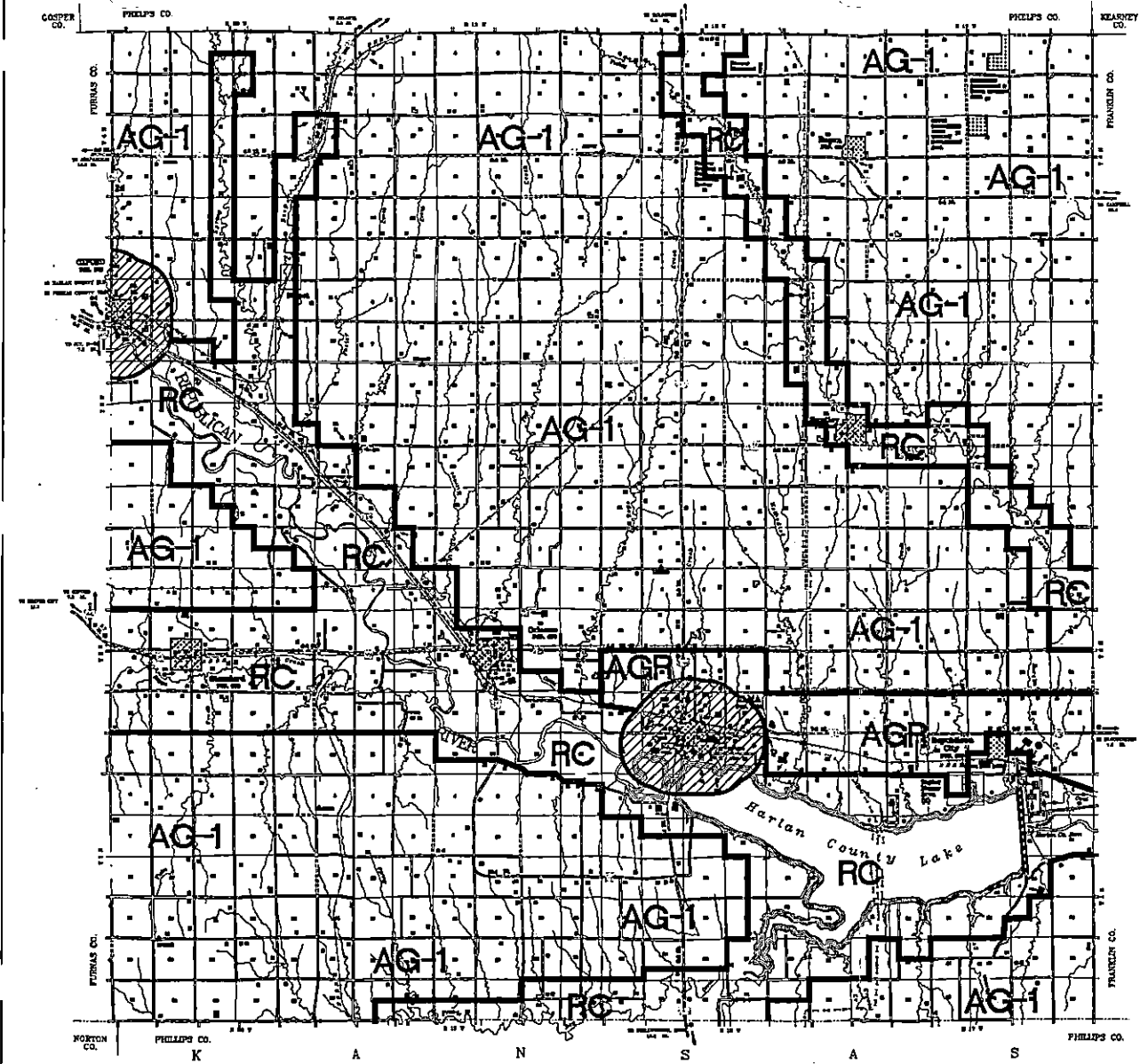


**HARLAN COUNTY,  
NEBRASKA**

**ZONING REGULATIONS  
2001**

**February 20, 2001**

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**LEGEND**

AG-1	AGRICULTURAL DISTRICT
RC	RURAL CONSERVATION DISTRICT
AGR	AGRICULTURAL RESIDENTIAL DISTRICT
HC	HIGHWAY COMMERCIAL DISTRICT
I	INDUSTRIAL DISTRICT



RESOLUTION NO. \_\_\_\_\_

BE IT RESOLVED BY THE CHAIRPERSON AND COUNTY BOARD OF SUPERVISORS OF HARLAN COUNTY, NEBRASKA:

WHEREAS; That upon said hearing held this 16th day of January 2001, the County Board of Supervisors finds that the Comprehensive Plan is adequate for the purposes prescribed by law and that the same should be approved;

BE IT FURTHER RESOLVED; That pursuant to the recommendation of the Harlan County Planning Commission for Harlan County, Nebraska, and after notice given and public hearing thereon as required by Nebraska Revised Statutes SS 23-174.06 et seq. (Reissue 1991), the Harlan County Board of Supervisors hereby adopts the Comprehensive Plan. A copy of the said document shall be kept in the office of the Harlan County Clerk.

BY ORDER OF THE CHAIRPERSON AND COUNTY BOARD OF SUPERVISORS OF HARLAN COUNTY, NEBRASKA THIS 20th DAY OF February, 2001.

ATTEST:

HARLAN COUNTY

Shirley Bailey  
County Clerk/Treasurer



Robert Roberts  
Chairperson

The foregoing resolution was presented and after discussion it was moved by Heft and seconded by Roberts that said Resolution be adopted, and upon roll call vote, the County Board of Supervisors voted as follows:

AYES: 6  
NAYS: 1  
ABSENT: 0

The Chairperson then declared said motion duly carried and said Resolution adopted this 20th day of February, 2001.

# TABLE OF CONTENTS

Page

<b>Article 1</b>	<b>General Provisions</b>	
1.1	Title .....	1
1.2	Jurisdiction .....	1
1.3	Purpose .....	1
<b>Article 2</b>	<b>Application of Regulations</b>	
2.1	General .....	2
2.2	Zoning Affects Every Building and Use .....	2
2.3	Yard and Lot Reduction Prohibited .....	2
2.4	Minimum Requirements .....	2
2.5	Nonconformities .....	3
<b>Article 3</b>	<b>General Definitions .....</b>	<b>6</b>
3.1	General Provisions .....	6
3.2	General Terminology .....	6
3.3	Definition .....	7
<b>Article 4</b>	<b>Establishment and Designation of District</b>	
4.1	Planning Commission Recommendations .....	14
4.2	Districts Created .....	14
4.3	Official Zoning Map .....	14
4.4	Rules for Interpretation of District Boundaries .....	15
4.5	Rules for Calculation of Minimum Lot Size and Yard Requirements... ..	16
4.6	Flood plain management criteria for flood-prone areas .....	16.1 – 16.7
<b>Article 5</b>	<b>Zoning Districts</b>	
5.1	AG-1 Agriculture District .....	17
5.2	RC Rural Conservation District .....	21
5.3	AGR Agriculture Residential District .....	23
5.4	HC Highway Commercial District .....	25
5.5	I Industrial District .....	27

**TABLE OF CONTENTS - continued**

		<u>Page</u>
<b>Article 6</b>	<b>Special Use Permit</b>	
6.1	General . . . . .	29
6.2	Procedures . . . . .	29
6.3	Salvage or Junk Yard . . . . .	30
6.4	Intensive Livestock Facilities/Operations . . . . .	31
<b>Article 7</b>	<b>Parking Regulations</b>	
7.1	General Provisions . . . . .	33
7.2	Off-Street Parking Requirements . . . . .	34
7.3	Off-Street Loading Requirements . . . . .	35
<b>Article 8</b>	<b>Accessory Uses</b>	
8.1	Accessory Building . . . . .	36
8.2	Home Occupations . . . . .	36
8.3	Manufactured Homes . . . . .	37
8.4	Yard Regulations . . . . .	37
8.5	Exceptions to Height Regulations . . . . .	38
8.6	Exceptions to Lot Size Requirements . . . . .	38
<b>Article 9</b>	<b>County Board of Zoning Adjustment</b>	
9.1	Creation, Membership . . . . .	39
9.2	Meetings . . . . .	39
9.3	Interpretations and Variances . . . . .	39
9.4	Procedures for Requesting a Variance . . . . .	41
9.5	Appeals from the Board of Zoning Adjustment . . . . .	41
<b>Article 10</b>	<b>Administrative Provisions, Enforcement and Fees</b>	
10.1	Enforcement . . . . .	42
10.2	Zoning Permits . . . . .	43
10.3	Certification of Occupancy Required . . . . .	44
10.4	Form of Petitions, Applications and Appeals . . . . .	45
10.5	Schedule of Fees . . . . .	45

**TABLE OF CONTENTS - continued**

Page

<b>Article 11</b>	<b>Amendment</b>	
11.1	General .....	46
11.2	Submission to Planning Commission .....	46
11.3	Amendment Consideration and Adoption .....	46
11.4	Protest .....	47
<b>Article 12</b>	<b>Complaints, Penalties, Remedies</b>	
12.1	Complaints Regarding Violations .....	48
12.2	Penalties .....	48
12.3	Remedies .....	48
<b>Article 13</b>	<b>Legal Status Provisions</b>	
13.1	Separability .....	49
13.2	Purpose of Catch Heads .....	49
13.3	Repeal of Conflicting Resolutions .....	49
13.4	Effect Date .....	49

## **ARTICLE 1**

### **GENERAL PROVISIONS**

#### **1.1 TITLE**

This Resolution shall be known, referred to, and cited as the Zoning Resolution of Harlan County in the State of Nebraska.

