CUMING COUNTY ZONING REGULATIONS
March 29, 2017 Amendment

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ARTICLE 1
GENERAL PROVISIONS

1.01 Title

These regulations shall be known and may be cited as the Zoning Regulations of Cuming County, Nebraska.

1.02 Jurisdiction

The provisions of these regulations shall be applicable to all property within Cuming County, Nebraska, with the exception of those properties owned or acquired by municipal, county, or state government for the advancement of government projects or purposes, and those where a local municipality has jurisdictional authority.

1.03 Purpose

The purposes of the Zoning Regulations of Cuming County are to:

1. serve the public health, safety, and general welfare of the County and its jurisdiction;
2. classify property in a manner that reflects its suitability for specific uses;
3. provide for sound, attractive development within the County;
4. encourage compatibility of adjacent land uses;
5. protect environmentally sensitive areas;
6. further the objectives of the Comprehensive Plan of the County.

1.04 Consistency with Comprehensive Development Plan

The County of Cuming intends that these Zoning Regulations and any amendments to it shall be consistent with the County's Comprehensive Plan. It is the County's intent to amend these regulations whenever such action is deemed necessary to keep regulatory provisions in conformance with the Comprehensive Development Plan.

1.05 Conflicting Provisions

The Zoning Regulations shall be held to provide the minimum requirements necessary for the promotion of the public health, safety, and welfare. If any provision of these Zoning Regulations conflicts with any other provision of the Zoning Regulations, any other County regulation, or any applicable State or Federal law, the more restrictive provision shall apply.

1.06 Relief from Other Provisions

Nothing in these provisions shall relieve any property owner or user from satisfying any condition or requirement associated with a previous approval, special permit, variance, development permit, or other permit issued under any local, State, or Federal regulation or statute.

1.07 Severability of Provision

If any chapter, section, clause, or phrase of these Zoning Regulations is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of these regulations.

1.08 Publication

These Regulations shall be published in book or pamphlet form and shall, together with the maps being a part hereof, be filed with the County Clerk of Cuming County, Nebraska.

1.09 History of Adoption of Zoning Regulations in Cuming County

Initial Adoption: July 2000
Amendments:

1. November 2002
2. September 30, 2015
3. February 23, 2016
4. March , 2017

ARTICLE 2
DEFINITIONS

2.01 Purpose

Article Two shall be known as the Definitions. The purpose of these provisions is to promote consistency and precision in the interpretation of the Zoning Regulations. The meaning and construction of words as set forth shall apply throughout the Zoning Regulations, unless where modified in a specific section or where the context of such words or phrases clearly indicates a different meaning or construction.

2.02 General Construction of Language

The following general rules of construction apply to the text of the Zoning Regulations.

1. Headings

Section and subsection headings contained herein are provided for illustrative purposes only and shall not be deemed to limit, govern, modify, or otherwise affect the scope, meaning, or intent of any provision of the Zoning Regulations.

2. Illustration

In the case of any real or apparent conflict between the text of the Regulations and any illustration explaining the text, the text shall apply.

3. Shall, Must, and May

"Shall" and "must" are always mandatory. "May" is discretionary.

4. Tenses and Numbers

Words used in the present tense include the future tense. Words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.

5. Conjunctions

Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:

a. "And" indicates that all connected items or provisions apply.

b. "Or" indicates that the connected items or provisions may apply singly or in any combination.

c. "Either ... or" indicates that the connected items or provisions shall apply singly but not in combination.

d. "Referenced Agencies" unless otherwise indicated, all public officials, bodies, and agencies referred to in these regulations are those of Cuming County.

2.03 Definition of Terms

For the purposes of these Zoning Regulations, certain terms and words are hereby defined. Certain sections contain definitions that are additional to those listed here. Where terms are not specifically defined, their ordinarily accepted meaning or meanings implied by their context shall apply.

2.04 A

1. Abutting: Having lot lines or district boundaries in common. Use interchangeably with adjacent.

2. Accessory Structure: A structure that is incidental to and customarily associated with a specific principal use or building on the same site.

3. Accessory Use: A use that is incidental to and customarily associated with a specific principal use on the same site.

4. Addition: Any construction that increases the size of a building or structure in terms of site coverage, height, length, width, or gross floor area.

5. Adjacent: Having lot lines or district boundaries in common. Use interchangeably with abutting.

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

7. 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."

8. 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 motion picture theaters, saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, and adult body painting studios.

9. 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."

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

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

12. 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."

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

14. Adult novelty business: shall mean a business which has as a principal activity the sale of devices which simulate human genitals or devices, which are designed for sexual stimulation.

15. 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."

16. Agent of Owner: Any person showing written verification that he/she is acting for, and with the knowledge and consent of, a property owner.

17. Agriculture: The use of a tract of land for the growing of crops, pasturage, nursery, or the raising of poultry, including the structures necessary for carrying out farming operations, the residence or residences of those owning or operating the premises, a member of the family, thereof, or persons employed thereon, and the family thereof; but such use shall not include livestock feeding operations. The raising and feeding of livestock and poultry shall be an agricultural or farming venture if the area in which the livestock or poultry is kept is twenty (20) acres or more in area and if such raising of livestock and poultry is incidental or supplemental to the raising of crops and not a "livestock feeding operation" as defined herein.

18. Agricultural Operation: Twenty acres or more which produces one thousand dollars ($1,000.00) or more of farm products each year.

19. Aliquot Part: The standard subdivision of a section, such as a half section, quarter section, or quarter-quarter section.

20. Alley: A public right-of-way, other than a street, and twenty feet or less in width, which is used as a secondary means of access to abutting property.

21. Alteration: Any construction or physical change in the internal arrangement of spaces, the supporting members, the positioning on a site, or the appearance of a building or structure.

22. Apartment: A housing unit within a building designed for and suitable for occupancy by only one family. Apartments are generally located within multi-family residential buildings.

23. Approving Authority: The Board of Supervisors of Cuming County or its designee.

24. Attached: Having one or more walls in common with a principal building or connected to a principal building by an integral architectural element, such as a covered passageway; facade wall extension; or archway.

2.05 B

1. Base Zoning District: A district established by these regulations that prescribes basic regulations governing land use and site development standards. No more than one Base Zoning District shall apply to any individually platted lot or parcel.

2. Basement: A level of a building below street level that has at least one-half of its height below the surface of adjacent ground. A basement used for independent dwelling or business purposes shall be considered a story for the purposes of height measurement.

3. Bicycle Lane and Path: A designated lane on a roadway or an exclusive path separated from a roadway, designed specifically to accommodate the physical requirements of bicycling. Bicycle paths are ordinarily designed to accommodate other forms of non-motorized transportation or recreational movement, but will also accommodate motorized vehicles, such as motorized wheelchairs, designed specifically to provide access to people with disabilities.

4. Block: An area of land within a subdivision that is entirely bounded by streets and/or the exterior boundaries of the subdivision, or by a combination of the above with a watercourse, lake, railroad, or other significant natural or man-made barrier, and which has been designated as such on a plat for the purposes of legal description of a property.

5. Block Face: The property abutting one side of a street and lying between the two nearest intersection streets, or between the one nearest intersecting street and a major physical barrier, including, but not limited to, railroads, streams, lakes, or the jurisdictional limits of Cuming County.

6. Board of Adjustment: A body, established by the County expressly for the purpose of granting relief from situations of hardship and to hear appeals as provided by these regulations.

7. Board of Supervisors: The Board of Supervisors of Cuming County, Nebraska.

8. Boulevard: A public street generally characterized by a wider than normal right-of-way and extensive green space in relation to pavement surface. Boulevards may either include dual street channels separated by a landscaped median; or by a single street channel with wider than normal greenway setbacks behind the curb.

9. Buffer yard: A landscaped area around the perimeter of a tract of land, usually intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

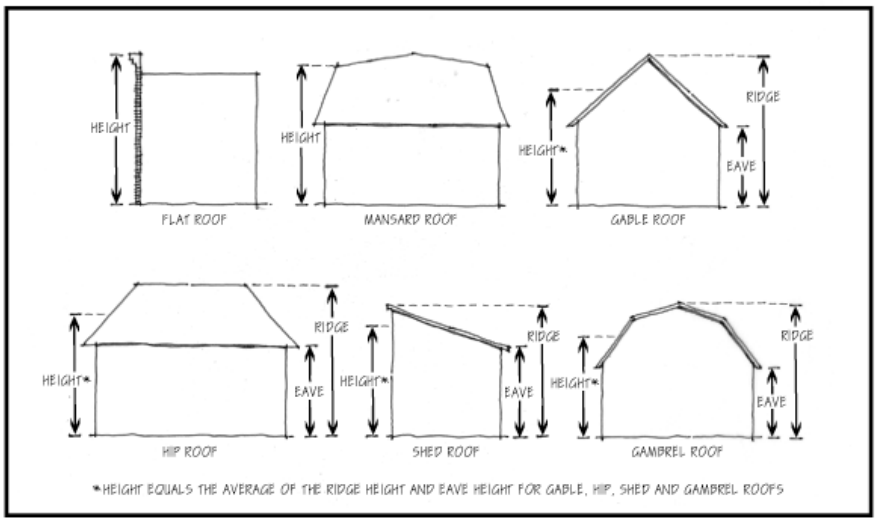
10. Building: A structure entirely separated from any other structure by space or by walls and having a roof and built to provide shelter, support, or enclosure for persons or property.

11. Building Coverage: The at-grade area of a site covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features, also referred to as the building footprint.

12. Building Elevation: An exterior wall of a building exposed to public view.

13. Building Envelope: The three-dimensional space within which a structure is permitted to be built on a lot after all zoning and other applicable requirements have been met.

14. Building Height: The vertical distance from the established grade to the highest point of the coping of a flat roof, the deck line of a mansard roof, or to the average height between eaves and the ridge for gable, hip, shed, or gambrel roofs. For other cases, height shall be measured as the vertical distance from the established grade to the highest point of a structure as herein defined. Where a building or structure is located on a slope, height shall be measured from the average grade level adjacent to the building or structure.



15. Building Line: The outer boundary of a building established by the location of its exterior walls.

16. Business: Activities that include the exchange or manufacture of goods or services on a site.

17. Business Center: A building containing more than one commercial business, or any group of non-residential buildings within a common development, characterized by shared parking and access.

2.06 C

1. Change of Use: The replacement of an existing use type by a new use type.

2. Channel: The bed or banks of a natural stream or drainage way that convey the constant or intermittent flow of water, including storm run-off.

3. Cluster Development: A development designed to concentrate buildings and facilities in specific areas on a site to allow the remaining land to be used for recreation, common open space, and the preservation of environmentally sensitive areas.

4. Common Area: An area held, designed, and designated for common or cooperative use within a development.

5. Common Development: A development proposed and planned as one unified project not separated by a public road.

6. Common Open Space: Land within or related to a development that is not individually owned or dedicated for public use, designed and generally intended for the common use of the residents of the development.

