



Hall County Regional Planning Commission

**Wednesday, August 4, 2021
Regular Meeting**

Item F1

**Public Hearing - Readoption of the Alda Zoning Ordinance -
Doniphan - Public Hearing to re-adopt the Village of Alda Zoning
Ordinance, with proposed changes. (C-19-2021A)**

Staff Contact:

Agenda Item #5

PLANNING DIRECTOR RECOMMENDATION TO REGIONAL PLANNING COMMISSION:

July 20, 2021

SUBJECT:

Zoning Regulations Alda, Nebraska. (C-19-2021A)

PROPOSAL:

The Village of Alda has reviewed proposed changes to the Alda Zoning regulations, as proposed by planning department staff, and requested that the Regional Planning Commission review the Alda Zoning regulations and make recommendations on the potential changes. These proposed changes are based on similar changes approved by the Village of Doniphan in January of 2021.

OVERVIEW:

Staff reviewed conducted a general review of other sections. The proposed changes can be found in the attached ordinance. Staff is suggesting that the Village readopt the zoning regulations as a complete package not just amending portions of the ordinance. Proposed changes are shown in red. Underline and italics indicate new language, ~~strike through~~ indicates language to be removed or replaced.

As part of that review some definitions were changed or moved. This includes adding the group home definitions that were recommended in 2017. All abbreviations for zoning districts were reviewed for consistency across the document.

Staff is suggesting adding language to the non-conforming uses section to allow the Village Board to grant an extension or rebuilding of a non-conforming use in certain circumstances. This provision is in the Grand Island and Hall County regulations.

Minor changes were made to add clarification to the fee schedule section.

Setbacks were compared to the regulation that were in place prior to the adoption of this set of regulations in December 2003 and reset to those for similar zoning districts. In addition notes were added where necessary to provide clarification on the setback tables. Accessory structures were limited to 50% of the allowable coverage for each district. Section 5.14 a table with all of the Lot and Area Requirements for the districts has been eliminated from the document to avoid confusion in case a change is made within the district but not on the table. A similar table for quick reference can be provided with the regulation without being part of the regulation.

Density limitations were added to the multifamily dwellings permitted in the R-3 zoning district.

The General Commercial GC and Downtown Commercial BGC district were amended to allow residential uses and professional trades including assembly and fabrication accessory to such uses.

The Sign Schedule was amended to allow more signage in a manner similar to the regulations in Grand Island.

Article 8 Flood Plain Regulations was updated to the 2017 model ordinance recommend by the Nebraska Department of Natural Resources and submitted to them for review and approval. These will meet the latest requirements by the State of Nebraska and FEMA for compliance with the laws regarding flood plain management and eligibility to participate in the National Flood Insurance Program.

RECOMMENDATION:

That the Regional Planning Commission recommends that Village Board **approve** of the zoning regulations as submitted.

_____ Chad Nabity AICP, Planning Director

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ARTICLE 1: TITLE AND PURPOSE

Section 1.01 Title

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

Section 1.02 Purpose

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

ARTICLE 2: DEFINITIONS

Section 2.01 Rules

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

- 2.01.01 Words and numbers used singularly shall include the plural. Words and numbers used in the plural shall include the singular. Words used in the present tense shall include the future.
- 2.01.02 The word "persons" includes a corporation, members of a partnership or other business organization, a committee, board, Board, commission, trustee, receiver, agent or other representative.
- 2.01.03 The word "shall" is mandatory. The word "may" is permissive.
- 2.01.04 The words "use", "used", "occupy" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged" or "designed" to be used or occupied.
- 2.01.05 The word "commission" shall refer to the Hall County Regional Planning Commission.
- 2.01.06 Undefined words or terms not herein defined shall have their ordinary meaning in relation to the context.

Section 2.02 Definitions

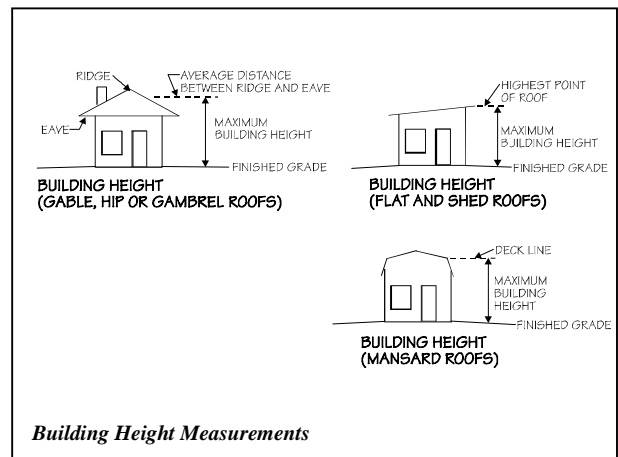
- 2.02.01 **ABANDONMENT** shall mean to cease or discontinue a use or activity without intent to resume as distinguished from short term interruptions such as during periods of remodeling, maintenance, or normal periods of vacation or seasonal closure.
- 2.02.02 **ABUT, ABUTTING** shall mean to border on, be contiguous with or have common property or district lines, including property separated by an alley
- 2.02.03 **ACCESS OR ACCESS WAY** shall mean the place, means, or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by this Regulation.
- 2.02.04 **ACCESSORY LIVING QUARTERS** shall mean living quarters within an accessory building located on the same premises with the main building, for use by temporary guests of the occupant of the premises, such quarters having no kitchen facilities and not rented or otherwise used as a separate dwelling unit.
- 2.02.05 **ACCESSORY STRUCTURE** shall mean a detached subordinate structure or building located on the same lot with the principal structure, the use of which is incidental and accessory to that of the principal structure. Customary accessory structures include farm buildings, garages, carports, and storage sheds.
- 2.02.06 **ACCESSORY USE** shall mean a use incidental, related, appropriate and clearly subordinate to the main use of the lot or building, which accessory use does not alter the principal use of the subject lot or affect other properties in the district.
- 2.02.07 **ACREAGE** shall mean any tract or parcel of land in an agricultural district that does not qualify as a farm or development.
- 2.02.08 **ADJACENT** shall mean near, close, or abutting; for example, an Industrial District across the street or highway from a Residential District shall be considered as "Adjacent".
- 2.02.09 **ADULT ESTABLISHMENT** shall mean any business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas," including, but without limitation, adult bookstores, adult companionship establishments, adult motion picture theaters, adult saunas, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, and adult body painting studios.

1. **ADULT BOOKSTORE** shall mean a bookstore that offers its customers books, movies, or other novelty items characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas."
 2. **ADULT COMPANIONSHIP ESTABLISHMENT** shall mean an establishment which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
 3. **ADULT HOTEL OR MOTEL** shall mean a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."
 4. **ADULT MASSAGE PARLOR, ADULT HEALTH CLUB** shall mean a massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
 5. **ADULT MINI-MOTION PICTURE THEATER** shall mean a business premises within an enclosed building with a capacity for less than fifty (50) persons used for presenting visual-media material if such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
 6. **ADULT MOTION PICTURE ARCADE** shall mean any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motor picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."
 7. **ADULT MOTION PICTURE THEATERS** shall mean a business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
 8. **ADULT NOVELTY BUSINESS** shall mean a business that has as a principal activity the sale of devices that simulate human genitals or devices that are designed for sexual stimulation.
 9. **ADULT SAUNA** shall mean a sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- 2.02.10 **ADVERTISING STRUCTURE, ON-SITE** shall mean any structure used as an outdoor display, regardless of size or shape, for the purpose of making anything known, the origin or place of sale of which is on the property with such structure.
- 2.02.11 **ADVERTISING STRUCTURE, OFF-SITE** shall mean any structure used as an outdoor display, regardless of size or shape, for the purpose of making anything known, the origin or place of sale of which is not on the property with such structure.

- 2.02.12 **AGRICULTURAL BUILDINGS** shall mean any building or structure which is necessary or incidental to the normal conduct of a farming operation, including but not limited to, barns, buildings and sheds for housing livestock, poultry and farm machinery, buildings for the storage or shelter of grain, hay and other crops, silos, windmills and water storage tanks. Residential buildings on a farming operation are subject to building codes as adapted for residential structures.
- 2.02.13 **AGRICULTURE** shall mean the use of land for agricultural purposes, for obtaining a profit by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products, or any other agricultural or horticultural use. Agricultural use shall not be construed to include any parcel of land of less than twenty acres or any non-agricultural commercial or industrial development.
- 2.02.14 **ALLEY** shall mean a minor public service street or public thoroughfare twenty feet (20') or less in width, running through a block of lots primarily for vehicular service access to the rear or side of properties otherwise abutting on another street. Buildings facing an alley shall not be construed as satisfying the requirements of this regulation related to frontage on a dedicated street.
- 2.02.15 **ALTERATION** shall mean any change, addition or modification to the construction or occupancy of an existing structure.
- 2.02.16 **AMENDMENT** shall mean a change in the wording, context, or substance of this Regulation, or an addition, deletion or change in the district boundaries or classifications upon the Official Zoning Map.
- 2.02.17 **AMUSEMENT ARCADE** shall mean a building or a part of a building where five or more pinball machines, video games, or other similar player-orientated amusement devices are available and are maintained for use.
- 2.02.18 **ANIMAL HOSPITAL** shall mean a place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.
- 2.02.19 **ANIMAL, DOMESTIC** (see Household Pet).
- 2.02.20 **ANTENNA** shall mean any attached or external system of wires, poles, rods, reflecting disks or similar devices used for the transmission or reception of electromagnetic waves. (Also, see Satellite Dish Antenna and Tower.)
- 2.02.21 **ANTIQUE SHOPS** shall mean a place offering primarily antiques for sale. An antique for the purpose of this ordinance shall be a work of art, piece of furniture, decorative object, or the like, belonging to the past, at least 30 years old.
- 2.02.22 **APARTMENT** shall mean a room or a suite of rooms within an apartment house or multiple family dwelling arranged, intended or designed for a place of residence of a single family or group of individuals living together as a single housekeeping unit. (Also, see Dwelling Unit.)
- 2.02.23 **APARTMENT HOUSE** (see Dwelling, Multiple Family)
- 2.02.24 **APPROPRIATE** shall mean fitting the context of the site and the whole community.
- 2.02.25 **APPURTENANCES** shall mean the visible, functional objects accessory to and part of buildings.
- 2.02.26 **ARTISAN PRODUCTION SHOP** shall mean a building or portion thereof used for the creation of original handmade works of art or craft items by more than three but less than six artists or artisans, as either a principal or accessory use.
- 2.02.27 **ARTIST STUDIO** shall mean a place designed to be used, or used as, both a dwelling place and a place of work by an artist, artisan, or craftsman, including persons engaged in the application, teaching, or

- performance of fine arts such as, but not limited to, drawing, vocal or instrumental music, painting, sculpture, and writing.
- 2.02.28 **AUTOMOBILE WRECKING YARD** shall mean any lot, or the use of any portion of a lot, for the dismantling or wrecking of automobiles, tractors, farm machinery, or other motor vehicles, or for the storage or keeping for sale of parts and equipment resulting from such dismantling or wrecking.
- 2.02.29 **BAR** shall mean any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises. (Also, see Nightclub.)
- 2.02.30 **BASE FLOOD** shall mean the flood, from whatever source, having a one percent (1%) chance of being equaled or exceeded in any given year, otherwise referred to as the 100-year flood.
- 2.02.31 **BASE FLOOD ELEVATION** shall mean that elevation, expressed in feet above mean sea level, to which flooding can be expected to occur on a frequency of once in every 100 years, or which is subject to a one percent (1%) or greater chance of flooding in any given year.
- 2.02.32 **BASEMENT** shall mean a building space partly or completely underground.
- 2.02.33 **BEACON** shall mean any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.
- 2.02.34 **BED AND BREAKFAST INN** shall mean a house, or portion thereof, where short-term lodging rooms and meals are provided, and the operator of which shall live on the premises.
- 2.02.35 **BEDROOM** shall mean a room within a dwelling unit planned and intended for sleeping, separable from other rooms by a door.
- 2.02.36 **BERM** shall mean a raised form of earth to provide screening or to improve the aesthetic character.
- 2.02.37 **BEST INTERESTS OF COMMUNITY** shall mean interests of the community at large and not interest of the immediate neighborhood.
- 2.02.38 **BILLBOARD** (see Sign, Billboard).
- 2.02.39 **BLOCK** shall mean a parcel of land platted into lots and bounded by public streets or by waterways, right-of-ways, unplatted land, Village/County boundaries, or adjoining property lines.
- 2.02.40 **BLOCK FRONTAGE** shall mean that section of a block fronting on a street between two intersecting streets or other block boundary.
- 2.02.41 **BOARD** see "Village Board".
- 2.02.42 **BOARD OF ADJUSTMENT** shall mean that Board that has been created by the Village and which has the statutory authority to hear and determine appeals from, interpretations of, and variances to the zoning regulations.
- 2.02.43 **BOARDING OR ROOMING HOUSE** shall mean a building containing a single dwelling unit and provisions for not more than five (5) guests, where lodging is provided with or without meals for compensation.
- 2.02.44 **BREW-ON PREMISES STORE** shall mean a facility that provides the ingredients and equipment for a customer to use to brew malt liquor at the store. Brew-on-premises stores do not include the sale of intoxicating liquor, unless the owner of the brew-on-premises store holds the appropriate liquor license.

- 2.02.45 **BREW PUB** shall mean a restaurant or hotel which includes the brewing of beer as an accessory use. The brewing operation processes water, malt, hops, and yeast into beer or ale by mashing, cooking, and fermenting. By definition, these establishments produce no more than 10,000 barrels of beer or ale annually. The area, by definition, used for brewing, including bottling and kegging shall not exceed 25 percent of the total floor area of the commercial space.
- 2.02.46 **BREWERY** shall mean an industrial use that brews ales, beers, meads and/or similar beverages on site. Breweries are classified as a use that manufactures more than 10,000 barrels of beverage (all beverages combined) annually.
1. **BREWERY, CRAFT** shall mean a brew pub or a micro brewery.
 2. **BREWERY, MICRO** shall mean a facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail or wholesale, on or off premises, with a capacity of not more than 10,000 barrels per year. The development may include other uses such as standard restaurant, bar, or live entertainment as otherwise permitted in the zoning district.
- 2.02.47 **BROADCAST TOWER** shall mean a structure for the transmission or broadcast of radio, television, radar, or microwaves which exceeds the maximum height permitted in the district in which it is located; provided, however, that noncommercial radio towers not exceeding fifty feet (50') in height shall not be considered broadcast towers.
- 2.02.48 **BUFFER** shall mean a strip of land established to protect one type of land use from another incompatible land use or between a land use and a private or public road. (Also, see Screening.)
- 2.02.49 **BUILDING** shall mean any structure built and maintained for the support, shelter or enclosure of persons, animals, chattels, or property of any kind, but shall not include temporary buildings as defined in "Structure, Temporary". Trailers, with or without wheels, shall not be considered buildings.
- 2.02.50 **BUILDING AREA** shall mean the sum in square feet of the ground areas occupied by all buildings and structures on a lot.
- 2.02.51 **BUILDING CODE** shall mean the various codes of the Village of Alda that regulate construction and requires building, electrical, mechanical, plumbing and other permits to do work regulated by the Uniform Building Code, and other codes adopted by the Village that pertain to building construction.
- 2.02.52 **BUILDING HEIGHT** shall mean the vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched, hipped, or shed roof, measured from the highest adjoining sidewalk or ground surface within a five feet (5') horizontal distance of the exterior wall of the building.
- 2.02.53 **BUILDING INSPECTOR** shall mean the Building Inspector of the Village of Alda, Nebraska.
- 2.02.54 **BUILDING SETBACK LINE** shall mean the minimum distance, as prescribed by this regulation, between any property line and the closest point of the building line or face of any building or structure related thereto.



- 2.02.55 **CAMPGROUND** shall mean a parcel of land intended for the temporary occupancy of tents, campers, and major recreational vehicles for which the primary purpose is recreational, and having open areas that are natural in character.
- 2.02.56 **CAR WASH** shall mean a building or structure or an area of land with machine or hand operated facilities for the cleaning, washing, polishing, or waxing of motor vehicles.
- 2.02.57 **CARPORT** shall mean a permanent roofed structure with not more than two (2) enclosed sides used or intended to be used for automobile shelter and storage.
- 2.02.58 **CELLAR** shall mean a building space having more than one-half (1/2) of its height below the average adjoining grade lines.
- 2.02.59 **CEMETERY** shall mean land used or intended to be used for the burial of the dead and dedicated for such purposes, including columbariums, crematoriums, and mausoleums.
- 2.02.60 **CHANNEL** shall mean the geographical area located within either the natural or artificial banks of a watercourse or drainway.
- 2.02.61 **CHARITABLE** shall mean a public or semi-public institutional use of a philanthropic, charitable, benevolent, religious, or eleemosynary character, but not including sheltering or caring of animals.
- 2.02.62 **CHILD CARE CENTER** shall mean an establishment other than a public or parochial school, which provides day care, play groups, nursery schools or education for nine (9) or more children under age 13, at any one time, from families other than that of the provider. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.
- 2.02.63 **CHILD CARE HOME** shall mean an operation in the provider's place of residence which serves at least four (4), but not more than eight (8) children at any one time, from families other than that of the provider. A Family Child Care Home provider may be approved to serve no more than two (2) additional school-age children during non-school hours. In addition to these regulations, Child Care Homes shall meet all requirements of the State of Nebraska.
- 2.02.64 **CHURCH, STOREFRONT** shall mean a religious facility contained within a store or similar structure not typically used for religious activities that are now used as a meeting place for a congregation. Structures adapted for congregations including barns, stores, warehouses, old public buildings, and single-family dwellings.
- 2.02.65 **CLEAR VIEW ZONE** shall mean the area of a corner lot closest to the intersection, which is kept free of visual impairment to allow full view of both pedestrian and vehicular traffic. (Also, see Sight Triangle.)
- 2.02.66 **CLUB** shall mean an association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not including groups which are organized primarily to render a service carried on as a business for profit.
- 2.02.67 **CODE** shall mean the Municipal Code of the Village of Alda, Nebraska.
- 2.02.68 **COMMERCIAL FEEDLOT** (See "Livestock Feeding Operation).
- 2.02.69 **COMMISSION** shall mean the Hall County Regional Planning Commission.
- 2.02.70 **COMMON AREA OR PROPERTY** shall mean a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the Owners of the individual building sites in a Planned Development or condominium development.

- 2.02.71 **COMMUNITY CENTER** shall mean a place, structure, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve various segments of the community.
- 2.02.72 **COMPATIBILITY** shall mean harmony in the appearance of two or more external design features in the same vicinity.
- 2.02.73 **COMPATIBLE USE** shall mean a land use that is suitable with, tolerant of, and has no adverse effects on existing neighboring uses. Incompatibility may be caused by pedestrian or vehicular traffic generation, volume of goods handled, and environmental elements such as noise, dust, odor, air pollution, glare, lighting, debris generated, contamination of surface or ground water, aesthetics, vibration, electrical interference, and radiation.
- 2.02.74 **COMPREHENSIVE PLAN** shall mean the Comprehensive Development Plan of Alda, Nebraska as adopted by the Village Board, setting forth policies for the present and foreseeable future community welfare as a whole and meeting the purposes and requirements set forth in the Neb. Rev. Stat. §19-903 (R.R.S.1997).
- 2.02.75 **CONDITIONAL USE** shall mean a use conditionally allowed by the district regulations, that would not be appropriate generally throughout the zoning district without restrictions, but which, if controlled as to number, size, area, location, relation to the neighborhood or other minimal protective characteristics would not be detrimental to the public health, safety, and general welfare.
- 2.02.76 **CONDITIONAL USE PERMIT** shall mean a permit issued by the Planning Commission and Village Board that authorizes the recipient to make a conditional use of property in accordance with the provisions of Article 6 and any additional conditions placed upon, or required by said permit.
- 2.02.77 **CONDOMINIUM** shall mean real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions, pursuant to the Nebraska Condominium Act, as set forth in Neb. Rev. Stat. §§ 76-825 to 76-894 (R.R.S.1996).
- 2.02.78 **CONFLICTING LAND USE** shall mean the use of property which transfers over neighboring property lines negative economic or environmental effects, including, but not limited to, noise, vibration, odor, dust, glare, smoke, pollution, and water vapor, or consists of mismatched land uses, density, height, mass, or layout of adjacent uses, or results in a loss of privacy or unsightly views.
- 2.02.79 **CONGREGATE HOUSING** shall mean a residential facility for four or more persons aged fifty-five (55) years or over, their spouses, or surviving spouses, providing living and sleeping facilities including meal preparation, dining areas, laundry services, room cleaning and common recreational, social, and service facilities for the exclusive use of all residents including resident staff personnel who occupy a room or unit in the residential facility. (Also see Life Care Facility).
- 2.02.80 **CONSERVATION** shall mean the management of natural resources to prevent waste, destruction, or degradation.
- 2.02.81 **CONSERVATION AREA** shall mean an area of environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance or character, except in the case of an overriding public interest, including but not limited to: wetlands, floodways, flood plains, drainage ways, river or stream banks, and areas of significant biological productivity or uniqueness.
- 2.02.82 **CONSERVATION EASEMENT** shall mean an easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded condition and retaining such areas as suitable habitat for fish, plants, or wildlife, or maintaining existing land uses.
- 2.02.83 **CONSTRUCTION AND DEMOLITION (C&D) WASTE SITE** shall mean a disposal site utilized for solid building materials and other wastes associated with construction projects including, but not limited

- to, such materials as wood, concrete, drywall, masonry, roofing, siding, structural metal, wire, insulation, plastics, styrofoam, twine, baling and strapping materials, empty cans, empty buckets, packaging materials, and empty containers, which employs a method of disposal in a manner that minimizes environmental hazards in accordance with state and federal requirements.
- 2.02.84 **CONVENIENCE STORE** shall mean a one-story, retail store containing less than two-thousand (2,000) square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket") It is dependent on, and is designed to attract and accommodate large volumes of stop-and-go traffic.
- 2.02.85 **CONTIGUOUS** shall mean the same as "Abut."
- 2.02.86 **COPY CENTER** shall mean a retail establishment that provides duplicating services using photocopying, blueprint, and offset printing equipment, and may include the collating and binding of booklets and reports.
- 2.02.87 **CORPORATE LIMITS** shall mean all land, structures and open space that has been annexed into the Village's jurisdiction. This does not include the extraterritorial jurisdiction of the Village.
- 2.02.88 **COURT** shall mean an open, unoccupied space, other than a yard, on the same lot with a building or buildings and abounded on two (2) or more sides by such building or buildings.
1. **COURT, INNER** shall mean a court enclosed on all sides by the exterior walls of a building or buildings.
 2. **COURT, OUTER** shall mean a court enclosed on all but one (1) side by exterior walls of building or buildings or lot lines on which fences, hedges, or walls are permitted.
- 2.02.89 **CUL-DE-SAC** shall mean a short public way, which has only one outlet for vehicular traffic and terminates in a vehicular turn-around.
- 2.02.90 **CURVE LOT** (See "Lot, Curve.").
- 2.02.91 **DATE OF SUBSTANTIAL COMPLETION** shall mean the date certified by the local building/zoning official when the work, or a designated portion thereof is sufficiently complete, so the owner may occupy the work or designated portion thereof for the use for which it is intended.
- 2.02.92 **DENSITY** shall mean the number of dwelling units per gross acre of land.
- 2.02.93 **DENTENTION BASIN** shall mean a facility for the temporary storage of stormwater runoff.
- 2.02.94 **DEVELOPER** shall mean any person, corporation, partnership, or entity that is responsible for any undertaking that requires a building or zoning permit, conditional use permit or sign permit.
- 2.02.95 **DEVELOPMENT** shall mean any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations for which necessary permits may be required.
- 2.02.96 **DEVELOPMENT CONCEPT PLAN** (See Site Plan.).
- 2.02.97 **DEVELOPMENT REVIEW** shall mean the review, by the Village, of subdivision plats, site plans, rezoning requests, or permit review.
- 2.02.98 **DISTRICT OR ZONE** shall mean a section or sections of the Zoning Area for which uniform regulations governing the use of land, the height, use, area, size, and intensity of use of buildings, land, and open spaces are established.

- 2.02.99 **DOG KENNEL** (See Kennel, Commercial; and Kennel, Private).
- 2.02.100 **DOMESTIC ANIMALS** (See Household Pet.).
- 2.02.101 **DOWNZONING** shall mean a change in zoning classification of land to a less intensive or more restrictive district, such as from commercial district to residential district or from a multiple family residential district to single family residential district.
- 2.02.102 **DRAINAGEWAY** shall mean any depression two feet or more below the surrounding land serving to give direction to a current of water less than nine months of the year, having a bed and well-defined banks; provided, that when there is doubt as to whether a depression is a watercourse or drainway, it shall be presumed to be a watercourse.
- 2.02.103 **DRIVE-IN FACILITY** shall mean an establishment where customers can be served without leaving the confinement of their vehicle.
- 2.02.104 **DRIVEWAY** shall mean any vehicular access to an off-street parking or loading facility.
- 2.02.105 **DUMP** shall mean a place used for the disposal, abandonment, discarding by burial, incineration, or by any other means for any garbage, sewage, trash, refuse, rubble, waste material, offal or dead animals. Such use shall not involve any industrial or commercial process.
- 2.02.106 **DUPLEX** (See Dwelling, Two (2) Family).
- 2.02.107 **DWELLING** shall mean any building or portion thereof which is designed and used exclusively for residential purposes, excluding mobile homes.
1. **DWELLING, MANUFACTURED HOME** shall mean a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with standards promulgated by the United States Department of Housing and Urban Development.
 2. **DWELLING, MOBILE HOME** shall mean any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially a complete condition and mounted on wheels, skids or rollers, jacks blocks, horses, skirting or a permanent or temporary foundation or any prefabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term mobile home shall include trailer home and camp car, but the definition shall not apply to any vehicle lawfully operated upon fixed rails.
 - a). *Permanently Attached*: Attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent continuous foundation or structural change in such mobile home in order to relocate it on another site in accordance to manufacturers recommendations.
 - b). *Permanent Foundation*: Base constructed from either poured concrete or laid masonry rock or brick and placed on a footing located below ground level to a point below the frost line upon which a building or structure is permanently attached.
 3. **DWELLING, MODULAR** shall mean any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units not fabricated on the final site for the dwelling unit, which units are movable or portable until placed on a permanent foundation and connected to utilities, pursuant to the Nebraska Uniform Standards for Modular Housing Units Act, as set forth in Neb. Rev. Stat. §§ 71-1557 to 71-1568.01 (Cum.Supp.2000). Further, such dwelling must also meet or be equivalent to the construction criteria set forth in the Nebraska Uniform Standards for Modular Housing Units Act. Such dwelling is considered to be a conventional type single-family dwelling, and those that do not meet the above criteria shall be considered a mobile home.

4. **DWELLING, MULTIPLE FAMILY** shall mean a building or buildings designed and used for occupancy by three (3) or more families, all living independently of each other, and having separate kitchen and toilet facilities for each family.
 5. **DWELLING, SEASONAL** shall mean a dwelling designed and used as a temporary residence and occupied less than six months in each year.
 6. **DWELLING, SINGLE FAMILY** shall mean a building having accommodations for or occupied exclusively by one family, which meets all the following standards:
 - a). The home shall have no less than nine hundred (900) square feet of floor area, above grade, for single story construction;
 - b). The home shall have no less than an eighteen feet (18') exterior width;
 - c). The roof shall be pitched with a minimum vertical rise of two and one-half inches (2-1/2") for each twelve inches (12") of horizontal run;
 - d). The exterior material shall be of a color, material and scale comparable with existing site-built, single family residences located in Alda, NE;
 - e). The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, or rock;
 - f). The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed, and
 - g). The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.
 - h). The home shall have a permanent foundation, to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of forty-two inches (42") below the final ground level.
 7. **DWELLING, SINGLE FAMILY ATTACHED** shall mean a portion of a residential building having accommodations for and occupied exclusively by one family, and which is located on a separate lot of record apart from the remaining portions of the building. Each such dwelling may be sold independently of other portions.
 8. **DWELLING, TOWNHOUSE** shall mean a one-family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical wall(s).
 9. **DWELLING, TWO (2) FAMILY** shall mean a building designed or used exclusively for the occupancy of two (2) families living independently of each other and having separate kitchen and toilet facilities for each family.
- 2.02.108 **DWELLING UNIT** shall mean one or more rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or lease on a weekly, monthly, or longer basis, and physically separate from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, toilet and sleeping facilities.
- 2.02.109 **EASEMENT** shall mean a grant made by a property owner to the use of land by the public, a corporation, or persons, for specific purposes, such as access to another property or the construction of utilities, drainage ways or roadways.
- 2.02.110 **EDUCATIONAL INSTITUTION** shall mean a public or nonprofit institution or facility which conducts regular academic instruction at preschool, kindergarten, elementary, secondary, and collegiate levels, including graduate schools, universities, junior colleges, trade schools, nonprofit research institutions and religious institutions. Such institutions must either: (1) Offer general academic instruction equivalent to the standards established by the State Board of Education; or (2) Confer degrees as a college or university or undergraduate or graduate standing; or (3) Conduct research; or (4) Give religious instruction. Private schools, academies, or institutes incorporated or otherwise, which operate for a profit, and commercial or private trade schools are not included in this definition.

- 2.02.111 **EFFECTIVE DATE** shall mean the date that this chapter shall have been adopted, amended, or the date land areas became subject to the regulations contained in this chapter as a result of such adoption or amendment.
- 2.02.112 **ENCROACHMENT** shall mean an obstruction or illegal or unauthorized intrusion into a delineated floodway, right-of-way, or adjacent property.
- 2.02.113 **ENLARGEMENT** shall mean the expansion of a building, structure, or use in volume, size, area, height, length, width, depth, capacity, ground coverage, or in number.
- 2.02.114 **ERECTED** shall mean constructed upon or moved onto a site.
- 2.02.115 **EXPRESSWAY** shall mean a street or road that provides fast and efficient movement of large volumes of vehicular traffic between areas and does not provide direct access to property.
- 2.02.116 **EXTRATERRITORIAL JURISDICTION** shall mean the area beyond the corporate limits of the Village, in which the State has granted the Village the power to exercise zoning jurisdiction and building regulations.
- 2.02.117 **FACADE** shall mean the exterior wall of a building exposed to public view from the building's exterior.
- 2.02.118 **FACTORY** shall mean a structure or plant within which something is made or manufactured from raw or partly wrought materials into forms suitable for use.
- 2.02.119 ~~**FAMILY** shall mean a household head and one or more persons related to the head by blood, marriage or adoption living together in a single dwelling unit.~~ **shall mean a household head and one or more persons related to the head by blood, marriage, adoption, guardianship or duly authorized custodial relationship living together in a single dwelling, or no more than 5 unrelated persons living together in a single dwelling.**
- 2.02.120 **FARM** an area containing at least twenty (20) acres or more which is used for growing or storage of the usual farm products such as vegetables, fruit, and grain, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce and the feeding of livestock as hereinafter prescribed provided such accessory uses do not include the feeding of garbage or offal to swine or other animals.
- 2.02.121 **FARMSTEAD** shall mean a tract of land of not less than 2 acres and not more than twenty (20) acres upon which a farm dwelling and other out-buildings and barns and is used for single-family residential purposes.
- 2.02.122 **FENCE** shall mean a structure serving as an enclosure, barrier or boundary above ground.
1. **FENCE, OPEN** shall mean a fence, including gates, which has twenty-five percent (25%) or more of the surface area in open spaces, which affords direct views through the fence.
 2. **FENCE, SOLID** shall mean any fence, which does not qualify as an open fence.
- 2.02.124 **FLOOD** shall mean a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) The overflow of inland or tidal waters, or (2) The unusual and rapid accumulation of runoff of surface waters from any sources.
- 2.02.125 **FLOOD PLAIN** shall mean any land area susceptible to being inundated by water from any source.

- 2.02.126 **FLOOD PROOFING** shall mean any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- 2.02.127 **FLOODWAY** shall mean the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
- 2.02.128 **FLOOR AREA** shall mean the square feet of floor space within the outside line of the walls, including the total of all space on all floors of the building. Floor area shall not include porches, garages, or spaces in a basement, cellar, or attic.
- 2.02.129 **FOOD SALES** shall mean establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.
1. **FOOD SALES, LIMITED** shall mean food sales establishments occupying ten-thousand (10,000) square feet or less of space.
 2. **FOOD SALES, GENERAL** shall mean food sales establishments occupying more than 10,000 square feet of space. Typically a supermarket.
- 2.02.130 **FRONTAGE** shall mean that portion of a parcel of property that abuts a dedicated public street or highway.
- 2.02.131 **GARAGE, PRIVATE** shall mean a detached accessory building or a portion of a main building, including carports, on the same lot as a dwelling, used to house vehicles of the occupants of the dwelling.
- 2.02.132 **GARAGE, PUBLIC** shall mean any garage other than a private garage.
- 2.02.133 **GARAGE, REPAIR** shall mean a building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work. (Also, see Service Station.).
- 2.02.134 **GARBAGE** shall mean any waste food material of an animal or vegetable nature, including that, which may be used, for the fattening of livestock.
- 2.02.135 **GATED COMMUNITIES** shall mean residential areas that restrict access to normally public spaces. These are subdivisions of usually high-end houses. The type of gates can range from elaborate guardhouses to simple electronic arms.
- 2.02.136 **GRADE** shall mean the average of the finished ground level at the center of all walls of a building. In the case of walls that are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.
- 2.02.137 **GREENHOUSE** shall mean a building or premises used for growing plants, preparing floral arrangements for off-site delivery to customers, cold storage of flowers or dry storage of materials used for agricultural or horticultural purposes.
- 2.02.138 **GREENWAY** shall mean a parcel or parcels of land, together with the improvements thereon, dedicated as an easement for access and/or recreation; usually a strip of land set-aside for a walkway, bicycle trail, bridle path, or other similar access-way.
- 2.02.139 **GROUND COVER** shall mean plant material used in landscaping which remains less than twelve inches (12") in height at maturity.

- 2.02.140 **GROUND WATER** shall mean water occurring beneath the surface of the ground that fills available openings in the rock or soil materials such that they may be considered saturated.
- 2.02.141 ~~**GROUP CARE HOME** shall mean a home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home which is designed to provide twenty four hour care for individuals in a residential setting. **Reserved**~~
- 2.02.142 ~~**GROUP HOME FOR THE HANDICAPPED** shall mean a dwelling with resident staff shared by four or more handicapped persons who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. As used herein, the term "handicapped" shall mean having: (1) A physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently; or (2) A record of having such an impairment.~~
- GROUP HOME** shall include both Group Care Home and Group Home for the Disabled. Group homes shall be classified by size as follows:
- Group Home (Small) shall mean a home designed to accommodate no more than 5 persons and shall be allowed in all zoning districts that permit single family dwelling units in the same manner as other dwelling units.*
- Group Home (Medium) shall mean a facility designed to house between 6 and 16 persons and shall be permitted in the same manner as other multifamily dwellings in zoning district that permit multifamily or institutional dwellings.*
- Group Home (Large) shall mean a facility designed to house more than 16 persons and shall be permitted in the same manner as other multifamily dwellings in zoning district that permit multifamily or institutional dwellings.*
- 2.02.143 **GROUP HOUSING** shall mean two or more separate buildings on a lot, each containing one or more dwelling units.
- 2.02.144 **GUEST ROOM** shall mean a room which is designed to be occupied by one (1) or more guests for sleeping purposes, having no kitchen facilities, not including dormitories.
- 2.02.145 **HALF-STORY** shall mean a story under a sloped roof which has the intersection of the roof line and exterior wall face not more than three feet (3') above the floor of such story.
- 2.02.146 **HALFWAY HOUSE** shall mean a licensed home for individuals on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, living together as a single housekeeping unit, wherein supervision, rehabilitation and counseling are provided to mainstream residents back into society, enabling them to live independently.
- 2.02.147 **HARD SURFACE** shall mean any impervious surface, such as concrete or asphalt, or other semi-impervious surface, such as rock or gravel.
- 2.02.148 **HAZARDOUS WASTE** shall mean any discarded material, refuse, or waste products, in solid, semisolid, liquid, or gaseous form, that cannot be disposed of through routine waste management techniques because they pose a present or potential threat to human health, or to other living organisms, because of their biological, chemical, or physical properties.
- 2.02.149 **HEALTH CLUB** shall mean a privately owned facility operated for profit, such as gymnasiums, athletic clubs, health clubs, recreational clubs, reducing salons, and weight control establishments.