#### **1.2 JURISDICTION**

The provisions of this Resolution shall apply within the planning jurisdiction of Harlan County as established on the map entitled "The Official Zoning Map of Harlan County, Nebraska". The jurisdiction includes the rural and unincorporated areas of Harlan County, except for the one mile planning jurisdiction of Alma and Oxford, Nebraska.

#### **1.3 PURPOSE**

In pursuance of the authority conferred by Section 19-924-929 of Nebraska Statutes as amended, this resolution is enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of Harlan County and for implementing the Comprehensive Plan of the County.



## **ARTICLE 2**

### **APPLICATION OF REGULATIONS**

#### **2.1 GENERAL**

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

#### **2.2 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, moved or structurally altered except in conformity with all of the zoning regulations herein specified for the district in which it is located. In each and every case, a zoning permit shall be required.

#### **2.3 YARD AND LOT REDUCTION PROHIBITED**

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

#### **2.4 MINIMUM REQUIREMENTS**

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

## 2.5 NONCONFORMITIES

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

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

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

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

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

2.52 NONCONFORMING STRUCTURES

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

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

Damage of Destruction: In the event any nonconforming nonresidential structure is damaged or destroyed, by any means, to the extent of more than 60 percent of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of 60 percent or less, no repairs or restoration shall be made unless a zoning permit is obtained within six months, and restoration is actually begun one year after the date of such partial destruction and is diligently pursued to completion.

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

## 2.53 NONCONFORMING USES

**Authority to Continue:** Any lawfully existing nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use or land, may be continued, so long as otherwise lawful.

**Ordinary Repair and Maintenance:**

1. Normal maintenance and incidental repair, or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, water and/or waste disposal systems, may be performed on any structure or system that is devoted in whole or in part to a nonconforming use.
2. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety who declares such structure to be unsafe and orders its restorations to a safe condition.

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

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

**Damage or Destruction:** In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged to the extent of more than sixty (60) percent of its reasonable replacement value, the property shall conform to the zone in which it is located.

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

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

**Abandonment or Discontinuance:** When a nonconforming use is discontinued or abandoned, for a period of thirty-six (36) consecutive months, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.

**Nonconforming Accessory Uses:** No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.

## ARTICLE 3

### GENERAL DEFINITIONS

#### 3.1 GENERAL PROVISIONS

The following rules of construction shall apply unless inconsistent with the plain meaning of the context of this resolution.

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

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

3.13 SHALL AND MAY: The word "shall" is mandatory; the work "may" is permissive.

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

#### 3.2 GENERAL TERMINOLOGY

The word "County" shall mean the County of Harlan, Nebraska. The words "County Board" shall mean the Harlan County Board of Supervisors. The words "Planning Commission" shall mean the County Planning Commission of Harlan County duly appointed by the governing body of Harlan County.

Words or terms not herein defined shall have their ordinary meaning in relation to the context.

### 3.3 DEFINITION

For the purpose of this resolution certain words and terms used herein are defined as follows:

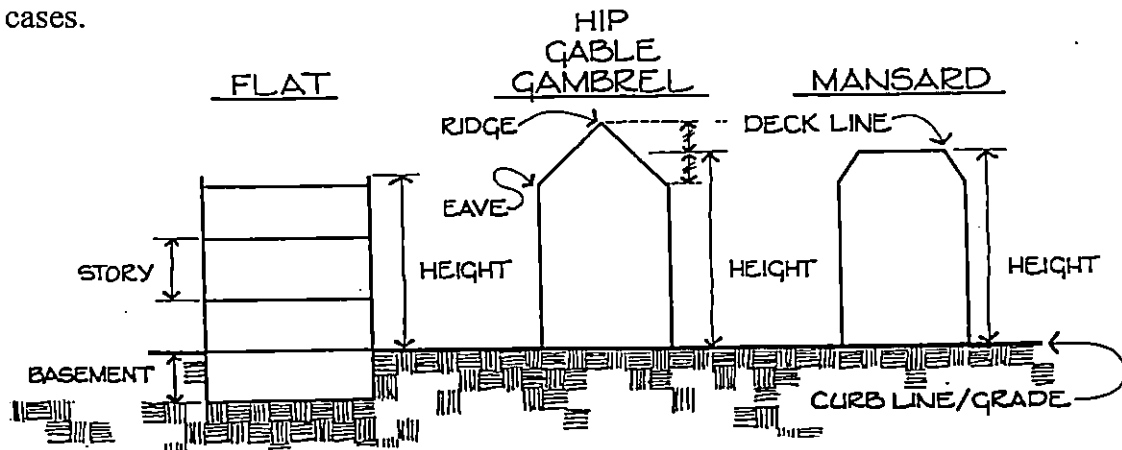
3.31 **ACCESSORY USE OF BUILDING:** A subordinate building or use which customarily is incidental to that of the main or principal building or use of the premises. Customary accessory uses include, but are not limited to, tennis courts, swimming pools, detached garages, garden houses, antenna/satellite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

3.32 **AGRICULTURAL FARM OR OPERATION:** Farm or farm operation shall mean any tract of land over 20 acres in area used for or devoted to the commercial production of farm products.

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

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

3.35 **BUILDING HEIGHT:** The vertical distance to the highest point of the roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip and gambrel roofs, measured from the curb level if the building is not more than 10 feet from the front line or from the grade in all other cases.



Source: A Survey of Zoning Definitions, (American Planning Association, 1989)

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

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

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

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

3.40 **DWELLING, SINGLE FAMILY:** A dwelling having accommodations for an occupied by one family.

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

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

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

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

3.45 **LIVESTOCK, CONFINEMENT FACILITIES/ OPERATIONS:** Shall mean any building(s), lot(s), pen(s), pool(s) or pond(s) or other confined spaces, which normally are not used for raising crops or grazing animals, which are designed and/or used for on-going confined raising, feeding or management of animals for more than 180 consecutive days, which exceed any combination of 300 animal units from the following:

Animal Units Equal:

1. (1.0 x \_\_\_\_ number of head) Slaughter and Feeder Cattle
2. (1.2 x \_\_\_\_ number of head) Cow/Calf Pairs
3. (1.4 x \_\_\_\_ number of head) Mature Dairy Cattle
4. (0.4 x \_\_\_\_ number of head) Swine, 55lbs. and over
5. (0.04x \_\_\_\_ number of head) Weaned Pigs, less than 55lbs.
6. (0.1 x \_\_\_\_ number of head) Sheep
7. (2.0 x \_\_\_\_ number of head) Horses
8. (0.01x \_\_\_\_ number of head) Chickens
9. (0.02x \_\_\_\_ number of head) Turkeys
10. (0.2 x \_\_\_\_ number of head) Ducks
11. For Immature Dairy Cattle, or those species not listed, number of animal units shall be calculated as the average weight of animals divided by 1,000 lbs., multiplied by the number of animals.

Total of item numbers 1 through 11 equaling 300 or more animal units are defined as a livestock confinement facilities/operation.

3.46 **LANDFILL:** A disposal site employing an engineering method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material overall exposed waste at the end of each operating day. Facilities must conform to State and Federal regulations.

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

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

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

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

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



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

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

3.54 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 to compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or a modular housing unit as defined in Section 71-1557 of the Nebraska Revised Statutes bearing the seal of the Department of Health and Human Service System.