7. Compatibility: The degree to which two or more different land use types are able to exist together in close proximity, with no one use having significant negative effects on any other use.

8. Comprehensive Plan: The duly adopted Comprehensive Plan of Cuming County.

9. Concept Plan: A preliminary presentation that includes the minimum information necessary, as determined by the Zoning Administrator, to be used for the purpose of discussion or classification of a proposed plat prior to formal application.

10. Condominium: An ownership regime whereby the title to each unit of occupancy is held in separate ownership, and the real estate on which the units are located is held in common ownership solely by the owners of the units with each owner having an undivided interest in the common real estate. Condominiums may include residential, commercial, office, or industrial uses.

11. Conditional Use Permit: A written permit issued by the Zoning Administrator with the written authorization of the Governing Body. The conditional use permit provides permission under special conditions to make certain special uses of land in certain zoning districts as stipulated in each of the district Zoning Regulations.

12. County: Cuming County, Nebraska.

2.07 D

1. Density: The amount of development per specific unit of a site.

2. Department of Environmental Quality: The Nebraska Department of Environmental Quality. Also referred to as DEQ.

3. DEQ Site Plan: The site plan or layout diagram on file at the Nebraska Department of Environmental Quality for construction of a Livestock Waste Control Facility.

4. Design guidelines: Guidelines that set forth specific site and/or building improvement requirements for consideration under site review in Cuming County.

5. Detached: Fully separated from any other building or not jointed to another building in such a manner as to constitute an enclosed or covered connection.

6. Detention basin: An artificial or natural water collection facility, designed to collect surface or subsurface water and to control its rate of discharge, in order to prevent a net increase in the rate of water flow that existed prior to a development.

7. Developer: The legal owner(s) or authorized agent of any land engaged in a proposed development.

8. Development: A planning or construction project involving substantial improvement or change in the character and/or land use of a property.

9. Drive-in Services: Uses that involve the sale of products or provision of services to occupants in vehicles.

10. Drainage: The removal of surface or ground water from land by drains, grading, or other means.

11. Drainage system: The system through which water flows from the land.

12. Driveway: A permanently paved, surfaced area providing vehicular access between a street and an off-street parking or loading area.

13. Dwelling Unit: One or more rooms, designed, occupied or intended for occupancy as a separate place of residence, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of one family, as defined in this section, maintaining a household.

2.08 E

1. Enclosed: A roofed or covered space fully surrounded by walls.

2. Existing Non-Conforming Farmstead: a lot of record existing on the date of adoption of these Zoning Regulations, September 30, 2015, which has a dwelling unit located thereon, but which lot size does not comply with the regulations for its zoning district set forth by these Zoning Regulations but which complied with applicable regulations, if any, at the time of construction. Further, an area:

a. that shall include a dwelling constructed thereon within one year of continuous vacancy or destruction of a single family dwelling, whichever is earlier, provided however, that a conditional use permit is applied for and granted prior to construction thereon;

b. with a dwelling unit constructed to support agriculture on the property and shall include those dwellings still existing on the same parcel of the agriculture and former farmsteads now existing on an independent parcel of land;

c. that shall include a legal perpetual access to an improved street or county road, including, but not limited to, by fee simple title or by perpetual easement;

d. that shall include all equipment, fixtures, and structures necessary or appurtenant thereto, of a private well or of a connection to a public water supply system, including but not limited to, by fee simple title or by perpetual easement; and

e. that may include a grove of trees, yard or other contiguous land; accessory buildings: agricultural and farm buildings and structures; other structures; or buildings customarily incidental to the permitted or conditional use.

3. Existing Use: The use of a lot or structure at the time of the effective date of these regulations.

2.09 F

1. Family: An individual living alone, or either of the following groups living together as a single housekeeping unit and sharing common living, sleeping, cooking and eating facilities:

    a. any number of persons related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship; or

    b. any unrelated group of persons consisting of:

        i. not more than four (4) adult persons; or

2. Farm: An area containing at least twenty (20) acres or more which produces one thousand dollars ($1,000) or more in farm products and is used for growing of the usual farm products such as vegetables, fruit, and grain, and storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals up to 300 animal units as defined in these regulations

3. Fascia: A parapet-type wall used as part of the facade of a flat-roofed building and projecting no more than six feet from the immediately adjacent building face. Such a wall shall enclose at least three sides of the projecting flat roof and return to the parapet wall or the building.

4. Federal: Pertaining to the Government of the United States of America.

5. Fence: An enclosure or barrier, such as wooden posts, wire, iron, etc., used as a boundary, means of protection, privacy screening, or confinement, but not including hedges, shrubs, trees, or other natural growth.

6. Frontage: The length of a property line of any one premise abutting and parallel to a public street, private way, or court from which access is permitted.

2.10 G

1. Garage: An accessory building or portion of a main building used primarily for storage of motor vehicles.

2. Grade: The elevation of the finished surface of ground, paving, or sidewalk adjacent to any building line.

    a. For buildings having walls facing one street only, the grade shall be the elevation of the ground at the center of the wall facing the street.

    b. For buildings having walls facing more than one street, the grade shall be the average elevation of the grades of all walls facing each street.

    c. For buildings having no walls facing a street, the grade shall be the average level of the finished surface of the ground adjacent to the exterior walls of the building.

2.11 H

1. Home Based Business/Home Occupation: An accessory occupational use conducted within a dwelling unit or accessory structure by its inhabitants, which is clearly incidental to the residential use of the dwelling unit or residential structure and does not change the residential character of its site.

2.12 I

1. Impervious coverage: The total horizontal area of all buildings, roofed or covered spaces, paved surface areas, walkways and driveways, and any other site improvements that decrease the ability of the surface of the site to absorb water, expressed as a percent of site area. The surface water area of swimming pools is excluded from this definition.

2.13 J

1. Junkyard: Any area where waste is discarded or salvaged, bought, stored, sold, exchanged, baled or packed, disassembled, or handled, including the dismantling or wrecking of automobiles or other vehicles or machinery, house-wrecking yards, used lumber storage, inoperable vehicle storage, and places or yards, or entirely within a completely enclosed building, or inoperable farm machinery used with the farming operation.

2.14 K

1. Kennel Boarding: Any place, area, building, or structures where dogs are boarded, housed, cared for, fed, or trained by someone other than the owner.

2. Kennel Breeder: Any place, area, building, or structure where more than one dog is kept for the purpose of breeding or raising for a fee.

2.15 L

1. Landscaped Area: The area within the boundaries of a given lot, site or common development consisting primarily of plant material, including but not limited to grass, trees, shrubs, vines, ground cover, and other organic plant materials; or grass paver masonry units installed such that the appearance of the area is primarily landscaped.

    a. Perimeter Landscaped Area: Any required landscaped area that adjoins the exterior boundary of a lot, site, or common development.

    b. Interior Landscaped Area: Any landscaped area within a site exclusive of required perimeter landscaping.

2. Livestock Feeding Operation (LFO): Livestock feeding operations shall mean the feeding, farrowing or raising of cattle, swine, sheep, poultry, or other livestock, in a confined area where grazing is not possible, and where the confined area is for more than six (6) months in any one calendar year, and where the number of animals so maintained exceeds three hundred (300) Animal Units as defined in Section 17.02(c). The confined area of the LFO shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds, and related facilities. They shall construct and operate such facilities in conformance with applicable County, State and Federal Regulations. Two (2) or more LFO's under common ownership are deemed to be a single LFO if they share a property line or share a common Livestock Waste Control Facility. Animal units (A.U.) are defined in Section 17.02(c).

3. Livestock Wastes: Livestock wastes shall mean animal and poultry excreta and associated feed losses, bedding, spillage or overflow from watering systems, wash and flushing waters, sprinkling waters from livestock cooling, precipitation polluted by falling on or flowing onto a livestock operation, and other materials polluted by livestock or their direct products.

4. Livestock Waste Control Facility: Any structure or combination of structures utilized to control livestock waste until it can be used, recycled, or disposed of in an environmentally acceptable manner. Such structures include, but are not limited to, diversion terraces, holding ponds, settling basins, liquid manure storage pits, lagoons, and other such devices utilized to control livestock wastes.

5. Loading Area: An off-street area used for the loading or unloading of goods from a vehicle in connection with the use of the site on which such area is located.

6. Lot: A parcel of land occupied, or intended for occupancy, by one main building or a complex of buildings with the accessory structure; and including the open spaces and parking required by this regulation, which may include more than one lot of record or meets and bounds described tract having its principal frontage upon a public street or officially approved place.

a. Corner Lot: A lot located at the junction of at least two streets, private ways or courts or at least two segments of a curved street, private way or court, at which the angle of intersection is no greater than 135 degrees.

b. Double Frontage Lot: A lot, other than a corner lot, having frontage on two non-intersecting streets, private ways, or courts. Primary access shall be restricted on a double frontage lot to the minor of the two streets or to the front line as determined at time of platting or as defined by these regulations. (Also known as a Through Lot)

c. Interior Lot: A lot, other than a corner lot, whose sides do not abut a street.

d. Lot of Record: A lot that is a part of a subdivision, the plat of which has been recorded in the Office of the Register of Deeds prior to the effective date of zoning or a lot described by meets and bounds, the description of which has been recorded in the Office of the Register of Deeds prior to the effective date of zoning.

e. Reverse Corner Lot: A corner lot, the side street line of which is substantially a continuation of the front line of the first lot to its rear.

7. Lot Area: The total horizontal area within the lot lines of a lot.

8. Lot Depth: The mean horizontal distance measured between the front and rear lot lines.

9. Lot Line: A property boundary line(s) of record that divides one lot from another lot or a lot from the public or private street right-of-way or easement.

a. Front Lot Line: The lot line separating a lot and a public or private street right-of-way or easement.

b. For an interior lot, the lot line separating the lot from the right-of-way or easement.

c. For a corner lot, the shorter lot line abutting a public or private street or easement. In instances of equal line dimension, the front lot line shall be determined by the Building Official, or as may be noted on the final plat.

d. For a double frontage lot, the lot lines separating the lot from the right-of-way or easement of the more minor street. In cases where each street has the same classification, the front lot line shall be determined by the Zoning Administrator at the time of application for the original zoning permit for the lot, or as may be noted on the final plat.

e. Rear Lot Line: The lot line that is opposite and most distant from the front line.

f. Side Lot Line: Any lot line that is neither a front or rear lot line. A side lot line separating a lot from a street, private way, or court, is a street side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

10. Lot Width: The horizontal distance measured between the side lot lines of a lot, at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

2.16 M

1. Manufactured Home: A factory built structure bearing a seal of certification that it was built under the authority of the National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or (b) a modular housing unit as defined in Section 71-1557 bearing a seal in accordance with the Nebraska Uniform Standards for Modular Housing Units Act and was constructed on or after June 15, 1976.

    a. Dwelling units built in compliance with the above may be placed in any zoning district where single-family dwelling units are permitted provided the unit meets the design standards for all single-family detached dwellings as specified in Neb. Rev. Stat. Sect. 23-114 3(a).

    b. Manufactured homes which do not meet all of the design standards in Neb. Rev. Stat. Sect. 23-114 3(a), may be placed in a Mobile Home Park.

