieve the following objectives:

1.2.01 To provide a precise plan for the physical development of the Village, in such a manner as to achieve, progressively, the general arrangement of land uses depicted in the Comprehensive Plan of the Village.

1.2.02 To foster a harmonious, convenient, workable relationship among local land uses and a wholesome, serviceable, and attractive living environment.

1.2.03 To promote the stability of existing land uses which conform with the objectives and policies of the Village's Comprehensive Plan and to protect them from inharmonious influences and harmful intrusions.

1.2.04 To ensure that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial from the standpoint of the Village and its citizens.

1.2.05 To promote beneficial redevelopment of those areas which exhibit conflicting patterns of use.

1.2.06 To prevent excessive population densities and overcrowding of the land with structures.

1.2.07 To promote a safe, efficient, and effective traffic circulation system.

1.2.08 To protect and promote appropriately located agricultural, commercial and industrial pursuits in order to preserve and strengthen the economic base of the Village.

1.2.09 To protect and enhance real property values.

1.2.10 To facilitate the appropriate location of public facilities and institutions.

1.2.11 To conserve the natural and historic assets of the Village and to capitalize on the economic and quality of life opportunities offered by its terrain, soils, vegetation and waterways.

1.3 JURISDICTION

The provisions of this Ordinance shall apply within the one mile planning jurisdiction of Fairmont, Nebraska as established on the map entitled "Official Zoning Map".

1.4 COMPREHENSIVE DEVELOPMENT PLAN RELATIONSHIP

These zoning regulations are designed to implement various elements of the Comprehensive Development Plan as required by Nebraska State Statutes. Any amendment to the district regulations or map shall conform to the Comprehensive Development Plan adopted by the governing body.

1.5 PLANNING COMMISSION RECOMMENDATIONS

Pursuant to Section 19-901 (Nebraska Reissue Revised Statutes, 1943), it shall be the purpose of the Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. The Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the Village Board shall not hold its public hearings or take action until it has received the final report of the Commission.

ARTICLE 2 – APPLICATION OF REGULATIONS

2.1 GENERAL

In their interpretation and application, the provisions of this Ordinance, adopted for the promotion of the public health, safety, morals, or general welfare, shall be held to be minimum requirements, and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided. Whenever the provisions of this Ordinance require a greater width or size of yards, courts or other open spaces, or require a lower height of buildings or structures, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other Ordinances or regulations, the provisions of this Ordinance shall govern. Similarly, where the provisions of any other Ordinance require a greater width or size of yards, courts or other open spaces, or require a lower height of buildings or structures, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by this Ordinance, the provisions of such other Ordinance or regulations shall govern.

2.2 SCOPE OF REGULATIONS

2.2.01 No building or structure shall hereafter be erected or altered to exceed the height or bulk, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, to have narrower or smaller rear yards, front yards, side yards or other open spaces than herein required, or in any manner contrary to the provisions of this Ordinance.

2.2.02 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, replaced, moved or structurally altered except in conformity with all of the regulations herein specified for the zoning district in which it is located.

2.2.03 After a county road has been classified as a <u>minimum maintenance</u> road or is an unimproved road, no permits for residential dwellings, mobile home, or manufactured home shall be issued for construction on any property adjoining such classified road, unless by conditional use.

2.2.04 Any lot, portion of a lot, two or more contiguous lots, combination or contiguous lots or portions of contiguous lots under the same ownership or record on the effective date of this Ordinance shall, under this Ordinance, be considered a single lot and shall not be separated or subdivided in any way unless all lots created or remaining from such separation or subdivision shall meet or exceed the minimum lot area, lot width, and lot frontage requirements of the zoning district in which such lot, portion of a lot, two or more contiguous lots, combination of contiguous lots or portions of contiguous lots is/are located.

2.3 ZONING STANDARDS

No building, structure, or part thereof shall hereafter be erected or altered, unless a variance is granted:

2.3.01 To reduce any required yard setbacks

2.3.02 To exceed the height or bulk

2.3.03 To occupy a greater percentage of lot area
2.3.04 To erect or place any nonconforming building, or structure, or part thereof into any zoning district to be used or occupied
2.3.05 To relocate or transport any nonconforming building, structure, or part thereof into any zoning district to be used or occupied
2.3.06 To accommodate or house a greater number of families
2.3.07 No part of a yard or other open space required in connection with any building, occupancy, or use for the purpose of complying with these regulations shall be included in the calculations to determine the size of area necessary to accommodate the off-street parking and loading space requirements.

2.4 ACCESS AND EASEMENTS

2.4.01 Every building hereafter erected or moved, with the exception of non-residential agricultural structures located in the AG-1, Agriculture Zoning District, shall be on a lot or premises which abuts a public or approved private street/road or shall be accessible by means of a recorded access easement at least 20 feet in width to provide safe and convenient access for servicing, fire protection and required off-street parking.

2.4.02 No building or structure shall be placed or erected on or over any utility easements, except for structures associated with such utility easements.

2.5 YARD AND LOT REDUCTION PROHIBITED

No yard or lot existing at the time of passage of this Ordinance shall be reduced by private action in dimension or area below the minimum requirements set herein. Yards or lots created after the effective date of this Ordinance shall meet the minimum requirements established by this Ordinance.

2.6 MINIMUM REQUIREMENTS

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals or general welfare. Where applicable, Municipal, State or Federal standards which are more restrictive than those contained herein, the more restrictive standards shall apply.

2.7 NONCONFORMITIES

Intent: Nonconformities are of three types: nonconforming lots of record, nonconforming structures, and nonconforming uses.

2.7.01 NONCONFORMING LOTS OF RECORD: The Zoning Administrator may issue a Zoning Permit for any nonconforming lot of record provided that:

Said lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited, and

Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the zoning regulation, and

Said lot can meet all yard regulations for the district in which it is located.

2.7.02 NONCONFORMING STRUCTURES

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

Enlargement, Repair, Alterations: Any nonconforming structure may be enlarged, maintained, repaired, remodeled or rebuilt; provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure.

Damage of Destruction: In the event any nonconforming nonresidential structure is damaged or destroyed, by any means, to the extent of more than 75 percent of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of 75 percent or less, no repairs or restoration shall be made unless a zoning permit is obtained within six months, and restoration is actually begun one year after the date of such partial destruction and is diligently pursued to completion.

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

2.7.03 NONCONFORMING USES

Authority to Continue: Any lawfully existing nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use or land, may be continued, so long as otherwise lawful. (Ref. 19-904.01 RS Neb.)

A. Ordinary Repair and Maintenance:
   1. Normal maintenance and incidental repair, or replacement, installation or relocation or nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, water and/or waste disposal systems, may be performed on any structure or system that is devoted in whole or in part to a nonconforming use.

2. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety who declares such structure to be unsafe and orders its restorations to a safe condition.

B. Extension: A nonconforming use shall not be extended, enlarged, or increased in intensity. Such prohibited activities shall include, without being limited to the extension of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of these Regulations (or on the effective date of subsequent amendments hereto that cause such use to become nonconforming).

C. Enlargement: No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.

D. Damage or Destruction: In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged to the extent of more than seventy-five (75) percent of the its reasonable replacement value, the property shall conform to the zone in which it is located.

E. Moving: No structure that is devoted in whole or in part to a nonconforming use and nonconforming use of land shall be moved in whole or in part for any distance whatsoever, to any location on the same or any other lot, unless the entire structure and the use thereof or the use of land shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.

F. Change in use: If no external structural alterations are made which will expand the area or change the dimensions of the existing structure, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the governing body after receiving a recommendation from the Planning Commission, by making findings in the specific case, shall find that the proposed use is more appropriate to the district than the existing nonconforming use. More appropriate shall mean creating less traffic, noise, glare, odor or other characteristics of the proposed use. In permitting such change, the governing body may require appropriate conditions and safeguards to protect surrounding areas and properties. Once such use has changed, it may no longer be returned to the original use or any other less appropriate use.

G. Abandonment or Discontinuance: When a nonconforming use is discontinued or abandoned, for a period of 12 consecutive months, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy

of such land shall comply with the regulations of the zoning district in which such land is located.

H. Nonconforming Accessory Uses: No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate, unless otherwise provided for herein.

2.8 PROHIBITED USES

All uses not specifically listed within a particular zoning district are deemed to be prohibited until some point where this Ordinance is amended to include a given use.

ARTICLE 3 – GENERAL DEFINITIONS

3.1 GENERAL PROVISIONS

For the purpose of carrying out the intent of this Ordinance, words, phrases, and terms shall be deemed to have the meaning ascribed to them. When not inconsistent with the context, words used in the present tense include the future; words in the singular include the plural and those in the plural include the singular; "or" includes "and", and "and" includes "or"; and the masculine gender shall include the feminine.

3.1.01 TENSE: Words used in the present tense include the future tense.

3.1.02 NUMBER: Words used in the singular include the plural, and words used in the plural include the singular.

3.1.03 SHALL AND MAY: The word “shall” is mandatory; the work “may” is permissive.

3.1.04 HEADINGS: In the event that there is any conflict or inconsistency between the heading of an article, section or paragraph of this Ordinance and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.

3.2 GENERAL TERMINOLOGY

The word “County” shall mean the County of Fillmore, Nebraska. The words “Village Board” shall mean the Fairmont Village Board. The words “Planning Commission” shall mean the Joint County/Community Planning Commission of Fillmore County duly appointed by the governing bodies of Fillmore County and the Villages of Exeter, Fairmont, Grafton, Milligan, Ohiowa, and Shickley. The word “community” shall refer to the Village of Fairmont.

For purposes of this Ordinance, this section contains a listing of abbreviations and acronyms used throughout this document.

AU =	Animal Unit
CAFO =	Confined Animal Feeding Operation
FCC =	Federal Communication Commission
FEMA	Federal Emergency Management Agency
FT =	Foot or Feet
GIS =	Geographic Information System
kV =	Kilovolt
kW =	Kilowatt
LFO =	Livestock Feeding Operation
NDA =	Nebraska Department of Aeronautics or successor department
NDEQ =	Nebraska Department of Environmental Quality or successor department
NSFM =	Nebraska State Fire Marshall or successor department

NHHS = Nebraska Department of Health and Human Services or successor department
NDNR = Nebraska Department of Natural Resources or successor department
NDOR = Nebraska Department of Roads or successor department
R.O.W. = Right-of-Way or Rights-of-Way
SF = Square Feet
SY = Square Yard
USDA = United States Department of Agriculture
YD = Yard

3.3 DEFINITIONS

Words or terms not herein defined shall have their ordinary meaning in relation to the context. For the purpose of this Ordinance certain words and terms used herein are defined as follows:

3.3.01 ACCESSORY USE OR BUILDING: A building or use which customarily is incidental and subordinate in both size and use to that of the main or principal building or use of the premises. Customary accessory uses include, but are not limited to, tennis courts, swimming pools, detached garages, garden houses, antenna/satellite dishes, and residential, agricultural and recreation storage sheds. Garages or other accessory uses attached to the principal structure shall be considered a part thereof and meet the requirements of the principal structure.

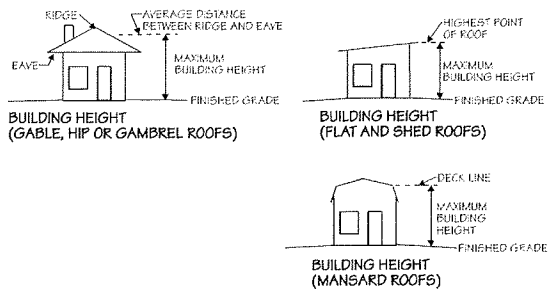
3.3.02 AGRICULTURAL FARM OR OPERATION: Farm or farm operation shall mean any tract of land over 10 acres in area used for or devoted to the commercial production of farm products.

3.3.03 BUILDABLE AREA: The portion of a lot remaining after required yards have been provided.

3.3.04 BUILDING: Any structure, having exterior or party walls and a roof, designed for the shelter of persons, animals or property. When divided by other than common or contiguous walls, each portion or section of such building shall be regarded as a separate building, except that two buildings connected by a breezeway shall be deemed one building. "Building" includes "structure".

3.3.05 BUILDING HEIGHT: The vertical distance above grade to the highest point of the roof, measured from the highest adjoining sidewalk or ground surface within a five foot horizontal distance at the exterior wall of the building.

3.3.06 CAMP GROUNDS: Any premises where two (2) or more camping units are parked/placed for camping purposes, or any premises used or set apart for supplying to the public, camping space for two (2) or more camping units for camping purposes, which include any buildings, structures, vehicles or enclosures used or intended for use or intended wholly or in part for the accommodation of transient campers.



Example of Building Height Measurements

3.3.07 COMMERCIAL USE: An occupation, employment or enterprise that is carried on for profit by the owner, lessee or licensee.

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

3.3.09 CONDITIONAL USE PERMIT: A permit issued by the Planning Commission and Governing Body that authorizes the recipient to make conditional use of property in accordance with the provisions of Article 6 and any additional conditions placed upon, or required by said permit.

3.3.10 DWELLING: Any building or portion thereof which is designed and used exclusively for residential purposes.

3.3.11 DWELLING, MULTIFAMILY: A building or portion thereof used for occupancy by two or more families living independently of each other and containing two or more dwelling units.

3.3.12 DWELLING, SINGLE FAMILY: A dwelling having accommodations for and occupied by one family.

3.3.13 EASEMENT: A grant by the property owner to the public, a corporation or persons for the use of a tract of land for a specific purpose or purposes.

3.3.14 FARM RESIDENCE: Residential dwellings located on a farm including mobile homes appurtenant to agricultural operations including the living quarters for persons employed on the premises.

3.3.15 FARMSTEAD: An existing dwelling unit located on a tract of land not less than one (1) acre and has been lawfully occupied as a single-family residence.

3.3.16 FENCE: An enclosure or barrier, such as wooden posts, wire, iron, etc., used as a boundary, means of protection, privacy screening or confinement, but not including vehicles, machinery, equipment, buildings or hedges, shrubs, trees, or other natural growth. A fence shall include retaining walls over four feet in height.

3.3.17 FENCE, AGRICULTURAL: An artificially erected barrier, other than buildings, vehicles or machinery, constructed of manmade material, or combination of manmade materials, erected to enclose an area of land used for agricultural purposes. An agricultural fence may be constructed of barbed or meshed wire.

3.3.18 FENCE, OPEN: A fence, including gates, which has 50 percent or more of the surface area in open spaces which affords direct views through the fence.

3.3.19 FENCE, SEASONAL: A temporary fence constructed of plastic or wood lathe erected and maintained from October through April to prevent snow drifting.

3.3.20 FENCE, SOLID: Any fence which does not qualify as an open fence.

3.3.21 FENCE, TEMPORARY: A fence that is erected for construction purposes or for event security and is removed upon completion of the project or end of the event.

3.3.22 FLOOD PLAIN: Those lands within the zoning jurisdiction of Fairmont which are subject to a one percent (1%) or greater chance of flooding in any given year. The regulatory flood plain for this Ordinance shall be based on the official Flood Hazard Boundary Map or Flood Insurance administration, U.S. Department of Housing and Urban Development and any revision thereto. Copies of said map shall be on file in the Office of the Village Clerk.

3.3.23 HOME OCCUPATION: An occupation or activity carried on within the dwelling or accessory building by a member of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character nor infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes.

3.3.24 INTENSIVE LIVESTOCK CONFINEMENT FACILITIES/ OPERATIONS: Shall mean any building(s), lot(s), pen(s), pool(s) or pond(s) or other confined spaces, which normally are not used for raising crops or grazing animals, which are designed and/or used for on-going confined raising, feeding or management of animals for more than 90 consecutive days, or more than 120 days out of a calendar year, which exceed the following animal capacities.

a) Cattle - 500 head
b) Dairy Cattle - 300 head

c) Swine - 1,500 head
d) Sheep and Goats - 500 head
e) Turkeys - 2,000 birds
f) Layers and Broilers - 2,000 birds
g) Fur-bearing - 2,000 head
h) Swine < 50# - 1500 head

3.3.25 LAGOON: Shall mean an impoundment made by constructing an excavated pit, dam, embankment or combination of these for treatment of waste by anaerobic, aerobic or facultative digestion.

3.3.26 LANDFILL: A disposal site employing an engineering method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day.

3.3.27 LIGHT MANUFACTURING: A use engaged in the manufacture, predominately from previously made materials, of finished products, or parts, including processing, fabrication, assembly, treatment packaging, incidental storage, sales and distribution of such products, but excluding basic industrial processing.

3.3.28 LOT: A parcel of land occupied or intended for occupation by a use permitted in this Ordinance and fronting upon a street or road.

3.3.29 LOT, CORNER: A lot abutting two or more streets or roads at their intersection.

3.3.30 LOT DEPTH: The average horizontal distance between the front and rear lot lines.

3.3.31 LOT FRONTAGE: The front of a lot shall be construed to be the portion nearest the street or road.

3.3.32 LOT OF RECORD: A lot which is part of a sub-division recorded in the Office of the Register of Deeds, or a lot or parcel described by metes and bounds the description of which has been so recorded.

3.3.33 LOT WIDTH: The distance on a horizontal plane between the side lot lines of a lot, measured at right angles to the line establishing the lot depth at the established building setback line.

3.3.34 MANUFACTURED HOME: A factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that is was built to compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280

et seq., promulgated by the United States Department of Housing and Urban Development, or a modular housing unit as defined in Section 71-1557 of the Nebraska Revised Statutes bearing the seal of the Department of Health and Human Service System.

3.3.35 MOBILE HOME: A year-round, transportable structures which is a single family dwelling unit suitable for permanent, more than thirty (30) days of living quarters, more than eight (8) feet wide and forty (40) feet in length and built to be towed on its own chassis with or without a permanent foundation when connected to the required utilities. This portable dwelling may consist of one (1) or more units that can be telescoped when towed and expanded later for additional capacity, or two (2) or more units, separately towable but designed to be joined as one (1) integral unit. Nothing in this definition shall be construed so as to include prefabricated, modular, precut dwelling units or these manufactured in sections or parts away from the site and transported thereto for assembly. Mobile homes shall be skirted with a material that is compatible with the exterior finish of the mobile home.

3.3.36 MOBILE HOME PARK: Any area of land on which two (2) or more mobile homes are parked, connected to utilities and used for living or sleeping purposes. A mobile home parked in this area can either be placed on permanent foundation or supported only by its wheels, jacks, blocks, or skirtings or a combination of these devices. A mobile home park includes any premises set apart for supplying to the public parking space, either free of charge or for revenue purposes for two (2) or more mobile homes, connected to utilities and used for living or sleeping purposes and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park.

3.3.37 MODULAR HOME: Any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units not fabricated on the final site for the dwelling units, which units are movable or portable until placed on a permanent foundation and connected to utilities. All modular homes shall bear a label certifying that it was built to compliance with the Nebraska Department of Health and Human Services System as established in Section 71-1557 of the Nebraska revised Statutes.

3.3.38 NONCONFORMING LOT OF RECORD: A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to 1999, and neither said lot nor parcel complies with the lot width or area requirements for any permitted uses in the district in which it is located.

3.3.39 NONCONFORMING STRUCTURE: An existing structure which does not comply with the lot coverage, height or yard requirements which are applicable to new structures in the zoning district in which it is located.

3.3.40 NONCONFORMING USE: An existing use of a structure or of land which does not comply with the use regulation applicable to new uses in the zoning district in which it is located.

3.3.41 OUTDOOR STORAGE CONTAINERS: A standardized, reusable, fully enclosed, detached and self-supporting structure, which by itself is incapable of motion or movement and is or appears to be originally, specifically or formerly designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities. The container must be manufactured or assembled off-site and transportable, by means other than its own power.

3.3.42 PARCEL: A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.

3.3.43 PARKING SPACE, OFF-STREET: An area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street or road and permitting ingress and egress of an automobile.

3.3.44 PIVOTS, PARTIAL OR WIPER: Any center pivot irrigation system that cannot make a full circle without coming into contact with public road right-of-way. Normally a mechanical or electrical stop is installed to stop the pivot from going out into the road right-of-way.