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

3.56 MOBILE HOME PARK: Any area of land which one (1) or more mobile homes are parked, connected to utilities and used by one (1) or more persons for living or sleeping purposes. A mobile home parked in this area can either be placed on permanent foundation or supported only by its wheels, jacks, blocks, or skirtings or a combination of these devices. A mobile home park includes any premises set apart for supplying to the public parking space, either free of charge or for revenue purposes for one (1) or more mobile homes, connected to utilities and used by one (1) or more persons living, or sleeping purposes and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park. A mobile home park shall have adequate storm shelter.

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

3.58 **NONCONFORMING LOT OF RECORD:** A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to February 20, 2001, and neither said lot nor parcel complies with the lot width or area requirements for any permitted uses in the district in which it is located.

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

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

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

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

3.63 **RECYCLING CENTER:** A facility which accepts salvage material limited to paper, aluminum foil, containers made of glass, plastic, metal, aluminum and paper, and similar household wastes; no hazardous material as defined by State and Federal law is accepted; there is not wrecking or dismantling of salvage material and no salvage material is held outside a building.

3.64 **RECYCLING COLLECTION POINT:** A collection point for small refuse items, such as bottles, cans and newspapers, located either in a container or small structure. Deposited items must be in enclosed containers.

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

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

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

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

3.69 STREET LINE: A dividing line between a lot, tract, or parcel of land and the contiguous street. The right-of-way line of a street.

3.70 STRUCTURE: Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures and street signs.

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

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

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

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

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

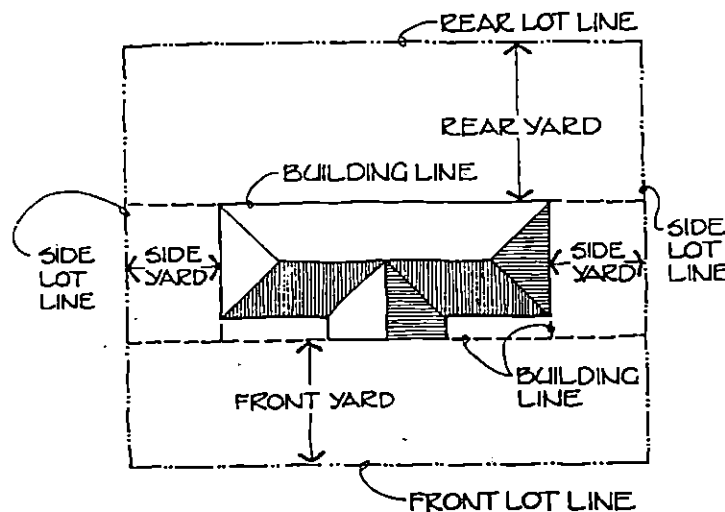
3.76 YARD, REAR: A yard extending between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot to the nearest point of the main building.

3.77 YARD, REQUIRED: The required minimum open space between the property line and the yard line. The required yard shall contain on building or structure other than the project of the usual steps, or open porches, or as otherwise provided in this resolution.

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

3.79 ZONING ADMINISTRATOR: The person duly designated by the County governing body to enforce these regulations.

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



Source: A Survey of Zoning Definitions (American Planning Association, 1989)

## ARTICLE 4

### ESTABLISHMENT AND DESIGNATION OF DISTRICTS

#### 4.1 PLANNING COMMISSION RECOMMENDATIONS

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

#### 4.2 DISTRICTS CREATED

For the purpose of this resolution, there are hereby created zoning districts for Harlan County, as named and described in Article 5 of this Resolution.

1. AG-1 - Agriculture District
2. RC Rural Conservation District
3. AGR - Agricultural Residential District
4. HC - Highway Commercial District
5. I - Industrial District

#### 4.3 OFFICIAL ZONING MAP

1. The boundaries of the district are shown upon maps, which is made a part hereof by reference, which map(s) are designated as the Harlan County Zoning Map, dated February 20, 2001, and signed by the Chairperson of the County Board and attested by the County Clerk and hereinafter referred to as the "Official Zoning Map."
2. The signed copy of the Zoning Map(s) containing the zoning districts designated at the time of adoption of this resolution shall be maintained in the offices of the County Clerk for the use and benefit of the public.
3. If in accordance with the provisions of this resolution, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map(s), such changes shall be entered on the appropriate part of the Official Zoning Map(s) promptly after the amendment has been approved by the governing body with an entry on the Official Zoning Map(s) as follows:

“On (date), by official action of the County the following change was made in the Official Zoning Map(s) (brief description of the nature of the change), “which entry shall be signed by the Chairperson of the County Board and attested by the County Clerk.”

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

4. No changes of any nature shall be made in the Official Zoning Map(s) or matter shown thereon except in conformity with the procedures set forth in this resolution.
5. In the event that the Official Zoning Map(s) become damaged, destroyed, lost or difficult to interpret, the County Board may, by resolution, adopt a new Official Zoning Map(s) which shall supersede the prior Official Zoning Map(s).

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

#### **4.4 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES**

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

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following city or village limits shall be construed as following such city or village limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

5. Boundaries indicated as parallel to or extension of features indicated in subsection 1 through 4 above shall be so construed. Distances not specifically indicated on the Official Zoning Map(s) shall be determined by the scale of the map.
6. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map(s), or in other circumstances not covered by subsection 1 through 5 above, the Board of Zoning Adjustment shall interpret the district boundaries.
7. Where a district boundary line divides a lot which was in single ownership at the time of passage of this resolution the Board of Zoning Adjustment may permit, as an exception, the extension of the regulations for either portion of the lot not to exceed one hundred and fifty (150) feet beyond the district line into the remaining portion of the lot.

#### **4.5 RULES FOR CALCULATION OF MINIMUM LOT SIZE AND YARD REQUIREMENTS**

1. If parcel is adjacent a State or Federal Aid Highway, the minimum lot area and yard requirement is measured from the highway Right-of-Way line.
2. If the parcel is adjacent a Township road/street or County road/street, the minimum lot area is measured for the centerline of the road/street Right-of-Way and the yard requirement is measured from the highway Right-of-Way line.

## COMPREHENSIVE PLAN ZONING & SUBDIVISION AMENDMENTS

### §4.6 Flood plain management criteria for flood-prone areas.

The Administrator will provide the data upon which flood plain management regulations shall be based. If the Administrator has not provided sufficient data to furnish a basis for these regulations in a particular community, the community shall obtain, review and reasonably utilize data available from other Federal, State or other sources pending receipt of data from the Administrator. However, when special flood hazard area designations and water surface elevations have been furnished by the Administrator, they shall apply. The symbols defining such special flood hazard designations are set for in §64.3 of the National Flood insurance program regulations. In all cases the minimum requirements governing the adequacy of the flood plain management regulations for flood-prone areas adopted by a particular community depend on the amount of technical data formally provided to the community by the Administrator. Minimum standards for communities are as follows:

(a) When the Administrator has not defined the special flood hazard areas within a community, has not provided water surface elevation data, and has not provided sufficient data to identify the floodway or coastal high hazard area, but the community has indicated the presence of such hazards by submitting an application to participate in the Program, the community shall:

(1) Require permits for all proposed construction or other development in the community, including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas;

(2) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

(3) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall (i) be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, (ii) be constructed with material resistant to flood damage, (iii) be constructed by methods and practices that minimize flood damages, and (iv) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(4) Review subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to assure that (i) all such proposals are consistent with the need to minimize flood damage within the flood-prone area, (ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and (iii) adequate drainage is provided to reduce exposure to flood hazards;

(5) Require within flood-prone areas new and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems; and

(6) Require within flood-prone areas (i) new and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and (ii) onsite waste disposal



## COMPREHENSIVE PLAN ZONING & SUBDIVISION AMENDMENTS

systems to be located to avoid impairment to them or contamination from them during flooding.