2. Minimum Occupancy Standard: A standard used to determine the habitable condition of an unoccupied legal non-conforming residence based on a checklist approved by the Cuming County Board of Supervisors.

3. Mixed Use Building: A building or structure that incorporates two or more use types within a single building or structure, provided that each use type is permitted within the individual Base Zoning District in which the building or structure is to be located.

4. Mixed Use Development: A single development that incorporates complementary land use types into a single development.

5. Mobile Homes: Any vehicle without motive power used, or so manufactured, or constructed, as to permit its being used as a conveyance upon the public streets and highways, and so designed, constructed, or reconstructed, as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Nebraska. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code, and which contains no State or Federal Seals. Mobile homes may not be located anywhere in Cuming County other than in a Mobile Home Park Residential District or manufactured home park.

6. Modular Home: A factory-built structure which is manufactured to be used as a place of human habitation, is constructed to comply with the Nebraska state building code for modular factory-built structures, as adopted pursuant to Neb. Rev. Stat. Sect. 71-1557, and must display the seal issued by the state building code commissioner.

    a. Dwelling units built in compliance with the above may be placed in any zoning district where single-family dwelling units are permitted provided the unit meets the design standards for all single-family detached dwellings as specified in Article 17.03(1)(a-f), Supplemental Use Regulations.

7. Monument Sign: An on premise freestanding sign with the appearance of a solid base.

2.17 N

1. Nonconforming Farmstead: See Existing Non-Conforming Farmstead.

2. Nonconforming Lot: A lot which was lawful prior to the adoption, revision, or amendment of these Zoning Regulations but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the Zoning Regulations. No action can be taken which would increase the non-conforming characteristics of the lot.

3. Nonconforming Sign: A sign that was legally erected prior to the adoption, revision, or amendment of these Zoning Regulations, but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of these Zoning Regulations.

4. Nonconforming Structure: A structure which was lawful prior to the adoption, revision, or amendment of these Zoning Regulations, but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the Zoning Regulations. No action can be taken which would increase the non-conforming characteristics of the structure.

5. Nonconforming Use: A land use which was lawful prior to the adoption, revision, or amendment of these Zoning Regulations and that has not been abandoned, but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the Zoning Regulations. No action can be taken which would increase the non-conforming characteristics of the land use.

6. Nuisance: An unreasonable and continuous invasion of the use and enjoyment of a property right which a reasonable person would find annoying, unpleasant, obnoxious, or offensive.

2.18 O

1. Off-site: Located outside the boundaries of the parcel that is the subject of an application.

2. Open Space: Area included on any site or lot that is open and unobstructed to the sky, except for allowed projections of cornices, overhangs, porches, balconies, or plant materials.

3. Outdoor Storage: The storage of materials, parts, or products that are related to the primary use of a site for a period exceeding three days.

4. Overlay District: A district established by these Zoning Regulations that prescribes special regulations to be applied to a site only in combination with a base district.

5. Owner: An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

2.19 P

1. Parking Facility: An area on a lot and/or within a building, including one or more parking spaces, along with provision for access circulation, maneuvering, and landscaping, meeting the requirements of these Zoning Regulations. Parking facilities include parking lots, private garages, and parking structures. Vehicle storage is a use distinct from parking.

2. Parking Spaces: An area on a lot and/or within a building, intended for the use of temporary parking of a personal vehicle. This term is used interchangeably with "parking stall". Each parking space must have a means of access to a public street. Tandem parking stalls in single-family detached, single-family attached, and townhouse residential uses shall be considered to have a means of access to a public street.

3. Paved: Hard-surfaced, that is, permanently surfaced with poured concrete, concrete pavers, or asphalt.

4. Permitted Use: A land use type allowed as a matter of right in a zoning district, subject only to special requirements of these Zoning Regulations.

5. Planning Commission: The Planning Commission of Cuming County.

6. Porch, Unenclosed: A roofed or unroofed open structure projecting from an exterior wall of a building and having no enclosed features more than thirty inches above its floor other than wire screening and a roof with supporting structure.

7. Premises: A lot, parcel, tract, or plot of land, contiguous and under common ownership or control, together with the buildings and structure thereon.

8. Principal use: The main use of land or structures as distinguished from an accessory use.

9. Private Garage: A building for the storage of motor vehicles where no repair service facilities are maintained and where no motor vehicles are kept for rental or sale.

10. Property Line: The boundary between separate property ownerships, as recorded by the legal description of a parcel and defined by the Cuming County Register of Deeds. In subdivisions, property lines are usually, but not in every case, coincident with lot lines.

2.20 <u>Q</u>

2.21 <u>R</u>

1. Recreational Vehicle:

    a. means a vehicle which is built on a single chassis;

    b. 400 square feet or less when measured at the largest horizontal projections;

    c. designed to be self-propelled or permanently towable by a light duty truck; and

    d. is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

2. Regulation: A specific requirement set forth by these Zoning Regulations that must be followed.

3. Remote Parking: A supply of off-street parking at a location not on the site of a given development.

4. Right-of-way: A strip of land, generally linear, occupied or intended to be occupied by a system that conveys people, traffic, fluids, utilities, or energy from one point to another. Rights-of-way may include streets and roads, crosswalks, bicycle paths, recreational trails, railroads or fixed guideway transit, electric transmission lines, gas pipelines, water mains, or sewer mains.

2.22 S

1. Screening: The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features as may be permitted by the provisions of these Zoning Regulations.

2. Setback: The distance by which a building or part of a building is measured from the property line.

3. Sidewalk: A paved path provided for pedestrian use, usually located at the side of and detached from a road, but within the right-of-way.

4. Sign: A symbolic, visual device fixed upon a building, vehicle, structure, or parcel of land, which is intended to convey information about a product, business, activity, place, person, institution, candidate, or political idea.

5. Site: The parcel of land to be developed, built upon or put to a use. A site may encompass a single lot; or a group of lots developed as a common development under the overlay districts provisions of these regulations.

6. Site Plan: A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land; and any other information as required by Cuming County.

7. State: The State of Nebraska.

8. Story: The portion of a building included between the surface of any floor and the surface of the next floor above it; if there is no floor above it, the space between such floor and the next ceiling above it. A half story is a story under a sloped roof; the wall heights on at least two opposite exterior walls are less than four feet.

9. Street: Land dedicated for public use, from right-of-way line to right-of-way, which affords a primary means of access to the abutting property.

10. Street Yard: The distance between a lot line adjacent to a public street and the wall or façade of a building parallel to such lot line. If the building wall is not parallel to the lot line, the street yard depth shall be the distance between the street lot line and a parallel line that equals the average distance of the building wall or façade from the street lot line.

11. Structure: Any object constructed, erected or built, the use of which requires more or less permanent location on the ground and which is designed for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind, including but without limiting

the generality of the foregoing, installations such as signs, billboards, radio towers and other facilities not designed for storage of property or occupancy by persons.

2.23 T

2.24 U

1. Use: The conduct of an activity, or the performance of a function or operation, on a site or in a building or facility.

2.25 V

1. Vacation: The official abandonment of public right-of-way or easement by the County in accordance with State law.

2. Variance: A modification of the application of certain regulations or provisions of these Regulations by the Board of Adjustment, under the authority provided by these Regulations and State Statutes.

3. Vehicle, motor: Any passenger vehicle, motorcycle, recreational vehicle, or truck that is propelled or drawn by mechanical power.

4. Vehicle, inoperable: Any motor vehicle, recreational vehicle, boat, trailer or semitrailer which lacks a current registration or component part which renders the vehicle unfit for legal use upon the public right-of-way.

2.26 W

2.27 X

2.28 Y

1. Yard, required: That portion of a lot that lies between a lot line and the corresponding building setback line or the required landscape area. This area shall be unoccupied and unobstructed from the ground upward except as may be specifically provided for, or required by, these regulations.

    a. Front Yard: The space extending the full width of a lot, lying between the front lot line and the front setback line. For a corner lot, the front yard shall normally be defined as that yard along a street which meets one of the following two criteria:

        i. the yard along the block face to which a greater number of structures are oriented; or

        ii. the yard along a street that has the smaller horizontal dimension.

    b. Rear Yard: The space extending the full width of a lot, lying between the rear lot line and the rear setback line.

c. Side Yard: The space extending the depth of a lot from the front to rear lot lines, lying between the side yard setback line and the interior lot line.

d. Street Yard: see separate definition

2.29 Z

1. Zoning Administrator: The County official authorized by the Board of Supervisors to administer these Zoning Regulations.

2. Zoning District: A designated, specified land classification, within which all sites are subject to a unified group of use and site development regulations set forth in these Zoning Regulations.

3. Zoning Permit: A document that must be issued by the Zoning Administrator prior to erecting, constructing, enlarging, altering, moving, improving, or converting any building or structure on platted lot(s) or a parcel, as regulated by these Zoning Regulations. Issuance of a zoning permit follows review of plans by the Zoning Administrator to determine that the proposed use of building or land complies with the provisions of the Zoning Regulations.

ARTICLE 3
USE TYPES

3.01 Purpose

Article Three shall be known as the Use Types. The purpose of the Use Types is to establish a classification system for land uses and a consistent set of terms defining uses permitted or specially permitted within various zoning districts. The Use Types Article also provides a procedure for determining the applicable use type of any activity not clearly within any defined use type.

3.02 Determinations

1. Classification of Uses

   In the event of any question as to the appropriate use types of any existing or proposed use or activity, the Zoning Administrator of Cuming County shall have the authority to determine the appropriate use type. A determination of the Zoning Administrator may be appealed to the Board of Adjustment. In making such determinations, the Zoning Administrator and Board of Adjustment shall consider such characteristics or specific requirements of the use in common with those included as examples of use types. Those examples, when included in use type descriptions, are intended to be illustrative, as opposed to exclusive lists.

2. Records

   The Zoning Administrator shall make all such determinations of appropriate use types in writing. The record of the determination shall contain a report explaining the reasons for the determination.

3.03 Agricultural Use Types

Agricultural use types include the planting, cultivating, harvesting, and storage of grains, hay, or plants commonly grown in Cuming County; or, the raising and feeding of livestock or poultry.

1. Horticulture

   The growing of horticultural and floricultural specialties, such as flowers, shrubs, or trees intended for ornamental or landscaping purposes. This definition may include accessory retail sales under certain conditions. Typical uses include wholesale plant nurseries and greenhouses.

2. Crop Production

   The raising and harvesting of tree crops, row crops or field crops on an agricultural or commercial basis. This definition may include accessory retail sales under certain conditions.

3. Animal Production

   The raising of animals or production of animal products, such as eggs or dairy products on an agricultural or commercial basis on a site which is also used for crop production or where

grazing of natural vegetation is the major feed source; or the raising of animals for recreational or educational use. Typical uses include grazing, ranching, free ranch dairy farming, and poultry farming.