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

3.3.46 RECYCLING COLLECTION POINT: A collection point for small refuse items, such as bottles, cans and newspapers, located either in a container or small structure.

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

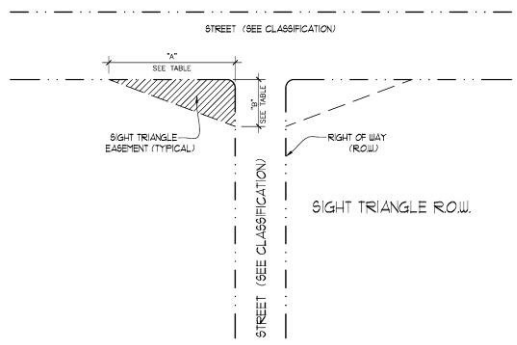
3.3.48 SIGHT TRIANGLE: shall mean an area at a street or road intersection or road and railroad intersection in which nothing shall be erected, placed, planted, or

allowed to grow in such a manner as to materially impede vision of traffic at an intersection as established within these regulations.

3.3.49 SPECIAL USE PERMIT: See conditional use permit.

3.3.50 STREET: All property acquired or dedicated to the public and accepted by the appropriate governmental agencies for street purposes.

3.3.51 STREET, CENTER LINE: A line midway between street lines.



Example of the Sight Triangle

3.3.52 STREET LINE: A dividing line between a lot, tract, or parcel of land and the contiguous street. Also known as the right-of-way line of a street.

3.3.53 STRUCTURE: Anything constructed, reconstructed, replaced, moved or erected, but not necessarily attached to a fixed location on the ground, not including center pivots and public items such as utility poles, street light fixtures and street signs.

3.3.54 STRUCTURAL ALTERATIONS: Any change to the supporting members of a structure including foundations, bearing walls, or partitions, columns, beams, girders or any structural change in the roof.

3.3.55 TOWNHOUSE: One of a group or row of not less than three (3) nor more than twelve (12) attached, single family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately. For the purpose of the side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

3.3.56 USE, PRINCIPAL: The main use of land or structure, as distinguished from an accessory or secondary use.

3.3.57 VARIANCE: A variance is a relaxation of the terms of the zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property, and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship.

3.3.58 YARD: A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure, provided, however, that fences, walls, poles, posts, and other customary yards accessories, ornaments, and furniture may be permitted in any yard subject to the district regulations.

3.3.59 YARD, FRONT: A yard extending from the front lot line adjoining a public street to the front of the building between side lot lines.

3.3.60 YARD, REAR: A yard extending between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot to the nearest point of the main building.

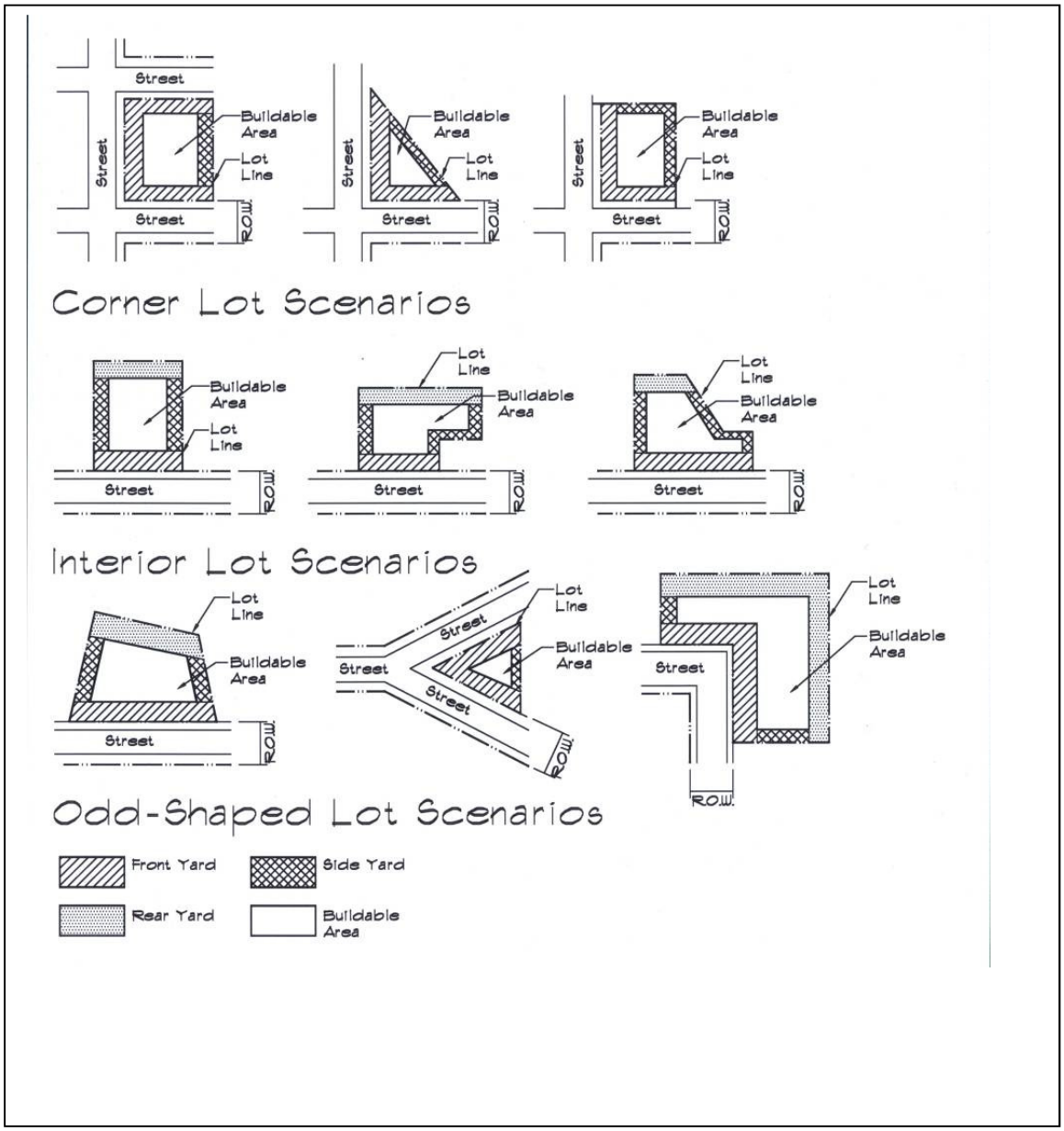
3.3.61 YARD, REQUIRED: The required minimum open space between the property line and the yard line. The required yard shall contain no building or structure other than the project of the usual steps, or open porches, or as otherwise provided in this Ordinance.

3.3.62 YARD, SIDE: A yard between a building and the side lot line measured horizontally at right angles to the side lot line from the side lot line to the nearest point of the main building.

3.3.63 ZONED LOT: A piece, parcel or plot of land under single ownership or control, not divided by any public street or public alley, having frontage on a public street or officially approved private street, which is occupied or intended to be occupied by one principal building and its accessory buildings or structures. A zoning lot may consist of a single lot of record, a portion of a lot of record, or portions of lots of record, or a parcel described by metes and bounds.

3.3.64 ZONING ADMINISTRATOR: The person duly designated by the Village to enforce these regulations.

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


Street
Buildable Area
Lot Line
Street
Street
R.O.W.
Corner Lot Scenarios
Buildable Area
Lot Line
Street
R.O.W.
Interior Lot Scenarios
Lot Line
Buildable Area
Street
R.O.W.
Odd-Shaped Lot Scenarios
Front Yard
Side Yard
Rear Yard
Buildable Area

ARTICLE 4 – ESTABLISHMENT AND DESIGNATION OF DISTRICTS

4.1 PLANNING COMMISSION RECOMMENDATIONS

It shall be a purpose of the Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. The Planning Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the Village Board shall not hold its public hearings or take action until it has received the final report of the Planning Commission.

4.2 DISTRICTS CREATED

For the purpose of this Ordinance, there are hereby created zoning districts for Fairmont, as named and described in Article 5 of this Ordinance.

AG-1 - Agriculture District
AG-2 - Agriculture District
R - Residential District
R-1 – Residential District
R-2 – Residential District
C-1 - General Commercial District
C-2 - Highway Commercial District
I-1 – Light Industrial District
I-2 – Heavy Industrial District
FF – Flood Plain Overlay District
WHP – Wellhead Protection Overlay District
AHO - Airport Hazard Overlay District
CO – Conservation Overlay District

4.3 OFFICIAL ZONING MAP

4.3.01 The boundaries of the districts are shown upon map, which are made a part hereof by reference, which map is designated as the Fairmont Zoning Map signed by the Chairperson of the Village Board, and attested by the Village Clerk and hereinafter referred to as the "Official Zoning Map".

4.3.02 The signed copy of the Zoning Map containing the zoning districts designated at the time of adoption of this Ordinance shall be maintained in the office of the Village Clerk for the use and benefit of the public.

4.3.03 If in accordance with the provisions of this Ordinance, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the appropriate part of the Official Zoning Map promptly after the amendment has been approved by the governing body with an entry on the Official Zoning Map as follows: "On (date), by official action of the Village Board, the following change was made in the Official Zoning Map (brief description of the nature of the change), "which entry shall be signed by the Chairperson of the Village Board and attested by the Village Clerk."

No amendment to this Ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry have been made on said map.

4.3.04 No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance.

4.3.05 In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret, the Village Board may, by Ordinance, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map

The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof.

4.4 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

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

4.4.01 Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.

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

4.4.03 Boundaries indicated as approximately following village limits shall be construed as following such village limits.

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

4.4.05 Boundaries indicated as parallel to or extension of features indicated in subsection 1 through 4 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

4.4.06 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 subsection 1 through 5 above, the Board of Zoning Adjustment shall interpret the district boundaries.

4.4.07 Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance the Board of Zoning Adjustment may permit, as an exception, the extension of the regulations for either portion of the lot not to exceed one hundred and fifty (150) feet beyond the district line into the remaining portion of the lot.

ARTICLE 5 – ZONING DISTRICTS

5.1 AG-1 – AGRICULTURE DISTRICT

5.1.01 INTENT: This district is designated for general agriculture use and is intended to preserve and protect agriculture production from encroachment by incompatible uses.

5.1.02 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right:

1. General farming and ranching activities and agricultural structures, excluding any expansion of existing or development of intensive livestock confinement facilities/operations as defined in Section 3.3.24.
2. Confined feeding of animals in any building(s), lot(s), pen(s), pool(s) or pond(s) or other confined spaces, which normally are not used for raising crops or grazing animals, which are designed and/or used for on-going confined raising, feeding or management of animals for more than 90 consecutive days or more than 120 days out of a calendar year, when less than the animal capacities defined in Section 3.3.16 and in conformance with the following:
   a. Waste lagoons shall be located at least 50 (fifty) feet from any County, State or Federal road Right-of-Way and at least 30 (thirty) feet from any other existing public Right-of-Way.
   b. Tract of land must be located at least one-fourth (1/4) mile from any residence or commercial or industrial facility, or church or school, or any other facility operated and/or utilized by the general public other than the residence of the owner and/or operator of the subject facility. However, facilities with the following animal capacities or total combination of any animals at one facility not exceeding 200 head are exempt from the one-fourth (1/4) mile distance requirement:
      i. Cattle - 50 head
      ii. Dairy Cattle - 30 head
      iii. Swine - 50 head
      iv. Sheep and Goats - 50 head
      v. Turkeys - 200 birds
      vi. Layers and Broilers - 200 birds
      vii. Fur-bearing - 200 head
      viii. Swine <50# - 200 head
      ix. All other animals will be limited to similar size or type of above animal categories.

3. Public Uses: Including fire stations, public elementary and high schools, public utilities and utility distribution systems

4. Bulk grain and produce storage, excluding commercial warehouses

5. Irrigation, flood, erosion and sediment control projects

6. Single family dwellings, including ranch and farm dwellings; and one additional on farm/ranch single/two family dwellings for the purpose of housing relatives or permanent agriculture workers; dwellings shall be on improved all weather roads; dwellings must be located at least ½ mile from the feedlot area of an existing confinement facility/operation not of the same property.

7. Greenhouses and garden centers

8. Bed and breakfast

9. Churches, places of worship and public cemeteries

5.1.03 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as conditional uses

2. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.

3. Home occupations in accordance with Section 9.11

4. Roadside stands for the temporary sale of produce

5. Small wind energy systems

6. Broadcast towers, including television, amateur radio or land mobile towers under 100 feet in height, subject to Section 9.13.06

5.1.04 CONDITIONAL USES: A building or premises may be used for the following purposes in the "AG-1" Agriculture District if a conditional use permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Airports and heliports including crop dusting strips

2. Sewage treatment plants for primary and secondary treatment; public and private sanitary landfills; industrial pipelines and pumping stations, and asphalt or concrete batch plants

3. Agriculture service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services on a fee or contract basis; agricultural grain product milling and processing; commercial grain warehouses, establishments engaged in performing services such as crop dusting, fruit picking, grain cleaning, harvesting and plowing; farm equipment services and repair

4. Broadcast towers and stations, including television, amateur radio or land mobile towers of more than 100 feet, subject to Section 9.13

5. Public and private recreational uses, including parks and playgrounds, campgrounds and riding stables

6. Auction/sale barns and yards

7. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals

8. Salvage or junk yards or landfill operation in accordance with Section 9.19

9. Mineral extraction, which shall include the following: oil wells, sand and gravel extraction and quarries

10. Expansion of existing or development of new intensive livestock confinement facilities/operations as described in Section 3.3.24 in accordance with Section 9.20

11. Utility substations

12. Commercial or industrial petroleum and natural gas pumping stations and above ground structures

13. Paunch manure application and stockpiling

14. Commercial/utility grade wind energy systems

15. Private cemeteries

16. Winery

17. Dog breeding establishments and kennels

18. Veterinary facilities

5.1.05 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specially permitted or not permissible as conditional uses shall be prohibited from the AG-1 Agriculture District.

5.1.06 SPECIAL REGULATIONS: Disposal of any confinement or feedlot waste on land within Fairmont's jurisdiction other than on the property upon which the confinement or feedlot is located, shall be subject to the license requirements and waste disposal requirements and recommendations of the State of Nebraska, and the following minimum sanitation and odor practices, and those conditions imposed by the planning commission upon the property owner of land upon which the waste is to be disposed, in consideration of the health, safety and general welfare of the public, and subject to the approval of the Village Board:

1. No livestock waste disposal shall be closer than thirteen hundred and twenty (1,320) feet to a neighbor's residence.

2. Livestock waste disposal by spraying or spreading on cultivated land shall be followed by discing or plowing within a forty-eight hour period.

3. There shall be no storage of livestock waste within a designated flood plain or floodway.

4. No livestock waste shall be disposed of within a designated flood plain or floodway.

5. Surface runoff shall be so controlled so that no amount of soil or manure is carried into any ditch or drainage area or onto a neighbor's property.

5.1.07 HEIGHT AND AREA REGULATIONS: The maximum height and minimum area regulations shall be as follows, unless provided herein:

1. General Requirements:

	Lot Area *	Lot Width	Required Front Yard **	Required Side Yard **	Required Rear Yard **	Height
Dwellings & uses having water & sewer	3 acres ***	100'	25'	3'	3'	no limit
Other Uses	1 acre ***	100'	25'	3'	3'	no limit
Accessory Uses	1 acre ***	100'	25'	3'	3'	no limit

* Excluding Road R.O.W.
** See additional yard requirements.
***See additional separation distances in district

2. All measurements to structure are taken from the property line unless adjacent to road or street, then from the designated right-of-way line.

5.1.08 MINIMUM LOT REQUIREMENTS

Single Family Dwelling
Lot Size: 3 acres with a minimum distance of 1,000 feet between single family dwellings without a separation of an improved all weather road, when separated by an improved all weather road, then the distance can be decreased to 500 feet between single family dwellings including the road ROW.

5.1.09 MINIMUM YARD REQUIREMENTS

Front Yard: There shall be a minimum front yard of twenty-five (25) feet from the established road right-of-way for all structures, provided however, that any grain bin or building used for grain storage which requires filling by use of a portable auger, elevator or conveyor or requires overhead probing of stored grain shall be set back from any existing primary voltage electric power distribution line owned and maintained by a public utility by distance at least equal to the

height of the highest filling or probing opening on such bin or building plus eighteen (18) feet or the distance prescribed in Section 234 of the latest published edition of the National Electrical Safety Code, whichever is greater.

The owner of such bin or grain storage building may opt to pay whatever costs are necessary to meet the requirements of Section 234 of the latest edition of the National Electric Safety Code in order to reduce the setback requirement, but under no circumstances shall the front yard setback for any such bin or grain storage building be less than twenty-five (25) feet from the established road right-of-way.

Rear Yard: There shall be a minimum rear yard of 3 feet for all structures; unless abutting a residential district then the minimum rear yard shall be fifteen (15) feet.

Side Yard: There shall be a minimum side yard of 3 feet for all structures; unless abutting a residential district then the minimum side yard shall be ten (10) feet.

All measurements to structure are taken from the property line unless adjacent to road or street, then from the designated right-of-way line.

There shall be a setback of one hundred fifty (150) feet from the intersection each way sighted across; forming a triangle. No buildings or trees shall be allowed in this area.

5.2 AG-2 – AGRICULTURE DISTRICT

5.2.01 INTENT: This district is intended as a transitional area for general agricultural purposes generally within one mile of Fairmont and residential uses within one-half mile of Fairmont.

5.2.02 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right:

1. Single family, ranch and farm dwellings

2. General farming and ranching activities, excluding any expansion of existing or development of intensive livestock confinement facilities/operations as defined in Section 3.3.24

3. Animal limitations within the one-mile planning jurisdiction of Fairmont, located on an AG-2 zoning tract of land shall not exceed the following:
    a. Cattle - 50 head
    b. Dairy Cattle - 30 head
    c. Swine - 50 head
    d. Sheep and Goats - 50 head
    e. Turkey - 200 birds
    f. Layers and Broilers - 200 birds
    g. Fur-bearing - 200 head
    h. Swine <50# - 200 head
    i. All other animals will be limited to similar size or type of above animal categories.
    j. Other Conditions include:
        i. Tract of land must be located at least one-half (½) mile from any residence or commercial or industrial facility, or church or school, or any other facility operated and/or utilized by the general public other than the residence of the owner and/or operator of the subject facility; and
        ii. Total limit of livestock at one facility located within the one-mile planning jurisdiction of Fairmont shall not exceed a combination of 200 head.
        iii. No lagoons permitted.

4. Public facilities and utility distribution systems

5. One additional single family dwelling for the purpose of housing relatives or agricultural workers

6. Churches, places of worship and public cemeteries

5.2.03 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as conditional uses

2. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.

3. Home occupations in accordance with Section 9.11

4. Roadside stands for the sale of agricultural produce grown on the agricultural farm or operation

5. Small wind energy systems

6. Broadcast towers including television, amateur radio or land mobile towers under 100 feet in height, subject to Section 9.13.06

5.2.04 CONDITIONAL USES: A building or premise may be used for the following purposes in the "AG-2" Agriculture District if a conditional use permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Sewage disposal and water systems, including agricultural irrigation wells, industrial pipelines and pumping stations, and asphalt or concrete batch plants

2. Public and private uses including parks, playgrounds, golf courses, campgrounds, recreation uses, riding stables, dude ranches, public utilities and utility distribution system

3. Flood, erosion and sediment control projects

4. Broadcast towers and stations, including television, amateur radio or land mobile towers of more than 100 feet, subject to Section 9.13

5. Bed and breakfast establishments

6. Salvage or junk yard in accordance with Section 9.19

7. Mineral extraction, which shall include the following: oil wells, sand and gravel extraction and quarries

8. Utility substations

9. Bulk grain and produce storage, excluding commercial warehouses

10. Private cemeteries

11. Dog breeding establishments and kennels

12. Veterinary facilities

5.2.05 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specially permitted or not permissible as special uses shall be prohibited from the AG-2 Agriculture District.