- 2.02.150 **HEDGE** shall mean a plant or series of plants, shrubs or other landscape material, so arranged as to form a physical barrier or enclosure.
- 2.02.151 **HOME IMPROVEMENT CENTER** shall mean a facility of more than thirty-thousand (30,000) square feet of gross floor area, engaged in retail sale of various basic hardware lines, such as tools, builders' hardware, paint and glass, housewares and household appliances, garden supplies, and cutlery.
- 2.02.152 **HOME OCCUPATION** shall mean a business or occupation carried on within a residential dwelling or accessory building by members of the family occupying the dwelling and up to two (2) other employees that do not reside within the dwelling, provided, however, that the residential character of the dwelling or accessory building is maintained and the occupation is conducted in such a manner as not to give an outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term or constitute a nuisance to neighboring residents. See Section 7.10 for Home Occupation standards.
- 2.02.153 **HOMEOWNERS ASSOCIATION** shall mean a private, nonprofit corporation or association of homeowners of properties in a fixed area, established for the purpose of owning, operating, and maintaining various common properties and facilities.
- 2.02.154 **HOTEL** shall mean a building or portion thereof, or a group of buildings, offering transient lodging accommodations on a daily rate to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities. The word "hotel" includes motel, inn, automobile court, motor inn, motor lodge, motor court, tourist court, and motor hotel.
- 2.02.155 **HOUSEHOLD PET** shall mean an animal that is customarily kept for personal use or enjoyment within the home. Household pet shall include but not be limited to domestic dogs, domestic cats, domestic tropical birds, fish, and rodents.
- 2.02.156 **IMPERVIOUS SURFACE** shall mean a surface that has been compacted or covered with a layer of material making the surface highly resistant to infiltration by water, such as compacted sand, rock, gravel, or clay and conventionally surfaced streets, roots, sidewalks, parking lots, and driveways.
- 2.02.157 **INCIDENTAL USE** shall mean a use, which is subordinate to the main use of a premise.
- 2.02.158 **INDUSTRY** shall mean the manufacture, fabrication, processing, reduction or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof, including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.
- 2.02.159 **INFILL DEVELOPMENT** shall mean the construction of a building or structure on a vacant parcel located in a predominantly built up area.
- 2.02.160 **INFILL SITE** shall mean any vacant lot, parcel or tract of land within developed areas of the Village, where at least 80 percent of the land within a 300-foot radius of the site has been developed, and where water, sewer, streets, schools, and fire protection have already been constructed or are provided.
- 2.02.161 **INOPERABLE MOTOR VEHICLE** shall mean any motor vehicle which: (1) Does not have a current state license plate; or, (2) Which may or may not have a current state license plate, but is disassembled or wrecked in part or in whole, or is unable to move under its own power, or is not equipped as required by Nebraska State Law for operation upon streets or highways. A vehicle that is wholly or partially dismantled shall not be considered inoperable when said vehicle is inside a completely enclosed building.
- 2.02.162 **INTENSITY** shall mean the degree to which land is used referring to the levels of concentration or activity in uses ranging from uses of low intensity being agricultural and residential to uses of highest intensity being heavy industrial uses. High intensity uses are normally uses that generate concentrations of vehicular traffic and daytime population and are less compatible with lower intensive uses.

- 2.02.163 **INTENT AND PURPOSE** shall mean that the Commission and Board by the adoption of this Regulation, have made a finding that the health, safety, and welfare of the Community will be served by the creation of the District and by the regulations prescribed therein.
- 2.02.164 **JUICE BAR** (See Adult Establishment.).
- 2.02.165 **JUNK** shall be any worn-out, cast-off, old, or discarded articles of scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material.
- 2.02.166 **JUNK YARD** shall mean any lot, land parcel, building, or structure or part thereof for storage, collection, purchase, sale, salvage, or disposal of machinery, farm machinery, and including motor vehicles, parts and equipment resulting from dismantling or wrecking, or keeping of junk, including scrap metals or other scrap materials, with no burning permitted. For motor vehicles, see "Automobile Wrecking Yard".
- 2.02.167 **KENNEL, BOARDING, or TRAINING** shall mean any lot or premises on which four (4) or more dogs or cats or any combination thereof, at least four (4) months of age, are boarded, bred, or trained for a fee.
- 2.02.168 **KENNEL, COMMERCIAL** shall mean an establishment where four (4) or more dogs or cats, or any combination thereof, other household pets, or non-farm/non-domestic animals at least four (4) months of age are groomed, bred, boarded, trained, or sold as a business.
- 2.02.169 **KENNEL, PRIVATE** shall mean any premises used for the keeping of less than four (4) dogs, cats, or a combination thereof, or other non-farm/non-domestic animals by the owner/occupant or occupant of the premises for the purpose of show, hunting, or as pets. The dogs and cats shall belong to the owner/occupant or occupant and their keeping shall be accessory to the main use of the premises.
- 2.02.170 **LAGOON** shall mean a wastewater treatment facility that is a shallow, artificial pond where sunlight, bacterial action, and oxygen interact to restore wastewater to a reasonable state of purity. This includes both human and livestock wastes. All lagoons shall meet the minimum design criteria established by the Nebraska Department of Environmental Quality and the Nebraska Department of Health and Human Services. All lagoons shall have the proper permits approved prior to starting construction.
- 2.02.171 **LANDFILL** shall mean a disposal site employing a method of disposing solid wastes in a manner that minimizes environmental hazards in accordance with state and federal requirements.
- 2.02.172 **LANDSCAPE** shall mean plant materials, topography, and other natural physical elements combined in relation to one another and to man-made structures.
- 2.02.173 **LANDSCAPING** shall include the original planting of suitable vegetation in conformity with the requirements of this Regulation and the continued maintenance thereof.
- 2.02.174 **LARGE BOX RETAIL** shall mean a singular retail or wholesale user that occupies no less than 30,000 square feet of gross floor area. These uses typically include membership wholesale clubs, emphasizing in large bulk sales, discount stores, pharmacies, grocery stores, especially warehouse-style point-of-sale concepts and department stores.
- 2.02.175 **LAUNDROMAT** shall mean an establishment that provides home-type washing, drying, and/or ironing facilities for customers on the premises.
- 2.02.176 **LIFE CARE FACILITY** shall mean a facility for the transitional residency of the elderly and/or disabled persons, progressing from independent living to congregate apartment living where residents share common meals and culminating in full health and continuing care nursing home facility. (Also, see Congregate Housing).

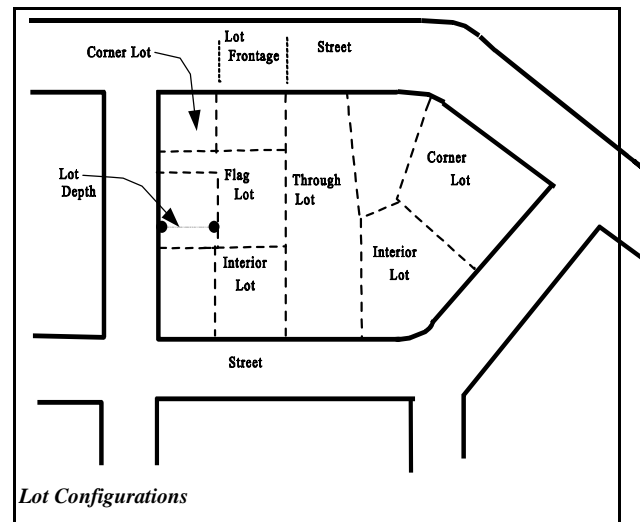
2.02.177 **LIMITS OF GRADING** shall mean the outermost edge of the area in which the existing topography is to be altered by cutting and/or filling.

2.02.178 **LIVESTOCK FEEDING OPERATION (LFO)** shall mean the feeding, farrowing, holding, or raising of beef cattle, dairy cattle, horses, swine, sheep, poultry, or other livestock, in a confined area (buildings, lots, or pens) which is not used for the growing of crops or vegetation but does not include the holding of cattle in calving operations for less than ninety (90) days per year, and where the number of animals so maintained exceeds twenty (20) Animal Units as defined below. The confined area of the LFO shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds and related facilities. Such facilities shall be constructed and operated in conformance with applicable county, state, and federal regulations. Two (2) or more LFOs under common ownership are deemed to be a single LFO if they are adjacent (within 1,320 feet) to each other or if they utilize a common area or system for the disposal of livestock wastes. Animal Units (a.u.) are defined as follows:

One a.u.	=	One-half (0.5) Horses;
One a.u.	=	Seven-tenths (0.7) Mature Dairy Cattle;
One a.u.	=	One (1) Slaughter, Feeder Cattle;
One a.u.	=	Two (2) Sows with litters;
One a.u.	=	Two and one-half (2.5) Swine (55 pounds or greater);
One a.u.	=	Five (5) Ducks,
One a.u.	=	Ten (10) Sheep;
One a.u.	=	Twenty-five (25) Weaned Pigs (Less than 55 pounds);
One a.u.	=	Fifty (50) Turkeys;
One a.u.	=	One-hundred (100) Chickens.

2.02.179 **LOADING SPACE** shall mean an off-street space or berth on the same lot with a main building, or contiguous to a group of buildings, for the temporary parking of commercial vehicles while loading or unloading, and which abuts a street, alley, or other appropriate means of ingress and egress.

2.02.180 **LOT** shall mean a parcel or tract of land which is or may be occupied by a use herein permitted, together with yards, and other open spaces herein required, that has frontage upon a street, and is a part of a recorded subdivision plat or has been recorded prior to the adoption of the Regulation, or a parcel of real property delineated on an approved record of survey, lot-split or sub-parceling map as filed in the office of the County Recorder and abutting at least one (1) public street or right-of-way, two (2) thoroughfare easements, or one (1) private road.



1. **LOT AREA** shall mean the total area, on a horizontal plane, within the lot lines of a lot.
2. **LOT, CORNER** shall mean a lot located at the intersection of two (2) or more streets at an angle of not more than one hundred thirty-five (135) degrees. If the angle is greater than one hundred thirty-five (135) degrees, the lot shall be considered an "Interior Lot". The setbacks for a front yard shall be met on all abutting streets.
3. **LOT, DOUBLE FRONTAGE, or THROUGH** shall mean a lot having a frontage on two non-intersecting streets as distinguished from a corner lot.

4. **LOT, FLAG** shall mean an interior lot, the majority of which has frontage and access provided by means of a narrow corridor.
 5. **LOT, INTERIOR** shall mean a lot other than a corner lot.
 6. **LOT, NONCONFORMING** shall mean a lot having less area or dimension than that required in the district in which it is located and which was lawfully created prior to the zoning thereof whereby the larger area or dimension requirements were established, or any lot, other than one shown on a plat recorded in the office of the County Registrar of Deeds, which does not abut a public road or public road right-of-way and which was lawfully created prior to the effective date of this Regulation.
 7. **LOT OF RECORD** shall mean a lot or parcel of land, the deed to which has been recorded in the records of the County Registrar of Deeds at the time of the passage of a regulation establishing the zoning district in which the lot is located.
- 2.02.181 **LOT COVERAGE** shall mean the portion of a lot or building site which is occupied by any building or structure, excepting paved areas, walks and swimming pools, regardless of whether said building or structure is intended for human occupancy or not.
- 2.02.182 **LOT DEPTH** shall mean the horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.
- 2.02.183 **LOT FRONTAGE** shall mean the side of a lot abutting on a legally accessible street right-of-way other than an alley or an improved county road. For the purposes of this definition, on corner lots, all sides of a lot adjacent to streets or roads shall be considered frontage.
- 2.02.184 **LOT LINE** shall mean the property line bounding a lot.
1. **LOT LINE, FRONT** shall mean the property line abutting a street.
 2. **LOT LINE, REAR** shall mean a lot line not abutting a street which is opposite and most distant from the front lot line.
 3. **LOT LINE, SIDE** shall mean any lot line not a front lot line or rear lot line.
- 2.02.185 **LOT WIDTH** shall mean the average horizontal distance between the side lot line, measured at right angles to the lot depth at a point midway between the front and rear lot lines.
- 2.02.186 **MANUFACTURED HOME** (See Dwelling, Manufactured Home)
- 2.02.187 **MANUFACTURED or MOBILE HOME PARK** shall mean a parcel of land under single ownership that has been planned and improved for the placement of manufactured or mobile housing used or to be used for dwelling purposes and where manufactured or mobile home spaces are not offered for sale or sold. The terms "manufactured home park" or "mobile home park" do not include sales lots on which new or used manufactured or mobile homes are parked for the purposes of storage, inspection, or sale.
- 2.02.188 **MANUFACTURED or MOBILE HOME SUBDIVISION** shall mean a parcel of land that has been subdivided and used or intended to be used for the purpose of selling lots for occupancy by manufactured or mobile homes.
- 2.02.189 **MANUFACTURING** shall mean uses primarily engaged in the mechanical or chemical transformation of materials or substances into new products. These uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Uses engaged in assembling component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of material such as lubricating oils, plastics, resins, or liquors. Manufacturing production is usually carried

on for the wholesale market, for interplant transfer, or to order for industrial users, rather than for direct sale to the domestic consumer.

- 2.02.190 **MASSAGE PARLOR** shall mean an establishment other than a regularly licensed and established hospital or dispensary where non-medical manipulative exercises or devices are practiced upon the human body manually or otherwise by any person other than a licensed physician, surgeon, dentist, occupational or physical therapist, chiropractor or osteopath with or without the use of therapeutic, electrical, mechanical, or bathing devices. (Also, see Adult Uses.)
- 2.02.191 **MECHANICAL EQUIPMENT** shall mean equipment, devices, and accessories, the use of which relates to water supply, drainage, heating, ventilating, air conditioning, and similar purposes.
- 2.02.192 **MINI-STORAGE OR MINI-WAREHOUSE** (see Self-Service Storage Facility.)
- 2.02.193 **MISCELLANEOUS STRUCTURES** shall mean structures, other than buildings, visible from public ways. Examples are memorials, stagings, antennas, water tanks and towers, sheds, shelters, fences, and walls, kennels, and transformers.
- 2.02.194 **MIXED USE** shall mean properties where various uses, such as office, commercial, institutional, and residential are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design.
- 2.02.195 **MOBILE HOME** (See Dwelling, Mobile Home)
- 2.02.196 **MOBILE HOME PARK** (See Manufactured or Mobile Home Park.)
- 2.02.197 **MOBILE HOME SUBDIVISION** (See Manufactured or Mobile Home Subdivision.).
- 2.02.198 **MOTEL** (See Hotel.).
- 2.02.199 **MOTOR VEHICLE** shall mean every self-propelled land vehicle, not operated upon rails, except self-propelled wheel chairs.
- 2.02.200 **NIGHTCLUB** shall mean a commercial establishment dispensing beverages for consumption on the premises and in which dancing is permitted or entertainment is provided. (Also, see Bar.)
- 2.02.201 **NON-COMMUNITY WATER SUPPLY SYSTEM** shall mean any public water supply system that is not a community water supply system.
- 2.02.202 **NON-CONFORMING BUILDING** shall mean a building or portion thereof which was lawful when established but which does not conform to subsequently established zoning or zoning regulations.
- 2.02.203 **NON-CONFORMING USE** shall mean a use that was lawful when established but which does not conform to subsequently established zoning or zoning regulations.
- 2.02.204 **NON-FARM BUILDINGS** shall mean all buildings except those 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.
- 2.02.205 **NUISANCE** shall mean anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses such as noise, dust, odor, smoke, gas, pollution, congestion, lighting, and litter.
- 2.02.206 **NURSERY** shall mean the use of a premises for the propagation, cultivation, and growth of trees, shrubs, plants, vines, and the like from seed or stock, and the sale thereof, and including the sale of trees, shrubs, plants, vines, and the like purchased elsewhere and transplanted into the soil of the premises. In connection with the sale of plants, such fungicides, insecticides, chemicals, peat moss,

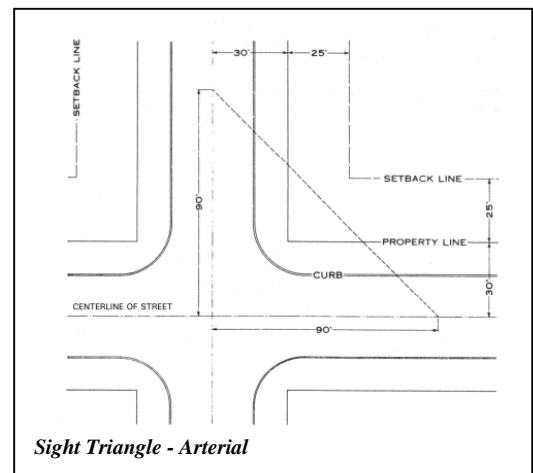
- humus, mulches, and fertilizers as are intended to be used in preserving the life and health of the plants may be sold.
- 2.02.207 **NURSING HOMES or CONVALESCENT HOMES** shall mean an institution or agency licensed by the State for the reception, board, care, or treatment of three (3) or more unrelated individuals, but not including facilities for the care and treatment of mental illness, alcoholism, or narcotics addiction.
- 2.02.208 **OFFICE** shall mean a building or a portion of a building wherein services are performed involving, primarily, administrative, professional, or clerical operations.
- 2.02.209 **OFFICIAL ZONING DISTRICT MAP** shall mean a map delineating the boundaries of zoning districts which, along with the zoning text, is officially adopted by the Alda Village Board.
- 2.02.210 **OFF-STREET PARKING AREA** shall mean all off street areas and spaces designed, used, required, or intended to be used for parking, including driveways or access ways in and to such areas.
- 2.02.211 **OPEN LOT** shall mean a pen or similar concentrated area, including small shed-type areas or open-front buildings, with dirt, or concrete (or paved or hard) surfaces, wherein animals or poultry are substantially or entirely exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed-type areas.
- 2.02.212 **OPEN SPACE** shall mean a parcel or parcels of land, together with the improvements thereon, primarily set aside for recreational use and enjoyment, exclusive of land areas used for streets, alleys, roads, driveways, parking areas, structures, and buildings.
- 2.02.213 **OPEN SPACE, COMMON** shall mean a separate and distinct area set aside as open space within or related to a development, and not on individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of the development. Rights-of-way, private streets, driveways, parking lots or other surfaces designed or intended for vehicular use or required yards shall not be included as common open space.
- 2.02.214 **OUTDOOR ADVERTISING** (see "Advertising Structure" and "Sign").
- 2.02.215 **OVERLAY DISTRICT** shall mean a district in which additional requirements are imposed upon a use, in conjunction with the underlying zoning district. The original zoning district designation does not change.
- 2.02.216 **OWNER** shall mean one or more persons, including corporations, who have title to the property, building or structure in question.
- 2.02.217 **PAINTBALL COURSE** shall mean a commercial recreational park containing obstacle courses for the purpose of staging paintball battles. Said facility generally collects a fee, either as membership or on a visit by visit basis, that allows individuals to participate in paintball activities.
- 2.02.218 **PARCEL** shall mean a lot or a contiguous group of lots in single ownership or under single control, which may be considered as a unit for purposes of development.
- 2.02.219 **PARK** shall mean any public or private land available for recreational, educational, cultural, or aesthetic use.
- 2.02.220 **PARKING AREA, PRIVATE** shall mean an area, other than a street, used for the parking of automotive vehicles capable of moving under their own power and restricted from general public use.
- 2.02.221 **PARKING AREA, PUBLIC** shall mean an area, other than a private parking area or street used for the parking of vehicles capable of moving under their own power, either free or for remuneration.

- 2.02.222 **PARKING SPACE, AUTOMOBILE** shall mean an area, other than a street or alley, reserved for the parking of an automobile, such space having a dimension not less than nine (9) feet by twenty (20) feet, plus such additional area as is necessary to afford adequate ingress and egress.
- 2.02.223 **PARKWAY** shall mean an arterial highway with full or partial control of access, and located within a park or ribbon of park like development.
- 2.02.224 **PERFORMANCE GUARANTEE** shall mean a financial guarantee to ensure that all improvements, facilities, or work required by this chapter will be completed in compliance with these regulations as well as with approved plans and specifications of a development.
- 2.02.225 **PERMANENT FOUNDATION** shall mean a base constructed from either poured concrete or laid masonry rock, block or brick and placed on a footing located below ground level to a point below the frost line upon which a building or structure is permanently attached. Such foundation may be continuous, or an engineered pier system.
- 2.02.226 **PERMANENT TREE PROTECTION DEVICES** shall be structural measures, such as retaining walls or aeration devices that are designed to protect the tree and its root systems throughout its lifetime.
- 2.02.227 **PERMANENTLY ATTACHED** shall mean attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent foundation or structural change in such structure in order to relocate it to another site.
- 2.02.228 **PERSON** shall mean an individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, Village, County, special district or any other group or combination acting as an entity, except that it shall not include Alda, Nebraska.
- 2.02.229 **PLANNED DEVELOPMENT** shall mean a development designed to provide for an unusual or different arrangement of residential, business, or industrial uses in accordance with an approved development plan.
- 2.02.230 **PLANNING COMMISSION** shall mean the Planning Commission of Alda, Nebraska.
- 2.02.231 **PLANT MATERIALS** shall mean trees, shrubs, vines, ground covers, grass, perennials, annuals, and bulbs and other such vegetation.
- 2.02.232 **PLAT** shall mean a map showing the location, boundaries, and legal description of individual properties.
- 2.02.233 **POLICY** shall mean a statement or document of the Village, such as the comprehensive plan, that forms the basis for enacting legislation or making decisions.
- 2.02.234 **PREMISES** shall mean a tract of land, consisting of one lot or irregular tract, or more than one lot or irregular tract, provided such lots or tracts are under common ownership, contiguous, and used as a single tract. A building or land within a prescribed area.
- 2.02.235 **PRINCIPAL STRUCTURE** shall mean the main building or structure on a lot, within which the main or primary use of the lot or premises is located.
- 2.02.236 **PROMOTIONAL DEVICE** shall mean any sign intended to be displayed either with or without a frame, with or without characters, letters, illustrations, or other material, on a fabric of any kind. National flags, flags of political subdivisions, or symbolic flags of any institutions or business shall be considered a promotional device for the purpose of this definition. Banners, pennants, inflatable characters, streamers, or fringe-type ribbons or piping shall be considered as a promotional device.
- 2.02.237 **PROTECTED ZONE** shall mean all lands that fall outside the buildable areas of a parcel, all areas of a parcel required to remain in open space, and/or all areas required as landscaping strips according to the provisions of the Zoning Regulation.

- 2.02.238 **PUBLIC UTILITY** shall mean any business which furnishes the general public telephone service, telegraph service, electricity, natural gas, water and sewer, or any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the state or federal government.
- 2.02.239 **PUBLIC WATER SUPPLY** shall mean a water supply system designed to provide public piped water fit for human consumption, if such system has at least fifteen (15) service connections or regularly serves at least twenty-five (25) individuals. This definition shall include: (1) Any collection, treatment, storage, or distribution facilities under the control of the operator of such system and used primarily in connection with such system; and (2) Any collection or pretreatment storage facilities not under such control which are used primarily in the connection with such system.
- 2.02.240 **RAILROAD** shall mean the land use including the right-of-way (R. O. W.) abutting railroad properties occupied by uses pertinent to the railroad operation and maintenance, but not including properties owned by the railroad and leased for use by others.
- 2.02.241 **RECREATIONAL FACILITY** shall mean facilities for the use by the public for passive and active recreation including tennis, handball, racquetball, basketball, track and field, jogging, baseball, soccer, skating, swimming, or golf. This shall include country clubs and athletic clubs, but not facilities accessory to a private residence used only by the owner and guests, nor arenas or stadiums used primarily for spectators to watch athletic events. In addition, recreational facilities shall mean museums, amphitheaters, race tracks (including all motor powered vehicles) and wildlife conservation areas (used for public viewing), and theme parks.
- 2.02.242 **RECREATIONAL VEHICLE (RV)** shall mean a vehicular unit less than forty feet (40') in overall length, eight feet (8') in width, or twelve feet (12') in overall height, primarily designed as a temporary living quarters for recreational camping or travel use having either its own power or designed to be mounted on or drawn by a motor vehicle. Recreational vehicle includes travel trailer, park trailer, camping trailer, truck camper, motor home, and van conversion, as defined by Neb. Rev. Stat. §71-4603 (Cum. Supp. 2002).
- 2.02.243 **RECREATIONAL VEHICLE (RV) PARK** shall mean a tract of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes by campers, vacationers, or travelers.
- 2.02.244 **RESIDENCE** shall mean a building used, designed, or intended to be used as a home or dwelling place for one (1) or more families.
- 2.02.245 **RESTAURANT** shall mean a public eating establishment operated for profit at which the primary function is the preparation and serving of food primarily to persons seated within the building.
1. **RESTAURANT, DRIVE-IN** shall mean a restaurant establishment that has the facilities to serve prepared food and/or beverages to customers seated within motor vehicles for consumption either on or off the premises.
 2. **RESTAURANT, ENTERTAINMENT** shall mean a restaurant establishment where food and drink are prepared, served, and consumed, within a building or structure that integrally includes electronic and mechanical games of skill, simulation, and virtual reality, play areas, video arcades or similar uses, billiards, and other forms of amusement.
 3. **RESTAURANT, FAST FOOD** shall mean a restaurant establishment whose principal business is the sale of food and/or beverages in ready-to-consume individual servings, for consumption either within the establishment, for carryout, or drive-in; and where food and/or beverages are usually served in paper, plastic, or other disposable containers.

- 2.02.246 **RETAIL TRADE** shall mean uses primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of goods. Uses engaged in retail trade sell merchandise to the general public or to households for personal consumption.
- 2.02.247 **RETENTION BASIN** shall mean a pond, pool, or basin used for the permanent storage of stormwater runoff.
- 2.02.248 **REVERSE SPOT ZONING** shall mean an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and that uniquely burdens an individual owner largely to secure some public benefit. Reverse spot zoning usually results from downzoning a tract of land to a less intensive use classification than that imposed on nearby properties.
- 2.02.249 **REZONING** shall mean an amendment to or change in the zoning regulations either to the text or map or both.
- 2.02.250 **REZONING, PIECEMEAL** shall mean the zoning reclassification of individual lots resulting in uncertainty in the future compatible development of the area.
- 2.02.251 **RIGHT-OF-WAY** shall mean an area or strip of land, publicly owned, on which an irrevocable right of passage has been dedicated, recorded, or otherwise legally established for the use of vehicles or pedestrians or both.
- 2.02.252 **ROAD, PRIVATE** shall mean a way, other than driveways, open to vehicular ingress and egress established for the benefit of certain, adjacent properties. (Also, see Right-of-Way and Street.)
- 2.02.253 **ROAD, PUBLIC** shall mean all public rights-of-way reserved or dedicated for street or road traffic. (Also, see Right-of-Way and Street.)
- 2.02.254 **ROOM** shall mean an unsubdivided portion of the interior of a dwelling unit, excluding bathroom, kitchen, closets, hallways, and service porches.
- 2.02.255 **SATELLITE DISH ANTENNA** shall mean a round, parabolic antenna incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, or cone and used to transmit and/or receive radio or electromagnetic waves.
- 2.02.256 **SCHOOL, DAY, PRE-, or NURSERY** shall mean a school or center for children under school age, whether licensed as a day care center or not. Such shall be approved by the Nebraska State Fire Marshall as being in conformance with safety provisions pursuant to the National Fire Protection Association, Pamphlet 101, known as the Life Safety Code and shall be approved by the Nebraska Department of Health and Welfare as meeting their health and welfare standards.
- 2.02.257 **SCREENING** shall mean a structure of planting that conceals from view from public ways the area behind such structure or planting.
- 2.02.258 **SELECTIVE CLEARING** shall be the careful and planned removal of trees, shrubs, and plants using specific standards and protection measures.
- 2.02.259 **SELF-SERVICE STATION** shall mean an establishment where motor fuels are stored and dispensed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products.
- 2.02.260 **SELF-SERVICE STORAGE FACILITY** shall mean a building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage.
- 2.02.261 **SEPARATE OWNERSHIP** shall mean ownership of a parcel of land by a person who does not own any of the land abutting such parcel.

- 2.02.262 **SEPTIC SITE** shall mean the area bounded by the dimensions required for the proper location of the septic tank system.
- 2.02.263 **SERVICE STATION** shall mean buildings and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and motor vehicle accessories and where light maintenance activities such as engine tune-ups, lubrications, and washing may be conducted, but not including heavy maintenance and repair such as engine overhauls, painting, and body repair.
- 2.02.264 **SETBACK LINE MEASUREMENT** shall mean the shortest perpendicular distance between any property line and the nearest point on the face of any wall of the building, at grade level.
- 2.02.265 **SETBACK, FRONT YARD** shall mean the distance which defines the depth of the required front yard. Said setback shall be measured to a line parallel with the right-of-way line or highway setback line when one has been established.
- 2.02.266 **SETBACK, REAR YARD OR SIDE YARD** shall mean the distance which defines the width or depth of the required rear or side yard. Said setback shall be measured to a line parallel with the property line, removed therefrom by the perpendicular distance prescribed for the yard in the district.
- 2.02.267 **SHOPPING CENTER** shall mean a group of commercial establishments planned, constructed, and managed as a total entity with customer and employee parking provided on-site, provisions for goods delivery that is separated from customer access, aesthetic considerations, and protection from the elements.
- 2.02.268 **SHOPPING CENTER, COMMERCIAL STRIP** shall mean a commercial development, usually one store deep, that fronts on a major street for a distance of one Village block or more. Includes individual buildings on their own lots, with or without on-site parking and small linear shopping centers with shallow on-site parking in front of the stores.
- 2.02.269 **SHRUB** shall mean a multi-stemmed woody plant other than a tree.
- 2.02.270 **SIDEWALK CAFE** shall mean an area adjacent to a street level eating or drinking establishment located adjacent to the public pedestrian walkway and used exclusively for dining, drinking, and pedestrian circulation. The area may be separated from the public sidewalk by railings, fencing, or landscaping or a combination thereof.
- 2.02.271 **SIGHT TRIANGLE** is an area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two and one-half feet (2 ½') and ten feet (10') above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets, sixty feet (60') in each direction along the centerline of the streets. At the intersection of major or arterial streets, the sixty feet (60') distance shall be increased to ninety feet (90') for each arterial leg of the intersection.
- 2.02.272 **SIGN** shall mean and include any outdoor sign, display, declaration, device, figure, drawing, illustration, message, placard, poster, billboard, insignia, or other things which are designed, intended, or used for direction, information, identification, or to advertise, to inform, or to promote any business, product activity, service, or any interest, except the following:
- A name plate or sign designating location, direction, information, or identification, providing the surface area or face of such sign does not exceed ten (10) square feet.
 - Signs less than twenty-five (25) square feet in surface area advertising activities conducted on the premise, products grown, made, or produced on the premise.



- c). Signs less than fifty (50) square feet in area and less than 25 feet in height that are of a public or quasi-public nature, or other official notices that are authorized by the State of Nebraska, Village of Alda, or a Federal Government Agency, as well as any directional, informational, or other official signs or notices authorized by law.
1. **SIGN, ADVERTISING** shall mean a sign which directs attention to any product, activity, or service; provided, however, that such sign shall not be related or make reference to the primary use, business activity, or service conducted on the premises.
 2. **SIGN, ANIMATED** shall mean any sign that uses movement or change of lighting to depict action or create a special effect or scene.
 3. **SIGN, ANNOUNCEMENT** shall mean a small announcement or professional signs, not over six (6) square feet in area, except that an announcement sign or bulletin board not over 18 square feet in area, set back at least 20 feet from any highway, street, road, or roadway easement may be erected in connection with any of the permitted principal uses of a nonresidential nature.
 4. **SIGN, ARCHITECTURAL CANOPY** shall mean an enclosed, illuminated or non-illuminated structure attached to the wall of a building with the face of the sign approximately parallel to the wall, with the sign's area integrated into its surface.
 5. **SIGN AREA** shall mean the entire area including the background of a sign on which copy can be placed but not including the minimal supporting framework or bracing. The area of individually painted letter signs, individual letter signs or directly or indirectly illuminated individual letter signs, shall be calculated on the basis of the smallest geometric figure that will enclose the entire copy area of the sign. Any such calculation shall include the areas between the letters and lines, as well as the areas of any devices, illuminated or non-illuminated.
 6. **SIGN, AWNING OR CANOPY** shall mean any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.
 7. **SIGN, BANNER** shall mean any sign of lightweight; fabric or similar material that is permanently mounted to a pole or building by a permanent frame at one or more edges. National flags, state or municipal flags, or official flag of any institution or business shall not be considered banners.
 8. **SIGN, BILLBOARD** shall mean a sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.
 9. **SIGN, BUILDING** shall mean any sign supported by, painted on or otherwise attached to any building or structure.