4. Livestock Sales

The use of a site for the temporary confinement and exchange or sale of livestock. Typical uses include sales barns.

3.04 Residential Use Types

Residential use types include uses providing wholly, primarily, or seasonally, non-transient living accommodations. They exclude institutional living arrangements providing 24-hour skilled nursing or medical care, forced residence, or therapeutic settings.

1. Cabin

A structure used as a recreational dwelling and inhabited occasionally throughout a twelve month period, but does not meet all criteria listed in the definition of a single-family detached dwelling required by Neb. Rev. Stat. Sect. 23-1443(3)a. A manufactured home which does not meet all of the design standards in Section 23-114(3)(a) is not included in the definition of a cabin.

2. Single-Family Residential

The use of a site for one dwelling unit, occupied by one family. Mobile home units, as defined by this Section, are not a single-family residential use type.

a. Single-Family Residential (Detached): A single-family residential use in which one dwelling unit is located on a single lot, with no physical or structural connection to any other dwelling unit.

b. Single-Family Residential (Attached): A single-family residential use in which one dwelling unit is located on a single lot and is attached by a common vertical wall to only one other adjacent dwelling unit on another single lot.

c. Duplex Residential: The use of a legally-described lot for two dwelling units, each occupied by one family within a single building, excluding manufactured or mobile home units, but including modular housing units.

d. Town House Residential: The use of a site for three or more attached dwelling units, each occupied by one family and separated by vertical side walls extending from foundation through roof without openings. Each town house unit must have at least two exposed exterior walls.

3. Multiple-Family Residential

The use of a site for three or more dwelling units within one building not otherwise defined as town house units.

4. Group Residential

   The use of a site for the residence of more than three unrelated persons, not otherwise defined as a family, in which occupants are accommodated in rooms not defined as dwelling units. Group Residential uses are limited to facilities that are officially recognized or operated by a college or university, government agency, or nonprofit organization. Typical uses include fraternity or sorority houses and dormitories not incorporated into a College and University use type.

5. Mobile Home Park

   Use of a site under single ownership for one or more mobile home units. Generally, the land on which mobile homes are placed in a Mobile Home Park is leased from the owner of the facility.

6. Retirement Residence

   A building or group of buildings which provide residential facilities, provided that 75% of the residents are at least fifty five years of age, or households headed by a householder of at least sixty years of age. A retirement residence may provide a range of residential building types and may also provide support services to residents, including, but not limited to, food service, general health supervision, medication services, housekeeping services, personal services, recreation facilities, and transportation services. The retirement residence may accommodate food preparation in independent units or meal service in one or more common areas. Retirement residences may include additional health care supervision or nursing care.

3.05 Civic Use Types

Civic use types include the performance of utility, educational, recreational, cultural, medical, protective, governmental, and other uses that are strongly vested with social importance.

1. Administration

   Governmental offices providing administrative, clerical or public contact services that deal directly with the citizen, together with incidental storage and maintenance of necessary vehicles. Typical uses include federal, state, county, and city offices.

2. Cemetery

   Land used, or intended to be used, for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematoria, mausoleums, and mortuaries, when operated in conjunction with, and within the boundary of such cemetery.

3. Clubs

   Uses providing meeting, recreational, or social facilities for a private, non-profit or non-commercial association, primarily for use by members and guests.

a. Clubs (Recreational): Clubs that provide indoor and/or outdoor athletic facilities, with or without social or meeting facilities. Typical uses include country clubs, private or non-profit community or recreation centers, and private golf courses and driving ranges.

b. Clubs (Social): Clubs that provide primarily social or meeting facilities. Typical uses include private social clubs and fraternal organizations.

4. College and University Facilities

An educational institution of higher learning that offers a course of study designed to culminate in the issuance of a degree certified by a generally recognized accrediting organization.

5. Convalescent Services

A use providing bed care and inpatient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease. Typical uses include nursing homes.

6. Cultural Services

A library, museum, or similar registered non-profit organizational use displaying, preserving and exhibiting objects of community and cultural interest in one or more of the arts and sciences.

7. Day Care Services (Limited)

This Use Type includes all classifications of day care facilities regulated by the State of Nebraska that operate providing care for not more than six (6) persons. This term includes nursery schools, preschools, day care centers for children or adults, and similar uses; but excludes public and private, primary and secondary educational facilities.

8. Day Care Services (General)

This Use Type includes all classifications of day care facilities regulated by the State of Nebraska that operate providing care for more than six (6) persons. This term includes nursery schools, preschools, day care centers for children or adults, and similar uses; but excludes public and private, primary and secondary educational facilities.

9. Detention Facilities

A publicly operated or contracted use providing housing and care for individuals legally confined, designed to isolate those individuals from the community.

10. Emergency Residential Services

A facility or use of a building to provide a protective sanctuary for victims of crime or abuse, including emergency housing during crisis intervention for victims of rape, abuse, or physical beatings.

11. Group Care Facility

A facility licensed or approved by the State of Nebraska or other appropriate agency, which provides for short or long-term care, continuous multi-day occupancy of more than four unrelated persons who require and receive therapy or counseling on site as part of an organized and therapeutic ongoing program for any of the purposes listed below. Such facilities shall exclude those uses defined as group homes. Group Care Facilities include facilities which provide for the:

a. Adaptation to living with, or rehabilitation from, the handicaps of physical disability.

b. Adaptation to living with, or rehabilitation from, the handicaps of emotional or mental disorder; or of mental retardation if such facility has an overnight occupancy of more than eight persons.

c. Rehabilitation from the effects of drug or alcohol abuse.

d. Supervision while under a program alternative to imprisonment, including but not limited to, pre-release, work-release, and probationary programs.

12. Group Home

A facility licensed by the State of Nebraska in which no more than eight persons, not including resident managers or house parents, who are unrelated by blood, marriage, or adoption, reside while receiving therapy, training, or counseling for the purpose of adaptation to living with rehabilitation from cerebral palsy, autism, or intellectual developmental disorder.

13. Guidance Services

A use providing counseling, guidance, recuperative, or similar services to persons requiring rehabilitation assistance as a result of mental illness, alcoholism, detention, drug addiction, or similar condition on a daytime care basis.

14. Health Care

A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an outpatient basis including emergency treatment, diagnostic services, training, administration, and services to outpatients, employees, or visitors.

15. Hospital

A facility providing medical, psychiatric, or surgical service for sick or injured persons primarily on an inpatient basis, including emergency treatment, diagnostic services, training, administration, and services to patients, employees, or visitors.

16. Maintenance Facilities

A public facility, supporting maintenance, repair, vehicular, or equipment servicing, material storage, and similar activities, including street or sewer yards, equipment service centers, and similar uses having characteristics of commercial services or contracting or industrial activities.

17. Park and Recreation Services

Publicly owned and operated parks, playgrounds, recreation facilities including publicly-owned community centers, and open spaces.

18. Primary Educational Facilities

A public, private, or parochial school offering instruction at the elementary school level in the branches of learning study required to be taught in schools within the State of Nebraska.

19. Public Assembly

Facilities owned and operated by a public agency, charitable nonprofit or private organization accommodating major public assembly for recreation, sports, amusement, or entertainment purposes. Typical uses include civic or community auditoriums, sports stadiums and arenas, convention facilities, fairgrounds, incidental sales, and exhibition facilities.

20. Religious Assembly

A use located in a permanent building and providing regular organized religious worship and religious education incidental thereto (excluding private primary or private secondary educational facilities, community recreational facilities, day care facilities, and incidental parking facilities). A property tax exemption obtained pursuant to Title 350, Chapter 40-005 of the Nebraska Administrative Code shall constitute prima facie evidence of religious assembly use.

21. Safety Services

Facilities for conduct of public safety and emergency services including police and fire protection services and emergency medical and ambulance services.

22. Secondary Educational Facilities

A public, private, or parochial school offering instruction at the junior high or high school level in the branches of learning and study required to be taught in the schools of the State of Nebraska.

23. Utilities

Any above ground structures or facilities, other than lines, poles, and other incidental facilities, used for the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, energy media, communications, electronic or electromagnetic signals, or other services which are precedent to development and/or use of land.

3.06 Office Use Types

Office use types include uses providing for administration, professional services, and allied activities. These uses often invite public clientele, but are more limited in external effects than commercial uses.

1. General Offices

   Use of a site for business, professional, or administrative offices who may invite clients from both local and regional areas. Typical uses include real estate, insurance, management, travel, or other business offices; organization and association offices; or professional offices.

2. Financial Services

   Provision of financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are provided on site. Typical uses include banks, savings and loan associations, credit unions, savings banks, and loan companies. An ATM (Automatic Teller Machine) that is not accompanied on-site by an office of its primary financial institution is considered within the Personal Services Use Type.

3. Medical Offices

   Use of a site for facilities which provide diagnoses and outpatient care on a routine basis, but which does not provide prolonged, in-house medical or surgical care. Medical offices are operated by doctors, dentists, or similar medical practitioners licensed for practice in the State of Nebraska.

3.07 Commercial Use Types

Commercial uses include the sale, rental, service, and distribution of goods; and the provision of services other than those classified under other use types.

1. Agricultural Sales and Service

   Establishments or places of business engaged in sale from the premises of feed, grain, fertilizers, farm equipment, pesticides and similar goods or in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include nurseries, hay, farm implement dealerships, feed and grain stores, and tree service firms.

2. Automotive and Equipment Services

   Establishments or places of business primarily engaged in sale and/or service of automobiles, trucks, or heavy equipment. The following are considered automotive and equipment use types:

   a. Automobile Auction Lots: Sale of motor vehicles through a process of periodic auctions or bid procedures. Automobile auction lots usually include large on-site storage areas of motor vehicles and lack showrooms, auto repair facilities, and other structures and facilities that are typical of new car dealerships.

b. Automotive Rental and Sales: Sale or rental of automobiles, non-commercial trucks, motorcycles, motor homes, recreational vehicles or boats, including incidental storage, maintenance, and servicing. Typical uses include new and used car dealerships; motorcycle dealerships; and boat, trailer, and recreational vehicle dealerships.

c. Auto Services: Provision of fuel, lubricants, parts and accessories, and incidental services to motor vehicles; and washing and cleaning and/or repair of automobiles, non-commercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include service stations, car washes, muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, and similar repair and service activities, but exclude dismantling, salvage, or body and fender repair services.

d. Body Repair: Repair, painting, or refinishing of the body, fender, or frame of automobiles, trucks, motorcycles, motor homes, recreational vehicles, boats, tractors, construction equipment, agricultural implements, and similar vehicles or equipment. Typical uses include body and fender shops, painting shops, and other similar repair or refinishing garages.

3. Equipment Rental and Sales

Sale or rental of trucks, tractors, construction equipment, agricultural implements, mobile homes, and similar heavy equipment, including incidental storage, maintenance, and servicing. Typical uses include truck dealerships, construction equipment dealerships, and mobile home sales establishments.