5.2.06 SPECIAL REGULATION: Provisions must be made for disposal of wastes in accordance with local and state regulations.

5.2.07 HEIGHT AND AREA REGULATIONS: The maximum height and minimum area regulations shall be as follows, unless provided for herein:

1. General Requirements:

	Lot Area *	Lot Width	Required Front Yard **	Required Side Yard **	Required Rear Yard **	Height
Dwellings & uses having water & sewer	3 acres	100'	25'	3'	3'	no limit
Other Uses	1 acre ***	100'	25'	3'	3'	no limit
Accessory Uses	1 acre ***	100'	25'	3'	3'	no limit

* Excluding Road R.O.W.
** See additional yard requirements.
***See additional separation distances in district

2. All measurements to structure are taken from the property line unless adjacent to road or street, then from the designated right-of-way line.

5.2.08 MINIMUM YARD REQUIREMENTS

Front Yard: There shall be a minimum front yard of twenty-five (25) feet from the established road right-of-way, provided however, that any grain bin or building used for grain storage which requires filling by use of a portable auger, elevator or conveyor or requires overhead probing of stored grain shall be set back from any existing primary voltage electric power distribution line owned and maintained by a public utility by distance at least equal to the height of the highest filling or probing opening on such bin or building plus eighteen (18) feet or the distance prescribed in Section 234 of the latest published edition of the National Electrical Safety Code, whichever is greater.

The owner of such bin or grain storage building may opt to pay whatever costs are necessary to meet the requirements of Section 234 of the latest edition of the National Electric Safety Code in order to reduce the setback requirement, but under no circumstances shall the front yard setback for any such bin or grain storage building be less than twenty-five (25) feet from the established road right-of-way.

Rear Yard: There shall be a minimum rear yard of 3 feet; unless abutting a residential district then the minimum rear yard shall be fifteen (15) feet or 10 feet if abutting a road or street.

Side Yard: There shall be a minimum side yard of 3 feet; unless abutting a road, street or residential district then the minimum side yard shall be ten (10) feet. All measurements to structure are taken from the property line unless adjacent to road or street, then from the designated right-of-way line.

There shall be a setback of one hundred (150) feet from the intersection each way sighted across; forming a triangle. No buildings or trees shall be allowed in this area.

Any accessory building shall have a minimum setback of 25 feet front yard, three (3) feet on all other sides or locations and all garage entrances must have sixteen (16) feet from the access road, street or alley. Attached garages are considered part of principal building. Accessory buildings may be the primary building on a lot by conditional use if all setbacks of a primary use are met and may occupy up to 50% of the lot area.

No structure shall be placed within two hundred (200) feet of high water mark of waterways in designated district.

5.3 R – RESIDENTIAL DISTRICT

5.3.01 INTENT: This district is intended to provide for residential uses and accessory structures.

5.3.02 PERMITTED PRINCIPLE USES AND STRUCTURES: The following shall be permitted as uses by right:

1. Single family dwellings
2. Manufactured homes which comply with the provisions of Article 9
3. Two-family dwellings
4. Nursery, primary and secondary education
5. Public parks, buildings and grounds
6. Child care homes
7. Public uses: Including but not limited to public parks, playgrounds, recreational uses, fire stations, public elementary and high schools, public utilities and utility distribution systems
8. Places of worship such as churches and synagogues

5.3.03 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Home occupations in accordance with Section 9.11
2. Accessory uses and structures normally appurtenant to permitted and conditional uses and structures and constructed of similar and/or acceptable building materials as principle structure.
3. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
4. Towers and Antenna, including television, amateur radio or land mobile towers under 35 feet in height, subject to Section 9.13.06

5.3.04 CONDITIONAL USES: A building or premises may be used for the following purpose in the R Residential District if a conditional use permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Medical clinics
2. Mortuaries

3. Child care center

4. Museum and art galleries

5. Nursing homes

6. Public and private golf courses

7. Retirement homes

8. Bed and breakfast homes

5.3.05 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as conditional uses shall be prohibited from the R-Residential District.

5.3.06 HEIGHT AND AREA REGULATIONS: The maximum height and minimum area regulations shall be as follows:

1. General Requirements:

Single Family Dwelling	7000**	50'	25'	7'	20'	35'
Two Family Dwelling	3,750 per family**	25' per family	25'	7', 0' of party wall	20'	35'
Multifamily Housing	3,000 per family**	50'	25'	5' or 7 1/2' on corner lots	15'	45'
Other Uses	7000**	50'	25'	7'	20'	35'
Accessory Uses			25'	3'***	3'***	25'****

* Excluding Road R.O.W.
** If with public/community water and sewer, otherwise 1.5 acres with any combination of public and private water/sewer systems and 3 acres with both systems being private.
***Increased to 5 feet if adjacent to alley and 16 feet if vehicular access from alley.
****Sidewalls should not exceed 17 feet in height.

2. There shall be a required front yard setback of twenty-five feet on each street side of a corner lot.

3. Building on corner lots shall provide front yard setbacks of twenty-five (25) feet on both street frontages; and designate remaining yards as two side yards; and shall maintain a setback of 50 feet from the intersection; each way sighted across forming a triangle. No primary or accessory building shall be allowed in this area.

4. Building and structures shall not exceed two and one half stories in height. Accessory buildings shall not occupy more than thirty percent of the required area for the rear yard. Attached garages are considered part of principal building. Accessory buildings may be the primary building on a lot subject to regulations in Section 9.7.

5. The side yard setback between individual units of two-family dwellings may be reduced to zero, if a one (1) hour fire rated constructed common wall between units starting at the basement level and continuing through to the roof line is maintained.

6. All measurements to structure are taken from the property line unless adjacent to road or street, then from the designated right-of-way line.

5.3.07 PARKING REGULATIONS: Parking within the R - Residential District shall be in conformance with the provisions of Article 7 of these regulations.

5.4 R-1 – RESIDENTIAL DISTRICT

5.4.01 INTENT: This district is intended to provide for low density residential uses consisting of single family and two-family detached dwelling units and accessory structures.

5.4.02 PERMITTED PRINCIPLE USES AND STRUCTURES: The following shall be permitted as uses by right:

1. Single family dwellings
2. Manufactured homes which comply with the provisions of Article 9
3. Two-family dwellings
4. Nursery, primary and secondary education
5. Child care homes
6. Public uses: Including but not limited to public parks, playgrounds, recreational uses, fire stations, public elementary and high schools, public utilities and utility distribution systems
7. Places of worship such as churches and synagogues

5.4.03 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Home occupations in accordance with Section 9.11
2. Accessory uses and structures normally appurtenant to permitted and conditional uses and structures and constructed of similar and/or acceptable building materials
3. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
4. Towers and Antenna, including television, amateur radio or land mobile towers under 35 feet in height, subject to Section 9.13.06

5.4.04 CONDITIONAL USES: A building or premises may be used for the following purpose in the R-1 Residential District if a conditional use permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Medical clinics
2. Mortuaries and cemeteries
3. Child care center
4. Museum and art galleries
5. Nursing homes

6. Public and private golf courses

7. Retirement homes

8. Bed and breakfast homes

5.4.05 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as conditional uses shall be prohibited from the R-1 Residential District.

5.4.06 HEIGHT AND AREA REGULATIONS: The maximum height and minimum area regulations shall be as follows:

1. General Requirements:

	Lot Area (Sq. Ft.)*	Lot Width	Required Front Yard	Required Side Yard	Required Rear Yard	Height
Single Family Dwelling	7000**	50'	25'	7'	20'	35'
Two Family Dwelling	3,750 per family**	25' per family	25'	7', 0' of party wall	20'	35'
Other Uses	7000**	50'	25'	7'	20'	35'
Accessory Uses			25'	3'***	3'***	25'****

* Excluding Road R.O.W.
** If with public/community water and sewer, otherwise 1.5 acres with any combination of public and private water/sewer systems and 3 acres with both systems being private.
***Increased to 5 feet if adjacent to alley and 16 feet if vehicular access from alley.
****Sidewalls should not exceed 17 feet in height.

2. Building on corner lots shall provide front yard setbacks of twenty-five (25) feet on both street frontages; and designate remaining yards two side yards; and shall maintain a setback of 50 feet from the intersection; each way sighted across forming a triangle. No primary or accessory building shall be allowed in this area.

3. Building and structures shall not exceed two and one half (2.5) stories in height. Accessory buildings shall not occupy more than thirty percent of the required area for the rear yard. Attached garages are considered part of principal building. Accessory buildings may be the primary building on a lot subject to the regulations in Section 9.7.

4. The side yard setback between individual units of two-family dwellings may be reduced to zero, if a one (1) hour fire rated constructed common wall between units starting at the basement level and continuing through to the roof line is maintained.

5. All measurements to structure are taken from the property line unless adjacent to road or street, then from the designated right-of-way line.

5.4.07 PARKING REGULATIONS: Parking within the R-1 Residential District shall be in conformance with the provisions of Article 7 of these regulations.

5.5 R-2 – RESIDENTIAL DISTRICT

5.5.01 INTENT: It is the intent of this district to provide for the medium density residential uses and development of residential dwellings including mobile home parks. Mobile home parks are considered as a residential use and should be located in areas where services and amenities are available as those found in conventional residential uses.

5.5.02 PERMITTED PRINCIPAL USES AND STRUCTURES: The following shall be permitted as uses by right:

1. Single family dwellings
2. Manufactured homes which comply with the provisions of Article 9
3. Two-family dwellings
4. Multifamily dwellings
5. Nursery, primary and secondary education
6. Child care homes
7. Public uses: Including but not limited to public parks, playgrounds, recreational uses, fire stations, public elementary and high schools, public utilities and utility distribution systems
8. Places of worship such as churches and synagogues

5.5.03 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Home occupations in accordance with Section 9.11
2. Accessory uses and structures normally appurtenant to the permitted and conditional uses and structures and constructed of similar and/or acceptable building materials
3. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
4. Towers and Antenna, including television, amateur radio or land mobile towers under 35 feet in height, subject to Section 9.13.06

5.5.04 CONDITIONAL USES: A building or premises may be used for the following purposes in the R-2 Residential District if a conditional use permit for such use has been obtained in accordance with Article 6 of these regulations:

1. Medical clinics;

2. Mortuaries and cemeteries;

3. Child care center

4. Museum and art galleries;

5. Retirement and/or nursing homes;

6. Public and private golf courses;

7. Bed and breakfast homes;

8. Communication and utility building and uses;

9. Clubs, fraternities, lodges and meeting places of a non-commercial nature;

10. Mobile home parks in accordance with Section 5.5.08 and 5.5.09

5.5.05 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as conditional uses shall be prohibited from the R-2 Residential District.

5.5.06 HEIGHT AND AREA REGULATIONS: The maximum height and minimum area regulations shall be as follows:

1. General Requirements:

	Lot Area (Sq. Ft.)*	Lot Width	Required Front Yard	Required Side Yard	Required Rear Yard	Height
Single Family Dwelling	5000**	50'	25'	7'	20'	35'
Two Family Dwelling	3,750 per family**	25' per family	25'	7', 0' of party wall	20'	35'
Multifamily Housing	3,000 per family**	50'	25'	5' or 7 1/2' on corner lots	15'	45'
Other Uses	7000**	50'	25'	7'	20'	35'
Mobile Home Parks	1 acre**	50'	25'	7'	20'	35'
Accessory Uses			25'	3'***	3'***	25'****

* Excluding Road R.O.W.
** If with public/community water and sewer, otherwise 1.5 acres with any combination of public and private water/sewer systems and 3 acres with both systems being private.
***Increased to 5 feet if adjacent to alley and 16 feet if vehicular access from alley.
****Sidewalls should not exceed 17 feet in height.

2. There shall be a required front yard setback of twenty-five feet on each street side of a corner lot; and shall maintain a setback of 50 feet from the intersection; each way sighted across forming a triangle. No primary or accessory building shall be allowed in this area;

3. Building and structures shall not exceed three (3) stories in height. Accessory buildings shall not occupy more than thirty percent of the required area for the rear yard. Attached garages are considered part of principal building. Accessory buildings may be the primary building on a lot subject to the regulations in Section 9.7.

4. All measurements to structure are taken from the property line unless adjacent to road or street, then from the designated right-of-way line.

5.5.07 PARKING REGULATIONS: Parking within the R-2 Residential District shall be in conformance with the provisions of Article 7 of these regulations.

5.5.08 MOBILE HOME PARK USE LIMITATIONS: Each mobile home park shall be designed in accordance with the following minimum design standards:

1. Minimum Design Standards:
    a. The park shall be located on a well-drained site, properly graded to ensure rapid drainage and freedom from stagnant pools of water. Mobile home parks hereafter approved shall have a maximum density of seven (7) mobile homes per gross acre, and minimum area of four thousand four hundred (4,400) square feet shall be provided for each mobile home space.
    b. Each mobile home space shall be at least forty (40) feet wide at the front setback line and clearly defined.
    c. Mobile homes shall be located on each space so as to maintain a setback of no less than twenty-five (25) feet from any public street, highway right-of-way, or "R-2" District boundary; as to maintain a setback of no less than twenty (20) feet from the edge of a park roadway or sidewalk; as to maintain a setback of no less than fifteen (15) feet from a rear boundary line that is not common to any public street, highway right-of-way, or "R-2" District boundary; and as to maintain a setback of no less than five (5) feet from any side boundary line of a mobile home space.
    d. All mobile homes shall be so located to maintain a clearance of not less than twenty (20) feet from another mobile home and as to maintain a clearance of not less than fifteen (15) feet between any mobile home and any appurtenance to a mobile home. No mobile home shall be located closer than twenty (20) feet from any building within the park.
    e. Mobile home spaces when front upon a private roadway shall not be of less than twenty-four (24) feet in width, including curbs, if required, provided, however, that no on-street parking is permitted.
    f. If parallel parking is permitted on one side of the street, the width shall be increased to thirty-six (36) feet. All roadways shall have unobstructed access to a public street.
    g. Common walks shall be provided in locations where pedestrian traffic is concentrated; for example, to the entrance and to the office and other important facilities.
    h. All roadways and sidewalks within the mobile home park shall be constructed in accordance with Village standards and shall be adequately lighted at night. A street must be completely constructed prior to the occupancy of any mobile home space fronting on said street.

i. A community building may be provided which may include recreation facilities, laundry facilities, storm shelter, and other similar uses.
j. A storm shelter or an approved evacuation plan to a designated storm shelter will be provided.
k. A landscape buffer may be required to provide screening for the park.
l. Tie downs and ground anchors: All mobile homes shall be secured to the ground by tie downs and ground anchors in accordance with standards of the State Department of Health.
m. Blocking: All mobile homes shall be blocked at a maximum of ten (10) foot centers around the perimeter of each mobile home, and this blocking shall provide sixteen (16) inches bearing upon the stand.
n. Pad Requirements: Shall be flexible surface with a minimum of five (5) inch thick gravel, stone or compacted surface, treated to discourage plant growth, constructed to discharge water and edged to prohibit fraying or spreading of surfacing materials, or shall be a hard surface of a minimum of two eighteen (18) inch wide concrete ribbons or slabs capable of carrying the weight and of sufficient length to support all blocking points of the mobile home.
o. Fire Safety Standards: When liquefied petroleum gas is used in a mobile home park, containers for such gas shall not hold more than five hundred (500) gallon water capacity, shall be the liquefied petroleum gas containers approved by the United States Commerce Commission for its intended purpose, and shall be attached to the mobile home in a manner approved by the Liquefied Petroleum Gas Association.
p. Skirting: Each mobile home shall be skirted within thirty (30) days after placement in the park by enclosing the open area under the unit with a material that is compatible with the exterior finish of the mobile home.

5.5.09 MOBILE HOME PARK APPLICATION REQUIREMENTS:

1. A rezoning application for "MP" Mobile Home Park District shall be prepared, or cause to be prepared, a preliminary Mobile Home Park Plan, drawn to a scale of not less than 1"=100', and fifteen (15) copies of said Plan including a reproducible mylar shall be submitted to the Planning Commission for its review and recommendations. Said Plan shall be designed in accordance with minimum design standards of these regulations, and shall have contours shown at two-foot intervals.

2. Upon approval of the preliminary mobile home park plan by the Planning Commission, the applicant shall prepare and submit a final plan, which shall incorporate any changes or alterations requested. The final plan and the Planning Commission recommendations shall be forwarded to the Governing Body for their review and final action.

3. Any substantial deviation from the approved plan, as determined by the Zoning Administrator, shall constitute a violation of the zoning certificate authorizing construction of the project. Changes in plans shall be resubmitted for reconsideration and approval by the Planning Commission and Governing Body.

5.6 C-1 – GENERAL COMMERCIAL DISTRICT

5.6.01 INTENT: This district is designed to provide for a wide range of retail, office, amusement and service uses normally found in a Central Business District. Highest density and intensity of use is permitted in this district.

5.6.02 PERMITTED PRINCIPLE USES AND STRUCTURES: The following shall be permitted as uses by right:

1. Apartments on floors other than ground floor
2. Automobile sales and services
3. Automotive wash facilities
4. Bakery
5. Banks, savings and loan associations, credit unions and finance companies
6. Barbershops, beauty parlors and shoeshine shops
7. Business offices
8. Child care homes and centers
9. Commercial recreation facilities (bowling alleys, miniature golf courses and similar uses)
10. Detached banking facilities
11. Dry cleaning or laundry establishments
12. Food service, restaurants and taverns
13. Food storage lockers
14. Garden Centers
15. Grocery Stores
16. Messenger and telegraph stations
17. Mortuaries
18. Motels and hotels
19. Museums and art galleries
20. Nursery, primary and secondary education

21. Office buildings

22. Parking lots, parking garages and other off-street parking facilities

23. Personal and professional services

24. Photography studios

25. Private schools, including but not limited to business or commercial schools, and dance or music academies

26. Public and private charitable institutions

27. Public parks, buildings and grounds

28. Public uses of an administrative, public service or cultural type including village, county, state or federal administrative centers and courts, libraries, police and fire stations and other public buildings, structures, and facilities

29. Public utility facilities

30. Sales and showrooms, including service facilities and rental of equipment, provided all displays and merchandise are within the enclosure walls of the buildings

31. Service stations

32. Stores or shops for the sale of goods at retail

33. Temporary shelter for homeless

5.6.03 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Home occupations in accordance with Section 9.11

2. Accessory uses and structures normally appurtenant to permitted uses and structures and to uses and structures permitted as conditional uses and constructed of similar and/or acceptable building materials.

3. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.

4. Towers and Antenna, including television, amateur radio or land mobile towers under 45 feet in height, subject to Section 9.13.06

5.6.04 CONDITIONAL USES: A building or premises may be used for the following purposes in the C-1 General Commercial District if a conditional use permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Bed and breakfast guest home;

2. Recycling center; and

3. Single family dwellings above stores/businesses or rear of business as long as dwelling remains subordinate in size and use.

5.6.05 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as conditional uses shall be prohibited from the C-1 General Commercial District.

5.6.06 HEIGHT AND AREA REGULATIONS: The maximum height and minimum area regulations shall be as follows:

1. General Requirements:

	Lot Area (Sq. Ft.)*	Lot Width	Required Front Yard	Required Side Yard	Required Rear Yard	Height
Permitted and Conditional Uses	3500**	25'	0'	0' , 10' when abutting a residential district	15'	45'

* Excluding Road R.O.W.
** If with public/community water and sewer, otherwise 1.5 acres with any combination of public and private water/sewer systems and 3 acres with both systems being private.

2. All measurements to structure are taken from the property line unless adjacent to road or street, then from the designated right-of-way line.

5.6.07 PARKING REGULATIONS:

1. Parking within the C-1 General Commercial District shall be in conformance with the provisions of Article 7 of these regulations.

5.7 C-2 – HIGHWAY COMMERCIAL DISTRICT

5.7.01 INTENT: The C-2 Highway Commercial District is intended for the purpose of providing limited commercial services. Off-street parking is required in order to reduce adverse effects on adjacent properties.