(b) When the Administrator has designated areas of special flood hazards (A zones) by the publications of a community's FHBM or FIRM, but has neither produced water surface elevation data nor identified a floodway or coastal high hazard area, the community shall:

(1) Require permits for all proposed construction and other developments including the placement of manufactured homes, within Zone A on the community's FHBM or FIRM;

(2) Require the application of the standards in paragraphs (a) (2), (3), (4), (5) and (6) of this section to development within Zone A on the community's FHBM or FIRM;

(3) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals base flood elevation data;

(4) Obtain, review and reasonably utilize any base flood elevations and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph (b)(3) of this section, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the community's FHBM or FIRM meet the standards in paragraphs (c)(2), (c)(3), (c)(5), (c)(6), (c)(12), (c)(14), (d)(2) and (d)(3) of this section;

(5) Where base flood elevation data are utilized, within Zone A on the community's FHBM or FIRM:

(i) Obtain the elevation (in relations to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures, and

(ii) Obtain, if the structure has been flood proofed in accordance with paragraph (c)(3)(ii) of this section, the elevation (in relation to mean sea level) to which the structure was flood proofed, and

(iii) Maintain a record of all such information with the official designated by the community under §59.22 of the National Flood insurance program regulations;

(6) Notify, in riverine situations, adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Administrator;

(7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained;

(8) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(c) When the Administrator has provided a notice of final flood elevations for one or more special flood hazard areas on the community's FIRM and, if appropriate, has designated other special flood hazard areas without base flood elevations on the community's FIRM, but has not identified a regulatory floodway or coastal high hazard area, the community shall:

## COMPREHENSIVE PLAN ZONING & SUBDIVISION AMENDMENTS

(1) Require the standards of paragraph (b) of this section within all A1-30 zones, AE zones, A zones, AH zones, and AO zones, on the community's FIRM;

(2) Require that all new construction and substantial improvements of residential structures within Zones A1-30, AE and AH zones on the community's FIRM have the lowest floor (including basement) elevated to or above the base flood level, unless the community is granted an exception by the Administrator for the allowance of basements in accordance with §60.6 of the National Flood insurance program regulations;

(3) Require that all new construction and substantial improvements of nonresidential structures within Zones A1-30, AE and AH zones on the community's FIRM (i) have the lowest floor (including basement) elevated to or above the base flood level or, (ii) together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(4) Provide that where a non-residential structure is intended to be made watertight below the base flood level, (i) a registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of paragraph (c)(3)(ii) or (c)(8)(ii) of this section, and (ii) a record of such certificates which includes the specific elevation (in relation to mean sea level) to which such structures are flood proofed shall be maintained with the official designated by the community under §59.22 of the National Flood insurance program regulations;

(5) Require for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area, subject to flooding shall be provided. The bottom of all openings shall be no higher than on foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(6) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH and AE on the community's FIRM on sites

(i) Outside of a manufactured home park or subdivision,

(ii) In a new manufactured home park or subdivision,

(iii) In an expansion to an existing manufactured home park or subdivision, or

(iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse and lateral movement.

(7) Require within any AO zone on the community's FIRM that all new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the

## COMPREHENSIVE PLAN ZONING & SUBDIVISION AMENDMENTS

depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified);

(8) Require within any AO zone on the community's FIRM that all new construction and substantial improvements of nonresidential structures (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or (ii) together with attendant utility and sanitary facilities be completely flood proofed to that level to meet the flood proofing standard specified in §60.3 of the National Flood insurance program regulations;

(9) Require within any A99 zones on a community's FIRM the standards of paragraphs (a) (1) through (a) (4) (i) and (b) (5) through (b) (9) of this section;

(10) Require until a regulatory floodway is designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combines with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(11) Require within Zones AH and AO, adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

(12) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (c)(6) of this section be elevated so that either

(i) The lowest floor of the manufactured home is at or above the base flood elevation, or

(ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

(13) Notwithstanding any other provisions of §60.3 of the National Flood insurance program regulations, a community may approve certain development in Zones A1-30, AE and AH on the community's FIRM which increase the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision, fulfills the requirements for such a revision as established under the provisions of §65.12 of the National Flood insurance program regulations, and receives the approval of the Administrator.

(14) Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

(i) Be on the site for fewer than 180 consecutive days,

(ii) Be fully licensed and ready for highway use, or

(iii) Meet the permit requirements of paragraph (b)(1) of this section and the elevation and anchoring requirements for "manufactured homes" in paragraph (c)(6) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(d) When the Administrator has provided a notice of final base flood elevations within Zones A1-30 and/or AE on the community's FIRM and, if appropriate, has

## COMPREHENSIVE PLAN ZONING & SUBDIVISION AMENDMENTS

designated AO zones, AH zones, A99 zones and A zones on the community's FIRM, and has provided data from which the community shall designate its regulatory floodway, the community shall:

- (1) Meet the requirements of paragraph (c)(1) through (14) of this section;
- (2) Select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation of that flood more than one foot at any point;
- (3) Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge;
- (4) Notwithstanding any other provisions of §60.3 of the National Flood insurance program regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision, fulfills the requirements for such revisions as established under the provisions of §65.12 of the National Flood insurance program regulations, and receives the approval of the Administrator.

(e) When the Administrator has provided a notice of final base flood elevations within Zones A1-30 and/or AE on the community's FIRM and, if appropriate, has designated AH zones, AO zones, A99 zones and A zones on the community's FIRM, and has identified on the community's FIRM coastal high hazard areas by designating Zones V1-30, VE and/or V, the community shall:

- (1) Meet the requirements of paragraphs (c)(1) through (14) of this section:
- (2) Within Zones V1-30, VE and V on a community's FIRM, (i) obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures, and whether or not such structures contain a basement, and (ii) maintain a record of all such information with the official designated by the community under §59.22 of the National Flood insurance program regulations;
- (3) Provide that all new construction within Zones V1-30, VE and V on the community's FIRM is located landward of the reach of mean high tide;
- (4) Provide that all new construction and substantial improvements in Zones V1-30 and VE, and also Zone V, if base flood elevation data is available, on the community's FIRM, are elevated on pilings and columns so that (i) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level; and (ii) the pile or column foundation and structure attached thereto is anchored to resist floatation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State and local building standards. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of paragraphs (e)(4)(i) and (ii) of this section.

## COMPREHENSIVE PLAN ZONING & SUBDIVISION AMENDMENTS

(5) Provide that all new construction and substantial improvements within Zones V1-30, VE and V on the community's FIRM have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

(i) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and,

(ii) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards.

Such enclosed space shall be useable solely for parking of vehicles, building access, or storage.

(6) Prohibit the use of fill for structural support of buildings within Zones V1-30, VE and V on the community's FIRM;

(7) Prohibit man-made alterations of sand dunes and mangrove stands within Zones V1-30, VE and V on the community's FIRM which would increase potential flood damage.

(8) Require that manufactured homes placed or substantially improved within Zones V1-30, VE and V on the community's FIRM on sites

(i) Outside of a manufactured home park or subdivision,

(ii) In a new manufactured home park or subdivision,

(iii) In an expansion to an existing manufactured home park or subdivision or

(iv) In an existing manufactured home park or subdivision on which a

manufactured home has incurred "substantial damage" as the result of a flood, meet the standards of paragraphs (e) (2) through (7) of this section and that manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within Zones V1-30, V and VE on the community's FIRM meet the requirements of paragraph (c) (12) of this section.

(9) Require that recreational vehicles placed on sites within Zones V1-30, V and VE on the community's FIRM either:

(i) Be on the site for fewer than 180 consecutive days,

(ii) Be fully licensed and ready for highway use, or

(iii) Meet the requirements in paragraphs (b) (1) and (e) (2) through (7) of this

section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(f) When the Administrator has provided a notice of final base flood elevations within Zones A1-30 or AE on the community's FIRM, and, if appropriate, has designated

## COMPREHENSIVE PLAN ZONING & SUBDIVISION AMENDMENTS

AH zones, AO zones, A99 zones and A zones on the community's FIRM, and has identified flood protection restoration areas by designating Zones AR, AR/A1-30, AR/AE, AR/AH, AR/AO or AR/A, the community shall:

(1) Meet the requirements of paragraphs (c) (1) through (14) and (d) (1) through (4) of this section.

(2) Adopt the official map or legal description of those areas within Zones AR, AR/A1-30, AR/AE, AR/AH, AR/A, or AR/AO that are designated developed areas as defined in §59.1 of the National Flood insurance program regulations in accordance with the eligibility procedures under §65.14 of the National Flood insurance program regulations.

(3) For all new construction of structures in areas within Zone AR that are designated as developed areas and in other areas within Zone AR where the AR flood depth is 5 feet or less:

(i) Determine the lower of either the AR base flood elevation or the elevation that is 3 feet above highest adjacent grade; and

(ii) Using this elevation, require the standards of paragraphs (c) (1) through (14) of this section.

(4) For all new construction of structures in those areas within Zone AR that are not designated as developed areas where the AR Flood depth is greater than 5 feet:

(i) Determine the AR base flood elevation; and

(ii) Using that elevation require the standards of paragraphs (c) (1) through (14) of this section.

(5) For all new construction of structures in areas within Zone AR/A1-30, AR/AE, AR/AH, AR/AO and AR/A:

(i) Determine the applicable elevation for Zone AR from paragraphs (a) (3) and (4) of this section;

(ii) Determine the base flood elevation or flood depth for the underlying A1-30, AE, AH, AO and A Zone; and

(iii) Using the higher elevation from paragraphs (a) (5) (i) and (ii) of this section require the standards of paragraphs (c) (1) through (14) of this section.