4. Equipment Repair Services

Repair of trucks, tractors, construction equipment, agricultural implements, and similar heavy equipment. Typical uses include truck repair garages, tractor and farm implement repair services, and machine shops, but exclude dismantling, salvage, or body and fender repair services.

5. Bed and Breakfast

A lodging service that provides overnight or short-term accommodations to guests or visitors, usually including the provision of breakfast. Bed and breakfasts are usually located in large residential structures that have been adapted for this use. For the purpose of this definition, bed and breakfasts are always owned and operated by the resident owner or resident manager of the structure.

6. Business Support Services

Establishments or places of business primarily engaged in the sale, rental, or repair of equipment, supplies, and materials, or the provision of services used by office, professional, and service establishments to the firms themselves; but excluding automotive, construction, and farm equipment. Typical uses include office equipment and supply firms, small business machine

repair shops, or hotel equipment and supply firms, messenger and delivery services, custodial or maintenance services, and convenience printing and copying.

7. Business or Trade Schools

A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university, or public or private educational facility.

8. Campground

Facilities providing camping or parking areas and incidental services for travelers in recreational vehicles or tents or cabins, which accommodate each guest or visitor for no more than 14 consecutive days during any one month period.

9. Commercial Recreation (Controlled Impact)

Private businesses, or other organizations which may or may not be commercial by structure or by nature, which are primarily engaged in the provision or sponsorship of sports, entertainment, or recreation for participants or spectators. Controlled Impact Commercial Recreation uses typically take place entirely within enclosed buildings or, when outdoors, have limited effects related to lighting, hours of operation, or noise. Typical uses include theaters, private dance halls, billiard or bowling centers, game arcades, indoor skating facilities, miniature golf courses, and private golf courses.

10. Commercial Recreation (High Impact)

Private businesses, or other organizations, which may or may not be commercial by structure or by nature, which are primarily engaged in the provision or sponsorship of sports, entertainment, or recreation for participants or spectators. High Impact Commercial Recreation uses are typically located outdoors and have operating effects caused by lighting, noise, traffic, or hours of operation that create substantial environmental impacts. Typical uses include shooting ranges, lighted driving ranges, go-kart tracks, amusement parks, race tracks, and private baseball complexes.

11. Communications Services

Establishments primarily engaged in the provision of broadcasting and other information relay services, accomplished through the use of electronic and telephonic mechanisms but exclude those classified as utilities. Typical uses include television studios, telecommunication service centers, telegraph service offices, or film and sound recording facilities. Broadcast and communications towers, and their minor ancillary ground structures, are classified as "Miscellaneous Use Types."

12. Construction Sales and Services

Establishments or places of business primarily engaged in the retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures other than retail

sale of paint, fixtures and hardware. This use type excludes those uses classified under Automotive and Equipment Services. Typical uses include building materials sales, or tool and equipment rental or sales.

13. Consumer Services

Establishments that provide services, primarily to individuals and households, but exclude Automotive Use Types. Typical uses include automated banking machines, appliance repair shops, watch or jewelry repair shops, or musical instrument repair shops.

14. Convenience Storage/Mini-Storage

Storage services primarily for personal effects and household goods within enclosed storage areas having individual access but exclude use of such areas as workshops, hobby shops, manufacturing, or commercial activity. Typical uses include mini-warehousing.

15. Food Sales

Establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Food Sales establishments may include the sale of non-food items. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.

a. Convenience Food Sales: Establishments occupying facilities of less than 10,000 square feet; and characterized by sales of specialty foods or a limited variety of general items, and the sales of fuel for motor vehicles.

b. Limited Food Sales: Establishments occupying facilities of less than 10,000 square feet; and characterized by sales of specialty foods or a limited variety of general items, but excluding the accessory sale of fuel for motor vehicles. Typical uses include delicatessens, meat markets, retail bakeries, candy shops, and small grocery stores.

c. General Food Sales: Establishments selling a wide variety of food commodities and related items, using facilities larger than 10,000 square feet. Typical uses include grocery stores and locker plants.

16. Funeral Services

Establishments engaged in undertaking services such as preparing the human dead for burial, and arranging and managing funerals. Typical uses include funeral homes or mortuaries.

17. Gaming Facilities

Establishments engaged in the lawful, on-site operation of games of chance that involve the risk of money for financial gain by patrons. Gaming facilities shall include the accessory sale of liquor and food, pursuant to regulations of Cuming County and/or the State of Nebraska.

18. Kennels

    Boarding and care services for dogs, cats and similar small mammals or large birds; or any premises on which more than four animals included under this definition over four months of age are kept and maintained. Typical uses include boarding kennels, pet motels, or dog training centers.

19. Laundry Services

    Establishments primarily engaged in the provision of laundering, cleaning or dyeing services other than those classified as Personal Services. Typical uses include bulk laundry and cleaning plans, diaper services, or linen supply services.

20. Liquor Sale

    Establishments or places of business engaged in retail sale for off-premise consumption of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales of liquor, beer or wine for off-site consumption.

21. Lodging

    Lodging services involving the provision of room and/or board, but not meeting the classification criteria of Bed and Breakfasts. Typical uses include hotels, apartment hotels, and motels.

22. Pawn Shop

    A business that loans money on deposit or pledge of personal property or other thing of value, or that deals in the purchasing of personal property or other things of value, on condition of selling the same back at a stipulated price, or that receives actual possession of personal property as security for loans with or without a bill of sale.

23. Personal Improvement Services

    Establishments primarily engaged in the provision of informational, instructional, personal improvements and similar services of a non-professional nature. Typical uses include driving schools, health or physical fitness studios, music schools, reducing salons, dance studios, handicraft and hobby instruction.

24. Personal Services

    Establishments or places of business primarily engaged in the provision of services of a personal nature. Typical uses include beauty and barber shops; seamstress, tailor, or shoe repair shops; photography studios; television or electronics repair; or dry cleaning stations serving individuals and households. Personal Services include establishments providing for the administration of massage or massage therapy carried out by persons licensed by the State of Nebraska when performing massage services as a part of the profession or trade for which licensed, or persons performing massage services under the direction of a person so licensed; or persons performing massage services or therapy pursuant to the written direction of a licensed physician.

25. Pet Services

Retail sales, incidental pet health services, and grooming, when totally enclosed within a building, of dogs, cats, birds, fish, and similar small animals customarily used as household pets. Typical uses include pet stores, dog bathing and clipping salons, and pet grooming shops, but exclude uses for livestock and large animals.

26. RV (Recreation Vehicle) Storage

Establishments that includes the storage and/or display of boats, campers, and motorized recreational vehicles for the purpose of rental or sale.

27. Research Services

Establishments primarily engaged in research of an industrial or scientific nature. Typical uses include electronics research laboratories, space research and development firms, testing laboratories, or pharmaceutical research labs.

28. Restaurants

A use engaged in the preparation and retail sale of food and beverages; including the sale of alcoholic beverages when conducted as a secondary feature of the use.

a. Restaurant (Drive-in or Fast Food): An establishment that principally supplies food and beverages in disposable containers and is characterized by high automobile accessibility and on-site accommodations, self-service, and short stays by customers.

b. Restaurant (General): An establishment characterized by table service to customers and/or accommodation to walk-in clientele, as opposed to Drive-in or Fast Food Restaurants. Typical uses include cafes, coffee shops, and restaurants.

29. Adult Businesses

Any business activity that offers the opportunity to view specified sexual activities or view and touch specified anatomical areas in a manner that lacks serious literary artistic, political, or scientific value. This category includes the sale or viewing of visual or print materials that meet these criteria if the sale of such material constitutes more than 20% of the sales or retail floor area of the establishment. For the purposes of this definition, specified anatomical areas include the following if less than opaquely covered: human genitals, the pubic region, pubic hair, or the female breast below a point immediately above the top of the areola. Specified sexual activities include any of the following conditions:

a. human genitals in a state of sexual stimulation or arousal;

b. acts or representations of acts of human masturbation, sexual intercourse with humans, or animals, oral sex, or flagellation;

c. fondling or erotic touching of human genitals, pubic region, buttock, or female breast;

d. excretory functions as a part of, or in connection with, any activities set forth in (1) through (3) above.

Typical uses include retail services or stores which are distinguished by an emphasis on activities or material that emphasize primarily sexual content in the inventory and marketing practices; businesses which offer live performances characterized by exposure of specified anatomical areas; and adult theaters. Businesses may be classified as adult entertainment businesses without regard to service of alcoholic beverages.

30. Retail Services

Sale or rental with incidental service of commonly used goods and merchandise for personal or household use, but, excludes those classified more specifically by these use type classifications. Typical uses include department stores, apparel stores, furniture stores, or establishments providing the following products or services:

a. Household cleaning and maintenance products; drugs, cards, stationery, notions, books, tobacco products, cosmetics, and specialty items; flowers, plants, hobby materials, toys, and handcrafted items; apparel jewelry, fabrics and like items; cameras, photography services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wallpaper, hardware, carpeting and floor covering; interior decorating services; office supplies; mail order or catalog sales; bicycles; and automotive parts and accessories (excluding service and installation).

31. Stables and/or Riding Academies

The buildings, pens and pasture areas used for the boarding and feeding of horses, llamas, or other equine not owned by the occupants of the premises. This use includes instruction in riding, jumping, and showing or the riding of horses/equine for hire.

32. Surplus Sales

Businesses engaged in the sale, including sale by auction, of used items or new items which are primarily composed of factory surplus or discontinued items. Surplus sales uses sometimes include regular outdoor display of merchandise. Typical uses include flea markets, auction houses, factory outlets, or merchandise liquidators.

33. Taverns

A use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, cocktail lounges, and similar uses other than a restaurant as that term is defined in this section.

34. Trade Services

Establishments or places of business primarily engaged in the provision of services that are not retail or primarily dedicated to walk-in clientele. These services often involve services to

construction or building trades and may involve a small amount of screened, outdoor storage in appropriate zoning districts. Typical uses include shops or operating bases for plumbers, electricians, or HVAC (heating, ventilating, and air conditioning) contractors.

35. Travel Center

Facilities that provide for the sale of fuel, provisions, supplies to motorists, including operators of over-the-road trucks, in which less than 30% of the total site area is devoted to the servicing, accommodation, parking, or storage of over-the-road trucks. The calculation of these areas includes, but is not limited to, fuel islands for diesel fuel, truck washing facilities, truck parking areas, and associated maneuvering areas. Travel centers include a mix of uses, including food sales, general retail services, auto and equipment services, and restaurants, and are typically located along or near Interstate Highways or other principal State and Federal designated highway routes. See also Convenience Food Sales.

