ZONING REGULATIONS

Clay County, Nebraska

And the Villages of:

Clay Center, Nebraska 8-2-05
Deweese, Nebraska 3-26-08
Edgar, Nebraska 9-13-05
Fairfield, Nebraska 6-14-06
Glenvil, Nebraska 5-9-06
Harvard, Nebraska 6-14-05
Saronville, Nebraska 6-6-05
Trumbull, Nebraska 6-13-05

and the Unincorporated Villages of:
Eldorado
Inland
Verona

(Ong, Nebraska (no zoning)/ Sutton, Nebraska administers its own Zoning Regulations.)

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ARTICLE 1: GENERAL PROVISIONS

SECTION 101 TITLE

This Resolution / Ordinance shall be known, referred to, and cited as the "Zoning Regulations of Clay County, Nebraska / the Village of Clay Center / Deweese / Edgar / Fairfield / Glenvil / Harvard / Ong / Saronville / Trumbull, Nebraska.

SECTION 102 JURISDICTION

The provisions of this Resolution / Ordinance shall apply with the unincorporated area of Clay County / the corporate limits of the Village of Clay Center / Deweese / Edgar / Fairfield / Glenvil /Harvard / Ong / Saronville / Trumbull, Nebraska, and within the territory beyond said corporate limits and within one mile of said corporate limits, as defined on the Official Zoning Map of the Village of Clay Center / Deweese / Edgar / Fairfield / Glenvil / Harvard / Ong / Saronville / Trumbull, Nebraska, as the same may be amended by subsequent annexation.

SECTION 103 PURPOSE

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

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

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

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

4. 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 County / Village and its citizens.

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

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

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

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

9. To protect and enhance real property values.

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

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

ARTICLE 2: APPLICATION OF REGULATIONS

SECTION 201 GENERAL APPLICATION

The zoning regulations set forth by-this Resolution / Ordinance within each zoning district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

SECTION 202 ZONING AFFECTS EVERY BUILDING AND USE

No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the zoning district in which it is located, except that agricultural structures other than residential dwellings are exempt from the permit requirements of this Resolution / Ordinance as long as said structures comply with the yard requirements herein stated for each zoning district.

SECTION 203 GENERAL PERFORMANCE STANDARDS

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 Resolution / Ordinance.

SECTION 204 OPEN SPACE, PARKING AND LOADING AREAS

Except where specifically authorized in this Resolution / Ordinance, no part of any yard or other open space, off-street parking area or loading area required in connection with any building or use for the purpose of complying with the requirements of the Resolution / Ordinance shall be included as part of any yard or other open space, off-street parking area or loading area similarly required for any other building or use.

SECTION 205 NONCONFORMING LOTS

A lot, existing at the time of adoption of this Resolution / Ordinance, may be allowed in dimension or area below the minimum requirements set forth herein, as long as the total lot coverage meets the requirements, listed in Sec. 411.10. Lots created after the effective date of this Resolution / Ordinance shall meet or exceed the minimum requirements established herein, in Sec. 411.08.

SECTION 206 COMBINATION OF LOTS OR PORTIONS OF LOTS

Any lot, portion of a lot, two or more contiguous lots, combination of contiguous lots or portions of contiguous lots under the same ownership of record on the effective date of this Resolution / Ordinance shall, under this Resolution / 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 or a lot, two or more contiguous lots, combination or contiguous lots or portions of contiguous lots is/are located.

SECTION 207 PROVISIONS ARE MINIMUM REQUIREMENTS

In their interpretation and application, the provisions of this Resolution / Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever the provisions of this Resolution / 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 Resolution / Ordinance, the provisions of this Resolution / Ordinance shall govern. Similarly, where the provisions of any other Resolution / 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 Resolution / Ordinance, the provisions of such other Resolution / Ordinance shall govern.

ARTICLE 3: CONSTRUCTION AND DEFINITIONS

SECTION 301 CONSTRUCTION

The following rules of construction shall apply in the application of this Resolution / Resolution / Ordinance unless inconsistent with the plain meaning of the context of this Resolution / Ordinance:

301.01 TENSE:

Words used in the present tense include the future tense.

301.02 NUMBER:

Words used in the singular include the plural and words used in the plural include the singular.

301.03 SHALL AND MAY:

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

301.04 GENDER:

The masculine shall include the feminine and the neuter.

301.05 HEADINGS:

In the event that there is any conflict or inconsistency between the heading of an article, section or paragraph of this Resolution / Ordinance and the text of the corresponding article, section or paragraph, the heading shall not be deemed to affect the scope, meaning or intent of such text.

SECTION 302 GENERAL TERMINOLOGY

The word "County" shall mean Clay County, Nebraska. The words "Board of Supervisors" shall mean the Board of Supervisors of Clay County, Nebraska. The words "Planning Commission" shall mean the Clay County Area Planning Commission, duly appointed and the words "Board of Zoning Adjustment" shall mean the Clay County, Nebraska Area Board of Zoning Adjustment duly appointed. The word "Village" shall mean the Village of Clay Center / Deweese / Edgar / Fairfield / Glenvil / Harvard / Ong / Saronville / Trumbull, Nebraska. The words "Village Board" shall mean the Board of Trustees of the Village of Clay Center / Deweese / Edgar / Fairfield / Glenvil / Harvard / Ong / Saronville / Trumbull, Nebraska.

SECTION 303 DEFINITIONS

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

303.01 **ABUT:** Any situation where a lot borders directly on another lot or is separated from another lot by a public right-of-way which is twenty (20) feet or less in width.

303.02 **ACCESSORY USE OR BUILDING:** A building or use which is located on the same premises, is subordinate to the principal building or use of the premises and is customarily incidental to such principle building or use of the premises. A single or double-wide mobile home shall not be construed to be considered an accessory building even if such mobile home is used for storage purposes only.

303.03 **AGRICULTURAL USE:** The use of land for the purposes of producing crops, for raising, breeding or management of livestock, fish or fowl, dairying, truck farming, orchards or forestry and other similar horticultural or agricultural use and the non-commercial storage or processing of agricultural products produced on the premises. Agricultural use shall not include the confined raising, breeding, feeding or management of livestock, fish or fowl as defined in Section 303.27 of this Resolution / Ordinance.

303.04 **ALLEY:** A dedicated public right-of-way other than a street which provides secondary access to property abutting such right-of-way.

303.05 **ANIMAL HOSPITAL OR VETERINARY CLINIC:** An establishment where animals are admitted principally for examination, treatment, and/or board or care by a Doctor of Veterinary Medicine, excluding outdoor kennels or runs as defined in Section 303.54 of this Resolution / Ordinance.

303.06 APARTMENT: A part of a multi-family dwelling consisting of a room or suite of rooms intended, designed, or used as a residence by an individual or individuals or single family.

303.07 AWNING: A structural extension over the exterior of a door or window which provides protection from sun and / or rain.

303.08 BASEMENT: A space, wholly or partially underground, having more than One-Half (1/2) its height, measured from its floor to its ceiling, below the average finished grade of the ground surrounding such space.

303.09 BED AND BREAKFAST USE: A building, other than a hotel, motel or boarding or lodging house, where for compensation, temporary lodging and breakfast is provided to persons lodging in rooms at the premises where such rooms are not equipped with individual cooking facilities.

303.10 BOARDING HOUSE, LODGING HOUSE: A building, other than a motel or hotel, where for compensation, lodging and meals are provided to persons residing in rooms at the premises where such room are not equipped with individual cooking facilities.

303.11 BLOCK: An area of land that is entirely bounded by streets, by streets and the exterior boundaries of a subdivision, or by a combination of the above with a river, lake, or railroad line.

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

303.13 BUILDING: A structure having a roof and intended for the enclosure, shelter or protection of people, animals or property.

303.14 BULK STORAGE: The storage of materials for distribution to other locations and not used for use or consumption of such materials on the premises.

303.15 CAMPGROUND: A premise where two (2) or more camping units are parked or placed for camping purposes, or a premises used or set apart for supply to the general public, camping space for two (2) or more camping units for camping purposes, including any buildings, structures, vehicles or enclosure used or intended wholly or partially for the accommodation of transient campers.

303.16 CAMPING UNIT: A vehicle, tent, trailer, or other movable shelter used for camping purposes.

303.17 CARPORT: An awning or roofed structure intended to provide shelter for a vehicle or vehicles which may be free standing or partially supported by a building.

303.18 CERTIFICATE OF ZONING COMPLIANCE: A permit, issued by the Zoning Administrator, stating that the premises has been inspected after the erection, construction, reconstruction, alteration or moving or a building or structure, or after a change in use of the premises and that such building, structure, and use complies with the applicable provisions of this Resolution / Ordinance.

303.19 CHILD CARE CENTER: A facility used for the care of children from different families which is or should be licensed by the Nebraska Department of Social Services as a day care center or home.

303.19a CITY: In the Zoning Regulation Resolution/ Ordinance the word city is the same as a governing body/ town/village. The size of a governing body has no reflection on this Resolution/Ordinance.

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

303.21 CLUB: An establishment operated for social, fraternal, recreational or educational purposes which is open only to club members and not the general public.

303.22 COMMISSION: The Clay County, Nebraska Area Planning and Zoning Commission.

303.23 COMPATIBLE USE: A use of land suitable for direct association with abutting and/or surrounding uses of land because of consistency with the intent of the applicable zoning district, because the use exhibits similar or comparable characteristics as abutting and/or surrounding uses, and because a mutually harmonious relationship with respect to protecting the use, value and enjoyment of property will result.

303.24 COMPREHENSIVE PLAN: The plan or series of plans for the future development of Clay County / the Village of Clay Center / Deweese / Edgar / Fairfield / Glenvil / Harvard / Ong / Saronville / Trumbull, recommended to the governing body by the Planning Commission and duly adopted by action of the Board of Supervisors of Clay County / the Village Board of Clay Center / Deweese / Edgar / Fairfield / Glenvil / Harvard / Ong / Saronville / Trumbull, Nebraska.

303.25 CONDITIONAL USE: A use of land that would not be appropriate generally or without restriction throughout a zoning district, but which, if controlled as to number, size, height, intensity, location or relationship to the surrounding property would promote the public health, safety, morals, convenience and general welfare.

303.26 CONDITIONAL USE PERMIT: A written permit, issued by the Zoning Administrator after action by the Board of Supervisors / Village Board, which provides permission under specific conditions to develop certain uses of land in certain zoning district as are set forth as conditional uses in each zoning district contained in this Resolution / Ordinance.

303.27 CONCENTRATED "CONFINED" ANIMAL FEEDING OPERATION: The term "confined" shall also, mean "concentrated". The seasonal confinement of animals for birthing, weaning of young animals or background feeding of cattle shall not be considered "confined" concentrated livestock feeding.

303.27A LARGE CONCENTRATED ANIMAL FEEDING OPERATION: (Requires conditional use permit) means an animal feeding operation that stables or confines as many as or more than the number of animals specified in any of the following categories:

700 mature dairy cows, whether milked or dry;

1,000 veal calves;

1,000 cattle other than mature dairy cows or veal calves and including but not limited to heifers, steers, bulls, and cow/calf pairs;

2,500 swine each weighing 55 pounds or more;

10,000 swine each weighing less than 55 pounds;

500 horses;

10,000 sheep or lambs;

55,000 turkeys;

30,000 laying hens or broilers, if the animal feeding operations uses a liquid manure handling system;

125,000 chickens, other than laying hens, if the animal feeding operation uses other than a liquid manure handling system;

82,000 laying hens, if the animal feeding operation uses other than a liquid manure handling system;

5,000 ducks if the animal feeding operation uses a liquid manure handling system; or

30,000 ducks if the animal feeding operation uses a liquid manure handling system.

303.27B MEDIUM CONCENTRATED ANIMAL FEEDING OPERATION (Requires conditional use permit) means an animal feeding operation with the type and number of animals that fall within any of the ranges listed in this definition and which has been defined or designated as a concentrated animal feeding operation. An animal feeding operation is defined as a medium concentrated animal feeding operation if the type and number of animals that it stables or confines fall within any of the following ranges:

200 to 699 mature dairy cows, whether milked or dry.

300 to 999 veal calves;

300 to 999 cattle other than mature dairy cows or veal calves. Cattle include but are not limited to heifers, steers, bulls, and cow/calf pairs;

750 to 2,499 swine each weighing 55 pounds or more;

3,000 to 9,999 swine each weighing less than 55 pounds;

150 to 499 horses;

3,000 to 9,999 sheep or lambs

16,500 to 54,999 turkeys;

9,000 to 29,999 laying hens or broilers, if the animal feeding operation uses a liquid manure handling system;

37,500 to 124,999 chickens, other than laying hens, if the animal feeding operation uses other than a liquid manure handling system;

25,000 to 81,999 laying hens, if the animal feeding operation uses other than a liquid manure handling system;

1,500 to 4,999 ducks, if the animal feeding operation uses a liquid manure handling system; or

10,000 to 29,999 ducks, if the animal feeding operation uses other than a liquid manure handling system.

10,000 or more fish

1,000 other animals, not listed.

303.27C SMALL CONCENTRATED ANIMAL FEEDING OPERATION: (No conditional use permit required for this type of operation) Any number of animals less than the Medium Concentrated Animal Feeding Operation size described above, See Section 303.27B

303.27D HOOP BUILDINGS: (No conditional use permit required for this type of operation if Performance Standards listed below are adhered to) A hoop structure, un-insulated confinement system. Structure that looks like a greenhouse with tubular arches, or hoops, which are placed on top of four to six foot wooden side walls, covered with an opaque, UV-resistant poly-vinyl tarp. The end walls have tarps that can be raised or lowered to accommodate changes in weather conditions. A fourth of the floor is covered with concrete for feeders and waterers. The rest is earthen floor covered with straw or crop residue "bedding" is added as needed. Because the manure is in a stabilized solid form, the danger of run-off and other environmental hazards are reduced. Nitrogen leaching from stockpiling is a concern. Odor is minimized almost to totally eliminated.

1. Setback of at least One-Fourth (1/4) mile from any residential use, other than the owner's residence.
2. Limit the number of head to 2,000 swine each weighing 55 lbs. or more.
3. Report the number of animals quarterly to the Zoning Administrator.
4. There shall be minimal stockpiling of manure/straw/bedding and must remove from the building site and dispose of within a reasonable amount of time.

303.28 CONVENIENCE STORE: A retail store specializing in the sale of gasoline and the sale of articles such as food products, over-the-counter drugs, tobacco products, magazines, candy, beverages and similar convenience items which are purchased frequently for "near term" consumption and use.

303.29 COURT: An outdoor, unoccupied space open to the sky, enclosed on all sides by the exterior walls of a building or buildings.

303.30 CUL-DE-SAC STREET: A street having one end open to traffic and being terminated on the opposite end by a vehicular turnaround.

303.31 DEAD STORAGE: The storage of any partially dismantled, non-operating, wrecked, junked or discarded vehicle, as defined in Section 303.97 of this Resolution / Ordinance, on a lot or parcel, not having conditional use authorization as a salvage yard or outdoor storage of antique vehicles or farm equipment when such antique vehicles or equipment is at least Twenty Five (25) years old, for longer than Thirty (30) days or for any length of time any vehicle is stored that has been unlicensed for a period in excess of Thirty (30) days, provided that storage of such vehicles in entirely enclosed buildings shall be permitted without restriction.

303.109 DEED RESTRICTION (IMPACT EASEMENT) : An easement or deed restriction, recorded in the office of the Clay County Register of Deeds, which runs with the land, which is granted to the owner of an industrial use, a confined or concentrated animal feeding use, a waste handling facility use, or other use for the period of time that such use shall exist, by the owners of dwellings within a Three-Fourths (¾) mile in any direction from the animal housing unit or the waste handling facility, in which it is mutually agreed via a legal document depicting notarized signatures of the grantor and grantee that the grantor shall hold the grantee harmless from odor, smoke, dust, or other legal impacts associated with such use on the grantor's property when such use is operated in accordance with the terms of such easement or deed restriction.

303.32 DEVELOPED AREA: An improved block front or a distance of One Hundred Fifty (150) feet on either side of the subject use, whichever is less, whereon at least Fifty (50) percent of the lots are developed with buildings.

303.33 DISTRICT (ZONING): A section or sections of this Resolution / Ordinance which sets forth uniform regulations regarding use of land, minimum lot widths, frontages and areas, minimum yards, maximum building heights and similar regulations.

303.34 DUPLEX: See Section 303.39-DWELLING, TWO-FAMILY.

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303.35 DWELLING: A building or portion thereof which is designed and used for residential living.

303.36 DWELLING, ATTACHED: A residential building which is joined to another residential building on one or more sides by a common wall.

303.37 DWELLING, MULTI-FAMILY: A building, other than a hotel, motel, boarding or lodging house or bed and breakfast facility, used by two or more unrelated persons or families living independently of each other in separate dwelling units.

303.38 DWELLING, SINGLE-FAMILY: A building, other than a manufactured or mobile home, having accommodations for and intended to be occupied exclusively by one family.

303.39 DWELLING, TWO-FAMILY: A building, other than a manufactured home or mobile home, having independent accommodations for and intended to be occupied exclusively by two families.

303.40 DWELLING UNIT: Multiple rooms connected together which constitute a separate and independent residence for human occupancy and which contains cooking, sleeping and restroom facilities.

303.41 EASEMENT: A grant for the use of a defined tract of land for a specific purpose or purposes by a property owner to the public, another person, corporation, or legal entity.

303.42 FAMILY: An individual person or Two (2) or more persons related by blood, marriage or law, or a group of not more than Five (5) persons not so related, living together in a dwelling unit

303.43 FLOOD HAZARD AREA: Any land which is subject to a One (1) percent or greater chance of flooding in any given year.

303.44 FLOOR: A level or story in a building.

303.45 FLOOR AREA: The sum of the gross horizontal areas of the one or more floors in a building.

303.46 FLOOR AREA RATIO: The total floor area of a building divided by the lot area on which the subject building or buildings is/are located.

303.47 FRONTAGE (LOT): The length of the real property abutting one side of a street, measured along the right-of-way line or other dividing line between the real property and the street.

303.47a GOVERNING BODY: In the Zoning Regulation Resolution/ Ordinance the words governing body is the same as city/ town/village. The size of a governing body has no reflection on this Resolution/Ordinance.

303.48 GROUP HOME: A facility, licensed by the State of Nebraska, in which at least Four (4), but not more than Eight (8) persons not including resident managers or house parents, who are unrelated by blood, marriage, or adoption reside while receiving therapy, training or counseling for purposes of adaptation to living.

303.49 HEIGHT (BUILDING): The vertical dimension measured from the average elevation of the finished grade at the front building line to the highest point of a building, excluding chimneys, antennae and similar appurtenances.

303.50 HEIGHT (STRUCTURE): The vertical dimension measured from the average elevation of the finished grade at the base of the structure to the highest point of the structure.

303.51 HOME OCCUPATION: A use conducted within a dwelling or building accessory to such dwelling, employing no more than One (1) person other than the inhabitants of such dwelling, which is clearly incidental and secondary to the residential occupancy of the dwelling, does not change the character thereof, and complies with the standards for home occupations set forth in Section 514 of this Resolution / Ordinance.

**** HOOP BUILDING:** See definition in Sec. 303.27D

****** **IMPACT EASEMENT:** See Deed Restriction, Sec. 303.109

303.52 INCOMPATIBLE USE: A use of land unsuitable for direct association with abutting and/or surrounding uses of land because of inconsistency with the intent of the applicable zoning district, because the use exhibits characteristics which would negatively impact abutting and/or surrounding uses with respect to the use, value and enjoyment of such abutting and/or surrounding property.

303.53 JUNKYARD: See Section 303.76 Salvage Yard.

303.54 KENNEL: A facility where Four (4) or more dogs, or Six (6) or more cats or other animals more than Six (6) months of age are boarded, bred, cared for or kept on any premises.

303.55 LANDSCAPE BUFFER: A maintained land area in the front yard of a lot, of which a minimum of Eighty (80) percent shall be covered by any combination of living landscape material including trees, shrubs, grass or other living ground cover, provided that a minimum of Fifty (50) percent of this Eighty (80) percent area shall be covered by living trees or shrubs and the remaining Twenty (20) percent of the total area shall be covered with landscape material, living or non-living.

303.56 LANDSCAPE SCREEN: Any fence, wall, hedge, shrubs or trees and other landscape customary materials or combination thereof which effectively provide a solid, dense and opaque mass which prohibits view from abutting property, absorbs sound and provides site delineation at all times throughout the year. Use of metal sheets, vehicle bodies or vehicular trailers for screening shall not be considered customary materials.

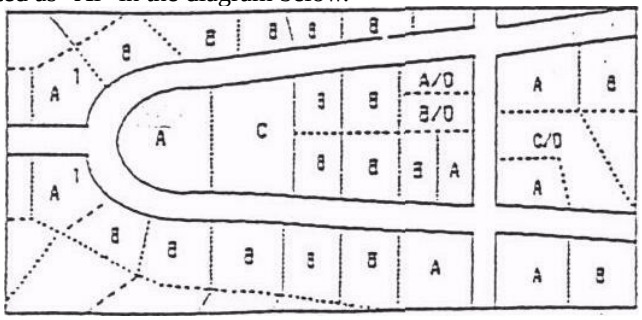
****** **LARGE CONCENTRATED ANIMAL FEEDING OPERATION:** See Section 303.27A Concentrated "Confined" Animal Feeding Operation

303.57 LOADING AREA: Space on a lot which is logically and conveniently located for delivery or pick-up or raw materials, supplies or products, scaled to the delivery vehicles expected to be used and accessible to such vehicles when required off-street parking areas are filled with vehicles. An alley may constitute the required loading area.

303.58 LOT (ZONING): 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 occupied by one principal building and its accessory buildings or structures. A lot may consist of a single lot of record, a portion of a lot of record, a combination of complete lots of record, of complete lots of record and portions of lots of record, or portions of lots of record, or a parcel described by metes and bounds. Refer to Section 206 of this Resolution / Ordinance for clarification

303.59 LOT AREA: The horizontal area of a lot exclusive of any portion of a street or alley right-of-way.

303.60 LOT, CORNER: A lot located at the intersection of Two (2) or more streets, indicated as "A" in the diagram below, or a lot abutting a curved street or streets where straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than One Hundred Thirty Five (135) degrees, indicated as "Al" in the diagram below.



303.61 LOT COVERAGE: The total area of the lot, usually expressed as a percentage of the lot area, that is covered, occupied or enclosed by principal and accessory buildings, structures, porches, patios, decks, swimming pools, parking areas, loading areas, driveways or other constructed feature.

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

303.63 LOT, INTERIOR: A lot, other than a corner lot with only One (1) frontage on a street indicated as "B" in the above diagram.

303.64 LOT OF RECORD: A lot which is part of subdivision plat or lot, plot or parcel described by metes and bounds which was recorded in the office of the Register of Deeds of Clay County, Nebraska at the date of enactment of this Resolution / Ordinance.

303.65 LOT, THROUGH: A lot, other than a comer lot with frontage on more than One (1) street, indicated as "C" in the above diagram.

303.66 LOT, REVERSED FRONTAGE: A lot on which frontage is at right angles or approximately right angles (interior angles less than One Hundred Thirty Five (135) degrees) to the general lot pattern in the area indicated as "D" in the above diagram. A reversed frontage lot may be a comer lot, indicated as "AD" in the above diagram, an interior lot, indicated as “BD” in the above diagram, or a through lot, indicated as “CD” in the above diagram.

303.67 LOT WIDTH: The distance between straight lines connecting the front and rear lot comers at each side of the lot, measured at the required front yard depth (setback line).

303.68 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 it was built in compliance with the 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 1943 which bears the seal of the Nebraska Department of Health or successor thereto and which complies with the following minimum standards:

1. a minimum floor area of Eight Hundred (800) square feet,
2. a minimum exterior width of Eighteen (18) feet,
3. exterior material shall be of a color, material, and scale comparable with those existing residential site built, single-family construction,
4. a non-reflective roof of material which is or simulates asphalt or wood shingles, tile or rock,
5. all wheels, axles, transporting lights and removable towing apparatus have been removed
6. is placed on and permanently attached to a foundation of the same construction as required for site built homes,
7. is permanently connected to public utilities in the same manner required for site-built homes.

303.69 MOBILE HOME: A detached, single or two-family dwelling which was originally designed for long-term human habitation, which was constructed and fabricated into a complete unit at a factory, which is capable of being transported to a location for use on its own chassis and wheels, which is identified by model number and serial number by its manufacturer, and which is designed primarily for placement on an non-permanent foundation, but which does not comply with the definition of Section 303.68 MANUFACTURED HOME.

303.70 MOBILE HOME PARK / COURT: Any parcel or contiguous parcels of land designated, maintained, used or intended to be used for the placement of Two (2) or more mobile homes where such homes are connected to public and/or semi-public utilities and used for living or sleeping purposes, whether or not a charge is made for location of such homes on such parcel or contiguous parcels of land.

303.71 MOBILE HOME SUBDIVISION: An area of land which has been subdivided for the sale of Two (2) or more lots for the purpose of placing a mobile home on such lots with such mobile homes to be used for living or sleeping purposes.

303.72 NON-CONFORMING STRUCTURE: A building or other structure, legally existing on the date of

enactment of this Resolution / Ordinance or amendment thereto, which does not comply with the any of the minimum lot, lot coverage, height, yard, or other applicable regulation of this Resolution / Ordinance other than use of such building or structure.

303.73 NON-CONFORMING USE: Any use of a building, structure, or land, legally existing on the date of enactment of this Resolution / Ordinance or amendment thereto, which does not conform to the regulations of the zoning district in which it is located.

303.74 PRINCIPAL BUILDING: A building in which the primary use of the lot, tract or parcel of land is situated.

303.75 PRIVATE STREET: A privately owned, open and unoccupied space other than a public street or alley which is reserved as the principal means of vehicular access to lots or parcels abutting such space and which is developed, improved and approved in accordance with the requirements for such spaces established by Clay County / the Village of Clay Center / Deweese / Edgar / Fairfield / Harvard / Ong / Saronville / Trumbull, Nebraska.

303.76 SALVAGE YARD: Any lot, parcel or tract of land of portion thereof used for the purpose of dismantling of machinery, equipment or vehicles or for the storage or keeping for sale of parts and equipment resulting from such dismantling, wrecking or other method of salvaging of such items, or for the storage of keeping of scrap metals and other scrap or waste materials other than solid waste.

303.77 SETBACK LINE: A line defined by connecting Two (2) points, each measured from the front, side or rear lot line which establishes the interior boundary of the front, side or rear yard on a lot. For purposes of this Resolution / Ordinance, a front setback line shall be determined by measuring from the existing right-of-way line of the abutting street or the proposed right-of-way width established for the classification of the abutting street as set forth in the County's / Village's Major Street Plan of current adoption, whichever is greater.