5.7.02 PERMITTED PRINCIPLE USES AND STRUCTURES: The following shall be permitted as uses by right:

1. Automobile wash facilities
2. Churches and other religious institutions
3. Construction sales and services
4. Convenience store or filling station
5. Detached banking facilities (ATM)
6. Electric and telephone substations
7. Farm implement sales and services
8. Garden centers and nurseries;
9. Irrigation equipment sales and services;
10. Mini storage facilities;
11. Motels, including accessory service uses, such as swimming pools, liquor stores and restaurants;
12. Restaurants and cafes;
13. Service stations;
14. Stores or shops for sale of goods at retail;
15. Transportation warehousing;
16. Trucks and freight terminals;
17. Utilities, including shops and offices; and
18. Medical clinics.

5.7.03 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as conditional uses.

2. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.

3. Towers and Antenna, including television, amateur radio or land mobile towers under 35 feet in height, subject to Section 9.13.06

4. Advertising signs are permitted in accordance with the Nebraska Department of Roads guidelines along applicable highways unless a sign overlay district restricting the type or location of signs has been designated. Refer to Section 8.7 of these regulations.

5.7.04 CONDITIONAL USES: A building or premises may be used for the following purposes in the C-2 Highway Commercial District if a conditional use permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Barbershops and beauty shops

2. Private clubs and lodges

3. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agriculture chemicals

4. Radio studios, transmitters and antenna

5. Recycling centers

6. Single family dwellings above stores/businesses or rear of business as long as dwelling remains subordinate in size and use.

5.7.05 SCREENING REQUIREMENTS:

1. Where a site adjoins or is located across an alley from the Residential District, a solid wall or fence or compact evergreen hedge six (6) feet in height may be required on the property line common to such districts, except in a required front yard.

2. Open storage of materials attendant to a permitted use or conditional use shall be permitted only within an area surrounded or screened by a solid wall or fence.

5.7.06 PROHIBITED USES:

1. All other uses and structures which are not specifically permitted or permissible as conditional uses shall be prohibited from the C-2 Highway Commercial District.

5.7.07 HEIGHT AND AREAS REGULATIONS: The maximum height and minimum area regulations shall be as follows:

1. General Requirements:

	Lot Area (Sq. Ft.)*	Lot Width	Required Front Yard	Required Side Yard	Required Rear Yard	Height
Permitted and Conditional Uses	7500**	50'	25'	7', 10' when abutting a residential district, street or road	20'	35'

* Excluding Road R.O.W.
** If with public/community water and sewer, otherwise 1.5 acres with any combination of public and private water/sewer systems and 3 acres with both systems being private.

2. All measurements to structure are taken from the property line unless adjacent to road or street, then from the designated right-of-way line.

5.7.08 PARKING REGULATIONS:

1. Parking within the C-2 Highway Commercial District shall be in conformance with the provisions of Article 7 of these regulations.

5.8 I-1 – LIGHT INDUSTRIAL DISTRICT

5.8.01 INTENT: This district is designed to provide for a wide range of light industrial and related uses.

5.8.02 PERMITTED PRINCIPAL USES AND STRUCTURES:

1. Animal hospitals
2. Automobile sales and services
3. Automotive wash facilities
4. Bottling works
5. Building material sales
6. Carpenter, cabinet, plumbing or sheet metal shops
7. Carpet and rug cleaning and repair services
8. Disinfecting and exterminating services
9. Dry cleaning, laundering and dyeing services
10. Dyeing and finishing of textiles
11. Educational and scientific research services
12. Electrical sales and services
13. Equipment rental and leasing services
14. Farm machinery and equipment - retail
15. Farm supplies - retail
16. Feeds, grains and hay - retail
17. Food lockers and storage services
18. Freight forwarding services
19. Furniture repair and reupholster services
20. Fur trading services
21. Garden centers and nurseries

22. Gas utility maintenance yard

23. Light manufacturing operation

24. Landscape sales and services

25. Mobile and modular home sales and manufacturing

26. Newspaper publishing plants and commercial printing

27. Photoengraving

28. Photo finishing services

29. Public utility and public service uses

30. Radios, televisions, phonographs, recorders, tape players and other similar devices repair services

31. Service stations

32. Stores or shops for the sale of industry goods at retail

33. Telephone services

34. Transportation warehousing

35. Truck wash services

36. Veterinarian services

37. Warehousing and storage except for products of a highly explosive, combustible or volatile nature

38. Wholesale establishments except those which handle products of a highly explosive, combustible or volatile nature

39. Mini-warehouse

5.8.03 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as conditional uses

2. Small wind energy systems

3. Broadcast towers including television, amateur radio or land mobile towers under 100 feet in height, subject to Section 9.13.06

4. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.

5. Advertising signs are permitted in accordance with the Nebraska Department of Roads guidelines along applicable highways unless a sign overlay district restricting the type or location of signs has been designated. Refer to Section 8.7 of these regulations.

5.8.04 CONDITIONAL USES: A building or premises may be used for the following purposes in the I-1 Light Industrial District if a conditional use permit for such use has been obtained in accordance with Article 6 of this Ordinance.

1. Recycling center;

2. Mineral extraction, which shall include the following: oil wells, sand and gravel extraction and strip mine operations and quarries; and

3. Broadcast towers and stations, including television, amateur radio or land mobile towers of more than 100 feet, subject to Section 9.13

4. Airport.

5.8.05 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as conditional uses shall be prohibited from the I-1 Light Industrial District.

5.8.06 HEIGHT AND AREA REGULATIONS: The maximum height and minimum area regulations shall be as follows:

1. General Requirements:

	Lot Area (sq feet)*	Lot Width	Required Front Yard	Required Side Yard	Required Rear Yard	Height
Permitted and Conditional Uses	10,000**	100'	40'	0' , 10' when abutting a residential district, street or road	15'	None

* Excluding Road R.O.W.
** If with public/community water and sewer, otherwise 1.5 acres with any combination of public and private water/sewer systems and 3 acres with both systems being private.

2. All measurements to structure are taken from the property line unless adjacent to road or street, then from the designated right-of-way line.

5.8.07 PARKING REGULATIONS: Parking within the I-1 Light Industrial District shall be in conformance with the provisions of Article 7 of this Ordinance.

5.8.08 PERFORMANCE STANDARDS: Performance standards for industrial uses shall be in conformance with the provisions of Section 9.23 of these regulations.

5.9 I-2 – HEAVY INDUSTRIAL DISTRICT

5.9.01 INTENT: This district is designed to provide for a wide range of heavy industrial and related uses.

5.9.02 PERMITTED PRINCIPAL USES AND STRUCTURES:

1. Animal hospitals
2. Automotive wash facilities
3. Bottling works
4. Building material sales and ready-mix concrete plants
5. Carpenter, cabinet, plumbing or sheet metal shops
6. Carpet and rug cleaning and repair services
7. Disinfecting and exterminating services
8. Dyeing and finishing of textiles
9. Electrical sales and services
10. Equipment rental and leasing services
11. Farm machinery and equipment - retail
12. Farm supplies - retail
13. Feeds, grains and hay - retail
14. Food lockers and storage services
15. Freight forwarding services
16. Furniture repair and reupholster services
17. Fur trading services
18. Garden centers and nurseries
19. Gas utility maintenance yard
20. Light or heavy manufacturing operation
21. Landscape sales and services

22. Mobile and modular home sales and manufacturing

23. Newspaper publishing plants and commercial printing

24. Photoengraving

25. Public utility and public service uses

26. Service stations

27. Stores or shops for the sale of industry goods at retail

28. Telephone services

29. Transportation warehousing

30. Truck wash services

31. Veterinarian services

32. Warehousing and storage except for products of a highly explosive, combustible or volatile nature

33. Wholesale establishments except those which handle products of a highly explosive, combustible or volatile nature

34. Mini-warehouse

5.9.03 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as conditional uses

2. Small wind energy systems

3. Broadcast towers including television, amateur radio or land mobile towers under 100 feet in height, subject to Section 9.13.06

4. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.

5. Advertising signs are permitted in accordance with the Nebraska Department of Roads guidelines along applicable highways unless a sign overlay district restricting the type or location of signs has been designated. Refer to Section 8.7 of these regulations.

5.9.04 CONDITIONAL USES: A building or premises may be used for the following purposes in the I-2 Heavy Industrial District if a conditional use permit for such use has been obtained in accordance with Article 6 of this Ordinance.

1. Recycling center;

2. Mineral extraction, which shall include the following: oil wells, sand and gravel extraction and strip mine operations and quarries; and

3. Broadcast towers and stations, including television, amateur radio or land mobile towers of more than 100 feet, subject to Section 9.13

4. Airport.

5. Adult Entertainment as per Section 9.17

6. Commercial/Utility Grade Wind Energy Systems

7. Ethanol Plants

8. Warehousing and storage including products of a highly explosive, combustible or volatile nature

9. Salvage Yards

10. Grain elevators and grain processing

11. Fertilizer storage

5.9.05 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the I-2 Heavy Industrial District.

5.9.06 HEIGHT AND AREA REGULATIONS: The maximum height and minimum area regulations shall be as follows:

1. General Requirements:

	Lot Area (Sq. Ft.)*	Lot Width	Required Front Yard	Required Side Yard	Required Rear Yard	Height
Permitted and Conditional Uses	10,000**	100'	40'	0' , 10' when abutting a residential district, street or road	15'	None

* Excluding Road R.O.W.
** If with public/community water and sewer, otherwise 1.5 acres with any combination of public and private water/sewer systems and 3 acres with both systems being private.

2. All measurements to structure are taken from the property line unless adjacent to road or street, then from the designated right-of-way line.

5.9.07 PARKING REGULATIONS: Parking within the I-2 Heavy Industrial District shall be in conformance with the provisions of Article 7 of this Ordinance.

5.9.08 PERFORMANCE STANDARDS: Performance standards for industrial uses shall be in conformance with the provisions of Section 9.23 of these regulations.

5.10 FF/FW - FLOOD PLAIN OVERLAY DISTRICT

5.10.01 INTENT:
The intent of this overlay district is to limit the use of land within the established flood plain areas described and delineated as Zone A or as the 100 year Flood Designation on the most current and adopted Flood Insurance Rate Map of Fairmont as prepared by the Federal Insurance Administration of the U.S. Department of Housing and Urban Development and as adopted by Fairmont.

5.10.01 The 2004 Floodway and Flood Fringe Ordinance No. 04-433, shall continue in affect and enforced, until such time as they are amended.

5.10.02 DISCLAIMER OF LIABILITY:

The degree of flood protection required by Ordinance No. 04-433 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. Said Ordinance does not imply that areas outside floodplain district boundaries or land uses permitted within such districts will be free from flooding or flood damage. Said Ordinance shall not create liability on the part of the Village or any officer or employee thereof for any flood damages that may result from reliance on said Ordinance or any administrative decision lawfully made thereunder.

5.11 WHP – WELLHEAD PROTECTION OVERLAY DISTRICT

5.11.01 INTENT: The intent of this district is to protect the public water wells in the jurisdiction of Fairmont. In addition, this overlay district assists rural water districts maintaining and operating semi-public water wells in the jurisdiction that serve rural areas and other municipalities. In order to provide protection for such wells, and maintain the health, safety, and general welfare of Fairmont residents, the regulation of land uses having the potential for contamination of groundwater sources is necessary within a specified boundary area surrounding said wells.

5.11.02 PREREQUISITE REQUIREMENTS FOR APPLICATION OF THIS DISTRICT: Prior to the application of this district to any lands in Fairmont, the rural water district which maintains and operates water supply wells within the Village shall make application to the Village seeking application of this district to specified lands within the Village. Prior to making such application and approval of any application of this district to any lands within the Village by the Village Board, the rural water district making such application shall first comply with all other requirements of the Wellhead Protection Act (Neb. Rev. Stat. 46-1505 through 46-1509). These requirements for any rural water district (and the village itself) 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 or 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 an 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 an interlocal agreement with Fairmont 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 any administrative fees to the Village to which the parties involved agree; willingness to provide legal counsel 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,

8. Willingness to participate in the Conditional Use Permit process pursuant to Section 5.11.09.

5.11.03 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 officially approved Wellhead Protection Areas 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.

5.11.04 AMENDMENT OF OFFICIAL ZONING MAP: Whenever the requirements of Section 5.11.02 of this Article have been complied with and the Village Board has approved the application of this overlay zoning district on land with the Village, in accordance with the procedures for amendment of the Official Zoning Map set forth in this Ordinance, the boundaries of such overlay district shall be indicated on said Official Zoning Map.

5.11.05 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 5.11.07 of this Article, and provided all such uses further comply with the additional wellhead protection restrictions set forth in Section 5.11.08 of this Article.

5.11.06 MINIMUM LOT REQUIREMENTS: The minimum lot requirements as set forth on the primary zoning district shall apply within this overlay district, according to the location of each primary zoning district. Such requirements include lot area, lot width and frontage, setback requirements, and height restrictions.

5.11.07 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not permitted in the underlying district 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 200 head total or greater than those numbers of livestock permitted in the AG-2 District without a Conditional Use Permit.

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 Department of Environmental Protection 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.

5.11.08 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 200 Head or less shall conform to the requirements of Sections 5.1.02 and 5.2.02.

2. On farm storage of gasoline or diesel fuel in excess of one-thousand one-hundred (1,100) gallons per aboveground storage tank or five hundred (500) gallons per underground storage tank, or two-thousand five-hundred (2500) gallons total of all tanks 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 or waste lagoon, or man-made or constructed earthen water storage(including irrigation re-use pits) associated with any residential, commercial, industrial, agricultural, or other type of use shall be permitted within one-thousand (1,000) feet of any 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 permitted by Section 5.11.08 shall be operated safely and maintained in an operable and serviceable condition and meet all Department of Environmental Quality and Fire Marshall's regulations. All storage tanks with a capacity of at least three hundred (300) gallons shall receive a Storage Tank Permit before being place into service.

5.11.09 CONDITIONAL USE PERMITS: A building or premises may be used for the expansion of existing or development of new livestock confinement facilities/operations of 201 animals or more in the WHP Wellhead Protection District if a Conditional Use Permit for such use has been obtained pursuant to the following provisions:

1. Compliance with Article 6: The Conditional Use Permit provisions of Article 6 must be complied with.

2. Municipal Review: The planning commission and governing body shall be notified by the Fairmont Zoning Administrator of any application for a Conditional Use Permit within the respective wellhead protection area.

5.12 AHO AIRPORT HAZARD OVERLAY DISTRICT

5.12.01 INTENT

This district is established as an overlay district for application over any primary zoning district within three (3) statute miles in all directions from the adjacent boundaries of the Fairmont State Airfield located in Section(s) 5, 6, 7, 8,and 17 Township 7 North, Range 2 West of the 6th P.M., in Fillmore County which is within the planning and zoning jurisdictional area of Fairmont, Nebraska and is intended to prevent airport hazards and protect the public investment and utility of the airport.

5.12.02 HAZARD AREA DESCRIPTION

The airport hazard area consists of Operation Zones, Approach Zones, Turning Zones and Transitional Zones. The outer boundary of the hazard area is composed of a series of connected tangents and simple curves which also constitute the outer boundaries of the Approach and Turning Zones. The inner boundary of the hazard area is a boundary line consisting of a series of intersecting tangents five hundred (500) feet from and parallel to the centerline of the instrument runway or landing strip and two hundred fifty (250) feet from and parallel to the respective centerlines of all other runways or landing strips and connecting the inner boundaries of adjacent Approach Zones at the ends of the runways, landing strips or proposed runways or landing strips.

5.12.03 ZONE DESCRIPTIONS

1. The Operation Zones shall be located along each existing or proposed runway, landing strip or other portion of the airfield used regularly, or to be used regularly, for the landing or taking off of airplanes and shall begin or end at each end of each landing strip and two hundred (200) feet beyond the end of each runway and shall be one thousand (1,000) feet in width for each instrument runway or landing strip and five hundred (500) feet in width for all other runways and landing strips.

2. The Approach Zones shall begin at the ends of their respective Operation Zones and shall extend and expand uniformly centered along the extended centerline of the respective runway or landing strip, to the outer boundary of the Approach Zone at a rate of thirty (30) feet of width for each one hundred (l00) feet of horizontal length for the instrument runway or landing strip and twenty (20) feet of width for each one hundred (100) feet of horizontal length for all other runways.

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

   The Outer Area of each Approach Zone shall be the area between the outer limit of the Inner Area of the Approach Zone and the outer limit of the Approach Zone.

3. The Transition Zones shall be the areas bounded by the Operation Zones of the hazard area, the sides of contiguous inner areas of the Approach Zones and the outer limits of the Transitional Zones; said outer limits of the Transitional Zones being the intersections, at elevations of one hundred fifty (150) feet above the highest elevation at the ends or edges of the closest runway or landing strip, or proposed runway or landing strip, of a series of contiguous planes originating from bases established by the Operation Zones of the hazard area and" the edges of adjacent inner areas of Approach Zones; said planes rising from their respective bases along lines perpendicular to the centerline of the runway or landing strip at the rate of one (l) foot vertically to seven (7) feet horizontally to the lines of intersection previously referred to.

4. The Turning Zones shall comprise all portions of the hazard area not contained in the Operation Zones, Approach Zones and in the Transitional Zones. The outer limits of the Turning Zones shall be a series of points forming a line which is the horizontal distance of three (3) statute miles from the nearest points along the airport boundary lines.

5.12.04 HEIGHT RESTRICTIONS

No building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character shall hereafter be erected, constructed, repaired or established, nor shall any tree or other object of natural growth be allowed to grow:

1. In Inner Areas of Approach Zones to a height above the elevation of the nearest point on the end or proposed end of said instrument runway or landing strip in excess of one-fiftieth (l/50), and all other runways or landing strips in excess of one-fortieth *(1/40)* of the distance from the end of the Approach Zone (the end nearest the runway or landing strip) to said structure or object.

2. In the Outer Area of the Approach Zones and in Turning Zones to a height in excess of one hundred fifty (150) feet above the elevation at the end or proposed end of the nearest runway or landing strip.

3. In the Transition Zones to a height above the planes forming the transition slopes; and

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

5.12.05 LOCATION SKETCH AND ZONING MAP

The boundaries, Operation Zones, Approach Zones, Transition Zones and Turning Zones of the Fairmont State Airfield are as indicated on the Fairmont Official Zoning Map, which accompanies and is hereby made a part of these regulations, a copy of which shall at all times be on file in the office of the Village Clerk of Fairmont, Nebraska.

5.12.06 PERMIT REQUIRED, EXCEPTIONS, APPLICATION FORMS AND PERMIT FEES

1. Permit Required:
   It shall hereafter be unlawful to erect, construct, reconstruct, repair or establish any building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character or to plant or replant any tree or other object of natural growth within the boundary of the zoned area of the Fairmont State Airfield without first obtaining a zoning permit from the Village Zoning Administrator.

2. Exceptions:
   In the outer area of Approach Zones and within Turning Zones, no such permit shall be required for construction of planting which is no higher than seventy-five (75) feet above the elevation of the end of the nearest runway or landing strip, except for any permits required by other sections of these Regulations.

3. Application Forms:
   Application for a zoning permit as required under these regulations shall be made upon a form or forms to be available in the office of the Zoning Administrator and shall indicate the approximate location, ground elevation with reference to the elevation at the end of the nearest runway or landing strip and height of the proposed structure or planting.

4. Permit Fees:
   The fee for each zoning permit shall be the normal fee charged by the Village plus any other additional fees determined by the Village.

5.12.07 NON-CONFORMING USES AND STRUCTURES

Within the zoned airport hazard area as hereinbefore defined, no non-conforming building, transmission line, communication line, pole, tree, smokestack, chimney, wires, tower or other structure or appurtenance thereto of any kind or character or object of natural growth shall hereafter be replaced, substantially reconstructed, repaired, altered, replanted or allowed to grow, as the case may be, to a height which constitutes a greater hazard to air navigation than existed before these regulations where adopted; nor above the heights permitted by these regulations if such structures or objects of natural growth have been torn down, destroyed, have deteriorated or decayed to an extent of eighty (80) percent or more of their original condition, or abandoned for a period of twelve (12) consecutive months or more. Transmission lines and communication lines as referred to in these regulations shall be interpreted to mean all poles, wires, guys and all other equipment necessary for the operation and maintenance of same within the airport hazard zone.