36. Truck Stops

Facilities that provide for the sale of fuel, provisions, supplies to motorists, including operators of over-the-road trucks, in which 30% or more of the total site area is devoted to the servicing, accommodation, parking, or storage of over-the-road trucks. The calculation of these areas includes, but is not limited to, fuel islands for diesel fuel, truck washing facilities, truck parking areas, and associated maneuvering areas. Travel centers include a mix of uses, including food sales, general retail services, auto and equipment services, and restaurants, and are typically located along or near Interstate Highways or other principal State and Federal designated highway routes. See also Convenience Food Sales.

37. Vehicle Storage (Short-term)

Short-term storage of operating or non-operating vehicles for a period of no more than 21 days. Typical uses include storage of private parking tow-a-ways or impound yards but exclude dismantling or salvage. Long-term storage beyond 21 days constitutes an Industrial Use Type.

38. Veterinary Services (General)

Veterinary services and hospitals for small animals. Typical uses include pet clinics, dog and cat hospitals, pet cemeteries and crematoria, and veterinary hospitals for livestock and large animals.

39. Veterinary Services (Large Animal)

Veterinary services and hospitals for large animals such as cows, bulls, horses, and other livestock. Typical uses include veterinary hospitals for livestock and large animals.

3.08 Industrial Use Types

Industrial use types include the on-site extraction or production of goods by non-agricultural methods, and the storage and distribution of products.

1. Agricultural Industry

   Establishments which include the storage, manufacture, sale, or distribution of agricultural supplies or products, which create major external effects, including substantial truck or rail traffic and/or significant potential for hazard. Typical uses include grain elevators, storage of agricultural chemicals such as anhydrous ammonia. Agricultural industries do not include retailers of farm equipment or other, generally non-hazardous agricultural supplies.

2. Biologic Digester

   Any enterprise involved in the process of digesting waste for energy production, natural gas production, the conversion of waste to a fertilizer or other product for sale or transmission, or to dispose of waste products. Biologic digesters include aerobic operations open process requiring free oxygen) and anaerobic operations (a closed process not requiring free oxygen). This Use Type does not include small scale, residential or commercial composting.

3. Construction Yards

   Establishments, housing facilities of businesses, primarily engaged in construction activities, including incidental storage of materials and equipment on lots other than construction sites. Typical uses are building contractor's yards.

4. Custom Manufacturing

   Establishments primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving:

   a. the use of hand tools, or

   b. the use of domestic mechanical equipment not exceeding 2 horsepower, or

   c. a single kiln not exceeding 8 KW or equivalent.

   This category also includes the incidental direct sale to consumers of only those goods produced on site. Typical uses include ceramic studios, custom jewelry manufacturing, and candle making shops.

5. Light Industry

   Establishments engaged in the manufacture or processing of finished products from previously prepared materials, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution. These establishments are characterized by having no major external environmental effects across property lines and include no unscreened or unenclosed outdoor storage. Typical uses include commercial bakeries, dressed beef processing plants, soft drink bottling, and apparel assembly from fabrics, electronics, manufacturing, print shops and publishing houses.

6. General Industry

   Enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment, or fabrication of materials and products from prepared materials or from raw materials without noticeable noise, odor, vibration, or air pollution effects across property lines, but often including outdoor storage of materials or products.

7. Heavy Industry

   Enterprises involved in the basic processing and manufacturing of products, predominately from raw materials, with noticeable noise, odor, vibration, or air pollution effects across property lines; or a use or process engaged in the storage of or processes involving potentially or actually hazardous, explosive, flammable, radioactive, or other commonly recognized hazardous materials.

8. Recycling Collection

   Any site which is used in whole or part for the receiving or collection of any post-consumer, non-durable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.

9. Recycling Processing

   Any site which is used for the processing of any post-consumer, non-durable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.

10. Resource Extraction

    A use involving on-site extraction of surface or subsurface mineral products or natural resources, excluding site grading for a specific construction project, or preparation of a site for subsequent development. Typical uses are quarries, borrow pits, sand and gravel operations, mining, and removal of dirt for off-site use.

11. Salvage Services (Junkyard or Salvage Yard)

    Any place not fully enclosed in a building, excluding a salvage yard, which is used in whole or in part for the storage or deposit of junk encompassing either (a) an area of 200 square feet or more, or (b) two or more inoperable motor vehicles, or used parts and materials thereof, which taken together equal the bulk of two or more motor vehicles.

12. Vehicle Storage (Long-term)

    Long-term storage of operating or non-operating vehicles for a period exceeding 21 days. Typical uses include storage of private parking tow-a-ways or impound yards but exclude dismantling or salvage. Long-term storage of 21 days or less constitutes a Commercial Use Type.

13. Warehousing (Enclosed)

    Uses including storage, distribution, and handling of goods and materials within enclosed structures. Typical uses include wholesale distributors, storage warehouses, and van and storage companies.

14. Warehousing (Open)

    Uses including open air storage, distribution, and handling of goods and materials. Typical uses include monument yards, grain elevators, and open storage. This shall not include warehousing incidental to the primary operation.

3.09 Transportation Use Types

Transportation use types include the use of land for the purpose of providing facilities supporting the movement of passengers and freight from one point to another.

1. Aviation (Private)

   Take-off or landing strips or fields within a parcel generally put to other uses and primarily used for the convenience of the owner of the parcel. Typical uses include private airstrips within a large property.

2. Truck Terminal

   A facility for the receipt, transfer, short term storage, and dispatching of goods transported by truck.

3.10 Miscellaneous Type Uses

1. Alternative Energy Production Devices

   The use of a site for the production of energy utilizing methods that do not involve the oxidation, combustion, or fission of primary materials. Typical uses include solar collector fields, geo-thermal energy installations, or water-powered mills or generating facilities.

2. Amateur Radio Tower

   A structure(s) for the transmission or broadcasting of electromagnetic signals by FCC licensed Amateur Radio operators.

3. Communications Tower

   A structure(s) for the transmission or broadcasting of radio, television, radar, or microwaves, ordinarily exceeding the maximum height permitted in its zoning district. Typical uses include broadcasting towers and cellular communications towers.

4. Construction Batch Plant

   A temporary demountable facility used for the manufacturing of cement, concrete, asphalt, or other paving materials intended for specific construction projects.

5. Landfill A (Non-putrescible Solid Waste Disposal)

   The use of a site as a depository for solid wastes that do not readily undergo chemical or biological breakdown under conditions normally associated with land disposal operations. Typical disposal material would include ashes, concrete, paving wastes, rock, brick, lumber, roofing materials and ceramic tile.

6. Landfill B (Putrescible and Non-putrescible Solid Waste Disposal

   The use of a site as a depository for any solid waste except hazardous and toxic waste as defined by the Federal Environmental Protection Agency and/or the State of Nebraska. Typical disposal material would include non-putrescible wastes; and putrescible wastes such as vegetation, tree parts, agricultural wastes (garbage) and manure.

7. Wind Energy Conservation System (WECS)

   Any device that converts wind energy to a form of usable energy, including wind charges, windmills or wind turbines.

ARTICLE 4
ZONING DISTRICT REGULATIONS

4.01 Purpose

Zoning Districts are established in the Zoning Regulations to promote compatible land use patterns and to establish site development regulations appropriate to the purposes and specific nature of each district and to support the health, safety, and welfare without infringing on private property rights.

4.02 Establishment of Districts

The following base districts and overlay districts are hereby established. These districts correspond to the Land Use Districts established by the Cuming County Comprehensive Plan.

BASE ZONING DISTRICTS	DISTRICT NAMES
AG-1	Intensive Agricultural District
AG-2	Transitional Agricultural District
R	Residential District
R-MH	Mobile Home Residential District
C	Commercial District
I	General Industrial District

OVERLAY DISTRICTS

FL	Floodway/Floodplain Overlay District
GA	Gateway Corridor Overlay District
BL	Bluff Development Overlay District
LA	Lake Development Overlay District

4.03 Application of Districts

A base district designation shall apply to each lot or site within the County and its planning jurisdiction. A site must be in one base district.

Overlay districts may be applied to any lot or site or any portion thereof, in addition to a base district designation.

4.04 Hierarchy

References in the Zoning Regulations to less intensive or more intensively urbanized districts shall be deemed to refer to those agricultural, residential, commercial, and industrial base zoning districts established in Section 4.02, and shall represent a progression from the AG-2 Transitional Agricultural District as the least intensively urbanized to the I General Industrial District as the most intensively urbanized.

4.05 Development Regulations

For each Zoning District, permitted uses are set forth in the Use Matrix Table, Section 4.13. Individual sections describe the purpose and specific development regulations for each zoning district. Supplemental Regulations may affect specific land uses or development regulations in each zoning district. The applicable Supplemental Regulations are noted in Use Matrix Table. Permitted accessory uses are indicated in the Supplemental Use Regulations; Accessory Uses.

4.06 Zoning Map

1. Adoption of Zoning Map

   Boundaries of zoning districts established by these Zoning Regulations shall be shown on the Zoning Map maintained by the County Clerk. This map shall bear the signature of the Board Chairman, attested by the County Clerk, under the certification that this is the Official Zoning Map referred to by these regulations. This map, together with all legends, references, symbols, boundaries, and other information, shall be adopted as a part of, the Zoning Regulations. Said Zoning Map shall be on file with the County Clerk and shall be readily accessible to the public at the Office of the Cuming County Clerk.

2. Changes to the Zoning Map

   The Board of Supervisors may from time to time adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map, in the event that the Official Zoning Map becomes damaged or destroyed; or for purposes of clarity due to a number of boundary changes; or to correct drafting errors or omissions; provided, however, that any such adoption shall not have the effect of amending the original Zoning Regulations or any subsequent amendment thereof.

4.07 Interpretation of District Boundaries

The following rules shall apply in determining the boundaries of any zoning district shown on the Zoning Map.

1. Where district boundaries are indicated as approximately following lot lines, such lot lines shall be considered the district boundaries.

2. Where district boundaries are indicated as within road, street, alley, railroad, streams or creeks, or other identifiable rights-of-way, the centerline of such rights-of-way shall be deemed the district boundary.

3. Where a district boundary divides a property, the location of the boundary shall be determined by the use of the scale appearing on the Zoning Map.

4. Where district boundaries are indicated as approximately following corporate limits, such corporate limits shall be considered the district boundaries.

5. Where district boundaries are indicated as approximately following section lines, quarter section lines, or quarter-quarter section lines, such lines shall be considered the district boundaries.

6. Boundaries not capable of being determined as set forth in 4.07(1) through (5) shall be as dimensioned on the Official Zoning Map, or if not dimensioned, shall be determined by the scale shown on the map.

4.08 Vacation of Roads, Streets, and Alleys

Whenever a public road, street, or alley is vacated, the zoning district adjoining each side of such right-of-way shall be extended out to the former centerline.

4.09 Required Conformance

Except as specified in this chapter, no building or structure shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used, which does not comply with all of the district regulations established by this title for the district in which the building or land is located unless a variance or other approval is granted with respect to the building, structure, or land as set forth herein.

4.10 Required Frontage

Except as otherwise provided for, every structure shall be constructed or erected upon a lot or parcel of land which abuts upon a public street or permanent easement of access to a public street.