303.78 SIGN: As defined in Section 520 of this Resolution/Ordinance.

303.79 SIGN, BILLBOARD; As defined in Section 520 of this Resolution/Ordinance.

303.80 SIGN, BUSINESS: As defined in Section 520 of this Resolution/Ordinance.

303.81 SIGN FACING: As defined in Section 520 of this Resolution / Ordinance.

303.82 SIGN, FREE-STANDING: As defined in Section 520 of this Resolution / Ordinance.

303.83 SIGN, INCIDENTAL; As defined in Section 520 of this Resolution /Ordinance.

303.84 SIGN, PROJECTING: As defined in Section 520 of this Resolution / Ordinance.

303.85 SIGN STRUCTURE: As defined in Section 520 of this Resolution / Ordinance.

303.86 SIGN SURFACE: As defined in Section 520 of this Resolution/Ordinance.

303.87 STORAGE, PERMANENT: The presence of any regulated item not stored in an entirely enclosed building for a period of Ten (10) or more consecutive days. Mobile homes, as defined in Section 303.69 of this Resolution / Ordinance shall not be considered an enclosed building and shall not be used as a building for such storage on any premises.

303.88 STREET: A public way set aside for public travel which affords the principal means of vehicular access to abutting property. A street shall include a road, highway, thoroughfare, and avenue.

303.89 STREET CENTERLINE: A line extending down the center of a street right-of-way.

303.90 STREET LINE: A right-of-way line of a street or the dividing line between a lot, tract, or parcel of land

and the private street abutting such lot, tract, or parcel of land.

303.91 STRUCTURAL ALTERATION: Any change to the supporting members of a building or structure including foundations, bearing walls or partitions, columns, beams, girders, or any complete rebuilding of a roof or exterior walls.

303.92 STRUCTURE: Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground.

303.93 STRUCTURE, TEMPORARY: A non-permanent structure designed or used for a limited period of time

303.94 TOWNHOUSE: One of a group or row of not less than Three (3) no more than Twelve (12) attached single-family dwelling units designed and constructed as a single structure facing upon a street in which the individual dwelling units may or may not be owned separately.

303.95 USE: The purpose or activity for which the land and/or buildings and structures thereon is designed, arranged, or intended, or for which it is occupied or maintained.

303.96 VARIANCE: A relaxation of the requirements of this Resolution / Ordinance where such relaxation of the requirements of this Resolution / Ordinance will not be contrary to the public interest and where, owing to conditions peculiar to the real property and not the result of the actions or desires of the owner of such real property, a literal enforcement of the requirements of the Resolution / Ordinance would result in unnecessary and undue hardship. Relaxation of the requirements of the Resolution / Ordinance shall apply only to height, area and size of a building or structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited by this Resolution / Ordinance shall not be allowed by relaxation of the requirements of the Resolution / Ordinance, nor shall any relaxation of the requirements of this Resolution / Ordinance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district or because of conditions created by the owner of said real property

303.97 VEHICLE; Any device with a chassis and wheels or originally constructed with chassis and wheels, or runners, designed for the conveyance of persons or objects.

303.98 WALL: A vertical structure which encloses, divides, supports or protects.

303.99 YARD: An open space on the same lot with a building, buildings, structure or structures, lying between the front, side or rear wall of such building, buildings, or such structure or structures and the nearest lot line, unoccupied except for specific minor structures permitted to be located in this open space by this provisions of this Resolution / Ordinance.

303.100 YARD, FRONT: A yard extending across the entire width of the lot between the front lot line and the nearest point of a building. For purposes of determining yard requirements for comer and through lots, all sides of a lot abutting a street shall be considered a front yard and shall comply with the requirements thereof. (Refer to "X" on the LOCATION AND MEASUREMENT OF YARDS ON LOTS diagram).

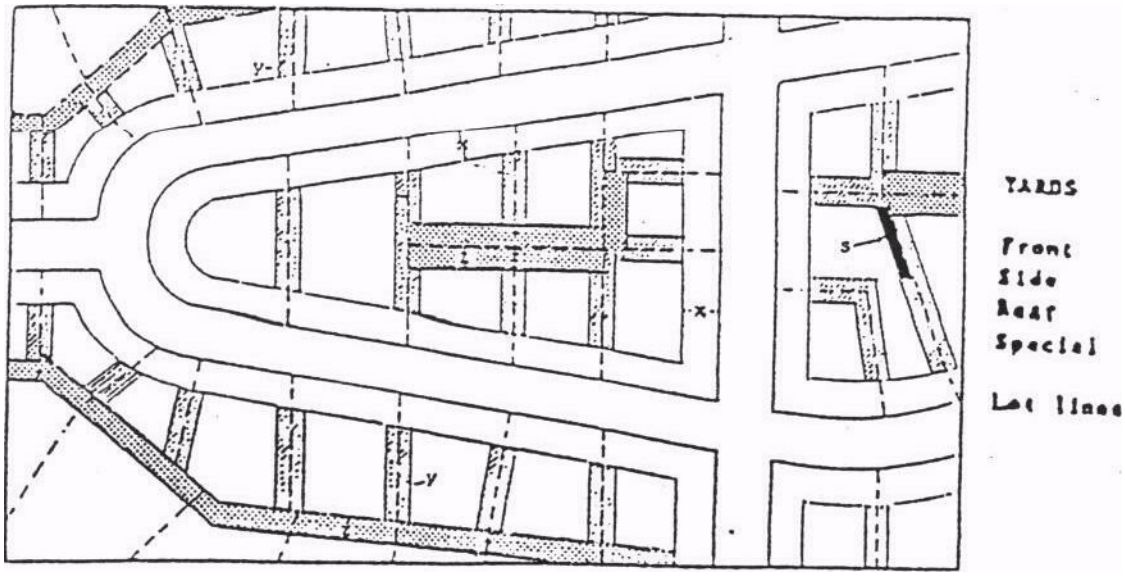
303.101 YARD, REAR: A yard extending across the entire width of the lot between the rear lot line and the nearest part of a building or non-minor structure. (Refer to "Z" on the LOCATION AND MEASUREMENT OF YARDS ON LOTS diagram).

303.102 YARD, SIDE: On single frontage lots, a yard extending along the side lot line from the front yard to the rear yard and lying between the side lot line and the nearest part of a building on non-minor structure. On through lots, a yard extending along the side lot line from front yard to front yard and lying between the side lot lines and the nearest part of the building or non-minor structure. On comer lots, a yard extending along the side lot line from the front yard to the opposite side lot line lying between the side lot line and the nearest part of a building or non-minor structure. (Refer to "Y" on the LOCATION AND MEASUREMENT OF YARDS ON LOTS diagram).

303.103 YARD, SPECIAL: A yard behind any required yard adjacent to a public street, required to perform the

same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term "side yard" or "rear yard" clearly applies. In such cases, the Zoning Administrator shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the zoning district, determining which shall apply by the relationship of the portion of the lot on which the yard is to be located to the adjoining lot or lots with due regard to the orientation and location of buildings, structures and buildable areas thereon. (Refer to "S" on the LOCATION AND MEASUREMENT OF YARDS ON LOTS diagram).

LOCATION AND MEASUREMENTS OF YARDS ON LOTS



303.104 YARD, TRANSITIONAL: A yard in effect where a non-residential zoning district abuts or is adjacent across a street or alley from a residential zoning district.

303.105 ZONING DISTRICT: A portion of the zoned area of the unincorporated area of Clay County/the Village of Clay Center / Deweese / Edgar / Fairfield / Glenvil / Harvard / Ong / Saronville / Trumbull, Nebraska and the jurisdictional area of the County / Village for which uniform regulations governing the use, height, area size and intensity of the use of buildings and structures, land and open space are established by this Resolution / Ordinance.

303.106 ZONING ADMINISTRATOR: The person or persons authorized and empowered by the Clay County / the Village of Clay Center / Deweese / Edgar / Fairfield /Glenvil / Harvard / Ong / Saronville / Trumbull, Nebraska to administer and enforce the requirements of this Resolution / Ordinance.

303.107 ZONED AREA: The area included in the various zoning districts established by this Resolution / Ordinance

as indicated on the Official Zoning Map of Clay County / the Village of Clay Center / Deweese / Edgar / Fairfield / Glenvil / Harvard / Ong / Saronville / Trumbull, Nebraska

303.108 ZONING REGULATIONS: The requirements stipulated in this Resolution / Ordinance as it may be amended from time to time.

303.109 – SEE DEED RESTRICTION OR IMPACT EASEMENT

ADDITIONAL DEFINITIONS:

303.110 Major Street Plan: a written component of the duly adopted Comprehensive Plan which indicates and delineates the classification of existing and proposed streets or roads within the jurisdiction of this Resolution.

303.111 Road Right-of-Way: a strip of land used or intended to be used for vehicular, and utility line circulation and access to property by the general public. Said strip of land is that total area between the boundary lines of the street, alley or easement. See chart for general measurements in Clay County.

Clay County Roads and Highways:

1. County Roads have a Right-of-way of 66'
2. Highway 74 has a Right-of-way of 150'
3. Highway 41 has a Right-of-way of 150'
4. Highway 6 has a Right-of-way of 80' – (Past N.A.D. 100' – 140' south side)
5. Highway 14 has a Right-of-way of 200' – (South of Clay Center)

303.112 Street / Road: a right-of-way or easement, dedicated to public use, or a private roadway, which provides the principal means of vehicular access to abutting property. Streets / Roads shall be classified in accordance with the standards of the Nebraska State Board of Classifications and the County's / Village's Major Street / Road Plan and shall include:

A. Local (Minor) Street /Road: a street or road which is used primarily for access to properties abutting on such street or road and which carries relatively small volumes of vehicular traffic.

B. Collector Street / Road: a street or road designed to accept vehicular traffic from local streets / roads and link such traffic to employment centers, public facilities and other points of attraction and to link such traffic with arterial streets or roads. Collector streets or roads may also provide access to properties abutting such streets or roads and carry higher volumes of traffic than do local streets or roads.

C. Arterial Street / Road (Major Arterial and Other Arterial): a street or road designed to accept traffic from local and collector streets or roads and transport such traffic at higher volumes and higher speeds into, through or out of a community or county.

See Schedule A and Schedule B for Nebraska State Board of Classification Standards – Page 12B and page 12C

Schedule A

MINIMUM ROADWAY STANDARDS
Clay County, Nebraska

Street Classification	Minimum Right-of-Way (feet)	Minimum Pavement Width (feet)	Minimum Number of Lanes	Minimum Shoulder Width (feet)	Maximum Grade (%)	Maximum Degree of Curve (feet)
Major Arterial Rd.	80-120	**	2	4-8	4	4.75
Other Arterial Rd.	80	20	2	3	8	8.00
Collector Rd	66	20	2	3	9	10.00
Local Rd.	66	20	2	3	10	23.00
Interior Subdivision Street	60	22	2	2	10	23.00
Cul-de-sac & Loop Street	60***	22***	2	2	10	23.00
Marginal Access (Frontage Road – No Parking)	50-60	20	2	2	10	23.00

* Measured from edge of pavement to edge of pavement or back to back of curb, except for gravel or non-paved roadways which are measured by width of gravel surface.

** Maximum pavement width for arterial streets shall be as determined by the County Board of Supervisors upon recommendation by the Designated Engineer, but in no case shall said minimum pavement width be less than twelve (12) feet per driving lane.

*** Minimum right-of-way radius for the cul-de-sac turnaround shall be seventy (70 feet. Minimum pavement radius for the cul-de-sac turnaround shall be fifty (50) feet.

Road right-of-way: 33’ to road right-of-way – this is not a property line. Property line is the center line of the road.

Schedule B

MINIMUM STREET STANDARDS

Village of Clay Center/ Deweese / Edgar / Fairfield / Glenvil / Harvard / Ong / Saronville / Trumbull, Nebraska

Street Classification	Minimum Right-of-Way (feet)	Minimum Pavement Width (feet)	Minimum Number of Lanes	Minimum Shoulder Width (feet)	Maximum Grade (%)	Minimum Centerline Radius (feet)
Arterial Street	100	**	2	4	7	775
Collector Street	80	40	2	4	7	300
Local Street	50***	27	2	4	10	200
Cul-de-sac & Loop Street	50****	27****	2	3	10	200
Marginal Access (Frontage Road – No Parking)	40	22	2	3	10	200

* Measured from back to back of curb

** Minimum pavement width for arterial streets shall be as determined by the Village Board upon recommendation by the Planning Commission, but in no case shall said minimum pavement width be less than eleven (11) feet per driving lane.

*** Minimum right-of-way shall be increased to contain the full extent of any required cuts or fills.

**** Minimum right-of-way radius for the cul-de-sac turnaround shall be fifty (50) feet. Minimum pavement radius for the cul-de-sac turnaround shall be forty (40) feet.

Landowner determines the property line.

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

303.114 "Preservation Easement": Preservation easement shall mean a right, whether stated in the form of an easement, restriction, covenant, or condition in any deed, will, agreement, or other instrument executed by or on behalf of the owner of an interest in real property imposing a limitation upon the rights of the owner or an affirmative obligation upon the owner appropriate to the purpose of preserving the historical, architectural, archaeological, or cultural aspects of real property, or for such other historic preservation purpose as may qualify as a charitable contribution under the Internal Revenue Code.

303.115 "Holder": Holder shall mean anyone acquiring a conservation, preservation, recreation or open space easement by purchase, exchange, gift, or devise and having the right to enforce it by its terms.

303.116 "Open Space Easement": Open Space Easement shall mean a right, whether stated in the form of an easement, restriction, covenant, or condition in any deed, will, agreement, or other instrument by which the landowner and the holder of the easement agree and are bound to enforce limitation on the use of the easement so that the land can be used only for open space purposes of any kind.

303.117 "Recreation Easement": Recreation easement shall mean a right whether stated in the form of an easement, restriction, covenant, or condition to any deed, will, agreement, or other instrument by which the landowner and the holder of the easement agree and are bound to place and enforce limitation on the use of the easement so that the land can be used for recreation purposes, such as but not limited to parks, playgrounds and other similar recreation uses.

ARTICLE 4: ESTABLISHMENT AND DESIGNATION OF ZONING DISTRICTS

SECTION 401 PLANNING COMMISSION RECOMMENDATIONS

It shall be the purpose of the Planning Commission to recommend the boundaries of the various original zoning 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 to the Board of Supervisors / Village Board and the Board of Supervisors / Village Board shall not hold its public hearings on such zoning regulations and districts or take action on such until it has received the final report of the Planning Commission.

SECTION 402 ZONING DISTRICTS CREATED

For the purpose of this Resolution / Ordinance, there are hereby created the following types of zoning districts, zoning district regulations and zoning district designations for which all land contained within the unincorporated area of Clay County, Nebraska / the corporate limits of the Village of Clay Center / Deweese / Edgar / Fairfield / Glenvil / Harvard / Ong / Saronville / Trumbull,Nebraska and the jurisdictional area outside of the corporate limits of said Village, as defined in Section 102 of this Resolution / Ordinance, shall be divided:

AG Agricultural District
R-l Rural Residential District
R-2 Urban Residential District
C-l Highway Commercial District
C-2 General Commercial District
I Industrial District

SECTION 403 OFFICIAL ZONING MAP

The unincorporated areas of Clay County, Nebraska / the corporate limits of the Village of Clay Center / Deweese / Edgar / Fairfield / Glenvil / Harvard / Ong / Saronville / Trumbull, Nebraska and its jurisdictional area, as defined in Section 102 of this Resolution / Ordinance is hereby divided into zoning districts, as indicated and shown on the Official Zoning Map which, together will all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Resolution / Ordinance. The Official Zoning Map shall be identified by the signature of the Chairman of the Board of Supervisors / Village Board, attested by the signature of the County / Village Clerk and bearing the seal of the County / Village under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 403 of
Resolution / Ordinance No. _____ of the Clay County, Nebraska Board of Supervisors / Village Board of Clay Center / Deweese / Edgar / Fairfield / Glenvil / Harvard / Ong / Saronville / Trumbull,Nebraska, together with the date of the adoption of this Resolution / Ordinance.

SECTION 404 OFFICIAL ZONING MAP CHANGES

404.01 If, in accordance with the provisions of this Resolution / Ordinance, changes are made in the zoning district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly thereafter the change or amendment has been approved by the Board of Supervisors / Village Board with an entry being made on the Official Zoning Map as follows: "On __(date)___, by official action of the Board of Supervisors / Village Board, the following change(s) were made in the Official Zoning Map", which entry shall be signed by the Chairman of the Board of Supervisors / Village Board and attested by the signature of the County / Village Clerk. No amendment to this Resolution / Ordinance which involves matters portrayed on the Official Zoning Map shall be effective until after such change and entry have been made on said Official Zoning Map.

404.02 No changes of any nature shall be made on the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Resolution / Ordinance. Any unauthorized change by any person or persons shall be considered a violation of this Resolution / Ordinance and shall be punishable as provided in Article 11 of this Resolution / Ordinance.

404.03 Regardless of the existence of purported copies of the Official Zoning Map which may, from time to time, be made or published, the Official Zoning Map, which shall be located in the Office of the Zoning Administrator of Clay County / Village Clerk, shall be the final authority as to the current zoning status of all areas within Clay County, Nebraska / the Village of Clay Center / Deweese / Edgar / Fairfield / Glenvil / Harvard / Ong / Saronville / Trumbull, Nebraska and its jurisdictional area, as defined in Section 102 of this Resolution / Ordinance.

SECTION 405 OFFICIAL ZONING MAP REPLACEMENT

405.01 In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Board of Supervisors / Village Board may, by resolution, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map, or any subsequent amendment thereof.

405.02 Each new Official Zoning Map shall be identified by the signature of the Chairman of the Board of Supervisors / Village Board, attested by the signature of the County / Village Clerk. The Official Zoning Map adopted ___ as part of Resolution / Ordinance No. __ of Clay County, Nebraska *I* the Village of Clay Center / Deweese / Edgar / Fairfield / Glenvil / Harvard / Ong / Saronville / Trumbull, Nebraska.

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

SECTION 406 RULES FOR INTERPRETATION OF ZONING DISTRICT BOUNDARIES

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

406.01 Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be interpreted as following such centerlines.

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

406.03 Boundaries indicated as approximately following the corporate limit lines of the Village shall be interpreted as following such corporate limit lines.

406.04 Boundaries indicated as approximately following railroad lines shall be interpreted as following a line midway between the main railroad tracks.

406.05 Boundaries indicated as following the shore lines of a river, creek, canal, lake or other body of water shall be interpreted as following such shore lines and boundaries indicated as approximately following the centerline of a river, creek, canal, lake or other body of water shall be interpreted as following such centerline. In either instance, in the event of a change in the location of the shore line or centerline of any such body of water, the boundaries shall be interpreted as moving with such shore lines or centerlines.

406.06 Boundaries indicated as parallel to or extensions of features indicated in Subsections 406.01 through 406.05 above shall be so interpreted and distances not specifically indicated on the Official Zoning Map shall be determined by the scale of said Official Zoning Map.

406.07 Where a zoning district boundary line divides a lot which was of single ownership at the time of adoption of this Resolution / Ordinance, the Board of Zoning Adjustment may permit the extension of the zoning district boundary for either portion of the lot, not to exceed Fifty (50) feet beyond the location of the boundary line indicated on the Official Zoning Map, into the remaining portion of the lot.

406.08 In circumstances not covered by Subsections 406.01 through 406.07 above, or where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, the Board of Zoning Adjustment shall interpret the zoning district boundary.

SECTION 407 ANNEXATION RULE

Annexation of land to the Village shall not affect the zoning applied to such annexed land prior to such annexation.

SECTION 408 DISTRICT REGULATIONS

District regulations for each zoning district as set forth in Section 402 of this Resolution / Ordinance shall be as hereinafter described.

SECTION 409 AG - AGRICULTURAL DISTRICT

409.01 INTENT:

This district is established for the purpose of protecting and preserving productive agricultural land and agricultural operations in the rural areas of the County by avoiding agricultural versus non-agricultural use conflicts and to limit the future demands for improvements in public infrastructure and services by limiting the quantity and density of non-farm housing and other non-agricultural uses in the rural areas of the County.

409.02 PERMITTED PRINCIPAL USES:

1. Agricultural uses, as defined in Section 303.03 of this Resolution / Ordinance, excluding confined feeding of livestock or fowl, as defined in Section 303.27A and 303.27B of this Resolution / Ordinance. Section 303.27C and 303.27D are permitted, provided that the total number of confined/concentrated livestock is less than those set forth in the definition of a Small Concentrated Animal Feeding Operation. (Section 303.27C and Section 303.27D.

2. Orchards, tree farms and similar horticultural uses, including facilities for the storage and sale of produce grown on the premises.

3. Irrigation wells, pivot and other irrigation systems and erosion, runoff control and flood control structures. See Sec. 409.08A

4. Public or private recreation uses including, but not limited to parks and playgrounds and other similar recreation uses, but excluding golf courses, miniature golf courses, driving ranges, skeet or other shooting ranges and water parks."

5. Single-family residential dwellings, including manufactured homes meeting the definition for such homes and the performance standards for such homes as set forth in Section 303.68 of this Resolution / Ordinance.

6. Churches, temples and similar religious uses, including buildings used all or in part for general/instructional educational purposes.

7. Composting of yard and garden waste or other compostable waste material produced on the premises.

8. Below ground utility lines and above ground utility installations and structures including local distribution lines, cable, poles and appurtenances, below ground and above ground public utility water storage tanks, but excluding major power transmission lines designed to transmit electrical power through the Village / Clay County to areas outside of the Village / Clay County, distribution substations, regulator stations, communications equipment buildings, communications, micro-wave, cellular communications or other towers in excess of Thirty Five (35) feet in height, storage or maintenance yards, buildings or administrative offices for such utilities,

409.03 PERMITTED ACCESSORY USES:

1. Buildings and uses customarily associated with, incidental to and located on the same lot with a permitted use or approved conditional use.

2. Radio antennae and television satellite receiving antennae (satellite dishes), provided that such antennae larger than twenty four (24) inches in diameter shall be located in the side or rear yard.

3. On-site signs, excluding billboards, related to permitted uses and approved conditional uses, all subject to the regulations and requirements of Section 520 of this Resolution / Ordinance.

4. Home occupations and home based businesses, as regulated in Section 514 of this Resolution / Ordinance.

409.04 CONDITIONAL USES:

After the provisions of Article 7 of this Resolution / Ordinance relating to conditional uses have been met, the following uses may be allowed as conditional uses:

1. Confined/Concentrated feeding of livestock and fowl, as defined in Section 303.27A and Section 303.27B of this Resolution / Ordinance, provided such confined feeding of livestock or fowl shall meet all of the following requirements:

   A. Such confined feeding use shall not be located closer than Three-Fourths (3/4) mile to any existing dwelling unit not of the same ownership and on the same premises as such use, nor to any existing school or church. Measurement of this distance shall be from the point of the confined feeding use nearest said dwelling, church or school to the nearest point of such dwelling, church or school. Any existing confined feeding use that is located within Three-Fourths (3/4) mile from any existing dwelling unit not of the same ownership and on the same premises with such confined feeding use, church or school shall not be expanded in any way that would decrease the distance from such dwelling, church or school.

      1) Such feeding use or waste handling facility may not be expanded closer to any existing church, school, public use area or existing dwelling unit not on the same premises and not of the same ownership as the animal feeding use or associated waste handling facility to which the facility is already less than the minimum distances specified in this Resolution, unless the owner of any such church, school, public use area or dwelling unit shall grant the owner of the animal feeding facility an Impact Easement, as defined in Section 303.109, also known as a Deed Restriction.

      2) Expansion in any other direction shall be permitted, provided that such expansion shall not result in separation distance to any other church, school, public use area or dwelling/residence not on the same premises and not of the same ownership as the animal feeding use and associated waste handling facility being less than set forth in this Resolution, and the category changing from a small to a medium, or a medium to a large concentrated animal feeding operation as defined in Sections 303.27A, 303.27B, 3030.27C, unless the owner(s) of any such church, school, public use area or dwelling unit shall grant the owner of the animal feeding use and waste facility an Impact Easement, as defined in Section 303.109, also known as a Deed Restriction.

      3) Any physical expansion of the animal feeding use or associated waste handling facility shall be immediately contiguous with the existing feeding use or associated waste handling facilities.

      4) Exceptions to the minimum separation distance specified in this Resolution may be authorized by conditional use where special types of animal feeding uses, special provisions for odor control, special provisions for dust control, topography, prevailing winds, or other factor or combination of factors relating to odor, dust or other impacts on neighboring uses is determined by the County Board of Supervisors, after review and recommendation by the Planning Commission, that reduction of the separation distance will not interfere with the value, use, and enjoyment of neighboring properties.

      5) For purposes of this regulation, a dwelling unit/residence not of the same ownership and not on the same premises as the animal feeding use or associated waste handling facility shall be interpreted to mean that such dwelling is an occupied or habitable residential dwelling and, if vacant and not habitable, would not require more cost than its present assessed valuation to make such dwelling habitable.

   B. For all confined livestock feeding operations, regardless of size or type, all run-off, control pond and basins, methods of manure disposal and similar activities shall be developed to minimize air and water pollution and shall be constructed in accordance with the requirements established by the County Board of Supervisors upon review and recommendation by the applicable Natural Resource District, the Soils Conservation Service, the Nebraska Department of Health, and any other entity with environmental protection expertise such as the Nebraska Department of Environmental Quality. Such facilities shall be in place prior to the introduction of any animals for feeding or management.

C. Any confined livestock feeding operation which proposes to dispose of any or all of the manure produced at the facility through application of said manure on crop or other land shall indicate that the owners of such confined livestock feeding operation shall have, either through ownership or lease, an adequate amount of such land to permit application of such manure based on the nutrient needs of the crops to be produced and avoid any build-up of nutrients or chemicals which can damage the production capacity of the land, result in run-off of such manure into abutting property or into any stream or drainage way. The County Board of Supervisors, in authorizing any confined livestock feeding operation, shall utilize recommendations of the Soil Conservation Service and other crop production experts in determining the maximum amount of manure to be placed on each acre of land to be used for such purposes and the total amount of land necessary to distribute all manure waste produced by the feeding operation, and shall establish such maximum per acre application limits and such minimum total land area as conditions of such authorization.

D. All locations which are used by any authorized confined livestock feeding operation for stockpiling or composting of livestock manure, bedding or other waste shall be subject to authorization by the County Board of Supervisors as part of the authorization of any confined livestock feeding operation and such authorization may include the establishment of maximum amounts of waste which may be stockpiled, the methods and operation of any waste composting facility, and facilities to collect and properly digest or dispose of any waste contaminated runoff from any waste stockpiling or composting site.

E. Each confined livestock feeding operation shall submit, for approval, a plan for the proper and timely disposal of dead animals.

F. Each confined livestock feeding operation authorized by the County Board of Supervisors shall agree to permit access to the facilities of the operation within 24 hours of notification of a proposed inspection, such inspections shall be conducted on a written, signed, complaint basis only, and shall first be investigated by the Zoning Administrator, or other authorized person, who shall follow all bio-hazard procedures required by the operator. He/She shall document compliance or lack of compliance with all conditions of use established by the County Board of Supervisors in authorizing such use. Such inspections shall be considered a general function of the Zoning Administrator, or other authorized person, and the cost of such inspection(s) shall be considered an administrative expense of the County and shall not be assessed against the owner(s). Further, the owner(s) of each confined livestock feeding operation shall agree to comply with any order of the County Board of Supervisors to correct any lack of compliance with the conditions of authorization detected in such on-site inspections, and reply within Thirty (30) calendar days of receipt of written notice of any violation by the County Board of Supervisors.