Sign, Architectural Canopy, Awning or Canopy



Sign, Banner

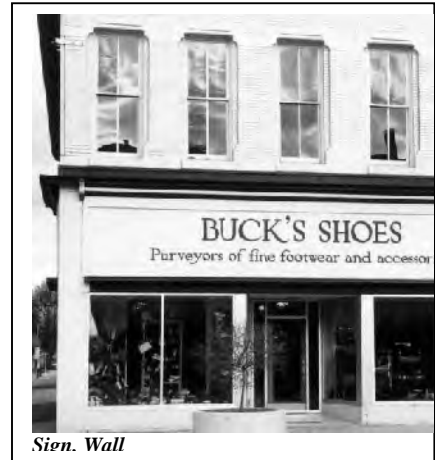
10. **SIGN, BUILDING MARKER** shall mean any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.
11. **SIGN, CHANGEABLE COPY** shall mean a sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without, altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this ordinance. A sign on which the only copy changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this ordinance.
12. **SIGN, CLOSED** shall mean a sign in which more than fifty percent (50%) of the entire area is solid or tightly closed or covered.
13. **SIGN, COMMERCIAL MESSAGE** shall mean any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.
14. **SIGN, DESTINATION** shall mean a sign used to inform and direct the public to important public places and buildings, landmarks, and historical sites in the most simple, direct, and concise manner possible.
15. **SIGN, ELECTRONIC MESSAGE BOARD** shall mean a sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.
16. **SIGN, FLASHING** shall mean a sign, which, by method or manner of illumination, flashes on or off, winks, or blinks with varying light intensity, shows motion, or creates the illusion of being on or off.
17. **SIGN, FREESTANDING** shall mean any sign supported by uprights or braces placed on or in the ground, which is used principally for advertising or identification purposes and is not supported by any building.
18. **SIGN, GROUND** shall mean a sign mounted directly to the ground with a maximum height not to exceed six feet (6').
19. **SIGN, ILLUMINATED** shall mean a sign illuminated in any manner by an artificial light source.
20. **SIGN, INCIDENTAL** shall mean a sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.
21. **SIGN, MARQUEE** shall mean any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.
22. **SIGN, NAMEPLATE** shall mean a sign not exceeding two (2) square feet for each dwelling.
23. **SIGN, NON-CONFORMING** shall mean any sign that does not conform to the requirements of this ordinance.
24. **SIGN, OBSOLETE** shall mean a sign that advertises a business no longer in existence or a product no longer offered for sale and has advertised such



- business or product for a period of six (6) months after the termination of the existence of such business or the termination of sale of the product advertised.
25. **SIGN, OFF-PREMISES** shall mean a sign including the supporting sign structure which directs the attention of the general public to a business, service, or activity not usually conducted, or a product not offered or sold, upon the premises where such sign is located.
 26. **SIGN, ON-PREMISE** shall mean a sign, display, or device-advertising activities conducted on the property on which such sign is located.
 27. **SIGN, OPEN** shall mean a sign attached to or hung from a marquee, canopy, or other covered structure, projecting from and supported by the building and extending beyond the building wall, building line, or street lot line.
 28. **SIGN, PENNANT** shall mean any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.
 29. **SIGN, POLE** shall mean a sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is six feet (6') or more above grade.
 30. **SIGN, PORTABLE** shall mean a sign, usually of a temporary nature, not securely anchored to the ground or to a building or structure and which obtains some or all of its structural stability with respect to wind or other normally applied forces by means of its geometry or character. Examples are: menu and sandwich board signs, balloons used as signs, umbrellas used for advertising, and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.
 31. **SIGN, PROJECTING** shall mean a projecting sign attached to a building in such a manner that its leading edge extends more than eight inches (8") beyond the surface of such building or wall.
 32. **SIGN, REAL ESTATE** shall mean a temporary sign that identifies property or properties that are for sale or lease.
 33. **SIGN, ROOF** shall mean a sign identifying the name of a business, enterprise, or the product sold on the premises and erected on and over the roof of a building and extending vertically above the highest portion of the roof.
 34. **SIGN, ROOF (INTEGRAL)** shall mean any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches (6').
 35. **SIGN, SETBACK** shall mean the horizontal distance from the property line to the nearest projection of the existing or proposed sign.
 36. **SIGN, SUBDIVISION** identification shall mean a sign erected on a subdivision identification lot that identifies the platted subdivision where the sign is located.
 37. **SIGN, SURFACE** shall mean the entire area of a sign.



38. **SIGN, SUSPENDED** shall mean a sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.
39. **SIGN, TEMPORARY** shall mean a sign constructed of cloth, fabric, or other material with or without a structural frame intended for a limited period of display, including displays for holidays or public demonstrations. Temporary signs shall include portable signs as defined in this section.
40. **SIGN, WALL** shall mean any sign attached parallel to, but within eight inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.
41. **SIGN, WINDOW** shall mean any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.
- 2.02.273 **SIMILAR USE** shall mean the use of land, buildings, or structures of like kind or general nature with other uses within a zoning district as related to bulk, intensity of use, traffic generation and congestion, function, public services requirements, aesthetics or other similarities.
- 2.02.274 **SITE BREAK** shall mean a structural or landscape device used to interrupt long vistas and create visual interest in a site development.
- 2.02.275 **SITE PLAN** shall mean a plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, drives, parking, drainage, landscape features, and other principal site development improvements for a specific parcel of land.
- 2.02.276 **SKATE, IN-LINE** shall mean a boot-type device, which is placed on an individual's feet. In-line skates contain wheels on the bottom of the boot, which are attached in linear fashion.
- 2.02.277 **SKATE PARK** shall mean a recreational facility containing skateboard ramps and other obstacle courses and devices for the use with skateboards and in-line skates.
- 2.02.278 **SKATEBOARD** shall mean a foot board mounted upon four or more wheels and is usually propelled by the user who sometimes stands, sits, kneels, or lays upon the device while it is in motion.
- 2.02.279 **SKATEBOARD HALF PIPE** shall mean an outdoor structure that is shaped into a half circle or oval, that is designed and principally intended to permit persons on skateboards to move continuously from one side to the other.
- 2.02.280 **SKATEBOARD RAMP** shall mean an outdoor structure with an upward inclined surface, essentially one of the sides of a pipe, which are designed and principally intended to permit persons on skateboards to move from horizontal to vertical and back to horizontal.
- 2.02.281 **SLUDGE** shall mean solids removed from sewage during wastewater treatment and then disposed of by incineration, dumping, burial, or land application.
- 2.02.282 **SOLID WASTE** shall mean waste materials consisting of garbage, trash, refuse, rubble, sewage, offal, dead animals, or paunch manure.



Sign. Wall

- 2.02.283 **SPECIFIED ANATOMICAL AREAS** shall mean anatomical areas consisting of less than completely and opaquely covered human genitals, buttock, or female breast(s) below a point immediately above the top of the areola.
- 2.02.284 **SPECIFIED SEXUAL ACTIVITIES** shall mean sexual activities prohibited by the Revised Nebraska State Statutes.
- 2.02.285 **SPOT ZONING** shall mean an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and primarily promotes the private interest of the owner rather than the general welfare. Spot zoning usually results from an upzoning to a more intensive use classification.
- 2.02.286 **STANDARD SEWAGE SYSTEM** shall mean a sewage treatment system employing a building sewer, septic tank, and a standard soil absorption system.
- 2.02.287 **STOCKPILING** shall mean the accumulation of manure in mounds, piles, or other exposed and non-engineered site locations for storage or holding purposes for a period of not more than one (1) year.
- 2.02.288 **STORAGE** shall mean the keeping, in a roofed or unroofed area, of any goods, junk, material, merchandise, or vehicles on the same tract or premises for more than thirty (30) days.
- 2.02.289 **STORM DRAIN** shall mean a conduit that carries natural storm and surface water drainage but not sewage and industrial wastes, other than unpolluted cooling water.
- 2.02.290 **STORMWATER DETENTION** shall mean any storm drainage technique that retards or detains runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells, or any combination thereof.
- 2.02.291 **STORMWATER MANAGEMENT** shall mean the collecting, conveyance, channeling, holding, retaining, detaining, infiltrating, diverting, treating, or filtering of surface water, or groundwater, and/or runoff, together with applicable managerial (non-structural) measures.
- 2.02.292 **STORMWATER RETENTION AREA** shall mean an area designed by a licensed professional engineer and approved by the Village to retain water to control the flow of stormwater.
- 2.02.293 **STORMWATER RUNOFF** shall mean surplus surface water generated by rainfall that does not seep into the earth but flows over land to flowing or stagnant bodies of water.
- 2.02.294 **STORY** shall mean a space in a building between the surface of any floor and the surface of the floor above, or if there is not floor above, then the space between such floor and the ceiling or roof above.
- 2.02.295 **STREET** shall mean a public thoroughfare or right-of-way dedicated, deeded, or condemned for use as such, other than an alley, which affords the principal means of access to abutting property including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except as excluded in this Regulation.
1. **STREET, ARTERIAL** shall mean a street designed with the primary function of efficient movement of through traffic between and around areas of a Village, Village, or county with controlled access to abutting property.
 2. **STREET, COLLECTOR** shall mean a street or highway, which is intended to carry traffic from minor Street to major streets. Collector streets are usually the principal entrance streets to residential developments and the streets for circulation within the development.
 3. **STREET, CURVILINEAR** shall mean local streets that deviate from straight alignment and change direction without sharp corners or bends.

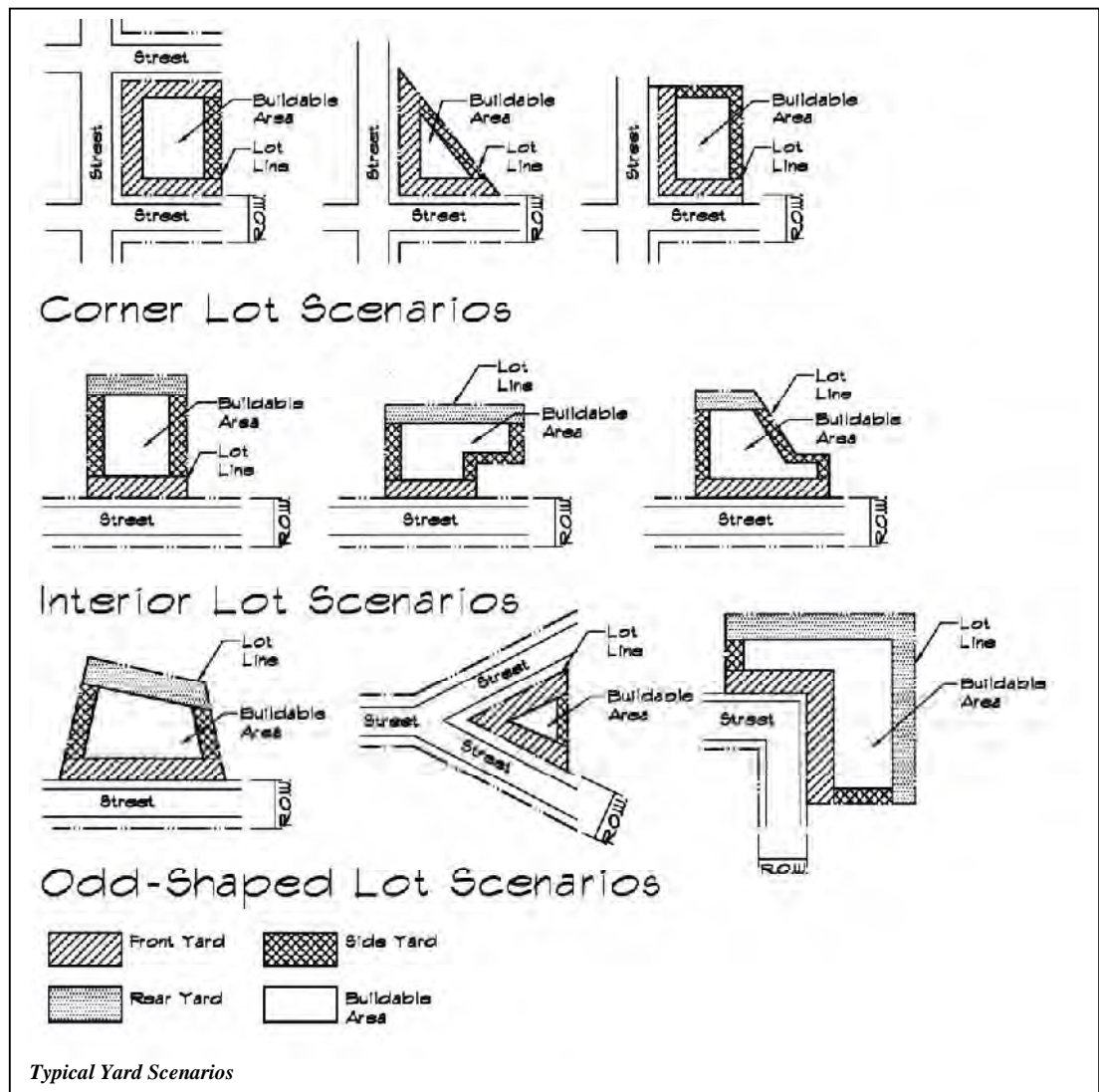
4. **STREET, FRONTAGE ACCESS** shall mean a street parallel and adjacent to a major street, major inter-regional highway, or major collection road and primarily for service to the abutting properties, and being separated from the major street by a dividing strip
 5. **STREET, LOCAL** shall mean a street designed for local traffic that provides direct access to abutting residential, commercial, or industrial properties.
 6. **STREET, LOOPED** shall mean a continuous local street without intersecting streets and having its two (2) outlets connected to the same street.
 7. **STREET, MAJOR** shall mean a street or highway used primarily for fast or high volume traffic, including expressways, freeways, boulevards, and arterial streets.
 8. **STREET, PRIVATE** shall mean an open, unoccupied space, other than a street or alley dedicated to the public, but permanently established as the principal means of vehicular access to abutting properties. The term "private street" includes the term "place".
 9. **STREET, SIDE** shall mean that street bounding a corner or reversed corner lot and which extends in the same general direction as the line determining the depth of the lot.
- 2.02.296 **STREET CENTERLINE** shall mean the centerline of a street right-of-way as established by official surveys.
- 2.02.297 **STREET FRONTAGE** shall mean the distance for which a lot line of a zone lot adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.
- 2.02.298 ~~**STREET, FRONTAGE ACCESS** shall mean a street parallel and adjacent to a major street, major inter-regional highway, or major collection road and primarily for service to the abutting properties, and being separated from the major street by a dividing strip.~~ Reserved
- 2.02.299 **STREET HARDWARE** shall mean man-made objects other than buildings that are part of the streetscape. Examples are: lamp posts, utility poles, traffic signs, benches, litter containers, planting containers, letter boxes, fire hydrants.
- 2.02.300 **STREET LINE** shall mean a dividing line between a lot, tract, or parcel of land and the contiguous street.
- 2.02.301 **STREETSCAPE** shall mean the scene as may be observed along a public street or way composed of natural and man-made components, including buildings, paving, plantings, street hardware, and miscellaneous structures.
- 2.02.302 **STRUCTURE** shall mean anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming and wading pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts, and similar recreation areas.
- 2.02.303 **STRUCTURE, TEMPORARY** shall mean a structure without any foundation or footings and that is removed when the designated time period, activity, or use for which the structure was erected has ceased.
- 2.02.304 **STRUCTURAL ALTERATION** shall mean any change in the support members of a building, such as in a bearing wall, column, beam or girder, floor or ceiling joists, roof rafters, roof diaphragms, foundations, piles, or retaining walls or similar components.

- 2.02.305 **SUBDIVISION** shall mean the division of a lot, tract, or parcel of land into two or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future, provided the smallest lot created by the division is less than ten (10) acres in size.
- 2.02.306 **SURFACE WATERS** shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, springs, canal systems, drainage systems, and all other bodies or accumulations of water, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.
- 2.02.307 **TANNING STUDIO** shall mean any business that uses artificial lighting systems to produce a tan on an individual's body. These facilities may be either a stand-alone business or as an accessory use in spas, gymnasiums, athletic clubs, health clubs, and styling salons. This use is not included with any type of adult establishment.
- 2.02.308 **TATTOO PARLOR/BODY PIERCING STUDIO** shall mean an establishment whose principal business activity is the practice of tattooing and/or piercing the body of paying customers.
- 2.02.309 **TAVERN** (see Bar.)
- 2.02.310 **TEMPORARY USE** shall mean a use intended for limited duration to be located in a zoning district not permitting such use.
- 2.02.311 **THEATER** shall mean a building or structure used for dramatic, operatic, motion pictures, or other performance, for admission to which entrance money is received and no audience participation or meal service.
- 2.02.312 **TOWER** shall mean a structure situated on a site that is intended for transmitting or receiving television, radio, or telephone communications. (Also, see Antenna.)
- 2.02.313 **TRACT** shall mean a lot or contiguous group of lots in single ownership or under single control, usually considered a unit for purposes of development.
- 2.02.314 **TRAILER, AUTOMOBILE** shall mean a vehicle without motive power, designed and constructed to travel on the public thoroughfares and to be used for human habitation or for carrying property, including a trailer coach.
- 2.02.315 **TRUCK REPAIR** shall mean the repair, including major mechanical and body work, straightening of body parts, painting, welding, or other work that may include noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in gasoline service stations, of trucks having a hauling capacity of over one (1) ton and buses but excluding pickups and other vehicles designed for the transport of under eight (8) passengers.
- 2.02.316 **TRUCK WASH** shall mean a facility for washing semi-tractor trailers, buses, and commercial fleets.
- 2.02.317 **UPZONING** shall mean a change in zoning classification of land to a more intensive or less restrictive district such as from residential district to commercial district or from a single family residential district to a multiple family residential district.
- 2.02.318 **USE** shall mean the purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.
1. **USE, BEST** shall mean the recommended use or uses of land confined in an adopted comprehensive plan. Such use represents the best use of public facilities, and promotes health, safety and general welfare.
 2. **USE, HIGHEST** shall mean an appraisal or real estate market concept that identifies the use of a specific tract of land that is most likely to produce the greatest net return on investment.

3. **USE, PERMITTED** shall mean any land use allowed without condition within a zoning district.
 4. **USE, PRINCIPAL** shall mean the main use of land or structure, as distinguished from an accessory use. (Also, see Building, Principal.)
 5. **USE, PROHIBITED** shall mean any use of land, other than nonconforming, which is not listed as a permitted use or conditional use within a zoning district.
- 2.02.319 **USED MATERIALS YARD** shall mean any lot or a portion of any lot used for the storage of used materials. This shall not include "Junk Yards" or "Automobile Wrecking Yards".
 - 2.02.320 **UTILITARIAN STRUCTURE** shall mean a structure or enclosure relating to mechanical or electrical services to a building or development.
 - 2.02.321 **UTILITY EASEMENT** shall mean the same as "Easement".
 - 2.02.322 **UTILITY HARDWARE** shall mean devices such as poles, crossarms, transformers and vaults, gas pressure regulating assemblies, hydrants, and buffalo boxes that are used for water, gas, oil, sewer, and electrical services to a building or a project.
 - 2.02.323 **UTILITIES, OVERHEAD or UNDERGROUND, "LOCAL DISTRIBUTION SYSTEM"** shall mean the local service distribution circuit or lines and related appurtenances served from a substation, town border station, reservoir, or terminal facility which is served from a main supply line, main transmission line, or main feeder line as may be applicable to electric, communications, gas, fuel, petroleum, fertilizer, or other chemical utilities. Local electric distribution systems shall be limited to include all lines and appurtenances carrying a primary voltage of less than 161 KV from an electric transformer substation to the consumer. The local telephone distribution system shall be limited to include the local exchange lines, the local toll lines, and the local communications equipment facilities structure.
 - 2.02.324 **UTILITIES, OVERHEAD OR UNDERGROUND (TRANSMISSION LINE, SUPPLY LINE, WHOLESALE CARRIER OR TRUNK LINE, MAIN FEEDER LINE)**, or other applicable designation shall mean the main supply or feeder line serving a local distribution system of utilities, and shall include but is not limited to pumping stations, substations, regulating stations, generator facilities, reservoirs, tank farms, processing facilities, terminal facilities, towers, and relay stations, and treatment plants.
 - 2.02.325 **UTILITY SERVICE** shall mean any device, including wire, pipe, and conduit, which carries gas, water, electricity, oil and communications into a building or development.
 - 2.02.326 **VARIANCE** shall mean a relief from or variation of the provisions of this chapter, other than use regulations, as applied to a specific piece of property, as distinct from rezoning.
 - 2.02.327 **VEGETATION** shall mean all plant life; however, for purposes of this Zoning Regulation it shall be restricted to mean trees, shrubs, and vines.
 - 2.02.328 **VEHICLE** shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved solely by human power or used exclusively upon stationary rails or tracks. (Also, see Motor Vehicle).
 - 2.02.329 **VILLAGE** shall mean the Village of Alda, Nebraska.
 - 2.02.330 **VILLAGE BOARD** shall mean the Village Board of Alda, Nebraska
 - 2.02.331 **VISUAL OBSTRUCTION** shall mean any fence, hedge, tree, shrub, wall or structure exceeding two (2) feet in height, measured from the crown of intersecting or intercepting streets, alleys or driveways,

which limit the visibility of persons in motor vehicles on said streets, alleys, or driveways. This does not include trees kept trimmed of branches below a minimum height of eight (8) feet.

- 2.02.332 **WAREHOUSE** shall mean a building used primarily for the storage of goods and materials.
- 2.02.333 **WAREHOUSE AND DISTRIBUTION** shall mean a use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment.
- 2.02.334 **WASTEWATER LAGOON** (See Lagoon.)
- 2.02.335 **WATERS OF THE STATE** shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water surface or underground, material or artificial, public or private, situated wholly within or bordering upon the state.
- 2.02.336 **WETLAND** shall mean an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soiled conditions, commonly known as hydrophytic vegetation.
1. **SALINE WETLAND** shall mean an area that is saturated by salty soils and water at a frequency and duration sufficient to support, and that, under normal circumstances, does not support a prevalence of salt-tolerant vegetation typically adapted for life in saturated soiled conditions, commonly known as hydrophytic vegetation.
- 2.02.337 **WHOLESALE ESTABLISHMENT** shall mean an establishment for the on-premises sales of goods primarily to customers engaged in the business of reselling the goods.
- 2.02.338 **WHOLESALE TRADE** shall mean a use primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. The principal types of establishments included are: Merchant wholesalers; sales branches and sales offices (but not retail stores) maintained by manufacturing enterprises apart from their plants for the purpose of marketing their products; agents, merchandise or commodity brokers, and commission merchants; petroleum bulk storage, assemblers, buyers, and associations engaged in cooperative marketing of farm products. The chief functions of uses in wholesale trade are selling goods to trading establishments, or to industrial, commercial, institutional, farm and professional; and bringing buyer and seller together. In addition to selling, functions frequently performed by wholesale establishments include maintaining inventories of goods; extending credit; physically assembling, sorting and grading goods in large lots, breaking bulk and redistribution in smaller lots; delivery; refrigeration; and various types of promotion such as advertising and label designing.
- 2.02.339 **YARD** shall mean any open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed from the ground upward to the sky, except for building projections or for accessory buildings or structures permitted by this Regulation. (see diagram on next page).
1. **YARD, FRONT** shall mean a space between the front yard setback line and the front lot line or highway setback line, and extending the full width of the lot.
 2. **YARD, REAR** shall mean a space between the rear yard setback line and the rear lot line, extending the full width of the lot.
 3. **YARD, SIDE** shall mean a space extending from the front yard, or from the front lot line where no front yard is required by this Regulation, to the rear yard, or rear lot line, between a side lot line and the side yard setback line.



- 2.02.340 **ZONING ADMINISTRATOR** shall mean the person or persons authorized and empowered by the Village to administer and enforce the requirements of this chapter.
- 2.02.341 **ZONING DISTRICT** shall mean the same as "District".
- 2.02.342 **ZONING DISTRICT, CHANGE OF** shall mean the legislative act of removing one (1) or more parcels of land from one (1) zoning district and placing them in another zoning district on the zone map of the Village.

ARTICLE 3: DISTRICTS AND OFFICIAL MAP**Section 3.01 Districts**

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

Section 3.02 Provision for Official Zoning Map

3.02.01 The Village is hereby divided into districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Village Board Chairperson, attested by the Village Clerk, and bearing the seal of the Village under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 3.02 of Ordinance No. ~~***~~(**) of the Village of Alda, Nebraska", together with the date of the adoption of this Ordinance.

If, in accordance with the provisions of this Ordinance, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Village Board.

3.02.02 In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Village Board may by ordinance adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Village Board Chairperson attested by the Village Clerk and bearing the seal of the Village under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted ~~***~~ (Ordinance No. ~~***~~ (**) of the Village of Alda, Nebraska."

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

ARTICLE 4: GENERAL PROVISIONS**Section 4.01 Planning Commission Recommendations**

Pursuant to Neb. Rev. Stat. §19-901 (R.R.S.1997), it shall be the purpose of the Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein.

The Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the Village Board shall not hold its public hearings or take action until it has received the final report of the Commission.

Section 4.02 District Regulations, Restrictions, Boundary Creation

No such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearings shall be given by publication thereof in a paper of general circulation in the Village at least one (1) time ten (10) days prior to such hearing.

Section 4.03 Jurisdiction

The provisions of this Ordinance shall apply within the corporate limits of the Village of Alda, Nebraska, and within the territory beyond said corporate limits as now or hereafter fixed, for a distance of one (1) mile, as established on the map entitled "The Official Zoning Map of the Village of Alda, Nebraska", and as may be amended by subsequent annexation.

Section 4.04 Provisions of Ordinance Declared to be Minimum Requirements

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions of this Ordinance require a lower height of building or lesser size of yards, courts or other spaces, or require a lower height of building or lesser number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other ordinance, the provisions of this Ordinance shall govern. Wherever the provisions of any other ordinance requires a greater width or size of yards, courts, or other open spaces, or requires a lower height of building or a lesser number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the provisions of this Ordinance, the provisions of such ordinance shall govern.

Section 4.05 Zoning Affects Every Building and Use

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

Section 4.06 Lot

- 4.06.01 Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot or lot of record and in no case shall there be more than one (1) principal building on a lot unless otherwise provided.
- 4.06.02 The total percentage of allowable lot coverage shall be addressed in each district. Such percentage shall exclude driveways, sidewalks, and paved patios, but shall specifically include decks.
- 4.06.03 More than one principal building of a single permitted use may be located upon a lot or tract in the following instances if recommended by the Planning Commission and approved by the Village Board.
 - 1. Institutional buildings
 - 2. Public or semi-public buildings
 - 3. Multiple-family dwellings
 - 4. Commercial or industrial buildings
 - 5. Home for the aged
 - 6. Agricultural buildings

Section 4.07 Reductions in Lot Area Prohibited

No lot, even though it may consist of one (1) or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

Section 4.08 Obstructions to Vision at Street Intersections Prohibited

A corner lot, within the area formed by the center line of streets at a distance of sixty feet (60') from their intersections, there shall be no obstruction to vision between a height of two and one-half feet (2-1/2') and a height of ten feet (10') above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets. At the intersection of major or arterial streets, the sixty feet (60') distance shall be increased to ninety feet (90') for each arterial leg of the intersection. The requirements of this section shall not be deemed to prohibit any necessary retaining wall.

Section 4.09 Yard Requirements

- 4.09.01 Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.
- 4.09.02 All accessory buildings that are attached to principal buildings (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.
- 4.09.03 The Village Board may permit a variation in front yard setbacks to allow new or relocated structures to conform to the average existing setback provided that 1.) more than thirty percent (30%) of the frontage on one side of a street between intersecting streets is occupied by structures on the effective date of this Ordinance, and 2.) a minority of such structures have observed or conformed to an average setback line.
- 4.09.04 Any side or rear yard in a residential district which is adjacent to any existing industrial use shall be no less than twenty-five feet (25') and shall contain landscaping and planting suitable to provide effective screening pursuant to Section 7.16.04.
- 4.09.05 Any yard for an industrial use which is adjacent to any residential use or district shall be increased to forty feet (40') and shall contain landscaping and planting suitable to provide effective screening pursuant to Section 7.16.04. Included in the increased yard, a solid or semi-solid fence or wall at least six feet (6'), but not more than eight feet (8') high shall be provided adjacent to an adjoining residential district unless the adjacent residential district and industrial district are separated by a street right-of-way. The owner or owners of the property in the Industrial District shall maintain said fence or wall in good condition. Said fencing shall be constructed of commercially available fencing.

Section 4.10 Drainage

No building, structure, or use shall be erected on any land, and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Anyone desiring to build or otherwise change the existing drainage situation shall be responsible for providing to the Village or their designated agent that such changes will not be a detriment to the neighboring lands.

Section 4.11 Permitted Obstructions in Required Yards

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

- 4.11.01 **All Yards:** Steps and accessibility ramps used for wheelchair and other assisting devices which are forty-eight inches (48") or less above grade which are necessary for access to a permitted building or for access to a lot from a street or alley; eaves and roof overhangs projecting thirty-six inches (36") or less; chimneys projecting twenty-four inches (24") or less into the yard; recreational and laundry-drying equipment; approved freestanding signs; arbors and trellises; flag poles; window unit air conditioners projecting not more than eighteen inches (18") into the required yard; and fences or walls subject to applicable height restrictions are permitted in all yards.
- 4.11.02 **Front Yards:** Bay windows projecting thirty-six inches (36") or less into the yard are permitted.

- 4.11.03 **Rear and Side Yards:** Open off-street parking spaces or outside elements of central air conditioning systems.
- 4.11.04 **Double Frontage Lots:** The required front yard shall be provided on each street.
- 4.11.05 **Building Groupings:** For the purpose of the side yard regulation a group of business or industrial buildings separated by a common party wall shall be considered as one (1) building occupying one (1) lot.

Section 4.12 Accessory Buildings and Uses

- 4.12.01 No accessory building shall be constructed upon a lot prior to beginning construction of the principal building. No accessory building shall be used for more than six (6) months unless the main building on the lot is also being used or unless the main building is under construction; however, in no event shall such building be used as a dwelling unless a certificate of occupancy has been issued for such use.
- 4.12.02 No detached accessory building or structure shall exceed the maximum permitted height of the principal building or structure.
- 4.12.03 No accessory building shall be erected in or encroach upon the required side yard on a corner lot or the front yard of a double frontage lot.
- 4.12.04 Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than ten feet (10').
- 4.12.05 Garages and outbuildings in Residential Districts for storage uses and other structures customary and appurtenant to the permitted uses and detached accessory garages shall be constructed of materials customarily used in residential construction, including colored metal siding and roofing.
- 4.12.06 Regulation of accessory uses shall be as follows:
1. Except as herein provided, no accessory building shall project beyond a required yard line along any street.
 2. Service station pumps and pump island may occupy the required yards, provided, however, that they are not less than fifteen feet (15') from street lines.
 3. Storage of an unlicensed boat, boat trailer, camp trailer, or other vehicle shall not be permitted in any required yard, unless provided in Section 7.13.

Section 4.12(a) Cargo Storage Containers

- 4.12(a).01 Cargo Storage Containers are defined as an industrial, standardized, reusable, enclosed container that is not permanently attached to a semi-trailer and wheels:
- (a) Originally, specifically or formerly designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities;
 - (b) Designed for or capable of being mounted or moved on a rail car; and/or
 - (c) Designed for or capable of being mounted on a chassis for movement by truck, train or loaded on a ship.
- 4.12(a).02 A Cargo Storage Container shall be treated in the same manner as an accessory building that may be placed in either the R-9 - Single Family Residential District; BGC - General Commercial District; BG - Highway Commercial District; I-1 - Light Industrial District; I-2 - Heavy Industrial District; PUD - Planned Unit Development District; AG - Agricultural District; or TA - Transitional Agriculture District, with the following additional conditions:
- (a) Only one (1) Cargo Storage Container shall be permitted per lot unless a request for the placement of more than one (1) Cargo Storage Container shall have first been presented to the Alda Village Board of Trustees and approved.
 - (b) A Cargo Storage Container shall be free of dents, rust and/or graffiti and shall be maintained in good condition and painted to blend in with other structures.
 - (c) It shall not be permissible to stack Cargo Storage Containers.
 - (d) A Cargo Storage Container cannot exceed dimensions of 9 feet 6 inches in height by 8 feet in width by 40 feet in length and shall not encroach upon any applicable setback requirement applicable to the zoning district on which such Cargo Storage Container is placed.
 - (e) A Cargo Storage Container shall be permanently and adequately anchored if it shall remain on a lot in excess of six (6) months.

- (f) A Cargo Storage Container shall be securely locked at all times, other than during actual loading or unloading.
- (g) If the Cargo Storage Container in its unaltered condition is airtight an air vent must be installed.
- (h) Under no circumstances shall a Cargo Storage Container be used as a dwelling unit, housing unit, pet housing, animal containment unit or kennel and no sales shall be conducted from a Cargo Storage Container.

Section 4.13 Permitted Modifications of Height Regulations

4.13.01 The height limitations of this Ordinance shall not apply to:

<u>Belfries</u>	<u>Public Monuments</u>	<u>Tanks</u>
<u>Chimneys</u>	<u>Ornamental Towers and Spires</u>	<u>Smoke Stacks</u>
<u>Church Spires</u>	<u>Broadcast Towers less than 75' in height</u>	<u>Flag Poles</u>
<u>Conveyors</u>	<u>Air Pollution Prevention Devices</u>	<u>Silos</u>
<u>Cooling Towers</u>	<u>Stage Towers or Scenery Lots</u>	<u>Fire Towers</u>
<u>Elevator Bulkheads</u>	<u>Water Towers and Standpipes</u>	

4.13.02 When permitted in a district, public or semi-public service buildings, hospitals, institutions, or schools may be erected to a height not exceeding seventy-five feet (75') when each required yard line is increased by at least one foot (1') for each one foot (1') of additional building height above the height regulations for the district in which the building is located.

Section 4.14 Structures Intended for Human Occupancy

- 4.14.01 All permanent and temporary structures intended for human occupancy shall be required to obtain a zoning and building permit and certificate of occupancy prior to use.
- 4.14.02 All permanent and temporary structures intended for human occupancy shall be placed upon a permanent foundation.
- 4.14.03 No basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed.

Section 4.15 Nonconforming, General Intent

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

Section 4.16 Nonconforming Lots of Record

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provision of this ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both that are generally applicable in the district provided that the yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located; that such lot has 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 have been lawful; and has remained in separate and individual ownership from adjoining lots or tracts of land continuously during the entire period in which this or previous ordinance would have prohibited creation of such lot. Variance of area, width and yard requirements shall be obtained only through action of the board of adjustment.

Section 4.17 Nonconforming Structures

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

- 4.17.02 **Enlargement, Repair, Alterations:** Any such structure described in Section 4.17.01 may be enlarged, extended, maintained, repaired or remodeled, provided, however, that no such enlargement, extension, maintenance, repair or remodel shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure.
1. A nonconforming structure may be allowed by conditional use permit to be enlarged or extended where the degree of nonconformity is increased provided due consideration is given to the following criteria:
 - a). No zoning or building permit shall be issued for an existing nonconforming structure where the proposed expansion (including any other such expansion) exceeds fifty percent (50%) of the square footage of the floor area on the main floor of the original structure. In any Residential district, such structure shall not be enlarged or extended such that it becomes larger than the dwelling.
 - b). Such conditional use may only be allowed to continue an existing nonconformity and shall not allow for the creation of new nonconformities. Furthermore, the permit shall not be allowed for multiple nonconformities or to increase the degree of nonconformity of the requested conditional use. The degree of nonconformity shall mean that the request shall not further reduce a setback or height requirement or encroach into an area designated as a sight triangle.
 - c). The consideration of the affects of such conditional use on adjacent property, traffic, and the environment shall be considered.
 - d). The Alda Transportation Plan and one- and six-year plan shall be considered.
 - e). The density of land uses within the existing zoning district and that of adjacent properties shall be considered.
 - f). The degree of hardship upon the applicant which would be caused by failure to grant such a permit shall also be considered.
- 4.17.03 **Damage or Destruction:** In the event that any structure described in Section 4.17.01 is damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided that structures located on a lot that does not comply with the applicable lot size requirements in Section 4.17, shall not have a side yard of less than five feet (5'). When a structure is damaged to the extent of less than fifty percent (50%) of its structural value, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.
- 4.17.04 **Moving:** No structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

Section 4.18 Nonconforming Uses

- 4.18.01 **Nonconforming Uses of Land:** Where at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:
1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;
 2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.
 3. If any such nonconforming use of land ceases for any reason for a period of more than twelve (12) months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.
- 4.18.02 **Nonconforming Uses of Structures:** If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:
1. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to use permitted in the district in which it is located;
 2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance but no such use shall be extended to occupy any land outside such building;

3. If no structural alterations are made, any nonconforming use of a structure or structures and premises may be changed to another nonconforming use provided that the board of adjustment either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board of adjustment may require appropriate conditions and safeguard in accord with the provisions of this ordinance;
4. Any structure, or structure and land in combination, in any or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed;
5. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for twelve (12) months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located;
6. Where nonconforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

Section 4.19 Repairs and Maintenance

- 4.19.01 On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing provided that the cubic content of the building as it existed at the time of passage of amendment of this ordinance shall not be increased.
- 4.19.02 Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Section 4.20 Uses Permitted by Conditional Use Permit not Nonconforming Uses

Any use for which a conditional use permit is issued according to the provisions of this ordinance shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

Section 4.21 *Nonconforming Buildings and Uses; Extension of Nonconforming Uses*

The Village Board may, when it deems proper, permit repairs, alterations, extensions, expansions, and the remodeling or rebuilding of such structures or extensions or expansions of a land use in all cases where a refusal to do so would bring hardship to the owner or occupants and in all cases where justice requires the granting of the same. The Village Board may attach appropriate conditions to the granting of any such relief. Whenever a use district shall be hereafter changed, any then existing nonconforming use in such changed district may be continued or changed to a use permitted in that zoning district, provided, all other regulations governing the new use are complied with.