(6) For all substantial improvements to existing construction within Zones AR/A1-30, AR/AE, AR/AH, AR/AO and AR/A:

(i) Determine the A1-30 or AE, AH, AO or A Zone base flood elevation; and

(ii) Using this elevation apply the requirements of paragraphs (c) (1) through (14) of this section.

(7) Notify the permit applicant that the area has been designated as an AR, AR/A1-30, AR/AE, AR/AH, AR/AO, or AR/A Zone and whether the structure will be elevated or protected to or above the AR base flood elevation.

## 5.1 ZONING DISTRICTS AG- 1 AGRICULTURE DISTRICT

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

5.12 - Permitted Principal Use and Structures: The following shall be permitted as uses by right but shall require a zoning permit:

1. General farm buildings and permanent structures in accordance with article 2.2, 3.45, and 6.4;
2. Single family dwellings and one additional single/two family ranch and farm dwelling for the purpose of housing relatives or permanent agriculture workers;
3. Public uses; including fire stations, public elementary and Junior/Senior high schools, colleges, public utilities and utility distribution systems;
4. Public irrigation, flood, erosion and sediment control projects;
5. Greenhouses and garden centers;
6. Broadcast towers and stations, including Amateur Radio or land mobile towers of less than 100 feet;
7. Bed and breakfast; and
8. Churches, places of worship and cemeteries;
9. Oil storage facilities for oil wells, (tank batteries)

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

1. Accessory uses and structures normally appurtenant to the permitted use and structures permitted as special uses. (Permanent structures need a permit with a setback the same as primary structures.)
2. Home Occupation in conformance with Article 8.2. (They do not need a permit)
3. Roadside stands for the temporary sale of agriculture produce. (They do not need a permit.)

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

1. Airports and heliports including crop dusting strips;
2. Sewage treatment plants for primary and secondary treatment; public and private sanitary landfills; gravel plants and asphalt or concrete batch plants;
3. Agriculture service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services on a fee or contract basis; agricultural grain product milling and processing; commercial grain warehouses, establishments engaged in performing services such as crop dusting, fruit picking, grain cleaning, harvesting and plowing; farm equipment services and repair;
4. Broadcast towers and stations and wind generation systems, including Amateur Radio or land mobile communication towers of more than 100 feet when in conformance with the following;
  - A. Towers, including wind generating towers, shall be located a minimum distance of twice the height of the tower from adjacent dwellings or structures other than those associated with the tower facility.
  - B. Towers of 200 feet or greater in height must comply with the regulations of the Federal Aviation Administration (FAA) and submit an FAA 7460 form to the FAA Central Region Office. Towers less than 200 feet in height that break the 100 to 1 slope of the approach path of a public use airport must also submit a FAA 7460 form.
5. Public and private recreational uses, including parks and playgrounds, campgrounds and riding stables;
6. Auction/sale barns and yards;



7. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agricultural chemicals;
8. Salvage or junk yards in accordance with Section 6.3;
9. Mineral extraction, which shall include the following: sand and gravel extraction and quarries;
10. Private elementary, high schools and colleges;
11. Expansion of existing or development of new livestock confinement facilities/operations as described in Section 3.45 in accordance with Section 6.4;
12. Disposal of liquid livestock confinement facility/operation animal waste on land within Harlan County. Disposal of liquid waste shall be subject to the license requirements and waste disposal requirements and recommendations of the State of Nebraska.
13. Veterinary facilities;
14. Dog breeding establishments and kennels;
15. Manufacturing, Commercial and/or Industrial operations;
16. Hospitals, penal institutions and sanitariums;
17. Nursing and care homes;
18. Public and private, including non-profit, charitable institutions; and
19. Recreational motel-lodging.
20. Other uses and structures determined by the Planning Commission and the County Board of Supervisors to be comparable with the above stated Special uses and consistent with the intent Statement of the Zoning District.

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

#### 5.16 SINGLE FAMILY DWELLINGS:

Single family dwellings shall be in conformance with the following:

1. All single family dwellings not owned by a livestock confinement facility/operation... must be located minimum distances from existing livestock confinement facility/operation, in conformance with Section 6.4;
2. All single family dwellings shall have direct frontage on, or direct access to an improved street or road (above minimum maintenance);
3. The parcel of land upon which the single family is located must have access to a safe domestic water supply and sewage facilities. The residence must meet the standards and specifications established by the Nebraska State Departments of Health and Human Services and the Department of Environmental Quality
4. The planting line of a windbreak set back will be 25' from the property line.

#### 5.17 MINIMUM LOT REQUIREMENTS

Lot Size: 3 acres, with the placement of a maximum of two units per quarter section (160 acres), at a minimum distance of one thousand (1,000) feet between units.

Unit: A single permitted use or special permitted use.

#### 5.18 MINIMUM YARD REQUIREMENTS

Front Yard: There shall be a minimum front yard of not less than a depth of twenty-five (25) feet.

Rear Yard: No limitations; unless abutting a residential district then the minimum rear yard shall be fifteen (15) feet.

Side Yard: No limitations; unless abutting a residential district then the minimum side yard shall be ten (10) feet.

5.19 MAXIMUM HEIGHT: No limitation.

## **5.2 RC RURAL CONSERVATION DISTRICT**

5.21 INTENT: This district is intended for those areas which, because of limiting environmental characteristics such as scenic status, excessive slope, soils conditions, high water table, or other factors, require the regulation of development in keeping with the conditions imposed by the natural environment.

### **5.22 PERMITTED PRINCIPAL USES AND STRUCTURES:**

The following shall be permitted as uses by right but shall require a zoning permit.

1. General farm buildings and permanent structures in accordance with Article 2.2, 3.45, and 6.4
2. Single family dwelling and one additional single/two family ranch and farm dwellings for the purpose of housing relatives or permanent agriculture workers.
3. Oil storage facilities for oil wells (tank batteries).

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

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses. (Permanent structures need a permit with a setback the same as primary structures.)
2. Home occupations in accordance with Article 8.2 (They do not need a permit.)
3. Roadside stands for temporary sale of produce. (They do not need a permit.)

5.24 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the "RC" Rural Conservation District if a special permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Sewage disposal and water systems;
2. Public and private uses including parks, playgrounds, golf courses, recreation uses, riding stables, public utilities, and utility distribution system;
3. Flood, erosion and sediment control projects;
4. Bed and breakfast establishments;
5. Expansion of existing or development of new livestock confinement facilities/operations classified as Confinement Facility A, or Confinement Facility B in conformance with Section 6.4;
6. Disposal of liquid livestock confinement facility/operation animal waste on land within Harlan County. Disposal of liquid waste shall be subject to the license requirements and waste disposal requirements and recommendations of the State of Nebraska;
7. Mineral extraction, which shall include the following: sand and gravel extraction and quarries.

8. Other uses and structures determined by the Planning Commission and the County Board of Supervisors to be comparable with the above stated Special uses and consistent with the intent Statement of the Zoning District.

5.25 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the RC Rural Conservation District.

5.26 SINGLE FAMILY DWELLING:

Single family dwellings shall be in conformance with the following:

1. All single family dwellings not owned by a livestock confinement facility/operation must be located minimum distances from existing livestock confinement facility/operation, in conformance with Section 6.4;
2. All single family dwellings shall have direct frontage on, or direct access to an improved street or road (above minimum maintenance);
3. The parcel of land upon which the single family dwelling is located must have access to a safe domestic water supply and sewage facilities. The residence must meet the standards and specifications established by the Nebraska State Department of Health and Human Services and the Department of Environmental Quality.
4. The planting line of a windbreak set back will be 25' from the property line.

5.27 MINIMUM LOT REQUIREMENTS:

Lots Size: 3 acres, with the placement of a maximum of four units per quarter section (160 acres), at a minimum distance of one thousand (1,000) feet between units.

Unit: A single use or special permitted use.

5.28 MINIMUM YARD REQUIREMENTS: All structures first floor (ground level) shall be placed a minimum of one (1) foot above the high water mark of the 1 DO-year flood plain elevations as identified by the Flood Insurance Rate Map (FIRM) dated \_\_\_\_\_ as Special Flood Hazard Areas.

Front Yard: There shall be a minimum front yard of not less than a depth of twenty five (25) feet.

Rear Yard: No limitations; unless abutting a residential district then the minimum rear yard shall be fifteen ( 15) feet. .

Side Yard: No limitations; unless abutting a residential district then the minimum side yard shall be ten (10) feet. !