G. Exceptions to the minimum separation distance for person(s) desiring to build a new single family dwelling, including manufactured housing, or moving an old residence closer than the required distances set forth in this Resolution, may be granted by conditional use where topography, prevailing winds, special types of waste handling facilities or other factor or combination of other factors relating to odor, dust, or other impacts on neighboring uses is determined by the County Board of Supervisors, after review and recommendation by the Planning Commission, that reduction of the separation distance will not unreasonably interfere with the normal operations of an exiting confined/concentrated animal feeding operation and any associated waste handling facility.

1) The County Board of Supervisors, after review and recommendation by the Planning Commission, may require, as part of the conditional use, a Deed Restriction or Impact Easement, as defined in Section 303.109. By signing the Deed Restriction (Impact Easement) the applicant shall waive all rights to pursue any legal action, including injunctive action against the owner of the facility, because of its location, odors, or other factors that are characteristic to livestock and feedlots or confined/concentrated animal feeding operation.

2. Cemeteries.

3. Public schools, private schools and schools affiliated with a church or religion.

4. Major power transmission lines designed to transmit electrical power to areas outside of Clay County, distribution substations, regulator stations, communications equipment buildings, communications, micro wave, cellular communications or other towers in excess of Thirty Five (35) feet in height, storage or maintenance yards, buildings or administrative offices for such utility uses, all subject to the applicable provisions of any Airport Hazard regulations.

5. Sewage treatment plants and facilities, sanitary landfills and commercial recycling or waste composting centers.

6. Salvage (junk) yards, provided such uses are separated from any existing dwelling unit, church, school or cemetery by a distance of not less than One (1) mile and that all outdoor storage of salvage material shall be screened from view from all adjoining public roadways and neighboring residential dwelling units by evergreen trees, fences or a combination thereof.

7. Rock, sand, gravel or other mineral extraction or processing site.

8. Airports, aircraft landing strips and heliports.

9. Grain elevators, commercial grain storage or processing facilities, bulk fertilizer and fuel plants, livestock auction barns and buying stations, veterinary clinics, agricultural equipment repair shops, aerial crop dusting uses and landing strips, and other agricultural service establishments engaged in providing horticultural, animal husbandry products or services to area agricultural product producers, provided that uses such as bulk fuel and fertilizer plants, grain distilling facilities and other similar uses which produce noticeable odors and/or have explosion or release of hazardous chemical potential shall not be located closer than One (1) mile to any residential dwelling, any church or school.

10. Golf courses, driving ranges, water parks, miniature golf, paint ball ranges, skeet or other shooting ranges and similar commercial recreation uses.

11. Temporary placement of One (1) mobile home on the same lot with an existing dwelling unit for the purpose of providing care for a member or members of the father, mother, or immediate family member or the owner-occupant of the existing dwelling unit when such family members are disabled, elderly and in need of care or otherwise in demonstrable need of care by said owner-occupant, subject to the following conditions and restrictions:

    A. Placement of the mobile home shall be temporary and shall be limited to the time that the mobile home is needed to provide such care for the family member or members. When such care is no longer needed or said mobile home is no longer occupied by such family member or members, said mobile home shall be removed from the premises within Ninety (90) days of the date of non-occupancy unless said mobile home shall be so located on the property that subdivision of the property to create a separate lot for said mobile home will result in said lot complying in all respects with the minimum lot area, lot width and lot frontage, and yard requirements of this district and such subdivision will not result in more than Four (4) dwelling units on the quarter section on which said mobile home is located.

    B. Such mobile home shall be separated from the existing dwelling unit or any existing building on the premises by a distance of not less than Twenty (20) feet.

    C. Such mobile home shall be provided with adequate water supply and sewage disposal systems.

D. Such mobile home shall not be leased or otherwise rented or occupied by any person or persons who is/are not the father, mother or member of the immediate family of the owner-occupant of the existing dwelling unit unless the premises on which the mobile home is located shall be properly subdivided into a separate lot in accordance with the requirements of Paragraph A immediately above.

12. Other uses, determined by the County Board of Supervisors / Village Board, to be comparable with the other uses permitted as conditional uses in this district, compatible with the uses permitted in the district and consistent with the intent of this district.

409.05 PROHIBITED USES AND STRUCTURES:

All other uses and structures which are not specifically permitted or authorized as conditional uses shall be prohibited in this zoning district.

409.06 MINIMUM LOT AREA:

1. The minimum lot area for uses listed in Section 409.02 shall be three (3) acres or more.

   The minimum lot area for 409.02.5 Single-family residential dwellings, including manufactured homes shall be 3 acres, however, with the placement of a maximum of four (4) single family dwellings per U.S. Government surveyed quarter section, at a minimum distance of 1,000 feet between dwellings located in same quarter section.

   Such 1,000 feet between dwellings requirement and four single family dwellings per quarter section limitation may be relaxed by zoning administrator when such proposed single family dwelling meets all other zoning requirements, and said acreages can be subdivided into minimum acre parcels in the event of ownership change. The 1,000 feet between dwellings limitation can also be relaxed if the parcel of land is shown by a recorded plat or deed recorded with the Clay County Register of Deeds to have been owned separately and individually from adjoining tracts of land prior to date of adoption of this Resolution / Ordinance (March 29, 2005).

   Existing farmsteads of 3 acres or more not previously subdivided as of the date of adoption of this zoning Resolution /Ordinance as defined in the zoning regulations can be subdivided into two parcels, the minimum size of one of said parcels shall not be less than 3 acres. Legally existing parcels which are less than 3 acres, as of the effective date of the zoning regulations (March 29, 2005) without a residence, may have a single family dwelling constructed, but must obtain a zoning permit.

2. The minimum lot area for conditional uses listed in Section 409.04 shall be the area appropriate to each conditional use, as determined by the Board of Supervisors/Village Board in its review and authorization of each conditional use in accordance with Article 9 of this Resolution / Ordinance.

409.07 MINIMUM LOT WIDTH AND FRONTAGE:

1. The minimum lot width for uses listed in Section 409.02 shall be One Hundred Fifty (150) feet.

2. The minimum lot width and frontage for conditional uses listed in Section 409.04 shall be the width and frontage appropriate to each conditional use, as determined by the Board of Supervisors / Village Board in its review and authorization of each conditional use in accordance with Article 9 of this Resolution / Resolution / Ordinance, provided, however, that in no event shall the minimum lot width be less than one hundred (100) feet and the minimum lot frontage be less than Seventy-Five (75) feet.

409.08 MINIMUM YARD REQUIREMENTS:
The minimum yards or setbacks of any building from a property line shall be as follows:

1. Front Yard - Eighty (80) feet from a road right of way designated on the Clay County / Village Major Street Plan as a Major Arterial roadway, Fifty (50) feet from a road right of way designated as a Minor Arterial road right of way and Twenty Five (25) feet from a road right of way designated as a Collector road right of way or a Local road right of way.

   For developed areas, as defined in Section 303.32 of this Resolution / Ordinance, the required front yard shall be the average of the existing front yards for existing residential uses, provided that in no event shall such front yard be less than Twenty (25) feet.

2. Side Yard - Each side yard shall be a minimum of Five (5) feet, provided that where the lot occupied by any use permitted in this district other than a single-family dwelling unit abuts a residentially zoned lot on the side, the minimum side yard on the side adjoining such lot shall be Twenty Five (25) feet.

For accessory buildings associated with residential uses, the minimum side yard shall be Three (3) feet, provided accessory buildings shall not be developed on any recorded easement and farther provided that such accessory buildings shall comply with the following restrictions:

A. The total accessory building or buildings shall not cover more than Thirty (30) percent of the rear lot area, as defined in Section 303.101 of this Resolution / Ordinance.

For accessory buildings associated with agricultural and other non-residential uses, the minimum side yard shall be Twenty Five (25) feet.

3. Rear Yard - Twenty (20) percent of the lot depth, but not more than Thirty (30) feet, provided that where the lot occupied by any use permitted in this district other than a single family dwelling unit abuts a residentially zoned lot on the rear, the minimum rear yard shall be Thirty (30) feet.

For accessory buildings associated with residential uses, the minimum rear yard shall be Three (3) feet, provided accessory buildings shall not be developed on any recorded easement and further provided that such accessory buildings shall comply with the following restrictions:

A. The total accessory building or buildings shall not cover more than Thirty (30) percent of the rear lot area, as defined in Section 303.101 of this Resolution / Ordinance.

For accessory buildings associated with agricultural and other non-residential uses, the minimum rear yard shall be Thirty (30) feet.

409.08A IRRIGATION WELL LOCATION REQUIREMENTS:

New and replacement irrigation wells must be located no closer than 20 feet from the road right-of-way, except that at County, State, or Federal road intersections, such wells must be located no closer than 130 feet from the nearest intersection of the established center of the roads or 20 feet from the road right-of-way, whichever is greater.

409.09 MAXIMUM HEIGHT:

No limitation, except that the maximum height for any building designed for human occupancy shall be Thirty-five (35) feet, subject to applicable restrictions of any Airport Hazard Zone District.

409.10 MAXIMUM LOT COVERAGE:

Fifty (50) percent of the lot area.

409.11 OFF-STREET PARKING:

The minimum number of off-street parking spaces required for each uses permitted or authorized as a conditional use shall be in accordance with the requirements of Section 515 through 517 of this Resolution/ Ordinance.

SECTION 410 R-l - RURAL RESIDENTIAL DISTRICT

410.01 INTENT:

This district is established for the purpose of encouraging the development of non-agricultural housing and related uses in areas near the towns and the incorporated Villages within the County where public services and utilities are more readily available while minimizing land use conflicts between existing agricultural uses and the non-agricultural uses.

410.02 PERMITTED PRINCIPAL USES:

1. Agricultural uses, as defined in Section 303.03 of this Resolution / Ordinance, excluding confined feeding of livestock or fowl, as defined in Section 303.27A, 303.27B and 303.27C of this Resolution / Ordinance. Raising of crops and pasturing of livestock, provided such pasturing of livestock shall be limited to a maximum of Twelve (12) head of livestock per acre and shall not occur closer than Three Hundred (300) feet to any residential use.

2. Orchards, tree farms and similar horticultural uses, including facilities for the storage and sale of produce grown on the premises.

3. Irrigation wells, pivot and other irrigation systems and erosion, runoff control and flood control structures. See Sec. 410.08A

4. Public or private open space recreation uses including parks, playgrounds, wildlife preserves, conservation areas, lakes, ponds and similar open space uses, but excluding golf courses, miniature golf, driving ranges skeet or other shooting ranges and water parks,

5. Single-family residential dwellings, including manufactured homes meeting the definition for such homes and the performance standards for such homes as set forth in Section 303.68 of this Resolution / Resolution / Ordinance, but excluding manufactured homes which do not meet said definition and performance standards.

6. Churches, temples and similar religious uses, including buildings used all or in part for general/instructional educational purposes.

7. Composting of yard and garden waster or other compostable waste material produced on the premises.

8. Below ground utility lines and above ground utility installations and structures including local distribution lines, cable, poles and appurtenances, below ground and above ground public utility water storage tanks, but excluding major power transmission lines designed to transmit electrical power through Clay County to areas outside of the Clay County, distribution substations, regulator stations, communications equipment buildings, communications, micro-wave, cellular communications or other towers in excess of Thirty Five (35) feet in height, storage or maintenance yards, buildings or administrative offices for such utilities,

410.03 PERMITTED ACCESSORY USES:

1. Buildings and uses customarily associated with, incidental to and located on the same lot with a permitted use or approved conditional use.

2. Radio antennae and television satellite receiving antennae (satellite dishes), provided that such satellite receiving antennae larger than twenty four (24) inches in diameter shall be located in the side or rear yard.

3. On-site signs, excluding billboards, related to permitted uses and approved conditional uses, all subject to the regulations and requirements of Section 520 of this Resolution / Ordinance.

4. Home occupations and home based businesses, as regulated in Section 514 of this Resolution / Ordinance.

410.04 CONDITIONAL USES:

After the provisions of Article 7 of this Resolution / Ordinance relating to conditional uses have been met, the following uses may be allowed as conditional uses:

1. Cemeteries,

2. Public schools, private schools and schools affiliated with a church or religion.

3. Major power transmission lines designed to transmit electrical power through to areas outside of Clay County, distribution substations, regulator stations, communications equipment buildings, communications, micro wave, cellular communications or other towers in excess of Thirty Five (35) feet in height, storage or maintenance yards, buildings or administrative offices for such utility uses, all subject to the applicable provisions of any Airport Hazard regulations.

4. Sewage treatment plants and facilities, sanitary landfills and commercial recycling or waste composting centers,

5. Rock**,** sand, gravel or other mineral extraction or processing site,

6. Airports, aircraft landing strips and heliports,

7. Grain elevators, commercial grain storage or processing facilities, bulk fertilizer and fuel plants, livestock auction barns and buying stations, veterinary clinics, agricultural equipment repair shops, aerial crop dusting uses and landing strips, and other agricultural service establishments engaged in providing horticultural, animal husbandry products or services to area agricultural product producers, provided that uses such as bulk fuel and fertilizer plants, grain distilling facilities and other similar uses which produce noticeable odors and/or have explosion or release of hazardous chemical potential shall not be located closer than One-half mile to any residential dwelling or One (1) mile to any church or school.

8. Golf courses, driving ranges, water parks and similar commercial recreation uses,

9. Mobile home parks and subdivisions, developed in accordance with the standards set forth in Section _ of this Resolution / Ordinance.

10. Temporary placement of One (1) mobile home on the same lot with an existing dwelling unit for the purpose of providing care for a member or members of the father, mother, or immediate family member of the owner-occupant of the existing dwelling unit when such family members are disabled, elderly and in need of care or otherwise in demonstrable need of care by said owner-occupant. Subject to the following conditions and restrictions:

    A. Placement of the mobile home shall be temporary and shall be limited to the time that the mobile home is needed to provide such care for the family member or members. When such care is no longer needed or said mobile home is no longer occupied by such family member or members, said mobile home shall be removed from the premises within Ninety (90) days of the date of non-occupancy unless said mobile home shall be so located on the property that subdivision of the property to create a separate lot for said mobile home will result in said lot complying in all respects with the minimum lot area, lot width and lot frontage, and yard requirements of this district and such subdivision will not result in more than Four (4) dwelling units on the quarter section on which said mobile home is located.

    B. Such mobile home shall be separated from the existing dwelling unit or any existing building on the premises by a distance of not less than Twenty (20) feet.

    C. Such mobile home shall be provided with adequate water supply and sewage disposal systems.

    D. Such mobile home shall not be leased or otherwise rented or occupied by any person or persons

who is/are not the father, mother or member of the immediate family of the owner-occupant of the existing dwelling unit unless the premises on which the mobile home is located shall be been properly subdivided into a separate lot in accordance with the requirements of Paragraph above.

11. Single-family dwelling units within the platted areas of the unincorporated Villages of Eldorado, Inland, and Verona on lots with less than the One (1) acre minimum lot area, provided that such development of previously platted but undeveloped lots shall meet the following minimum specifications:

A. The minimum lot size shall be One- Half (1/2) acre,

B. The septic tank and tile field shall be so located that the nearest point of the tile field to any water well either on the same lot or on a neighboring lot shall not be less than One Hundred (100) feet.

12. Other uses, determined by the Board of Supervisors / Village Board, to be comparable with the other uses permitted as conditional uses in this district, compatible with the uses permitted in the district and consistent with the intent of this district.

410.05 PROHIBITED USES AND STRUCTURES:

All other uses and structures which are not specifically permitted or authorized as conditional uses shall be prohibited in this zoning district.

410.06 MINIMUM LOT AREA: (for newly platted lots)

1. The minimum lot area for uses listed in Section 410.02: 1, 2, 4 shall be five (5) acres, except for Items 5 through 8 of Section 410.02, provided that all residential uses and those other uses listed as permitted uses in Section 410.02 which will utilize an on-site septic tank and tile field for such sewage disposal shall have a minimum lot area of One (1) acre.

2. The minimum lot area for conditional uses listed in Section 410.04 shall be the area appropriate to each conditional use, as determined by the Board of Supervisors, Village Board in its review and authorization of each conditional use in accordance with Article 9 of this Resolution / Ordinance, provided that any conditional use which will produce domestic sewage and which will utilize an on-site septic tank and sewage disposal system for such sewage disposal shall have a minimum lot area of One (1) acre.

410.07 MINIMUM LOT WIDTH AND FRONTAGE:

1. The minimum lot width for uses listed in Section 410.02 shall be Seventy Five (75) feet.

2. The minimum lot frontage for uses listed in Section 410.03 shall be Fifty (50) feet.

3. The minimum lot width and frontage for conditional uses listed in Section 410.04 shall be the width and frontage appropriate to each conditional use, as determined by the Board of Supervisors / Village Board in its review and authorization of each conditional use in accordance with Article 9 of this Resolution / Resolution / Ordinance, provided, however, that in no event shall the minimum lot width for uses which will produce domestic sewage and which will utilize an on-site septic tank and tile field for such sewage disposal shall be less than Seventy Five (75) feet and the minimum lot frontage be less than Fifty (50) feet

410.08 MINIMUM YARD REQUIREMENTS:

The minimum yards or setbacks of any building from a property line or street right-of-way line shall be as follows, (Refer to Section 502 of this Resolution / Ordinance for required modifications to minimum yard and setback regarding eaves, cornice overhangs, awnings, balconies and the like):

1. Front Yard - Eighty (80) feet from a roadway designated on the Clay County / Village Major Street Plan as a Major Arterial roadway. Fifty (50) feet from a roadway designated as a Minor Arterial roadway and Twenty Five (25) feet from a roadway designated as a Collector roadway or a local roadway.

For developed areas, as defined in Section 303.32 of this Resolution / Ordinance, the required front yard shall be the average of the existing front yards for existing residential uses, provided that in no event shall such front yard be less than Twenty (25) feet.

2. Side Yard - Each side yard shall be a minimum of Five (5) feet, provided that where the lot occupied by any use permitted in this district other than a single-family dwelling unit abuts a residentially zoned lot on the side, the minimum side yard on the side adjoining such lot shall be One Hundred (100) feet.

For accessory buildings associated with residential uses, the minimum side yard shall be Three (3) feet, provided accessory buildings shall not be developed on any recorded easement and farther provided that such accessory buildings shall comply with the following restrictions: (Minimum distance between buildings shall be Ten (10) feet, measuring from eave to eave.)

A. The total accessory building or buildings shall not cover more than Thirty (30) percent of the rear lot area, as defined in Section 303.101 of this Resolution / Ordinance.

B. The maximum height of any accessory building within the side yard shall be limited to Twelve (12) feet.

For accessory buildings associated with agricultural and other non-residential uses, the minimum side yard shall be One Hundred (100) feet.

3. Rear Yard - Twenty (20) percent of the lot depth, but not more than Thirty (30) feet, provided that where the lot occupied by any use permitted in this district other than a single family dwelling unit abuts a residentially zoned lot on the rear, the minimum rear yard shall be One Hundred (100) feet.

For accessory buildings associated with residential uses, the minimum rear yard shall be Three (3) feet, provided accessory buildings shall not be developed on any recorded easement and further provided that such accessory buildings shall comply with the following restrictions: (Minimum distance between buildings shall be Ten (10) feet, measuring from eave to eave.)

A. The total accessory building or buildings shall not cover more than Thirty (30) percent of the rear lot area, as defined in Section 303.101 of this Resolution / Ordinance.

For accessory buildings associated with agricultural and other non-residential uses, the minimum rear yard shall be One Hundred (100) feet.

410.08A IRRIGATION WELL LOCATION REQUIREMENTS: New and replacement irrigation wells must be located no closer than 20 feet from the road right-of-way, except that at County, State, or Federal road intersections, such wells must be located no closer than 130 feet from the nearest intersection of the established center of the roads or 20 feet from the road right-of-way, whichever is greater.

410.09 MAXIMUM HEIGHT:
The maximum height for any building designed for human occupancy shall be Thirty-five (35) feet and the maximum height for all other structures in the rear yard shall be Fifty (50) feet, all subject to applicable restrictions of any Airport Hazard Zone District.

410.10 MAXIMUM LOT COVERAGE:
Sixty (60) percent of the lot area

410.11 OFF-STREET PARKING:
The minimum number of off-street parking spaces required for each uses permitted or authorized as a conditional use shall be in accordance with the requirements of Sections 515 through 517 of this Resolution / Ordinance.

SECTION 411 R-2 - URBAN RESIDENTIAL DISTRICT

411.01 INTENT:

This district is established, to provide areas for residential living uses within the incorporated Villages of Clay County which, while providing flexibility in the type and density of housing, will avoid land use and building mass conflicts and promote and encourage stable residential neighborhoods.

411.02 PERMITTED PRINCIPAL USES;

1. Single-family, detached and attached (zero lot line) dwelling units, two-family (duplex) dwelling units, townhouses, multi-family dwelling units, and manufactured homes meeting the definition for such homes and the development standards for such homes as set forth in Section 303.68 of this Resolution / Resolution / Ordinance, but excluding manufactured homes which do not meet said definition and performance standards.

2. Raising of crops and pasturing of livestock, provided such pasturing of livestock shall be limited to a maximum of Six (6) head of livestock per acre and shall not occur closer than Three Hundred (300) feet to any residential use.

3. Orchards and similar horticultural uses customary to urban residential uses.

4. Public or private open space recreation uses including parks, playgrounds, lakes, ponds and similar open space uses, but excluding golf courses, miniature golf, driving ranges, skeet or other shooting ranges, paint ball ranges, water parks, and other commercial recreational uses.

5. Churches, temples and similar religious uses, including buildings used all or in part for general or instructional, educational purposes.

6. Composting of yard and garden waste or other compostable waste material produced on the premises.

7. Below ground utility lines and above ground utility installations and structures including local distribution lines, cable, poles and appurtenances, below ground and above ground public utility water storage tanks, but excluding major power transmission lines designed to transmit electrical power through the Village / Clay County to areas outside of the Village / Clay County, distribution substations, regulator stations, communications equipment buildings, communications, micro-wave, cellular communications or other towers in excess of Thirty Five (35) feet in height, storage or maintenance yards, buildings or administrative offices for such utilities,

8. Temporary uses in accordance with Section 522 of this Resolution / Ordinance.

411.03 PERMITTED ACCESSORY USES:

1. Garages, carports, patios, decks, outbuildings for storage and similar structures customarily associated with, incidental to and located on the same lot with a permitted use or approved conditional use, provided outbuildings shall not include buildings for storage of agricultural equipment, grain storage, or feeding or management of livestock.

2. Radio antennae and television satellite receiving antennae (satellite dishes), provided that such satellite receiving antennae larger than twenty four (24) inches in diameter shall be located in the side or rear yard.

3. On-site signs, excluding billboards, related to permitted uses and approved conditional uses, all subject to the regulations and requirements of Section 520 of this Resolution / Ordinance.

4. Home occupations and home based businesses, as regulated in Section 514 of this Resolution / Ordinance.

411.04 CONDITIONAL USES:

After the provisions of Article 7 of this Resolution / Ordinance relating to conditional uses have been met, the following uses may be allowed as conditional uses:

1. Public schools, private schools and schools affiliated with a church or religion.

2. Child care centers, senior centers, youth centers and community centers.

3. Mobile home parks and subdivisions, development in accordance with the standards set forth in Sections 303.70 and 303.71 of this Resolution / Ordinance.

4. Public uses of an administrative or service nature, including libraries, museums, police and fire stations and administrative centers.

5. Hospitals, hospice centers, and medical and dental clinics.

6. Nursing homes and rest homes,

7. Bed and breakfast uses.

8. Major power transmission lines designed to transmit electrical power through the Village to areas outside of the Village, distribution substations, regulator stations, communications equipment buildings, communications, micro wave, cellular communications or other towers in excess of Thirty Five (35) feet in height, storage or maintenance yards, buildings or administrative offices for such utility uses, all subject to the applicable provisions of any Airport Hazard regulations.

9. Other uses, determined by the Board of Supervisors / Village Board, to be comparable with the other uses permitted as conditional uses in this district, compatible with the uses permitted in the district and consistent with the intent of this district.

411.05 PROHIBITED USES AND STRUCTURES:

All other uses and structures which are not specifically permitted or authorized as conditional uses shall be prohibited in this zoning district.

411.06 MINIMUM LOT AREA:

1. The minimum lot area for uses listed in Section 411.02 shall be as follows:
    a. Single-family detached dwellings - Six Thousand (6,000) square feet
    b. Single-family attached (zero lot line) dwellings and two-family (duplex) dwellings - Four Thousand (4,000) square feet per dwelling unit
    c. Townhouse dwellings - Two Thousand Five Hundred (2,500) square feet per dwelling unit
    d. Multi-family dwellings - One Thousand Five Hundred (1,500) square feet per dwelling unit, provided the minimum lot area shall not be less than Five Thousand (5,000) square feet
    e. All other uses listed in Section 411.02- Ten Thousand (10,000) square feet

2. The minimum lot area for conditional uses listed in Section 411.04 shall be the area appropriate to each conditional use, as determined by the Board of Supervisors / Village Board in its review and authorization of each conditional use in accordance with Article 7 of this Resolution / Ordinance, provided that the minimum lot area shall not be less than Six Thousand (6,000) square feet unless the use is a public utility installation not requiring such area, in which case a smaller lot area may be permitted by the Board of Supervisors / Village Board.

411.07 MINIMUM LOT WIDTH AND FRONTAGE:

1. The minimum lot width, measured at the minimum required front setback line, for uses listed in Section 411.02 shall be as follows:
   a. Single-family detached dwelling - Fifty (50) feet
   b. Single-family attached (zero lot line) dwelling and two-family (duplex) dwelling - Forty (40) feet per dwelling unit
   c. Townhouse dwelling - Twenty-five (25) feet per dwelling unit
   d. Multi-family dwelling - One Hundred (100) feet
   e. All other uses listed in Section 411.02 - One hundred (100) feet

2. The minimum lot frontage, measured at the front lot line, for uses listed in Section 411.02 shall be as follows:
   a. Single-family detached dwelling - Forty (40) feet
   b. Single-family attached (zero lot line) dwelling - Thirty-five (35) feet per dwelling unit
   c. Townhouse dwelling - Twenty (20) feet per dwelling unit
   d. Multi-family dwelling - Seventy Five (75) feet
   e. All other uses listed in Section 411.02 - Seventy Five (75) feet

3. The minimum lot width and frontage for conditional uses listed in Section 411.04 shall be the width and frontage appropriate to each conditional use, as determined by the Board of Supervisors / Village Board in its review and authorization of each conditional use in accordance with Article 7 of this Resolution / Resolution / Ordinance, provided, however, that in no event shall the minimum lot width be less than Fifty (50) feet and the minimum lot frontage be less than Forty (40) feet, unless the use is a public utility installation not requiring such area, in which case a smaller lot width and frontage may be permitted by the Board of Supervisors / Village Board.