5.12.08 MARKING OF NON-CONFORMING STRUCTURES

Whenever the Zoning Administrator shall determine, or shall be notified by the Nebraska Department of Aeronautics, that a specific non-conforming structure or object exists and

has existed prior to the passage of these regulations and within the airport hazard zoned area herein before described at such a height or in such a position as to constitute a hazard to the safe operation of aircraft landing at or taking off from said airport, the owner or owners and the lessor or lessors of the premises on which such structure or object is located shall be notified in writing by the Zoning Administrator and shall, within a reasonable time, permit the marking thereof by suitable lights or other signals designated by the Zoning Administrator as is based on recommendations of the Nebraska Department of Aeronautics. The cost of such marking shall not be assessed against the owner or lesser of said premise.

5.12.09 ADMINISTRATIVE AGENCY

The Zoning Administrator of Fairmont, Nebraska shall administer and enforce these regulations, and shall be the administrative agency provided for in Section 3-3 19, R.R.S. 1943, and shall have all the powers and perform all the duties of the administrative agency as provided by the Airport Zoning Act within the zoning jurisdictional area of the village.

5.12.10 BOARD OF ZONING ADJUSTMENT

The Board of Zoning Adjustment of Fairmont, Nebraska shall be the Board of Zoning Adjustment with respect to these regulations, to have and to exercise the powers conferred by Section 3-320, R.R.S. 1943, and such other powers and duties as are conferred and imposed by law.

5.12.11 CONFLICTS

In the event of any conflict between these airport hazard regulations and any other regulations established by these or other regulations, whether the conflict be with respect to the height of structures or trees, the use of land or any other matter, the more stringent or restrictive limitation shall govern and prevail.

5.13 CO – CONSERVATION OVERLAY DISTRICT

5.13.01 INTENT:
The intent of this overlay district is to provide for the retaining of natural growth of a particular area; to preserve the natural environment and resources from destructive land uses; to preserve certain locations which have a historic value, outdoor recreation value, and/or environmentally sensitive lands including wetlands, streams and steep slopes; to protect natural spawning grounds, feeding grounds, and wildlife habitats, and/or lands that have a current or future request for a conservation easement. The overlay is not intended to eliminate all uses from these areas but to prohibit certain detrimental uses and to make aware that certain uses may be limited or controlled based upon individual adopted management plans.

5.13.02 PURPOSE:
The purpose of this overlay district is to provide additional criteria in the areas of Fairmont's jurisdiction having natural, cultural, or recreational value; along the identified streams and rivers; other lands that may be identified as environmentally sensitive and needing protection; and/or on lands that have a current or future request for a conservation easement. This overlay district does not limit uses, unless specifically identified; and these shall be controlled by the underlying districts. Applicants are required to demonstrate specific conditions prior to approval of any requested use including any uses that are considered as permitted and/or as conditional uses.

The requirements of this overlay district include a number of mechanical testing and monitoring techniques as well as common sense practical conservation methods. The combination of these two approaches is intended to create an area within Fairmont's jurisdiction where a mixture of desirable uses can be established and/or expanded, while maintaining and conserving natural areas.

5.13.03 PERMITTED USES:
Those principal and accessory uses allowed in the underlying zoning district shall be permitted in this overlay district unless otherwise prohibited.

5.13.04 CONDITIONAL USES:
Those special principal and accessory uses allowed in the underlying zoning district shall be permitted in this overlay district unless otherwise prohibited.

5.13.05 PROHIBITED USES:
The following uses are prohibited in this overlay district:

1. Residential structures
2. Livestock feeding operations
3. Salvage or junk yards
4. Airports
5. Churches and cemeteries
6. Auction barns and yards
7. Grain storage

5.13.06 SPECIFIC CONDITIONS REQUIRED:

The following are specific requirements/guidelines for placing any intensive use within this overlay district.

1. Subdivisions for purposes of this district shall mean anytime a rezoning is approved for the purpose of increasing the density in an "AG-1" Agriculture District or the "AG-2" Agriculture District.
2. No new subdivisions shall be platted within this overlay unless developments of four or more lots per ¼ section are supplied by a public/regional system or rural water district and are required to construct a central distribution system to supply water to the individual lots of the development.
   a. The central water system shall meet all Village, state, and federal guidelines.
   b. The developer shall demonstrate that the proposed central water system will not create an impact upon existing properties and wells surrounding the development.
   c. The central water system shall be designed to provide fire protection flows to the development.
3. Subdivision developments will be required to maintain a minimum of 15% of the development in green space or crop ground, as defined above.
   a. Subdivisions shall meet all requirements in the Subdivision Regulations and the items within this Section.
   b. A subdivision may clear 15% of all tree cover and/or natural ground cover such as prairie grasses for individual lots that are constructing a structure or structures. The necessary ground cover may be disturbed for constructing streets and infrastructure.
   c. The developer shall provide the Village with a site plan and construction plan for such developments.
   d. All required green space will be required to be made part of a homeowner's association agreement, the developer, or another authorized organization or agency.
4. Parcel where 15% or more of the land area is in tree cover and/or natural ground cover such as prairie grasses, only 15% of the sites tree cover and/or ground cover may be disturbed for purposes of constructing a structure or structures. No land shall be cleared for cultivation or other purpose, provided that this provision shall not prohibit the harvesting of woodland products on a sustained-yield basis.
5. All other uses including commercial and industrial developments shall be required to meet the requirements of this Section.
6. Only small livestock operations shall be allowed within the overlay district, but all confined pens and shelters shall be for purposes of short term confinement including back grounding and calving. The open grazing of livestock within this overlay is encouraged.
7. No construction on slopes of 15% or more shall be allowed in this overlay district.
8. Wetlands within this area shall not be disturbed or mitigated and shall be maintained and conserved as part of any construction project. No land or water area shall be filled, dredged or drained nor shall any natural stream or floodway be encroached upon or polluted.

9. Provided, however, that exceptions to the foregoing conditions may be authorized by the Village Board of Zoning Adjustment for navigation channels, drainage channels, roads, clearings, or other improvements necessary for the protection of existing uses or the proper development of adjacent properties, provided, that such works or improvements shall be so limited that they will not tend to destroy or materially change the natural conditions of rivers, woodlands, swamp, marsh, shallows or other wetlands.

5.13.07 APPROVAL:

Approval of an application within this overlay district shall only occur upon the applicant complying with and meeting the requirements of this Section. Failure to meet the requirements and conditions of this Section shall result in an application being denied.

ARTICLE 6 – CONDITIONAL USE PERMIT

6.1 GENERAL

The Village Board may authorize by conditional use permit after public hearing, any of the buildings or uses designated in this Ordinance as permitted conditional uses.

6.2 PROCEDURES

Such application shall be in writing, filed in the zoning office, state the proposed location and use of the property, and such other relevant matters as may be requested by the Planning Commission. Upon receipt of such application, the Zoning Administrator shall forward the application to the Planning Commission for its recommendation. Upon hearing, the Planning Commission shall forward its recommendation to the Village Board, within thirty (30) days. Upon hearing, the Village Board may allow or deny the application in whole or in part, or prescribe conditions for such use of the property. No conditional use permit shall become effective until after separate public hearings are held by both the Planning Commission and the Village Board in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the purpose, time, and place of such hearing shall be given by publication thereof in a paper of general circulation in the Village and in the local newspaper of any Village which has territory within three miles of the property affected by such action of the Village Board, one time at least ten (10) days prior to such hearing.

In addition to the publication of the notice herein prescribed, a notice, in sign form, of the hearing shall be posted in a conspicuous place on or near the property on which such action is pending. The sign shall be placed at least ten (10) days prior to date of each hearing. A notice of the purpose, time, and place of the hearing shall be given in writing to the Chairperson of any municipality, county, or joint Planning Commission which has jurisdiction over land within three miles of the property affected by such action. In the absence of a Planning Commission, such notice shall be given to the clerks of units of local government having jurisdiction over land within three miles of the property affected by such action. A written notice of such hearing shall be distributed to record title owners of property located within three hundred (300) feet of the property line of the property requesting the conditional use permit in incorporated areas and within one (1) mile of the property line of the property requesting the conditional use permit in unincorporated areas.

Except as otherwise provided herein, no conditional use permit shall be granted by the Village Board, without an affirmative vote of a majority of all members of the Village Board and providing the proposed use is found to comply with the following guidelines:

1. Be compatible with and similar to the use permitted in the district

2. Not be a matter which should require re-zoning of the property

3. Not be detrimental to adjacent property

4. Not tend to depreciate the value of the surrounding structures or property

5. Be compatible with the stated intended use of the district

6. Not change the character of the district

7. Be in accordance with the Comprehensive Plan

In case of protest against such conditional use permit, signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the side and in the rear thereof extending one hundred (100) feet, there from, and of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such conditional use permit shall not become effective except by the favorable vote of two-thirds of all members of the Village Board.

ARTICLE 7 – PARKING REGULATIONS

7.1 GENERAL PROVISIONS

All buildings and structures erected and all uses of land in all districts established after the effective date of this Ordinance shall provide accessory parking and loading facilities as required under this section.

1. All off-street parking spaces required by this Ordinance shall be located on the same lots as the use it serves.

2. Owners of two or more uses or parcels of land may agree to jointly utilize the same parking spaces provided that satisfactory legal evidence is presented in the form of deeds, leases, or contract documents to establish such a joint area of use.

3. All yard area including driveways, except the required front yard for residential uses may be used for off-street parking. Garages and driveways may be considered as off-street parking spaces.

4. A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be met, shall accompany an application for a zoning permit. The plan shall show all elements necessary to indicate that the requirements are being fulfilled.

7.2 OFF-STREET PARKING REQUIREMENTS

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

Use	Minimum Number of Parking Spaces
Single Family, Two-Family Dwelling	1 per dwelling unit
Multifamily	
Efficiency and one-bedroom	1 per dwelling unit
Two-bedrooms	1 1/2 per dwelling unit
Three or more bedrooms	2 per dwelling unit
Mobile Trailer Park	1 per trailer unit
Hotel and Motel	1 per rental unit plus 1 for every 4 employees
Hospitals, nursing homes, rest homes, or similar uses	1 for every 2 1/2 patient beds and 1 for each staff and employee on the largest shift
Places of public assembly such as auditoriums, theaters, stadiums, community halls, churches, etc.	1 for every 4 seats
Bowling Alley	2 for each alley
Retail sales department stores, restaurants, taverns, grocery stores, etc.	1 per 200 square feet of floor area as determined by exterior wall dimensions
Professional office establishment	1 per 500 square feet of floor area as determined by exterior wall dimensions
Manufactoring, wholesale warehouse and similar uses	1 for every 2 employees on the largest working shift

7.3 OFF-STREET LOADING REQUIREMENTS

At the time of construction, alteration or enlargement of any structure or building except residences and farms having an aggregate gross floor area of 500 square feet or more, off-street loading areas shall be provided and maintained for all uses as follows:

Number	Loading Area	Gross Floor Area
One	500 square feet	for every 5,000 to 20,000 square feet
One	500 square feet	For every 20,000 square feet or fraction thereof

ARTICLE 8 - SIGN REGULATIONS

These regulations are intended to apply to all zoning districts. However, these regulations may not be pertinent to all uses and situations.

8.1 DEFINITIONS

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

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

AUDIBLE SIGN shall mean any sign that conveys either a written message supported by an audible noise including music, spoken message, and/or sounds to attract attention to the sign. Audible signs also include signs conveying only the audible noise including music, spoken message, and/or sounds to attract attention.

AWNING, CANOPY OR MARQUEE SIGN shall mean a sign that is mounted, painted, or attached to an awning, canopy, or marquee that is otherwise permitted by the Zoning Regulations.

BILLBOARD shall mean a sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

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

BUSINESS SIGN shall mean an on-site sign which identifies or directs attention to an object; product, place, activity, business, person or persons, service or interest situated on the same premises as such sign.

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

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

FLASHING SIGN shall mean a sign designed to give an electrical light flash intermittently or a revolving beacon light.

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

GROUND (LOW PROFILE) SIGN shall mean a sign mounted directly to the ground with a maximum height not to exceed six feet.

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

OFF-PREMISES SIGN shall mean a sign, display, or device advertising activities conducted somewhere other than the site where the sign is located. This definition may also include the definition of billboard when the advertising message is off-premises.

ON-PREMISE SIGN shall mean a sign, display, or device advertising activities conducted on the property on which such sign is located. This definition may also include billboards used for on-premises advertising.

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

PORTABLE SIGN shall mean a sign, usually of a temporary nature, not securely anchored to the ground or to a building or structure and which obtains some or all of its structural stability with respect to wind or other normally applied forces by means of its geometry or character.

PROJECTING SIGN shall mean a projecting sign attached to a building.

ROOF SIGN shall mean a sign identifying the name of a business, enterprise, or the product sold on the premises and erected on the roof of the building.

SIGN AREA shall mean the entire area including the background of a sign on which copy can be placed but not including the minimal supporting framework or bracing. The area of individually painted letter signs, individual letter signs or directly or indirectly illuminated individual letter signs, shall be calculated on the basis of the smallest geometric figure that will enclose the entire copy area of the sign. Any such calculation shall include the areas between the letters and lines, as well as the areas of any devices, illuminated or non-illuminated.

SIGN FACE shall mean the surface of the sign upon, against, or through which the message of the sign is exhibited.

SIGN SETBACK shall mean the horizontal distance from the property line to the nearest projection of the existing or proposed sign.

SIGN SURFACE shall mean the entire area of a sign.

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

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

VIDEO SIGN shall mean any on-premises or off-premises sign that convey either a commercial or non-commercial message, including a business or organization name, through means of a television or other video screen.

WALL SIGN shall mean a sign attached to or erected against the wall of a building with the exposed face of the sign in a plane parallel to the wall of the building and not projecting more than 18 inches from the face of the building wall.

WINDOW SIGN shall mean a sign painted, stenciled, or affixed on a window, which is visible from a right-of-way.

8.2 GENERAL

1. All signs and sign structures shall be kept in good repair and in proper state of presentation. Signs which are abandoned shall be removed within 30 days following abandonment and restored to a condition free from refuse and rubbish.
2. Any sign, by definition, shall be a structure. No land, building, or structure shall be used for sign purposes except in conformance with these regulations including any applicable zoning district.
3. No sign shall be erected, enlarged, or otherwise modified until a zoning permit for same has been issued, except as specified in this Section.
4. Flashing, animated and neon signs shall be prohibited, except for time, date, temperature, or weather signs. However, they may be allowed only upon approval of the Village Board, provided it is first determined that the sign will in no way create a traffic hazard or confusion with traffic lights or with lights on emergency vehicles.
5. If any non-conforming sign is damaged and the damage exceeds two-thirds of its replacement value, it shall not be rebuilt; provided, however, that nothing herein contained shall prevent maintenance of non-conforming signs.

8.3 STANDARD OF MEASUREMENT

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

8.4 SIGN TYPE

1. Real Estate: Not more than two signs per lot may be used as a temporary sign no larger than six square feet (except, "AG-1" or "AG-2" may be up to 32 square feet and setback a minimum of five feet from the R.O.W.) and set back 20 feet from the road right of way or road easement boundary. In no case shall these signs obstruct the visibility at any intersection or driveway.
2. Business: Small announcement or professional signs, not over six square feet in area, except that an announcement sign or bulletin board not over 18 square feet in area, set back at least 20 feet from any highway, street, road, or roadway easement may be erected in connection with any of the permitted principal uses of a nonresidential nature.
3. Wall: A sign or sign flat against a building wall when appertaining to a non-conforming use on the premises, not exceeding in the aggregate 50 square feet in area except as may be authorized by the Board of Zoning Adjustment.
4. Name plate: One nameplate not exceeding two square feet for each dwelling.
5. Billboard: Billboards, signboards, and other similar advertising signs subject to the same height and location requirements as other structures in the district and also subject to the following conditions and restrictions.
   a. No billboard, signboard, or similar advertising signs shall be located at intersections so as to obstruct vision, hearing, or interfere with pedestrian or vehicular safety. No sign shall be located within 250 feet from the right-of-way line of any road intersection measured in any direction from the right-of-way line provided this restriction shall not apply to the intersection of frontage roads with State highways.
   b. No billboard, signboard, or similar advertising signs shall be located within 300 feet of any lot in a residential district.
   c. Billboards may be single or double faced but no billboard shall have more than one face per side of the structure and the sign face shall not exceed 378 square feet in area. Double-stack billboards are prohibited.
   d. No billboard, signboard, or similar advertising signs shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property and not within 1,500 feet to another billboard.
   e. Each billboard shall be setback at least 25 feet from the street/road right-of-way line.
   f. There shall be no more than two (2) billboards per mile, measured from section line to section line regardless of which side of the roadway the billboards are located.

g. No billboard shall be located within 1000 feet of the property line of a school, church, hospital, a care facility, cemetery, public building, park or playground, or National Register site.
h. No billboard shall be erected or maintained upon or immediately above the roof of any building.
i. Billboards shall have either a monopole or pedestal support.
j. No billboard shall exceed 35 feet in height measured from the average grade of the surrounding area to the highest point of the billboard.
k. Lighting on any billboard shall be shielded to light the sign face only. Light trespass from the sign face is prohibited.
l. Attention attracting devices are prohibited except for lighted message signs displaying time, date, temperature or weather or alert information. Lighted message sign displaying other information or advertising shall be prohibited.
m. Any billboard structure existing as of the effective date of this Ordinance may be restored at its current location provided that nay restored billboard shall not exceed the size, height, and other limits of the existing structure. Any billboard existing as of the effective date of this Ordinance may be replaced at the same location, provide such requirements (c) and (h)-(l) herein are met.
n. Any billboard that is allowed to deteriorate to the point of being a public nuisance or a threat to the public safety, health or welfare because it has become so damaged, decayed, dilapidated, structurally unsafe or of such unstable condition that partial or complete collapse is possible, shall be caused to be removed. The owner shall remove the billboard and structure within 30 days of receiving notice that the Village has declared the billboard a public nuisance or dangerous structure. Failure to remove such sign and structure shall be considered a violation to these regulations and punishable as such.

6. Low Profile or Ground: Ground signs at least five feet from any lot line with a maximum height of six feet.
7. Projecting or Pole: One free standing or projecting sign for each enterprise on the premises of not more than 100 square feet per sign face, at no point closer to the front line or a side line than one-half of the required building setback distance, and not exceed the maximum height from the established grade level for said Zoning District. The lowest horizontal projecting feature of any post or pole mounted sign shall be eight feet above the established grade level.
8. Subdivision: Not more than one sign per entrance into the subdivision. No sign shall be greater than 50 square feet in size and shall not be higher than 42 inches in height. All signs shall have a six foot height maximum.
9. Signs hung from canopies and awnings shall be no closer than 80 inches from the bottom edge of the sign to grade below.

8.5 SCHEDULE

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

Zoning District	AG-1	AG-2	R	R-1	R-2	C-1	C-2	I-1	I-2
Sign Type									
Real Estate	+	+	+	+	+	+	+	+	+
Business	+	+	+	+	-	+	+	+	+
Wall	+	+	+	+	-	+	+	+	+
Name Plate	+	+	+	+	+	+	+	+	+
Billboard	-	-	-	-	-	+	+	+	+
Subdivision	-	-	S	S	S	S	-	+	+
Projecting	-	-	-	-	-	+	+	+	+
Pole	-	-	-	-	-	+	+	+	+
Ground or Low Profile	-	-	-	-	+	+	+	+	+

(+) permitted (S) allowed by special use permit (-) not allowed

8.6 PERMITS

All signs, except Real Estate signs advertising the sale of property where the sign is located and up to one business sign for the authorized business being conducted on the property where the sign is located, shall require a zoning permit from the Zoning Administrator prior to installing any new sign. Election signs shall be exempt so long as they do not interfere with the safety and well-being of the public.