5.29 MAXIMUM HEIGHT: Thirty-five (35) feet; however, nonresidential uses shall have no height limitations.

### 5.3 AGR AGRICULTURAL RESIDENTIAL DISTRICT

5.31 INTENT: This district is intended to provide for low-density, acreage residential development in selected areas of the County, or within close proximity to the corporate limits of the Harlan County communities. Generally, these districts are located near urban and built-up areas within reasonable reach of hard surfaced roads.

5.32 PERMITTED PRINCIPLES USES AND STRUCTURES: The following shall be permitted as uses by right but shall require a zoning permit:

1. General farm buildings and permanent structures in accordance with article 2.2, 3.45, and 6.4.
2. Single-family dwelling, or mobile home, in accordance with Section 5.36.
3. Public irrigation and flood control projects;
4. Public parks and recreational areas;
5. Community Buildings.
6. Public and/or private schools and colleges
7. Churches and places of worship

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

1. Accessory uses and structures normally appurtenant to the permitted uses and structures permitted as special uses. (Permanent structures need a permit with a setback the same as primary structures.)
2. Home occupations in conformance with Article 8.2. (They do not need a permit).
3. Roadside stands for the temporary sale of agricultural produce. (They do not need a permit)

5.34 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the AGR Agricultural Residential District if a special permit for such use has been obtained in accordance with Article 6 of these regulations:

1. Agricultural service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services;
2. Disposal of liquid livestock confinement facility/operation animal waste on land within Harlan County. Disposal of liquid waste shall be subject to the license requirements and waste disposal requirements and recommendations of the State of Nebraska.
3. Cemeteries, crematories, mausoleums and columbarium;
4. Mobile home park;
5. Child care center;
6. Radio and television towers and transmitters;
7. Camp grounds;

8. Wind generating systems;
9. Commercial kennels;
10. Public and private charitable institutions;
11. Greenhouses and nurseries; and
12. Animal clinics, animal hospitals and veterinarian services.
13. Other uses and structures determined by the Planning Commission and the County Board of Supervisors to be comparable with the above stated Special uses and consistent with the intent statement of the Zoning District.

5.35 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from AGR Agricultural Residential District.

5.36 SINGLE FAMILY DWELLINGS:

Single family dwellings shall be in conformance with the following:

1. All single family dwellings not owned by a livestock confinement facility/operation must be located minimum distances from an existing livestock confinement facility/operation, in conformance with Section 6.4;
2. All single family dwellings shall have direct frontage on, or direct access to an improved street or road (above minimum maintenance);
3. The parcel of land upon which the single family dwelling is located must, have access to a safe domestic water supply and sewage facilities. The residence must meet the standards and specifications established by the Nebraska State Departments of Health and Human Services and the Department of Environmental Quality
4. Existing parcels of ten (10) acres or more not previously subdivided as of the effective date of this ordinance (February 20,2001) can be subdivided into smaller parcels, in accordance with State of Nebraska Department of Environmental Quality Title 124 and/or with a shared or "community" drinking water and/or sewage system, the minimum lot area may be reduced to one and one-half (1.5 ) acre.
5. The planting line of a windbreak set back will be 25' from the property line.

5.37 MINIMUM LOT REQUIREMENTS:

Lot Size: 3 acres- When a parcel is subdivided into a lot smaller than 3 acres the owner/developer may request a reduction in lot size as a provision of Section 5.36-4

5.38 MINIMUM YARD REQUIREMENTS

Front Yard: There shall be a minimum front yard of not less than a depth of twenty-five (25) feet

Rear Yard: fifteen (15) feet

Side Yard: ten (10) feet

5.39 MAXIMUM HEIGHT: Thirty-five (35'); however, non-residential structures shall have no height limitations.

## 5.4 HC HIGHWAY COMMERCIAL DISTRICT

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

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

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

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

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

5.44 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the HC Highway Commercial District if a special use permit for such use has been obtained in accordance with Article 6 of these regulations.

1. Private clubs and lodges;
2. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agriculture chemicals;
3. Radio studios, transmitters and antenna;
4. Recycling centers; and
5. Single Family Homes.



5.45 SCREENING REQUIREMENTS:

1. Where a site adjoins or is located across an alley from the Residential District, a solid wall or fence or compact evergreen hedge six (6) feet in height may be required on the property line common to such districts, except in a required front yard.
2. Open storage of materials attendant to a permitted use or special permit use shall be permitted only within an area surrounded or screened by a solid wall or fence.

5.46 PROHIBITED USES: All other uses and structures which are not specifically permitted or permissible as special uses shall be prohibited from the HC Highway Commercial District.

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

1. General Requirements:

	<u>Minimum Lot Area (Sq. Ft.)</u>	<u>Lot Width</u>	<u>Required Front Yard</u>	<u>Required Side Yard</u>	<u>Required Rear Yard</u>	<u>Height</u>
Permitted Uses	none	50'	25'	7'	20'	35'

5.48 PARKING REGULATIONS:

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

## 5.5 I INDUSTRIAL DISTRICT

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

### 5.52 PERMITTED PRINCIPAL USES AND STRUCTURES:

1. Animal hospitals;
2. Automobile sales and services;
3. Automotive wash facilities;
4. Bottling works;
5. Building material sales and ready-mix concrete plants;
6. Carpenter, cabinet, plumbing or sheet metal shops;
7. Carpet and rug cleaning and repair services;
8. Disinfecting and exterminating services;
9. Dry cleaning, laundering and dyeing services;
10. Dyeing and finishing of textiles;
11. Educational and scientific research services;
12. Electrical sales and services;
13. Equipment rental and leasing services;
14. Farm machinery and equipment - retail;
15. Farm supplies - retail;
16. Feeds, grains and hay - retail;
17. Food lockers and storage services;
18. Freight forwarding services;
19. Furniture repair and reupholster services;
20. Fur trading services;
21. Garden centers and nurseries;
22. Gas utility maintenance yard;
23. Light manufacturing operation;
24. Landscape sales and services;
25. Mobile and modular home sales and manufacturing;
26. Newspaper publishing plants and commercial printing;
27. Photoengraving;
28. Photo finishing services;
29. Public utility and public service uses;
30. Radios, televisions, phonographs, recorders, tape players and other similar devices repair services;
31. Service stations;
32. Stores or shops for the sale of industry goods at retail;
33. Telephone services;
34. Transportation warehousing;
35. Truck wash services;
36. Veterinarian services;

37. Warehousing and storage except for products of a highly explosive, combustible or volatile nature;
38. Wholesale establishments except those which handle products of a highly explosive, combustible or volatile nature; and
39. Mini-warehouse

5.53 PERMITTED ACCESSORY USES: Accessory uses and structures normally appurtenant to permitted uses and structures.

5.54 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the I Industrial District if a special permit for such use has been obtained in accordance with Article 6 of this Resolution.

1. Salvage or junk yard in accordance with Section 6.3;
2. Recycling center;
3. Mineral extraction, which shall include the following:  
oil wells, sand and gravel extraction and strip mine operations and quarries;
4. Airport;
5. Agricultural processing or milling, such as but not limited to ethanol production facilities; and
6. Manufacturing and basic industrial processing facilities not meeting the definition of Light Manufacturing in Section 3.47.

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

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

1. General Requirements:

	<u>Minimum Lot Area (Sq. Ft.)</u>	<u>Lot Width</u>	<u>Required Front Yard</u>	<u>Required Side Yard</u>	<u>Required Rear Yard</u>	<u>Height</u>
Permitted Uses	None	100'	25'	0', or 10' when abutting a residential district	15'	None

5.57 PARKING REGULATIONS: Parking within the I Industrial District shall be in conformance with the provisions of Article 7 of this Resolution.

## ARTICLE 6

### SPECIAL USE PERMIT

#### 6.1 GENERAL

The County Board may authorize by special permit after public hearing, any of the buildings or uses designated in this resolution as permitted special uses.

#### 6.2 PROCEDURES

Such application shall be in writing, filed in the Office of the County Clerk, state the proposed location and use of the property, and such other relevant matters as may be requested by the County Board. Upon receipt of such application, the Zoning Administrator shall forward the application to the Planning Commission for its recommendation. Upon hearing, the Planning Commission shall forward its recommendation to the County Board, within thirty (30) days. Upon hearing, the County Board may allow or deny the application in whole or in part, or prescribe conditions for such use of the property. No special use permit shall become effective until after separate public hearings are held by both the Planning Commission and the County Board in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the purpose, time, and place of such hearing shall be given by publication thereof in a paper of general circulation in the County and in the local newspaper of any county/village/city which has territory within three miles of the property affected by such action of the County Board, one time at least ten days prior to such hearing. (Ref. 23-164 R.S. Neb.).