411.08 MINIMUM YARD REQUIREMENTS:

The minimum yards or setbacks of any building from a property line or street right-of-way line shall be as follows, (Refer to Section 502 of this Resolution / Ordinance for required modifications to minimum yard and setback regarding eaves, cornice overhangs, awnings, balconies and the like):

1. Front Yard - Eighty (80) feet from a roadway designated on the Village's Major Street Plan as a Major Arterial roadway. Fifty (50) feet from a roadway designated as a Minor Arterial roadway and Twenty Five (25) feet from a roadway designated as a Collector roadway or a local roadway.

   For developed areas, as defined in Section 303.32 of this Resolution / Ordinance, the required front yard shall be the average of the existing front yards for existing residential uses, provided that in no event shall such front yard be less than Twenty (20) feet.

2. Side Yard - For all uses except single-family attached and townhouse dwelling units, each side yard shall be a minimum of Five (5) feet, provided that where any use permitted in this district other than a single-family detached or attached dwelling unit or two-family dwelling unit abuts lot a residentially zoned lot on the side, the minimum side yard on the side adjoining such lot shall be Fifteen (15) feet.

   For single-family attached dwelling units the side yard where the dwelling units are attached shall be zero (0) feet while the other side yard shall be a minimum of Five (5) feet.

   For townhouse units the side yards on all units on the interior of the building shall be Zero (0) feet while the side yards on all dwellings on the end of the building shall be a minimum of Ten (10) feet, except where such townhouses abut any use permitted in this district which is not another townhouse, the minimum side yard shall be Fifteen (15) feet.

   For multi-family dwelling units the side yards shall be a minimum of Ten (10) feet each, except where the building containing the multi-family dwelling units abuts any land zoned

for development of single-family detached or attached dwelling unit or two-family dwelling units, the minimum side yards shall be Fifteen (15) feet each.

For accessory buildings, the minimum side yard shall be Three (3) feet, provided accessory buildings shall not be developed on any recorded easement and farther provided that such accessory buildings shall comply with the following restrictions:

A. The total accessory building or buildings shall not cover more than Thirty (30) percent of the rear lot area, as defined in Section 303.101 of this Resolution / Ordinance.

B. The maximum height of any accessory building within the side yard shall be limited to Twelve (12) feet.

3. Rear Yard - Twenty (20) percent of the lot depth, but not more than Thirty (30) feet, provided that where any use permitted in this district other than a single family detached or attached dwelling unit or two-family dwelling unit abuts a residentially zoned lot to the rear the minimum rear yard shall be Thirty (30) feet.

For accessory buildings, the minimum rear yard shall be Three (3) feet, provided accessory buildings shall not be developed on any recorded easement and further provided that such accessory buildings shall comply with the following restrictions:

A. The total accessory building or buildings shall not cover more than Thirty (30) percent of the rear lot area, as defined in Section 303.101 of this Resolution / Ordinance.

411.09 MAXIMUM HEIGHT:

The maximum height for any building designed for human occupancy shall be Thirty-five (35) feet and the maximum height for all other structures in the rear yard shall be Fifty (50) feet, all subject to applicable restrictions of any Airport Hazard Zone District.

411.10 MAXIMUM LOT COVERAGE:

The maximum area of any lot which is occupied by buildings, structures, decks, patios, accessory buildings, driveways and parking areas shall not exceed Sixty Five (65) percent of the lot area, except where existing platted lots are Four Thousand (4,000) square feet or less in total area, such maximum lot coverage shall be Seventy (70) percent of the lot area.

411.11 OFF-STREET PARKING:

The minimum number of off-street parking spaces required for each uses permitted or authorized as a conditional use shall be in accordance with the requirements of Sections 515 through 517 of this Resolution / Ordinance.

411.12 SETBACK DISTANCE BETWEEN BUILDINGS

Minimum distance between buildings shall be Ten (10) feet, measuring from eave to eave.

SECTION 412 C-l HIGHWAY COMMERCIAL DISTRICT

412.01 INTENT:

This district is established to provide areas for development of commercial uses oriented to major traffic corridors serving the Villages of the County and along major highway corridors in the rural areas of the County and to provide areas for development of non-highway oriented uses which are inappropriate or too land extensive for location in the C-2, General Commercial District.

412.02 PERMITTED PRINCIPAL USES:

1. Convenience Stores, Restaurants, Cafes, Coffee Shops, Motels and Bed and Breakfast uses, bars and lounges.

2. Banks and similar financial institutions, including free standing drive-thru automated teller machines.

3. Sales, rental and display of automobiles, trucks, campers, recreational vehicles, manufactured homes, boats and agricultural equipment, provided that all servicing and maintenance shall be conducted entirely within enclosed buildings.

4. Automobile and tire service uses, including auto or truck body repair, but not including the dismantling or salvaging of vehicles or the storage of damaged or inoperable vehicles.

5. Recreational vehicle parks and campgrounds.

6. Commercial recreational facilities such a miniature golf courses, golf driving ranges, drive-in theaters, riding stables, museums, bowling alleys and similar recreational uses.

7. Car and truck wash uses.

8. Special service uses such as model home displays and sales, building material sales, non-livestock auction rooms, plant nurseries, greenhouses, monument sales and similar special service uses.

9. Animal feed and crop and garden seed sales uses.

10. Lumber yards and hardware stores.

11. Raising of crops, pasturing of livestock in accordance with the limitations set forth in Section 411.02, Item 2 if such pasturing of livestock occurs within the corporate limits of any Village, and other open space agricultural uses, but excluding agricultural production related grain bins and buildings or the confined feeding of livestock.

12. Orchards, including the retail sales of produce with the retail sales of food items, nursery stock and the sales of Christmas trees

13. Temporary uses in accordance with Section 522 of this Resolution / Ordinance,

14 Below ground utility lines and above ground utility installations and structures including local distribution lines, cable, poles and appurtenances, below ground and above ground public utility water storage tanks, but excluding major power transmission lines designed to transmit electrical power through to areas outside of the Village / Clay County, distribution substations, regulator stations, communications equipment buildings, communications, micro-wave, cellular communications or other towers in excess of Thirty Five (35) feet in height, storage or maintenance yards, buildings or administrative offices for such utilities.

15. Billboards and similar off-site signs, in accordance with the regulations of Section 520 of this Resolution / Resolution / Ordinance.

412.03 PERMITTED ACCESSORY USES:

1. Offices and outbuildings for storage and similar structures customarily associated with, incidental to and located on the same lot with a permitted use or approved conditional use, provided outbuildings shall not include buildings for storage of agricultural equipment, grain storage, or feeding or care of livestock.

2. Radio antennae and television satellite receiving antennae (satellite dishes), provided that such satellite antennae larger than twenty four (24) inches in diameter shall be located in the side or rear yard.

3. On-site signs, excluding billboards, related to permitted uses and approved conditional uses, all subject to the regulations and requirements of Section 520 of this Resolution / Ordinance.

412.04 CONDITIONAL USES:

After the provisions of Article 7 of this Resolution / Ordinance relating to conditional uses have been met, the following uses may be allowed as conditional uses;

1. Animal hospitals, veterinary clinics and kennels.

2. Truck stops, including those with complete truck services

3. Major power transmission lines designed to transmit electrical power through the Village to areas outside of the Village / Clay County, distribution substations, regulator stations, communications equipment buildings, communications, micro wave, cellular communications or other towers in excess of Thirty Five (35) feet in height, storage or maintenance yards, buildings or administrative offices for such utility uses, all subject to the applicable provisions of any Airport Hazard regulations

4. Other office, business and commercial service uses, determined by the Board of Supervisors / Village Board, to be comparable with the other uses permitted as conditional uses in this district, compatible with the uses permitted in the district and consistent with the intent of this district.

412.05 PROHIBITED USES AND STRUCTURES:

All other uses and structures which are not specifically permitted or authorized as conditional uses shall be prohibited in this zoning district.

412.06 MINIMUM LOT AREA:

1. The minimum lot area for uses listed in Section 412.02 shall be Ten Thousand (10,000) square feet

2. The minimum lot area for conditional uses listed in Section 412.04 shall be the area appropriate to each conditional use, as determined by the Board of Supervisors / Village Board in its review and authorization of each conditional use in accordance with Article 7 of this Resolution / Ordinance, provided that the minimum lot area shall not be less than Six Thousand (6,000) square feet unless the use is a public utility installation not requiring such area, in which case a smaller lot area may be permitted.

412.07 MINIMUM LOT WIDTH AND FRONTAGE:

1. The minimum lot width, measured at the minimum required front setback line, for uses listed in Section 412.02 shall be One Hundred (100) feet.

2. The minimum lot frontage, measured at the front lot line, for uses listed in Section 412.02 shall be One Hundred (100) feet.

3. The minimum lot width and frontage for conditional uses listed in Section 412.04 shall be the width and frontage appropriate to each conditional use, as determined by the Board of Supervisors / Village Board in its authorization of each conditional use in accordance with Article 7 of this Resolution / Ordinance, provided, however, that in no event shall the minimum lot width be less than Seventy Five (75) feet and the minimum lot frontage be less than Seventy Five (75) feet, unless the use is a public utility installation not requiring such area, in which case a smaller lot width and frontage may be permitted.

412.08 MINIMUM YARD REQUIREMENTS:

The minimum yards or setbacks of any building from a property line or street right-of-way line shall be as follows, (Refer to Section 502 of this Resolution / Ordinance for required modifications to minimum yard and setback regarding eaves, cornice overhangs, awnings, balconies and the like):

1. Front Yard - Eighty (80) feet from a roadway designated on the County's / Village's Major Street Plan as a Major Arterial roadway, fifty (50) feet from a roadway designated as a Minor Arterial roadway, and Twenty Five (25) feet from a roadway designated as a Collector roadway, local roadway, or access or frontage road. A landscape buffer, as defined in Section 303.55 of this Resolution / Ordinance, at least Ten (10) feet in depth shall be provided along and adjacent to the front property line.

   For developed areas, as defined in Section 303.32 of this Resolution / Ordinance, the required front yard shall be the average of the existing front yards for existing residential uses, provided that in no event shall such front yard be less than Twenty (20) feet.

2. Side Yard - The minimum side yard shall be Five (5) feet where the lot line abuts a another commercial or industrial zoning district. Where the lot line abuts a residential zoning district the minimum side yard shall be Twenty (20) feet and a landscape screen, as defined in Section 303.56 of this Resolution / Ordinance shall be installed on the property line or within the side yard. In determining the side yard requirements such side yard may be measured to the centerline of any abutting alley which is dedicated for public use.

   For accessory buildings, the minimum side yard shall be Three (3) feet, except where the lot occupied by a permitted or conditional use abuts a residential zoned lot where the minimum side yard shall be Twenty (20) feet, and further provided that the accessory buildings shall not be developed on any recorded easement and further provided that such accessory buildings shall comply with the following restrictions:

   A. The total accessory building or buildings shall not cover more than Thirty (30) percent of the rear lot area, as defined in Section 303.101 of this Resolution / Ordinance.

3. Rear Yard - The minimum rear yard shall be Five (5) feet where the lot line abuts a another commercial or industrial zoning district. Where the lot line abuts a residential zoning district the minimum side yard shall be Thirty (30) feet and a landscape screen, as defined in Section 303.56 of this Resolution / Ordinance shall be installed on the property line or within the side yard. In determining the rear yard requirements such rear yard may be measured to the centerline of any abutting alley which is dedicated for public use.

   For accessory buildings, the minimum rear yard shall be Three (3) feet, except where the lot occupied by a permitted or conditional use abuts a residential zoned lot where the minimum side yard shall be Thirty (30) feet, and further provided that the accessory buildings shall not be developed on any recorded easement and further provided that such accessory buildings shall comply with the following restrictions:

   A. The total accessory building or buildings shall not cover more than Thirty (30) percent of the rear lot area, as defined in Section 303.101 of this Resolution/ Ordinance.

412.09 MAXIMUM HEIGHT:

The maximum height for any structure or building shall be thirty-five (35) feet, except for accessory structures as regulated in Section 412.8 above and for any applicable height restriction of the Airport Hazard Zone District regulations.

412.10 MAXIMUM LOT COVERAGE:

The maximum area of any lot which is occupied by buildings, structures, decks, patios, accessory buildings, driveways and parking areas shall not exceed Ninety (90) percent of the lot area.

412.11 OFF-STREET PARKING AND LOADING AREAS:

The minimum number of off-street parking spaces required for each uses permitted or authorized as a conditional use shall be in accordance with the requirements of Sections 515 through 517 and Section 519 of this Resolution / Ordinance.

SECTION 413 C-2 GENERAL COMMERCIAL DISTRICT

413.01 INTENT:

This district is established to provide for the protection of existing commercial uses in the central business district of each Village and to provide areas within and around the central business district of each Village for commercial uses which provide a wide range of customer goods and services and which are oriented more to local customer trade and pedestrian oriented shopping than to the highway traveler.

413.02 PERMITTED PRINCIPAL USES:

1. Banks and similar financial service uses.
2. Retail sales of comparison and convenience goods.
3. Convenience stores and food service uses including grocery stores, delicatessens, meat markets, bakeries, and restaurants, including outdoor restaurants and sidewalk cafes.
4. Personal and business service uses.
5. Professional and business uses such as law, real estate brokerage, medical and dental offices.
6. Mortuaries and funeral parlors.
7. Indoor commercial recreation uses such as auditoriums, theaters, bowling alleys, billiard rooms, dance studios, video game rental and game rooms.
8. Special service uses including day care centers, youth centers, senior and social centers.
9. Engineering or research laboratories, vocational or industrial training schools and data processing uses.
10. Printing and lithography uses
11. Automobile and truck repair and service business, including automotive body and painting businesses which meet the performance requirements set forth in this General Commercial District
12. Trade shops, including plumbing, heating and air conditioning, electrical, cabinetry, and similar service trade uses which meet the performance requirements of this General Commercial District.
13. Private clubs or lodges, philanthropic and charitable institution uses, athletic clubs, health studios.
14. Communications uses such as newspaper publishing uses, photocopying shops, radio and television Studios, telecommunication uses, but excluding exterior warehousing of any equipment or products.
15. Public service and governmental uses, excluding exterior warehousing of equipment or products.
16. Hotels, motels, bed and breakfast and similar uses catering to the traveling public and tourists.
17. Lounges, taverns and night clubs.
18. Off-street parking lots and structures.
19. Lumber yards, building supply, hardware and appliance stores.
20. Antique and craft stores
21. Automobile service stations, excluding any auto body repair or salvage operations.
22. Temporary uses in accordance with Section 522 of this Resolution / Ordinance,
23. Below ground utility lines and above ground utility installations and structures including local distribution lines, cable, poles and appurtenances, below ground and above ground public utility water storage tanks, but excluding major power transmission lines designed to transmit electrical power through the Village / County to areas outside of the Village / County, distribution substations, regulator stations, communications equipment buildings, communications, micro-wave, cellular communications or other towers in excess of Thirty Five (35) feet in height, storage or maintenance yards, buildings or administrative offices for such utilities.

413.03 PERMITTED ACCESSORY USES:

1. Drive-thru service facilities.
2. Radio and television satellite receiving antennae (satellite dishes), provided that such satellite receiving antennae larger than twenty four (24) inches in diameter shall be located in the side or rear yard or on the roof only.
3. On-site signs, excluding billboards, related to permitted uses and approved conditional uses, all subject to the regulations and requirements of Section 520 of this Resolution / Ordinance.
4. Outdoor display of merchandise, provided such display shall not be interpreted as meaning the storage, stockpiling or warehousing of materials which are not immediately available for purchase.
5. Residential dwelling units on the second or higher floors.
6. Accessory uses and structures customarily associated with and incidental to the principal uses.

413.04 CONDITIONAL USES AND STRUCTURES:

After the provisions of Article 7 of this Resolution / Ordinance relating to conditional uses have been met, the following uses may be allowed as conditional uses:

1. Schools, colleges and similar private or public educational uses.
2. Major power transmission lines designed to transmit electrical power through the Village / Clay County to areas outside of the Village / Clay County, distribution substations, regulator stations, communications equipment buildings, communications, micro wave, cellular communications or other towers in excess of Thirty Five (35) feet in height, storage or maintenance yards, buildings or administrative offices for such utility uses, all subject to the applicable provisions of any Airport Hazard regulations
3. Other office, business and commercial service uses, determined by the Board of Supervisors / Village Board, to be comparable with the other uses permitted as conditional uses in this district, compatible with the uses permitted in the district and consistent with the intent of this district.

413.05 PROHIBITED USES AND STRUCTURES:

All other uses and structures which are not specifically permitted or authorized as conditional uses shall be prohibited in this zoning district.

413.06 MINIMUM LOT AREA:

No limitation

413.07 MINIMUM LOT WIDTH AND FRONTAGE:

No limitation

413.08 MINIMUM YARD REQUIREMENTS:

The minimum yards or setbacks of any building from a property line or street right-of-way line shall be as follows, (Refer to Section 502 of this Resolution / Ordinance for required modifications to minimum yard and setback regarding eaves, cornice overhangs, awnings, balconies and the like):

1. Front Yard - Zero (0) feet.
2. Side Yard - Zero (0) feet, except where the lot line abuts a residential zoning district the minimum side yard shall be Twenty (20) feet and a landscape screen, as defined in Section 303.56 of this Resolution / Ordinance shall be installed on the property line or within the side yard. In determining the side yard requirements such side yard may be measured to the centerline of any abutting alley which is dedicated for public use.

3. Rear Yard -Zero (0) feet, except where the lot line abuts a residential zoning district the minimum side yard shall be Twenty (20) feet and a landscape screen, as defined in Section 303.56 of this Resolution / Ordinance shall be installed on the property line or within the side yard. In determining the rear yard requirements such rear yard may be measured to the centerline of any abutting alley which is dedicated for public use.

413.09 MAXIMUM HEIGHT:

The maximum height for any structure or building shall be Thirty Five (35) feet, except for any applicable height restriction of the Airport Hazard Zone District regulations.

413.10 MAXIMUM LOT COVERAGE:

No limitation, except for side and rear yard limitations when abutting a residential zoning district.

413.11 OFF-STREET PARKING AND LOADING AREAS:

As regulated in Sections 515 through 519 of this Resolution / Ordinance.

SECTION 414 I INDUSTRIAL DISTRICT

414.01 INTENT:

This district is established to provide areas for a wide range of industrial and certain commercial uses which are able to meet certain performance standards to protect nearby non-commercial and non-industrial uses from land use conflicts or undesirable environmental impacts and to protect such industrial and commercial uses from negative impacts from other commercial and industrial uses not able to meet the performance standards.

414.02 PERMITTED PRINCIPAL USES:

1. Wholesale, warehouse, distribution, storage and transfer businesses meeting the performance requirements set forth in this I Industrial District.

2. Industrial uses including the manufacture, assembly, processing, fabrication, cleaning, testing or refining of products, provided such uses meet the performance requirements set forth in this Industrial District.

3. Cold storage and food locker establishments which meet the performance requirements set for in this Industrial District.

4. Garbage and refuse collection and disposal contractors and waste recycling operations which meet the performance requirements of this Industrial District.

5. Raising of crops and pasturing of livestock, provided that where such use is located within the corporate limits of any Village the pasturing of livestock shall be limited to Six (6) head of livestock per acre and such pasturing shall not occur within Three Hundred (300) feet of any residential use, and further provided that confined feeding of livestock or development of buildings for agricultural use is prohibited.

6. Temporary uses in accordance with Section 522 of this Resolution / Ordinance.

7. Billboards and similar off-site signs in accordance with the regulations of Section 520 herein.

8. Below ground utility lines and above ground utility installations and structures including local distribution lines, cable, poles and appurtenances, below ground and above ground public utility water storage tanks, but excluding major power transmission lines designed to transmit electrical power through the Village / County to areas outside of the Village / County, distribution substations, regulator stations.

9. Contractor's and construction equipment storage yards.

10. Bulk fuel, and fertilizer plants.

11. Grain elevators, feed mills, alfalfa mills and similar agricultural product processing mills including ethanol production plants, and related storage.

12. Power plants.

13. Sand, gravel, mineral, aggregate or production, screening, crushing, or processing operations.

14. Any manufacturing or other industrial use which can meet the performance standards set forth in this Industrial District and which is not listed as a conditional use or prohibited use in this Industrial District.

414.03 PERMITTED ACCESSORY USES:

1. General office and sales rooms, medical and recreational facilities and watchman quarters associated with the permitted uses.

2. Radio and television satellite receiving antennae (satellite dishes), provided that such satellite receiving antennae larger than twenty four (24) inches in diameter shall be located in the side or rear yard or on the roof only.

3. On-site signs related to permitted uses and approved conditional uses, subject to the regulations and requirements of Section 520 of this Resolution / Ordinance.

4. Accessory uses and structures customarily associated with and incidental to the principal uses.

414.04 CONDITIONAL USES AND STRUCTURES:

After the provisions of Article 7 of this Resolution / Ordinance relating to conditional uses have been met, the following uses may be allowed as conditional uses:

1. Any use involving the storage, use or manufacture of hazardous or explosive materials.

2. Heliports.

3. Public service uses, including police and fire stations, offices, equipment maintenance buildings, and similar public uses.

4. Communications, microwave, cellular communications or other towers in excess of Thirty Five (35) feet in height, storage or maintenance yards, buildings or administrative offices for such utility uses, all subject to the applicable provisions of any Airport Hazard regulations.

5. Animal rendering, animal slaughtering plants, animal hide processing , including curing and tanning plants.

6. Production of asphalt products, concrete, and other paving materials including recycling of these and other construction materials.

7. Tar, tar paper and tar product manufacturing or processing.

8. Manufacture of chemicals, gases, poisons, insecticides and herbicides.

9. Storage, processing or salvaging of automobiles, trucks, agricultural or other equipment, scrap and junk (junk or salvage yards).

10. Livestock auction barns and yards.

11. Food processing and packaging

12. Commercial kennels.

13. Feedlots and the commercial feeding of livestock, feedlot and livestock expansion, also Confined/Concentrated feeding of livestock and fowl. See Section 409.04 for Conditional Use conditions for Confined/Concentrated feeding of livestock and fowl, as defined in Section 303.27A and Section 303.27B of this Resolution / Ordinance.

14. A dwelling unit, including mobile homes, to be used as an office, or caretaker's station of any industry, provided an open yard of at least 3,000 sq. ft. is maintained in conjunction with the dwelling unit.

15. Other industrial and commercial service uses, determined by the Board of Supervisors / Village Board, to be comparable with the other uses permitted as conditional uses in this district, compatible with the uses permitted in the district and consistent with the intent of this district.

414.05 PROHIBITED USES AND STRUCTURES:

1. Any residential use except for owner, operator or watchmen quarters.

2. All other uses and structures which are not specifically permitted or authorized as conditional uses shall be prohibited in this zoning district.

414.06 PERFORMANCE STANDARDS:

All uses permitted in this zoning district shall at all times comply with the following performance standards:

1. All activities, excluding those uses such as ethanol production plants, cracking plants, fertilizer production plants or similar uses which utilize production structures instead of buildings, not conducted within entirely enclosed buildings including storage or warehousing of raw materials or products produced shall be screened from view from any abutting property not included in an Industrial District in accordance with the requirements of Section 414.09

2. Emission of gasses, odor, dust, smoke, noise, glare, heat or vibration detectable beyond the property line of the site on which the use is located is prohibited.

3. All activities involving the storage or salvaging of automobiles, trucks, agricultural or other equipment and similar operations shall be screened from view from all adjoining streets and all abutting properties not included in an Industrial District by an opaque fence or evergreen tree landscape screen and said screen shall be maintained in good repair at all times.

4. Any waste materials produced on the premises shall be stored outdoors, provided such materials are stored in containers which are not visible from the street(s) on which the use has frontage or access or any abutting residential zoning district and such containers will avoid the blowing of waste material or the attraction of insects or vermin.

414.07 MINIMUM LOT AREA;

1. The minimum lot area for all uses permitted in Section 414.02 shall be Ten Thousand (10,000) square feet.

2. The minimum lot area for conditional uses listed in Section 414.04 shall be the area appropriate to each conditional use, as determined by the Board of Supervisors / Village Board in its review and authorization of each conditional use in accordance with Article 7 of this Resolution / Ordinance, provided that the minimum lot area shall not be less than Six Thousand (6,000) square feet unless the use is a public utility installation not requiring such area, in which case a smaller lot area may be allowed by the Board of Supervisors / Village Board.

414.08 MINIMUM LOT WIDTH AND FRONTAGE:

1. The minimum lot width, measured at the minimum required front setback line, for uses listed in Section 414.02 shall be One Hundred (100) feet.

2. The minimum lot frontage, measured at the front lot line, for uses listed in Section 412.02 shall be Seventy-Five (75) feet.

3. The minimum lot width and frontage for conditional uses listed in Section 414.04 shall be the width and frontage appropriate to each conditional use, as determined by the Board of Supervisors / Village Board in its review and authorization of each conditional use in accordance with Article 7 of this Resolution / Resolution / Ordinance, provided, however, that in no event shall the minimum lot width be less than Seventy-Five (75) feet and the minimum lot frontage be less than Fifty (50) feet, unless the use is a public utility installation not requiring such area, in which case a smaller lot width and frontage may be established by the Board of Supervisors / Village Board.

414.09 MINIMUM YARD REQUIREMENTS:

The minimum yards or setbacks of any building from a property line or street right-of-way line shall be as follows, (Refer to Section 502 of this Resolution / Ordinance for required modifications to minimum yard and setback regarding eaves, cornice overhangs, awnings, balconies and the like):

1. Front Yard -Eighty (80) feet from a roadway designated on the County's / Village's Major Street Plan as a Major Arterial roadway. Fifty (50) feet from a roadway designated as a Minor Arterial roadway or Twenty Five (25) feet from a roadway designated as a Collector roadway, local roadway, access or frontage road. A landscape buffer, as defined in Section 303.55 of this Resolution / Ordinance, at least Ten (10) feet in depth shall be provided along and adjacent to the front property line.

   For developed areas, as defined in Section 303.32 of this Resolution / Ordinance, the required front yard shall be the average of the existing front yards for existing industrial and commercial uses, provided that in no event shall such front yard be less than Twenty (20) feet.

2. Side Yard- The minimum side yard shall be Ten (10) feet where the lot line abuts an agricultural, commercial or industrial zoning district. Where the lot line abuts a residential zoning district the minimum side yard shall be Fifty (50) feet and a landscape screen, as defined in Section 303.56 of this Resolution / Ordinance shall be installed on the property line or within the side yard. In determining the side yard requirements such side yard may be measured to the centerline of any abutting alley which is dedicated for public use.

3. Rear Yard - The minimum rear yard shall be Twenty (20) feet where the lot line abuts an agricultural, commercial or industrial zoning district. Where the lot line abuts a residential zoning district the minimum rear yard shall be Fifty (50) feet and a landscape screen, as defined in Section 303.56 of this Resolution / Ordinance shall be installed on the property line or within the rear yard. In determining the rear yard requirements such side yard may be measured to the centerline of any abutting alley which is dedicated for public use.