8.7 SIGN OVERLAY

All signs, located within the designated sign overlay district, which is generally 300 feet either side of the highway(s) in the village jurisdiction, shall gain approval from the Nebraska Department of Roads, if required, (Signs approved by the Village do not necessarily constitute approval by the State) and meet the following provisions:

8.7.01 Signs shall be advertising businesses only located within Fillmore County.

8.7.02 Any sign over 100 square feet is only permitted by a conditional use permit.

8.7.03 Signs shall be well maintained and placed on permanent structures. Signs placed on semi-trailers are not permitted as business signage.

8.7.04 All other respective sign regulations shall apply.

ARTICLE 9 – SUPPLEMENTAL REGULATIONS

These regulations are intended to apply to all zoning districts. However, these regulations may not be pertinent to all uses and situations.

9.1 SETBACK REQUIREMENTS

9.1.01 Minimum building setbacks shall be required along all public roadways or right-of-ways as set forth in the district regulations, except as exempted herein. Setbacks equal to or exceeding the minimum setback requirements of each district shall be provided with the following qualifications:

1. Any setback so placed or oriented that none of the specific setback definitions contained in these regulations are applicable, shall necessitate a determination by the Zoning Administrator of a suitable setback dimension which will be consistent with the intent of the setback requirements within the applicable zoning district.
2. No structure shall project into a required front, side or rear setback.
3. Building Groupings:
   For the purpose of the side yard regulation, a group of business or industrial buildings separated by a common party wall shall be considered as one building occupying one lot.

9.1.02 Building Setback

1. The building setback lines shall be determined by measuring the horizontal distance from the property line to the furthest architectural projection of the existing or proposed structure, or
2. Where a road is identified, said setback shall be from the right-of-way line of the road to a point horizontally located at the required minimum distance.

9.1.03 Setback Exceptions

1. At grade patios, parking areas, loading areas and similar at grade surfacing shall be permitted to encroach into any yard, provided such surfaced area shall be included in the calculation of maximum lot coverage as set forth in each zoning district regulation.
2. Projections from Buildings.
   a. The ordinary projections of chimneys and flues, buttresses, eaves, overhangs, open-unenclosed steps or stoops up to 5' in height may extend into required yards for a distance of not more than two (2) feet in the required side yard and not more than five (5) feet in the required front yard, provided that such required yard or open space meets the current minimum yard standards. Where it is needed, handicap ramps may extend into required yards up to the property line.
   b. As a part of single and two family residences, open uncovered porches or decks no higher than the first floor above grade on the side of the building to which they are appurtenant and in no event higher than 30 inches above grade of the lot on the side of the structure where such porch or deck is located, may extend:

i. Three feet into any side yard that otherwise meets minimum side yard requirements provided that the other side yard also meets such minimum side yard requirements and remains free of encroaching structures of any kind; and that said new encroachment meets all separation requirements between structures as determined in the zoning regulations, except gated fences providing access to the rear yard.

ii. Eight feet into a front yard provided that the front yard otherwise meets minimum front yard requirements and provided further 1.) That in no event may such porch or deck cover more than 96 square feet of the required front yard or extend beyond the side walls of the building structure, and 2.) Front decks or porches shall not be higher than 30 inches above ground and no higher than the first floor, except that on homes with front entryways at first floor level but driveway cuts and garage floors at basement level, there may be constructed a veranda-type uncovered deck or porch extending from the front deck or porch over the garage door or doors, which extended area shall be at the same elevation and shall have bracing as required by the zoning administrator, and 3.) Covered porches, built of materials of the same or similar nature as the roof of the principal structure may be allowed with eaves not to exceed 12 inches.

iii. Safety railings shall be installed as approved by the zoning administrator.

iv. One-half of the distance into the required rear yard, but in no event closer than 15 feet to any property line.

c. Provided further, that no railing or other shall be placed around such deck or porch in a rear yard or side yard and no such barrier which interferes appreciably more than 25 percent with the passage of light or air shall be constructed within the required front yard or within five feet of any side or 15 feet of any rear yard lot line. Any such deck or porch when located on a lot at the intersection of two streets or a street and an alley, shall comply with the provisions designed to ensure proper sight distances as set forth in these regulations for fences and hedges.

9.2 YARD REGULATIONS:

9.2.01 FRONT YARDS: The front yards heretofore established shall be adjusted in the following cases:

Where forty percent (40%) or more of the frontage on one side of a street between two intersecting streets is developed with buildings that have a front yard less than the required, new buildings shall not be erected closer to the street than the nearest building on the block.

9.3 EXCEPTIONS TO HEIGHT REGULATIONS

The height limitations contained in the Schedule of District Regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other

appurtenances usually required to be placed above the roof level and not intended for human occupancy and agricultural structures.

9.4 LOT - PRINCIPAL USE

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

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

1. Institutional buildings
2. Public or semi-public buildings
3. Multiple-family dwellings
4. Commercial or industrial buildings
5. Home for the aged

9.4.03 Unless otherwise provided for, all existing principal uses replaced by new construction shall be removed from the property within 12 months of certificate of occupancy of the new structure or use.

9.5 EXCEPTIONS TO LOT SIZE REQUIREMENTS

If, at the time of passage of these regulations, a lot or the aggregate of contiguous lots or land parcels held in a single ownership, has an area or dimension which does not meet the lot size requirements of the district in which the property is located, the lot or aggregate holdings may be occupied by any use permitted outright in the district subject to the other requirements of the district.

9.6 ACCESSORY BUILDING

Buildings and structures may be erected and land may be used for purposes which are clearly incidental to, and customarily and commonly associated with the main permitted use of the premises. Such accessory buildings and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthful or disturbing to adjacent property, or the users thereof, and shall be on the premises of the main use, unless otherwise provided for, and of quality of materials and construction similar to or acceptable to that of the main use. Accessory buildings located in the residential districts shall not have sidewalls that exceed 17 feet in height and shall be constructed of materials similar to the principle residential use, except that vertical metal wall panels shall not be used. (Ord. No. 13-489, Nov. 12, 2013). Such structures shall include a minimum 12-inch and maximum 36-inch overhang/eave with a fascia and soffit.

Accessory buildings shall not occupy more than thirty percent of the required area for the rear yard. Any accessory building shall have a minimum setback of 25 feet front yard, 5 feet side yard when adjoining an alley and three (3) feet on all other sides or locations and all garage vehicular entrances must have a minimum of ten (10) feet from the access street or alley, provided that no accessory building shall be located closer to the street than the front of the primary structure, or unless a distance is otherwise prescribed in the

zoning district. Attached garages are considered part of principal building. The maximum height of an accessory structure in the agriculture, commercial and industrial districts shall be designated maximum height of the primary structure.

9.7 ACCESSORY BUILDING PRIMARY NATURE

Accessory buildings may be the primary building on a lot in the residential districts by conditional use if permitted. All setbacks of a primary use and height requirements of the accessory use in the district shall be met. Such structure shall be single story, have one access driveway from the street or alley, and have a minimum size of 100 square feet and a maximum size of 1,080 square feet. Consideration of location shall be given for future buildings/structures/uses on the property so as to be in compliance with the regulations of the appropriate zoning district. Such structures shall be located on the back half of the lot and have a minimum of 25% vegetative landscaping on the front half of the lot. Such structures shall be constructed of materials customarily used in residential construction, including colored metal siding and roofing, but shall not include vertical metal wall panels. (Ord. No. 13-489, Nov. 12, 2013). Such structures shall include a minimum 12-inch and maximum 36-inch overhang/eave with a fascia and soffit. Any modifications from these requirements must be reviewed and approved through the conditional use permit process.

9.8 FENCES, WALLS, HEDGES AND TREES

No fence (of any size) or retaining wall (four feet in height or more) shall be constructed within the zoning jurisdiction of the Village unless a permit therefore is approved and issued by the Zoning Administrator and is constructed in conformance with the following requirements, except that if such fence is used for agricultural purposes:

9.8.01 The height limitation for fences and wall hedges shall be six feet above ground level except within an identified sight triangle and provided herein. The height of a fence shall be determined by a measurement from the ground beneath the fence to the top of the highest part of the fence. Manmade earth berms, terraces, and retaining walls that elevate the fence shall be considered a part of the fence. It is not intended that any structure other than a fence is permitted on any part of a lot or premises by this section, and all other structures must comply with these regulations.

1. No fence (including privacy, picket, split rail, ornamental corner fencing, and chain link), wall, or hedge, which is located in a required front or corner side yard, on a corner lot, shall exceed a height of 48 inches.
2. No fence (including privacy, picket, split rail, ornamental corner fencing, and chain link), wall, or hedge, which is located in a required front yard, on an interior lot, shall exceed 48 inches.
3. Where it is demonstrated that for security purposes the perimeter fencing around a plant or building located in an area zoned as an Industrial District must be higher than six feet in height may be approved through a Conditional Use Permit

4. Fences constructed along and parallel to lot lines separating a residential lot from property located in a Commercial or Industrial District shall be a minimum of six feet and shall not exceed eight feet in height.
5. Fences constructed along and parallel to rear and side lot lines adjoining arterial streets, as designated by the Nebraska Department of Roads, shall not exceed eight feet in height.

9.8.02 Fences located within a front yard of a residential lot must qualify within the definition of an open fence.

9.8.03 In all districts except those with a zero (0) foot front and/or street side yard setback, no fence or vegetation exceeding the height of 36 inches shall be situated or constructed in the triangular area required for sight distance of vehicles entering or exiting the property or entering any adjacent intersection (sight triangle). Fences placed along back lot lines or running along a platted alley or driveway must follow a 25-foot sight triangle measured from the property lines at the corners entering into a street.

9.8.04 The use of barbed wire in the construction of any fence is prohibited except:
1. Perimeter security fencing of buildings constructed in an Industrial District. The plans and specifications for any such fencing must be approved by the Village before commencement of construction.
2. Agricultural fencing constructed for agricultural purposes on parcels of land in the Agriculture Districts, provided they do not abut a residential zoning district. Such fencing does not require a permit.

9.8.05 All fences shall be maintained in good repair. The Governing Body shall have the authority to declare a fence in disrepair or unsightly, and so notify, in writing, the owner. The owner shall have 15 days to make needed repairs or have it torn down. If after 15 days it has not been repaired in accordance with said notice, or torn down, the owner shall be subject to penalties found in this Ordinance.

9.8.06 For any property containing a swimming pool or bathing facility with a depth of more than 36 inches, a fence with a self-closing, self-latching gate of a minimum of six feet in height shall be installed.

9.8.07 All fences shall be located inside the boundaries of the property upon which constructed except where two adjacent property owners pursuant to written agreement filed with the Village agree to build one fence on the common lot line of adjacent side yards or back yards.

9.8.08 Electric Fences. No above ground electric fence shall be constructed or maintained within the Village or within its extraterritorial zoning jurisdiction except in the Agriculture Districts provided they do not abut a residential zoning district. Such fences in the Agriculture Districts shall not require a permit.

9.8.09 Facing. The finished surface of all fences shall face toward adjoining property or street frontage. However, in the case of two or more property owners wishing to share a common fence line between their properties, said property owners shall jointly determine upon which side of the common fence line the finished face of the fence shall be placed. Such determination shall be consistent for the entire length of the common fence line.

9.8.10 Any existing fence constructed pursuant to a permit issued and approved by the Village which was in conformity with the prior to the provisions of this Ordinance may remain without change in accordance with this section notwithstanding same may be in conflict with one or more provisions of this section as amended; provided, however, and replacement or change of said existing fence or addition of a new fence, must hereby meet the requirements of this section as amended hereby.

9.8.11 Allowed and prohibited materials. Construction of any fence or wall in the following districts shall also comply with the additional fencing regulations.

1. Residential Districts.
   A. Allowed Materials. Fences and walls shall be made of quality, durable materials that require low maintenance. Acceptable materials for a fence include: chain link, wood, brick, masonry block, stone, tubular steel, wrought iron, vinyl, composite/recycled materials (hardy board), or other manufactured material or combination of materials commonly used for fencing.
   B. Prohibited Materials. Fences and walls shall not be made of or contain:
      i. Scrap materials such as scrap lumber and scrap metal.
      ii. Materials not typically used for designated/manufactured for fencing such as metal roofing panels, corrugated or sheet metal, tarps, plywood or livestock fencing materials.
2. Commercial or Industrial Districts.
   A. Allowed Materials. Fences and walls shall be made of quality, durable materials that require minimal maintenance. Acceptable materials for fencing in commercial and industrial districts include, but not limited to chain link, pre-woven chain link with slats, wood, brick, tilt-up concrete, masonry block, stone, metal, composite/recycled materials, or other manufactured material or combination of materials commonly used for fencing.
   B. Prohibited Materials. Fences or walls shall in commercial or industrial districts shall not be constructed of or contain:
      i. Scrap materials such as scrap lumber and scrap metal.
      ii. Materials not typically used for designated/manufactured for fencing such as metal roofing panels, corrugated or sheet metal, tarps, plywood or livestock fencing materials.

9.8.12 Nothing in this Ordinance shall be deemed to prohibit the erection and maintenance of any trees, shrubs or defined fence in connection with agricultural uses or any retaining wall in any agriculture district; provided:

1. Any trees, shrubs, fences or material, otherwise exempted herein, shall not be placed in a sight triangle in accordance with Section 9.9.
2. Trees, hedges and vegetative matter may be permitted in any required yard or along the edge of any yard, provided that such trees, hedges and vegetative matter other than typical grasses shall be setback from the property line (fence line or public right-of-way) by one foot times the mature height of the landscaping (eg. 1 foot times 25 feet mature height).

9.9 STREET INTERSECTION VISIBILITY

At roadway intersections and roadway railroad crossings in all districts except those with a zero (0) foot front and/or street side yard setback, nothing shall be erected or placed between a height of three feet and eight feet above the centerline grade of the intersection of the roadways and/or rail line within a triangular area formed by the intersection of the roadway right-of-way nearest the property in question and a line connecting points a minimum of 60 feet from the intersection of said right-of-way lines or the right-of-way lines of the roadway and the rail line, except for single pole utility structures, railroad crossing signs, road directional and safety signs, and agricultural crops. If prescribed, such distance shall follow those for each district and may be increased to 90 feet or more from the intersection of right-of-way lines when arterial or four-lane roadways are involved. The sight triangle pertaining to the intersection of a roadway and rail line shall be increased if required in Chapter 6 of Title 415 of the Nebraska Department of Roads – Rail and Public Transportation Division.

9.10 NON PUBLICLY OWNED UTILITIES AND UTILITY DISTRIBUTION SYSTEMS

Non-public utilities and utility distribution systems shall only be allowed by Conditional Use Permit in the AG-1 and AG-2 Zoning Districts. The procedures for the application and authorization of such permit does not require written notice of hearing to record title owners of affected property or property in proximity to nor posting of affected property when such utility or distribution system is to be placed on multiple parcels and exceeds one (1) mile in length or extent. All other procedures described in section 6.2 apply.

9.11 HOME OCCUPATIONS

An occupation or activity carried on within the dwelling or accessory building by a member of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character nor infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes.

The following conditions and restrictions shall apply to such customary home occupations:

1. The primary use of the building or structure in which the occupation is situated shall clearly be the dwelling used by the person as his private residence.

2. No equipment or machinery shall be used in such activities that are perceptible off the premises by reason of noise, smoke, odor, dust, radiation, electrical interference or vibration. Parking shall be handled in such a manner as to not impede or hinder traffic on any public right-of-way.

9.12 MANUFACTURE HOMES

All manufactured homes located outside mobile home parks shall meet the following standards:

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

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

3. The roof shall be pitched with a minimum vertical rise of two and one-half (2 ½) inches for each twelve (12) inches of horizontal run.

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

5. The home shall have a non-reflective roof material which is or simulates asphalt or wood shingles, tile or rock.

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

7. Nothing in these regulations shall be deemed to supersede any valid restrictive covenants of record.

8. The home must meet all building code requirements adopted by the Village.

9.13 RADIO, TELEVISION & WIRELESS COMMUNICATION/BROADCAST TOWERS

9.13.01 INTENT

Based upon the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act) grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunication services. This section is intended to regulate towers, telecommunications facilities and antennas in the Village in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunication service. Telecommunication facilities, towers and antennas in the Village, to protect residential areas and land uses from potential adverse impact of installation of towers and antennas through careful design, siting, and camouflaging, to promote and encourage shared use / collocation of towers and other antenna support structures rather than the construction of additional single use towers, to

avoid potential damage to property caused by towers, telecommunications facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed when no longer used or are determined to be structurally unsound and to ensure that towers and antennas are compatible with surrounding land uses.

9.13.02 DEFINITIONS

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

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

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

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

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

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

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

OWNER shall mean any person with a fee simple title or a leasehold exceeding 10 years in duration to any tract of land within the zoning jurisdiction of the Village who desires to develop, construct, modify, or operate a tower upon such tract of land.

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

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

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

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

a. Any Conforming Commercial Earth Station antenna two meters or less in diameter which is located on real estate zoned Commercial or Industrial.
b. Any earth station antenna or satellite dish antenna of one meter or less in diameter, regardless of zoning applicable to the location of the antenna.

TOWER shall mean a self-supporting lattice, guyed, or monopole structure that supports Telecommunications Facilities. The term Tower shall not include non-commercial amateur radio operator's equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively.

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

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

9.13.03 LOCATION OF TOWERS AND CONSTRUCTION STANDARDS

1. Towers shall be permitted conditional uses of land in only those zoning districts where specifically listed and authorized in this regulation.
2. No proposed tower shall be located within five miles of any existing tower, without approval of the Village Board.
3. No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the Village prior to approval of its application for a Tower Development Permit by the Village Board and issuance of the permit by the Village. Applicants shall submit their application for a Tower Development Permit to the Zoning Administrator and shall pay a filing fee in accordance with the Village's fee schedule.

4. All towers, telecommunications facilities and antennas on which construction has commenced within the zoning jurisdiction of the Village after the effective date of this regulation shall conform to the Building Codes and all other construction standards set forth by the Village, federal, and state law and applicable American National Standards Institute (ANSI). Upon completion of construction of a tower and prior to the commencement of use, an engineer's certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed with the Zoning Administrator.

9.13.04 APPLICATION TO DEVELOP A TOWER

Prior to commencement of development or construction of a tower over 100 feet in height, an application shall be submitted to the Zoning Administrator for a Tower Development Permit and shall include the following:

1. Name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. The application shall be executed by all applicants.
2. The legal description and address of the tract of land on which the tower is to be located.
3. The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one mile radius of the proposed tower, including publicly and privately owned towers and structures.
4. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicants telecommunications facilities on a tower or useable antenna support or written technical evidence from an engineer that the applicants telecommunications facilities cannot be installed or collocated on another tower or useable antenna support structure.
5. Written technical evidence from an engineer that the proposed tower will meet the any established Building Code, and all other applicable construction standards set forth by the Village Board and federal and state and ANSI standards.
6. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residentially used and / or zoned property and nearest roadway, street or highway.
7. Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufacturers literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.
8. Fairmont shall require an appropriate space for its (or county) operational and emergency services communication equipment at no cost to the Village as negotiated between the tower owner and the Village.

9.13.05 PERMIT PROCEDURES

After receipt of an application for a Tower Development Permit, the Zoning Administrator shall schedule a public hearing before the Planning Commission, following

all statutory requirements for publication and notice, to consider such application. The Planning Commission shall receive testimony on the Tower Development Permit and shall make a recommendation to the Village Board. Upon the completion of the Planning Commission Public Hearing the Zoning Administrator shall schedule a public hearing before the Village Board, following all statutory requirements for publication and notice, to consider such application and the recommendation of the Planning Commission. Notice, for each Public Hearing, shall be made at least one time and at least 10 days prior to such hearing. In addition, the Zoning Administrator shall cause a notice to be posted in a conspicuous place on the property on which action is pending. Such notice shall conform to the notice requirements in these regulations. The Planning Commission and Village Board may approve the Tower Development Permit as requested in the pending application with any conditions or safeguards it deems reasonable and appropriate based upon the application and/or input received at the public hearings or deny the application. In all zoning districts in which towers are a permitted conditional use of land, the Tower Development Permit shall be deemed a conditional use permit for said tract of land.