Section 4.22 Fees

All fees for any zoning or subdivision related action shall be required prior to the issuance or investigation of any said permit request. Fees shall be set forth in the Regional Planning Commission Master Fee Schedule *and Village Fee Schedule*, with payments made to the appropriate City, County, or Village Clerk. *Fees may be due to both the Regional Planning Commission/Hall County and the Village.*

Section 4.23 Public Uses

In the case of a public use proposed in any district within the zoning jurisdiction of the Village of Alda, where such use is determined by the Zoning Administrator to be a benefit to the public health, safety, and general welfare of the community, such use shall be allowed in any district whether or not such use conforms to the zoning requirements of that district, including lot area, lot size, setbacks, height limitations and lot coverage.

ARTICLE 5: ZONING DISTRICTS

5.01	Districts; Uses	
5.02	Districts; Boundaries	
5.03	District Boundaries; Interpretation	
5.04	Districts; Classification upon Annexation and Conformance with Land Use Plan	
5.05	District (TA);	Transitional Agricultural
5.06	District (RA);	Residential Agriculture
5.07	District (R-9);	Single-Family Residential
5.08	District (R-6);	Multiple-Family Residential
5.09	District (R-3);	Multiple-Family Residential
5.08	District (RM);	Mobile Home Residential
5.10	District (BGC);	General Commercial
5.11	District (BG HC);	Highway Commercial
5.14	District (I-1);	Light Industrial
5.15	District (I-2)	Heavy Industrial

Section 5.01 Districts; Use

For the purpose of this Chapter, the Municipality is hereby divided into eight (8) districts, designated as follows:

(TA)	Transitional Agricultural
(RA)	Residential Agriculture
(R-9)	Single-Family Residential
(R-6)	Multiple-Family Residential
(R-3)	Multiple-Family Residential
(RM)	Mobile Home Residential
(BGC)	General Commercial
(BG HC)	Highway Commercial
(I-1)	Light Industrial
(I-2)	Heavy Industrial

Section 5.02 Districts; Boundaries

The boundaries of the districts are hereby established as shown on the maps entitled "Official Zoning Map of the Village of Alda, Nebraska." Said maps and all explanatory matter thereon accompany and are hereby made a part of this Chapter as if fully written herein. The Official Zoning District Map shall be identified by the signature of the Mayor, and attested by the Village Clerk. No changes shall be made on the Zoning District Map except as may be required by amendments to this Chapter. Such changes shall be promptly indicated on the Zoning District Map with the Ordinance number, nature of change, and date of change noted on the map. Neb. Rev. Stat. §19-904 (R.R.S.1997).

Section 5.03 Rules for Interpretation of District Boundaries

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

- 5.03.01 Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
- 5.03.02 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- 5.03.03 Boundaries indicated as approximately following Village limits shall be construed as following such Village limits;
- 5.03.04 Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- 5.03.05 Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries

indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;

- 5.03.06 Boundaries indicated as parallel to or extensions of features indicated in subsections 5.03.01 through 5.03.05 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
- 5.03.07 Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 5.03.01 through 5.03.06 above, the Board of Zoning Adjustment shall interpret the district boundaries;
- 5.03.08 Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, The Board of Zoning Adjustment may permit the extension of the regulations for either portion of the lot, not to exceed fifty feet (50') beyond the district line, into the remaining portion of the lot.

Section 5.04 Annexation and Conformance with the Land Use Plan

Areas annexed into the corporate limits of Alda shall be zoned to conform to the Land Use Plan.

Section 5.05 AG - Agricultural District

5.05.01 **Intent:** The (AG) Agricultural District is established for the purpose of preserving agricultural resources that are compatible with adjacent urban growth. It is not intended for commercial feedlot operations for livestock or poultry. Because the areas are not in the identified growth areas for the community, the district is designed to limit urban sprawl.

5.05.02 **Permitted Uses:**

1. Farming, pasturing, truck gardening, and orchards, including a maximum of five hundred (500) animal units within the densities established in Section 5.05.06.
2. Single Family Residential dwellings, provided the following conditions are met:
 - A. Property owners with a tract of 80 acres or more may sell one small tract per 80 acres for such single family dwellings provided that such sale has not previously been exercised on the large tract, and/or
 - B. Owners of an existing ranch or farm dwelling that is ten years old or more may sell a small tract containing such dwelling
3. Home Occupations, pursuant to Home occupation standards in Section 7.10.
4. Public parks and recreation areas, playgrounds and conservation areas including flood control facilities and natural wildlife habitats and preserves.
5. Railroads, not including switching, terminal facilities or freight yards.
6. Public overhead and underground local distribution utilities.
7. Churches.
8. Public services such as police, fire, and emergency facilities.
9. Publicly owned and operated buildings and facilities such as community centers, auditoriums, libraries or museums.
10. Roadside stands offering the sale of agriculture products produced on the premises.
11. Livestock Feeding Operations, provided that such operations have no more than five hundred (500) animal units.
12. Commercial greenhouses.

5.05.03 **Permitted Conditional Uses:**

1. Commercial auction yards and barns.
2. Feed mills.
3. Mining and extraction of natural resources.
4. Agricultural storage facilities for equipment and grain, excluding packing and rendering facilities.
5. Educational institutions, including public and private primary schools, secondary schools including universities, colleges, vocational schools, and business schools.
6. Hospitals, nursing and convalescent homes.
7. Broadcast towers, pursuant to Section 7.11.
8. Cemeteries, provided all structures are located one hundred feet (100') from all property lines.
9. Water supply and storage, wastewater treatment, sewage and solid waste disposal facilities.
10. Private recreation areas and facilities including country clubs, golf courses (but not miniature golf), and swimming pools.
11. Veterinarians' offices and hospitals, and boarding kennels.
12. Wind energy systems on tracts of more than ten (10) acres, pursuant to Section 7.15.
13. Public campgrounds.
14. RV Parks
15. Commercial kennels, stables, and riding clubs.
16. Storage and distribution of anhydrous ammonia, fuel, fertilizer, and other chemicals.

5.05.04 **Permitted Accessory Uses:**

1. Farm dwellings for use by the owner, tenants, and employees
2. Buildings and uses customarily incidental to the permitted and conditional uses.
3. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
4. Signs pursuant to Sections 7.06 through 7.09.
5. Parking pursuant to Sections 7.01 through 7.05.

6. Private swimming pool, tennis court and other similar facilities in conjunction with a residence.

5.05.05 **Height and Lot Requirements:** The height and minimum lot requirements shall be as follows:

Use	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Coverage
Residential Dwelling (private well and/or private septic)	20 acres	100	35	15	25	35 feet	40%
Residential Dwelling (public water and public sewer)	20 acres	100	35	15	25	35 feet	40%
Other Permitted Uses	20 acres	100	35	15	25	-	40%
Broadcast Towers (Also see Section 7.11)	10,000 sq.ft.	100	35	15	25	-	40%
Other Permitted & Conditional Uses	3 acres	100	35	15	25	35 feet****	40%
Accessory Buildings	-	-	35	5	5	-	-

* Maximum height of 35' for structures intended for human occupancy

5.05.06 **Other Applicable Provisions:**

- The amount of land necessary for the raising of animals shall be computed as follows: One (1) acre shall be required for the first animal unit (a.u.), and each animal unit (a.u.) thereafter shall require one-half (0.5) acres.

Section 5.06 TA - Transitional Agriculture District

5.06.01 **Intent:** The (TA) Transitional Agriculture District is intended to permit the continuation of productive agricultural uses adjacent to the corporate limits of the Village, while also accommodating single-family residential and compatible uses.

5.06.02 **Permitted Uses:**

1. Farming, pasturing, truck gardening, and orchards, including the sale of products raised on the premises, including the raising of animals for organizations such as 4-H, FFA, or similar organizations, provided that the limits established in Section 5.06.06 are not exceeded.
2. Single family dwellings for use by the owners and their families, tenants, and employees, provided the following conditions are met:
 - A. Property owners with a tract of 80 acres or more may sell one small tract per 80 acres for such single family dwellings provided that such sale has not previously been exercised on the large tract, and/or
 - B. Owners of an existing ranch or farm dwelling that is ten years old or more may sell a small tract containing such dwelling
3. Child Care Home.
4. Home Occupations, pursuant to Home Occupation standards in Section 7.10.
5. Public service facilities.
6. Public parks and recreation areas, playgrounds and conservation areas including flood control facilities and natural wildlife habitats and preserves.
7. Roadside stands offering the sale of agriculture products produced on the premises
8. Commercial Greenhouses

5.06.03 **Permitted Conditional Uses:**

1. Public utility main transmission lines including substations, distribution centers, regulator stations, pumping stations, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses.
2. Private recreation areas and facilities including country clubs, golf courses (but not miniature golf), and swimming pools
3. Livestock Feeding Operations, provided that such operations have no more than five hundred (500) animal units
4. Mining and extraction of natural resources.
5. Agricultural storage facilities for equipment and grain, excluding packing and rendering facilities.
6. Educational institutions, including public and private primary schools, secondary schools including universities, colleges, vocational schools, and business schools.
7. Hospitals, nursing and convalescent homes.
8. Broadcast towers, pursuant to Section 7.11.
9. Cemeteries, provided all structures are located one hundred feet (100') from all property lines.
10. Water supply and storage, wastewater treatment, sewage and solid waste disposal facilities.
11. Private recreation areas and facilities including country clubs, golf courses (but not miniature golf), and swimming pools.
12. Veterinarians' offices and hospitals, and boarding kennels.
13. Wind energy systems on tracts of more than ten (10) acres, pursuant to Section 7.15.
14. Public campgrounds.
15. RV Parks.
16. Commercial Kennels, stables, and riding clubs.
17. Storage and distribution of anhydrous ammonia, fuel, fertilizer, and other chemicals.

5.06.04 **Accessory Uses:**

1. Buildings and uses customarily incidental to the permitted uses.
2. Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence.
3. Parking for permitted uses pursuant to Sections 7.01 through 7.05.
4. Signs pursuant to Sections 7.06 through 7.09.

5. Temporary buildings incidental to construction work where such building or structures are removed upon completion of work.
6. Landscaping pursuant to Section 7.14.

5.06.05 **Height and Lot Requirements:** The height and minimum lot requirements shall be as follows:

Use	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Coverage
Single Family Dwelling	20,000 sq.ft.	100	35 feet	20 feet	35 feet	35 feet	40%
Other Permitted Uses	20 acres	100	35 feet	20 feet	35 feet	35 feet*	40%
Permitted Conditional Uses	20 acres	100	35 feet	20 feet	35 feet	35 feet*	40%
Accessory Buildings	-	-	10 feet 35 feet	2 feet	35 feet	35 feet	20%

* 35 feet for all structures intended for human occupancy

5.06.06 **Other Applicable Provisions:**

1. The amount of land necessary for the raising of animals shall be computed as follows: One (1) acre shall be required for the first animal unit (a.u.), and each animal unit (a.u.) thereafter shall require one-half (0.5) acres.

Section 5.07 R-9 - Single-Family Residential District

5.07.01 **Intent:** The (R-9) Single-Family Residential District is intended to permit residential developments that accommodate single-family residential and compatible uses.

5.07.02 **Permitted Uses:**

1. Single Family dwellings.
2. Public and private recreation areas as, country clubs, golf courses, lakes, common areas and swimming pools.
3. Cemeteries, provided all structures are located one hundred feet (100') from all property lines.
4. Public and private educational institutions
5. Churches and temples
6. Public Service Facilities

5.07.03 **Permitted Conditional Uses:**

1. Child Care Center.
2. Funeral homes and mortuaries
3. Public and private recreation areas as, country clubs, golf courses, lakes, common areas and swimming pools.
4. Hospitals, sanitariums, rest homes, nursing homes, elderly or retirement housing, convalescent homes, other similar institutions, or philanthropic institutions.
5. Public utility main transmission lines including substations, distribution centers, regulator stations, pumping stations, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses.
6. Private recreation areas and facilities including country clubs, golf courses (but not miniature golf), and swimming pools
7. Hospitals, nursing and convalescent homes.
8. Cemeteries, provided all structures are located one hundred feet (100') from all property lines.
9. Water supply and storage, wastewater treatment, sewage and solid waste disposal facilities.
10. RV Parks.

5.07.04 **Accessory Uses:**

1. Buildings and uses customarily incidental to the permitted uses.
2. Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence.
3. Parking for permitted uses pursuant to Sections 7.01 through 7.05.
4. Signs pursuant to Sections 7.06 through 7.09.
5. Temporary buildings incidental to construction work where such building or structures are removed upon completion of work.
6. Landscaping pursuant to Section 7.14.

5.07.05 **Height and Lot Requirements:** The height and minimum lot requirements shall be as follows:

Use	Lot Area	Lot Width	Front Yard	Side Yard****	Rear Yard	Max. Height	Max. Coverage
Single Family Dwelling (detached)	9,000 sq.ft.	75'	25 feet	10 feet*	25 feet	35 feet	30%**
Other Permitted Uses	2 acres	75'	25 feet	20 feet	25 feet	35 feet	30%**
Other Permitted Conditional Uses	2 acres	75'	25 feet	20 feet	25 feet	35 feet	30%**
Accessory Buildings	-	-	25 feet	2 or 5 feet***	5 feet	20 feet	10%**

* 8 feet if developed prior to the adoption of the original zoning ordinance.

** The side or rear yard setback for an accessory building or garage having vehicular access from an alley shall be twenty-five feet (25').

** Provided the total lot coverage for all buildings shall not exceed thirty percent (30%).

*** Side yard setback for accessory buildings shall be 2 foot for lots with a width of less than 100 feet and 5 foot for lots with a width of more than 100 feet.

**** 12.5' for side yards located on a street side of a corner

Section 5.08 R-6 - Multiple-Family Residential District

5.08.01 **Intent:** The (R-6) Multiple-Family Residential District is intended to permit an increased density of residential development to include two-family and multi-family units, as well as other compatible uses. The primary structure in the R-6 district shall be residential in nature.

5.08.02 **Permitted Uses:**

1. Single family dwellings.
2. Two-family dwellings.
3. Child Care Home.
4. Home Occupations, pursuant to Home Occupation standards in Section 7.10.
5. Educational institutions, including public and private primary schools, secondary schools including universities, colleges, vocational schools, and business schools.
6. Churches, temples, seminaries, and convents including residences for teachers and pastors.
7. Funeral homes and mortuaries.
8. Publicly owned and operated parks, playgrounds, fire stations, community centers, and libraries.
9. Public service facilities.
10. Public parks and recreation areas, playgrounds and conservation areas including flood control facilities and natural wildlife habitats and preserves, fire stations, community centers, and libraries

5.08.03 **Permitted Conditional Uses:**

1. Private recreation areas and facilities including country clubs, golf courses (but not miniature golf), and swimming pools
2. Lodging and boarding houses.
3. Hospitals, sanitariums, rest homes, nursing homes, elderly or retirement housing, convalescent homes, other similar institutions, or philanthropic institutions.
4. Public utility main transmission lines including substations, distribution centers, regulator stations, pumping, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses.
5. Child Care Center.
6. Bed and Breakfast establishments.
7. Broadcast towers, pursuant to Section 7.11. Cemeteries, provided all structures are located one hundred feet (100') from all property lines.
8. Water supply and storage, wastewater treatment, sewage and solid waste disposal facilities.
9. Multiple Family Dwellings, not to exceed a density of 1~~25~~ units/acre.

5.08.04 **Accessory Uses:**

1. Buildings and uses customarily incidental to the permitted uses.
2. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
3. Signs pursuant to Sections 7.06 through 7.09.
4. Parking pursuant to Sections 7.01 through 7.05.
5. Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence.
6. Landscaping pursuant to Section 7.14.

5.08.05 **Height and Lot Requirements:** The height and minimum lot requirements shall be follows:

Use	Lot Area	Lot Width	Front Yard*	Side Yard*	Rear Yard*	Max. Height	Max. Coverage
Single-family Dwelling	6,000 sq.ft.	60'	25'	7'	25'	35'	40%***
Single-family Dwelling Attached**	6,000 sq.ft.	60'	25'	7'	25'	35'	40%***
Two-family Dwelling	6,000 sq.ft.	60'	25'	7'	25'	35'	40%***
Multi-family Dwelling	6,000 sq.ft.	60'	25'	7'	25'	35'	40%***
Other Permitted Uses	6,000 sq.ft.	60'	25'	7'	25'	35'	40%***
Permitted Conditional Uses	6,000 sq.ft.	60'	25'	7'	25'	35'	40%***
Accessory Buildings	-	-	25'	2 or 5'****	2 or 5'****	20'	15 20%***

* ~~15~~ 12.5' for side yards located on a street side of a corner

** The side or rear yard setback for an accessory building or garage having vehicular access from an alley shall be twenty-five feet (25').

*** Provided the total lot coverage for all buildings shall not exceed forty percent (40%)

**** Side and Rear yard setback for accessory buildings shall be 2 foot for lots with a width of less than 100 feet and 5 foot for lots with a width of more than 100 feet

Section 5.09 R-3 - Multiple-Family Residential District

5.09.01 **Intent:** The (R-3) Multiple-Family Residential District is intended to permit an increased density of residential development to include two-family and multi-family units, as well as other compatible uses. The primary structure in the R-3 district shall be residential in nature.

5.09.02 **Permitted Uses:**

1. Single family dwellings.
2. Two-family dwellings.
3. Multiple Family Dwellings *not to exceed 30 units per acre*
4. Townhomes and Condominiums
5. Apartments which are located on the upper floor of a structure
6. Child Care Home.
7. Home Occupations, pursuant to Home Occupation standards in Section 7.10.
8. Educational institutions, including public and private primary schools, secondary schools including universities, colleges, vocational schools, and business schools.
9. Churches, temples, seminaries, and convents including residences for teachers and pastors.
10. Funeral homes and mortuaries.
11. Publicly owned and operated, fire stations, community centers, libraries, and similar facilities.
12. Public service facilities.
13. Hospitals, sanitariums, rest homes, nursing homes, elderly or retirement housing, convalescent homes, other similar institutions, or philanthropic institutions
14. Public parks and recreation areas, playgrounds and conservation areas including flood control facilities and natural wildlife habitats and preserves.
15. Business and professional services including: attorneys, banks, insurance, real estate, offices, postal stations, printing, credit services, security brokers, dealers and exchange, title abstracting, savings and loans, finance services and investment services
16. Bed and Breakfast establishments
17. Child Care Center.

5.09.03 **Permitted Conditional Uses:**

1. Private recreation areas and facilities including country clubs, golf courses (but not miniature golf), and swimming pools
2. Lodging and boarding houses.
3. Public utility main transmission lines including substations, distribution centers, regulator stations, pumping, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses.
4. Broadcast towers, pursuant to Section 7.11.
5. Cemeteries, provided all structures are located one hundred feet (100') from all property lines.
6. Water supply and storage, wastewater treatment, sewage and solid waste disposal facilities.

5.09.04 **Accessory Uses:**

1. Buildings and uses customarily incidental to the permitted uses.
2. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
3. Signs pursuant to Sections 7.06 through 7.09.
4. Parking pursuant to Sections 7.01 through 7.05.
5. Private swimming pool, tennis court, and other recreational facilities in conjunction with a residence.
6. Landscaping pursuant to Section 7.14.

5.09.05 **Height and Lot Requirements:** The height and minimum lot requirements shall be follows:

Use	Lot Area	Lot Width	Front Yard*	Side Yard****	Rear Yard*	Max. Height	Max. Coverage
Single-family Dwelling	6,000 sq.ft.	60'	25'	5'	10'	75'	80%***
Single-family Dwelling Attached**	3,000 sq.ft.	60 30'	25'	5'	10'	75'	80%***
Two-family Dwelling	3,000 sq.ft.	60 30'	25'	5'	10'	75'	80%***
Townhome and/or Condominium	3,000 sq.ft.	60 30'	25'	0'	10'	75'	80%***
Multi-family Dwelling	3,000 sq.ft.	60 30'	25'	5'	10'	75'	80%***
Other Permitted Uses	3 6,000 sq.ft.	60'	25'	5'	10'	75'	80%***
Permitted Conditional Uses	3 6,000 sq.ft.	60'	25'	5'	10'	75'	80%***
Accessory Buildings	-	-	-	2 or 5'	2 or 5'	35'	25 40%***

* ~~15~~ 12.5' for side yards located on a street side of a corner

** The side or rear yard setback for an accessory building or garage having vehicular access from an alley shall be twenty-five feet (25').

*** Provided the total lot coverage for all buildings shall not exceed eighty percent (80%).

**** Side yard setback for accessory buildings shall be 2 foot for lots with a width of less than 100 feet and 5 foot for lots with a width of more than 100 feet

Section 5.10 ~~MH~~ RM- Mobile Home Residential District

5.10.01 Intent: The (MH RM) Residential Mobile Home District is intended to provide for mobile home developments on leased or owned property in areas where a mobile home park or subdivision is appropriate, and where such development is recognized as being in the best interests of the Village. Although the specific conditions within this district are predetermined, the location of a proposed district must be carefully reviewed to assure that the following conditions are met.

5.10.02 *Permitted Uses:*

1. Single family dwellings.
2. Mobile or Manufactured home dwellings.
3. Home Occupations pursuant to Home Occupation standards in Section 7.10.
4. Public parks, playgrounds and recreational facilities.
5. Cemeteries, not including mausoleums.
6. Churches and other places of worship.
7. Publicly owned and operated, fire stations, community centers, libraries, and similar facilities.
8. Public service facilities.
9. Public parks and recreation areas, playgrounds and conservation areas including flood control facilities and natural wildlife habitats and preserves.
10. Educational institutions, including public and private primary schools, secondary schools including universities, colleges, vocational schools, and business schools

5.10.03 *Permitted Conditional Uses:*

1. Child Care Centers.
2. Elderly Day Care Centers.
3. Public utility main transmission lines including substations, distributions centers, regulator stations, pumping, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses.

5.10.04 *Accessory Uses:*

1. Buildings and uses customarily incidental to the permitted uses.
2. Signs pursuant to Sections 7.06 through 7.09.
3. Parking pursuant to Sections 7.01 through 7.05.
4. Landscaping pursuant to Section 7.14.

5.10.05 *Lot and Height Requirements:*

1. A mobile home development shall have a lot area of not less than two (2) acres. No mobile homes or other structures shall be located less than twenty-five feet (25') from the road centerline when contiguous to or having frontage to a Village Street or State Highway. The setback on all other court property lines shall be ten feet (10'). These areas shall be landscaped. The minimum lot depth in a mobile home court shall be two hundred feet (200').
2. Each lot provided for occupancy of a single mobile home dwelling shall have an area of not less than four thousand (4,000) square feet, excluding road right-of-way, and a width of not less than forty feet (40'). Each individual lot shall have:
 - a). Side yard setback shall not be less than five feet (5'), except that on corner lots, the setback for all buildings shall be a minimum of twenty-five feet (25') on the side abutting a street/road.
 - b). Front yard setback shall not be less than twenty-five feet (25').
 - c). Rear yard of not less than twenty-five feet (25').
3. There shall be a minimum livable floor area of five hundred (500) square feet in each mobile home.
4. Height of buildings shall be:
 - a). Maximum height for principal uses shall be thirty-five feet (35').
 - b). Maximum height for accessory uses shall be ten feet (10').
5. Each lot shall have access to a hard surfaced drive not less than twenty-four feet (24') in width, excluding parking.

6. Community water and community sewage disposal facilities shall be provided with connections to each lot, in accordance with design standards for the Village. The water supply shall be sufficient for domestic use and for fire protection.
7. Service buildings including adequate laundry and drying facilities. Common toilet facilities for mobile homes which do not have these facilities within each unit may be provided.
8. Not less than ten percent (10%) of the total court area shall be designated and maintained for park, playground and recreational purposes.
9. Each mobile home dwelling shall be provided with a paved patio or equivalent, other than parking spaces, of not less than one-hundred and fifty (150) square feet.

5.10.06 ***Plan Requirements:***

A complete plan of the mobile home development shall be submitted showing:

1. A development plan and grading plan of the court.
2. The area and dimensions of the tract of land.
3. The number, location, and size of all mobile home spaces.
4. The area and dimensions of the park, playground and recreation areas.
5. The location and width of roadways, street names, and walkways.
6. The location of service buildings and any other proposed structures.
7. The location of water and sewer lines and sewage disposal facilities.
8. Plans and specifications of all buildings and other improvements constructed or to be constructed within the mobile home court.

5.10.07 ***Use Limitations:*** All lots must be platted in accordance with the Subdivision Regulations of the Village.

Section 5.11 BGC General Commercial District

5.11.01 **Intent:** The General Commercial District is intended to establish standards that will foster and maintain an area within the district boundaries that will benefit the retail trade, business, cultural, and social activities of the entire community.

5.11.02 Permitted Uses:

1. Business services including: attorneys, banks, insurance, real estate, offices, postal stations, printing, credit services, security brokers, dealers and exchange, title abstracting, savings and loans, finance services and investment services; but not including uses defined in Adult Establishment.
2. Retail business or service establishments supplying commodities or performing services, such as, or in compatibility with and including the following:
 1. Antique store
 2. Automobile parts and supply store
 3. Bank
 4. Barber and Beauty shop
 5. Bicycle shop
 6. Commercial greenhouse
 7. Computer store
 8. Dance studio, not including uses defined in Adult Establishment
 9. Exercise, fitness and tanning spa, not including uses defined in Adult Establishment
 10. Floral shop
 11. Gift and curio shop
 12. Hobby, craft, toy store
 13. Jewelry store
 14. Laundry pick-up and delivery stations
 15. Locksmith
 16. Meeting hall, not including uses defined in Adult Establishment
 17. Photographer
 18. Picture framing shop
 19. Printing shop
 20. Restaurants, cafes and fast food establishment
 21. Second hand stores
 22. Self service laundries
 23. Social club and fraternal organizations, not including uses defined in Adult Establishment
 24. Tanning salon, not including uses defined in Adult Establishment
 25. Telephone exchange
 26. Telephone answering service
 27. Theater (indoor)
 28. Public overhead and underground local distribution utilities
 29. Video store, not including uses defined in Adult Establishment
 30. Bowling alley, , not including uses defined under “Adult Establishment,” provided any such building is located at least one hundred feet (100’) away from any Residential District boundary.
 31. Bus Terminal.
 32. Carpet, Furniture, and Appliance Sales
 33. Business Offices.
 34. Farm implement display or salesroom.
 35. Filling stations and convenience stores.
 36. Frozen food lockers.
 37. Funeral homes
 38. Golf driving ranges, miniature golf.
 39. Laundries and dry-cleaning establishments.
 40. Mortuaries, and funeral homes.
 41. Motels, hotels and trailer campgrounds, not including uses defined under “Adult Establishment.”
 42. Private clubs and lodges, not including uses defined under “Adult Establishment.”
 43. Professional offices.
 44. Public utilities.

45. Restaurants, nightclubs, cafes, and taverns, not including uses defined under "Adult Establishment."
46. Veterinarian or animal hospital provided any such building, kennel, or exercise runway is located at least one hundred feet (100') away from any Residential District boundary.
47. Commercial Trades including (Plumbers, HV/HC, Electricians, Carpenters)
48. Medical Offices
49. Public Services
50. General Offices
51. Educational institutions under the supervision and administration of a public agency
52. Day care center
53. Dwelling units not to exceed 9 units per acre if any are located on the ground floor or 20 units per acre if all units are located above the ground floor.

5.11.03 **Permitted Conditional Uses:**

1. Automobile or boat repair, provided all inoperable or junk vehicles are kept in an enclosed area or in an enclosed building.
2. Business or trade school.
3. Car wash facility.
4. Churches, temples, seminaries, and convents including residences for teachers and pastors.
5. Convenience store with limited fuel sales.
6. Dance club, not including uses defined in Adult Establishment.
7. Dry cleaning establishments not over 2,000 sq. ft. in floor area, with one dry cleaning unit having a capacity not to exceed 35 pounds per cycle using nonflammable or non-explosive solvents.
8. Frozen food locker.
9. Garden supply and retail garden center.
10. Gas station.
11. Liquor store.
12. Lumber yard.
13. Mortuary.
14. Milk distribution center.
15. Outdoor advertising signs.
16. Residences used in conjunction with the principle use, provided they are located above the ground floor.
17. Single Family Residential
18. Retail motor vehicle sales and service.
19. Tavern and cocktail lounge, not including uses defined in Adult Establishment.
20. Veterinarian or animal hospital, provided any such building, kennel, or exercise runway is located at least one hundred (100') feet away from any (R) District boundary.
21. Self-storage garages.
22. Parking lots
23. Restaurants (enclosed)
24. Theater (outdoor)

5.11.04 **Permitted Temporary Uses**

1. Temporary Uses require a permit from the Village of Alda and shall be valid only for a specific amount of time as indicated on said permit.
2. Temporary greenhouses.
3. Temporary structures as needed for sidewalk and other outdoor sales events.
4. Fireworks stands, provided the criteria is met as established by the Village through separate Ordinances.
5. Buildings and uses incidental to construction work which shall be removed upon completion or abandonment of the construction work.
6. Temporary structure for festivals or commercial events.

5.11.05 *Permitted Accessory Uses*

1. Buildings and uses customarily incidental to the permitted uses.
2. Parking as permitted in Section 7.05 through 7.09.
3. Signs allowed in Section 7.01 through 7.04.
4. Landscaping as required by Section 7.17
5. Fabrication and assembly associated with a permitted retail or wholesale use.

5.11.06 *Height and Lot Requirements:*

1. The height and minimum lot requirements shall be as follows:

Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	8,000	-	20' ¹	10'	10'	45' ³	50%
Permitted Conditional Uses	8,000	-	20' ¹	10'	10'	45' ³	50%
Accessory Uses	-	-	20' -	10' 2 or 5' ²	10'	17'	40 30%

1. 20' front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of fifty (50) feet.
2. Side yard setback for accessory buildings shall be 2 foot for lots with a width of less than 100 feet and 5 foot for lots with a width of more than 100 feet
3. The maximum height of any use shall be decreased to thirty-five feet (35') when located within one-hundred feet (100') of any residential district.

5.11.07 *Use Limitations:*

1. When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within fifteen (15) feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 7.14.04.
2. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
3. All uses over 35,000 sq. ft. in gross floor area shall be required to submit development plans as a Planned Unit Development unless otherwise specified.

Section 5.12 BG HC- Highway Commercial District

5.12.01 **Intent:** The (BG HC) Highway Commercial District is intended to establish standards that will foster and maintain a specific area of commercial development that will benefit the entire community and enhance the highway corridor approaching Alda. This district is further intended to be utilized for uses other than those allowed in the BG General Commercial District. This district shall be developed in such a way that it does not hinder or impede the development of the downtown area.

5.12.02 Permitted Uses:

1. Car Washes.
2. Fire Station.
3. Indoor Skating rinks.
4. Nursery and Garden Stores.
5. Package Liquor Stores.
6. Private Clubs and Lodges.
7. Restaurants.
8. Taverns.
9. Veterinarian or animal hospital provided any such building, kennel, or exercise runway is located at least one hundred feet (100') away from any residential district boundary.

5.12.03 Permitted Conditional Uses:

1. Agriculture implement sales and services.
2. Automobile, motorcycle, and truck sales and services.
3. Commercial Recreation Center.
4. Construction equipment rental and sales.
5. Convenience store with limited fuel sales.
6. Electric and telephone substations.
7. Lumber and building materials sales yard.
8. Carpet, Furniture, and Appliance Sales
9. Mobile Home and Trailer sales and rentals.
10. Funeral homes
11. Outdoor amusement establishments (amusement parks, permanent carnival and kiddie-parks, miniature golf, driving ranges).
12. RV parks.
13. Self-storage units.
14. Service Stations.

5.12.04 Permitted Accessory Uses:

1. Buildings and uses customarily incidental to the permitted uses.
2. Parking pursuant to Sections 7.01 through 7.05.
3. Signs pursuant to Sections 7.06 through 7.09.
4. Temporary buildings and uses incidental to construction work that shall be removed upon completion or abandonment of the construction work.
5. Landscaping pursuant to Section 7.14.
6. Fabrication and assembly associated with a permitted retail or wholesale use.

5.12.05 **Height and Lot Requirements:** The height and minimum lot requirements shall be as follows:

Use	Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Use	10,000 sq.ft.	100 feet	30 feet	*	20 feet	45 feet**	40%
Permitted Conditional Use	10,000 sq.ft.	100 feet	30 feet	*	20 feet	45 feet**	40%
Accessory Buildings	-	-	-	*	5 feet	45 feet**	40%

* None, except any side yard adjacent to any agriculture or residential district shall conform to the agriculture or residential yard setback requirement for the adjacent agriculture or residential yard.

** The maximum height of any use shall be decreased to thirty-five feet (35') when located within one-hundred feet (100') of any residential district.

Section 5.13 I-1 – Light Industrial District

5.13.01 Intent: It is the intent of the Light Industrial District Regulations to provide standards for area suitable for some limited industrial, wholesaling and storage activities, to preserve land for the expansion of the basic economic activities, to free these areas from intrusion by incompatible land uses, that these areas should be served with adequate transportation facilities, and that user of this land conduct activities that create low to moderate hazards to adjacent properties.

5.13.02 Permitted Uses:

1. Assembly, fabrication and processing of products inside an enclosed building, except hazardous or combustible materials.
2. Laboratories.
3. Manufacture and assembly of electrical and electronic appliances.
4. Manufacturing, compounding, processing, packaging, or treatment of articles or merchandise from previously prepared materials.
5. Manufacture of light sheet metal products including heating and ventilation equipment.
6. Printing and publishing business.
7. Stone and monument works.
8. Public local distribution and main transmission utilities.
9. Warehouses and wholesale businesses.
10. Building materials yards with enclosed and screened storage areas.
11. Highway maintenance yards or buildings.
12. Self-storage units.
13. Veterinarian or animal hospitals
14. Outdoor storage facilities
15. Ancillary Parking
16. Construction and contractor storage yards
17. Recycling collection and processing facilities, both public and private
18. Railroads, including terminals, switching yards, and related facilities
19. Dry cleaning
20. Pet health services
21. Health clubs and tanning salons, not including those classified as an Adult Establishment
22. Dance studios, not including those classified as an Adult Establishment
23. Personal improvement services
24. Commercial recreation facilities, indoor and outdoor
25. Self service mini storage
26. Public services
27. Parks and recreation
28. General and Medical offices

5.13.03 Permitted Conditional Uses

1. Radio, television and communication towers and transmitters, as per Section 7.11.
2. Fertilizer transmission lines
3. Utility substations, terminal facilities, and reservoirs.
4. Auction Sales
5. Construction and heavy equipment sales and service
6. Farm implement sales and service
7. Research facilities
8. Truck terminal and dock facilities to include truck washing
9. Auto body repair
10. Cabinetry millwork
11. Restaurant
12. Correctional facilities
13. Day care and day care centers

5.13.04 Permitted Accessory Uses

1. Buildings and uses customarily incidental to the permitted uses
2. Parking as permitted in Section 7.05 through 7.09.
3. Signs allowed in Section 7.01 through 7.04.

4. Temporary buildings and uses incidental to construction work that will be removed upon completion or abandonment of the construction work.
5. Landscaping as required by Section 7.17

5.13.05 **Height and Lot Requirements:**

1. The height and minimum lot requirements shall be as follows:

Use	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	15,000	100	50' ¹	10' ²	10'	-	70%
Permitted Conditional Uses	15,000	100	50' ¹	10' ²	10'	-	70%
Accessory Uses	-	-	25'	10' ²	10'	17	± 30%

1 50' front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of seventy (75) feet.