414.10 MAXIMUM HEIGHT;

The maximum height for any structure or building shall be One Hundred (100) feet, except for any applicable height restriction of the Airport Hazard Zone District regulations and for uses located within Three Hundred (300) feet of any residential zoning district where such maximum height shall be Forty (40) feet.

414.11 MAXIMUM LOT COVERAGE:

The maximum lot coverage shall not exceed Seventy (70) percent of the lot area.

414.12 OFF-STREET PARKING AND LOADING AREAS:

As regulated in Sections 515 through and 519 of this Resolution / Ordinance.

SECTION 415 WELLHEAD PROTECTION

INTENT:
The intent of this district is to assist municipalities that maintain and operate public water wells in the County serving municipalities within or adjoining the County. In addition, the district assists rural water districts maintaining and operating semi-public water wells in the County that serve rural areas and municipalities within Clay County, as well as neighboring counties. In order to provide protection for such wells, the regulation of land uses having the potential for contamination of the groundwater source(s) is necessary near and adjacent to said wells.

PREREQUISTE REQUIREMENTS FOR APPLICATION OF THIS DISTRICT:
Prior to the application of this district to any lands in Clay County, the municipality or rural water district which maintains and operates water supply wells within the County shall make application to the County seeking application of this district to specified lands within the County. Prior to making such application and approval of any application of this district to any lands within the County by the County Board of Commissioners, the municipality or rural water district making such application shall have first complied with all other requirements of the Wellhead Protection Act (Neb. Rev. Stat. 46-1501 through 46-1509). These requirements include, but are not limited to the following:

1. Delineation of the Wellhead Protection Area based upon a twenty (20) year time of travel recharge zone,
2. Approval of such Wellhead Protection Area by the Nebraska Department of Environmental Quality,
3. Completion and mapping of an inventory of potential contamination sources within the Wellhead Protection Area,
4. Formulation of emergency / contingency / long-range plans in the event of disruption of supply of water from the wells in the Wellhead Protection Area,
5. Formulation of and ability to implement 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 Clay County for the administration and enforcement of the regulations of this Wellhead Protection District, willingness to accept the regulations set forth in this District, willingness to pay any administrative fees to the County which the parties involved agree, willingness to provide legal council to address any legal question or legal challenge to the Wellhead Protection District regulations, together with other terms and conditions which are acceptable to the parties involved in such agreement.

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-the-field determination of such boundaries.

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 is prohibited. Furthermore the following uses and/or structures shall be specifically prohibited:

1. All classes of open lot or environmentally controlled housing facilities as defined in Sections ____ and ____ of this Resolution.
2. All waste handling facilities, as defined in Section ____ of this Resolution.
3. All commercial or industrial uses which utilize or generate any materials determined by the United States Department of Environmental Protection as hazardous materials, which store petroleum products or anhydrous ammonia or other fertilizers in excess of fifty (50) gallons shall be prohibited.
4. Domestic, irrigation and any other water wells closer than one-thousand (1,000) feet to the water wells being protected in this Wellhead Protection Agricultural District.

ARTICLE 5: SUPPLEMENTAL ZONING DISTRICT REGULATIONS

SECTION 501 APPLICATION

The regulations set forth in the following Sections qualify and supplement all zoning district regulations and are declared to be a part of the Resolution / Ordinance.

SECTION 502 YARD REQUIREMENTS

502. 01 Minimum yards shall be required along all public and private streets as set forth in the zoning district regulations. Any yard abutting a street shall be deemed a front yard for purposes of determining yard requirements.

502.02 No principal or accessory building or structure or part thereof, except those structures listed in Section 503 of this Resolution / Ordinance, shall project into a required front, side, or rear yard.

502.03 No eave, cornice overhand, awning, balcony, bay window, sills, lintels chimneys or other similar architectural features of any building shall project into a required front, side or rear yard.

502.04 No unenclosed or enclosed steps, porch, entrance platform, ramp, terrace, landing, deck or similar above grade structure shall project into a required front, side or rear yard.

SECTION 503 YARD EXCEPTIONS

503. 01 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.

503.02 Ornamental fences, open fences, screen fences, walls, and structural screens shall be permitted in any required yard, provided that any residential or residential / office zoning district any fence, wall, or structural screen located in the front yard shall not exceed a height of Forty Two (42) inches. Any fence, wall or structural screen located in a side or rear yard in a residential or residential / office zoning district or in the side or rear yard of any non-residential district which abuts a residential zoning district shall not exceed a height of Six (6) feet. The height of any fence, wall, or structural screen in a side or rear yard in any non-residential district which abuts any other non-residential zoning district shall not exceed a height of Ten (10) feet. All such fences, walls, or structural screens shall comply with the requirements of Section 509 of this Resolution / Ordinance with regard to driver visibility at road / street intersections.

503.03 Nothing contained in this Section shall be deemed to prohibit the erection and maintenance of an open fence or chain link fence in any required yard, provided such open fence shall have Fifty (50) percent unobstructed openings and shall comply with the requirements of Section 509 of this Resolution / Ordinance with regard to driver visibility at street intersections.

503.04 The use of any electrified or barbed wire fence is not permitted within the corporate limits of the Village unless such area is zoned AG, Agricultural and is used for agricultural purposes.

503.05 The provisions of this Section shall not apply to retaining walls.

SECTION 504 HEIGHT EXCEPTIONS

The height limitations set forth in the zoning district regulations shall not apply to spires, belfries, cupolas, parapets, grain elevators, silos, grain leg, antennae, water towers, ventilators, chimneys or other roof appurtenance usually required to be placed above the roof level provided that said appurtenance is not intended for human habitation and that appurtenances such as towers or mechanical or structural necessity with a roof area equal to or in excess of Fifty (50) percent of the first floor area of the building shall be considered part of the regulated height of the building.

SECTION 505 BUILDING RELOCATION

No building or structure shall be moved from one lot or premises for location on another lot or premises unless such building or structure shall thereupon conform with the regulations of the zoning district in which such building or structure is to be located.

SECTION 506 BULK STORAGE OF CERTAIN MATERIALS

In any zoning district any building, structure, above or above ground tank used for the bulk storage of any poisonous or explosive material shall be located at least One Hundred (100) feet from any property line.

SECTION 507 STRUCTURES TO HAVE ACCESS

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

SECTION 508 PARKING AND STORAGE OF CERTAIN VEHICLES

508.01 Vehicles or trailers of any type without current license plates or in an inoperable condition shall be prohibited in all zoning districts other than in completely enclosed buildings, except in permitted salvage yards.

508.02 Storage or parking of licensed recreational vehicles, travel trailers, pickup campers, boats, boat trailers and the like, except when in completely enclosed buildings, shall not occur in any front yard in any residential zoning district. Storage of, parking of such vehicles in a side yard of residential zoning district shall be permitted, provided that a minimum distance of Five (5) feet between any such vehicle and the side lot line shall be maintained. Not more than Two (2) such vehicles shall be stored or parked on any lot and at no time shall such vehicle be occupied or used for living or sleeping purposes, except for visitations which are less than Seven (7) days in length.

SECTION 509 STREET/ROAD INTERSECTION VISIBILITY

On any corner lot, or any road corner, in any zoning district, except the central business district, nothing shall be erected, placed, in such a manner as to materially impede vision above a height of Two and One-Half (2 ½) feet above the centerline grades of the intersecting roads/streets in the area bounded by the road/street lines of such corner and a line joining points along said road/street lines Fifty (50) feet from the point of the intersection.

SIGHT TRIANGLE: On a corner lot in the Residential District, or any road corner in the Rural Districts (Ag, Rural Residential), continuous unobstructed sight distances shall be provided for safe traffic operations. No obstructions, including but not limited to: fences, walls, or other manmade obstructions, shall exist over a height of Two and One-Half (2 ½) feet inside the sight triangle. MEASURE: Local Road/Streets = Fifty (50) feet from center line of intersecting roads/streets. Collector & Arterial Roads/Streets (gravel / dirt) = Seventy-Five (75) feet from center line of intersecting roads.

SECTION 510 ONE PRIMARY STRUCTURE PER LOT

No more than One (1) primary structure shall be located on a single lot, except where primary structures are designed and platted as a single entity under single ownership and control such as multi-family and clustered residential developments, townhouse development or shopping centers and lots located in recognized industrial parks.

SECTION 511 EASEMENTS

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

SECTION 512 ACCESSORY USES

512.01 Accessory uses shall be incidental to, subordinate to, and commonly associated with the principal use of the premises and be operated and maintained under the same ownership and on the same lot as the principal use.

512.02 Accessory uses shall be subordinate to the principal structure on the lot in height, area, bulk, extent and purpose, shall not be located closer to any lot line than set forth in the minimum yard requirements for the zoning district in which it is located and shall be included in the calculation of maximum lot coverage regulations of the zoning district in which it is located.

512.03 Accessory uses shall be permitted only after the erection and operation of the principal structure and shall not be used unless the principal structure is being used.

SECTION 514 HOME OCCUPATIONS AND HOME BASED BUSINESSES

514.01 A home occupation or home based business may be permitted to accompany any residential use only after the issuance of an occupancy permit by the Zoning Administrator and such permit shall be issued only if the home occupation or home based business complies in all respects to the requirements of this Section.

514.02 A home occupation or home based business shall be of a personal or professional service nature and such horne occupations or home based business shall not change the residential character of the premises or the structures thereon or interfere with the residential use of adjoining residential uses or residential uses across the street of the premises. No provision for additional off-street parking or loading facilities other than those which would normally be accessory to the residential use shall be permitted and on-street parking for customers of such home occupation or home based business shall be limited to those on-street parking spaces located on the same side of the street and along the frontage of the lot or premises where such home occupation or business is located. In instances where on-street parking is prohibited on one or both sides of the street, customer parking shall be limited to the off-street parking on the premises.

514.03 The principal use of the premises shall be for residential purposes and the owner and operator of the home occupation or home based business shall be the occupant of the residential dwelling on the premises.

514.04 The owner / operator of the home occupation or home based business shall not employ more than One (1) employee other than members of the immediate family of the owner / operator who reside on the premises.

514.05 No exterior alteration which would change the residential appearance of the residential dwelling structure or any accessory building, including the use of lighted canopies, shall be permitted.

514.06 If the home occupation or home based business is located in the residential dwelling structure, such use shall not occupy more than Twenty Five (25) percent of the floor area. A home occupation or home based business may be conducted in an accessory building, provided such is a building that is accessory to the residential use.

514.07 No additional or separate entrance which is inconsistent with the use of the residential dwelling structure shall be constructed solely for the purpose of conducting such home occupation or home based business.

514.08 No display of goods or exterior evidence of the home occupation or home based business shall be permitted, except for One (1) non-animated, non-illuminated, non-flashing sign which identifies the home occupation or home based business. Said sign shall not exceed a total of Ten (10) square feet in area and shall be attached flat against a wall of the residential dwelling structure or accessory structure in which the home occupation or home based business is conducted.

514.09 No equipment of process shall be used in any home occupation or home based business which creates noise, vibration, glare, fumes, odors, or electrical interference detectable off the premises.

514.10 No stock in trade or products, other than those used, manufactured, assembled, produced or created on the premises shall be sold on the premises, provided that stocking of products to be sold where the operator of the home occupation or business delivers such products to the purchaser or the number of customers visiting the location of the home occupation / business to pick up such products does not exceed Four (4) per day.

SECTION 515 OFF-STREET PARKING

515.01 Accessory off-street parking facilities, including parking facilities for handicapped drivers as required by the Americans with Disabilities Act, shall be provided and maintained for all buildings, structures or premises used in whole or in part for purposes permitted by this Resolution / Ordinance in accordance with the provisions of this Section, which are designed to alleviate or prevent congestion of public streets by establishing minimum requirements for on-site and off-site parking areas for motor vehicles consistent with the parking needs of the use on each premises.

515.02 No use lawfully existing at the date of adoption of this Resolution / Ordinance or amendment thereto shall be required to provide or maintain the parking spaces required in this Section, provided that off-street parking spaces required by any previous Resolution / Ordinance shall be provided and maintained and further provided that if the number of existing off-street parking spaces which are in excess of any prior Resolution / Ordinance, but less than the number required by this Resolution / Ordinance shall be maintained.

515.03 For any non-conforming structure which is hereafter damaged or partially destroyed and which is lawfully reconstructed, reestablished, or repaired, off-street parking spaces equivalent to those maintained on the premises at the time of such damage shall be restored and maintained, provided that in no case shall it be required to restore off-street parking spaces in excess of those required by this Resolution / Ordinance for the use on the premises.

515.04 If the intensity of use of any building, structure or premises shall be increased through the addition of dwelling units, floor area, beds, seating capacity or other means which will have the effect of increasing the need for parking spaces, the number of additional off-street parking spaces required by this Resolution / Ordinance for such additions shall be provided.

515.05 Whenever, the existing use of a building, structure or premises shall hereafter be changed or converted to another use, off-street parking spaces required by this Resolution / Ordinance for such new use shall be provided on the premises, except that this requirement shall not apply to a change of use in central business district.

515.06 Nothing in this Resolution / Ordinance shall prevent the voluntary establishment of accessory off-street parking facilities to serve any existing use, provided that all requirements with regard to location, design landscape screening or buffering are complied with.

515.07 Off-street parking spaces shall be provided in one or more areas on the same lot or premises as the use served, except as otherwise provided in the Resolution / Ordinance.

515.08 Off-street parking spaces required herein shall be utilized solely for the parking of passenger automobiles or light trucks of less than One (1) ton capacity of employees, occupants or customers and such parking spaces shall not be used for the storage or display of materials, products or the repair, dismantling of any material.

515.09 Required off-street loading areas shall not be construed as being part of any required off-street parking area on any premises, except in accordance with off-site parking areas as regulated in Sections 516 and 518 of this Resolution / Ordinance.

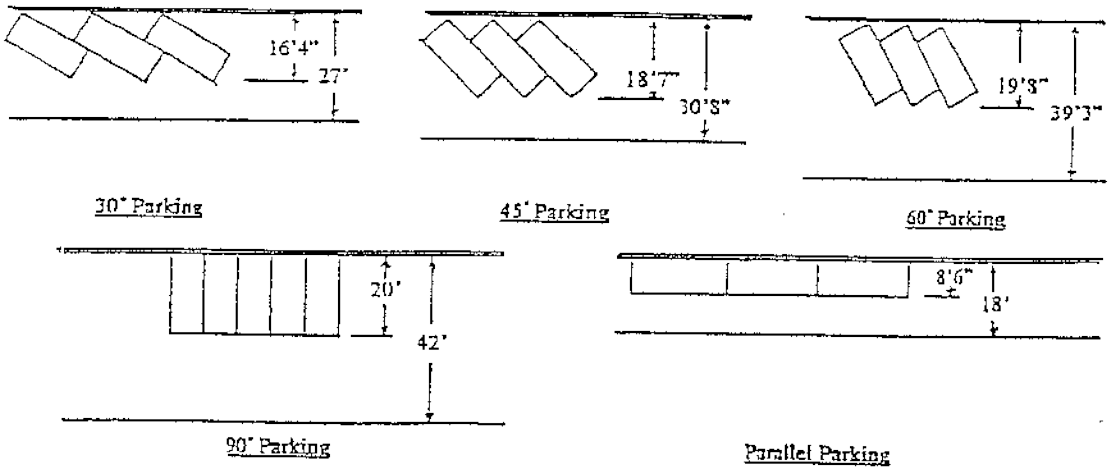
515.10 Each required off-street parking space shall be at least Eight and One-Half (8 ½) feet in width and at least Eighteen (18) feet in length, exclusive of access drives or aisles, ramps, columns or work areas, provided that the minimum length of any parallel parking space shall be Twenty Three (23) feet and further provided that minimum dimensions for parking spaces for handicapped drivers shall be as specified in standards for compliance with the Americans with Disabilities Act. Such parking spaces shall have adequate vertical clearance to allow each space to be used for parking.

515.11 All driveways or other areas used to satisfy the off-street parking requirement for all residential uses shall be paved with asphalt or concrete. All areas used to satisfy the off-street parking requirements for non-residential uses shall be surfaced with gravel, crushed rock or paved with asphalt or concrete.

515.12 Except for single-family and two-family dwellings, each required off-street parking space shall open directly upon a drive aisle of sufficient width, as set forth and illustrated below, to provide safe and efficient means of vehicular access to and from such parking spaces and such drive aisle shall be unobstructed and allow for passage of emergency vehicles.

Parking Angle* (in degrees)	Minimum Required Aisle Width (in feet)
30	12
45	14
60	18
90	24

* Angle shall be measured between center line of parking space and centerline of drive aisle.



515.13 Off-street parking areas may be provided in the required front yard, except as otherwise restricted in this Resolution / Ordinance, provided that any landscape buffer or landscape screen required by the applicable zoning district regulations shall be provided along the front property line.

515.14 The minimum off-street parking spaces required in association with the various uses permitted under this Resolution / Ordinance shall be as follows:

Use Description	Off-Street Parking Spaces Required
Agricultural uses	No requirement, except roadside stands shall have an adequate number of off-street spaces so that parking does not occur on a public roadway and residential dwellings shall comply with the requirements for such use.

Single-family residential uses	Two (2) spaces per dwelling unit including garage, carport or driveway parking
Two-family, townhouse or multi-family residential uses	One and One Half (l 1/2) spaces per dwelling unit including garage, carport or driveway parking
Rooming houses, dormitories, fraternities or sororities	One (1) parking space for each Two (2) beds
Hotels and motels	One (1) parking space per lodging room plus One (1) parking space per employee per largest working shift and any spaces required for any restaurant or lounge associated with any hotel or motel
Bed and Breakfast businesses	One (1) parking space for each Two (2) lodging rooms
Nursing homes, elderly housing projects and hospitals	One (1) parking space for each Four Hundred (400) square feet of floor area or One (1) parking space for each two patient beds, whichever is greater, plus One (1) parking space per employee per largest working shift
Children's homes	One (1) parking space for each Six (6) children's beds, plus One (1) parking space for each employee per largest working shift
Child care centers, day nurseries and similar uses	One (1) parking space for each three children served plus One (1) parking space for each employee per largest working shift.
Clubs, and lodges (without bars, lounges or restaurants), community centers, public administrative, utility and public service offices, libraries, museums and similar uses	One (1) parking space per each Four Hundred (400) square feet of floor area or One (1) parking space per for each Eight Hundred (800) square feet of floor area plus One (1) parking space for each employee per largest working shift, whichever is greater
Public or private schools	Eight (8) parking spaces per classroom, laboratory or other student instruction area
Sports arena, gymnasium or similar use	One (1) parking space for each (3) seats unless said arena or gymnasium is operated in conjunction with a public or private school where either the parking requirement for the school or for the arena or gymnasium, whichever is greater, shall apply
Theaters, auditoriums, assembly halls, funeral homes and similar places of congregation	One (1) parking space for each (4) seats in the main seating area
Churches and similar places of worship	One (1) parking space for each (3) seats in the main seating area
Boarding schools, vocational and trade schools colleges and similar educational institutions	One (1) parking space for each Six (6) students based upon the maximum number of students the facility is designed to accommodate at any one time during a Twenty Four (24) hour period

General business uses, offices, retail and personal and professional service uses, except eating establishment, bars and lounges	One (1) parking space for each Two Hundred (200) square feet of floor area
Eating establishments, bars, lounges, night clubs and similar uses, excluding drive-in eating establishment where the customer eats in their vehicle	One (1) parking space for each Three (3) customer seats plus One (1) parking space for each employee per largest working shift
Drive-in eating establishments where the customer eats in their vehicle	One (1) parking space for each Two Hundred (200) square feet plus One (1) parking space per employee per largest working shift
Open air businesses including auto, truck, recreational vehicle, mobile home or boat sales uses, kennels, plant nurseries and similar uses	One (1) parking space per employee per largest working shift plus an adequate number of parking spaces for customers, but not less than Five (5) additional parking spaces
Automobile or truck service stations or repair businesses	One (1) parking space for each employee per largest working shift plus Two (2) parking spaces for each automobile or truck service stall
Amusement establishments, public swimming pools, golf courses, bowling alleys, skating rinks, and similar recreational uses	One (1) parking space for each Five Hundred (500) square feet of floor area or Five (5) parking spaces for each hole or alley, or One Hundred (100) square feet of water surface area, whichever is greater
Commercial and industrial uses not catering to on premise retail customers	One (1) parking space for each One and One Fourth (1 ¼) employees per largest working shift plus an adequate number of parking spaces to accommodate visitors and business vehicles operating from the premises

515.15 If the unit of measurement for determining the minimum number of off-street parking spaces is any fraction of a space, said fraction shall be considered as requiring One (1) additional parking space.

515.16 In sports arena, gymnasiums, churches and other places of assembly or worship in which patrons occupy benches, pews or similar seating facilities, each Twenty (20) inches of such seating shall be counted as One (1) seat for purposes of determining off-street parking requirements.

515.17 For uses not specified in this Section or in any instance when the requirement for an adequate number of off street parking spaces is unclear, the number of off-street parking spaces shall be determined by the Zoning Administrator on the basis of similar uses, the number of persons expected to be employed or served on the premises and the capability of the use to adequately serve the visiting public.

515.18 The required number of off-street parking spaces for premises involving more than One (1) type of use shall be the combination of the required parking spaces for such uses, except where the Zoning Administrator determines that the parking spaces available for one use on the premises can be reasonable expected to function adequately for any other use on the premises without conflict.

SECTION 516 OFF-SITE PARKING FACILITIES

The Planning Commission is hereby authorized to grant off-site parking facilities as conditional uses for any non-residential use in any zoning district, in accordance with Article 7 and with the following conditions:

516.01 A site development plan for such off-site parking facility shall be filed with the Planning Commission and said site plan shall demonstrate compliance with all applicable requirements for off-street parking facilities, including landscape buffer and screening, as set forth in this Resolution / Ordinance, and a listing of all individual off-site uses which shall be entitled to utilize such off-site parking facility, including the number of spaces committed to each such off-site use.

516.02 Any such off-site parking facility shall be in any non-residential zoning district and shall be located within Three Hundred (300) feet of the lots on which the use or uses to be served by said facility are located, measured along the street or sidewalk connecting such facility to the use or uses served by the facility.

516.03 Any such off-site parking facility shall be surfaced with gravel or crushed rock, asphalt or concrete capable of carrying a wheel load of Four Thousand (4,000) pounds and shall be maintained in good condition and be free of all weeds, dirt, trash or debris.

516.04 The individual parking spaces in any such off-site parking area shall be delineated either by properly anchored wheel stops in the case of gravel or crushed rock surfacing or by painting of stripes and installation of curb or wheel stops in the case of asphalt or concrete surfacing.

516.05 Any off-site parking facility shall have a landscape buffer on all street frontages at least Six (6) feet in width and any off-site parking facility located in a residential zoning district shall be required to have a landscape screen in all side or rear yards. Any such off-site parking facility not located in a residential zoning district, but which abuts a residential zoning district shall be required to have a landscape screen in any side or rear yard which abuts a residential zoning district.

SECTION 517 ON-STREET PARKING BLISTERS

Notwithstanding other requirements of this Resolution / Ordinance, the establishment of parking blisters on public street rights-of-way may be permitted within the corporate limits of the Village to substitute for all or part of the off-street parking requirement for two-family, townhouse, and multi-family residential uses, subject to the following limitations and requirements:

517.01 Parking blisters shall be permitted only on streets classified on the Village's Major Street Plan as local streets.

517.02 All parking blisters shall be located to maintain the minimum street intersection site distance as required in Section 509 of this Resolution / Ordinance and such site distance requirement shall also apply to any intersection of a street and a public alley.

517.03 The parking arrangement of any parking blister shall be parallel with the street curb or edge of pavement or angled from such curb or edge of pavement at an angle not exceeding Forty One (41) degrees. Where a street curb does not exist such shall be installed as part of the paving of such parking blister.

517.04 All parking blisters shall provide for pedestrian movement in the form a sidewalk abutting the edge of the parking blister which is a minimum of Six (6) feet in width and extending the length of the parking blister. Such sidewalk shall connect with any other sidewalks serving the premises or adjoining lots.

517.05 Any parking blister shall not exceed the length of the frontage of the lot of which the use it serves is located and no part of any vehicle parked in such parking blister shall extend beyond the frontage of the lot which the parking blister serves

517.06 Any parking blister shall be paved with concrete or asphalt in accordance with Village street paving standards and shall provide for proper drainage and be equipped with a curb on the frontage of the lot. Minimum parking space dimensions, as set forth in this Resolution / Ordinance, shall be required in any parking blister.

517.07 Maintenance and snow removal from a parking blister shall be the responsibility of the owner of the lot which such parking blister serves.

517.08 Any part of the total off-street parking requirement not satisfied by a parking blister shall be provided on the lot on which the use served by the parking blister is located.

SECTION 518 DOWNTOWN PARKING

518.01 Due to the pedestrian oriented nature of the area included in the central business district of the Village and the availability of on-street parking in the central business area, the off-street parking requirements contained in Section 515 of this Resolution / Ordinance shall not be applicable to any commercial use existing in the central business area, as determined by the Village Board, at the date of adoption of this Resolution / Ordinance.

SECTION 519 LOADING AREA REQUIREMENTS

519.01 Except for uses located in a central business district of the Village every lot used for commercial or industrial purposes shall be provided with an off-street loading area that will accommodate semi-tractors and trailers. Such loading area shall have access to a public street or alley and shall not interfere with the use of required off-street parking spaces or interfere with any sidewalk on the premises to maneuver or park any vehicles for loading or unloading. Such loading areas shall be surfaced with gravel or crushed rock or paved with asphalt or concrete.

519.02 Commercial uses located in the central business district of the Village, and existing at the date of adoption of this Resolution / Ordinance shall not be required to meet the loading area requirements of this Section. Commercial uses located in the central business district of the Village which are developed after the date of adoption of this Resolution / Ordinance shall be required to be provided with a loading area having direct access to a planed alley, or in the event there is no alley, shall be provided with an off-street loading area developed in accordance with the requirements of Subsection 519.01 above.

SECTION 520 SIGNS

520.01 Any sign shall, by definition, be a structure. No land, building, or structure shall be used for sign purposes except in conformance with these regulations and those of the applicable zoning district. Signs shall only be permitted in zoning districts permitting the same and no sign shall be erected, enlarged, or otherwise modified until a zoning permit for same has been issued, except as specified in this Section.

520.02 All signs legally existing at the date of adoption of this Resolution / Ordinance or applicable amendment thereto may remain in use under the conditions of legal non-conformance. Signs in legal non-conformance shall not be enlarged, moved, lighted, or reconstructed without compliance with this Resolution / Ordinance, provided, however, that normal maintenance of such signs and the changing of the advertising display in the case of billboards shall not be restricted. Conversion of any non-conforming business sign to another business sign or product name may be done, provided such non-conforming sign is not an obsolete sign, as defined in Section 520.03, Subsection 7 herein. If such sign is determined to be an obsolete sign, it shall not be converted to any other sign unless the conversion would bring the sign in conformance with these regulations.

520.03 Definitions:

1. BILLBOARD: An off-site free-standing sign, unattached to any other structure, which directs attention to an object, product, place, activity, business, person or persons, service or interest not situated on the same premises as such billboard.