9.13.06 SETBACKS AND SEPARATION OR BUFFER REQUIREMENTS

1. All towers up to 35 feet in height shall be setback on all sides a distance equal to the underlying setback requirement for accessory structures in the applicable zoning district. Towers in excess of 35 feet in height shall be set back one additional foot for each foot of tower height in excess of 35 feet. The height of the tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.
2. Towers exceeding 100 feet in height shall not be located in any residentially zoned district and must be separated from all residentially zoned districts and occupied structures other than those utilized by the tower owner, by a minimum of 200 feet or 100% of the height of the proposed tower, whichever is greater.
3. Towers of 100 feet or less in height may be located in residentially zoned districts provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the tower owner, by a minimum of 100% of the height of the tower.
4. Towers must meet the following minimum separation requirements from other towers:
   a. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed by a minimum of 750 feet.
   b. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of 1,500 feet.

9.13.07 STRUCTURAL STANDARDS FOR TOWERS ADOPTED

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

9.13.08 ILLUMINATION AND SECURITY FENCES

1. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA).
   a. No day running lights and shall be painted per FAA requirements.
   b. In no case shall said tower be allowed to operate a strobe lighting system after sunset and before dawn.
2. All self-supporting lattice or guyed towers shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which will preclude to the extent practical, unauthorized climbing of said structure.

9.13.09 EXTERIOR FINISH

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

9.13.10 LANDSCAPING

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

9.13.11 MAINTENANCE, REPAIR OR MODIFICATION OF EXISTING TOWERS

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

9.13.12 INSPECTIONS

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

Regulations and any other construction standards set forth by the Village, federal, and state law or applicable ANSI standards. Either an employee of the Village's Zoning Office or a duly appointed independent representative of the Village shall make inspections.

9.13.13 MAINTENANCE

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

9.13.14 ABANDONMENT

If any tower shall cease to be used for a period of one year, the Zoning Administrator shall notify the tower owner that the site will be subject to determination by the Zoning Administrator that the site has been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, the tower owner shall have 30 days to show preponderance of evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower has been in use or under repair during the relevant period, the Zoning Administrator shall issue a final determination of abandonment of the site and the tower owner shall have 75 days thereafter to dismantle and move the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Zoning Administrator, or his/her designee and a written request shall be directed to the Village Attorney to proceed to abate said public nuisance pursuant to authority of the Revised Nebraska State Statutes and Fairmont codes, and charge the costs thereof against the real estate on which the tower is located or the owner of record of the said real estate.

9.14 SATELLITE DISH ANTENNAS, REGULATION

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

1. In residentially zoned districts, satellite dish antennas may not exceed a diameter of 10 feet.
2. Single family residences may not have more than one satellite dish antenna over three feet in diameter.
3. Multiple family residences with 10 or less dwelling units may have no more than one satellite dish antenna over three feet in diameter. Multiple family residences with more than 10 dwelling units may have no more than two satellite dish antennas over three feet in diameter.
4. In residential zoning districts, satellite dish antennas shall not be installed in the required front yard setback or side yard setback area.
5. All satellite dish antennas installed within the zoning jurisdiction of Fairmont, upon adoption of these regulations, shall be of a neutral color such as black, gray, brown, or such color as will blend with the surrounding dominant color in order to camouflage the antenna.

9.15 SMALL WIND ENERGY SYSTEMS

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

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

1. **Small Wind Energy System** shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.
2. **Tower** shall mean the vertical structures that support the electrical equipment or rotor blades.
3. **Tower Height** shall mean the height above grade of the first fixed portion of the tower, excluding the wind turbine itself.
4. **Total Height** shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.
5. **Fall Zone** shall mean the area, defined as the furthest distance from the tower base, in which a tower will collapse in the event of a structural failure.
6. **Feeder Line** shall mean any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the project distribution system, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.
7. **Rotor Diameter** shall mean the diameter of the circle described by the moving rotor blades.
8. **Transmission Line** shall mean the electrical power lines that carry voltages of at least 69,000 volts (69 kV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
9. **Wind Energy Conservation Systems** shall mean an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, and substations that operate by converting the kinetic energy of wind into electrical energy of blowing wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.
10. **Wind Turbines** shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture wind.

Exemptions: Small wind energy systems shall be permitted as an exception within the Agricultural Districts. Zoning Permits are required.

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

1. Tower
   a. The tower and foundation must be approved by a certified Engineer competent in disciplines of Wind Energy Conversion Systems.
2. Tower Height
   a. For property sizes between ½ acre and one acre the tower height shall be limited to 80 feet.
   b. For property sizes of one acre or more, there is no limitation on tower height, except as imposed by FAA regulations.
   c. The height shall be determined by the fall zone requirement and shall not exceed one hundred (100) feet. FAA approval is required.
3. Noise/Sound
   a. Small wind energy systems shall not exceed 60 dBA, as measured at the closest neighboring inhabited dwelling unit. An Acoustical Analysis that certifies that the noise requirements within the regulation can be met.
   b. The noise level may be exceeded during short term events such as utility outages and/or severe wind storms.
4. Approved Wind Turbines
   a. Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.
5. Compliance with Building and Zoning Codes
   a. Applications for small wind energy systems shall be accomplished by standard drawings of the wind turbine structure, including the tower base, and footings.
   b. An engineering analysis of the tower showing compliance with official building code of the governing body and/or the State of Nebraska and certified by a licensed professional engineer shall also be submitted.
   c. Wet stamps shall not be required.
6. Compliance with FAA Regulations
   a. Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
7. Compliance with National Electrical Code
   a. Permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
   b. The manufacturer frequently supplies this analysis.
8. Utility Notification
   a. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.
   b. Off-grid systems shall be exempt from this requirement.

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

	Wind Turbine – Non Commercial WECS	Meteorological Towers
Property Lines	One times the total height	One times the tower height.
Neighboring Dwelling Units*		One times the tower height.
Road Rights-of-Way**	One times the tower height.	One times the tower height.
Other Rights-of-Way	One times the tower height.	One times the tower height.
Wildlife Management Areas and State Recreational Areas	NA	600 feet
Wetlands, USFW Types III, IV, and V	NA	600 feet
Other structures adjacent to the applicant's sites	NA	One times the tower height.
Other existing WECS not owned by the applicant.	NA	NA
River Bluffs	NA	NA

* The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System.

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

10. Tower Setbacks
    a. No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site. Setback shall be the "Total Height" plus ten (10) feet.
11. Aesthetics
    a. Free Standing Towers (No towers with guyed wires)
12. Multiple Towers
    a. Multiple towers will be considered based on these same regulations.
13. Abandonment
    a. The owner of an inoperable turbine for a period of twelve (12) months will be notified by the zoning administration that they have six (6) months from the notice date to restore their small wind energy system to operating condition. If the tower is not in operating condition after that time, the owner of the tower will then have ninety (90) days to have it removed. If the owner fails to remove the wind tower within the allowable time, the Village will have it removed at the owners expense and a lien will be filed against the property on which the small wind energy systems is located.
14. Application minimum requirements
    a. Legal Description and address of project site.
    b. Tower Type, height, rotor diameter, and total height of wind turbine and means of interconnecting with the feeder lines.
    c. Site layout, including the location of property lines, wind turbine, electrical grid, and all related accessory structures. This site layout shall include distance and be drawn to scale.
    d. Certification from Engineer.
    e. Documentation of land ownership or legal control of property.
    f. The latitude and longitude of wind turbine.

g. Location of any wetland, scenic, and natural acres within 1000 feet.
h. An Acoustical Analysis certifying that the noise requirements within the regulations can be met.
i. Evidence that there will be no interference with any commercial or public safety communication towers.
j. All approved wind turbines are to be completed within two (2) years of the date of approval.

9.16 COMMERCIAL/UTILITY GRADE WIND ENERGY SYSTEMS

9.16.01 PURPOSE**:** It is the purpose of this regulation to promote the safe, effective and efficient use of commercial/utility grade wind energy conversion systems within Fairmont.

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

AGGREGATE PROJECT shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.
COMMERCIAL WECS shall mean a wind energy conversion system of equal to or greater than 100 kW in total name plate generating capacity.
HUB HEIGHT shall mean the distance from ground level as measured to the centerline of the rotor.
FALL ZONE shall mean the area, defined as the furthest distance from the tower base, in which a guyed or tubular tower will collapse in the event of a structural failure. This area may be less than the total height of the structure.
FEEDER LINE shall mean any power line that carries electrical power from one or more wind turbines to the point of interconnection with the project distribution system, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.
METEOROLOGICAL TOWER shall mean, for purposes of this regulation, a tower which is erected primarily to measure wind speed and directions plus other data relevant to siting a Wind Energy Conversion System. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Roads, or other applications to monitor weather conditions.
PROPERTY LINE shall mean the boundary line of the area over which the entity applying for a Wind Energy Conversion System permit has legal control for the purpose of installing, maintaining and operating a Wind Energy Conversion System.
PUBLIC CONSERVATION LANDS shall mean land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this

regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations, Public conservation lands will also include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

ROTOR DIAMETER shall mean the diameter of the circle described by the moving rotor blades.

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

SUBSTATIONS shall mean any electrical facility to convert electricity produced by wind turbines to a higher voltage for interconnection with high voltage transmission lines.

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

TOWER shall mean the vertical structures, including the foundation, that support the electrical generator, rotor blades, or meteorological equipment.

TOWER HEIGHT shall mean the total height of the Wind Energy Conversion System exclusive of the rotor blades.

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

WIND ENERGY CONVERSION SYSTEM (WECS) shall mean an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

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

9.16.03 REQUIREMENTS: Commercial/Utility Grade Wind Energy Systems may be permitted as a Conditional Use within any district where the use is listed and allowed. The following minimum requirements and information shall be met and supplied:

1. The name(s) of project applicant.
2. The name of the project owner.
3. The legal description and address of the project.
4. A description of the project of the project including: Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.
5. Site layout, including the location of property lines, wind turbines, feeder lines, and all related accessory structures. This site layout shall include distances and be drawn to scale.

6. Certification by an Engineer competent in disciplines of WEC's.
7. Documentation of land ownership or legal control of the property.
8. The latitude and longitude of individual wind turbines; included with this shall be an area or zone in close proximity that meets all setbacks; where actual WEC will be considered.
9. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other Wind Energy Conversion System, within 10 rotor distances of the proposed Wind Energy Conversion System not owned by the applicant.
10. Location of wetlands, scenic, and natural areas (including bluffs) within 1,320 feet of the proposed Wind Energy Conversion System.
11. An Acoustical Analysis that certifies that the noise requirements within this regulation can be met
12. The applicant shall supply the emergency management agency and/or fire departments with a basic emergency response plan.
13. FAA and FCC permit, if necessary. Applicant shall submit permit or evidence that the permit has been filed with the appropriate agency.

9.16.04 AGGREGATED PROJECTS:

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

9.16.05 SETBACKS:

All towers shall adhere to the setbacks (measured from the edge of the tower) established in the following table:

	Wind Turbine – Commercial/Utility WECS	Meteorological Towers
Property Lines	150 feet from property lines; however, the setback may be less when two adjoining property owners are within the aggregate project.	One times the tower height.
Neighboring Dwelling Units*	1,000 feet	One times the tower height.
Road Rights-of-Way**	One times the tower height.	One times the tower height.
Other Rights-of-Way	One times the tower height.	One times the tower height.
Wildlife Management Areas and State Recreational Areas	600 feet***	600 feet***
Wetlands, USFW Types III, IV, and V	600 feet***	600 feet***
Other structures and cemeteries adjacent to the applicant's sites	One times the tower height.	One times the tower height.
Other existing WECS not owned by the applicant.	6,000 lineal feet	NA
River Bluffs	1,320 feet	NA

* The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System.

** The setback shall be measured from any future Rights-of-Way if a planned change or expanded Right-of-Way is known. Such right-of-ways shall be verified with the Nebraska Department of Roads and County Roads Department.

*** Setback may be reduced to a distance of no less than 100 feet based on review of proposed distance and approval by Nebraska Game & Parks Commission, U.S. Fish and Wildlife, and Army Corps of Engineers. Such reduction shall not be less than 100 feet and be based on certified engineer reports showing no effects on the identified areas. Applicant shall submit report and approval or evidence that the study has been performed and the request for approval has been submitted to the appropriate agency prior to the issuance of a zoning permit. Such permit would be conditional and contingent upon such approval.

9.16.06 SPECIAL SAFETY AND DESIGN STANDARDS: All towers shall adhere to the following safety and design standards:

1. Clearance of rotor blades or airfoils must maintain a minimum of 12 feet of clearance between their lowest point and the ground.
2. All Commercial/Utility WECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information.
3. All wind turbines, which are a part of a commercial/utility WECS, shall be installed with a tubular, monopole type tower.
4. Height: The total height shall be determined by the fall zone requirement and shall not exceed four hundred (400) feet. Tower height shall not exceed 300 feet. FAA approval is required.
5. Consideration shall be given to painted aviation warnings on all towers more than 200 feet.
6. Color and finish: All wind turbines and towers that are part of a commercial/utility WECS shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matte or non-reflective.

7. Lighting: Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations. Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds. Red pulsating incandescent lights should be avoided.
8. Other signage: All other signage shall comply with the sign regulations found in these regulations.
9. Feeder Lines: All communications and feeder lines associated with the project distribution system installed as part of a WECS shall be buried, where physically feasible. Where obstacles to the buried lines create a need to go above ground, these lines may be placed above ground only to miss the obstacle. All distribution and/or transmission lines outside of the project distribution system may be above ground.
10. Waste Disposal: Solid and Hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.
11. Discontinuation and Decommissioning:
    a. A WECS shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed to four feet below ground level within 180 days of the discontinuation of use. The 180 days may be extended if proof of weather delays is provided.
    b. Each Commercial/Utility WECS shall have a Decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon being discontinued use. The cost estimates shall be made by a competent party; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for decommissioning and removal of the WECS and accessory facilities.
12. Noise: No Commercial/Utility WECS shall exceed 50 dBA at the nearest structure or use occupied by humans. Such structures or uses include dwelling units, churches, daycares, and the like, but do not include barns, sheds, or agricultural, commercial or industrial uses.
13. Interference: The applicant shall minimize or mitigate interference with any commercial or public safety electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. The applicant shall notify all communication tower operators within five miles of the proposed WECS location upon application to the Village for permits.
14. Roads: Applicants shall:
    a. Identify all county, municipal or township roads to be used for the purpose of transporting WECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable

weight and size permits from the impacted jurisdictions prior to construction.

b. Conduct a pre-construction survey, in coordination with the appropriate jurisdictions to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public road.

c. Be responsible for restoring the road(s) and bridges to preconstruction conditions.

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

9.17 ADULT ENTERTAINMENT

9.17.01 INTENT

The intent of this section is to provide for guidelines and criteria for the regulation, not the elimination of Adult Entertainment Establishments. The overall intent is to regulate the secondary effects of these uses within the county/community.

9.17.02 DEFINITIONS

The following definitions have been adopted by Fairmont, and as amended from time to time:

ADULT CABARET shall mean a nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities or films, motion pictures, video cassettes, slides, or other photographic reproductions in which more than 10 percent of the total presentation time is devoted to the showing of material that is characterized by any emphasis upon the depiction of specified sexual activities or specified anatomical areas.

ADULT COMPANIONSHIP ESTABLISHMENT shall mean an establishment which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

ADULT ESTABLISHMENT shall mean any business offering its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas," including, but without limitation, adult bookstores, adult motion picture theaters, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, and adult body painting studios.

ADULT HOTEL OR MOTEL shall mean a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

ADULT MASSAGE PARLOR, HEALTH CLUB shall mean a massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

ADULT MINI-MOTION PICTURE THEATER shall mean a business premises within an enclosed building with a capacity for less than 50 persons used for presenting visual-media material if such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

ADULT MOTION PICTURE ARCADE shall mean any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motor picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."

ADULT MOTION PICTURE THEATERS shall mean a business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction of description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

ADULT NOVELTY BUSINESS shall mean a business which has as a principal activity the sale of devices which simulate human genitals or devices, which are designed for sexual stimulation.

ADULT SAUNA shall mean a sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

SPECIFIED ANATOMICAL AREAS shall mean anatomical areas consisting of less than completely and opaquely covered human genitals, buttock, or female breast(s) below a point immediately above the top of the areola.

SPECIFIED SEXUAL ACTIVITIES shall mean activities consisting of the following:

1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts of conduct: Anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence; or
2. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
3. Fondling or touching of nude human genitals, pubic region, buttocks, or female breast(s); or
4. Situation involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint or any such persons; or
5. Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or
6. Human excretion, urination, menstruation, vaginal, or anal irrigation.

9.17.03 REGULATIONS

a. No adult business shall be closer than 1,000 feet to any similar use and no closer than 1,000 feet to a residential district/use, religious uses, public uses, educational uses and recreational uses. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult business to the point on the property line of such other adult business, residential district/use, religious use, public uses, educational uses and recreational use.
b. Said businesses shall be screened along adjoining property lines as to prevent any direct visual contact of the adult business at the perimeter.
c. Doors, curtains, and any other means of obstruction to the opening of all booths and other preview areas, including but not limited to Adult Novelty Businesses, Adult Motion Picture Arcades, Adult Mini-Motion Picture Theaters, and Adult Motion Picture Theaters shall be removed and kept off at all times during the execution of this Permit. Failure to comply with this condition shall result in revocation of the Conditional Use Permit.
d. No adult business shall be open for business between the hours of 12 midnight and six a.m.
e. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety, and general welfare of persons residing or working in adjoining or surrounding property.
f. Such use shall not impair an adequate supply of light and air to surrounding property,
g. Such use shall not unduly increase congestion in the streets or public danger of fire and safety,

h. Such use shall not diminish or impair established property values in adjoining or surrounding property,
i. Such use shall be in accord with the intent, purpose and spirit of this Ordinance and the Comprehensive Development Plan of Fairmont.
j. Applications for adult businesses under the terms of this Section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan defining the areas to be developed for buildings and structure, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls, the location and type of landscaping, the location, size and number of signs and the manner of providing water supply and sewage treatment facilities.
k. An adult business shall post a sign at the entrance of the premises which shall state the nature of the business and shall state that no one under the age of 18 of age is allowed on the premises. This Section shall not be construed to prohibit the owner from establishing an older age limitation for coming on the premises.
l. Prohibited Activities of Adult Businesses:
    i. No adult business shall employ any person under 18 years of age
    ii. No adult business shall furnish any merchandise or services to any person who is under 18 years of age.
    iii. No adult business shall be conducted in any manner that permits the observation of any model or any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use. No operator of an adult business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct in or about the premises which is prohibited by this Ordinance or any other laws of the State.
m. No part of the interior of the adult business shall be visible from the pedestrian sidewalk, walkway, street, or other public or semi-public area.

9.18 SAND, GRAVEL, MINERAL, STONE, ROCK, SOIL EXTRACTION AND QUARRIES

1. The application shall include a grading map showing contours, proposed excavation contours, and proposed final grade contours.
2. The applicant shall identify the effect of the extraction on the groundwater table of the adjoining properties.
3. The application shall identify proposed vehicle and equipment storage areas.
4. Erosion controls, including retention and sediment basins shall be provided during extraction to prevent a change in the character of runoff onto adjacent land.
5. The surface shall be maintained in such a manner that surface waters do not collect or pond, unless specifically approved. Underground drainage may be supplied if it connects to an existing drainage facility.
6. Topsoil shall be collected and stored for redistribution on the site at the termination of the operation;

7. Excavation shall be conducted in such a way as not to constitute a hazard to any persons, nor to the adjoining property. All cuts shall be returned to a slope of less than three to one (3-1) as soon as possible. Safety screening shall be required at the outer boundary of the site; visual screening will also be required where said boundary is adjacent to residential or recreational land.
8. Within one year after completion of the excavation on any portion of the site, the topography and soils shall be stabilized, and the land shall be graded, seeded, and sodded so as to prevent erosion and siltation, and to protect the health, safety, and general welfare of the public.