In addition to the publication of the notice herein prescribed, a notice, in sign form, of the hearing shall be posted in a conspicuous place on or near the property on which such action is pending. The sign shall be placed at least ten (10) days prior to date of each hearing. A notice of the purpose, time, and place of the hearing shall be given in writing to the Chairperson of any municipality, county, or joint Planning Commission which has jurisdiction over land within three miles of the property affected by such action. In the absence of a Planning Commission, such notice shall be given to the clerks of units of local government having jurisdiction over land within three miles of the property affected by such action. A written notice of such hearing shall be distributed to record title owners of property located within one hundred (100) feet of the property line of the property requesting the special use permit in incorporated areas and within one (1) mile of the property line of the property requesting the special use permit in unincorporated areas.

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

1. Be compatible with and similar to the use permitted in the district, and
2. Not be a matter which should require re-zoning of the property, and
3. Not be detrimental to adjacent property, and
4. Not tend to depreciate the value of the surrounding structures or property, and
5. Be compatible with the stated intended use of the district, and
6. Not change the character of the district, and
7. Be in accordance with the Comprehensive Plan.

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

### **6.3 SALVAGE OR JUNK YARD**

Salvage or junk yard operations and related facilities shall only be allowed by special permit in the AG and I Zoning Districts under the following conditions:

1. Located on a tract of land at least one (1) mile from a residential or agricultural farm residence.
2. The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a visual obscuring fence, wall or hedge. The fence, wall or hedge shall be of uniform height (at least eight (8) feet high) and uniform texture and color shall be so maintained by the proprietor as to insure maximum safety to the public and preserve the general welfare of the neighborhood. The fence, wall or hedge shall be installed in such a manner as to retain all scrap, junk or other material within the yard and no scrap, junk or other material shall protrude above the fence.

3. No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge fence or wall, or within the public right-of-way.
4. Any other requirement deemed appropriate and necessary by the County Board for the protection of the general health and welfare.
5. Special use permits granted under this section may be subject to annual review and renewal by the County Board.

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

**6.4 LIVESTOCK CONFINEMENT FACILITIES/OPERATIONS**

Livestock confinement facilities/operations defined as such by Section 3.45 shall only be allowed by special permit in the AG-1 Agricultural District and the RC Rural Conservation District under the following conditions:

1. Distance requirements:  
Any new or expanding livestock facilities/operations whether of industrial size or not, as defined in Section 3.45, shall either be: (1) a minimum distance from any residence, commercial or industrial facility, or church, school or any other facility operated and/or utilized by the general public other than the residence of the confinement facilities/operations owner and/or operator, or (2) have signed letters of agreement from adjacent property owners supporting the proposed expansion or development of new livestock facilities/ operations .

Expansion of an existing livestock facility/operation is defined as such when capacity of the facility is increased to the point where the total animal units is defined as a larger class. See minimum distance requirements in the following table.

	<b>MINIMUM DISTANCE REQUIREMENTS</b>		
	<u>Confinement Facility</u>	<u>Confinement Facility</u>	<u>Confinement Facility</u>
	<u>A</u>	<u>B</u>	<u>C</u>
Total Animal Units Allowed (Section 3.45)	300 to 1,000	1,001 to 2,500	2,501 and above
Minimum ) Distance	½ mile	¾ Mile	1 Mile

2. Facility with a lagoon (not including storm water run-off catch basin lagoons) located on a tract of land at least one (1) mile from any residence or commercial or industrial facility , or church or school, or any other facility operated and/or utilized by the general public other than the residence of the confinement facilities/operations owner and/or operator. However, the minimum distance may be increased as determined by the County Board.
3. A management plan for the facility, acceptable to the Nebraska Department of Environmental Quality and the County Board, which provides for the proper disposal of animal waste and dead animals in a manner as not to contaminate ground water or any stream, creek or river and minimizes odor .
4. Any other requirement deemed appropriate and necessary by the County Board for the protection of the general health and welfare.
5. Special use permits granted under this section may be subject to review by the County Board if not in compliance with DED regulations.
6. Disposal of livestock confinement facility/operation animal waste shall be in conformance with the following:
  - A. Disposal of any livestock confinement facility/operation animal waste on land within Harlan County other than on the property upon which the livestock confinement facility/operation is located, shall be subject to the license requirements and waste disposal requirements and recommendations of the State of Nebraska.
  - B. No livestock waste disposal shall be closer than thirteen hundred and twenty (1,320) feet to an adjacent residence without a written letter of agreement from the property owner of the residence.
  - C. There shall be no storage, or disposal, of livestock waste from a livestock confinement facility/operation upon land designated as wetlands by the United States Department of Agriculture, Farm Services Commission.
  - D. No confinement animal facility operation located in a state or county bordering Harlan County shall apply all or a portion of their animal waste and/or animal waste water on land located in Harlan County, Nebraska – unless a special use permit is granted and it shall be subject to the same rules as confinement animal facilities operations animal facilities operations animal waste located in Harlan County.

## ARTICLE 7

### PARKING REGULATIONS

#### 7.1 GENERAL PROVISIONS

1. All buildings and structures erected and all uses of land in all districts established after the effective date of this Ordinance shall provide accessory parking and loading facilities as required under this section.
2. All off-street parking spaces required by this Ordinance shall be located on the same lots as the use it serves.
3. Owners of two or more uses or parcels of land may agree to jointly utilize the same parking spaces provided that satisfactory legal evidence is presented in the form of deeds, leases, or contract documents to establish such a joint area of use.
4. All yard area including driveways, except the required front yard for residential uses may be used for off-street parking. Garages and driveways may be considered as off-street parking spaces.
5. A plan, drawn to scale, indicated how the off-street parking and loading requirements are to be met, shall accompany an application for a zoning permit. The plan shall show all elements necessary to indicate that the requirements are being fulfilled.



## 7.2 OFF-STREET PARKING REQUIREMENTS

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

<u>Use</u>	<u>Minimum Number of Parking Spaces</u>
1. Residential	
Single family, two-family dwelling	1 per dwelling unit
Multifamily	
Efficiency and one-bedroom	1 per dwelling unit
Two-bedrooms	1 ½ per dwelling unit
Three or more bedrooms	2 per dwelling unit
2. Mobile Trailer Park	1 per trailer unit
3. Hotel and Motel	1 per rental unit plus 1 for every 4 employees
4. Hospitals, nursing homes, rest homes, or similar uses	1 for every 2 ½ patient beds and 1 for each staff and employee on the largest shift
5. Places of public assembly such as auditoriums, theaters, stadiums, community halls, churches, etc.	1 for every four persons
6. Bowling Alley	2 for each individual lane or alley
7. Retails sales department stores, restaurants, taverns, grocery stores, etc.	1 per 200 square feet of floor area as determined by exterior wall dimensions
8. Professional office establishments	1 per 500 square feet of floor area as determined by exterior wall dimensions
9. Manufacturing, wholesale warehouse and similar uses	1 for every 2 employees on the largest working shift

### 7.3 OFF-STREET LOADING REQUIREMENTS

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

	<u>Number</u>	<u>Loading Area</u>	<u>Gross Floor Area</u>
1.	One	500 square feet	For every 5,000 to 20,000 square feet
2.	One	500 square feet	For every 20,000 square feet or fraction thereof

## ARTICLE 8

### ACCESSORY USES

#### 8.1 ACCESSORY BUILDING

Buildings and structures may be erected and land may be used for purposes which are clearly incidental to, and customarily and commonly associated with the main permitted use of the premises. Such accessory buildings and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthful, or disturbing to adjacent property, or the users thereof, and shall be on the premises of the main use.

Permanent Accessory buildings and structures shall have a minimum set back the same as the primary building.

#### 8.2 HOME OCCUPATIONS

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

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

- a. The primary use of the building or structure in which the occupation is situated shall clearly be the dwelling used by the person as his private residence.
- b. No equipment or machinery shall be used in such activities that is perceptible off the premises by reason of noise, smoke, odor, dust, radiation, electrical interference or vibration. Parking shall be handled in such a manner as to not impede or hinder traffic on any public right of way.

**8.3 MANUFACTURED HOMES:** All manufactured homes located outside mobile home parks shall meet the following standards:

- 8.31 The home shall have no less than nine hundred (900) square feet of floor area.
- 8.32 The home shall have no less than an eighteen (18) foot exterior width.
- 8.33 The roof shall be pitched with a minimum vertical rise of two and one-half (2 ½) inches for each twelve (12) inches of horizontal run.
- 8.34 The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single family construction.
- 8.35 The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile or rock.
- 8.36 The home shall have wheels, axles, transporting lights and removable towing apparatus removed.
- 8.37 Nothing in this Article shall be deemed to supersede any valid restrictive covenants of record.
- 8.38 The home must meet building code requirements adopted by the County.