2. BUSINESS SIGN: 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.

3. SIGN: Any outdoor visual identification, description, display, or illustration which is affixed to, painted on, or attached to a building, post pole or other structure and which directs attention to an object, product, place, activity, business, person or persons, service or interest, provides direction or otherwise provides a means of visually communicating with the general public.

4. SIGN FACE: The surface of the sign upon, against or through which the message of the sign is exhibited.

5. SIGN, FREE STANDING: A sign attached to a self-supporting structure which is unattached to any building or other structure.

6. SIGN, INCIDENTAL: A nameplate, temporary sign. or on-site sign providing direction for entrances, exits, parking areas and similar uses, including real estate "for sale" and "for rent or lease" signs and elected office or issue campaign signs.

7. SIGN, OBSOLETE: Any sign which advertises a business no longer in existence or a product no longer offered for a period of One (1) year after the termination of such business or product availability.

8. SIGN, PROJECTING: A sign suspended from or supported by a building and extending outward therefrom more than Fifteen (15) inches.

9. SIGN STRUCTURE: The support or supports, uprights, bracing and framework which supports the sign surface. In the case of a sign structure consisting of Two (2) or more sign faces, where the angle formed between any of the faces, or projections thereof, exceeds Fifteen (15) degrees, each side shall be considered a separate sign structure.

10. SIGN SURFACE: The entire area within a single continuous perimeter enclosing all elements of a sign which are intended to part of the visual image of the sign.

520.04 EXEMPTIONS:
The following signs shall be exempt from these regulations, subject to the conditions specified below:

1. Signs not exceeding Two (2) square feet in area and bearing only property numbers, address numbers, names of occupants or premises, or other identification of the premises not denoting any business activity

2. Flags and insignia of any governmental unit, civic, educational or religious organization, except where displayed in connection with a business promotion.

3. Legal notices, identification, informational, warning, no trespassing, directional or other similar signs erected or required to be erected by any governmental unit

4. Memorial plaques, historical markers, integral decorative or architectural features of a building, except trademarks, moving parts or moving lights.

5. One (1) real estate sign for each lot frontage indicating "for sale", "for rent or lease".

6. Political campaign yard signs, provided such signs are not placed in any public right-of-way.

520.05 INCIDENTAL SIGNS:
The following incidental signs shall be permitted, subject to the requirements and limitations of this subsection:

1. Signs directing and guiding traffic, identifying a parking or loading area, designating building entrances on private property. Such signs shall not exceed Four (4) square feet in area for each sign, shall not exceed a height of Four (4) feet, if free-standing and shall be set back a minimum of Five (5) feet from any right-of-way line.

2. Temporary signs in connection with a special event, provided such signs are limited in use to Thirty (30) days per premises and are set back a minimum of Five (5) feet from any right-of-way line.

3. Temporary signs in connection with buildings under construction, model homes and similar longer term temporary signs which shall be removed when the work or sale is completed. Such signs shall be set back a minimum of Five (5) feet from any right-of-way line.

4. A temporary or permanent subdivision identification sign for each street entrance into a subdivision. Such sign shall not exceed Two Hundred Fifty (250) square feet or Forty-Two (42) inches in height and shall be set back a minimum of Ten (10) feet from any right-of-way line unless a greater set back is required to maintain street intersection visibility in accordance with Section 509 of this Resolution / Resolution / Ordinance.

520.05 MAINTENANCE AND REMOVAL:

1. All signs shall be kept in good repair.

2. Signs and sign structures which obsolete or are no longer functional or are abandoned shall be removed from the premises within Sixty (60) days after written notification from the Zoning Administrator that such sign is deemed to be obsolete, non-functional abandoned, or the sign face and/or structure is dilapidated.

520.06 GENERAL PROVISIONS:

1. No sign or sign structure shall be placed on private property or public property without the consent of the owner of such property

2. No sign or sign structure, other than official street or highway signs, shall be placed upon, over or in any street or highway right-of-way, except in the designated central business area.

3. No sign or sign structure shall be erected at any location where it will interfere with, obstruct the view of pedestrians or on-coming vehicular or railroad traffic, or be confused with any authorized traffic control sign, signal or device. No rotating beam, beacon or flashing illumination resembling any emergency vehicle lights shall be used in connection with any sign.

4. It shall be unlawful to erect and maintain:

    A. Any sign which is not included under the types of signs permitted in this Resolution / Ordinance

    B. Any portable or movable sign, except as a temporary sign in accordance with the regulations set forth in this Section.

    C. A billboard and an on-site business sign on the same lot.

    D. Any trailer, vehicle, semi-truck trailer or other movable vehicle shall not be used as a structure for any sign, except as a temporary sign in accordance with the regulations set forth in this Section.

5. Business signs and billboards may be illuminated, flashing or animated, except as otherwise restricted in this Section. When such signs are directly lighted such light fixtures and reflectors shall not extend more than Eight (8) feet from the sign face and shall not extend into any public right-of-way. Such light fixture extension shall be allowed to encroach on a required yard.

6. No sign or sign structure, except a projecting sign, shall extend more than Fifteen (15) inches from the building wall on which it is mounted.

7. Not more than One (1) projecting sign shall be allowed for each lot or occupant thereof and the maximum sign surface area shall be Fifty (50) square feet per side. In no case shall a projecting sign extend more than Eight (8) feet beyond its supporting structure or be less than Nine (9) feet above ground level. Projecting signs may be illuminated, flashing or animated, except as otherwise restricted in this Section.

8. Signs or sign structures shall be set back from any right-of-way line in accordance with the yard requirements of the applicable zoning district, except as otherwise specified in this Section and provided that in the case of a projecting sign where the building wall on which the sign is mounted is closer than Eight (8) feet to the setback line, such sign may extend up to Eighteen (18) inches into the required yard.

520.07 BUSINESS SIGNS:

The number and size of business signs for business uses permitted in any commercial or industrial zoning district shall be limited as follows:

1. No more than Three (3) business signs shall be permitted on any lot in a commercial or industrial zoning district, except that when the principal business building is located on a comer lot and has vehicular entrances to both streets or when the principal business building has public entrances to both a front and rear of the building. One (1) additional sign shall be permitted.

2. The maximum sign face area for wall mounted business signs in a commercial or industrial zoning district shall be One Hundred Fifty (150) square feet for each street frontage, provided that on lots having street frontage greater than Fifty (50) feet, the maximum wall-mounted business sign face area may be increased One (1) square foot for each lineal foot of street frontage over Fifty (50) feet up to a maximum of Two Hundred (200) square feet.

3. A free-standing business sign may be located no closer than Five (5) feet to a lot line, provided such sign face area does not exceed Thirty Five (35) square feet and such sign height does not exceed Forty-Two (42) inches. For each One (1) foot that a free-standing sign is moved back away from a front lot line, the sign face area may be increased by Two (2) square feet and the height may be increased by Six (6) inches, provided that the maximum sign face area shall not exceed Two Hundred (200) square feet and the maximum sign height shall be Fifty (50) feet.

4. For unified centers, including shopping centers and industrial parks. One (1) additional sign shall be permitted at the main entrance to such unified center, subject to the following requirements:

   A. Such sign shall indicate only the name and location of such unified center and the name and type of business of the occupants of such center.

   B. The set back, sign face surface area and height shall be as regulated in Subsection 520.07, Paragraph 3 immediately above.

   C. Such sign may be illuminated or lighted, but shall not be flashing or animated.

520.08 BILLBOARDS:

1. It is the intent of this Section to establish reasonable and uniform limitations, safeguards and controls for the location of billboards. Such regulations are deemed necessary in the public interest to protect the use and value of adjoining properties, as well as the best interest of the County / Village.

2. Billboards shall be permitted on a lot with One Hundred (100) feet or more of frontage on a street classified in the County's / Village's Major Street Plan as an arterial street and only in areas included in a commercial or industrial zoning district.

3. A billboard shall not be less than Fifty (50) feet from any other building or on-site sign or Two Hundred (200) feet from another billboard on the same side of the street.

4. Billboards shall not be permitted on the same lot as any unified center shopping center.

5. The minimum front yard from any street or highway right-of-way shall be in accordance with the front yard requirements of the applicable zoning district.

6. The minimum side or rear yard shall be Five (5) feet, except as specified in Paragraph 7 below.

7. No billboard shall be permitted within One Hundred (100) feet of a residential zoning district.

8. The sign face of a billboard shall not be greater than Ten (10) feet in vertical dimension or greater than Thirty (30) feet in horizontal dimension and the maximum sign face area shall not exceed Three Hundred (300) square feet.

9. A billboard shall not contain more than Two (2) advertising signs per sign face.

10. A maximum of Two (2) signs back-to-back shall be permitted per sign structure.

11. Double-decker sign faces are prohibited.

12. The maximum height of a billboard shall be Twenty (20) feet above ground level at the base of the sign.

SECTION 521 CONDITIONAL USE PERMITS FOR RECREATION, PRESERVATION, CONSERVATION, OPEN SPACE EASEMENTS IN THE AG DISTRICT OF CLAY COUNTY:

A Conditional Use Permit is required for and prior to creation of an easement, in the Ag District of Clay County, by any landowner which requires the landowner to limit, to change, or to alter the land use of the land subjected to the easement in existence on the stated effective date of the easement, or which prohibits the landowner from enlarging, expanding, changing or altering the land use of said land, or any part thereof, in existence on the stated effective date of the easement. This provision is applicable to, but not limited to, easements known as “conservation easements”, “recreation easements”, “preservation easements”, “open space easements” or other similar easement titles. Article 7 of this Resolution shall be, and is applicable to any application for conditional use permit filed pursuant to this section. This section is applicable to the AG (Agricultural) zoning district. No Conditional Use Permit shall be granted for any of such described easements if the governing body finds that such permit does not serve the public interest in that it is inconsistent with (a) the county comprehensive plan, (b) any national, regional, or local program furthering conservation or preservation, or (c) any known property use proposed by a governmental body. In making its finding as to whether such permit serves the public interest, the Planning and Zoning Commission and/or Governing Body (Board of Supervisors) may consider all provisions of Sections 703.03, 704.01 and 706.

SECTION 522 TEMPORARY USES:

Temporary uses customary to uses within each zoning district shall be permitted and such uses shall be subject to the regulations of the applicable zoning district.

ARTICLE 6: NON-CONFORMING USES

SECTION 601 INTENT

601.01 Within the zoning districts established by this Resolution / Ordinance or amendment thereto, there may exist lots, structures, or use of land and structures, or characteristics of structures or use which were legally established on the date of adoption of this Resolution / Ordinance, but which are prohibited, regulated, or restricted under the terms of this Resolution / Ordinance or amendment thereto. It is the intent of this Resolution / Ordinance to permit this non-conformity to continue until such are removed, but not to encourage their survival. It is further the intent of this Resolution / Ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zoning district.

601.02 Non-conforming uses are declared by this Resolution / Ordinance to be incompatible with permitted uses in the applicable zoning district. A non-conforming use of a structure, of land or of a structure and land in combination shall not be extended or enlarged after adoption of this Resolution / Ordinance by attachment on a building or premises of additional signs intended to seen from off the premises or by the addition of other uses which are prohibited in the applicable zoning district.

601.03 To avoid undue hardship, nothing in this Resolution / Ordinance shall be deemed to require a change in plans, construction or designated use of any building for which a zoning permit has been issued, provided construction on such building shall be initiated within Ninety (90) calendar days from the date of issuance of such zoning permit.

601.04 Notwithstanding other provisions of this Section, a lawfully established residential use rendered non conforming by adoption of this Resolution / Ordinance or amendment thereto may be enlarged, altered or reconstructed, provided that:

1. Such residential use shall comply with Section 702 of this Resolution / Ordinance.
2. This provisions shall not be construed to include more than One (1) use on a lot and shall be applicable so long as such use remains otherwise lawful.

SECTION 602 NON-CONFORMING LOTS OF RECORD

602.01 In any zoning district in which single-family dwelling structures are permitted, a single-family dwelling and its customary accessory buildings may be erected on a single lot which is lot of record on the date of adoption of this Resolution / Ordinance or amendment thereto. Such lot of record must be in separate ownership and not of continuous frontage with other lots in the same ownership. The provision shall apply even though such lot fails to meet the requirements for area, width, or both, of the applicable zoning district, provided that yard dimensions shall conform to the applicable zoning district regulations.

602.02 If Two (2) or more lots or combinations of lots or portions of lots with continuous frontage and in the same ownership are of record on the date of adoption of this Resolution / Ordinance or applicable amendment thereto, and if all or part of the lots do not comply with the lot width and area requirements of the applicable zoning district, the lots or portions or lots involved shall be considered to be an undivided parcel of the purposes of this Resolution / Ordinance and no portion of such lot or portions of lots shall be used or sold in a manner which would diminish compliance with the minimum lot width and area requirements of the applicable zoning district.

SECTION 603 NON-CONFORMING USES OF LAND WITH MINOR STRUCTURES

603.01 Where, at the date of adoption of this Resolution / Ordinance or applicable amendment thereto, lawful use of land exists which would not be permitted under the regulations of the applicable zoning district and where such use involves no individual structure with a replacement cost exceeding One Thousand Dollars ($1,000.00), the use may be continued so long as it remains otherwise lawful, provided:

1. If any such non-conforming use of land ceases for any reason for a period of more than Twelve (12) consecutive months, any subsequent use of such land shall conform in all respects to the requirements of the applicable zoning district.

2. No additional structure shall be erected in connection with any such non-conforming use.

3. No such non-conforming use shall be moved, in whole or in part, to occupy any portion of the lot or parcel on which such use was located on the date of adoption of this Resolution / Ordinance or applicable amendment thereto.

4. No such non-conforming use shall be enlarged, increased in any way, or extended to occupy a greater area of land than was occupied by such use as of the date of adoption of this Resolution / Ordinance or applicable amendment thereto.

SECTION 604 NON-CONFORMING STRUCTURES

604.01 Where a lawful structure exists on the date of adoption of this Resolution / Ordinance or applicable amendment thereto which could not be constructed under the requirements of this Resolution / Ordinance by reason of restrictions or area, lot coverage, height, yards, location or the lot, or other requirement concerning such structure, such structure may be continued as long as it remains otherwise lawful, provided;

1. No such non-conforming structure may be enlarged or altered in any way which would increase its non conformity, but any structure or portion thereof may be altered to reduce its non-conformity.

2 Should such structure or non-conforming portion of such structure be destroyed by any means to an extent of more than Seventy-Five (75) percent of its replacement cost at the time of destruction, it shall not be reconstructed, except in conformity of the requirements of the Resolution / Ordinance or applicable amendment thereto.

3. Should such structure be moved for any reason for any distance, it shall conform to the requirements of this Resolution / Ordinance or applicable amendment thereto at its new location.

SECTION 605 NON-CONFORMING USES OF STRUCTURES OR OF STRUCTURES AND LAND IN COMBINATION

605.01 If a lawful use involving individual structures with a replacement cost of more than One Thousand Dollars ($1,000.00) or structure of such value and land in combination exists on the effective date of adoption of this Resolution / Ordinance or applicable amendment thereto, that would not be permitted in the applicable zoning district, the use may be continued as long as it remains otherwise lawful, provided:

1. No such existing structure devoted to a use not permitted in the applicable zoning district shall be enlarged, extended, reconstructed, moved or structurally altered, except in conjunction with changing the use of the structure to a use permitted in the applicable zoning district.

2. Any non-conforming use may be extended throughout any parts of an existing building or area which was manifestly arranged or designed for such use at the date of adoption of this Resolution / Ordinance or applicable amendment thereto, but not such use shall be extended to occupy any land outside such building or area.

3. If no structural alterations are made, any non-conforming use of a structure or structure and premises may, as a conditional use, be changed to another non-conforming use provided that the Commission, either by general rule or findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the applicable zoning district than the existing non-conforming use. In permitting such change, the Commission may require compliance with conditions and safeguards which it deems appropriate.

4. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the requirements of this Resolution / Ordinance and a non-conforming use may not thereafter be resumed or established.

5. When a non-conforming use of structure, or structure and premises in combination, is discontinued or is abandoned by Twelve (12) consecutive months, except when governmental action impedes access to the premises, the structure or structure and land in combination shall not thereafter be used except in conformity with the requirements of this Resolution / Ordinance.

6. Where a non-conforming use status applies to a structure or structure and land in combination, removal or destruction of the structure by any means to an extent of more than Seventy-Five (75) percent of its replacement cost at the time of such destruction it shall eliminate the non-conforming status of the land and such structure and use shall not be reconstructed except in conformity with the requirements of this Resolution / Ordinance.

SECTION 606 REPAIRS AND MAINTENANCE OF NON-CONFORMING STRUCTURES

606.01 Ordinary repairs and maintenance of or replacement of non-bearing walls, fixtures, heating and cooling systems, wiring, plumbing, roofing material or similar non-structural building components is permitted, provided that such repairs, maintenance or replacement does not increase the area or cubic content of the structure which existed on the date of adoption of the Resolution / Ordinance or applicable amendment thereto.

606.02 If a non-conforming structure or portion of a structure containing a non-conforming use become physically unsafe or unlawful due to a lack of repairs or maintenance and is declared by any authorized official to be unsafe or unlawful by reason of such physical condition, such structure shall not be restored, repaired, or reconstructed after Six (6) months after such declaration.

SECTION 607 CONDITIONAL USES AND NON-CONFORMING USES

A use granted as a conditional use under the terms and requirements of the Resolution / Ordinance shall not be deemed a non-conforming use. A conditional use allowing a change from one non-conforming use to another non-conforming use shall remain a non-conforming use.

ARTICLE 7: CONDITIONAL USE PERMITTED BY SPECIAL REVIEW

SECTION 701 GENERAL POWERS

The Board of Supervisors / Village Board will grant authorization of conditional use permits through and in compliance with the Resolution / Ordinance. The granting of a conditional use shall permit only the use requested among those uses listed in the applicable zoning district regulations as conditional uses. When reviewing, the Planning Commission may attach any conditions or additional requirements in recommending a conditional use and such conditions or additional requirements shall be complied with in the same manner as any other requirement of this Resolution / Ordinance. The conditional use authorization shall take effect upon authorization of the conditional use and issuance of a conditional use permit by the Zoning Administrator. The power to authorize conditional uses shall be the exclusive authority of the Board of Supervisors / Village Board.

SECTION 702 APPLICATION REQUIREMENTS

A written application for a conditional use permit shall be submitted to the Zoning Administrator on the form provided by the Zoning Administrator. A conditional use application shall be filed with the Zoning Administrator at least Fifteen (15) days prior to the date of any review of such application by the Planning Commission together with the established fee for review of such conditional use request.

SECTION 703 PLANNING COMMISSION PROCEDURE, CONSIDERATION AND PUBLIC HEARING

703.01 For any action on a conditional use request, the County /Village Clerk shall have published a written notice in the legal newspaper of the County / Village at least Ten (10) days prior to the date of the Planning Commission meeting at which the conditional use request is scheduled to be heard. Such notice shall state the date, time and place of such public hearing and contain a statement describing the legal description, street address and type of conditional use requested, the name of the person(s) or entity making application for a conditional use and a statement indicating that all interested citizens can attend this public hearing and be heard with regard to this application. In addition to such public notice, a copy of this notice shall be mailed to all owners of real property located within Three Hundred (300) feet of the proposed location of the conditional use.

703.02 The Planning Commission shall hear and review each conditional use request within Thirty (30) days of the date that a complete application for a conditional use is submitted to the Zoning Administrator. The Commission after public hearing and review shall either, recommend approval of the application, recommend denial of the application or recommend approval of such application with conditions, or table the application to a specified date, time and place with the consent of the applicant to provide for further study and review. Any Commission action to recommend an authorization of a conditional use shall be recorded in the minutes of the Commission together with all conditions applicable to such authorization and a communication shall be sent to the Zoning Administrator, who shall attach such conditions to a conditional use permit to be forwarded to the applicant and the Board of Supervisors/ Village Board. Any Commission action to recommend denial of an application shall be recorded in the minutes of the Commission together with the reason(s) for such denial and the Commission shall cause a

letter stating the reasons for the denial to be sent to the applicant and the Board of Supervisors / Village Board. The applicant will have another public hearing with the Board of Supervisors/ Village Board, allowing the recommendations from the Planning Commission. The power to authorize conditional uses shall be the exclusive authority of the Board of Supervisors / Village Board.

703.03 The Planning Commission / Board of Supervisors/ Village Board, in considering an application for a conditional use, may consider among other things the most appropriate use of the land included in the application, the conservation and stabilization of the value of real property, the adequacy of open space, concentration of population, congestion of streets, and the promotion of the public health, safety and welfare. The Commission may stipulate and require compliance with such conditions and restrictions as it deems appropriate to promote the land included in the application, the conservation and stabilization of the value of real property, the adequacy of open space, concentration of population, congestion of streets, the promotion of the public health, safety and welfare and to assure compliance of the use with this Resolution / Ordinance.

SECTION 704 RULES GOVERNING AUTHORIZATION OF CONDITIONAL USES

704.01 The Planning Commission, in its review and prior to any action on any conditional use application, shall consider, among other things, the following issues with regard to each such application:

1. The location of all ingress and egress points to the property on which the conditional use is proposed to be located with particular reference to pedestrian and vehicle safety and convenience, traffic flow and control and access by emergency vehicles.

2. The impact of off-street parking and loading areas and related traffic, noise, glare other impact on adjoining properties and the neighborhood in general.

3. The location and adequacy of refuse collection and utility locations and easements.

4. The adequacy of landscape screening or buffering proposed or the need for such screening or buffering to protect abutting properties.

5. The appropriateness of the location, size and height of signs and exterior lighting with regard to impact on abutting properties and the neighborhood in general.

6. The compliance with yard and open space requirements of the applicable zoning district.

7. The overall compatibility of the proposed conditional use with abutting properties and the neighborhood in general.

8. Other factors, peculiar to the conditional use requested which could negatively impact abutting properties, the neighborhood or the community in general.

SECTION 705 EXPIRATION OF CONDITIONAL USES

Construction or development of any authorized conditional use shall be commenced within Twelve (12) months after issuance of a conditional use permit by the Zoning Administrator after authorization of such conditional use by the Planning Commission. If such construction or development does not occur within this time, the conditional use authorization and permit become null and void. The applicant may, however, file a written request for an extension of the conditional use authorization and permit stating the length of the extension requested and the reason(s) such extension is needed. After proper legal notice in accordance with Section 703 of this Resolution / Ordinance, the Commission shall review the extension request and decide if such conditional use remains appropriate. The Commission may grant an extension of up to Twelve (12) additional months or it may deny the extension request and in either case the action of the Commission shall be recorded in the minutes of the Commission together with the reason(s) for such action. The Commission shall cause a letter stating the Commission's action and reason(s) for such action to the applicant, and also to the Board of Supervisors.

SECTION 706 CONSIDERATIONS TO BE MADE IN DETERMINING PUBLIC INTEREST

In making the findings necessary for recommending or deciding whether to grant or deny an application for conditional use permit for a conservation easement, a preservation easement, a recreation easement or an open space easement, the Planning Commission and the Board of Supervisors shall use the considerations set forth in Sections 701, 703.02, and 703.3 in making a determination whether granting the permit will serve the public interest, whether the permit would be inconsistent with the comprehensive plan in force at the time the application is filed, whether the permit is inconsistent with a national, state, regional or local program furthering conservation or preservation, or whether the permit would be inconsistent with any known proposal by a governmental body for use of the land.

ARTICLE 8: BOARD OF ADJUSTMENT

SECTION 801 CREATION, TERMS OF OFFICE, MEETINGS, RULES

801.01 A Joint Board of Adjustment is hereby created and shall be known as the Clay County Area Board of Zoning Adjustment. All Villages within Clay County which adopt and administer a zoning regulation shall utilize the services of this board. The Board members shall be appointed by the Clay County Board of Supervisors and shall consist of Five (5) regular members plus One (1) additional alternate member who shall attend meetings, but shall not vote on any petition, except when a regular member of the Board is unable to attend a meeting.

801.02 One (1) member of the Board of 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 the immediate loss of membership on the Board of Adjustment and the appointment of another member of the Planning Commission to the Board of Adjustment.

801.03 The members of the Board of Adjustment shall serve for terms of Three (3) years and be removable for Cause by the Board of Supervisors upon written charges and after public hearing. Each member shall serve until a successor has been appointed. Vacancies shall be filled by appointment for the unexpired term of member who has ceased to be a member of the Board.

801.04 The members of the Board of Adjustment shall annually elect, from its membership, a Chairperson, Vice Chairperson. The members shall also appoint a Secretary, who may be a member of the Board or an Officer or employee of the County.

801.05 The Board of Adjustment shall adopt rules in accordance with the provisions of this Resolution/ Ordinance. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or in his / her absence, the Vice Chairperson, may administer oaths and compel attendance of witnesses.

801.06 The quorum for the Board of Adjustment shall be a minimum of Three (3) members. Passage of any motion by the Board on any question, except as set forth in Section 806 herein, shall require a concurring vote of a minimum of Three (3) members.

801.07 All meetings of the Board of Adjustment shall be open to the public. The Board shall cause accurate minutes of its proceedings to be prepared and such minutes shall include members in attendance, evidence presented, findings of fact by the Board, all motions and decisions of the Board together with any conditions attached to such decisions and the vote of each member. Records of all official actions of the Board shall be maintained in the Office of the Zoning Administrator, in the same building as the County Clerk, and shall be open to public inspection.

SECTION 802 POWERS AND DUTIES

The Board of Adjustment shall have powers and duties herein described and shall have ONLY such powers and duties.

802.01 POWERS AND JURISDICTION RELATING TO ADMINISTRATIVE REVIEW

The Board of Adjustment shall have the power and responsibility to hear and decide appeals from any affected person where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator, based on or made in the enforcement of this Resolution/Ordinance or any regulation relating to the location or soundness of structures, or to interpret any map.

A. The Board of Adjustment shall hear and determine appeals from any requirement, interpretation or decision of the Zoning Administrator. Upon filing of an appeal, the Board shall fix a time and place for hearing of the appeal. Public notice of the time, place and subject of such hearing shall be published in the legal newspaper of the County / Village at least Ten (10) calendar days prior to the date of fixed for such hearing. A copy of such notice shall be mailed to the person or persons who filed the appeal.

B. Appeals to the Board of Adjustment may be taken by any person aggrieved, or by any officer,

department, board or bureau affected by any decision of the Zoning Administrator regarding the interpretation and enforcement of this Resolution / Ordinance. Such appeal shall be filed within a reasonable period of time, as provided by the rules of the Board, by filing a notice of appeal with the Zoning Administrator and the Board specifying the grounds for such appeal and such notice shall be accompanied by payment of any fee established for filing of such appeal. The Zoning Administrator shall provide all papers constituting the applicable records of the Administrator to the Board on or before the date of the hearing set for hearing the appeal.

C. An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board, after a notice of appeal has been filed, that by reason of facts in such case, that a stay would, in the opinion of the Administrator, cause imminent peril to life or property. In such case proceedings shall not be stayed, except by a restraining order which may be granted by the Board or Court.