2 The setback for side yards on the street side of the corner lot shall be increased to fifteen feet (15)

5.13.06 **Use Limitations:**

1. When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within fifteen (15) feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 7.17.04.
2. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
3. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

5.13.07 **Performance Standards:**

See Section 7.16 of the Supplemental Regulations

Section 5.14 I-2 Heavy Industrial District

5.14.01 **Intent:** It is the intent of the Heavy Industrial District Regulations to provide standards for area suitable for some limited industrial, wholesaling and storage activities, to preserve land for the expansion of the basic economic activities, to free these areas from intrusion by incompatible land uses, that these areas should be served with adequate transportation facilities, and that user of this land conduct activities that create low to moderate hazards to adjacent properties.

Adult Entertainment Facilities are included in this Zoning District. The intent of the Alda Zoning Ordinance is not to prohibit these uses but to regulate the secondary effects of these uses within the community

5.14.02 Permitted Uses:

1. Assembly, fabrication and processing of products inside an enclosed building, except hazardous or combustible materials.
2. Laboratories.
3. Manufacture and assembly of electrical and electronic appliances.
4. Manufacturing, compounding, processing, packaging, or treatment of articles or merchandise from previously prepared materials.
5. Manufacture of light sheet metal products including heating and ventilation equipment.
6. Printing and publishing business.
7. Stone and monument works.
8. Public local distribution and main transmission utilities.
9. Warehouses and wholesale businesses.
10. Building materials yards with enclosed and screened storage areas.
11. Highway maintenance yards or buildings.
12. Self storage units
13. Bottling Works
14. Dairy products processing
15. Laboratory
16. Veterinarian or animal hospitals
17. Ice Plant
18. Laundry and dry cleaning plant
19. Manufacturing, compounding, processing, packaging or treatment of articles or merchandising from previously prepared materials such as bone, cloth, aluminum, cork, fiber, leather, glass, plastic, paper, stones, tin, rubber, and paint
20. Millwork, woodwork
21. Storage and sales of farm and agricultural products
22. Tire retreading and recapping
23. Processing of food products
24. Public services
25. General and Medical offices
26. Parks and recreation
27. Equipment rental, sales, and repair
28. Construction and contractor storage yard, sales, and repair
29. Self service mini storage
30. Dry cleaning services
31. Vehicle storage, short and long term
32. Ancillary parking
33. Warehousing
34. Airports
35. Railroads
36. Truck and transportation terminals
37. Construction batch plants that are temporary in nature

5.14.03 Permitted Conditional Uses

1. Fertilizer transmission lines.
2. Utility substations, terminal facilities, and reservoirs.
3. Radio, television and communication towers and transmitters, as per Section 7.11
4. Auction Sales

5. Construction and heavy equipment sales and service
6. Farm implement sales and service
7. Research facilities
8. Truck terminal and dock facilities to include truck washing
9. Auto body repair
10. Auto Salvage
11. Central mixing plant for concrete, asphalt, or paving material
12. Scrap and salvage yard
13. Storage of bulk petroleum products
14. Storage or processing of non-hazardous material
15. Restaurant
16. Adult Entertainment establishments.
 - A. No Adult business shall be closer than 500 feet to any similar use and no closer than 500 feet to a residential district / use, religious uses, educational uses and recreational uses. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult business to the point on the property line of such other adult business, residential district / use, religious use, educational uses and recreational use.
 - B. Said businesses shall be screened along adjoining property lines as to prevent any direct visual contact of the adult business at the perimeter.
 - C. Doors, curtains and any other means of obstruction to the opening of all booths and other preview areas, including but not limited to Adult Novelty Businesses, Adult Motion Picture Arcades, Adult Mini-Motion Picture Theaters, and Adult Motion Picture Theaters shall be removed and kept off at all times during the execution of this Permit. Failure to comply with this condition shall result in revocation of the Conditional Use Permit.
 - D. No adult business shall be open for business between the hours of one am and six a.m.
 - E. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety, and general welfare of persons residing or working in adjoining or surrounding property,
 - F. Such use shall not impair an adequate supply of light and air to surrounding property,
 - G. Such use shall not unduly increase congestion in the streets or public danger of fire and safety,
 - H. Any explicit signs shall not be seen from any point off-premises,
 - I. Such use shall not diminish or impair established property values in adjoining or surrounding property,
 - J. Such use shall be in accord with the intent, purpose and spirit of this Ordinance and the Comprehensive Development Plan of the Village
 - K. Applications for adult businesses under the terms of this Section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan defining the areas to be developed for buildings and structure, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls, the location and type of landscaping, and the location, size and number of signs.
 - L. An adult business shall post a sign at the entrance of the premises which shall state the nature of the business and shall state that no one under the age of eighteen (18) years of age is allowed on the premises. This Section shall not be construed to prohibit the owner from establishing an older age limitation for coming on the premises.
 - M. Prohibited Activities of Adult Businesses
 - 1) No adult business shall employ any person under eighteen (18) years of age
 - 2) No adult business shall furnish any merchandise or services to any person who is under eighteen (18) years of age
 - 3) No adult business shall be conducted in any manner that permits the observation of any model or any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use. No operator of an adult business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct in or about the premises which is prohibited by this Ordinance or any other laws of the State.

- 4) No part of the interior of the adult business shall be visible from the pedestrian sidewalk, walkway, street, or other public or semi-public area.

5.14.04 *Permitted Accessory Uses*

1. Buildings and uses customarily incidental to the permitted uses.
2. Parking as permitted in Section 7.05 through 7.09.
3. Signs allowed in Section 7.01 through 7.04.
4. Temporary buildings and uses incidental to construction work which will be removed upon completion or abandonment of the construction work.
5. Buildings used by guards during periods of construction
6. Landscaping as required by Section 7.17

5.14.05 *Height and Lot Requirements:*

5.14.05.01 The height and minimum lot requirements shall be as follows:

Max. Lot Coverage	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	5,000	50'	50' ¹	5 10' ²	10'	-	80%
Permitted Conditional Uses	5,000	50'	50' ¹	5 10' ²	10'	-	80%
Accessory Uses	-	-	25'	10'	10'	17'	10%

- 1 50' front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of seventy (75) feet.
- 2 No required Side Yard Setback, but if provided, not less than 5 feet or unless adjacent to a parcel whose zone requires a side yard setback, then 5 feet. When adjacent to a public alley, the setback is optional and may range from 0 feet to 5 feet.

5.14.06 *Use Limitations:*

1. When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within fifteen (15) feet of such district. Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 7.17.04.
2. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.

5.14.07 *Performance Standards:*

See Section 7.16 of the Supplemental Regulations

Section 5.15 PUD Planned Unit Development

5.15.01 **Intent:** The purpose of the Planned Unit Development regulations is to encourage flexibility in the design and development of land in order to promote its most appropriate use in an attractive and pleasant manner, to facilitate the adequate and economical provision of street, utilities and other improvements, and to preserve the natural and scenic qualities of open area.

5.15.02 *Qualifying Requirements:*

In order to qualify for treatment under these Planned Unit Development regulations, a tract or parcel of land proposed for a Planned Unit Development application must be either in one ownership or filed jointly by the owners of all property included. For the purposes of this section, the holder of a written option to purchase land shall for purposes of such application be deemed to be an owner of such land.

The planning commission, in its minutes, shall set forth its reasons for recommendation of approval or denial of the application for a PUD District, along with specific evidence and facts showing that the proposal meets or does not meet the following conditions.

- A) Said planned unit development shall be in general conformity with the provisions of the Comprehensive Plan.
- B) Said planned unit development shall not have a substantially adverse effect on the development of the neighboring area.
- C) The minimum size allowed for a PUD District shall be as follows:
 - 1. Residential, three acres
 - 2. Commercial, three (5) acres;
 - 3. Industrial, three (5) acres;
 - 4. Height, bulk, and setback requirements may be varied so as to promote an efficient and creative PUD District.

5.15.03 *Coordination With Any Subdivision Regulations Which May Be Enacted:*

It is the intent of this Ordinance that subdivision review under any subdivision regulation which may be enacted and in effect be carried out simultaneously with the review of a Planned Unit Development under this Zoning Ordinance. The plans required under SECTION 5.15.05 must be submitted in a form which will satisfy the requirements of the subdivision regulations for the preliminary and final plans required under those regulations, as determined by the official charged with the administration of the subdivision regulations.

Both this Ordinance and any other subdivision regulations which may be in effect may both contain regulations which apply to such matters in the design of a Planned Unit Development as streets and open spaces. In any Planned Unit Development for which the provisions of the two ordinances may be in conflict, the regulations of the subdivision regulations shall govern.

5.15.04 *Planned Unit Developments Permitted in Certain Districts:*

A Planned Unit Development may be located in any residential, commercial, or industrial zoning district; EXCEPT for the MH Mobile Home Residential District.

5.15.04.01 *Uses Permitted in Planned Unit Developments:*

The following uses and structures may be permitted, either individually or in combination, in a Planned Unit Development:

- 1. Single-family, two-family and multiple-family dwelling units;
- 2. Trade, professional and service uses;
- 3. Automotive vehicle service stations (except the provision of transient lodging facilities for teamsters);
- 4. Educational services;
- 5. Cultural, entertainment and recreational uses;
- 6. Golf courses and country clubs;
- 7. Play fields and athletic fields;
- 8. Utility substations;
- 9. On-site signs;
- 10. Field crops, horticulture, grass or grazing lands or natural habitat.

11. Manufacturing and other uses which may be permitted by the covenants of the Planned Unit Development to such an extent that the Village of Alda will be able to control and monitor such usage by means of conditional use permits required for these specific types of usage.

5.15.05 Preliminary Development Plan:

An applicant shall make application for the approval of a Planned Unit Development in the same manner as an amendment to the Official Zoning Map and include a preliminary development plan.

5.15.05.01 Required Information:

A preliminary development plan must show enough of the area surrounding the proposed Planned Unit Development to demonstrate the relationship of the Planned Unit Development to adjoining uses, both existing and proposed, and also include all the following information:

- a) A map showing street systems, lot lines and lot design. Street width and surfacing shall be shown on said map. Private streets shall be identified as private.
- b) A generalized plan showing the proposed system for the drainage of surface and storm water. Relevant floodway and floodway fringe delineation and elevation shall be shown if applicable.
- c) A generalized plan showing the proposed system for the collection and disposal of sewage.
- d) A generalized plan showing the proposed water supply and distribution system.
- e) Areas proposed to be conveyed, dedicated or reserved for parks, parkways, playgrounds, school sites, public buildings, and similar public and semi-public uses or other permanent open space uses
- f) A plot plan identifying significant environmental feature including but not limited to: lakes, ponds, streams, ridges, scenic views, natural prairie or other grasslands, trees of with a diameter of more than 2 inches, clumps or 5 or more trees and/or bushes. Tree species shall be identified by common name.
- g) A plot plan for each building site and common open area, showing the maximum building envelope and indicating the landscaping areas around buildings and structures.
- h) Elevation and perspective drawings of all proposed structures and improvements except single-family or two family dwellings and their accessory buildings. The drawings need not be the result of final architectural decisions and need not be in detail.
- i) A development schedule indicating
 - 1) the approximate date when construction of the project can be expected to begin;
 - 2) the stages in which the project will be built and the approximate date when construction of each stage can be expected to begin;
 - 3) the anticipated rate of development;
 - 4) the approximate dates the development of each of the stages in the development will be completed; and
 - 5) the area and location of common open spaces that will be provided at each stage.
- j) Agreements, provisions or covenants which govern the use, maintenance and continued protection of the Planned Unit Development and any of its common open areas and private streets or utilities.
- k) The following plans and diagrams, insofar as the Planning Commission finds that the Planning Unit Development creates special problems of traffic, parking, landscaping or economic feasibility.
 - 1) An off-street parking and loading space plan.
 - 2) A circulation diagram indicating the proposed movement of vehicles, goods and pedestrians within the Planned Development, and to and from existing thoroughfares, any special engineering features and traffic regulation devices needed to facilitate or insure the safety of this circulation pattern must be shown.
 - 3) A landscaping and tree planting plan.

- 4) An economic feasibility report or market analysis.

5.15.05.02 Approval of Preliminary Development Plan:

Within 60 days after the submission of the application for a Planned Unit Development to the Planning Commission, the Planning Commission shall forward said application containing a preliminary development plan and written statement to the Village Board together with its own written report recommending that the preliminary development plan be disapproved, approved or approved with modifications, and giving the reasons therefore.

The Village Board shall hold a public hearing on the preliminary plan within 60 days after receipt of the Planning Commission's report. At least ten days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the county. After the public hearing, the Village Board shall approve, disapprove or approve with modifications, the preliminary development plan.

If the preliminary development plan is approved by the Village Board, the Official Zoning Map shall be amended to show the Planned Unit Development. If the preliminary development plan is approved with modification, the Official Zoning Map shall not be amended until the applicant has filed with the Village Board written consent to the plan as modified. No building permits may be issued on land within the Planned Unit Development until final plans for the development have been approved by the Planning Commission under the procedures established in the following sections.

5.15.06 Approval of Final Development Plan:

Within one year following the approval of the preliminary development plan, the applicant shall file with the Planning Commission a final development plan containing in final form the information required in the preliminary plan. In its discretion and for good cause, the Planning Commission may extend for six months the period for the filing of the final development plan.

The Planning Commission shall review the final development plan and shall approve the final development plan and shall approve the final development plan if it is in substantial compliance with the preliminary development plan. The approved final plan shall be forwarded to the Village Board for approval and subsequent filing with the County Register of Deeds similarly to any final subdivision.

5.15.07 Failure to Begin Planned Unit Development:

If no construction has begun or no use has been established in the Planned Development within one year from the approval of the final development plan, the final development plan shall lapse and be of no further effect. In its discretion and for good cause, the Planning Commission may extend for one additional year the period for the beginning of construction or the establishment of a use. If a final development plan lapses under the provisions of this section, the Village Clerk shall file a notice of revocation with the recorded final development plan, and the Village Board shall initiate a rezoning procedure for revision of the property to the zoning district applicable before the Planned Unit Development was approved.

5.15.08 Changes in the Final Development Plan:

No changes may be made in the approved final plan during the construction of the Planned Unit Development except upon application to the appropriate agency under procedures provided below:

- a) Minor changes in the location, siting and height of buildings and structures, rearrangement of lot lines if no new lots, easements or right-of-way is created, may be authorized by the Planning Director if required by engineering or other circumstances not foreseen at the time the final plat was approved. No change authorized by this section may increase the cube of any building or structure by more than 10 percent.
- b) All other changes in use, rearrangement streets and blocks, any changes in the provision of common open spaces and all other changes in the approved final plan must be made by the Village Board under the procedures authorized by this Ordinance for the amendment of the Official Zoning Map.

5.15.09 Density Bonuses:

The use of the PUD District, in conjunction with Conservation Easements, will allow a developer of a Subdivision to institute Density Bonuses.

Density Bonuses may be awarded in direct proportion to the amount of the proposed Subdivision that is placed within a Conservation Easement.

For example:

If a developer places 30% of the proposed Subdivision into a Conservation Easement, then the required Lot Area may be reduced by 30% in order to maintain the same number of lots that would have been allowed by the Subdivision lot area and the minimum lot size of the Zoning District.

Normal Development

- A developer has 10 acres of land to develop = 435,600 square feet
- Minimum lot area of the Zoning District = 10,000 square feet
- Total lots (minus streets) = 43.56

Development with Conservation Easements

- Same site of 10 acres = 435,600 square feet
- 30% of site is placed in a Conservation Easement = 130,680 square feet
- Density Bonus allows total lots of 43.56
- New minimum lot area for Subdivision = 7,000 square feet

Density Bonuses shall not be a means for a developer to lower the Minimum Lot Area within Subdivision, particularly if private water wells and/or septic systems. All lots shall be required to meet the criteria established for wells and septic systems as regulated by the Nebraska Department of Environmental Quality.

5.15.10 Enforcement of the Development Schedule:

The construction and provision of all of the common open spaces and public recreational facilities which are shown on the final development plan must proceed at the same rate as the construction of dwelling units. At least once every six months following the approval of the final development plan, the County Building Inspector shall review all of the permits issued for the Planned Unit Development and examine the construction which has taken place on the site. If he should find that the rate of construction of dwelling units is greater than the rate at which common open spaces and public and recreational facilities have been constructed and provided, he shall forward this information to the Village Board, which may revoke the Planned Unit Development District Amendment.

The County Building Inspector shall not issue a building permit for any building or structure shown on the final development plan unless the common open space to be conveyed has been adequately assured to the Village Clerk in a manner satisfactory to the Planning Commission. This may be a bond, corporate surety or other acceptable financial guarantee, including escrow agreements.

5.15.11 Control of Planned Unit Development Following Completion:

The Planning Director shall issue a certificate certifying the completion of the Planned Unit Development, and the Village Clerk shall note the issuance of the certificate on the recorded final development plan.

After the certificate of completion has been issued, the use of land and construction, modification or alteration of any building or structures within the Planned Unit Development will be governed by the approved final development plan rather than by any other provisions of the Zoning Ordinance.

After the certificate of completion has been issued, no changes may be made in the approved final development plan except upon application to the appropriate agency under the procedures provided below:

- a) Any minor extensions, alterations or modifications of existing buildings or structures may be authorized by the Planning Director if they are consistent with the purposes and intent of the final plan. No change authorized by this section may increase the cube or foot print of any building or structures by more than 10 percent.

- b) Any uses not authorized by the approved final plan, but allowable in the Planned Unit Development as a permitted use under the provisions of this Zoning Ordinance, or permitted as a conditional use in the district in which the Planned Unit Development is located, may be added to the final development plan under the procedures provided by this Zoning Ordinance for the procedures provided by the Zoning Ordinance for the approval of a conditional use.
- c) A building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan unless an amendment to the final development plan is approved under item "e" below.
- d) Changes in the use of common open space may be authorized by an amendment to the final development plan under item (e) below.
- e) All other changes in the final development plan must be made by the Village Board, under the procedures authorized by this Ordinance for the amendment of the Official Zoning Map. No changes may be made in the final development plan unless they are required for the continued successful functioning of the Planned Unit Development, or unless they are required by change in conditions that have occurred since the final plan was approved, or by changes in the development policy of the county.

No changes in the final development plan, which are approved under this section, are to be considered as a waiver of the covenants limiting the use of land, buildings, structures and improvements within the area of the Planned Unit Development, and all rights to enforce these covenants against any changes permitted by this section are expressly reserved.

5.15.12 *Subdivision and Resale of Planned Unit Development:*

A Planned Unit Development may be subdivided or re-subdivided for purpose of sale or lease. The procedure specified in the subdivision regulations for Alda shall be followed.

Subdivided or resubdivided Planned Unit Developments are to be controlled by the final development plan rather than by the provisions of this Ordinance that otherwise would be applicable, except in the case of changes in the final development plan in which situation the provisions of this section, governing changes in the final development plan will apply.

5.15.13 *Fees:*

For the following applications, the indicated fees shall be paid to the Village and County:

1. Preliminary PUD; as set in the Master Fee Schedule
2. Final PUD; as set in the Master Fee Schedule

These fees are separate and do not include any Preliminary and Final Plat Fees and/or any Change of Zone Fees required by the Village.

Section 5.16—Lot and Area Requirements

District	Minimum Lot-Size		Minimum-Yard-Setback			Maximum-Building-Height	Maximum-Lot-Coverage
	Area	Width	Front	Side	Rear		
AG—Transitional-							
Residential Dwelling (private well or septic)	20-acres	100	35	15	25	35	40%
Residential Dwelling (public water and sewer)	20-acres	100	35	15	25	35	40%
Other Permitted Uses	20-acres	100	35	15	25	35	40%
Broadcast Towers (Also see Section 7.11)	10,000-sq.ft.	100	35	15	25	35	40%
Other Permitted Conditional Uses	2-acres	100	35	15	25	35	40%
Accessory Buildings	-	-	35	15	25	-	-
TA—Transitional Agriculture							
Single Family Dwelling	20,000-sq.ft.	100	35	20	35	35	40%
Other Permitted Uses	20-acres	100	35	20	35	35	40%
Permitted Conditional Uses	20-acres	100	35	20	35	35	40%
Accessory Buildings	-	-	35	20	35	35	20%
R-9—Single-Family Residential							
Single Family Dwelling	9,000-sq.ft.	75	25	20	25	35	30%
Other Permitted Uses	2-acres	75	25	20	25	35	30%
Permitted Conditional Uses	2-acres	75	25	20	25	35	30%
Accessory Buildings	-	-	25	20	5	20	30%
R-6—Multi-Family Residential							
Single-family Dwelling	6,000-sq.ft.	60	25	7	25	35	40%
Single-family Dwelling Attached	6,000-sq.ft.	60	25	7	25	35	40%
Two-family Dwelling	6,000-sq.ft.	60	25	7	25	35	40%
Multi-family Dwelling	6,000-sq.ft.	60	25	7	25	35	40%
Other Permitted Uses	6,000-sq.ft.	60	25	7	25	35	40%
Other Permitted Conditional Uses	6,000-sq.ft.	60	25	7	25	35	40%
Accessory Buildings	-	-	25	7	25	20	15%
R-3—Multi-Family Residential							
Single-family Dwelling	6,000-sq.ft.	60	25	5	10	75	80%
Single-family Dwelling Attached	3,000-sq.ft.	60	25	5	10	75	80%
Two-family Dwelling	3,000-sq.ft.	60	25	5	10	75	80%
Multi-family Dwelling	3,000-sq.ft.	60	25	5	10	75	80%
Other Permitted Uses	3,000-sq.ft.	60	25	5	10	75	80%
Other Permitted Conditional Uses	3,000-sq.ft.	60	25	5	10	75	80%
Accessory Buildings	-	-	25	5	10	20	25%
BG—General Commercial							
Permitted Uses	5,000-sq.ft.	60	30	30	30	45	60%
Permitted Conditional Uses	5,000-sq.ft.	60	30	30	30	45	60%
Accessory Uses	-	-	30	30	30	20	30%
BGC—Highway Commercial							
Permitted Use	10,000-sq.ft.	100	30	10	20	45	50%
Permitted Conditional Use	10,000-sq.ft.	100	30	10	20	45	50%
Accessory Buildings	-	-	30	10	20	20	30%
I-1—Light Industrial							
Permitted Uses	20,000-sq.ft.	80	50	10	20	50	50%
Permitted Conditional Uses	20,000-sq.ft.	80	50	10	20	50	50%
Accessory Uses	-	-	50	10	20	20	30%
I-2—Heavy Industrial							
Permitted Uses	25,000-sq.ft.	100	50	25	20	-	80%
Permitted Conditional Uses	25,000-sq.ft.	100	50	25	20	-	80%

Additional requirements may apply; please also refer to the zoning district regulations contained herein for further requirements.

ARTICLE 6: CONDITIONAL USE PERMITS

Section 6.01 General Provisions

The Village Board may, by conditional use permit after a Public Hearing, authorize and permit conditional uses as designated in the district use regulations. Approval shall be based on findings that the location and characteristics of the use will not be detrimental to the health, safety, morals, and general welfare of the area.

Allowable uses may be permitted, enlarged, or altered upon application for a conditional use permit in accordance with the rules and procedures of this ordinance. The Board may grant or deny a conditional use permit in accordance with the intent and purpose of this ordinance. In granting a conditional use permit, the Board will authorize the issuance of a conditional use permit and shall prescribe and impose appropriate conditions, safeguards, and a specified time limit for the performance of the conditional use permit.

Section 6.02 Application for Conditional Use Permits

A request for a conditional use permit or modification of a conditional use permit may be initiated by a property owner or his or her authorized agent by filing an application with the Village upon forms prescribed for the purpose. A drawing or site plan and other such plans shall accompany the application, as well as data showing the dimensions, arrangements, descriptions data, and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in relation to the provisions set forth herein. A plan as to the operation and maintenance of the proposed use shall also be submitted. The application shall be accompanied with a non-refundable fee.

Section 6.03 Public Hearing

Before issuance of any conditional use permit, the Board will consider the application for the conditional use permit at a public hearing after prior notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in the Village of Alda, one time at least ten (10) days prior to such hearing.

Section 6.04 Decisions

A majority vote of the Board shall be necessary to grant a conditional use permit. No order of the Board granting a conditional use permit shall be valid for a period of longer than twelve (12) months from the date of such order, unless the Board specifically grants a longer period of time upon the recommendation of the Board.

Section 6.05 Standards

No conditional use permit shall be granted unless the Village Board has found:

- 6.05.01 That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the community.
- 6.05.02 That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
- 6.05.03 That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.
- 6.05.04 That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.
- 6.05.05 That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- 6.05.06 The use shall not include noise, which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
- 6.05.07 The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.

- 6.05.08 The use shall not involve any malodorous gas or matter, which is discernible on any adjoining lot or property.
- 6.05.09 The use shall not involve any direct or reflected glare, which is visible from any adjoining property or from any public street, road, or highway.
- 6.05.10 The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
- 6.05.11 The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

Section 6.06 Standards for Garages

No conditional use permit shall be granted for a garage as a principal structure in a Residential District unless Section 6.05 has been complied with and the Village Board has also found:

1. The garage shall be constructed of materials normally used in residential construction within Alda. The exterior coverings and finishes, including siding, shingles, and paint or stucco, shall be similar to those normally used in residential construction within Alda.
2. The owner of the property on which the garage sits shall be a resident of and own other land within Alda.
3. The sidewalls shall not exceed twelve feet (12') in height, and the overall height must conform to the requirement for the respective Residential District.
4. The roof of the garage shall be pitched at a minimum two and one-half to twelve (2-1/2:12).
5. The use of any portion of the garage for living quarters or habitable space by any human or animal shall be prohibited.
6. The use of any portion of the garage for a Home Occupation, garage sale, or similar type of use shall be prohibited.
7. Exterior storage on the lot shall be prohibited.
8. Vehicle parking spaces provided on the lot shall not be counted as part of the parking requirements for any other use.
9. When unoccupied, all openings to the structure shall remain closed and locked.

ARTICLE 7: SUPPLEMENTAL REGULATIONS

Section 7.01 Off-Street Automobile Storage

- 7.01.01 Off-street automobile storage or standing space shall be provided on any lot on which any of the following uses are hereafter established; such space shall be provided with vehicular access to a street or an alley. For purposes of computing the number of parking spaces available in a given area, the ratio of two hundred (200) square feet per parking space shall be used.
- 7.01.02 Where calculations in accordance with the foregoing list results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.
- 7.01.03 Some uses may require two different use types to be calculated together in order to determine the total parking requirement (Example: Primary schools may require tabulation for classrooms and assembly areas).
- 7.01.04 All parking spaces for single-family dwellings, two or more unit multi-family dwellings, convalescent homes, apartments, townhouses, and mobile homes shall be paved with crushed rock, asphalt or concrete.
- 7.01.05 In Districts ~~R-1, R-2, R-9, R-6, R-3~~ and RM, required off-street parking shall be provided on the lot on which the use to which the parking pertains, or immediately adjacent thereto. In other Districts, such parking may be provided either on the same lot or an adjacent or other lot, provided, however, the lot on which the use requiring them is located and the lot providing the parking are not separated by more than four-hundred feet (400') at closest points, measured along a street or streets. Such vehicle standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner. Where off-street parking is located on a lot other than the lot occupied by the use, which requires it, site plan approval for both lots is required.

Section 7.02 Off-street Parking: Shared Parking Requirements

Notwithstanding the provisions of Section 7.03, in cases where parking and building patterns are such that overlapping uses of a majority of the total number of parking spaces in the center is likely to occur, compliance with the standard retail parking ratios may be decreased by the Village Board. Said request for a decrease in parking spaces shall be made as an Application for a Conditional Use Permit.

Section 7.03 Schedule of Minimum Off-Street Parking and Loading Requirements

Uses	Parking Requirements	Loading Requirements
Adult Entertainment Establishments	One (1) space per 2 persons of licensed capacity	None required
Bowling Alleys	Four (4) spaces per alley plus one (1) per 2 employees	One (1) space per establishment
Churches, Synagogues, and Temples	One (1) space per 4 seats or 8 feet of pew length in main worship area	None required
Clubs, including fraternal organizations	One (1) space per 500 s.f. of net floor area	None required
College/University	Eight (8) spaces per classroom plus 1 space per employee	Two (2) spaces per structure
Commercial Uses		
Agricultural Sales / Service	One (1) space per 500 s.f. of net floor area	One (1) per establishment
Automotive Rental / Sales	One (1) space per 500 s.f. of net floor area	One (1) per establishment
Automotive Servicing	Three (3) spaces per repair stall	None required
Bars, Taverns, Nightclubs	Parking equal to 30% of licensed capacity	Two (2) spaces per establishment
Body Repair	Four (4) spaces per repair stall	None required
Dance Hall	One (1) space per 100 s.f. of net floor area plus 1 space per employee	One (10) per establishment
Equipment Rental / Sales	One (1) space per 500 s.f. of net floor area	One (1) Space
Campground	One (1) space per camping unit	None required
Commercial Recreation	One (1) space per 4 persons of licensed capacity	One (1) per establishment
Communication Services	One (1) space per 500 s.f. of net floor area	One (1) per establishment
Construction Sales / Service	One (1) space per 500 s.f. of net floor area	One (1) per establishment
Food Sales (limited)	One (1) space per 300 s.f. of net floor area	One (1) per establishment
Food Sales (general)	One (1) space per 200 s.f. of net floor area	Two (2) per establishment
General Retail Sales establishments	One (1) space per 200 s.f. of net floor area	One (1) per establishment
Laundry Services	One (1) space per 200 s.f. of net floor area	None required
Restaurants w/ drive-thru	Greater of the two: One (1) space per 40 s.f. of dining area, or One (1) space per 150 s.f. of net floor area	One (1) per establishment
Restaurants (General)	Parking equal to 30% of licensed capacity	Two (2) spaces per establishment
Convalescent and Nursing home Services	One (1) space per 3 beds plus 1 per employee on the largest shift	Two (2) space per structure
Day Care	One (1) space per employee plus 1 space or loading stall per each 10 persons of licensed capacity	None required
Educational Uses, Primary facilities	Two (2) spaces per classroom	Two (2) spaces per structure
Educational Uses, Secondary facilities	Eight (8) spaces per classroom plus 1 space per employee on largest shift	Two (2) spaces per structure
Funeral Homes and Chapels	Eight (8) spaces per reposing room	Two (2) spaces per establishment
Group Care Facility	One (1) space per 4 persons of licensed capacity	Two (2) space per structure
Group Home	One (1) space per 4 persons of licensed capacity	Two (2) space per structure
Guidance Services	One (1) space per 300 s.f. of net floor area	None required
Hospitals	One (1) space per 2 licensed beds	Three (3) spaces per structure
Hotels and Motels	One (1) space per rental unit plus 1 per 2 employees on largest shift	One (1) space per establishment
Housing (Congregate)		
Assisted-living facilities	One (1) space per dwelling unit plus 1 space per employee on the largest shift	One (1) per structure
Duplex	Two (2) spaces per dwelling unit	None required
Multi-family / Apartments / Dormitory / Student Lodging	One (1) space per sleeping unit – spaces to be sited in the general proximity of where the sleeping units are located	None required
Industrial Uses	Three (3) spaces for every 4 employees during the largest shift (.75 times number of employees.)	Two (2) spaces per establishment
Libraries	One (1) space per 400 s.f. of net floor area plus 1 space per employee	One (1) per structure
Boarding Houses / Bed and Breakfasts	One (1) space per rental units	None required
Medical Clinics	Five (5) spaces per staff doctor, dentist, chiropractor	None required
Mobile Home Park	Two (2) per dwelling unit	None required
Offices and Office Buildings	One (1) space per 200 s.f. of net floor area	None required
Residential (Single-family, attached and detached)	Two (2) spaces per dwelling unit with 1 required to be enclosed	None required
Roadside stands	Four (4) spaces per establishment	None required
Service Oriented Establishments	One (1) space per 200 s.f. of net floor area	One (1) per establishment
Theaters, Auditoriums, and Places of Assembly	One (1) space per 5 persons of licensed capacity	One (1) space per establishment
Veterinary Establishments	Three (3) spaces per staff doctor	None required
Wholesaling / Distribution Operations	One (1) space per 2 employees on the largest shift	Two (2) spaces per establishment

Section 7.04 Off-Street Parking: Parking for Individuals with Disabilities

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

Total Parking Spaces	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2 percent of the total
1,001 and over	20, plus 1 for each 100 over 1,000

7.04.02 Except as provided to Section 7.04.01.01 of this Ordinance, access aisles adjacent to accessible spaces shall be five feet (5') wide minimum.

1. One in every eight accessible spaces, but not less than one, shall be served by an access aisle eight feet (8') wide minimum and shall be designated "van accessible" as required by Section 7.04.04 of this Ordinance. The vertical clearance at such spaces shall comply with 7.04.05 of this Ordinance. All such spaces may be grouped on one level of a parking structure.
2. Parking access aisles shall be part of an accessible route to the building or facility entrance. Two (2) accessible parking spaces may share a common access aisle.
3. Parked vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces and access aisles shall be level with slopes not exceeding two percent (2%) in all directions.
4. If passenger-loading zones are provided, then at least one passenger loading zone shall comply with 7.04.06 of this Ordinance.
5. At facilities providing medical care and other services for persons with mobility impairments, parking spaces complying with 7.04 of this Ordinance shall be provided in accordance with 7.04.01 of this Ordinance; except as follows:
 - a). Outpatient units and facilities: ten percent (10%) of total number of parking spaces provided serving each such outpatient unit or facility;
 - b). Units and facilities that specialize in treatment or services for persons with mobility impairments: twenty percent (20%) of the total number of parking spaces provided serving each such unit or facility.

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

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

7.04.04 Signage of accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Spaces complying 7.04.02(1) shall have an additional sign "Van Accessible" mounted below the symbol of accessibility. Such signs shall be located so a vehicle parked in the space cannot obscure them.

7.04.05 Minimum vertical clearance of nine and one-half feet (9-1/2') at accessible passenger loading zones and along at least one vehicle access route to such areas from site entrance(s) and exit(s). At parking spaces complying with 7.04.02(1), provide minimum vertical clearance of eight-feet two-inches (8'-2") at the parking space and along at least one vehicle access route to such spaces from site entrance(s) and exit(s).

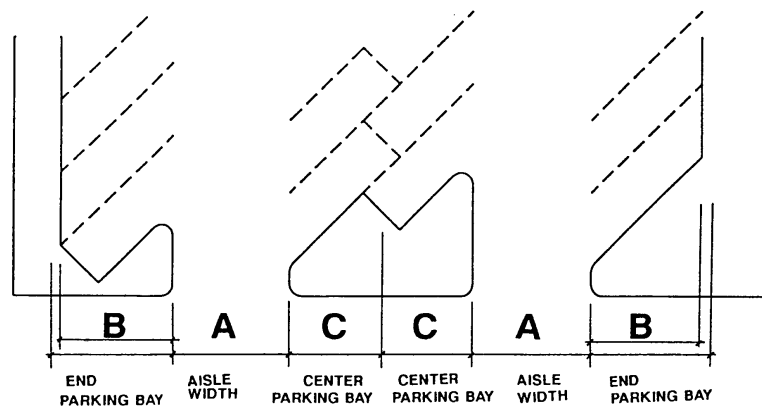
- 7.04.06 Passenger Loading Zones shall provide an access aisle at least five feet (5') wide and twenty feet (20') long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with accessibility standards shall be provided. Vehicle standing spaces and access aisles shall be level with surface slopes not exceeding two percent (2%) in all directions.