9.19 SALVAGE OR JUNK YARD OR SANITARY LANDFILL OPERATION

Salvage or junk yard or sanitary landfill operations and related facilities shall only be allowed by conditional use permit in the AG-1, AG-2, and I-2 Zoning Districts under the following conditions:

1. Located on a tract of land at least one-half (1/2) mile from a residential or agricultural farm- residence.

2. A remediation fund or bond shall be posted for cleanup of facility in the event of abandonment.

3. The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a visual obscuring fence, wall or hedge. The fence, wall or hedge shall be of uniform height (at least eight (8) feet high) and uniform texture and color shall be so maintained by the proprietor as to insure maximum safety to the public and preserve the general welfare of the neighborhood. The fence, wall or hedge shall be installed in such a manner as to retain all scrap, junk or other material within the yard and no scrap, junk or other material shall protrude above the fence.

4. No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge fence or wall, or within the public right-of-way.

5. Any other requirement deemed appropriate and necessary by the Village Board for the protection of the general health and welfare.

6. Conditional use permits granted under this section shall be subject to annual review and renewal by the Village Board.

7. In making any decision granting a conditional use permit, the Village Board shall impose such restrictions, terms, time limitations, landscaping, improvement of off-street parking lots, and other appropriate safeguards as required to protect adjoining property.

9.20 INTENSIVE LIVESTOCK FACILITIES/OPERATIONS

Intensive livestock facilities/operations shall:

1. only be allowed by conditional use permit;
2. only be allowed in the AG-1 Agricultural District; and
3. must comply with the following conditions:

a. All new Intensive Livestock confinement facilities/operations (ILFO) and those expanding to the next level shall be located no less than at a distance from any residence or commercial facility; or church or school, or AG-2 boundary, or any other facility operated and/or utilized by the general public other than the residence of the confinement facilities/operations owner and/or operator as hereafter described in the following table. The percentage of the total livestock number per category on one location compared to the total amount allowed plus the percentage of other livestock compared to the total amount allowed shall not exceed 100% of the largest total category number and under no circumstance shall the total number of all kinds of livestock exceed the highest maximum number of any single category (example; at 1 mile if 6000 hd of swine(75%) are present may have an additional 1000 hd cattle (25% of 3999):

Distance Setback Requirements				
	1/2 Mile	3/4 Mile	1 Mile	1 1/2 Mile
Cattle	500 to 999	1,000 to 1,999	2,000 to 3,999	4,000 to 6,000
Swine 50# and above	1,500 to 1,999	2,000 to 3,999	4,000 to 7,999	8,000 to 12,000
Dairy Cattle	500 to 999	1,000 to 1,999	2,000 to 3,999	4,000 to 6,000
Sheep & Goats	500 to 999	1,000 to 1,999	2,000 to 3,999	4,000 to 6,000
Turkeys	2,000 to 4,999	5,000 to 9,999	10,000 to 19,999	20,000 to 30,000
Layers & Broilers	2,000 to 4,999	5,000 to 9,999	10,000 to 19,999	20,000 to 30,000
Fur Bearing	2,000 to 2,999	3,000 to 3,999	4,000 to 4,999	5,000 to 6,000
Swine < 50#	1,500 to 3,999	4,000 to 7,999	8,000 to 15,999	16,000 to 24,000

Measurement of this required distance shall be from the nearest point of the feedlot area in existence or approved for such use to the nearest point of such dwelling unit.

b. A remediation fund or bond may be required to be posted for necessary clean up of the facility in the event of abandonment.

c. A management plan for the facility, acceptable to the Village Board, which provides for the proper disposal of animal waste in a manner as not to contaminate ground water or any stream, creek or river and which minimizes odor shall be filed with the Village Clerk.

d. Any other requirement deemed appropriate and necessary by the Village Board for the protection of the general health and welfare.

e. Conditional use permits granted under this section may be subject to annual review and renewal by the Village Board.

9.21 IRRIGATION PIVOT POINTS AND STOPS

1. Pivot points on all new or replacement partial or wiper center pivots shall not be placed closer than ten (10) feet from any property line or street/road right-of-way, whichever is greater.

2. Pivot stops shall not be located within any street/road right-of-way.

9.22 OUTDOOR STORAGE CONTAINERS

Outdoor storage containers will be a permitted accessory use in the designated districts, provided the following conditions are met and a zoning permit issued:

1. Number: No outdoor storage containers are in the R, R-1 and R-2 Residential Districts. Outdoor storage containers are limited to two (2) containers per business or property in the AG-2 Agriculture District. Storage containers in the C-1 and C-2 Commercial Districts and the I-1 and I-2 Industrial Districts are subject to the Conditional Use Permit Process prior to locating containers on site. There are no number limitations nor is a permit required for outdoor storage containers in the AG-1 Agriculture District provided they are used for agriculture purposes, otherwise such containers shall be limited to two (2) containers per property and require a permit. Additional containers are allowed in the C-1 and C-2 Commercial Districts and the I-1 and I-2 Industrial Districts through an amended conditional use permit.
2. Location: Containers shall not be located in any required setback or yard area, required landscape area, required drive aisle, driveway, or parking area. Containers shall not encroach upon spaces necessary to satisfy the minimum parking requirement, nor shall they block, impede, or divert traffic in or access to emergency, snow removal, circulation and fire lanes. Containers shall not be stacked upon one another and shall be located an appropriate distance from all structures, in accordance with the Fire Code.
3. Condition and Materials: The exterior of the storage containers shall be kept free of rust, holes, dents, or other corrosion and otherwise maintained such that they are consistent with the character of adjacent buildings, and secured in location at all times. Such containers shall be painted in color similar to the principal structure and all lettering removed. It shall be placed on a graded surface of concrete, asphalt, or gravel and not upon a foundation or wheels. It shall be made of metal or other stable, durable and acceptable material and shall not include a foundation, electricity, plumbing or other mechanical systems as part of its assembly or use.
4. Use: At no time shall an outdoor storage container be used as a place of business or residence, nor shall a container house, store, or contain goods, products, or materials other than those that are accessory and essential to daily on-site use and operation of the principal building or business.
5. Exemptions: Temporary use of construction trailers or outdoor storage containers at a building site is exempt from these restrictions; provided that no temporary use shall exceed six (6) month's duration.

9.23 PERFORMANCE STANDARDS FOR INDUSTRIAL USES

1. **Physical Appearance**

   All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open, except as determined in the I-2 Zoning District. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a road. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles for sale or the storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition.

2. **Fire hazard**

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

3. **Noise**

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

4. **Sewage and Liquid Wastes**

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

5. **Air Contaminants**

   a. Air Contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one four minute period in each one-half hour. Light colored contaminants of such a capacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted

   b. Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths (0.2) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit, except for a period of four minutes in any one-half hour, at which time it may equal but not exceed six tenths (0.6) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit.

c. Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public in general; or to endanger the comfort, repose, health, or safety of any such considerable number of persons or to the public in general, or to cause, or have a natural tendency to cause injury or damage to business, vegetation, or property.

6. **Odor**

The emission of odors that are generally agreed to be obnoxious to any considerable numbers of persons, shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of these regulations.

7. **Gasses**

The gasses sulphur dioxide and hydrogen sulphide shall not exceed five parts per million, carbon monoxide shall not exceed five parts per million. All measurements shall be taken at the zoning lot line.

8. **Vibration**

All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousands (0.003) of an inch measured at the zoning lot line. The use of steam or broad hammers shall not be permitted in this zoning district.

9. **Glare and heat**

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

ARTICLE 10 – BOARD OF ZONING ADJUSTMENT

10.1 CREATION, MEMBERSHIP

The Board of Zoning Adjustment is hereby created and shall be known as the Board of Zoning Adjustment.

Pursuant to Neb. Rev. Stat. §19-908 (R.R.S. 1997): The Board of Zoning Adjustment shall consist of five regular members appointed by the Village Board, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three years and removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Zoning Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in his or her immediate loss of membership on the Board of Zoning Adjustment and the appointment of another Planning Commissioner to the Board of Zoning Adjustment. The first vacancy occurring on the Board of Zoning Adjustment shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the Village at such time as more than two hundred persons reside within such area. Thereafter, at all times, at least one member of the Board of Zoning Adjustment shall reside outside of the corporate boundaries of the Village but within its extraterritorial zoning jurisdiction. According to Statute, the Village Board may also act as the Board of Zoning Adjustment if so approved through ordinance. The Board of Zoning Adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to sections 19-901 to 19-914.

10.2 MEETINGS

Meetings of the Board of Zoning Adjustment shall be held at the call of the chairperson and at such times as the Board may determine. Such chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Zoning Adjustment shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Village Clerk and shall be a public record by 9:00 a.m. the day following such meeting or hearing.

10.3 INTERPRETATIONS AND VARIANCES

10.3.01 The Board of Zoning Adjustment shall, subject to appropriate conditions and safeguards as specified in these regulations, have the following powers:

1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or Planning Commission

based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;

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

3) Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of adoption of the Zoning Regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize, upon appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardships, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of these zoning regula-tions, but no such variance shall be authorized unless the Board of Zoning Adjustment finds that:

   a) The strict application of the regulation 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.

10.3.02 No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonable practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

10.3.03 In exercising the above-mentioned powers such Board of Zoning Adjustment may, in conformity with the provisions of said sections, 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 all the powers of the officer from whom the appeal is taken. The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of any such ad-ministrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.

10.4 PROCEDURES FOR REQUESTING A VARIANCE

The procedures to be followed by the Board of Zoning Adjustment shall be as follows.

10.4.01 Appeals to the Board may be taken by any person aggrieved or by any officer, department, governmental agency affected by any decision of the zoning administrator. Such appeal shall be made within ten (10) days from the date of decision by any Village officer or department. The appeal filed in writing shall define the appeal being requested and the grounds therefor. The officer from whom the appeal is taken shall forthwith transmit to the Zoning Board of Zoning Adjustment all the paper constituting the record upon which the action appealed from was taken.

10.4.02 The chairperson of the Board shall set a hearing within thirty (30) days of receipt of the appeal. The time, date, place of the hearing, and description of the request shall be published in a local newspaper of general circulation ten (10) days prior to the actual hearing. The Board shall also notify the interested parties in the case of the hearing date, time and place.

10.5 APPEALS FROM THE BOARD OF ZONING ADJUSTMENT

Any person or persons, jointly or separately, aggrieved by any decision of the Board of Zoning Adjustment, or any officer, departments, board or bureau of the Village, may seek review of such decision by the district court for the Village in the manner provided by the laws of the State.

ARTICLE 11 – ADMINISTRATIVE PROVISIONS, ENFORCEMENT AND FEES

11.1 ENFORCEMENT

11.1.01 ZONING ADMINISTRATOR: These regulations shall be enforced and administered by a zoning administrator who shall be appointed by the Village Board and who may be provided with the assistance of such other persons as the Village Board may direct in order to carry out the following duties and responsibilities:

1) Approve and issue all zoning permits and occupancy certificates when compliance is made with this Ordinance.

2) Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of this Ordinance.

3) Receive, file and forward to the Board of Zoning Adjustment the records in all appeals for variances.

4) Maintain permanent and current records of the Zoning Regulations including but not limited to, all zoning maps, amendments, conditional use permits, variances, appeals and applications thereof and records of hearings thereon.

5) Prepare and have available in book, pamphlet or map all changes or amendments to the maps and/or regulations for each year.

6) Whenever the Zoning Administrator shall find that any of the provisions of this Ordinance have been or are being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He/she may order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings, structures or additions or alterations thereto; discontinuance of any illegal work being done; or take any other appropriate action authorized by this Ordinance to insure compliance with, or to prevent violation of, its provisions.

11.2 ZONING PERMITS

11.2.01 GENERAL: No building or other structure shall be erected, moved, replaced, added to, or structurally altered without a zoning permit first having been issued by the Zoning Administrator. No zoning permit shall be issued unless the proposed construction or use is in conformance with all of the provisions of this Ordinance and with all other applicable codes, regulations and laws of Fairmont and with all orders, and variances lawfully issued by the Board of Zoning Adjustment.

11.2.02 APPLICATION FOR ZONING PERMIT: All applications for a zoning permit shall be accompanied by a plot plan showing the location, ground area, height and bulk of all present and proposed structures, additions, parking areas and site improvements; the actual dimensions and shape of the lot lines; the uses to be built upon; the building lines in proposed structures or additions; and any other reasonable and pertinent information as may be required by the Zoning Administrator or the proper enforcement of these regulations.

11.2.03 APPROVAL OR DISAPPROVAL OF PERMIT: The Zoning Administrator shall examine all applications for zoning permits, including plans, specifications and documents filed therewith and shall either approve or disapprove such application within thirty (30) days of receipt of same. Upon approval and receipt of required fees, the Zoning Administrator shall promptly issue the zoning permit and shall affix his/her signature to the permit and the plans and mark the plans "Approved." Upon disapproval of the application, the Zoning Administrator shall refuse to issue the permit and shall state in writing on the plans the reasons for disapproval, affix his/her signature and mark the plans "Disapproved."

11.2.04 APPEAL FROM APPROVAL OR DISAPPROVAL: An appeal from approval or disapproval of any application shall be made to the Board of Zoning Adjustment in writing within ten (10) days after the determination of the Zoning Administrator has been filed.

11.2.05 ZONING PERMIT REQUIRED. A zoning permit is required for all buildings over 100 square feet and structures, including those utilized for agricultural purposes in the unincorporated areas of Fairmont's jurisdiction to verify compliance with yard, flood hazard and other applicable requirements of the zoning regulations.

11.3 CERTIFICATION OF OCCUPANCY

11.3.01 GENERAL: No building, structure or land shall be used or occupied, in whole or in part, nor shall any change made in the use or type of occupancy of an existing building or structure requiring a zoning permit, nor shall any change be made in the use of land, except to any use which is primarily agricultural, unless a certificate of occupancy shall may be issued by the Zoning Administrator in accordance with this Ordinance.

11.3.02 TEMPORARY CERTIFICATE: Upon request, the Zoning Administrator may issue a partial certificate of occupancy for a period not to exceed ninety (90) days, for a building or structure or part thereof, before the entire work covered by the zoning permit shall have been completed, provided such portion or portions as have been completed may be occupied safely without endangering life or the public welfare.

11.3.03 APPLICATION FOR CERTIFICATE OF OCCUPANCY: All applications for certificate of occupancy shall be made by the owner or his agent stating

that said structure has been erected in accordance with the approved plans and that it complies with this Ordinance and all local code and Ordinances governing building construction, including subdivision regulations. The application shall be filed with the Zoning Administrator.

11.3.04 ISSUANCE OF CERTIFICATE OF OCCUPANCY: Before issuing a certificate of occupancy, the Zoning Administrator shall examine all buildings, structures or sites for which an application has been filed for a zoning permit to construct, enlarge, alter, repair, replace, remove, demolish, or change the use or occupancy. The Zoning Administrator shall maintain a record of all examinations and inspections, together with a record of findings of violations of the law.

11.3.05 A certificate of occupancy shall be deemed to authorize, and is required for, both initial and continued occupancy and use of the building or land to which it applies, and shall continue in effect so long as such building or land is used as authorized in the certificate of occupancy.

11.4 FORM OF PETITIONS, APPLICATIONS AND APPEALS

11.4.01 A verbal decision by the Zoning Administrator except in the cases of zoning permits and certificate of occupancy shall be the primary instrument for administering compliance with this Ordinance.

11.5 SCHEDULE OF FEES

11.5.01 The schedule of fees shall be established for this Zoning Ordinance to cover costs of administration by the Village Board.

The schedule of fees shall be posted in the office of the Zoning Administrator and Village Clerk and may be altered or amended only by the Village Board. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

11.5.02 Any building under 100 square feet in size does not require a zoning permit but all setback regulations shall be met.

ARTICLE 12 – AMENDMENT

12.1 GENERAL

The Village Board may from time to time supplement, change or generally revise the boundaries or regulations contained in this Ordinance. A proposal for such amendment may be initiated by the Village Board, the Planning Commission or upon application of the owner of the property affected. A filing fee established by the Village Board is required for each application to be considered by the Planning Commission.

12.2 SUBMISSION TO PLANNING COMMISSION

All such proposed amendments shall first be submitted to the Planning Commission for recommendation and report. Upon the development of tentative recommendations, the Planning Commission shall hold a public hearing thereon and shall cause an accurate written summary to be made of proceedings, and shall give notice in like manner as that required for the original zoning recommendations. Such notice shall fix the time and place for such hearing and contain a statement regarding the proposed changes in regulations or restrictions or in the boundary of any district.

If such proposed amendment is not a general revision of an existing provision of this Ordinance, and will affect specific property, it shall be designated by legal description and general street location and in addition to such publication notice, written notice of such proposed amendment shall be mailed to all owners of lands located within three hundred (300) feet of the area proposed to be altered in incorporated areas and one (1) mile in unincorporated areas and an opportunity granted to interested parties to be heard.

12.3 AMENDMENT CONSIDERATION AND ADOPTION

The procedure for the consideration and adoption of any such proposed amendments shall be in like manner as that required for the consideration and adoption of the Ordinance except herein before or herein after modified. For action on zoning amendments, a quorum of the Planning Commission is more than one-half (½) of all the members. A vote either for or against an amendment by a majority of all the Planning Commission members present constitutes a recommendation of the commission; whereas a vote either for or against an amendment by less than a majority of the Planning Commission present constitutes a failure to recommend.

When the Planning Commission submits a recommendation of approval or disapproval of such amendment, the Village Board, if it approves such recommendation, may either adopt such recommendation by Ordinance or take no further action thereof as appropriate. In the event the Planning Commission submits a failure to recommend, the Village Board may take such action as it deems appropriate. Upon receipt of a recommendation of the Planning Commission which the Village Board disapproves, the said governing body shall return such recommendation to the Planning Commission with a statement specifying the basis for disapproval, and such recommendation shall be considered in like manner as that required for the original recommendation returned to the Planning Commission. If such amendment shall affect the boundaries of any district,

the Ordinance shall define the change or the boundary as amended, shall order the Official Zoning Map(s) to be changed to reflect such amendment, and shall amend the section of the Ordinance incorporating the same and reincorporate such Map as amended.

12.4 PROTEST

Regardless of whether or not the Planning Commission approves or disapproves a proposed zoning amendment or fails to recommend, if a protest against such amendment be filed in the office of the Village Clerk within fourteen (14) days after the date of the conclusion of the public hearing pursuant to said publication notice, duly signed and acknowledged by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred (100) feet therefrom, or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of two-thirds (2/3) majority of the Village Board.

ARTICLE 13 – COMPLAINTS, PENALTIES, REMEDIES

13.1 COMPLAINTS REGARDING VIOLATIONS

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

13.2 PENALTIES

The owner or agent of a building or premises in or upon which a violation of any provisions of this Ordinance has been committed or shall exist or lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and may be confined in jail not more than 30 days or shall be punished by a fine not to exceed 100 dollars for any one offense. Each day of non-compliance with the terms of this Ordinance shall constitute a separate offense.

Nothing herein contained shall prevent the Village from taking such other lawful action as is necessary to prevent or remedy any violation. However, nothing shall deprive the citizen of his or her rights under the U.S. Constitution of a jury trial.

13.3 REMEDIES

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

ARTICLE 14 – LEGAL STATUS PROVISIONS

14.1 SEPARABILITY

Should any article, section or provisions of this Ordinance be declared by the courts to be unconstitutional or invalid, such decisions shall not affect the validity of this Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

14.2 PURPOSE OF CATCH HEADS

The catch heads appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this Ordinance.

14.3 REPEAL OF CONFLICTING ORDINANCES

All other Ordinances and regulations in conflict with this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

14.4 EFFECT DATE

This Ordinance shall take effect and be in force from and after its passage and publication according to law.

APPROVED AND ADOPTED by the Village Board of Fairmont, Nebraska.

This 29th day of April, 2013

(Seal)

ATTEST:

_____ _____

(VILLAGE CLERK) (CHAIR, VILLAGE BOARD)