802.02 POWERS AND JURISDICTION RELATING TO MAP INTERPRETATION

The Board of Adjustment shall have the power and responsibility to hear and decide questions regarding the interpretation of the Official Zoning Map in the same manner as hearing of an appeal and in accordance with the limitations set forth in Section 406 of this Resolution / Ordinance.

802.03 POWERS AND JURISDICTION RELATING TO VARIANCES

The Board of Adjustment shall have the power to authorize, in specific cases, a variance from the specific terms of this Resolution / Ordinance which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this Resolution / Ordinance would, in an individual case, result in unnecessary hardship, and provided that the spirit of this Resolution / Ordinance shall be observed, public safety and welfare secured, and substantial justice done. A variance may be granted in such case upon findings of the Board that ALL of the following conditions have been met:

A. Where by reason of exception narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of this Resolution / Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of each specific piece of property, the strict application of any applicable provision of this Resolution / Ordinance would result in peculiar or exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property, the Board of Adjustment shall have the power to authorize a variance from the strict application of such applicable provision so as to relieve such difficulties or hardship if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Resolution / Ordinance. No such variance shall be authorized by the Board unless and until it finds that:

1. the strict application of the applicable provisions of this Resolution / Ordinance would produce undue difficulty or hardship,

2. such difficulty or hardship is not generally shared by other properties in the same zoning district and the same vicinity,

3. the authorization of a variance shall not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the authorization of a variance,

4. the authorization of a variance is based upon reasons of demonstrable and exceptional difficulty or hardship, as distinguished from a variance for purposes of the property owner's convenience, profit, or caprice,

5. the condition or situation of the property concerned or the intended use of the property is not of so general or recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Resolution / Ordinance.

B. A variance from the terms of this Resolution / Ordinance shall not be granted by the Board of Adjustment unless and until a written application for a variance is submitted to the Zoning Administrator. Such application shall be in the form prescribed by the Board and the applicant shall identify the special conditions and circumstances which are peculiar to the land, the structure(s) or building involved which, in the opinion of the applicant, are not applicable to other lands, structures, or buildings in the same zoning district. The applicant shall also 1) state the reason(s) that a literal enforcement of the applicable provision(s) of this Resolution / Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Resolution / Ordinance, 2) indicate why the conditions or circumstances related to such variance do not result from the action of the applicant, and 3) the reason(s) that granting of the requested variance will not confer any special privilege on the applicant that is denied by the provisions of this Resolution / Ordinance to other land, structures, or buildings in the same zoning district.

C. A non-conforming use of neighboring land, structure(s) or building(s) in the same zoning district, and permitted or non-conforming uses of land, structure(s) or building(s) in other zoning districts shall not be considered grounds for difficulty or hardship and thus the authorization of a variance.

D. Upon filing of a variance application with the Zoning Administrator, notice of public hearing shall be published in the same manner as set forth in Subsection 801.02 above and the Board of Adjustment shall conduct a public hearing. Any party may appear in person or be represented by agent or attorney. Upon closing of such public hearing the Board shall take any of the following actions:

1. Continue the application for a specified period of time to allow the Board to gather more information in regard to the variance application. In acting to continue such application the Board shall set a specific date, time and place where it shall take further action of continued application,

2. Deny the application for a variance and state the reason(s) for such denial,

3. Authorize a variance, provided that the Board shall make written findings that particular reasons set forth in the application justify the authorization of a variance and that the variance is the minimum variance that will make possible the reasonable use of the land, structure(s) or building(s) and shall make written findings that the authorization of said variance will be in harmony with the general purpose and intent of this Resolution / Ordinance and will not be injurious to abutting property, the property in the vicinity of the subject property or be otherwise detrimental to the public welfare.

E. In authorizing any variance, the Board of Adjustment may prescribe any conditions and safeguards it believes are appropriate to protect abutting property, property in the vicinity and the public in general. Violation of such conditions and safeguards by the applicant shall be deemed a violation of this Resolution / Ordinance and punishable under Section 1102 of this Resolution / Ordinance.

F. Under no circumstances shall the Board of Adjustment authorize a variance to allow a use not permitted under the regulations of any zoning district or any use expressly or by implication prohibited by the regulations of any zoning district.

802.04 BOARD OF ADJUSTMENT HAS POWERS OF ZONING ADMINISTRATOR UPON APPEAL

In exercising the above mentioned powers, the Board of Adjustment may reverse or affirm, wholly or partially, or may modify the order, requirement, decision, or interpretation as ought to be made and to this end shall have all powers of the Zoning Administrator, provided that a concurring vote of Four-Fifths (4/5) of the members of the Board shall be necessary to reverse any order, requirement, decision or interpretation of the Zoning Administrator or to decide in favor of any applicant upon which it is required to act under this Resolution / Ordinance or to authorize any variance to this Resolution / Ordinance.

802.05 APPEALS FROM DECISIONS OF THE BOARD OF ADJUSTMENT

A. Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the County / Village may present to the District Court a petition, duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of such illegality as provided for in law. Such petition must be presented to the Court within Fifteen (15) days after the filing of the decision of the Board of Adjustment in the Office of the County / Village Clerk.

ARTICLE 9: ADMINSTRATIVE PROCEDURE AND ENFORCEMENT OF THIS RESOLUTION / ORDINANCE

SECTION 901 ORGANIZATION

The administration and enforcement of this Resolution / Ordinance is hereby vested in the Planning Commission, the Board of Adjustment, the Zoning Administrator and such other officials designated by the County / Village as may be necessary to enforce this Resolution / Ordinance.

SECTION 902 AUTHORITY

902.01 PLANNING COMMISSION

1. Hear and provide recommendations to the Board of Supervisors / Village Board regarding amendments to this Resolution / Ordinance or the Official Zoning Map.

2. Review and administer all matters upon which it is required to act.

3. Establish uniform bylaws and rules of procedure pertaining to review of applications, conduct of public hearings and issuance of permits.

4. Periodically review the effectiveness of the Comprehensive Plan and requirements of this Resolution / Ordinance and initiate and recommend amendments thereto.

5. Invoke any authorized legal, equitable or special remedy for the proper and effective enforcement of this Resolution / Ordinance.

6. Hear and provide recommendations to the Board of Supervisors / Village Board regarding conditional use applications in accordance with the requirements and limitations of this Resolution / Ordinance.

7. Conduct or review special studies and prepare recommendations as may be required by law or requested by the Board of Supervisors / Village Board.

902.02 BOARD OF ADJUSTMENT

1. Hear and decide appeals from and review and order, requirement, decision, or determination made by the Zoning Administrator.

2. Hear and authorize specific variances from the terms of this Resolution / Ordinance which will not be contrary to the public interest, where owing to special conditions fully demonstrated, a literal enforcement of the provisions of this Resolution / Ordinance will result in unnecessary hardship.

3. Hear and decide appeals regarding the Official Zoning Map in accordance with the limitations set forth in this Resolution / Ordinance.

4. Establish uniform bylaws and rules of procedure pertaining to review of applications, conduct of public hearings and issuance of permits.

5. Invoke any authorized legal, equitable or special remedy for the proper and effective enforcement of this Resolution / Ordinance.

902.03 ZONING ADMINISTRATOR

1. Issue in the name of the County / Village, zoning permits, occupancy permits, conditional use permits and other permits required or appropriate to the proper administration and enforcement of this Resolution / Ordinance and maintain records thereof.

2. Conduct inspections of buildings, structures, and the use of land to determine compliance with the terms of this Resolution / Ordinance and report said findings to the Commission and Board of Adjustment for purposes of ordering compliance with this Resolution / Ordinance.

3. Provide interpretation of this Resolution / Ordinance and Official Zoning Map when requested by an applicant, the Commission or the Board of Adjustment and provide and maintain public information relative to all matters rising out of this Resolution / Ordinance.

4. Maintain permanent and current records related to this Resolution / Ordinance including, but not limited to all maps, amendments, certificates and permits, variances, conditional uses, appeals and applications therefore and records of meetings and public hearings.

902.04 RESPONSIBILITIES

1. It is the intent of this Resolution / Ordinance that all questions of interpretation and enforcement shall first be presented to the Zoning Administrator and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Administrator and that recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law.

2. It is further the intent of this Resolution / Ordinance that the duties of the Board of Supervisors / Village Board in connection with this Resolution / Ordinance shall not include hearing and deciding questions of interpretation and enforcement. The procedure for deciding such questions shall be as stated herein. Under this Resolution / Ordinance, the Board of Supervisors / Village Board shall have only the duties of appointment of a Zoning Administrator, the funding of such office and necessary legal services to enable proper administration and enforcement of this Resolution / Ordinance, considering and adopting or denying proposed amendments to this Resolution / Ordinance or the Official Zoning Map or the repeal of this Resolution / Ordinance and of establishing of fees and charges as stated in this Resolution / Ordinance.

3. If the Zoning Administrator shall find that any of the provisions of this Resolution / Ordinance are being violated, he/she shall notify the person responsible for such violation in writing, indicating the nature of the violation and order the action(s) necessary to eliminate the violation. He / She shall order removal of illegal buildings, structures and discontinuance of uses of land and order the elimination of any other type of violation to ensure compliance with the requirements of this Resolution / Ordinance and shall take any other action authorized herein and by statute to insure compliance with or to prevent violation of this Resolution / Ordinance.

902.05 ZONING PERMITS REQUIRED

No building or other structure, except agricultural buildings and structures as herein defined, shall be erected, moved, added to, expanded or structurally altered without a zoning permit authorizing such activity, issued by the Zoning Administrator. No zoning permit shall be issued by the Zoning Administrator except in conformity with all applicable provisions of this Resolution / Ordinance, unless the Zoning Administrator shall receive a written order from the Board of Zoning Adjustment in the form of a variance, authorized under the terms and conditions of this Resolution / Ordinance.

902.06 APPLICATION FOR BUILDING (ZONING) PERMIT

1. An application for a zoning permit shall be accompanied by plans, drawn to scale, showing the actual dimensions and shape of the lot to be built upon, the sizes and locations of buildings or structures already existing on said lot, if any, the location and dimensions of the proposed building(s) or addition or

expansion thereof. All dimensions relating to lot dimensions shall be provided by the applicant and the applicant shall assume the liability with regard to any errors in said dimensions.

2. The application shall include such other information as lawfully may be required by the Zoning Administrator, including the identification of building alterations, existing and proposed uses of the building(s) and land, the number of families, housekeeping units, or rental units the building is designed to accommodate, conditions existing on the lot, easement locations, and such other matters as may be necessary to determine conformance of the proposed building, structure or use with the requirements of this Resolution / Ordinance and its enforcement.

3. One (1) copy of any approved zoning permit, together with any conditions of such permit shall be provided to the applicant by the Zoning Administrator. If an application for a zoning permit is denied, the Zoning Administrator shall indicate to the applicant the reason(s) for such denial. The Zoning Administrator shall maintain a permanent record of all applications for zoning permits and maintain One (1) copy of each zoning permit which is approved. The issuance of a zoning permit shall, in no case, be construed by the applicant or any other person or persons as waiving any requirement of this Resolution / Ordinance.

902.07 CERTIFICATE OF ZONING COMPLIANCE (occupancy permit) FOR NEW, ALTERED, NONALTERED OR NON-CONFORMING USE WILL BE ISSUED ONLY UPON REQUEST AND WITH NO FEE.

902.08 EXPIRATION OF ZONING PERMIT

If the construction described in any issued zoning permit has not been initiated within Six (6) months from the date of the issuance thereof, said zoning permit shall expire and be canceled by the Zoning Administrator with written notice thereof provided to the applicant for such permit. If the construction described in an issued zoning permit has not been completed beyond one-fourth (1/4) of its construction cost within Two (2) years from the date of issuance thereof, said zoning permit shall expire and be canceled by the Zoning Administrator with written notice thereof indicating to the applicant for such permit that no further construction shall proceed unless a new zoning permit has been issued.

902.09 A zoning permit issued on the basis of plans and application and approved by the Zoning Administrator authorize only the use, arrangement and construction set forth in such permit or certificate and no other use, arrangement construction. Any use, arrangement or construction at variance with the approved permit or certificate shall be deemed a violation of this Resolution/Ordinance and punishable in accordance with Section 1102 of this Resolution/Ordinance.

902.10 SCHEDULE OF FEES AND CHARGES

The fees and charges for a rezoning application, conditional use application, variance application, zoning permit, and such other permits as may be utilized under the terms of the Resolution/Ordinance shall be as established by the Board of Supervisors/Village Board and shall be paid by the applicant at the time of application. A schedule of fees and charges shall be posted in the office of the Zoning Administrator and may be amended only by action of the Board of Supervisors/Village Board. Until all applicable fees and charges are paid, no action shall be taken on any permit or certificate.

ARTICLE 10: AMENDMENT

SECTION 1001 GENERAL REQUIREMENTS

The Board of Supervisors/Village Boards may from time to time supplement, change, or generally revise the zoning district boundaries and regulations contained in this Resolution/Ordinance by amendment. A proposal for any such amendment may be initiated by the Board of Supervisors/Village Board, the Planning Commission, or upon application of the owner of property affected by this Resolution/Ordinance. A filing fee, as established by the Board of Supervisors/Village Board, shall be required for each application to be considered by the Planning Commission and the Board of Supervisors/Village Board. A proposal for amendment initiated by the Planning Commission or the Board of Supervisors/Village Board shall not require payment of any fee.

SECTION 1002 SUBMISSION OF AMENDMENT TO PLANNING COMMISSION

1002.01 All proposed amendments shall first be submitted to the Planning Commission for review and recommendation. Public notice of the time and place of a public hearing shall be given by publication thereof in the legal newspaper of the County/Village at least Ten (10) days prior to such hearing. Such notice shall contain a statement regarding the proposed amendment in regulations or boundaries of any zoning district.

1002.02 The Board of Supervisors/Village Board, opt in place of the posted notice, the owners and occupants of the real estate to be affected by any proposed amendment and all owners and occupants of all real estate located within Three Hundred (300) feet of the real estate affected by the proposed amendment shall be mailed a written notice of the public hearing by certified mail with return receipt requested at least Ten (10) calendar days prior to such public hearing.

1002.03 The provisions of a notice of public hearing published in the legal newspaper of the County/ Village, in accordance with the content and time requirements of such public notice as specified herein shall be applicable, but the written notice mailed to property owners provisions, as specified herein, shall not apply when: 1) the proposed amendment applies throughout the entire area of an existing zoning district or the entire areas of the County/Village and its jurisdictional area, or 2) the amendment proposes the establishment of additional or different types of zoning districts, whether or not such additional or different districts are made applicable to areas, or parts of areas, already within a zoning district or the County/Village and its jurisdictional area.

SECTION 1003 PLANNING COMMISSION CONSIDERATION OF AMENDMENTS

1003.01 Following a public hearing on any amendment, the Planning Commission shall formulate a recommendation to the Board of Supervisors/Village Board to be summarized in the minutes of the Commission which shall constitute a report to the Board of Supervisors/Village Board. For action by the Commission on any amendment, a quorum of One (1) more than half (1/2) of the total membership of the Commission shall be present and voting. A vote either for or against the amendment by a majority of the Commission members, but at least the number of members which constitutes a quorum, shall constitute a recommendation of the Commission. The Planning Commission shall cause its recommendation to be forwarded to the Board of Supervisors/Village Board.

1003.02 Upon receipt of a recommendation from the Planning Commission regarding any amendment, the Board of Supervisors / Village Board shall give public notice of a public hearing in the same manner as prescribed in Section 1002 above. The Board of Supervisors / Village Board may approve or reject the recommendations of the Planning Commission with regard to any amendment. If the Commission should fail to submit a recommendation, the Board of Supervisors / Village Board may take such action as it deems appropriate regarding such amendment. If any amendment which is approved by the Board of Supervisors / Village Board affects the boundaries of any zoning district, the resolution / ordinance adopted by the Board of Supervisors / Village Board shall define the change in the boundaries of the zoning district, shall order that the Official Zoning Map be modified to reflect such amendment, and shall amend the Article and Section of this Resolution / Ordinance, incorporating the same and reincorporating the Official Zoning Map.

SECTION 1004 PROTESTS

Regardless of whether or not the Planning Commission recommends approval or disapproval of a proposed amendment or fails to provide a recommendation to the Board of Supervisors / Village Board, if a protest against any amendment is filed in the Office of the County / 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 or Twenty (20) percent or more of any real property, excluding rights-of-way for public streets and roadways, located within or outside of the County or corporate limits of the Village and located within Three Hundred (300) feet of the boundaries of the property proposed to be rezoned, the resolution / ordinance adopting such amendment shall not be passed except by at least Three-Fourths (3/4) of all members of the Board of Supervisors / Village Board.

ARTICLE 11: COMPLAINTS, PENALTIES AND REMEDIES

SECTION 1101 COMPLAINTS REGARDING VIOLATIONS

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

SECTION 1102 PENALTIES

The owner(s) or agent of a building, structure or premises in or upon which a violation of any provisions of this Resolution / Ordinance has been committed or shall exist or lessee or tenant or an entire building or entire premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed One Hundred Dollars ($100.00) for any one offense recoverable with costs. Each and every day that such violation continues after notification of any violation shall constitute a separate offense. Any person other than those listed above in this Section who commits, participates in, or maintains such violation, may be found guilty of a separate offense and suffer the penalties herein prescribed. Nothing herein contained shall prevent the County / Village from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 1103 REMEDIES

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

ARTICLE 12: LEGAL STATUS PROVISIONS

SECTION 1201 SEPARABILITY

Should any Article, Section, Subsection or provisions of this Resolution / Ordinance be declared by the Court to be unconstitutional or invalid, such decision shall not affect the validity of this Resolution / Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 1202 PURPOSE OF CATCH HEADS

The titles appearing in connection with the foregoing Articles and 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 Resolution / Ordinance.

SECTION 1203 REPEAL OF CONFLICTING RESOLUTIONS / ORDINANCES

All ordinances or parts of ordinances in conflict with this Resolution / Ordinance are hereby repealed to the extent necessary to give this Resolution / Ordinance full force and effect.

SECTION 1204 EFFECTIVE DATE

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

Article 13
Wind Energy Conversion Systems

Section 1301 Definitions

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

(A) **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.

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

(C) **Connector Line** shall mean any power conductor that carries electrical power from one or more wind turbines to the point of interconnection with the distribution system.

(D) **FAA** shall stand for Federal Aviation Administration

(E) **Hub Height** shall mean the distance from ground level as measured to the centerline of the rotor.

(F) **Meteorological Tower** shall mean, for purposes of this regulation, a temporary 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.

(G) **Micro Wind Energy Conversion System (MWECS)** 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 5 kW and which is intended to primarily reduce on-site consumption of utility power. Rotor Diameter shall not exceed 7 feet.

(H) **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.

(I) **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.

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

(K) **SCADA Tower** shall mean a free standing tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system,.

(L) **Shadow Flicker** shall mean alternating changes in light intensity caused by the moving blades of a wind every system which cast a repeating pattern of shadows on the ground and stationary objects, such as a window of a dwelling.

(M) **Small Wind Energy Conversion System (SWECS)** 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 not less than 5 kW and not more than 100 kW or has a rated capacity of not more than 5 kW and a rotor diameter of greater than 7 feet and which is intended to primarily reduce on-site consumption of utility power.

(N) **Substations** shall mean any electrical facility to convert electricity produced by wind turbines to a higher or lower voltage for interconnection with transmission lines.

(O) **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.

(P) **Tower** shall mean the vertical structures, including the foundation that supports the electrical generator, rotor blades, or meteorological equipment.

(Q) **Tower Height (Ground Mounted)** shall mean the total height of the Wind Energy Conversion System, between the ground level at the base of the tower and the top of the tower, exclusive of the rotor blades.

(R) **Tower Height (Roof Mounted)** shall mean the total height of the Wind Energy Conversion System, between the roof level at the base of the tower and the top of the tower, exclusive of the rotor blades.

(S) **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.

(T) **Utility Grid Wind Energy System:** A wind energy conversion system which is designed and constructed to provide electricity to an electric utility grid.

(U) **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, which may be used on-site or distributed into the electrical grid.

(V) **Wind Site Assessment** is an assessment to determine wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system.

(W) **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.

(X) **Vertical Axis Wind Turbine**: A wind energy conversion system design where the rotating shaft is perpendicular to the ground and the cups or blades rotate parallel to the ground.

Section 1302: Micro Wind Energy Conversion Systems (MWCES)

Purpose

It is the purpose of this wind energy regulation to; promote the safe, effective and efficient use of wind energy and to encourage the development of residential scale generation systems as they become affordable as determined by the residents of Clay County.

Micro Wind Energy Conversion System (MWECS) 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 5 kW and which is intended to primarily reduce on-site consumption of utility power. Rotor Diameter shall not exceed 7 feet.

Requirements

Residential wind energy conversion systems shall be permitted as an Accessory Use within any zoning district. Certain requirements as set forth below shall be met:

(A) Tower Height

(1) Shall be limited by the size of the property. Tower height shall not exceed the fall zone for the property.

(B) Minimum Lot Size

(1) Towers shall be permitted on all lots or parcels with a permitted principal use.

(C) Fall Zone

(1) Fall Zone is the total height and any underlying setbacks for ground mounted MWCES.

(2) Fall Zone is the 125% of the tower height and any underlying setbacks for roof mounted MWCES.

(D) Setbacks

(1) No part of the wind system structure, may extend closer than 10 feet to the property lines of the installation site; tower must meet required underlying setbacks.

(E) Noise

(1) MWCES shall not exceed 60 dBA, as measured at the closet neighboring inhabited dwelling unit.

(2) The noise level may be exceeded during short term events such as utility outages and/or severe wind storms, wind speeds of greater than 50 miles per hour.

(F) Approved Wind Turbines

(1) MWCES must have been approved under the Emerging Technologies program of the California Energy Commission or any other small certification program recognized by the American Wind Energy Association.

(2) Aesthetics: Free Standing Towers – (no towers with guyed wires)

(G) Compliance with Building and Zoning Codes

(1) Applications for MWCES shall be accomplished by standard drawings of the wind turbine structure, including the tower base, and footings.

(2) 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.

(H) Compliance with FAA Regulations

(1) MWCES must comply with applicable FAA regulations, including any necessary approvals for installations within the airport approach zone.

(2) No MWCES shall be installed within a regulated airport approach zone until evidence has been given that the airport has been informed of the applicant's intent to install a MWECS. A copy of a certified letter (with mailing receipt) to the airport informing them of the owners' intent to install the MWCES must be submitted with the building permit application.

(3) Notification letters also need to be sent, by the applicant, to all aerial applicators, in the area.

(I) Compliance with National Electrical Code

(1) 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 and the National Electric Safety Code.

(J) Utility Notification

(1) 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.

(2) Off- grid systems shall be exempt from this requirement.

Setbacks

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

	Required Setbacks for MWECS Towers
Property Lines	Equal to the Fall Zone as defined in C above
Road Rights-of-Way*	One times the tower height plus underlying setback
Other Rights-of-Way	One times the tower height plus underlying setback

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

Section 1303: Small Wind Energy Conversion Systems (SWECS)

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.

Small Wind Energy Conversion System (SWECS) 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 not less than 5 kW and not more than 100 kW or has a rated capacity of not more than 5 kW and a rotor diameter of greater than 7 feet and which is intended to primarily reduce on-site consumption of utility power.

Requirements

Small wind energy conversion systems shall be permitted as an Accessory Use within any district. Certain requirements as set forth below shall be met:

(A) Tower Height

(1) Shall be limited by the size of the property. Tower height shall not exceed the fall zone for the property. The height shall be determined by the fall zone requirement and shall not exceed one hundred (100) feet. FAA approval is required.

(B) Minimum Lot Size

((1) Towers shall be permitted on all lots or parcels with a permitted principal use.

(C) Fall Zone

(1) Fall Zone is the total height and any underlying setbacks for ground mounted SWCES.

(2) Fall Zone is the 150% of the tower height and any underlying setbacks for roof mounted SWCES.

(D) Setbacks

(1) No part of the wind system structure, may extend closer than 10 feet to the property lines of the installation site; tower must meet required underlying setbacks.

(E) Noise / Sound

(1) SWCES shall not exceed 60 dBA, (the sound pressure level in decibels) as measured at the closet neighboring, inhabited dwelling unit. An Acoustical Anaylsis that certifies that the noise requirements within the regulation can be met. Sound level analysis prepared by the manufacturer or qualified engineer.

(2) The noise level may be exceeded during short term events such as utility outages and/or severe wind storms, wind speeds of greater than 50 miles per hour.

(F) Approved Wind Turbines

(1) SWCES must have been approved under the Emerging Technologies program of the California Energy Commission or any other small certification program recognized by the American Wind Energy Association.

(2) Aesthetics: Free Standing Towers – (no towers with guyed wires)

(G) Compliance with Building and Zoning Codes

(1) Applications for SWCES shall be accomplished by standard drawings of the wind turbine structure, including the tower base, and footings.

(2) 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. (The manufacturer frequently supplies this analysis.)

(H) Compliance with FAA Regulations

(1) Small wind energy conversion systems must comply with applicable FAA regulations, including any necessary approvals for installations within airport approach zones. No SWCES shall be installed within a regulated airport approach zone until evidence has been given that the airport has been informed of the applicant's intent to install a SWECS. (A copy of a certified letter -with mailing receipt) to such airport informing them of the owners' intent to install the SWCES must be submitted with the building permit application.)

(2) Notification letters also need to be sent, by the applicant, to all aerial applicators, in the area.

(I) Compliance with National Electrical Code

(1) 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 and the National Electric Safety Code. (The manufacturer frequently supplies this analysis.)

(J) Utility Notification

(1) 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.

(2) Off- grid systems shall be exempt from this requirement.

(K) All approved wind turbines are to be completed with two (2) years of the date of approval.

(L) Multiple Towers: Multiple towers will be considered based on these same regulations.

(M) Abandonment: 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 county will have it removed at the owners expense and a lien will be filed against the property on which the small wind energy system is located.

Setbacks

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

	Required Setbacks for SWECS Towers
Property Lines	The Fall Zone as defined in C above.
Road Rights-of-Way*	One times the tower height plus underlying setback
Other Rights-of-Way	One times the tower height plus underlying setback

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

SECTION 1304: Commercial/Utility Grade Wind Energy Conversion Systems (WECS)

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 Clay County. The intent of these regulations is to strike an appropriate balance between our Nation's need and our State's need to develop clean, renewable energy resources and the necessity to protect the public health, safety and welfare within the zoning jurisdiction of Clay County, Nebraska.

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

Requirements:

Commercial/Utility Grade wind energy systems shall be considered a Conditional Use within the (AG) Agricultural District, the (R-1) Rural Residential District, and the Rural (I) Industrial Zone District, in Clay County. However, if these types of zoning districts are located within the jurisdiction of a town/village/city, i.e. Rural Residential District within the one mile jurisdiction of such town/village/city, then its governing body would need to approve such development.

The following requirements, standards, and information shall be met and supplied and subject to the following conditions:

(A) The name(s) of project applicant and name(s) of the land owner(s). An Abstractor's list of the neighboring property owners, and mailing addresses, within one mile of the proposed tower(s).

(B) The name and address and contact information of the project owner.

(C) The legal description and address of the project.

(D) A description of the project including: number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.