Section 7.05 Off-Street Parking Design Criteria

- 7.05.01 Standard parking stall dimensions shall not be less than nine feet (9') wide and eighteen feet (18') long, plus the necessary space for maneuvering into and out of the space. For standard parking lots, minimum dimensions shall be as follows:

Parking Configuration

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



- 7.05.02 All areas used for standing and maneuvering of vehicles shall be paved with a durable and dust-less surface maintained for all-weather use, and designed such that drainage across sidewalks is minimized.
- 7.05.03 Parking stalls located along the outer boundary of a parking lot shall be contained by a minimum four inch (4") curb, as well as set back four feet (4') from the property line or separated with a bumper rail.
- 7.05.04 Where the end of the parking space abuts a curbed area at least five feet (5') in width (with landscaping or sidewalk), an overhang may be permitted which would reduce the length of the parking space by two feet (2').
- 7.05.05 Minimum dimensions for a parallel parking space shall be nine feet (9') by twenty-three feet (23').
- 7.05.06 Artificial lighting used in a parking lot shall be so designed as to deflect light away from adjacent residential dwellings.
- 7.05.07 All parking spaces, except for those used in conjunction with a residential dwelling, shall be located such and served with a driveway such that their use will require no backing movements or maneuvering within a street right-of-way other than an alley.

- 7.05.08 Service drives shall not be more than thirty feet (30') in width, and shall conform to the minimum sight triangle requirements for unobstructed vision. Service drives shall also be clearly and permanently marked and defined through the use of rails, fences, walls, or other barriers or markers.
- 7.05.09 Minimum parking dimensions for other configurations or for parking lots with compact car spaces shall be determined by the Planning Commission and Village Board upon recommendation of the Village Engineer.
- 7.05.10 All of the requirements of this Section shall be complied with, and all off-street parking requirements shall be made available for use prior to the issuance of a Certificate of Occupancy. A time extension may be granted by the Zoning Administrator, provided a performance bond, or its equivalent, is posted which equals the cost to complete the parking improvements as estimated by the Zoning Administrator, and provided the parking requirements are not required for immediate use. In the event the improvements are not completed within one (1) year of any such extension, the bond or its equivalent shall be forfeited and the improvements shall be completed under the direction of the Village Board.

Section 7.06 Signs: Standard of Measurement

- 7.06.01 The total area of all signs permitted on a lot shall include:
1. The total area of the faces of all permanent exterior signs visible from a public way, plus
 2. The area of permanent signs placed upon the surface of windows and doors, plus
 3. The area within the outline enclosing the lettering, modeling or insignia of signs integral with a wall and not designed as a panel.
- 7.06.02 Wall signs shall not exceed one and one-half (1-1/2) square feet per lineal foot of lot frontage, up to two-hundred (200) square feet in total size. ~~A building or use having frontage on a second street may include twenty percent (20%) of the length of the lot facing the second street.~~

Section 7.07 Signs: Area Computation

- 7.07.01 **Computation of Area of Individual Signs:** The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly identical to the display itself.
- 7.07.02 **Computation of Area of Multi-faced Signs:** The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than forty-two inches (42") apart, the sign area shall be computed by the measurement of one of the faces.
- 7.07.03 **Computation of Height:** The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) existing grade prior to construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign, or (2) normal grade. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zone lot, whichever is lower.

Section 7.08 Sign Schedule

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

<u>Zoning District</u>	<u>AG</u>	<u>TA</u>	<u>R-1.2</u>	<u>R-6</u>	<u>R-2.3</u>	<u>MH</u>	<u>BGC</u>	<u>HC-1</u>	<u>C-2</u>	<u>I-1</u>	<u>I-2</u>
<u>Sign Type</u>											
Real Estate	+	+	+	+	+	+	+	+	+	+	+
Announcement	+	+	+	+	+	+	+	+	+	+	+
Wall	+	+	-	-	-	-	+	+	+	+	+
Name Plate	C	C	+	+	+	+	+	+	+	+	+
Billboard	C	-	-	-	-	-	-	-	-	-	C
Ground	C	C	-	-	-	-	+	+	+	+	+
On-Site Advertising	+	+	-	-	-	-	-	+	+	+	+
Comm. Sponsored	-	-	-	-	-	-	-	-	-	-	-
Animated or Flashing	-	-	-	-	-	-	C	C	€	-	-
Pole	-	-	-	-	-	-	-	+	+	C	C

+: permitted -: not permitted C: Conditional Use

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

<u>Zoning District</u>	<u>AG</u>	<u>TA</u>	<u>R-1.2</u>	<u>R-6</u>	<u>R-2.3</u>	<u>MH</u>	<u>BGC</u>	<u>HC-1</u>	<u>C-2</u>	<u>I-1</u>	<u>I-2</u>
<u>Sign Type</u>											
Real Estate											
Max. Square Ft.	32	32	6	6	6	6	24	32	32	32	32
Max. Height	6'	6'	-	-	-	-	2'	4'	4'	4'	4'
Announcement											
Max. Square Ft.	32	32	6	6	6	6	24	32	32	32	32
Max. Height	4'	4'	4'	4'	4'	4'	2'	4'	4'	4'	4'
Wall											
Max. Square Ft.	50	50	-	-	-	-	32	100	100	200	200
Max. Height	15'	15'	-	-	-	-	16'	45'	45'	45'	45'
Name Plate											
Max. Square Ft.	-	2	2	2	2	2	-	-	-	-	-
Max. Height	-	-	-	-	-	-	-	-	-	-	-
Billboard											
Max. Square Ft.	200	-	-	-	-	-	-	-	-	-	200
Max. Height	45'										45'
Ground											
Max. Square Ft.	100	100	-	-	-	-	100	100	100	200	200
Max. Height	10'	10'	-	-	-	-	10'	10'	10'	10'	10'
On-Site Advertising											
Max. Square Ft.	100	100	-	-	-	-	-	100	100	200	200
Max. Height	45'	45'	-	-	-	-	-	45'	45'	45'	45'
Off-Site Advertising											
Pole											
Max. Square Ft.	-	-	-	-	-	-	-	100	100	200	200
Max. Height	-	-	-	-	-	-	-	15'	20'	15'	15'

Section 7.09 Signs: Special Conditions

7.09.01 **Real Estate.** Not more than two (2) signs per lot may be used as a temporary sign. Signs in the TA District shall be set back twenty feet (20') from the road right-of-way or road easement.

7.09.02 **Freestanding Signs:** Freestanding signs, including but not limited to billboard, ground, and pole signs shall constitute a structure for the purposes of this Ordinance, and shall require a zoning permit prior to their installation.

- 7.09.03 **Community Events and Functions:** Signs used to display information for a community event or function shall be permitted in all zoning districts, provided they are temporary only, and are not placed in the right-of-way.
- 7.09.04 **Billboards.** Billboards, signboards, and other similar advertising signs subject to the same height and location requirements as other structures in the district and also subject to the following conditions and restrictions.
1. No billboard, signboard, or similar advertising signs shall be located at intersections so as to obstruct vision, hearing, or interfere with pedestrian or vehicular safety.
 2. No billboard, signboard, or similar advertising signs shall be located within fifty feet (50) of any lot in a residential district.
 3. No billboard, signboard, or similar advertising signs shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property.
- 7.09.05 Signs hung from canopies and awnings shall be no closer than seven and one-half feet (7-1/2') from the bottom edge of the sign to grade below.

Section 7.10 Home Occupation Standards

Home Occupations shall be permitted uses in the TA, ~~RA, R-1, R-2~~, AG, R-3, R-6, R-9 and RM Districts, subject to the following standards:

- 7.10.01 **Intent.** A home occupation shall be permitted when said occupation conducted on residentially used premises is considered customary and traditional, incidental to the primary use of the premises as a residence, and not construed as a business.
- 7.10.02 **Purpose.** Home occupations shall be of a personal service nature limited to domestic crafts and professional services, including, but not limited to:
1. Such domestic crafts as dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, custom home furnishings work, carpentry work, and furniture repair.
 2. Such professions as law, medicine, architecture, engineering, planning, real estate, insurance, notary public, manufacturer's agent, clergy, writing, painting, photography, and tutoring, provided, however, the service is limited to advice and consultation and the premises are not used for the general practice of the profession.
 3. Child Nurseries or Child Care Homes in accordance with Neb. Rev. Stat. §71-1902 (R.R.S.1997).
 4. Barber and Beauty Shops, limited to one (1) chair.
 5. Therapeutic Massage Parlors, not including adult entertainment establishments, limited to serving one (1) client at any given time.
 6. Distribution and sales of products such as cosmetics, home/health care products, mail order, and other similar uses.
 7. Services provided outside the home such as lawn care, snow removal, and other similar uses.
- 7.10.03 Home occupations shall be subject to all the regulations of the applicable zoning district. Home occupations shall not affect adversely the residential character of the zoning district or interfere with the reasonable enjoyment of adjoining properties. Prohibited uses are those uses that are deemed to be in violation of these standards or this Ordinance.
- 7.10.04 **Performance Standards.**
1. The primary use of the structure or dwelling unit shall remain residential and the operator of the home occupation shall remain a resident in the dwelling unit.
 2. The operator conducting the home occupation shall be the sole entrepreneur, and he may employ up to two (2) other persons other than members of the immediate family residing on the premises. Off street parking must be provided for non-resident employees.
 3. No structural additions, enlargements, or exterior alterations changing the residential appearance to a business appearance shall be permitted.
 4. No more than twenty-five percent (25%) of the floor area of any one story of the dwelling unit shall be devoted to such home occupation, or if an accessory building is used, the total lot coverage of such accessory structure shall not exceed fifteen percent (15%).
 5. Such home occupations shall be conducted entirely within the primary building or dwelling unit used as a residence, or an accessory structure.

6. No additional and separate entrance incongruent with the residential structural design shall be constructed for the purpose of conducting the home occupation.
7. No provision for extra off-street parking or loading facilities, other than the requirements and permitted facilities, and no additional driveway to serve such home occupations shall be permitted.
8. No display of goods or external evidence of the home occupation shall be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed two (2) square feet in total surface area.
9. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.
10. The operation of a home occupation shall not be objectionable due to odor, dust, smoke, noise, vibration or other similar causes.

7.10.05 Revocation:

A home occupation permit granted in accordance with the provisions of this section may be terminated if the Zoning Administrator makes any of the following findings:

1. That any condition of the home occupation permit has been violated;
2. That the use has become detrimental to the public health or safety or is deemed to constitute a nuisance;
3. That the permit was obtained by misrepresentation or fraud;
4. That the use for which the permit was granted has ceased or has been suspended for six (6) consecutive months or more; and
5. That the condition of the premises, or the district of which it is a part, has changed so that the use may no longer be justified under the purpose and intent of this section.
6. *Appeal.* Within five (5) working days of a revocation, an appeal may be made to the Village Board, through the Zoning Administrator. The Zoning Administrator within ten (10) working days of the receipt of an appeal of his or her revocation action, shall report his or her findings of fact and decision to the Village Board. The Village Board shall determine the facts and may revoke, modify or allow to remain unchanged the home occupation permit in accordance with the Board's final determination.

Section 7.11 Wireless Communication Towers

7.11.01. Purpose and Legislative Intent.

The Telecommunications Act of 1996 affirmed the Village of Alda's authority concerning the placement, construction and modification of Wireless Telecommunications Facilities. The Village of Alda finds that Wireless Telecommunications Facilities may pose significant concerns to the health, safety, public welfare, character and environment of the Village and its inhabitants. The Village also recognizes that facilitating the development of wireless service technology can be an economic development asset to the Village and of significant benefit to the Village and its residents. In order to insure that the placement, construction or modification of Wireless Telecommunications Facilities is consistent with the Village's land use policies, the Village is adopting a single comprehensive, Wireless Telecommunications Facilities application and permit process. The intent of this Local Ordinance is to minimize impact of Wireless Telecommunications Facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the Village of Alda.

7.11.02 Title.

This Ordinance shall be known and cited as the Wireless Telecommunications Facilities Siting Ordinance for the Village of Alda.

7.11.03 Severability.

A) If any word or phrase, sentence, part, section, subsection or other portion of this Ordinance or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed Application thereof, shall be severable, and the remaining provisions of this Ordinance, and all

applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

B) Any Conditional Use Permit issued under this Ordinance shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the Permit shall be void in total, upon determination by the Village.

7.11.04 Definitions.

For purposes of this Ordinance, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory, and not merely directory.

- A) **"Accessory Facility or Structure"** means an accessory facility or structure serving or being used in conjunction with Wireless Telecommunications Facilities, and located on the same property or lot as the Wireless Telecommunications Facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.
- B) **"Applicant"** means any Wireless service provider submitting an Application for a Conditional Use Permit for Wireless Telecommunications Facilities.
- C) **"Application"** means all necessary and appropriate documentation that an Applicant submits in order to receive a Conditional Use Permit for Wireless Telecommunications Facilities.
- D) **"Antenna"** means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.
- E) **"Co-location"** means the use of an existing Tower or structure to support Antennae for the provision of wireless services. A replacement tower that is constructed on the same site as an existing tower will be considered a co-location as long as the new tower is not taller than the old tower and that the old tower is removed within 90 days (weather permitting after the new tower is constructed).
- F) **"Commercial Impracticability" or "Commercially Impracticable"** means the inability to perform an act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be "commercially impracticable" and shall not render an act or the terms of an agreement "commercially impracticable".
- G) **"Completed Application"** means an Application that contains all information and/or data necessary to enable an informed decision to be made with respect to an Application.
- H) **"Council"** means the Village Board of the Village of Alda.
- I) **"FAA"** means the Federal Aviation Administration, or its duly designated and authorized successor agency.
- J) **"FCC"** means the Federal Communications Commission, or its duly designated and authorized successor agency.
- K) **"Height"** means, when referring to a Tower or structure, the distance measured from the

pre-existing grade level to the highest point on the Tower or structure, even if said highest point is an Antenna, lightening protection device or strobe.

- L) **"Modification" or "Modify"** means, the addition, removal or change of any of the physical and visually discernable components or aspects of a wireless facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or change out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a Telecommunications Tower or Telecommunications Site as a co-location is a modification. A Modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.
- M) **"NIER"** means Non-Ionizing Electromagnetic Radiation.
- N) **"Person"** means any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.
- O) **"Personal Wireless Facility"** See definition for 'Wireless Telecommunications Facilities.
- P) **"Personal Wireless Services" or "PWS"** means commercial mobile services, unlicensed Wireless services and common carrier wireless exchange and is also referred to as **"Personal Telecommunications Service" or "PCS"**.
- Q) **"Repairs and Maintenance"** means the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without the addition, removal or change of any of the physical or visually discernable components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted.
- R) **"Conditional Use Permit"** means the official document or permit by which an Applicant is allowed to file for a building permit to construct and use Wireless Telecommunications Facilities as granted or issued by the Village.
- S) **"Stealth" or "Stealth Technology"** means to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.
- T) **"State"** means the State of Nebraska.
- U) **"Telecommunications"** means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.
- V) **"Telecommunication Site"** See definition for Wireless Telecommunications Facilities.
- W) **"Telecommunications Structure"** means a structure used in the provision of services described in the definition of 'Wireless Telecommunications Facilities'.

- X) "Temporary"** means, temporary in relation to all aspects and components of Article XI of this ordinance, something intended to, or that does not exist for more than ninety (90) days.
- Y) "Tower"** means any structure designed primarily to support an antenna for receiving and/or transmitting a wireless signal.
- Z) "Wireless Telecommunications Facilities"** means and includes a **"Telecommunications Site"** and **"Personal Wireless Facility"**. It means a structure, facility or location designed, or intended to be used as, or used to support Antennas or other transmitting or receiving devices. This includes without limit, Towers of all types and kinds and structures, including, but not limited to buildings, church steeples, silos, water towers, signs or other structures that can be used as a support structure for Antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, specialized mobile radio (SMR), paging, 911, Personal Communications Services (PCS), commercial satellite services, microwave services and any commercial wireless telecommunication service not licensed by the FCC.

7.11.05. Overall Policy and Desired Goals for Conditional Use Permits and Administrative Review for Wireless Telecommunications Facilities.

In order to ensure that the placement, construction, and modification of Wireless Telecommunications Facilities protects the Village's health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this Ordinance, the Village hereby adopts an overall policy with respect to Conditional Use Permits and Administrative Review for Wireless Telecommunications Facilities for the express purpose of achieving the following goals:

- A) Requiring a Conditional Use Permit for any new Wireless Telecommunications Facility.
- B) Requiring Administrative Review for co-location or modification of a Wireless Telecommunications Facility that does not require a change in the height of the tower.
- C) Implementing an Application process for person(s) seeking a Conditional Use Permit for or Administrative Review of Wireless Telecommunications Facilities;
- D) Establishing a policy for examining an application for and issuing a Conditional Use Permit, and Administrative Reviews for Wireless Telecommunications Facilities that is both fair and consistent.
- E) Promoting and encouraging, wherever possible, the sharing and/or co-location of Wireless Telecommunications Facilities among service providers.
- E) Promoting and encouraging, wherever possible, the placement, height and quantity of Wireless Telecommunications Facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.
- F) That in granting a Conditional Use Permit or permitting after Administrative Review, the Village has found that the facility shall be the most appropriate site as regards being the

least visually intrusive among those available in the Village.

7.11.06. Exceptions from a Conditional Use Permit for Wireless Telecommunications Facilities.

- A) Except as otherwise provided by this Ordinance no Person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of, Wireless Telecommunications Facilities as of the effective date of this Ordinance without having first obtained a Conditional Use Permit for Wireless Telecommunications Facilities. Notwithstanding anything to the contrary in this section, no Conditional Use Permit shall be required for those non-commercial exceptions noted in §7.11.07.
- B) All legally permitted Wireless Telecommunications Facilities, constructed as permitted, existing on or before the effective date of this Ordinance shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing Wireless Telecommunications Facility will require the complete facility and any new installation to comply with this Ordinance. Relief from these regulations, for existing legally permitted Wireless Telecommunications Facilities, may be sought by the applicant as shown in section 7.11.28 of this ordinance.
- C) Any Repair and Maintenance of a Wireless Facility does not require an Application for a Conditional Use Permit.

7.11.07. Exclusions. The following shall be exempt from this Ordinance:

- A) The Village's fire, police, department of transportation or other public service facilities owned and operated by the local government.
- B) Any facilities expressly exempt from the Village's siting, building and permitting authority.
- C) Over-the-Air reception Devices including the reception antennas for direct broadcast satellites (DBS), multichannel multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception.
- D) Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial Telecommunications.
- E) Facilities exclusively for providing unlicensed spread spectrum technologies (such as IEEE 802.11 a, b, g (Wi-Fi) and Bluetooth) where the facility does not require a new tower.

7.11.08. Conditional Use Permit Application and Other Requirements.

- A) All Applicants for a Conditional Use Permit for Wireless Telecommunications Facilities Or any modification of such facility shall comply with the requirements set forth in this Ordinance. The Village Council is the officially designated agency or body of the Village to whom applications for a Conditional Use Permit for Wireless Telecommunications Facilities must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting or revoking Conditional Use Permits for Wireless Telecommunications Facilities. The Village may at its discretion delegate or designate other official agencies or officials of the Village to accept, review, analyze, evaluate and make recommendations to the Village Council with respect to the granting or not granting or revoking Conditional Use Permits for Wireless Telecommunications Facilities.
- B) The Village may reject applications not meeting the requirements stated herein or which are otherwise incomplete.

- C) No Wireless Telecommunications Facilities shall be installed, constructed or modified until the Application is reviewed and approved by the Village, and the Conditional Use Permit has been issued.
- D) Any and all representations made by the Applicant to the Village on the record during the Application process, whether written or verbal, shall be deemed a part of the Application and may be relied upon in good faith by the Village.
- E) An Application for a Conditional Use Permit for Wireless Telecommunications Facilities shall be signed on behalf of the Applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information.
- F) The Applicant must provide documentation to verify it has the right to proceed as proposed on the Site. This would require an executed copy of the lease with the landowner or landlord or a signed letter acknowledging authorization. If the applicant owns the site, a copy of the ownership record is required.
- G) The Applicant shall include a statement in writing:
 - 1) That the applicant's proposed Wireless Telecommunications Facilities shall be maintained in a safe manner, and in compliance with all conditions of the Conditional Use Permit, without exception, unless specifically granted relief by the Village in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable Village, State and Federal Laws, rules, and regulations;
 - 2) That the construction of the Wireless Telecommunications Facilities is legally permissible, including, but not limited to the fact that the Applicant is authorized to do business in the State.
- H) Where a certification is called for in this Ordinance, such certification shall bear the signature and seal of a Registered Professional surveyor, engineer, architect and or other individual as necessary licensed in the State of Nebraska.
- I) In addition to all other required information as stated in this ordinance, all applications for the construction or installation of new Wireless Telecommunications Facilities or modification of an existing facility shall contain the information hereinafter set forth.
 - 1) A descriptive statement of the objective(s) for the new facility or modification including and expanding on a need such as coverage and/or capacity requirements;
 - 2) Documentation that demonstrates and proves the need for the Wireless Telecommunications Facility to provide service primarily and essentially within the Village. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites that demonstrate a significant gap in coverage and/or if a capacity need, including an analysis of current and projected usage;
 - 3) The name, address and phone number of the person preparing the report;
 - 4) The name, address, and phone number of the property owner and Applicant, and to include the legal name of the Applicant. If the site is a tower and the owner is different than the applicant, provide name and address of the tower owner;
 - 5) The 911 address and tax parcel number of the property;

- 6) The Zoning District in which the property is situated;
 - 7) Size of the property stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines;
 - 8) The location of nearest residential structure;
 - 9) The location, size and height of all existing and proposed structures on the property which is the subject of the Application;
 - 10) The type, locations and dimensions of all proposed and existing landscaping, and fencing;
 - 11) The azimuth, size and center-line height location of all proposed and existing antennae on the supporting structure;
 - 12) The number, type and model of the Antenna(s) proposed with a copy of the specification sheet;
 - 13) The make, model, type and manufacturer of the Tower and design plan stating the Tower's capacity to accommodate multiple users.
 - 14) A site plan describing the proposed Tower and Antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
 - 15) The frequency, modulation and class of service of radio or other transmitting equipment;
 - 16) The actual intended transmission power stated as the maximum effective radiated power (ERP) in watts;
 - 17) Signed documentation such as the "Checklist to Determine Whether a Facility is Categorically Excluded" to verify that the Wireless Telecommunication Facility with the proposed installation will be in full compliance with the current FCC RF Emissions guidelines (NIER). If not categorically excluded, a complete RF Emissions study is required to provide verification;
 - 18) A signed statement that the proposed installation will not cause physical or RF interference with other telecommunications devices;
 - 19) A copy of the FCC license applicable for the intended use of the Wireless Telecommunications Facilities;
 - 20) A copy of the geotechnical sub-surface soils investigation, evaluation report and foundation recommendation for a proposed or existing Tower site and if existing Tower or water tank site, a copy of the installed foundation design. The investigation, evaluation and design shall be prepared by a licensed professional.
- J) The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the proposed new Tower or existing structure intended to support wireless facilities is in compliance with Federal Aviation Administration Regulation Part 77 and if it requires lighting. This requirement shall also be for any existing structure or building where the application increases the height of the structure or building. If this analysis determines, that an FAA determination is required, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided with the application. If the analysis determines that the structure is

within the approach or turning zone of the airport then approvals must be received from the local airport.

K) Application for New Tower

- 1) In the case of a new Tower, the Applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing Tower(s) or the use of alternative buildings or other structures within the Village. Copies of written requests and responses for shared use shall be provided to the Village in the Application, along with any letters of rejection stating the reason for rejection.
- 2) In order to better inform the public, in the case of a new Telecommunication Tower, the Applicant shall, prior to the public hearing on the application, hold a "balloon test". The Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three (3) foot in diameter brightly colored balloon at the maximum height of the proposed new Tower. The dates, (including a second date, in case of poor visibility on the initial date) times and location of this balloon test shall be advertised by the Applicant seven (7) and fourteen (14) days in advance of the first test date in a newspaper with a general circulation in the Village. The Applicant shall inform the Village, in writing, of the dates and times of the test, at least fourteen (14) days in advance. The balloon shall be flown for at least four consecutive hours sometime between 7:00 am and 4:00 pm on the dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date may be on a weekday. A report with pictures from various locations of the balloon shall be provided with the Application.
- 3) The Applicant shall examine the feasibility of designing the proposed Tower to accommodate future demand for at least four (4) additional commercial applications, for example, future co-locations. The Tower shall be structurally designed to accommodate at least four (4) additional Antenna Arrays equal to those of the Applicant, and located as close to the Applicant's Antenna as possible without causing interference. This requirement may be waived, provided that the Applicant, in writing, demonstrates that the provisions of future shared usage of the Tower is not technologically feasible, is Commercially Impracticable or creates an unnecessary and unreasonable burden, based upon:
 - a) The foreseeable number of FCC licenses available for the area;
 - b) The kind of Wireless Telecommunications Facilities site and structure proposed;
 - c) The number of existing and potential licenses without Wireless Telecommunications Facilities spaces/sites;
 - d) Available-space on existing and approved Towers.
- 4) The owner of a proposed new Tower, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed Tower by other Wireless service providers in the future, and shall:
 - a) Respond within 60 days to a request for information from a potential shared use Applicant;
 - b) Negotiate in good faith concerning future requests for shared use of the new Tower by other Telecommunications providers;

- c) Allow shared use of the new Tower if another Telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the Tower or equipment to accommodate a shared user without causing electromagnetic interference.
- d) Failure to abide by the conditions outlined above may be grounds for revocation of the Conditional Use Permit.
- L) The Applicant shall provide certification with documentation (structural analysis) including calculations that the Telecommunication Facility Tower and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, Village, State and Federal structural requirements for loads, including wind and ice loads.
- M) If proposal is for a co-location or modification on an existing Tower, the applicant is to provide signed documentation of the Tower condition such as an ANSI report as per Annex E, Tower Maintenance and Inspection Procedures, ANSI/TIA/EIA-222F or most recent version. The inspection report must be performed every three (3) years for a guyed tower and five (5) years for monopoles and self-supporting towers.
- N) All proposed Wireless Telecommunications Facilities shall contain a demonstration that the Facility will be sited so as to minimize visual intrusion as much as possible, given the facts and circumstances involved and will thereby have the least adverse visual effect on the environment and its character and on the residences in the area of the Wireless Telecommunications Facility.
- O) If a new Tower, proposal for a new Antenna attachment to an existing structure, or modification adding to a visual impact, the Applicant shall furnish a Visual Impact Assessment, which shall include:
 - 1) If a new Tower or increasing the height of an existing structure is proposed, a computer generated "Zone of Visibility Map" at a minimum of one mile radius from the proposed structure, with and without foliage shall be provided to illustrate locations from which the proposed installation may be seen.
 - 2) Pictorial representations of "before and after" (photo simulations) views from key viewpoints both inside and outside of the Village as may be appropriate, including but not limited to State highways and other major roads; State and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided, concerning the appropriate key sites at the pre-application meeting. Provide a map showing the locations of where the pictures were taken and distance from the proposed structure.
 - 3) A written description of the visual impact of the proposed facility including; and as applicable the Tower base, guy wires, fencing and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.
- P) The Applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the base and all related equipment and structures of the proposed Wireless Telecommunications Facility
- Q) The Wireless Telecommunications Facility and any and all accessory or associated

facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings. This may include the utilization of stealth or concealment technology if required by the Village.

- R) All utilities at a Wireless Telecommunications Facilities site shall be installed underground whenever possible and in compliance with all Laws, Ordinances, rules and regulations of the Village, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate
- S) At a Telecommunications Site, an access road, turn-around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.
- T) All Wireless Telecommunications Facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Village, State, or United States, including but not limited to the most recent editions of the ANSI Code, National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.
- U) A holder of a Conditional Use Permit granted under this Ordinance shall obtain, at its own expense, all permits and licenses required by applicable Law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the Village or other governmental entity or agency having jurisdiction over the applicant.
- V) There shall be a pre-application meeting. The purpose of the pre-application meeting will be to address issues that will help to expedite the review and permitting process. A pre application meeting shall also include a site visit if there has not been a prior site visit for the requested site.
- W) An Applicant shall submit to the Village the number of completed Applications determined to be needed at the pre-application meeting. Written notification of the Application shall be provided to the legislative body of all adjacent municipalities as applicable and/or requested.
- X) The holder of a Conditional Use Permit shall notify the Village of any intended Modification of a Wireless Telecommunication Facility and shall apply to the Village to modify, relocate or rebuild a Wireless Telecommunications Facility.

7.11.09. Location of Wireless Telecommunications Facilities.

- A) Applicants for Wireless Telecommunications Facilities shall locate, site and erect said Wireless Telecommunications Facilities in accordance with the following priorities, one (1) being the highest priority and five (5) being the lowest priority.

- 1) On existing Towers or other structures on other property in the Village;
- 2) A new Tower on properties in areas zoned for Industrial use;
- 3) A new Tower on properties in areas zoned for Commercial use;

4) A new Tower on properties in areas zoned for Agricultural use not planned for residential use in Comprehensive Plan;

5) A new Tower on properties in areas zoned for Residential use.

B) If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the Applicant if the permit were not granted for the proposed site.

C) An Applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. An Application shall address co-location as an option. If such option is not proposed, the Applicant must explain to the reasonable satisfaction of the Village why co-location is Commercially or otherwise Impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of Commercial Impracticability or hardship.

D) Notwithstanding the above, the Village may approve any site located within an area in the above list of priorities, provided that the Village finds that the proposed site is in the best interest of the health, safety and welfare of the Village and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood.

E) The Applicant shall submit a written report demonstrating the Applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the Application.

F) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Village may disapprove an Application for any of the following reasons:

- 1) Conflict with safety and safety-related codes and requirements;
- 2) Conflict with the historic nature or character of a neighborhood or historical district;
- 3) The use or construction of Wireless Telecommunications Facilities which is contrary to an already stated purpose of a specific zoning or land use designation;
- 4) The placement and location of Wireless Telecommunications Facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the Village, or employees of the service provider or other service providers;
- 5) Conflicts with the provisions of this Ordinance.

7.11.10. Shared Use of Wireless Telecommunications Facilities and Other Structures.

A) The Village shall prefer Applicants to locate on existing Towers or others structures without increasing the height instead of the construction of a new Tower. The Applicant shall submit a comprehensive report inventorying existing Towers and other suitable structures within two (2) miles of the location of any proposed new Tower, unless the Applicant can show that some other distance is more reasonable and demonstrate conclusively why an existing Tower or other suitable structure cannot be used.

B) An Applicant intending to locate on an existing Tower or other suitable structure shall be

required to document the intent of the existing owner to permit its use by the Applicant.

- C) Such shared use shall consist only of the minimum Antenna Array technologically required to provide service primarily and essentially within the Village, to the extent practicable, unless good cause is shown.

7.11.11. Height of Telecommunications Tower(s).

- A) The Applicant shall submit documentation justifying the total height of any Tower, Facility and/or Antenna requested and the basis therefore. Documentation in the form of propagation studies must include all backup data used to perform at requested height and a minimum of ten (10') feet lower height to allow verification of this height need. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the Village, to the extent practicable, unless good cause is shown.
- B) No Tower constructed after the effective date of this Ordinance, including allowing for all attachments, shall exceed that height which shall permit operation without required artificial lighting of any kind in accordance with Village, State, and/or any Federal statute, law, local law, Village Ordinance, code, rule or regulation.

7.11.12. Visibility of Wireless Telecommunications Facilities.

- A) Wireless Telecommunications Facilities shall not be artificially lighted or marked, except as required by Law. Wireless Telecommunications Facilities shall not be artificially lighted or marked, except as required by Law. Towers requiring lighting shall submit a request for relief from 7.11.11 (B) as allowed under §7.11.28 of this ordinance
- B) Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Ordinance.
- C) If lighting is required, Applicant shall provide a plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations.

7.11.13. Security of Wireless Telecommunications Facilities.

All Wireless Telecommunications Facilities and Antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

- A) All Antennas, Towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and
- B) Transmitters and Telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

7.11.14. Signage.

Wireless Telecommunications Facilities shall contain a sign no larger than four (4) square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the Antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the Applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration site as applicable is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.

7.11.15. Lot Size and Setbacks.

All proposed Towers and any other proposed Wireless Telecommunications Facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: A distance equal to the height of the proposed Tower or Wireless Telecommunications Facility structure plus ten percent (10%) of the height of the Tower or structure, or the existing setback requirement of the underlying Zoning District, whichever is greater? Any Accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

7.11.16. Retention of Expert Assistance and Reimbursement by Applicant.

- A) The Village may hire any consultant and/or expert necessary to assist the Village in reviewing and evaluating the Application, including the construction and modification of the site, once permitted, and any site inspections.
- B) An Applicant shall deposit with the Village funds sufficient to reimburse the Village for all reasonable costs of consultant and expert evaluation and consultation to the Village in connection with the review of any Application including where applicable, the lease negotiation, the pre -approval evaluation, and the construction and modification of the site, once permitted. The initial deposit shall be \$8,500.00. The placement of the \$8,500.00 with the Village shall precede the pre-application meeting. The Village will maintain a separate escrow account for all such funds. The Village's consultants/experts shall invoice the Village for its services related to the Application. If at any time during the process this escrow account has a balance less than \$2,500.00, the Applicant shall immediately, upon notification by the Village, replenish said escrow account so that it has a balance of at least \$5,000.00. Such additional escrow funds shall be deposited with the Village before any further action or consideration is taken on the Application. In the event that the amount held in escrow by the Village is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall, upon request of the Applicant, be promptly refunded to the Applicant.
- C) The total amount of the funds needed as set forth in subsection (B) of this section may vary with the scope (lease negotiations and/or review) and complexity of the project, the completeness of the Application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.

7.11.17. Public Hearing and Notification Requirements.

- A) Prior to the approval of any Application for a Conditional Use Permit for Wireless Telecommunications Facilities, a Public Hearing shall be held by the Village, notice of which shall be published in the newspaper general circulation in of the Village no less than ten (10) calendar days prior to the scheduled date of the Public Hearing. In order that the Village may notify nearby landowners, the Application shall contain the names and address of all landowners whose property is located within three hundred (300) feet of any property line of the lot or parcel on which the new Wireless Telecommunications Facilities are proposed to be located.
- B) There shall be no Public Hearing required for an Application to co-locate on an existing Tower or other structure or a modification at an existing site, as long as there is no proposed increase in the height of the Tower or structure, including attachments thereto.
- C) The Village shall schedule the Public Hearing referred to in Subsection (A) of this section once it finds the Application is complete, the Village, at any stage prior to issuing a Conditional Use Permit may require such additional information as it deems necessary.

7.11.18. Action on an Application for a Conditional Use Permit for Wireless Telecommunications Facilities.

- A) The Village will undertake a review of an Application pursuant to this Article in a timely fashion, consistent with its responsibilities, and shall act within a reasonable period of

time given the relative complexity of the Application and the circumstances, with due regard for the public's interest and need to be involved, and the Applicant's desire for a timely resolution.

- B) The Village may refer any Application or part thereof to any advisory, other committee or commission for a non-binding recommendation.
- C) After the Public Hearing and after formally considering the Application the Village may approve, approve with conditions, or deny a Conditional Use Permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the granting of the Permit shall always be upon the Applicant.
- D) If the Village approves the Conditional Use Permit for Wireless Telecommunications Facilities, then the Applicant shall be notified of such approval in writing within ten (10) calendar days of the Village's action, and the Conditional Use Permit shall be issued within thirty (30) days after such approval. Except for necessary building permits, and subsequent Certificates of Compliance, once a Conditional Use Permit has been granted hereunder, no additional permits or approvals from the Village, such as site plan or zoning approvals, shall be required by the Village for the Wireless Telecommunications Facilities covered by the Conditional Use Permit.
- E) If the Village denies the Conditional Use Permit for Wireless Telecommunications Facilities, then the Applicant shall be notified of such denial in writing within ten (10) calendar days of the Village's action.