4.11 Use Matrix: Levels of Permitted Uses

Within zoning districts in Cuming County, different uses are permitted with different conditions. These are displayed in the Use Matrix Table (4.13). Levels of permission include:

1. Uses which are permitted by right. These uses are permitted subject to compliance with these regulations. Uses permitted by right might be subject to supplemental regulations contained in these regulations. These uses are indicated in the Use Matrix Table (4.13) by a “P” in the applicable cell.

2. Conditional Uses. These uses are subject to approval of a Conditional Use Permit by the Board of Supervisors, following the procedure set forth in Article 18. These uses are indicated in the Use Matrix Table (4.13) by a “C” in the applicable cell.

3. Existing uses permitted. Existing uses are permitted to continue operating. No new operations are permitted. If the use is discontinued as described in Section 18, Non-Conforming Uses, the

use shall no longer be permitted. These uses are indicated in the Use Matrix Table (4.13) by an "E" in the applicable cell.

4.12 Guide to Site Development Regulators

The regulators set forth in the tables in Article 5 - 10 establish the limits and requirements for most development in Cuming County. This section is intended to provide guidance for applying the regulators contained in these tables.

1. Site area per housing unit. This indicates the gross land area per unit within a residential development. For example, a 40-lot subdivision on a 10-acre tract (435,600 square foot tract) will have a site area per unit of 10,890 square feet. Site area per unit, which measures gross density, may differ from minimum lot size.

2. Minimum lot area. This indicates the minimum size of a legally described and recorded parcel upon which development can take place. As noted above, minimum lot area and site area per unit may not be the same.

3. Minimum lot width. This is the required minimum distance connecting at points along opposite side lot lines, measured at the required front yard setback. For example, the lot width of an irregular lot in a district requiring a 25-foot front yard setback is determined by:

    a. locating the points along each side lot line at a distance of 25 feet back from the front property line;

    b. drawing a line connecting these two points;

    c. measuring the length of this line. The length is the lot width;

4. Minimum yards. These define the required setbacks of buildings from front, side, and rear property lines. While the yard requirements apply to a majority of development, the regulations provide for a number of exceptions. Some of these include:

    a. Major streets. The County may require greater than normal setbacks along segments of the arterial street system, as defined in the Comprehensive Plan.
    b. Flexibility provided by Supplemental Development Regulations. Article 17 establishes supplemental regulations, many of which provide flexibility or variations in setback regulations for specific contexts.
    c. Maximum setbacks. Some specific zoning districts provide maximum as well as minimum setbacks. These setbacks establish "build-to" lines that may be necessary to protect the appearance and character of special urban districts.

5. Maximum height. Height normally measures the vertical distance from the established grade to the highest point of a building. However, as established by the definition of height, the point of measurement may vary for different types of buildings and roof slopes.

6. Supplemental regulations. Certain permitted uses require satisfaction of specific requirements in order to function successfully in their urban or rural contexts. These supplemental requirements are set forth in Article 17. These requirements are cross-referenced in the "Supplemental Regulations" column of the Use Matrix Table (4.13).

4.13 Use Matrix Table

Zoning Districts Use Matrix Table	AG-1	AG-2	RR	MH R-	C	I	SUPPLEMENTAL REGULATIONS
Agricultural Uses (§3.03)							
Horticulture	P	P	C	C			
Crop Production	P	P	C				
Animal Production	P	P	E				§17.02
Livestock Sales	P	P					
Residential Uses (§3.04)							
Cabins	P	P					§17.03
Single-Family Detached	P	P	P	C			
Single-Family Attached	C	C	P	C			
Duplex			P	C			
Townhouse			P	C			
Multiple-Family			P	C			
Group Residential			C	C			
Mobile Home Park				P			
Retirement Residential			C	C			
Civic Uses (§3.05)							
Administration	P	P	P	P	P	P	
Cemetery	P	P	P	P	P	P	
Clubs (Recreational)	C	C			P	C	
Clubs (Social)			P	P	P	C	
College/University	C	C			P	C	
Convalescent Services					P	C	
Cultural Services			C	C	P	C	
Day Care (Limited)	C	C	C	C	P	C	
Day Care (General)			C	C	P	C	§17.04
Detention Facilities	C	C			C	P	
Emergency Residential			C		P	P	
Group Care Facility			C	C	P	C	§17.04
Group Home			C	C	P	C	§17.04
Guidance Services			C	C	P	C	
Health Care	C	C	C	C	P	C	
Hospitals	C	C	C	C	P	C	
Maintenance Facility	C	C	C	C	P	P	
Park and Recreation			P	P	P	P	
Primary Education			C	C	C	C	
Public Assembly			C	C	P	C	
Religious Assembly			C	C	P	C	
Safety Services	C	C	C	C	P	P	
Secondary Education			C	C	C	C	
Utilities	C	C	C	C	C	P	

Zoning Districts Use Matrix Table	AG-1	AG-2	RR	R-MH	C	I	SUPPLEMENTAL REGULATIONS
Office Uses (§3.06)							
General Offices	C	C	C	C	P	P	
Financial Services			C	C	P	C	
Medical Offices			C	C	P	C	
Commercial Uses (§3.05)							
Ag Sales/Service	P	P			P	P	
Auto Auction Lots					C	P	
Auto Rental/Sales					P	P	
Auto Services	C	C			P	P	
Body Repair	C	C			P	P	
Equip Rental/Sales	C	C			P	P	
Equipment Repair	C	C			P	P	
Bed and Breakfast	C	C	P		C		§17.05
Business Support Services					P	P	
Business/Trade School	C	C			P	P	
Campground		C					§17.05
Commercial Rec (Controlled Impact)		C	C	C	C	C	
Commercial Rec (High Impact)	C	C			C	C	
Communication Service					C	C	
Construction Sale/Service					P	P	
Consumer Service					P	C	
Convenience Storage	C	C			C	P	
Food Sales (Convenience)			C	C	P	C	
Food Sales (Limited)					P		
Food Sales (General)					P		
Funeral Service					P	P	
Gaming Facilities					C	P	
Kennels	P	P			C	P	§17.05
Laundry Services					P	P	
Liquor Sales	C	C			P	P	
Lodging					P		
Pawnshop					C	P	
Personal Improvement					P	C	
Personal Services					P	C	
Pet Services	P	C			C	P	
RV Storage	C	C			C	P	
Research Services	C	C			P	P	
Restaurants (Drive-in)					P	P	

Zoning Districts Use Matrix Table	AG-1	AG-2	RR	R-MH	C	I	SUPPLEMENTAL REGULATIONS
Commercial Uses (§3.05)							
Restaurants (General)	C	C			P	P	
Adult Businesses					P	P	§17.05
Retail Services					P	P	
Stables	P	P	C			P	
Surplus Sales					P	C	
Taverns	C	C			P	P	
Trade Services	C	C			P	C	
Travel Centers					C	P	
Truck Stops					C	P	
Vehicle Storage (Short-term)	C					P	
Veterinary Services (General)	P	P			P	P	
Veterinary Services (Large Animal)	P	P				P	
Industrial Uses (§3.09)							
Agricultural Industry	P	C				P	
Biologic Digester	C	C				C	§17.06; §17.09
Construction Yards	C	C			C	C	
Custom Manufacturing	C				C	P	
Light Industry	C	C				P	
General Industry	C	C				P	
Heavy Industry						C	
Recycling Collection						P	
Recycling Processing						C	
Resource Extraction	C	C				C	§17.06
Salvage Services	C					C	§17.06
Vehicle Storage (Long-term)	C					P	
Warehousing (Enclosed)	C	C			C	P	
Warehousing (Open)	C	C				P	
Transportation Uses (§3.10)							
Aviation (Private)	C	C				C	
Truck Terminal	C	C			C	C	
Miscellaneous Uses (§3.11)							
Alternative Energy Production Devices	C	C	C	C	C	C	
Amateur Radio Tower			C	C	C	C	
Communications Tower	C	C			C	C	§17.07
Construction Batch Plant	C	C				C	
Landfill (Non-Putrescible)	C	C				C	§17.08
Landfill (Putrescible)	C	C				C	§17.08
WECS	C	C	C	C	C	P	§17.08

ARTICLE 5

AG-1 INTENSIVE AGRICULTURAL DISTRICT

5.01 Purpose

The AG-1 district regulations provide for the use and conservation of agricultural land, to protect the value of such land, and to protect it from indiscriminate residential and urban development and other incompatible and conflicting land uses; to conserve and protect the value of open space, wooded areas, streams, mineral deposits and other natural resources and to protect them from incompatible land uses and to provide for their timely utilization; to provide for the location and govern the establishment and operation of land uses which are compatible with agriculture and are of such nature that their location away from residential, commercial and industrial areas is most desirable; to provide for the location and govern the establishment of residential uses which are accessory to and necessary for the conduct of agriculture and to provide for the location and govern the establishment and use of limited non-agricultural residential uses.

Non-agricultural residential uses shall not be so located as to be detrimental to, or conflict with, other uses which are named as permitted or conditional uses in this district and are appropriate to other property in the area. The nature of the AG-1 District and the uses allowed by right, or by Conditional Use, precludes the provision of services, amenities and protection from other land uses which are afforded to residential uses by the regulations of other districts, and it is not intended that the AG-1 District regulations afford such services, amenities and protection to residential uses located therein.

5.02 Site Development Regulations

The height and minimum lot requirements shall be as follows except as provided in Article 17. All dwelling units constructed after the date these regulations was adopted, September 30, 2015, must comply with the below development regulations set forth in this section including new residences on the same parcel as an agricultural operation.

AG-1 Intensive Agriculture	1-Family Detached	Other Permitted Uses
Site Area per Dwelling Unit	more than 10 ac.	N/A
Minimum Lot Area (Notes 1)	More than 10 ac.	None
Minimum Lot Width (feet)	200′	200′
Minimum Yards (feet)		
Front Yard (Note 2)	63′	63′
Side Yard	15′	15′
Street Side Yard, Corner Lot	15′	15′
Rear Yard	25′	25′
Maximum Height of Primary Structure	None	None
Maximum Height of Accessory Structure	None	None

- Note 1: Existing Non-Conforming Farmsteads are not required to conform to district bulk regulations. See Definition of Existing Non-Conforming Farmsteads, Section 2.08(2) and Non-Conforming Section 18.06.

- Note 2: Minimum required front, side and rear yard setbacks for all uses or structures shall be no less than sixty-three (63) feet from the road centerline when such yards are contiguous to a public roadway. At road intersections, Vision Clearance Zone requirements of Section 17.11 shall apply as well as exemptions for irrigation equipment in Section 17.12.

5.03 Yard and Lot Reduction Prohibited

No yard or lot existing at the time of passage of these Zoning Regulations, September 30, 2015, shall be reduced by private action in dimension or area below the minimum requirements established herein, for AG-1 the minimum lot size is more than 10 acres if the yard or lot contains a dwelling unit. Yards or lots created after the effective date of these regulations shall meet the minimum requirements established by these Zoning Regulations, including the minimum lot size requirements.