(E) 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. It would be most helpful, to provide color renderings or computer generated visual simulations, in color, showing the probable WECS tower(s), generators and rotors from at least four (4) viewable angles on the perimeter of the proposed project boundaries.

(F) Certification by an Engineer competent in disciplines of WECS.

(G) Documentation of land ownership or legal control of the property.

(H) 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 WECS will be considered.

(I) 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.

(J) A map depicting the location of migratory waterfowl flyways, wetlands, scenic, and natural areas or "Public Conservation Lands" as defined in these regulations in Section 1301 (I) (***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.)* within **one mile**, (5,280 feet) of the proposed Wind Energy Conversion System.

(K) Environmental Impact Analysis. The applicant shall have a third party, qualified professional conduct and create an analysis to identify and assess any potential impacts on wildlife and endangered species and public conservation lands, with particular emphasis on areas where birds, water fowl, raptors, or bats are highly concentrated, significant bird migration flyways and areas that have landscape features known to attract large numbers of raptors.

(L) Crop Impact Analysis: Along with the Environmental Impact Analysis, the report shall also, include an analysis of the crop land, pasture land, and livestock production impact due to the lack of aerial applications of herbicides or insecticides in the areas in and surrounding the proposed WECS towers.

(M) An Acoustical Analysis that certifies that the noise requirements within this regulation can be met.

(N) The applicant shall supply the emergency management agency and/or fire departments with a basic emergency response plan. The applicant shall provide a copy of the project description and site plan to the local fire department and rescue service having jurisdiction over the project area and shall coordinate with such local entities in the development of an emergency response plan.

(O) Public Road Impacts: The applicant shall, in coordination with representatives from Clay County and other appropriate jurisdictions, conduct a pre-construction survey of road and bridge conditions which shall include photographs and written agreement documenting the condition of the public roads, to determine all county, township or municipal roads or streets to be used for the purposes of transporting WECS, substation parts, concrete and / or equipment for construction, operation and maintenance of the WECS and to determine all applicable weight and size permits from the impacted jurisdiction prior to construction. The owner of the WECS shall be responsible for restoring the roads, streets, and bridges to pre-construction conditions where the impacts on such roads, streets and bridges is beyond the normal wear under pre-existing conditions.

(P) FAA and FCC permit, if necessary.

(1) Commercial/Utility Grade wind energy conversion systems must comply with applicable FAA regulations, including any necessary approvals for installations within the airport zone.

(2) No WECS shall be installed within a regulated airport approach zone until evidence has been given that the airport has been informed of the applicant's intent to install a WECS. A copy of a certified letter (with mailing receipt) to such airport informing them of the owner's intent to install the WECS must be submitted with the building permit application.

(3) Notification letters also need to be sent, by the applicant, to all aerial applicators, in the area.

(Q) Evidence that there will be no inference with any commercial and/or public safety communication towers or electromagnetic interference: The project owner shall notify the owners / operators of all existing fixed broadcast, retransmission or reception antennae for radio, television, wireless telephone or other communication systems within five (5) miles of the proposed utility grid WECS project boundaries upon application. No utility grid WECS project shall be located where its proximity to exiting fixed broadcast, retransmission or reception antennae for radio, television, wireless telephone or other communications system would produce electromagnetic interference with signal transmission or reception unless the applicant shall provide a replacement signal to the affected party(s) that will restore the transmission or reception to at least the level present before operation of the WECS project.

(R) Decommissioning Plan as required by this regulation: The applicant shall submit a decommissioning plan, which shall include at a minimum:

a. The anticipated life of the project

b. The estimated decommissioning costs of removing all ground facilities and underground improvements to a depth of twelve (12) feet, net of salvage value, in current dollars,

c. The method of ensuring that funds will be available for decommissioning,

d. The anticipated manner in which the project will be decommissioned and

e. The time period in which the decommissioning shall be completed.

(All WECS and accessory facilities shall be completely removed to twelve feet below ground level within 180 days of the discontinuation of use. The 180 days may be extended if proof of weather delay is provided.)

(S) Public Inquiries and Complaints: The owner and operator of the utility grid WECS project shall maintain a publicly available telephone number and identify a responsible person or position for the public to contact with inquiries or complaints throughout the life of the project. Said owner and operator shall make a reasonable effort to respond to the public's inquiries and complaints and shall maintain a record of such inquiries and complaints, together with actions taken and dates thereof and shall make such records available to the Zoning Administrator upon request.

Setbacks

All towers shall adhere to the setbacks 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-half the rotor diameter.	One times the tower height.
Other Rights-of-Way	NA	NA
Wildlife Management Areas and State Recreational Areas	1,000 feet	1,000 feet
Wetlands, USFW Types III, IV, and V	1,000 feet	1,000 feet
Other structures and cemeteries adjacent to the applicant's sites	One-half the rotor diameter.	One times the tower height.
Other existing WECS not owned by the applicant.	NA	NA

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

Special Safety and Design Standards

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

(A) Clearance of rotor blades or airfoils must maintain a minimum of 12 feet of clearance between their lowest point and the ground.

(B) 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 tower base or perimeter fencing with emergency contact information.

(C) All wind turbines, which are a part of a commercial/utility WECS, shall be installed with a tubular, monopole type tower.

(D) Consideration shall be given to painted aviation warnings on all towers less than 200 feet.

(E) 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.

(F) 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.

(G) Other signage:

All other signage shall comply with the sign regulations found in the County.

(H) Feeder Lines:

All communications and connector lines associated with the project distribution system installed as part of a WECS shall be buried. 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.

(I) 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.

(J) Discontinuation and Decommissioning:

A WECS shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be completely removed to twelve 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.

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 use being discontinued. 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. The initial plan shall be submitted with the application. An updated plan shall be filed with the county every 5 years.

(K) Noise:

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

(L) Interference:

The applicant shall not cause interference with power quality of area utility feeder circuits and shall not introduce noise to the connected electric distribution system. WECS shall not cause interference with any commercial or public safety electromagnetic communications, such as radio, telephone, microwaves, or television signals. The applicant shall notify all electric utilities and communication tower operators within five miles of the proposed WECS location upon application for permits. The wind energy system operation shall not cause interference to the radio and television reception on adjoining property.

(M) Safety and Stability:

Data pertaining to the machine's turbine safety and stability shall be filed with the application. Such data *may* include turbine safety and acceptance results from tests conducted by a qualified individual or organization based upon standards set by the U.S. Department of Energy (DOE), Electric Power Research Institute (EPRI) Utility Wind Turbine Verification Program. (U.S. Department of Energy EPRI Wind Turbine Verification Program, Electric Power Research Institute.

(N) Abutting property owners:

The application shall provide covenants, easements or similar documentation from the abutting owners providing access to wind sufficient for its adequate operation, unless adequate accessibility to the wind is provided on the site.

(O) Environmental Permits:

The developer shall present evidence the project meets the environmental permitting requirements of all applicable state and federal agencies if such permits are required.

(P) 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.

ARTICLE 14:

SOLAR ENERGY SYSTEMS:

It is the intent of these regulations to protect and promote the health, safety, morals, convenience, order, prosperity and general welfare of the present and future residents of Clay County and to allow for a reasonable permitting process for solar energy conversion systems and development.

No solar panel shall be constructed within Clay County, Nebraska zoning jurisdictions unless a zoning permit is approved and issued by the Zoning Administrator and such panel is constructed in conformance with the state building codes and the following requirements. For those devices that include electrical, plumbing and heating components, the applicable permits shall also be obtained.

SECTION 1401

General Solar Definitions:

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

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

DEVELOPMENT: Any plat, subdivision, or planned unit development created under the Clay County zoning regulations.

DEED RESTRICTION (IMPACT EASEMENT) : An easement or deed restriction, recorded in the office of the Clay County Register of Deeds, which runs with the land, which is granted to the owner of an industrial use, a confined or concentrated animal feeding use, a waste handling facility use, or **other use** (Solar Farm, as defined) for the period of time that such use shall exist, by the owners of dwellings within the minimum distances specified in this Resolution, in which it is mutually agreed via a legal document depicting notarized signatures of the grantor and grantee that the grantor shall hold the grantee harmless from odor, smoke, dust, or other legal impacts associated with such use on the grantor's property when such use is operated in accordance with the terms of such easement or deed restriction.

ELECTRIC UTILITY: The public electric utility providing retail service to a given area.

GROUND-MOUNTED SOLAR ENERGY SYSTEM - A Solar Energy System that is a ground-mounted structure, not allowed in a residential use lot's front yard and no closer than the allowed side and rear yard setback from the property line for a structure within the zoning district in which it is situated, consisting of Solar Related Equipment that does not exceed twenty (20) feet in height, from the highest panel edge to the ground. The area used for this system is considered coverage for lot coverage limitations in the various zoning districts.

IMPACT EASEMENT: See Deed Restriction.

NET EXCESS GENERATION: On an ISCS, net excess generation means the net amount of energy, if any, by which the output of a qualified facility exceeds a customer-generator's total electricity requirements during a billing period.

NET METERING: Net metering means a system of metering electricity in which a local distribution utility:

(a) Credits a customer-generator at the applicable retail rate for each kilowatt-hour produced by a qualified facility during a billing period up to the total of the customer-generator's electricity requirements during that billing period. A customer-generator may be charged a minimum monthly fee that is the same as other noncustomer-generators in the same rate class but shall not be charged any additional standby, capacity, demand, interconnection, or other fee or charge; and -

(b) Compensates the customer-generator for Net Excess Generation during the billing period at a rate equal to the electric utility avoided cost of electric supply over the billing period. The monetary credits shall be applied to the bills of the customer-generator for the preceding billing period and shall offset the cost of energy owed by the customer-generator. If the energy portion of the customer-generator's bill is less than zero in any month, monetary credits shall be carried over to future bills of the customer-generator until the balance is zero. At the end of each annualized period, any excess monetary credits shall be paid out to coincide with the final bill of that period.

PERSONAL SOLAR ENERGY SYSTEM (PSES) - A Solar Energy System (SES) that is intended primarily for onsite consumption of electrical power. It consists of roof attached and/or free-standing Solar Energy Systems. A Personal SES cannot exceed 25kW rated nameplate capacity. Any SES, or combination of SES on one lot, that is, or in total combination are, rated less than .8 kW rated nameplate capacity, (8,000 watts) is considered an incidental use to the main use of the lot. No zoning permit is needed for .8 kW rated nameplate capacity solar energy systems.

RATED NAMEPLATE CAPACITY- The maximum rated wattage output of electric power production of the Solar Energy System rated in Direct Current (DC) at Standard Test Conditions or Alternating Current (AC) at Performance Test Conditions.

ROOF ATTACHED SOLAR ENERGY SYSTEM. The Solar Energy System's collector surface and mounting devices that attach a solar energy system(s) to the roof of a structure. It shall have a minimum a 3-foot open space on the roof from the side edges, hip(s), and ridge(s) of the roof, and not cause a height increase of the structure to which it is attached. The system cannot be greater than twenty-four (24) inches between the roof and highest edge of the surface of the Solar Energy System (SES) measured perpendicularly from any part of the roof. (No Permit needed if less than 25 kW and no permit needed if system is added to an existing roof.)

SETBACK means the minimum distance, measured in feet, between the solar energy facility and the property line or access easements.

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

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

SOLAR CONVERSION SYSTEM (SCS): An assembly, structure, or design, including passive elements, used for gathering, concentrating or absorbing direct or indirect solar energy, specifically designed for holding a substantial amount of useful thermal energy and to transfer that energy to a gas, solid or liquid

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

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

SOLAR CONVERSION SYSTEM, GROUND-MOUNTED: Any SCS which is directly supported and attached to the ground.

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

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

SOLAR CONVERSION SYSTEM, STRUCTURE-MOUNTED: Any SCS which is directly connected to and supported by a building. SOLAR ENERGY SYSTEM: A device designed and used for the purpose of collecting solar energy and utilizing the energy to heat space, water, or for some other use, within a structure. Residential use less than 25 kW, Commercial use 25 kW or more.

SOLAR ENERGY - Radiant energy (direct, diffuse and/or reflective) received from the sun.

SOLAR ENERGY SYSTEM (SES) - An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power. Principal solar energy systems consist of one (1) or more free-standing ground, movable, and/or roof mounted solar collector devices, solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers.

SOLAR FARM – A commercial large-scale solar energy system facility for the primary purpose of wholesale sales of generated electricity. A solar farm can be the principal or secondary use of the land for the parcel on which it is located. It is designed for providing energy to off-site users or export to the wholesale market. It is comprised of one or more Solar Energy System(s) (SES) that create and transmit power principally for connection to publicly used power grid. Solar Farm(s) shall include but shall not necessarily be limited to the following structures and uses: Solar Energy Systems, operations and/or maintenance buildings, meteorological towers, electrical wiring, collector grids, roads, and substations. Any Solar Energy System (SES) with rated nameplate capacity over 25kw singly and/or wholly, is a Solar Farm. It can include, but is not necessarily limited to, substations, electrical infrastructure, transmission lines and other appurtenant structures used to collect and distribute power from the Solar Farm.

SOLAR PANEL - That part or portion of a solar energy system containing one or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating and/or for electricity.

SOLAR RELATED EQUIPMENT - Items including a solar photovoltaic cell, module, panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used for or intended to be used for collection of solar energy. This equipment can consist of:

A. SOLAR ARRAY: A grouping of multiple solar modules with purpose of harvesting solar energy.

B. SOLAR CELL: The smallest basic solar electric device which generates electricity when exposed to light.

C. SOLAR MODULE: A grouping of solar cells with the purpose of harvesting solar energy.

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

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

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

SECTION 1402

PERSONAL SOLAR ENERGY SYSTEM (PSES)

A Solar Energy System (SES) that is intended primarily for onsite consumption of electrical power. It consists of roof attached and/or free-standing Solar Energy System. A Personal SES cannot exceed 25kW rated nameplate capacity. Any SES, or combination of SES on one lot, that is, or in total combination are, rated less than .8 kW rated nameplate capacity (8,000 watts) is considered an incidental use to the main use of the lot**. No zoning permit is needed for .8 kW rated nameplate capacity solar energy systems.**

SECTION 1403

SOLAR ENERGY SYSTEMS LESS THAN 25 KW (MORE THAN .8 KW)

Solar energy systems less than 25 kW shall be permitted as an Accessory Use within Urban Residential, Rural Residential, Industrial, Highway Commercial, Commercial and Ag zoning districts, of Clay County.

For solar energy conversion systems on existing structures, a zoning permit will be required only if, the structure footprint will be altered. If the solar energy system is within a corporate limit of a town/ city, a zoning permit is required.

No Solar Conversion System (SCS) shall be constructed in the identified Floodplain.

Concentrated Solar Power (CSP) systems are prohibited.

Fees:
Projects will be assessed permit fee as one project: .9 kW - Less than 9kW = $50.00;10 kW - less than 25 kW = $100.00.

Requirements as set forth below shall be met:

1. A description of the project including: Rated Name Plate Capacity, agreement and means of interconnecting with the electrical grid unless not connected to electrical grid.
2. Site layout, including the location of property lines, solar panels, electrical grid, and all related accessory structures. This site layout shall include distances and be drawn to scale.
3. Solar panels shall conform to the required front, side, and rear lot setback requirements except as provided herein:
    1. A solar panel which is attached to an integral part of the principal building may project two feet into the front yard: six feet into the rear yard; and two feet into the side yard.

2. A solar panel which is freestanding shall be located only in the required rear or side yard provided it does not exceed 20 feet in height and not closer than five foot to any existing easement as measured from the closest point of the structure including its foundation and anchorage's nor shall the solar panel be located in the required front yard.
3. The physical structure and connections to existing structures shall conform to the applicable state building and electrical codes.
4. Comply with any and/or all State and Federal regulations if applicable.

4. Compliance with National Electrical Code: Permit applications for solar 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.

SECTION 1404

SOLAR ENERGY 25 KW OR LARGER

Commercial Solar Conversion Systems (CSCS):

Applicability:

The purpose of this subsection is to provide standards for fixed-panel photovoltaic solar farms or Commercial Solar Conversion Systems (CSCS) consisting of ground-mounted solar panels capturing energy from the sun and converting it to electricity. The provisions of this section are based on a ground-mounted photovoltaic facility using a rammed post construction technique and panels supporting the flow of rainwater between each module and the growth of vegetation beneath the arrays and limiting the impacts of stormwater runoff. The rammed post construction technique allows for minimal disturbance to the existing ground and grading of the site. Based on the assumed solar farm design, Clay County finds the use to be low intensity with minimal trip generation, low amounts of impervious cover, and low emission thus the use is compatible in urbanized, non- urbanized, or low-density areas with other uses.

Requirements for Application and Zoning Districts:

Solar Farm/Commercial/Utility Grade solar energy systems shall only be permitted as a Conditional Use within the Industrial, Highway Commercial, Commercial and Ag Zoning Districts of Clay County.

In all other zoning districts, a Conditional Use Permit may be granted to allow solar energy conversion systems larger than 25 kW that are of freestanding structure; subject to the regulations established in this section.

No Solar Conversion System (SCS) shall be constructed in an identified Floodplain.

Concentrated Solar Power (CSP) systems are prohibited.

Fees: Aggregated Projects and Permit Application Fees

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 and based on nameplate generating capacity proposed: 25 kW – 50kW = $150.00, 51 kw – 100 kW = $200.00, 101 kW – 200 kW = $300.00, 201 kW – 300 kW = $400.00, 301 kW and above = $500.00.

The Conditional Use Permit Application process shall also include following requirements; and information shall be met and supplied no later than 30 days prior to construction:

1. The name(s) of project applicant.
2. The name and address of the project owner.
3. The Legal Description and 911 address(es) of the project, (assigned by Clay County Emergency Manager).
4. A description of the project including number of panels, type, nameplate generating capacity, agreement and means of interconnecting with the electrical grid. Provide an interconnection agreement with the local Power Utility Company OR the Southwest Power Pool, (a 14-state organization that operates the regional electric grid and wholesale market in which electricity producers buy and sell power.)
5. Site layout, including the location of property/parcel lines, easements, wetlands, protected areas, solar panels location, electrical grid, and all related accessory structures. This site layout shall include distances and be drawn to scale and in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
6. Certification by an Engineer competent in disciplines of solar energy.
7. Documentation of land ownership or legal control of the property.
8. Location of private and federal/state designated wetlands, designated scenic area, and natural areas within 1,320 feet (1/4 mile) of the proposed solar panels.
9. Vegetation management plan dealing with overgrowth and/or soil stabilization. The applicant shall meet and provide verification with the Clay County Weeds Superintendent pertaining to vegetation and noxious weed management plans.
10. The applicant shall meet and provide verification with the Clay County Emergency Manager and supply the Clay County Emergency Management agency and local Fire Departments / District with a basic emergency response plan and a map showing all entry areas, shut offs, disconnects, valves, etc.
11. Evidence provided by Engineer / Architect, or equivalent that there will be no inference with any commercial and/or public safety communication towers.
12. All solar panels shall be placed outside the county/state road right-of-way; and be placed outside of the site triangle if at an intersection; and adhere to the setbacks as measured from the outermost edge of solar panels established in the following table.

	Solar Panels Outside Edge
Property Lines set back distance as listed in zoning district	As listed in each Zoning District: Ag, Commercial, Highway Commercial, Industrial.
* Neighboring Dwelling Units (Residence)	300' and 500' to the inverter
** Road Rights-of-Way (road type setback)	25 Feet, 50 feet, or 80 feet according to ROW
	and Road Type
Wildlife Management Areas / State Recreational Areas/Federal/State Owned Land	300' and 500' to the inverter
Other historical structures and cemeteries adjacent to the applicant's sites	150 Feet

*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 solar energy system.

**The setback shall be measured from Road Right-of-Way (ROW):
Eighty (80) feet from a road right of way designated on the Clay County Major Street Plan as a Major Arterial roadway, Fifty (50) feet from a road right of way designated as a Minor Arterial road right of way and Twenty Five (25) feet from a road right of way designated as a Collector road right of way or a Local road right of way. (see definitions) Section 303.112 of Clay County Zoning Regulations. Structures must be placed outside of the site triangle if at an intersection.

Clay County Roads and Highways (general measurements)

- County Roads have a Right-of-way of 66'

- Highway 74 has a Right-of-way of 150’
- Highway 41 has a Right-of-way of 150’
- Highway 6 has a Right-of-way of 80’ – (Past N.A.D. 100’ – 140’ south side)
- Highway 14 has a Right-of-way of 200’ – (South of Clay Center)

Existing Dwellings/Structures:

A Solar Farm as defined in the definitions, shall not be located or expand closer than the minimum distances specified in this Resolution to any **existing** dwelling unit, **not of the same ownership, and on the same premises as such use**, nor to any existing school or church, **unless** the owner of any such church, school, or dwelling unit shall grant the owner of the Solar Farm and facilities, an Impact Easement, as defined, also known as a Deed Restriction, as defined. The measurement of this distance shall be from the point of the outermost edge of the solar panels to the nearest point of such existing dwelling, church, or school.

*For purposes of this regulation, a dwelling unit/residence not of the same ownership and not on the same premises as the Solar Farm, as defined or associated facilities, shall be interpreted to mean that such dwelling is an occupied or habitable residential dwelling and, if vacant and not habitable, would not require more cost than its present assessed valuation to make such dwelling habitable.

Future Structures:

Exceptions to the minimum separation distance for person(s) desiring to build a new single family dwelling, including manufactured housing, or moving an old residence closer than the required distances set forth in this Resolution, and is determined by the County Board of Supervisors, after review and recommendation by the Planning Commission, that reduction of the separation distance will not unreasonably interfere with the normal operations of an existing Solar Energy Conversion System,(Solar Farm) and any associated facilities.

1) The County Board of Supervisors, after review and recommendation by the Planning Commission, may require, as part of the Solar Farm Conditional Use, a Deed Restriction, or Impact Easement, as defined. By signing a Deed Restriction (Impact Easement) the applicant shall waive all rights to pursue any legal action, including injunctive action against the owner of the operation, because of its location, or other factors that are characteristic to Solar Farms as defined.

(Applicable Definitions for this Section)

DEED RESTRICTION (IMPACT EASEMENT) : An easement or deed restriction, recorded in the office of the Clay County Register of Deeds, which runs with the land, which is granted to the owner of an industrial use, a confined or concentrated animal feeding use, a waste handling facility use, or **other use** (Solar Farm, as defined) for the period of time that such use shall exist, by the owners of dwellings within the minimum distances specified in this Resolution, in which it is mutually agreed via a legal document depicting notarized signatures of the grantor and grantee that the grantor shall hold the grantee harmless from odor, smoke, dust, or other legal impacts associated with such use on the grantor’s property when such use is operated in accordance with the terms of such easement or deed restriction.

IMPACT EASEMENT: See Deed Restriction

SOLAR FARM – A commercial large-scale solar energy system facility for the primary purpose of wholesale sales of generated electricity. A solar farm can be the principal or secondary use of the land for the parcel on which it is located. It is designed for providing

energy to off-site users or export to the wholesale market. It is comprised of one or more Solar Energy System(s) (SES) that create and transmit power principally for connection to publicly used power grid. Solar Farm(s) shall include but shall not necessarily be limited to the following structures and uses: Solar Energy Systems, operations and/or maintenance buildings, meteorological towers, electrical wiring, collector grids, roads, and substations. Any Solar Energy System (SES) with rated nameplate capacity over 25kW singly and/or wholly, is a Solar Farm. It can include, but is not necessarily limited to, substations, electrical infrastructure, transmission lines and other appurtenant structures used to collect and distribute power from the Solar Farm.

13. Preexisting solar panels: Not withstanding noncompliance with the requirements of this section, a solar panel erected prior to the adoption of these regulations may continue to be utilized so long as it is continuously maintained in operational condition.
14. Proof of Liability insurance and/or bond.
15. A decommissioning plan including the financial means to implement the plan.

SECTION 1405:

Special Safety and Design Standards:

All Solar Energy Systems greater than 25 kW shall adhere to the following safety and design standards:

1. All solar energy systems 25 kW or larger shall have signs posted, 911 address, warning of "high voltage" and have other emergency contact information. All other signage shall comply with the sign regulations found in these regulations OR at the advice of the Emergency Manager of Clay County.
2. All structures, building, components, etc. shall be natural or non-obtrusive in color.
3. Feeder Lines: All communications and feeder lines associated with the project distribution system installed as part of the solar energy system 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.
4. 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.
5. Discontinuation and Decommissioning:
   a. A solar Energy System shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the Governing Body, outlining the steps and schedule for returning the solar energy system to service. All solar energy system 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 solar energy system shall have a Decommissioning plan outlining the anticipated means and cost of removing solar energy system 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 solar energy system and accessory facilities.
   c. A Bond may be set on the solar panels (and may be issued) by a 3rd party of sound financial institution in a form reasonably acceptable to the Clay County Supervisors (Governing Body) for decommissioning AND/OR for any type of natural disaster clean-up. i.e. fire, tornado, wind, etc. The amount will be set

after Professional Engineer assesses how much it will cost to remove the solar panel and restore the area to its original state, in the case of decommissioning and/or disaster clean-up.

6. Interference: The applicant shall minimize or mitigate interference with any commercial or public safety electromagnetic communications, such as radio, telephone, cellular, microwaves, or television signals caused by any solar energy system. The applicant shall notify all communication tower operators within five (5) miles of the proposed solar energy system location upon application to the county for permits.
7. Roads: The applicant shall meet with the Clay County Road (Highway) Supervisor prior to construction to review the following:
   a. Identify all county, municipal or township roads to be used for the purpose of transporting solar energy systems, substation parts, cement, and/or equipment for construction, operation or maintenance of the solar energy system 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.
8. Drainage System(s): The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation, or maintenance of the solar energy system.
9. **For any development over 150 kW**: The applicant shall hold a 'review meeting' with the local Nebraska Natural Resources District (water and soil conservation agency). Little Blue NRD and Upper Big Blue NRD are located within Clay County, Nebraska. The local NRD (Nebraska Natural Resources District) would provide guidance regarding any impact on the waterways and/or possible soil erosion created by a large solar development. The NRD would be responsible for overseeing and monitoring the land and/or waterways to avoid hazards with soil erosion and water drainage. Clay County Governing Body (Board of Supervisors) may require other testing and safeguards such as soil testing, water testing, etc.
10. The applicant shall meet with the Clay County Weed Superintendent to discuss vegetation and noxious weed control plan, regarding the land involved in the development. A review by the Clay County Weed Superintendent will be required before the application of herbicides/chemicals.
11. The applicant shall meet with the Clay County Emergency Manager and supply the Clay County Emergency Management agency and local Fire Departments / District with a basic emergency response plan and a map showing all entry areas, shut offs, disconnects, valves, etc.

- Fencing: Due the unique security requirements of this land use, and to facilitate the educational value of seeing this land use, fencing is required and permitted up to eight (8) feet in height. The fencing material shall be predominantly open.

- All State and Federal codes and provisions not specified in this subsection are required including but not limited to tree preservation, traffic impact analysis and historic preservation.

- This subsection does not waive any requirements of any State or Federal codes, electrical codes, or other technical codes as applicable.