7.11.19. Extent and Parameters of Conditional Use Permit for Wireless Telecommunications Facilities.

The extent and parameters of a Conditional Use Permit Wireless Telecommunications Facilities shall be as follows:

- A) Such Conditional Use Permit shall not be assigned, transferred or conveyed without the express prior written notification to the Village.
- B) Such Conditional Use Permit may, following a hearing upon due prior notice to the Applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the Conditional Use Permit, or for a material violation of this Ordinance after prior written notice to the holder of the Conditional Use Permit.

7.11.20. Application Fee.

At the time that a Person submits an Application for a Conditional Use Permit for a new Tower or an Administrative Review of an existing tower or structure, such Person shall pay a nonrefundable application fee to the Village as set by the Village Fee Schedule.

7.11.21. Performance Security.

The Applicant and the owner of record of any proposed Wireless Telecommunications Facilities property site shall, at its cost and expense, be jointly required to execute and file with the Village a bond, or other form of security acceptable to the Village as to type of security and the form and manner of execution, in an amount of at least \$75,000.00 for a Tower facility and \$25,000 for a co-location on an existing tower or other structure and with such sureties as are deemed sufficient by the Village to assure the faithful performance of the terms and conditions of this Ordinance and conditions of any Conditional Use Permit issued pursuant to this Ordinance. The full amount of the bond or security shall remain in full force and effect throughout the term of the Conditional Use Permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that, which existed prior to the issuance of the original Conditional Use Permit.

7.11.22. Reservation of Authority to Inspect Wireless Telecommunications Facilities.

In order to verify that the holder of a Conditional Use Permit for Wireless Telecommunications Facilities and any and all lessees, renters, and/or licensees of Wireless Telecommunications Facilities, place and construct such facilities, including Towers and Antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, Laws, Ordinances and regulations and other applicable requirements, the Village may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, Towers, Antennas and buildings or other structures constructed or located on the permitted site.

7.11.23. Liability Insurance for facilities located on Village owned property

- A) A holder of a Conditional Use Permit for Wireless Telecommunications Facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Conditional Use Permit in amounts as set forth below:
 - 1) Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate;
 - 2) Automobile Coverage: \$1,000,000 per occurrence/ \$2,000,000 aggregate;
 - 3) Workers Compensation and Disability: Statutory amounts
- B) For a Wireless Telecommunications Facility on Village property, the Commercial General Liability insurance policy shall specifically include the Village and its officers, Councils, employees, committee members, attorneys, agents and consultants as additional insured's.
- C) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a Best's rating of at least A.
- D) The insurance policies shall contain an endorsement obligating the insurance company to furnish the Village with at least forty five-(45) days prior written notice in advance of the cancellation of the insurance.
- E) Renewal or replacement policies or certificates shall be delivered to the Village at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.
- F) Before construction of a permitted Wireless Telecommunications Facilities is initiated, but in no case later than fifteen (15) days after the granting of the Conditional Use Permit, the holder of the Conditional Use Permit shall deliver to the Village a copy of each of the policies or certificates representing the insurance in the required amounts.

7.11.24. Indemnification.

- A) Any application for Wireless Telecommunication Facilities that is proposed for Village property, pursuant to this Ordinance, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the Law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the Village and its officers, Councils, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said Facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Village, or its servants or agents.

With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the Village.

- B) Notwithstanding the requirements noted in subsection (A) of this section, an indemnification provision will not be required in those instances where the Village itself applies for and secures a Conditional Use Permit for Wireless Telecommunications Facilities

7.11.25. Fines (Reference section 10.06)

- A) In the event of a violation of this Ordinance or any Conditional Use Permit issued pursuant to this Ordinance, the Village may prosecute the holder of the Conditional Use Permit for Wireless Telecommunications Facilities shall pay fines or penalties as set forth in 10.06 of this Regulation and as allowed by State Statute.
- B) Notwithstanding anything in this Ordinance, the holder of the Conditional Use Permit for Wireless Telecommunications Facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this Ordinance or any section of this Ordinance. An attempt to do so shall subject the holder of the Conditional Use Permit to termination and revocation of the Conditional Use Permit. The Village may also seek injunctive relief to prevent the continued violation of this Ordinance, without limiting other remedies available to the Village.

7.11.26. Default and/or Revocation.

If a Wireless Telecommunications Facility is repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Ordinance or of the Conditional Use Permit, then the Village shall notify the holder of the Conditional Use Permit in writing of such violation. A Permit holder in violation may be considered in default and subject to fines as in Section 7.11.25 and if a violation is not corrected to the satisfaction of the Village in a reasonable period of time the Conditional Use Permit is subject to revocation.

7.11.27. Removal of Wireless Telecommunications Facilities.

- A) Under the following circumstances, the Village may determine that the health, safety, and welfare interests of the Village warrant and require the removal of Wireless Telecommunications Facilities.

1) Wireless Telecommunications Facilities with a permit have been abandoned (i.e. not used as Wireless Telecommunications Facilities) for a period exceeding ninety consecutive (90) days or a total of one hundred-eighty (180) days in any three hundred-sixty five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days;

2) Permitted Wireless Telecommunications Facilities fall into such a state of disrepair that it creates a health or safety hazard;

3) Wireless Telecommunications Facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required Conditional Use Permit, or any other necessary authorization and the Conditional Use Permit may be revoked.

- B) If the Village makes such a determination as noted in subsection (A) of this section, then the Village shall notify the holder of the Conditional Use Permit for the Wireless Telecommunications Facilities within forty-eight (48) hours that said Wireless Telecommunications Facilities are to be removed; the Village may approve an interim temporary use agreement/permit, such as to enable the sale of the Wireless

Telecommunications Facilities.

C) The holder of the Conditional Use Permit, or its successors or assigns, shall dismantle and remove such Wireless Telecommunications Facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or Commercial Impracticability, within ninety (90) days of receipt of written notice from the Village. However, if the owner of the property upon which the Wireless Telecommunications Facilities are located wishes to retain any access roadway to the Wireless Telecommunications Facilities, the owner may do so with the approval of the Village.

D) If Wireless Telecommunications Facilities are not removed or substantial progress has not been made to remove the Wireless Telecommunications Facilities within ninety (90) days after the Permit holder has received notice, then the Village may order officials or representatives of the Village to remove the Wireless Telecommunications Facilities at the sole expense of the owner or Conditional Use Permit holder.

E) If, the Village removes, or causes to be removed, Wireless Telecommunications Facilities, and the owner of the Wireless Telecommunications Facilities does not claim and remove it from the site to a lawful location within ten (10) days, and then the Village may take steps to declare the Wireless Telecommunications Facilities abandoned, and sell them and their components.

F) Notwithstanding anything in this Section to the contrary, the Village may approve a temporary use permit/agreement for the Wireless Telecommunications Facilities, for no more ninety (90) days, during which time a suitable plan for removal, conversion, or relocation of the affected Wireless Telecommunications Facilities shall be developed by the holder of the Conditional Use Permit, subject to the approval of the Village, and an agreement to such plan shall be executed by the holder of the Conditional Use Permit and the Village. If such a plan is not developed, approved and executed within the ninety (90) day time period, then the Village may take possession of and dispose of the affected Wireless Telecommunications Facilities in the manner provided in this Section.

7.11.28. Relief.

Any Applicant desiring relief, waiver or exemption from any aspect or requirement of this Ordinance may request such, provided that the relief or exemption is contained in the submitted Application for either a Conditional Use Permit, or in the case of an existing or previously granted Conditional Use Permit a request for modification of its Tower and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the Applicant to prove. The Applicant shall bear all costs of the Village in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the Applicant demonstrates by clear and convincing evidence that, if granted the relief, waiver or exemption will have no significant affect on the health, safety and welfare of the Village, its residents and other service providers.

7.11.29. Periodic Regulatory Review by the Village.

A) The Village may at any time conduct a review and examination of this entire Ordinance.

B) If after such a periodic review and examination of this Ordinance, the Village determines that one or more provisions of this Ordinance should be amended, repealed, revised, clarified, or deleted, then the Village may take whatever measures are necessary in accordance with applicable Law in order to accomplish the same. It is noted that where warranted, and in the best interests of the Village, the Village may repeal this entire Ordinance at any time.

C) Notwithstanding the provisions of subsections (A) and (B) of this Section, the Village

may at any time and in any manner (to the extent permitted by Federal, State, or local law), amend, add, repeal, and/or delete one or more provisions of this Ordinance.

7.11.30. Adherence to State and/or Federal Rules and Regulations.

A) To the extent that the holder of a Conditional Use Permit for Wireless Telecommunications Facilities has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the holder of such a Conditional Use Permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.

B) To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed ATTEST:

Chairperson of the Board of
Trustees of the Village of Alda,
Nebraska

and/or are modified during the duration of a Conditional Use Permit for Wireless Telecommunications Facilities, then the holder of such a Conditional Use Permit shall conform the permitted Wireless Telecommunications Facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

Section 2. Any other ordinance or section passed and approved prior to the passage, approval and publication or posting of this Ordinance and in conflict with its provisions is hereby repealed.

Section 3. This Ordinance shall take effect and be in full force from and after its passage, approval and publication in pamphlet form or posting as required by law.

Ordinance No. 258 Approved September 14, 2010

Section 7.12 Fences

7.12.01 ~~No fence, except for barbed wire fences pursuant to Section 7.12.04, shall be constructed within the zoning jurisdiction of the Village of Alda unless a permit therefore is approved and issued by the Zoning Administrator and is constructed in conformance with the following requirements. A permit shall not be required for fencing installed within the Transitional Agriculture District. Fences, with the exception of Barbed Wire or Electric that meet the following characteristics are permitted on private property without a permit.~~

1. The height limitation for fences shall be six feet (6') above ground level except as provided herein.
2. Where it is demonstrated that for security purposes the perimeter fencing around a plant or building located in an area zoned as an Industrial District must be higher than six feet (6') in height, such fence may be approved by a Conditional Use Permit.
3. Fences constructed along and parallel to lot lines separating a residential lot from property located in a Commercial or Industrial District shall not exceed eight feet (8') in height.
4. Fences constructed along and parallel to rear and side lot lines adjoining arterial streets, as designated by the Nebraska Department of Roads, shall not exceed six feet (6') in height.

7.12.02 Fences located within a front yard of a residential lot must qualify within the definition of an open fence, except that solid fences may be constructed along a side lot line parallel and adjacent to the lot line that is adjacent to a Commercial District or an Industrial District.

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

- 7.12.04 The use of barbed wire in the construction of any fence is prohibited except:
1. Perimeter security fencing of buildings constructed in an Industrial District. The plans and specifications for any such fencing must be approved by the Zoning Administrator before commencement of construction.
 2. Farm fencing constructed for agricultural purposes.
- 7.12.05 All fences shall be maintained in good repair.
- 7.12.06 All fences shall be located inside the boundaries of the property upon which constructed except where two (2) adjacent property owners pursuant to written agreement filed with the Village agree to build one (1) fence on the common lot line of adjacent side yards or back yards.
- 7.12.07 **Electric Fences.** No electric fence, except underground animal control fences, shall be constructed or maintained within the Village of Alda or within its extraterritorial zoning jurisdiction as hereinafter provided. An owner or lessee of such property may maintain electrified fencing provided same shall not be energized to the extent that it is capable of causing bodily harm to persons, be they children or adults, or to animals.
- 7.12.08 **Facing.** The finished surface of all fences shall face toward adjoining property or street frontage. However, in the case of two (2) or more property owners wishing to share a common fence line between their properties, said property owners shall jointly determine upon which side of the common fence line the finished face of the fence shall be placed. Such determination shall be consistent for the entire length of the common fence line.
- 7.12.09 **Fences in existence as of the effective date of this Ordinance.** Any existing fence which was in conformity with the prior provisions of this section and which was in place as of said date, may remain without change in accordance with this section notwithstanding the same may be in conflict with one (1) or more provisions of this section as amended; provided, however, any replacement or change of said existing fence or addition of a new fence, must hereby meet the requirements of this section as amended hereby.

Section 7.13 Performance Standards for Industrial Uses

- 7.13.01 **Physical Appearance:** All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles for sale or the storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition.
- 7.13.02 **Fire hazard:** No operation shall involve the use of highly flammable gasses, acid, liquids, grinding processes, or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gasses when handled in accordance with other regulations of the Village of Alda.
- 7.13.03 **Noise:** No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume, or in excess of 80 dB levels, whichever is greater. Noise shall be measured at the property line and when the level of such noise cannot be determined by observation with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges.
- 7.13.04 **Sewage and Liquid Wastes:** No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, liquid waste of any radioactive or poisonous nature or chemical waste which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.
- 7.13.05 **Air Contaminants:**

1. Air Contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one four minute period in each one-half hour. Light colored contaminants of such an capacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted
2. Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths (0.2) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit, except for a period of four minutes in any one-half hour, at which time it may equal but not exceed six tenths (0.6) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit.
3. Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public in general; or to endanger the comfort, repose, health, or safety of any such considerable number of persons or to the public in general, or to cause, or have a natural tendency to cause injury or damage to business, vegetation, or property.
4. **Odor:** The emission of odors that are generally agreed to be obnoxious to any considerable numbers of persons, shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this Regulation.
5. **Gasses:** The gasses sulphur dioxide and hydrogen sulphide shall not exceed five parts per million (5 ppm), carbon monoxide shall not exceed five parts per million (5 ppm). All measurements shall be taken at the zoning lot line.
6. **Vibration:** All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousandths of an inch (0.003"), measured at the property line. The use of steam or broad hammers shall not be permitted in this zone.
7. **Glare and heat:** All glare, such as welding arcs and open furnaces shall be shielded so that they shall not be visible from the zoning lot line. No heat from furnaces or processing equipment shall be sensed at the zoning lot line to the extent of raising the temperature of air or materials more than five (5) degrees Fahrenheit.

Section 7.14 Landscaping Requirements

7.14.01 **Intent:** The intent of the landscaping requirements are to improve the appearance of lot areas; to provide a buffer between differing land uses; to minimize the adverse effect of uses from one another; to minimize the effect of heat, noise and glare; to conserve the value of property and neighborhoods within the community; and to enhance the physical environment within the Village of Alda by ensuring that yards, open spaces, parking lots and those areas abutting public rights-of-way are designed, installed and maintained in accordance with then provisions of this section. Property development shall consider and respect land capabilities and constraints, minimize erosion and destruction of natural amenities and provide a buffer between differing land uses.

7.14.02 Screening Requirements:

1. All parking areas or vehicular use areas abutting a residential district or public right-of way shall be screened from grade level to a height not less than three feet (3').
2. All commercial and industrial uses that abut residential districts shall provide screening not less than six feet (6') in height along the abutting property line(s).
3. Screening required by this section shall be equivalent to the following:
 - a). Solid fences or walls as approved by the Planning Commission on the final development plan.
 - b). Hedges, shrubs, or evergreen trees of three feet (3') in height at planting spaced appropriately to provide a solid screen within three (3) years after planting.
 - c). Berms of not less than three feet (3') in height and that provide a maximum slope of three to one (3:1) for easy maintenance. Such berms may be used in conjunction with plantings to achieve the solid visual screen as described in 7.14.02(2).

- d). All commercial dumpsters or trash bins, except those located in an alley, shall maintain a solid six feet (6') tall enclosure around each unit. Said enclosure shall be constructed of materials that compliment or conform to those used on the primary structure.
- e). All projects shall include a detailed drawing indicating the method of enclosure and screening to be used.

7.14.03 ***Installation and Maintenance of Landscaping and Screening:***

- 1. ***Installation:*** All landscaping shall be installed in a sound workmanship like manner and according to accepted good planting procedures. Landscaped areas shall require protection from vehicular encroachment.
- 2. ***Maintenance:*** The owner, developer, tenant and/or their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping. All required landscaping shall be maintained in proper condition. When replacement is necessary, all new plants and other non-living landscape materials shall conform to the requirements of this section. Lawn grass shall be maintained on all areas not covered by other landscaping, parking, drives, buildings, or similar structures. Existing yards shall be maintained with grass or other approved ground cover.

7.14.04 ***Preliminary Plan Approval:*** A landscape plan indicating both proposed and existing landscaping and screening shall be submitted, with the preliminary plat or preliminary site plan for development, for review and recommendation by the Planning Commission and approval by the Village Board. Said Plan shall be in sufficient detail to provide the Commission and Village Board with a reasonable understanding of what is being proposed. Site calculations used in computing quantities to satisfy the required amounts of landscaping shall also be submitted.

7.14.05 ***Final Plan Approval:*** A detail listing of all plant materials to be used, quantities, size, and spacing shall be submitted to the Planning Commission on separate sheets for review and recommendation and approval by the Village Board along with a planting schedule at final development plan submission.

7.14.06 ***Parking Lot Plan Approval:*** A final site development plan shall be submitted to the Planning Commission with the requisite landscaping and screening required herein for each of the following types of parking lot improvements:

- 1. New construction.
- 2. Expansion of existing facilities.
- 3. Maintenance of existing facilities where an overlay is proposed at which time the landscaping and screening shall be required. The Planning Commission may grant modifications to the required parking lot landscaping and screening after review of submitted plans and in consideration of surrounding uses.
- 4. No parking lot shall be exempted from these regulations unless previously exempted.

7.15.01 Wind Energy Conversion Systems**Definitions**

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

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

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

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

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

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

(F) **Micro Wind Energy Conversion System (MWECS)** shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 5 kW and which is intended to primarily reduce on-site consumption of utility power. Rotor Diameter shall not exceed 7 feet.

(G) **Property Line** shall mean the boundary line of the area over which the entity applying for a Wind Energy Conversion System permit has legal control for the purpose of installing, maintaining and operating a Wind Energy Conversion System.

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

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

(J) **Small Wind Energy Conversion System (SWECS)** shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity not less than 5 kW and not more than 100 kW or has a rated capacity of not more than 5 kW and a rotor diameter of greater than 7 feet and which is intended to primarily reduce on-site consumption of utility power.

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

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

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

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

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

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

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

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

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

7.15.021 Micro Wind Energy Conversion Systems**Purpose**

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

Requirements

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

- (A) **Tower Height**
 - (1) Shall be limited by the size of the property. Tower height shall not exceed the fall zone for the property.
- (B) **Minimum Lot Size**
 - (1) Towers shall be permitted on all lots or parcels with a permitted principal use.
- (C) **Fall Zone**
 - (1) Fall Zone is the total height and any underlying setbacks for ground mounted MWCES.
 - (2) Fall Zone is the 125% of the tower height and any underlying setbacks for roof mounted MWCES.
- (D) **Setbacks**
 - (1) No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site; tower must meet required underlying setbacks.
- (E) **Noise**
 - (1) MWCES shall not exceed 60 dBA, as measured at the closest neighboring inhabited dwelling unit.
 - (2) The noise level may be exceeded during short term events such as utility outages and/or severe wind storms, wind speeds of greater than 50 miles per hour.
- (F) **Approved Wind Turbines**
 - (1) MWCES must have been approved under the Emerging Technologies program of the California Energy Commission or any other small certification program recognized by the American Wind Energy Association.
- (G) **Compliance with Building and Zoning Codes**
 - (1) Applications for MWCES shall be accomplished by standard drawings of the wind turbine structure, including the tower base, and footings.
 - (2) An engineering analysis of the tower showing compliance with official building code of the governing body and/or the State of Nebraska and certified by a licensed professional engineer shall also be submitted.
- (H) **Compliance with FAA Regulations**
 - (1) MWCES must comply with applicable FAA regulations, including any necessary approvals for installations within the airport approach zone.
 - (2) No MWCES shall be installed within the regulated airport approach zone until evidence has been given that the Central Nebraska Regional Airport has been informed of the applicant's intent to install a MWECS. A copy of a certified letter (with mailing receipt) to the Central Nebraska Regional Airport informing them of the owners' intent to install the MWCES must be submitted with the building permit application.
- (I) **Compliance with National Electrical Code**
 - (1) Permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code and the National Electric Safety Code.
- (J) **Utility Notification**
 - (1) No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.
 - (2) Off- grid systems shall be exempt from this requirement.

Setbacks

Minimum setbacks from all property lines shall be equal to the Fall Zone as defining in C above.

7.15.032 Small Wind Energy Conversion Systems**Purpose**

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

Requirements

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

- (A) **Tower Height**
 - (1) Shall be limited by the size of the property. Tower height shall not exceed the fall zone for the property.
- (B) **Minimum Lot Size**
 - ((1) Towers shall be permitted on all lots or parcels with a permitted principal use.
- (C) **Fall Zone**
 - (1) Fall Zone is the total height and any underlying setbacks for ground mounted SWCES.
 - (2) Fall Zone is the 150% of the tower height and any underlying setbacks for roof mounted SWCES.
- (D) **Setbacks**
 - (1) No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site; tower must meet required underlying setbacks.
- (E) **Noise**
 - (1) SWCES shall not exceed 60 dBA, as measured at the closest neighboring inhabited dwelling unit.
 - (2) The noise level may be exceeded during short term events such as utility outages and/or severe wind storms, wind speeds of greater than 50 miles per hour.
- (F) **Approved Wind Turbines**
 - (1) SWCES must have been approved under the Emerging Technologies program of the California Energy Commission or any other small certification program recognized by the American Wind Energy Association.
- (G) **Compliance with Building and Zoning Codes**
 - (1) Applications for SWCES shall be accomplished by standard drawings of the wind turbine structure, including the tower base, and footings.
 - (2) An engineering analysis of the tower showing compliance with official building code of the governing body and/or the State of Nebraska and certified by a licensed professional engineer shall also be submitted.
- (H) **Compliance with FAA Regulations**
 - (1) Small wind energy conversion systems must comply with applicable FAA regulations, including any necessary approvals for installations within the airport approach zones.
 - (2) No SWCES shall be installed within the regulated airport approach zone until evidence has been given that the Central Nebraska Regional Airport has been informed of the applicant's intent to install a SWECS. A copy of a certified letter (with mailing receipt) to the Central Nebraska Regional Airport informing them of the owners' intent to install the SWCES must be submitted with the building permit application.
- (I) **Compliance with National Electrical Code**
 - (1) Permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code and the National Electric Safety Code.
- (J) **Utility Notification**
 - (1) No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.
 - (2) Off- grid systems shall be exempt from this requirement.

Setbacks

Minimum setbacks from all property lines shall be equal to the Fall Zone as defining in C above.

7.15.0 4-3 Commercial/Utility Grade Wind Energy Conversion Systems**Purpose**

It is the purpose of this regulation to promote the safe, effective and efficient use of commercial/utility grade wind energy conversion systems within the ~~City of Grand Island~~ Village of Alda and its Extraterritorial Zoning Jurisdiction.

Requirements:

Commercial/Utility Grade wind energy systems shall be a Conditional Use within the AG Agricultural District, and the TA Transitional District. The following requirements and information shall be met and supplied:

- (A) The name(s) of project applicant.
- (B) The name of the project owner.
- (C) The legal description and address of the project.
- (D) A description of the project including: Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.
- (E) Site layout, including the location of property lines, wind turbines, feeder lines, and all related accessory structures. This site layout shall include distances and be drawn to scale.
- (F) Certification by an Engineer competent in disciplines of WEC's.
- (G) Documentation of land ownership or legal control of the property.
- (H) The latitude and longitude of individual wind turbines; included with this shall be an area or zone in close proximity that meets all setbacks; where actual WEC will be considered.
- (I) A USGS topographical map, or map with similar data, of the property and surrounding area, including any other Wind Energy Conversion System, within 10 rotor distances of the proposed Wind Energy Conversion System not owned by the applicant.
- (J) Location of migratory waterfowl flyways, wetlands, scenic, and natural areas within 1,320 feet of the proposed Wind Energy Conversion System.
- (K) An Acoustical Analysis that certifies that the noise requirements within this regulation can be met
- (L) The applicant shall supply the emergency management agency and/or fire departments with a basic emergency response plan.
- (M) FAA and FCC permit, if necessary.
 - (1) Commercial/Utility Grade wind energy conversion systems must comply with applicable FAA regulations, including any necessary approvals for installations within the airport zone.
 - (2) No WEC shall be installed within the regulated airport approach zone until evidence has been given that the Central Nebraska Regional Airport has been informed of the applicant's intent to install a SWECS. A copy of a certified letter (with mailing receipt) to the Central Nebraska Regional Airport informing them of the owners intent to install the SWCES must be submitted with the building permit application.
- (N) Evidence that there will be no inference with any commercial and/or public safety communication towers.
- (O) Decommissioning Plan as required by this regulation.

Setbacks

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

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

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

Special Safety and Design Standards

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

(A) Clearance of rotor blades or airfoils must maintain a minimum of 12 feet of clearance between their lowest point and the ground.

(B) All Commercial/Utility WECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the tower base or perimeter fencing with emergency contact information.

(C) All wind turbines, which are a part of a commercial/utility WECS, shall be installed with a tubular, monopole type tower.

(D) Consideration shall be given to painted aviation warnings on all towers less than 200 feet.

(E) Color and finish:

All wind turbines and towers that are part of a commercial/utility WECS shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matte or non-reflective.

(F) Lighting:

Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations. Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds. Red pulsating incandescent lights should be avoided.

(G) Other signage:

All other signage shall comply with the sign regulations found in the City Code.

(H) Feeder Lines:

All communications and connector lines associated with the project distribution system installed as part of a WECS shall be buried. Where obstacles to the buried lines create a need to go above ground, these lines may be placed above ground only to miss the obstacle.

(I) Waste Disposal:

Solid and Hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.

(J) Discontinuation and Decommissioning:

A WECS shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be completely removed to twelve feet below ground level within 180 days of the discontinuation of use. The 180 days may be extended if proof of weather delays is provided.

Each Commercial/Utility WECS shall have a Decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon use being discontinued. The cost estimates shall be made by a competent party; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for decommissioning and removal of the WECS and accessory facilities. The initial plan shall be submitted with the application. An updated plan shall be filed with the Village every 5 years.

(K) Noise:

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

(L) Interference:

The applicant shall not cause interference with power quality of area utility feeder circuits and shall not introduce noise to the connected electric distribution system. WECS shall not cause interference with any commercial or public safety electromagnetic communications, such as radio, telephone, microwaves, or television signals. The applicant shall notify all electric utilities and communication tower operators within five miles of the proposed WECS location upon application for permits.

(M) Environmental Permits:

The developer shall present evidence the project meets the environmental permitting requirements of all applicable state and federal agencies if such permits are required.

(N) Drainage System:

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

ORDINANCE No. 257. September 14, 2010

ARTICLE 8: FLOOD PLAIN REGULATIONS

Section 8.01 Statutory Authorization, Findings of Fact and Purposes

8.01.01 Statutory Authorization

~~The Legislature of the State of Nebraska has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety and general welfare. The Legislature of the State of Nebraska has in Sections 31-1001 to 31-1022, R.R.S. 1943 assigned the responsibility to local governmental units to adopt floodplain management regulations designed to protect the public health, safety and general welfare.~~

The Legislature of the State of Nebraska has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety, general welfare, and property of the people of the state. The Legislature, in Nebraska Revised Statutes Sections 31-1001 to 31-1023 (as amended), has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the county, city, or village with zoning jurisdiction over the floodprone area. Therefore the Village Board of Alda, Nebraska ordains as follows:

8.01.02 Findings of Fact

1. ~~1. **Flood Losses Resulting From Periodic Inundation**~~

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

2. ~~2. **General Causes of the Flood Losses**~~

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

3. ~~3. **Methods Used to Analyze Flood Hazards**~~

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

- ~~a—Selection of a regulatory flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood is selected for this ordinance. It is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this ordinance. It is in the general order of a flood which could be expected to have a one percent (1%) chance of occurrence in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study, and illustrative materials dated June 3, 1986 as amended, and any future revisions thereto.~~
- ~~b—Calculation of water surface profiles based on a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood.~~
- ~~c—Computation of the floodway required to convey this flood without increasing flood heights more than 1 foot at any point.~~
- ~~d—Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any water surface increase along the floodway profile.~~
- ~~e—Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but which still is subject to inundation by the base flood.~~

A. Flood Losses Resulting from Periodic Inundation

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

B. General Causes of the Flood Losses

These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities as well as the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others that are inadequately elevated or otherwise unprotected from flood damages.

8.01.03 Statement of Purpose

~~It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 8.01.02 (1) by applying the provisions of this ordinance to:~~

- ~~1. Restrict or prohibit uses, which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.~~
- ~~2. Require that uses vulnerable to floods, including public facilities, which serve such uses, be provided with flood protection at the time of initial construction.~~
- ~~3. Protect individuals from buying lands, which are unsuited for intended purposes because of flood hazard.~~
- ~~4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.~~

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 1.2 by applying the provisions of this ordinance to:

- A. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
- B. Require that uses vulnerable to floods, including public facilities that service such uses, be provided with flood protection at the time of initial construction.
- C. Reduce financial burdens from flood damage borne by the community, its governmental units, its residents, and its businesses by preventing excessive and unsafe development in areas subject to flooding.

- D. Assure that eligibility is maintained for property owners in the community to purchase flood insurance from the National Flood Insurance Program.

8.01.04 Adherence to Regulations

The regulations of this ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the Nebraska Minimum Standards for Floodplain Management Programs as published in the Nebraska Administrative Code Title 455, Chapter 1.

Section 8.02 General Provisions

8.02.01. Lands to which ordinance applies

~~This ordinance shall apply to all lands within the jurisdiction of the Village of Alda on the Flood Insurance Rate Map (FIRM) dated June 3, 1986, and any revisions thereto, as numbered and unnumbered A Zones (including AE, AO and AH Zones) and within the Zoning Districts FW and FF established in Section 8.04 of this ordinance. In all areas covered by this ordinance no development shall be permitted except upon the issuance of a floodplain permit to develop, granted by the City Council or its duly designated representative under such safeguards and restrictions as the City Council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Sections 8.05, 8.06, and 8.07.~~

This ordinance shall apply to all lands within the jurisdictions of the Alda identified on the Flood Insurance Rate Map (FIRM) panels 310242 (Alda) and 310100 (Hall County) 0163, 0164, 0251, 0252, and 0256 dated September 26, 2008 OR shown on the Index {31079CIND0Adated September 26, 2009 as Zones A, A1-30, AE, AO, or AH and within the Zoning Districts FW and FF established in Section 3.0 of this ordinance. In all areas covered by this ordinance, no development shall be allowed except upon the issuance of a floodplain development permit to develop, granted by the floodplain administrator or the governing body under such safeguards and restrictions as the Village or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Sections 4.0 and 5.0.

~~8.02.02. The enforcement officer~~

~~The Hall County Building Inspector and the Hall County/Grand Island Planning Director are hereby designated as the community's duly designated Enforcement Officers under this Ordinance.~~

8.02.03. Rules for interpretation of district boundaries

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

The boundaries of the floodway and the flood fringe overlay districts shall be determined by scaling distances on the official zoning map or on the effective Flood Insurance Rate Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the zoning or other community map, the floodplain administrator shall make the necessary interpretation. In such cases where the interpretation is contested, the Zoning Board of Adjustment will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present their case to the Zoning Board of Adjustment and to submit their own technical evidence, if so desired.

8.02.04. Compliance

Within identified special flood hazard areas of this community, no development shall be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

8.02.05. Abrogation and Greater Restrictions

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

This ordinance does not intend to repeal, abrogate, or impair any existent easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

8.02.06. Interpretation

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

8.02.07. Warning and Disclaimer of Liability

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

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

8.02.08. Severability

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

8.02.09. Appeal

Where a request for a permit to develop or a variance is denied by the Hall County Building Inspector or the Hall County/Grand Island Planning Director the applicant may apply for such permit or variance directly to the Hall County Board of Adjustment.

Section 8.03 Establishment of Zoning Districts

Along watercourses where a floodway has been established, the mapped floodplain areas are hereby divided into the two following districts: A floodway overlay district (FW) and a flood fringe overlay district (FF) as identified in the Flood Insurance Study [and accompanying map(s)]. Within these districts all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited.

The mapped floodplain areas within the jurisdiction of this ordinance are hereby established as the floodplain overlay district, as identified in the Flood Insurance Study dated September 26, 2008 and on accompanying FIRM panels as established in Section 2.1. The floodplain overlay district shall correspond to flood zones A, AE, A1-30, AH, AO, AR, A99. Within this district, all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited.

Section 8.04 ~~3~~ Floodplain Management Administration Development Permit**8.04.01. Designation Of Floodplain Administrator**

The Hall County Regional Planning Director or their designee is hereby designated as the community's local floodplain administrator. The floodplain administrator is authorized and directed to administer, implement, and enforce all provisions of this ordinance. If the local floodplain administrator position is unfilled, the community CEO shall assume the duties and responsibilities herein.

8.04.02. Permit Required

No person, firm or corporation shall initiate any floodplain development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in Section 8.12.

A floodplain development permit shall be required before any development, construction, or substantial improvement is undertaken. No person, firm, corporation, government agency, or other entity shall initiate any floodplain development without first obtaining a floodplain development permit.

8.04.03. Duties Of The Floodplain Administrator Administration

- 1—The Hall County Building Inspector and the Hall County/Grand Island Planning Director is hereby appointed to administer and implement the provisions of this ordinance.
- 2—Duties of the Hall County Building Inspector and the Hall County/Grand Island Planning Director shall include, but not be limited to:
 - a—Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this ordinance have been satisfied.
 - b—Review applications for proposed development to assure that all necessary permits have been obtained from those Federal, state or local governmental agencies from which prior approval is required.
 - c—Notify adjacent communities and the Nebraska Natural Resources Commission prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - d—Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
 - e—Verify, record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures in special flood hazard areas.

- ~~f. Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which new or substantially improved structures have been floodproofed.~~
- ~~g. When flood proofing is utilized for a particular structure the Hall County Building Inspector and/or the Hall County/Grand Island Planning Director shall be presented certification from a registered professional engineer or architect.~~

A. Duties of the floodplain administrator shall include, but not be limited to the following:

- i. Review, approve, or deny all applications for floodplain development permits.
- ii. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this ordinance have been satisfied.
- iii. Review applications for proposed development to assure that all necessary permits have been obtained from those federal, state, or local government agencies from which prior approval is required.
- iv. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding.
- v. Notify adjacent communities and the Nebraska Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.
- vi. Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.
- vii. Verify, record, and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures in the floodplain.
- viii. Verify, record, and maintain record of the actual elevation (in relation to mean sea level) to which all new or substantially improved structures have been floodproofed.
- ix. Verify, record, and maintain record of all improved or damaged structures to ensure compliance with standards in applicable sections. Track value of improvements and market value with permits. Also, ensure consistent market value estimations to evaluate against damaged or improved values.
- x. Ensure comprehensive development plan as amended is consistent with this ordinance.
- xi. In the event the floodplain administrator discovers work done that does not comply with applicable laws or ordinances, the floodplain administrator shall revoke the permit and work to correct any possible violation in accordance with this ordinance.