**8.4 YARD REGULATIONS:**

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

Where forty percent (40%) or more of the frontage on one side of a street between two intersecting streets is developed and the buildings on this side of a block have observed a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the average front yard so established by the existing buildings provided that no building shall be required to have a front yard setback of more than fifty (50) feet.

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

8.42 **STRUCTURAL PROJECTIONS:** The ordinary projections of chimneys and flues, buttresses, eaves, overhangs, open-unenclosed steps or stoops up to 5' in height may extend into required yards for a distance of not more than two (2) feet in the required side yard and not more than five (5) feet in the required front yard.

8.5 **EXCEPTIONS TO HEIGHT REGULATIONS:** The height limitations contained in the Schedule of District Regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy and agricultural structures.

8.6 **EXCEPTIONS TO LOT SIZE REQUIREMENTS:** If, at the time of passage of this article, a lot or the aggregate of contiguous lots or land parcels held in a single ownership, has an area or dimension which does not meet the lot size requirements of the district in which the property is located, the lot or aggregate holdings may be occupied by any use permitted outright in the district subject to the other requirements of the district.

## ARTICLE 9

### COUNTY BOARD OF ZONING ADJUSTMENT

#### 9.1 CREATION, MEMBERSHIP

The County Board of Zoning Adjustment is hereby created and shall be known as the County Board of Zoning Adjustment. The members of said board shall be appointed by the County Board.

One (1) member only of said board shall be appointed from 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 County Board of Zoning Adjustment.

Said board shall consist of five regular members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three (3) years and removable for cause by the County Board upon written charges and after public hearings. Vacancies shall be filled for the unexpired terms of any member whose terms becomes vacant. (Ref. 23-168.01 RS. Neb)

#### 9.2 MEETINGS

Meetings of the Board of Zoning Adjustment shall be held at the call of the chairperson and at such times as the Board may determine. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the county clerk and shall be a public record.

#### 9.3 INTERPRETATIONS AND VARIANCES

9.31 The Board of Adjustment shall, subject to appropriate conditions and safeguards as specified in these regulations, have the following powers (Ref. 23-168.03 R.S. Neb.):

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or Planning Commission based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures;

2. To hear and decide, in accordance with the provisions of any regulation, requests for interpretation of any maps, or for decisions upon other special questions upon which the Board is authorized by any such regulation to pass; and
3. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of adoption of the Zoning Resolution, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize, upon appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardships, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of these zoning regulations, but no such variance shall be authorized unless the Board finds that:
  - a. The strict application of the regulation would produce undue hardship;
  - b. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
  - c. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
  - d. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.

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

9.33 In exercising the above-mentioned powers such Board may, in conformity with the provisions of said sections, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as shall be proper, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.

#### **9.4 PROCEDURES FOR REQUESTING A VARIANCE**

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

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

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

#### **9.5 APPEALS FROM THE BOARD OF ZONING ADJUSTMENT**

Any person or persons, jointly or separately, aggrieved by any decision of the Board of Zoning Adjustment, or any officer, departments, board or bureau of the County, may seek review of such decision by the district court for the County in the manner provided by the laws of the State and particularly by Section 23-168.04.



## ARTICLE 10

### ADMINISTRATIVE PROVISIONS, ENFORCEMENT AND FEES

#### 10.1 ENFORCEMENT

10.11 ZONING ADMINISTRATOR. This resolution shall be enforced and administered by a zoning administrator who shall be appointed by the County Board and who may be provided with the assistance of such other persons as the County Board may direct in order to carry out the following duties and responsibilities:

1. Approve and issue all zoning permits and occupancy certificates when compliance is made with this resolution.
2. Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of this resolution.
3. Receive, file and forward to the County Board of Zoning Adjustment the records in all appeals for variances.
4. Maintain permanent and current records of the Zoning Resolution including but not limited to, all zoning maps, amendments, special use permits, variances, appeals and applications thereof and records of hearings thereon.
5. Prepare and have available in book, pamphlet or map for each year.
  - a. The compiled text of the Zoning Resolution and amendments thereto, including all amendments adopted through the preceding December 31; and
  - b. A zoning map or maps, showing the zoning districts, divisions classifications in effect on the preceding December 31.
6. Whenever the Zoning Administrator shall find that any of the provisions of this resolution have been or are being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He/she may order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings, structures or additions or alterations thereto; discontinuance of any illegal work being done; or take any other appropriate action authorized by this resolution to insure compliance with, or to prevent violation of, its provisions.

## 10.2 ZONING PERMITS

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

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

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

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

10.25 NOT REQUIRED. Building permits are not required for buildings utilized for agricultural purposes on a farmstead of twenty acres or more which produces one thousand dollars or more of farm products each year. (R.S. Neb. 23-114.03)

10.26 ZONING PERMITS. Zoning permits are required for all buildings and the use of land, both agricultural and non-agricultural.

### **10.3 CERTIFICATION OF OCCUPANCY REQUIRED**

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

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

10.33 APPLICATION FOR CERTIFICATE OF OCCUPANCY. All applications for certificate of occupancy shall be made by the owner or his agent and shall be accompanied by an affidavit of the owner, registered architect, licensed professional engineer, or superintendent of construction who shall state that he has examined the approved plans of the structure, that said structure has been erected in accordance with the approved plans and that it complies with this resolution and all local code and resolutions governing building construction, including subdivision regulations. The application and affidavit shall be filed with the Zoning Administrator.

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

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

## **10.4 FORM OF PETITIONS, APPLICATIONS AND APPEALS**

10.41 A verbal decision by the Zoning Administrator except in the cases of building, occupancy shall be the primary instrument for administering compliance with this resolution.

## **10.5 SCHEDULE OF FEES**

10.51 The schedule of fees shall be established for this Zoning Resolution to cover costs of administration by the County Board.

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

## ARTICLE 11

### AMENDMENT

#### 11.1 GENERAL

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

#### 11.2 SUBMISSION TO PLANNING COMMISSION

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

If such proposed amendment is not a general revision of an existing provision of this resolution, and will affect specific property, it shall be designated by legal description and general street location and in addition to such publication notice, written notice of such proposed amendment shall be mailed to all owners of lands located within three hundred (300) feet of the area proposed to be altered in incorporated areas and two (2) miles in unincorporated areas and an opportunity granted to interested parties to be heard.

#### 11.3 AMENDMENT CONSIDERATION AND ADOPTION

The procedure for the consideration and adoption of any such proposed amendments shall be in like manner as that required for the consideration and adoption of the resolution except herein before or herein after modified. For action on zoning amendments, a quorum of the Planning Commission is more than one-half ( $\frac{1}{2}$ ) of all the members. A vote either for or against an amendment by a majority of all the Planning Commission members present constitutes a recommendation of the commission; whereas a vote either for or against an amendment by less than a majority of the Planning Commission present constitutes a failure to recommend.

When the Planning Commission submits a recommendation of approval or disapproval of such amendment, the County Board, if it approves such recommendation, may either adopt such recommendation by resolution or take no further action thereof as appropriate. In the event the Planning Commission submits a failure to recommend, the County Board may take such action as it deems appropriate. Upon receipt of a recommendation of the Planning Commission which the County Board disapproves, the said governing body shall return such recommendation to the Planning Commission with a statement specifying the basis for disapproval, and such recommendation shall be considered in like manner as that required for the original recommendation returned to the Planning Commission. If such amendment shall affect the boundaries of any district, the resolution shall define the change or the boundary as amended, shall order the Official Zoning Map(s) to be changed to reflect such amendment, and shall amend the section of the resolution incorporating the same and reincorporate such Map as amended.

#### **11.4 PROTEST**

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

## **ARTICLE 12**

### **COMPLAINTS, PENALTIES, REMEDIES**

#### **12.1 COMPLAINTS REGARDING VIOLATIONS**

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

#### **12.2 PENALTIES**

The owner or agent of a building or premises in or upon which a violation of any provisions of this resolution has been committed or shall exist or lessee or tenant of an entire building or entire premises in or upon which such violation shall exist, shall be guilty of a Class III misdemeanor. Each and every day that such violation continues after notification shall constitute a separate offense.

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

#### **12.3 REMEDIES**

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

## **ARTICLE 13**

### **LEGAL STATUS PROVISIONS**

#### **13.1 SEPARABILITY**

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

#### **13.2 PURPOSE OF CATCH HEADS**

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

#### **13.3 REPEAL OF CONFLICTING RESOLUTIONS**

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

#### **13.4 EFFECT DATE**

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