8.04.04. Application for Permit and Demonstration Of Compliance

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

- ~~1. Identify and describe the development to be covered by the floodplain development permit.~~
- ~~2. Describe the land on which the proposed development is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or development.~~
- ~~3. Indicate the use or occupancy for which the proposed development is intended.~~
- ~~4. Be accompanied by plans and specifications for proposed construction.~~

- ~~5 — Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.~~
- ~~6 — Give such other information as reasonably may be required by the Hall County Building Inspector and/or the Hall County/Grand Island Planning Director.~~
- A. To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:
- i. Identify and describe the proposed development and estimated cost to be covered by the floodplain development permit.
 - ii. Describe the land on which the proposed development is to be done by lot, block, tract, and house and streets address, or similar description that will readily identify and definitely locate the proposed building or development.
 - iii. Indicate the use or occupancy for which the proposed development is intended.
 - iv. Be accompanied by plans and specifications for proposed construction.
 - v. Be signed by the permittee and authorized agent who may be required to submit evidence to indicate such authority.
- B. If any proposed development is located entirely or partially within a floodplain, applicants shall provide all information in sufficient detail and clarity to enable the floodplain administrator to determine that:
- i. All such proposals are consistent with the need to minimize flood damage;
 - ii. All utilities and facilities such as sewer, gas, water, electrical, and other systems are located and constructed to minimize or eliminate flood damage;
 - iii. Structures will be anchored to prevent flotation, collapse, or lateral movement;
 - iv. Construction materials are flood resistant;
 - v. Appropriate practices to minimize flood damage have been utilized; and
 - vi. Electrical, heating, ventilation, air conditioning, plumbing, and any other service facilities have been designed and located to prevent entry of floodwaters.
- C. For all new and substantially improved structures, an elevation certificate based upon the finished construction certifying the elevation of the lowest floor, including basement, and other relevant building components shall be provided to the floodplain administrator and be completed by a licensed surveyor, engineer, or architect.
- D. When floodproofing is utilized for an applicable structure, a floodproofing certificate shall be provided to the floodplain administrator and be completed by a licensed professional engineer or architect.
- E. Any other such information as reasonably may be required by the floodplain administrator shall be provided.
- F. **Letters of Map Revision:** Federal regulations in Title 44 of the Code of Federal Regulations, Chapter 1, Part 65.5 and 65.6 allow for changes to the special flood hazard area through a Letter of Map Revision (LOMR) or a Letter of Map Revision Based on Fill (LOMR-F), provided the community determines that the land and any existing or proposed structures that would be removed from the floodplain are “reasonably safe from flooding.” The community acknowledgement form asserting this is required for LOMR and LOMR-F applications and must be signed by the floodplain administrator. The floodplain administrator shall not sign a community acknowledgement form unless all criteria set forth in the following paragraphs are met:

- i. Applicant shall obtain floodplain development permit before applying for a LOMR or LOMR-F.
- ii. Applicant shall demonstrate that the property and any existing or proposed structures will be “reasonably safe from flooding,” according to the minimum design standards in FEMA Technical Bulletin 10-01.
- iii. All requirements listed in the Simplified Approach in FEMA Technical Bulletin 10-01 shall be met and documentation from a registered professional engineer shall be provided. If all of these requirements are not met, applicant must provide documentation in line with the Engineered Approach outlined in FEMA Technical Bulletin 10-01.]

8.04.05. Flood Data Required

- A. All Zone A areas on the FIRM are subject to inundation of the base flood; however, the base flood elevations are not provided. Zone A areas shall be subject to all development provisions of this ordinance. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation or floodway data currently available from federal, state, or other sources, including from a study commissioned by the applicant pursuant to best technical practices.
- B. Until a floodway has been designated, no development or substantial improvement may be permitted within the floodplain unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one (1) foot at any location as shown in the Flood Insurance Study or on base flood elevation determinations.

8.04.06. Variance And Appeals Procedures

- A. The Zoning Board of Adjustment as established by Alda shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- B. The Zoning Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this ordinance.
- C. Any person aggrieved by the decision of the Zoning Board of Adjustment or any taxpayer may appeal such decision to the District Court as provided in Nebraska Revised Statutes Section 23-168 (for counties) and Nebraska Revised Statutes Section 19-192 (for municipalities).
- D. In evaluating such appeals and requests, the Zoning Board of Adjustment shall consider technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:
 - i. The danger to life and property due to flooding or erosion damage;
 - ii. The danger that materials may be swept onto other lands to the injury of others;
 - iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner, future owners, and neighboring properties;
 - iv. The importance of the services provided by the proposed facility to the community;
 - v. The necessity of the facility to have a waterfront location, where applicable;
 - vi. The availability of alternative locations that are not subject to flooding or erosion damage for the

proposed use;

- vii. The compatibility of the proposed use with existing and anticipated development;
- viii. The relationship of the proposed use to the comprehensive plan and the floodplain management program for that area;
- ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- x. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and,
- xi. The costs of providing government services during and after flood conditions including emergency management services and maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges.

8.04.07. Conditions For Variances

- A. Variances shall only be issued upon a showing of good and sufficient cause and also upon a determination that failure to grant the variance would result in an exceptional hardship to the applicant.
- B. Variances shall only be issued based upon a determination that the granting of a variance will not result in increased flood heights.
- C. Variances shall only be issued based upon a determination that the granting of a variance will not result in additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- D. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items E-H below have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- E. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure on the National Register of Historic Places and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- G. The applicant shall be given a written notice over the signature of a community that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and also that such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.
- H. All requests for variances and associated actions and documents, including justification for their issuance, shall be maintained by the community.

8.04.08. Enforcement

- A. Violations
Failure to obtain a floodplain development permit or the failure of a structure or other development to be fully compliant with the provisions of this ordinance shall constitute a violation. A structure or other development without a floodplain development permit, elevation certificate, certification by a licensed professional engineer of compliance with these regulations, or other evidence of compliance is presumed

to be in violation until such time as documentation is provided.

B. Notices

When the floodplain administrator or other authorized community representative determines, based on reasonable grounds, that there has been a violation of the provisions of this ordinance, the floodplain administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

- i. Be in writing;
- ii. Include an explanation of the alleged violation;
- iii. Allow a reasonable time for the performance of any remedial act required;
- iv. Be served upon the property owner or their agent as the case may require; and
- v. Contain an outline of remedial actions that, if taken, will bring the development into compliance with the provisions of this ordinance.

C. Penalties

- i. Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person, firm, corporate, or other entity that violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
- ii. The imposition of such fines or penalties for any violation or non-compliance with this ordinance shall not excuse the violation or non-compliance or allow it to continue. All such violations or non-compliant actions shall be remedied within an established and reasonable time.
- iii. Nothing herein contained shall prevent the Alda or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 8.05 Standards for Floodplain Development

~~8.05.01. General Provisions No permit for development shall be granted for new construction, substantial improvements and other development(s) including the placement of manufactured homes within all numbered and unnumbered A zones (including AE, AO, and AH zones) unless the conditions of this Section are satisfied.~~

A. Alteration or Relocation of a Watercourse

- i. A watercourse or drainway shall not be altered or relocated in any way that in the event of a base flood or more frequent flood will alter the flood carrying characteristics of the watercourse or drainway to the detriment of upstream, downstream, or adjacent locations.
- ii. No alteration or relocation shall be made until all adjacent communities that may be affected by such action and the Nebraska Department of Natural Resources have been notified and all applicable permits obtained. Evidence of such notification shall be submitted to the Federal Emergency Management Agency.

B. Encroachments

- i. When proposing to permit any of the following encroachments, the standards in Section 5.1 (B) (ii) shall apply:

- a. Any development in Zones A, A1-30, and Zone AE without a designated floodway that will cause a rise of more than one foot in the base flood elevation; or
 - b. Alteration or relocation of a stream; then
 - ii. The applicant shall:
 - a. Apply to FEMA for conditional approval of such action via the Conditional Letter of Map Revision process (as per Title 44 of the Code of Federal Regulations, Chapter 1, Part 65.12) prior to the permit for the encroachments; and
 - b. Supply the fully approved package to the floodplain administrator including any required notifications to potentially affected property owners
- 8.05.02. Elevation And Floodproofing Requirements ~~All areas identified as unnumbered A zones on the FIRM are subject to inundation of the base flood; however, the water surface~~ Section 8.06 ~~If Flood Insurance Study data is not available, the community shall utilize any base flood elevation or floodway data currently available from Federal, State or other sources.~~
- A. Residential Structures
 - i. In Zones A, AE, A1-30, and AH, all new construction and substantial improvements shall have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation.
 - ii. In Zone AO, all new construction and substantial improvements shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the FIRM or, if no depth number is specified on the FIRM, at least as high as three (3) feet.
 - B. Nonresidential Structures
 - i. In Zones A, AE, A1-30, and AH, all new construction and substantial improvements shall have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, floodproofed so that below one (1) foot above the base flood elevation:
 - a. The structure is watertight with walls substantially impermeable to the passage of water and
 - b. The structure has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. A floodproofing certificate shall be provided to the floodplain administrator as set forth in Section 4.
 - ii. In Zone AO, all new construction and substantial improvements shall have the lowest floor elevated above the highest adjacent grade at least as high as one (1) foot above the depth number specified in feet on the FIRM or, if no depth number is specified on the FIRM, at least as high as three (3) feet; or, together with attendant utility and sanitary facilities, floodproofed so that below one (1) foot above the base flood elevation:
 - a. The structure is watertight with walls substantially impermeable to the passage of water and

- b. The structure has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. A floodproofing certificate shall be provided to the floodplain administrator as set forth in Section 4.

C. Space Below Lowest Floor

- i. Fully enclosed areas below the lowest floor (excluding basements) and below the base flood elevation shall be used solely for the parking of vehicles, building access, or limited storage of readily removable items.
- ii. Fully enclosed areas below the lowest floor (excluding basements) and below the base flood elevation 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. A minimum of two openings having a net total area of not less than one (1) square inch for every one (1) square foot of enclosed space.
 - b. The bottom of all openings shall not be higher than one (1) foot above grade, and
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they allow the automatic entry and exit of floodwaters.

D. Appurtenant Structures

- i. Structures accessory to a principal building may have the lowest floor below one foot above base flood elevation provided that the structure complies with the following requirements:
 - a. The structure shall not be used for human habitation.
 - b. The use of the structure must be limited to parking of vehicles or storage of items readily removable in the event of a flood warning.
 - c. The floor area shall not exceed 400 square feet.
 - d. The structure shall have a low damage potential.
 - e. The structure must be adequately anchored to prevent flotation, collapse, or other lateral movement.
 - f. The structure shall be designed to automatically provide for the entry and exit of floodwaters for the purpose of equalizing hydrostatic forces. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - 1. A minimum of two openings having a net area of not less than one (1) square inch for every one (1) square foot of enclosed space,
 - 2. The bottom of all openings shall not be higher than one (1) foot above grade, and
 - 3. Openings may be equipped with screens, louvers, valves, or other coverings or

devices provided that they allow the automatic entry and exit of floodwaters.

- g. No utilities shall be installed except electrical fixtures in the structure, which must be elevated or floodproofed to one (1) foot above base flood elevation.
- h. The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
- i. If the structure is converted to another use, it must be brought into full compliance with the minimum standards governing such use.

E. Manufactured Homes

- i. Require that all manufactured homes to be placed or substantially improved within floodplains on sites:
 - a. Outside of a manufactured home park or subdivision.
 - b. In a new manufactured home park or subdivision.
 - c. In an expansion to an existing manufactured home park or subdivision, or
 - d. In an existing manufactured home park or subdivision on which a manufactured home as 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 at or above one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of this Section.

- ii. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas that are not subject to the provisions of Section 5.2 (f) (i) be elevated so that either:
 - a. The lowest floor of the manufactured home is at or above one (1) foot above the base flood elevation, or
 - b. 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 in accordance with the provisions of Section 5.2 (F) (iv).
- iii. New manufactured home parks of five (5) acres or fifty (50) lots, whichever is less, shall follow the standards of Section 5.3 (H).
- iv. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
 - a. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;
 - b. Frame ties be provided at each corner of the manufactured home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long

requiring four additional ties per side;

c. Any additions to the manufactured home be similarly anchored.

F. Existing Structures

- i. The provisions of this ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to a structure in the floodplain, a floodplain development permit is required and the provisions of 5.2 (G) (ii-iii) shall apply.
- ii. Any addition, alteration, reconstruction, or improvement of any kind to an existing structure where the costs of which would equal or exceed fifty (50) percent of the pre-improvement market value shall constitute a substantial improvement and shall fully comply with the provisions of this ordinance.
- iii. Any addition, alteration, reconstruction, or improvement of any kind to an existing structure that will change the compliance requirements of the building shall require applicable documentation including an elevation certificate, floodproofing certificate, or no rise certification.

8.05.03. Design And Construction Standards ~~Until a floodway has been designated, no development or substantial improvement may be permitted within special flood hazard areas unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one (1) foot at any location as shown on the Flood Insurance Study.~~

A. Anchoring

- i. All buildings or structures shall be firmly anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

B. Building Materials and Utilities

- i. All buildings or structures shall be constructed with materials and utility equipment resistant to flood damage. All buildings or structures shall also be constructed by methods and practices that minimize flood and flood-related damages.
- ii. All buildings or structures shall be constructed with electrical, heating, ventilation, plumbing, 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.

C. Drainage

- i. Within Zones AO and AH, adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

D. Water Supply and Sanitary Sewer Systems

- i. All new or replacement water supply and sanitary sewer systems shall be located, designed, and constructed to minimize or eliminate flood damages to such systems and the infiltration of floodwaters into the systems.
- ii. All new or replacement sanitary sewage systems shall be designed to minimize or eliminate

discharge from the system into floodwaters.

- iii. On-site waste disposal systems shall be located and designed to avoid impairment to them or contamination from them during flooding.

E. Other Utilities

- i. All other utilities such as gas lines, electrical, telephone, and other utilities shall be located and constructed to minimize or eliminate flood damage to such utilities and facilities.

F. Storage of Materials

- i. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
- ii. The storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

G. Recreational Vehicles

- i. Recreational vehicles to be placed on sites within the floodplain shall:
 - a. Be on site for fewer than 180 consecutive days;
 - b. Be fully licensed and ready for highway use, which shall mean it is on its wheels or jacking system, is attached to the site by only quick-disconnect type utilities and security devices, and no permanently attached additions; or
 - c. Meet the permit requirements and the elevation and anchoring requirements for manufactured homes of this ordinance.

H. Subdivisions

- i. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, shall require assurance that:
 - a. All such proposals are consistent with the need to minimize flood damage;
 - b. All public utilities and facilities such as sewer, gas, electrical, and water systems are located, elevated, and constructed to minimize or eliminate flood damage;
 - c. Adequate drainage is provided so as to reduce exposure to flood hazards; and
 - d. Proposals for development (including proposals for manufactured home parks and subdivisions) of five (5) acres or fifty (50) lots, whichever is less, where base flood elevation data are not available, shall be supported by hydrologic and hydraulic analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for Conditional Letters of Map Revision and a Letters of Map Revision.

8.05.04. ~~New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:~~

- ~~1 Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.~~
- ~~2 New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.~~
- ~~3 Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.~~
- ~~4 All utility and sanitary facilities be elevated or floodproofed up to the regulatory flood protection elevation.~~

8.05.05. Storage of Material and Equipment

- ~~1 The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.~~
- ~~2 Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.~~

~~8.05.06. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that (a) all such proposals are consistent with the need to minimize flood damage, (b) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage, (c) adequate drainage is provided so as to reduce exposure to flood hazards, and (d) proposals for development (including proposals for manufactured home parks and subdivision) of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals the base flood elevation.~~

Section 8.06: Nonconforming Use Flood Fringe Overlay District—Including AO and AH Zones)

- A. A structure or use of a structure or premises that was lawful before the passage or amendment of this ordinance, but that is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:
 - i. If such use is discontinued for twelve consecutive months, any future use of the building premises shall conform to this ordinance.
 - ii. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
- B. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50% of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, or safety code or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

8.06.01. Permitted Uses

~~Any use permitted in Section 8.07 shall be permitted in the Flood Fringe Overlay District. No use shall be permitted in the district unless the standards of Section 8.05 are met.~~

8.06.02. Standards for the Flood Fringe Overlay District

- ~~1 Require new construction or substantial improvements of residential structures to have the lowest floor, including basement, elevated to or above **one (1) foot** above the base flood elevation.~~
- ~~2 Require new construction or substantial improvements of non-residential structures to have the lowest floor, including basement, elevated to or above **one (1) foot** above the base flood elevation or, together with attendant utility and sanitary facilities, to be floodproofed so that below that 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. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Hall County Building Inspector and/or the Hall County/Grand Island Planning Director as set forth in Section 8.03.02, (2), (g).

- 3 — 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 not higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- 4 — Within AH zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
- 5 — Manufacturing
 - a — All manufactured homes shall be anchored to resist floatation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over the top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
 - i — Over the top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;
 - ii — Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side;
 - iii — All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
 - iv — Any additions to the manufactured home be similarly anchored.
 - b — Require that all manufactured homes to be placed or substantially improved within special flood hazard areas 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 at or above **one (1) foot** above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 8.06.02 (a).
 - c — Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas on the community's FIRM that are not subject to the provisions of Section 8.06.02 (b) be elevated so that either:
 - i — The lowest floor of the manufactured home is at or above **one (1) foot** 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 in accordance with the provisions of 8.06.02 (a).
- 6 — Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall 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 and the elevation and anchoring requirements for "manufactured homes" of this ordinance. 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.

- ~~7. Located within the areas of special flood hazard established in Section 8.02.01 are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply within AO Zones:~~
- ~~a. All new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as **one (1) foot** above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).~~
 - ~~b. All new construction and substantial improvements of non-residential structures shall:

 - ~~i. Have the lowest floor elevated above the highest adjacent grade at least as high as **one (1) foot** above 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 floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Such certification shall be provided to the official as set forth in Section 8.03.02 (2), (g).~~~~
 - ~~c. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.~~

Section 8.07: Amendments Floodway Overlay District

- ~~A. The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in federal, state, or local regulations provided, however, that no such action may be take until after a public hearing in relation thereto, at which citizens and parties in interest shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the Alda. At least 10 days shall elapse between the date of this publication and the public hearing.~~
- ~~B. A copy of such amendments will be provided to the Nebraska Department of Natural Resources and the Federal Emergency Management Agency for review and approval before being adopted.~~

8.07.01. Permitted Uses

~~Only uses having a low flood damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance. The following are recommended uses for the Floodway District:~~

- ~~1. Agricultural uses such as general farming, pasture, nurseries, forestry.~~
- ~~2. Residential uses such as lawns, gardens, parking and play areas.~~
- ~~3. Non residential areas such as loading areas, parking and airport landing strips.~~
- ~~4. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.~~

~~8.07.02. New structures for human habitation are prohibited. All encroachments, including fill, new construction, substantial improvements and other development must be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that the development shall not result in any increase in water surface elevations along the floodway profile during occurrence of the base flood discharge. These uses are subject to the standards of Section 8.05 and 8.06.~~

Section 8.08: Variance Procedures

- ~~8.08.01. The Hall County Board of Adjustment as established by Hall County, Nebraska shall hear and decide appeals and requests for variances from the requirements of this ordinance.~~
- ~~8.08.02. The Hall County Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Hall County Building Inspector and/or the Hall County/Grand Island Planning Director in the enforcement or administration of this ordinance.~~
- ~~8.08.03. Any person aggrieved by the decision of the Hall County Board of Adjustment or any taxpayer may appeal such decision to the District Court as provided in Section 19-912, R.R.S. 1943.~~

~~8.08.04. In passing upon such applications, the Hall County Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:~~

- ~~1 The danger that materials may be swept onto other lands to the injury of others;~~
- ~~2 The danger to life and property due to flooding or erosion damage;~~
- ~~3 The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;~~
- ~~4 The importance of the services provided by the proposed facility to the community;~~
- ~~5 The necessity to the facility of a waterfront location, where applicable;~~
- ~~6 The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;~~
- ~~7 The compatibility of the proposed use with existing and anticipated development;~~
- ~~8 The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;~~
- ~~9 The safety of access to the property in times of flood for ordinary and emergency vehicles;~~
- ~~10 The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and,~~
- ~~11 The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.~~

~~8.08.05. Conditions for Variances~~

- ~~1 Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (8.52-8.56 below) have been fully considered. As the lot size increases beyond the one half acre, the technical justification required for issuing the variance increases.~~
- ~~2 Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.~~
- ~~3 Variances shall not be issued within any designated floodway if any increase in flood levels along the floodway profile during the base flood discharge would result.~~
- ~~4 Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.~~
- ~~5 Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.~~
- ~~6 The applicant shall be given a written notice over the signature of a community official that (1) the issuance of a variance to construct a structure below the base flood level will result in increased premiums rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.~~

~~Section 8.09: Non-Conforming Uses~~

~~8.09.01. A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance, but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:~~

- ~~1 If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the Hall County Board of Adjustment in writing of instances of nonconforming uses where utility services have been discontinued for a period of 12 months.~~
- ~~2 Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.~~

8.09.02. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places, provided that the alteration shall not preclude its continued designation.

~~Section 8.10: Penalties for Violation~~

~~Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.~~

Nothing herein contained shall prevent the Village of Alda or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

~~Section 8.11: Amendments~~

~~The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the Village of Alda. At least 10 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Federal Emergency Management Agency. The regulations of this ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the 1983 Nebraska Flood Plain Management Act.~~

Section 8.08 12: Definitions

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

- 8.08.01. **0.2% Annual Chance Floodplain** means the floodplain that would be inundated by the 0.2% annual chance flood and delineated on the Flood Insurance Rate Maps.]
- 8.08.02. **0.2% Annual Chance Flood Elevation** means the elevation to which floodwaters are expected to rise during a 0.2% annual chance flood.]
- 8.08.03. **Appurtenant Structure** shall mean a structure on the same parcel of property as the principal structure, the use of which is incidental to the use of the principal structure. Also shall be known as "accessory structure."]
- 8.08.04. **Area of Shallow Flooding** means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- 8.08.05. **Base Flood** means the flood having one (1) percent chance of being equaled or exceeded in any given year.

- 8.08.06. **Base Flood Elevation** means the elevation to which floodwaters are expected to rise during the base flood.
- 8.08.07. **Basement** means any area of the building having its floor subgrade (below ground level) on all sides.
- 8.08.08. **Building** means “structure.” See definition for “structure.”
- 8.08.09. **Development** means any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion or alteration of buildings or other structures; the placement of manufactured homes; streets and other paving; utilities; filling, grading, and excavation; mining; dredging; drilling operations; storage of equipment or materials; or obstructions.
- 8.08.010. **Existing Manufactured Home Park or Subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.
- 8.08.011. **Expansion to an Existing Manufactured Home Park or Subdivision** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- 8.08.012. **Flood or Flooding** means a general and temporary condition of partial or complete inundation of normally dry land areas.
- 8.08.013. **Flood Fringe** is that area of the floodplain, outside of the floodway, that has a one percent chance of flood occurrence in any one year.
- 8.08.014. **Flood Insurance Rate Map (FIRM)** means an official map of a community, on which the Flood Insurance Study has delineated the special flood hazard area boundaries and the risk premium zones applicable to the community.
- 8.08.015. **Flood Insurance Study (FIS)** is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Insurance Rate Map and the water surface elevation of the base flood.
- 8.08.016. **Floodplain** means any land area susceptible to being inundated by water from any source (see definition of “flooding”). Floodplain includes flood fringe and floodway. Floodplain and special flood hazard area are the same for use by this ordinance.
- 8.08.017. **Floodproofing** means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, and structures and their contents.

- 8.08.018. **Floodway or Regulatory Floodway** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- 8.08.019. **Freeboard** means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.
- 8.08.020. **Highest Adjacent Grade** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- 8.08.021. **Historic Structure** means any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.
- 8.08.022. **Lowest Floor** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built or modified so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
- 8.08.023. **Manufactured Home** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
- 8.08.024. **Manufactured Home Park or Subdivision** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- 8.08.025. **New Construction** for floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

- 8.08.026. **New Manufactured Home Park or Subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
- 8.08.027. **Obstruction** means any wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation (including the alteration or relocation of a watercourse or drainway), channel rectification, bridge, conduit, culvert, building, stored equipment or material, wire, fence, rock, gravel, refuse, fill, or other analogous structure or matter which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the natural flow of the water would carry such structure or matter downstream to the damage or detriment of either life or property. Dams designed to store or divert water are not obstructions if permission for the construction thereof is obtained from the Department of Natural Resources pursuant to the Safety of Dams and Reservoirs Act (*Nebraska Revised Statutes 46-1601 to 46-1670 as amended*).
- 8.08.028. **Overlay District** is a district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.
- 8.08.029. **Post-FIRM Structure** means a building that was constructed or substantially improved after December 31, 1974 or on or after the community's initial Flood Insurance Rate Map dated June 25, 1976, whichever is later.
- 8.08.030. **Pre-FIRM Structure** means a building that was constructed or substantially improved on or before December 31, 1974 or before the community's initial Flood Insurance Rate Map dated June 25, 1976, whichever is later.
- 8.08.031. **Principally Above Ground** means that at least 51 percent of the actual cash value of the structure is above ground.
- 8.08.032. **Recreational Vehicle** means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- 8.08.033. **Regulatory Flood Elevation** means the base flood elevation (BFE) plus a freeboard factor as specified in this ordinance.
- 8.08.034. **Special Flood Hazard Area (SFHA)** is the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.

- 8.08.035. **Start of Construction** means the date the floodplain development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. "Start of construction" also includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.
- 8.08.036. **Structure** means a walled and roofed building that is principally above ground, as well as a manufactured home and a gas or liquid storage tank that is principally above ground.
- 8.08.037. **Subdivision** means the division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels, or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership, or building or lot development.
- 8.08.038. **Substantial Damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- 8.08.039. **Substantial Improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."
- 8.08.040. **Variance** is a grant of relief to an applicant from the requirements of this ordinance that allows construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

- 8.08.041. **Violation** means a failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the Elevation Certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.
- 8.08.042. **Watercourse** means any depression two feet or more below the surrounding land that serves to give direction to a current of water at least nine months of the year and that has a bed and well-defined banks.
- 8.08.043. **"Appeal"** means a request for a review of the Hall County Building Inspector's and/or the Hall County/Grand Island Planning Director interpretation of any provision of this ordinance or a request for a variance.
- 8.08.044. **"Area of Shallow Flooding"** means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- 8.08.045. **"Base Flood"** means the flood having one percent chance of being equalled or exceeded in any given year.
- 8.08.046. **"Basement"** means any area of the building having its floor subgrade (below ground level) on all sides.
- 8.08.047. **"Development"** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- 8.08.048. **"Existing Construction"** means (for the purposes of determining rates) structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. "Existing construction" may also be referred to as "existing structures."
- 8.08.049. **"Existing Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.
- 8.08.050. **"Flood" or "Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:
- 8.12.01. _____ The overflow of inland or tidal waters.
 - 8.12.02. _____ The usual and rapid accumulation of runoff of surface waters from any source.
- 8.12.09. **"Flood Fringe"** is that area of the floodplain, outside of the floodway, that on the average is likely to be flooded once every 100 years (i.e., that has a one percent chance of flood occurrence in any one year).
- 8.12.10. **"Flood Insurance Rate Map (FIRM)"** means an official map of a community, on which the Flood Insurance Study has delineated the Flood Hazard Boundaries and the zones establishing insurance rates applicable to the community.
- 8.12.11. **"Flood Insurance Study"** is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

- 8.12.12. ——— "Floodplain" means any land area susceptible to being inundated by water from any source (see definition of "flooding").
- 8.12.13. ——— "Floodway" or "Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- 8.12.14. ——— "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.
- 8.12.15. ——— "Highest Adjacent Grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- 8.12.16. ——— "Historic Structure" means any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.
- 8.12.17. ——— "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
- 8.12.18. ——— "Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
- 8.12.19. ——— "Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- 8.12.20. ——— "New Construction" For floodplain management purposes, "new construction" means structures for which the "start of construction commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
- 8.12.21. ——— "Overlay District" is a district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.
- 8.12.22. ——— "Primarily Above Ground" means that at least 51 percent of the actual cash value of the structure is above ground.
- 8.12.23. ——— "Recreational Vehicle" means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- 8.12.24. ——— "Special Flood Hazard Area" is the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.

- 8.12.25. ~~"Start of Construction"~~ [for other than new construction or substantial improvements under the coastal Barrier Resources Act (Pub. L. 97-348)] includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.
- 8.12.26. ~~"Structure"~~ means a walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.
- 8.12.27. ~~"Substantial Damage"~~ means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- 8.12.28. ~~"Substantial Improvement"~~ means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."
- 8.12.29. ~~"Variances"~~ is a grant of relief to a person from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

ARTICLE 9: BOARD OF ADJUSTMENT

Section 9.01. Establishment

The ~~Hall County Board of Adjustment~~ Alda Village Board, shall serve as the Board of Adjustment for the Village.

Section 9.02. Rules

The board of adjustment shall adopt rules necessary for the conduct of its affairs and in keeping with the provisions of this chapter.

Section 9.03. Meetings

Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his or her absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public.

Section 9.04. Minutes

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 board and shall be a public record.

Section 9.05. Appeal

Appeals to the board may be taken by any person aggrieved by any officer, department, board, or bureau of the Village affected by any decision of an administrative officer, provided, such appeal shall be taken within ten days after the decision of the administrative officer, by filing with the office from whom the appeal is taken, and with the clerk of the board, written notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.

Section 9.06. Notice

The board shall fix a reasonable time for hearing of the appeal, give public notice thereof in a newspaper of general circulation in the Village one time at least ten days prior to such hearing, as well as due notice to the parties in interest, and decide the same within a reasonable time. The hearing shall be public and any party may appear in person, by agent, or by attorney.

Section 9.07. Fees

Prior to the filing of the appeal with the clerk of the board and the administrative officer from whose decision the appeal is requested, the appellant shall pay to the city treasurer a processing fee, as provided by a fee schedule approved by the city council, which shall not be refundable.

Section 9.08. Powers and Limitations

The board of adjustment shall, subject to appropriate conditions and safeguards as may be established by Village Board, have the following powers:

- 9.08.01. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures.
- 9.08.02. To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map, or for decisions upon other special questions upon which the board is authorized by any such regulation to pass.
- 9.08.03. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this code or any ordinance or resolution. No such variance shall be authorized by the board unless it finds that:
 - 1 The strict application of the zoning regulations would produce undue hardship;
 - 2 Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
 - 3 The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of variance; and
 - 4 The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.

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 reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

Section 9.09. Action and Vote Required

In exercising the above-mentioned powers, the board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the board 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.

Section 9.10. Appeals to District Court.

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may appeal as provided by Section 19-912, Reissue Revised Statutes of 1943 (in full).

ARTICLE 10: AMENDMENT**Section 10.01 Amendments**

Pursuant to Neb. Rev. Stat. § 19-905 (R.R.S.1997): This Ordinance may, from time to time, be amended, supplemented, changed, modified, or repealed. In case of a protest against such change, 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 sides and in the rear thereof extending three hundred feet (300') therefrom, and of those directly opposite thereto extending three hundred feet (300') from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths (3/4) of all the members of the legislative body of such municipality. The provisions of Neb. Rev. Stat. §19-904 relative to public hearings and official notice shall apply equally to all changes or amendments. In addition to the publication of the notice therein prescribed, a notice shall be posted in a conspicuous place on or near the property on which action is pending. Such notice shall not be less than eighteen inches (18") in height and twenty-four inches (24") in width with a white or yellow background and black letters not less than one and one-half inches (1-1/2") in height. Such posted notice shall be so placed upon such premises that it is easily visible from the street nearest the same and shall be so posted at least ten (10) days prior to the date of such hearing. It shall be unlawful for anyone to remove, mutilate, destroy, or change such posted notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars (\$50) or more than one hundred dollars (\$100). If the record title owners of any lots included in such proposed change be nonresidents of the municipality, then a written notice of such hearing shall be mailed by certified mail to them addressed to their last-known addresses at least ten days prior to such hearing. At the option of the legislative body of the municipality, in place of the posted notice provided above, the owners or occupants of the real estate to be zoned or rezoned and all real estate located within three hundred feet (300') of the real estate to be zoned or rezoned may be personally served with a written notice thereof at least ten (10) days prior to the date of the hearing, if they can be served with such notice within the county where such real estate is located. Where such notice cannot be served personally upon such owners or occupants in the county where such real estate is located, a written notice of such hearing shall be mailed to such owners or occupants addressed to their last-known addresses at least ten (10) days prior to such hearing. The provisions of this section in reference to notice shall not apply (1) in the event of a proposed change in such regulations, restrictions, or boundaries throughout the entire area of an existing zoning district or of such municipality, or (2) in the event additional or different types of zoning districts are proposed, whether or not such additional or different districts are made applicable to areas, or parts of areas, already within a zoning district of the City, but only the requirements of Neb. Rev. Stat. § 19-904 shall be applicable.

Section 10.02 Planning Commission Review

No amendment, supplement, change or modification of this Ordinance, including the boundaries of any zoning district, shall be made by the Village Board without first the consideration by the Regional Planning Commission, the Commission shall submit in writing its recommendations on each amendment, supplement, change or modification to the Village Board within forty-five (45) days after receipt thereof. Said recommendations shall include approval, disapproval, or other suggestions and the reasons thereof, and a discussion of the effect of each amendment, supplement, change or modification on the Comprehensive Plan. Said recommendations shall be of an advisory nature only.

In addition, any person or persons seeking such an amendment, supplement, change, or modification of any zoning district, shall comply with the following:

- 10.02.01 At the time that application for a change of zoning district or amendment to the zoning text is filed with the Planning Commission, there shall be deposited the sum set in Section 4.21 as a fee to cover investigation, legal notices, or other expenses incidental to the determination of such matter.
- 10.02.02 The forgoing requirements shall not apply in the case of an extension of an existing, adjacent and contiguous Industrial District.

Section 10.03 Building Inspector

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

Section 10.04 Zoning & Building Permits

The following shall apply to all new construction and all applicable renovations and remodels within Alda's zoning jurisdiction:

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

Section 10.05 Certificate of Occupancy

No land or building or part thereof hereafter erected or altered in its use or structure shall be used until the Building Inspector shall have issued a certificate of occupancy stating that such land, building or part thereof, and the proposed use thereof, are found to be in conformity with the provisions of this Ordinance. Within a reasonable time after notification that a building or premises is ready for occupancy or use, it shall be the duty of the Building Inspector to make a final inspection thereof and to issue a certificate of occupancy if the land, building, or part thereof and the proposed use thereof are found to conform with the provisions of this Ordinance, or, if such certification is refused, to state refusal in writing, with the cause, and immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application.

Section 10.06 Penalties

Pursuant to Neb. Rev. Stat. §19-913 (R.R.S.1997), the owner or agent of a building or premises in or upon which a violation of any provisions of this Ordinance has been committed or shall exist or lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed one hundred dollars (\$100) for any one (1) offense. Each day of non-compliance with the terms of this Ordinance shall constitute a separate offense. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. However, nothing shall deprive the citizen of his or her rights under the U.S. Constitution of a jury trial.

Section 10.07 Remedies

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or land is used in violation of Neb. Rev. Stat. §§ 19-901 to 19-914 (R.R.S.1997), or this Ordinance, or any regulation made pursuant to said sections, the appropriate authorities of the City 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 11: COMPREHENSIVE PLAN RELATIONSHIP

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

ARTICLE 12: LEGAL STATUS PROVISIONS

Section 12.01 Separability

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

Section 12.02 Purpose of Catch Heads

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

Section 12.03 Repeal of Conflicting Ordinances

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

Section 12.04 Effective Date

This Ordinance shall take effect and be in force from and after its passage and publication according to law beginning on the first day of ~~January 2004~~ September 2021.

ADOPTED AND APPROVED by the Village Board of Alda, Nebraska, on this ____ day of _____ 202103.

(Seal)

Chair, Village Board

ATTEST: _____
Village Clerk