5.04 Negative Impacts of Agricultural Uses on Residential Uses Permitted in AG-1

Cuming County has a policy reflected in its Comprehensive Plan and these Zoning Regulations to support intensive agricultural practices in the AG-1 District and therefore, all persons seeking to construct a new dwelling unit in the AG-1 District shall do so only after:

1. Making Application for a Zoning Permit for a dwelling unit in AG-1 with the Zoning Administrator;

2. Within such Application, Applicant shall acknowledge and accept as reasonable and normal the effects on rural living of normal, usual, customary, or generally accepted farming practices or farming operations, and all matters in any way related to or incidental thereto, as the same now exist, or as the same may be hereafter developed in Cuming County including but not limited to:

    a. noise from tractors or other farm equipment and aerial spraying at all hours and noise from livestock at all hours;

    b. dust from animal pens, field work, harvesting, and gravel roads;

    c. increased flies, mosquitoes, or other insects that are attracted to crops, livestock, or manure;

    d. odor from livestock operations and animal confinement operations, and order from silage, manure, and manure application procedures including; liquid manure being distributed on farm ground via pivot or other method, stockpiling of manure away from the livestock feeding operation for later distribution, or distributing manure on farm ground as fertilizer;

    e. smoke from burning ditches or other approved burning;

f. the use and application practices for all livestock waste, herbicides, pesticides, fertilizer and other chemicals, including drift by aerial spraying or other application of such products;

g. all field preparation, harvest practices, and all livestock animal husbandry practices;

h. the movement of livestock, farm products, manure, machinery and equipment on public roads; and

i. all other similar or related farming practices or farming operations, and all matter in any way related or incidental thereto.

ARTICLE 6

AG-2 TRANSITIONAL AGRICULTURAL DISTRICT

6.01 Purpose

The AG-2 Agricultural District regulations are intended to recognize the transition between agricultural uses of land and communities; to encourage the continued use of that land that is suitable for agriculture, but limit the land uses that may be a detriment to the efficient pursuit of agricultural production.

The AG-2 district promotes and preserves agricultural uses, including crop and animal production. This district is intended to accommodate activities such as agriculture, horticulture, other agricultural activities including small scale dairy farming, livestock farming, and poultry farming. This district discourages low density single family residential development often associated with agricultural areas by requiring a minimum 5-acre lot size. The AG-2 district is also intended to maintain interim agricultural uses within areas designated in the Cuming County Comprehensive Plan as long-term urban growth areas. The intent is to discourage rural residential growth in areas that can eventually accommodate development served by extension of public sewers. The AG-2 district is intended to serve as a transition between the incorporated areas of Cuming County and the intensive agricultural uses of rural Cuming County.

6.02 Site Development Regulations

The height and minimum lot requirements shall be as follows except as provided in Article 17. All dwelling units constructed after the date these regulations was adopted, September 30, 2015, must comply with the below development regulations set forth in this section including new residences on the same parcel as an agricultural operation.

AG-2 Transitional Agriculture	1-Family Detached	Other Permitted Uses
Minimum Site area per Dwelling Unit	5 ac.	N/A
Minimum Lot Area (Note 1 & 2)	5 ac.	none
Minimum Lot Width	200′	200′
Minimum Yards		
Front Yard (Note 3)	63′	63′
Side Yard	15′	15′
Street Side Yard, Corner Lot	15′	15′
Rear Yard	25′	25′
Maximum Height of Primary Structure	None	None
Maximum Height of Accessory Structure	None	None

- Note 1: Existing Non-Conforming Farmsteads are not required to conform to district bulk regulations. See Definition of Existing Non-Conforming Farmsteads, Section 2.08(2) and Non-Conforming Section 18.06.

- Note 2: The specified minimum lot size does not include right of way. For example, the portion of the land located between the front property line and the center of the road will be deducted from the total lot area.

- Note 3: Minimum required front, side and rear yard setbacks for all uses or structures shall be no less than sixty-three (63) feet from the road centerline when such yards are contiguous to a public roadway. At road intersections, Vision Clearance Zone requirements of Section 17.11 shall apply as well as exemptions for irrigation equipment in Section 17.12

6.03 Yard and Lot Reduction Prohibited

No yard or lot existing at the time of passage of these Zoning Regulations, effective date, shall be reduced by private action in dimension or area below the minimum requirements established herein, for AG-2 the minimum lot size is 5 acres if the yard or lot contains a dwelling unit. Yards or lots created after the effective date of these regulations shall meet the minimum requirements established by these Zoning Regulations, including the minimum lot size requirements.

6.04 Negative Impacts of Agricultural Uses on Residential Uses Permitted in AG-2

Cuming County has a policy reflected in its Comprehensive Plan and these Zoning Regulations to support intensive agricultural practices in the AG-2 District and therefore, all persons seeking to construct a new dwelling unit in the AG-2 District shall do so only after:

1. Making Application for a Zoning Permit for a dwelling unit in AG-2 with the Zoning Administrator;

2. Within such Application, Applicant shall acknowledge and accept as reasonable and normal the effects on rural living of normal, usual, customary, or generally accepted farming practices or farming operations, and all matters in any way related to or incidental thereto, as the same now exist or as the same may be hereafter developed in Cuming County including but not limited to:
3.
    a. noise from tractors or other farm equipment and aerial spraying at all hours and noise from livestock at all hours;

    b. dust from animal pens, field work, harvesting, and gravel roads;

    c. increased flies, mosquitoes, or other insects that are attracted to crops, livestock, or manure;

    d. odor from livestock operations and animal confinement operations, and odor from silage, manure, and manure application procedures including: liquid manure being distributed on farm ground via pivot or other method, stockpiling of manure away from the livestock feeding operation for later distribution, or distributing manure on farm ground as fertilizer;

    e. smoke from burning ditches or other approved burning;

f. he use and application practices for all livestock waste, herbicides, pesticides, fertilizer and other chemicals, including drift by aerial spraying or other application of such products;

g. all field preparation, harvest practices, and all livestock animal husbandry practices;

h. the movement of livestock, farm products, manure, machinery and equipment on public roads; and

i. all other similar or related farming practices or farming operations, and all matters in any way related or incidental thereto.

j. Wind Energy generation facilities or generators

ARTICLE 7

RR RURAL RESIDENTIAL DISTRICT

7.01 Purpose

The intent of this district is to provide for rural density residential development, along with compatible supporting uses in areas with infrastructure supportive of rural neighborhood development. These developments include single family dwellings on moderate sized lots, along with low-density multi-family residential structures such as duplexes and townhouses. This district should be used to encourage residential development in areas not included in the growth plans outside of the incorporated areas and any extraterritorial jurisdiction of Cuming County. The intent of this district is to recognize the gradual urbanization near cities and to provide for the proper development and facilities necessary for future growth.

7.02 Site Development Regulations

The height and minimum lot requirements shall be as follows except as provided in Article 17. All dwelling units constructed after the date these regulations were adopted, September 30, 2015, must comply with the below development regulations set forth in this section including new residences on the same parcel as an agricultural operation.

RR Rural Residential District	1-Family Detached	Other Permitted Uses
Minimum Lot Area (Notes 1 & 2)	5 ac.	5 ac.
Minimum Lot Width	100′	200′
Minimum Yards (feet)		
Front Yard (Note 3)	63′	63′
Side Yard	25′	15′
Street Side Yard, Corner Lot	25′	15′
Rear Yard	35′	25′
Maximum Height of Primary Structure	35′	35′
Maximum Height of Accessory Structure	None	None

- Note 1: The specified minimum lot size does not include right of way. For example, the portion of the land located between the front property line and the center of the road will be deducted from the total lot area.

- Note 2: If communal sewage treatment facilities are provided pursuant to County requirements, lots may be reduced to a minimum area of one acre.

- Note 3: Minimum required front, side, and rear yard setbacks for all uses or structures shall be no less than sixty-three (63) feet from the road centerline when such yards are contiguous to a public roadway. At road intersections, Vision Clearance Zone requirements of Section 17.11 shall apply.

7.03 Off Street Parking

All yard areas except the front yards required for residential uses may be used for parking purposes.

1. Church or Temple: One (1) space for each four (4) seats in the main auditorium.
2. Country Club or Golf Club: Two (2) spaces for each hole, plus one (1) space for each one hundred (100) square feet of clubhouse floor area.
3. Schools and Public Buildings: One (1) space for each classroom or office room plus one (1) for each ten (10) seats in the main auditorium, stadium, or place of public assembly.

ARTICLE 8

MH MOBILE HOME PARK RESIDENTIAL DISTRICT

8.01 Purpose

The Mobile Home Residential District recognizes that mobile homes, when properly planned, can provide important opportunities for affordable housing. It provides opportunities for mobile home development within the planning jurisdiction along with the supporting services necessary to create quality residential neighborhoods.

8.02 Site Development Regulations

The height and minimum lot requirements for the Mobile Home Park Residential District shall be as follows, except as provided in Article 17.

R-MH Mobile Home Park Residential District Requirements	**Mobile Home Park** (Note 1)
Site Area Per Dwelling Unit (square feet)	7,500
Minimum MH Park Area (Note 2 & 3)	5 acres
Minimum MH Park Width	200′
Minimum Yards of MH Park (Note 3)	
Front Yard (Note 4 & 5)	63′
Side Yard	25′
Rear Yard	25′
Minimum Separation between Units	16′
Maximum Height of Primary Structure	35′
Maximum Height of Accessory Structure	20′

- Note 1: Community water and community sewage disposal facilities shall be provided with connections to each lot, in accordance with these regulations. The water supply shall be sufficient for domestic use and for fire protection.

- Note 2: Not less than eight percent (8%) of the total court area shall be designated and used for park, playground, and recreational purposes.

- Note 3: The specified minimum lot size does not include right of way. For example, the portion of the land located between the front property line and the center of the road will be deducted from the total lot area.

- Note 4: All permitted mobile home parks must provide a minimum 10 foot landscape setback from the street right-of-way. Required landscaping must be sufficient in height to provide a site buffer.

- Note 5: Minimum required front, side, and rear yard setbacks for all uses or structures shall be no less than sixty-three (63) feet from the road centerline when such yards are contiguous to a public roadway. At road intersections, Vision Clearance Zone requirements of Section 17.11 shall apply.

R-MH Mobile Home Lot Requirements	Mobile Home Lot (Note 1)
Site Area Per Dwelling Unit (square feet)	7,500
Minimum Lot Width (Note 2)	70′
Minimum Yards	
Front Yard	25′
Side Yard (Note 3)	8′
Rear Yard	25′
Minimum Separation between Units (feet)	16′
Maximum Height of Primary Structure	35′
Maximum Height of Accessory Structure	20′
Minimum Livable Floor Area (square feet)	500

- Note 1: Each lot shall have access to a hard surfaced or gravel drive not less than twenty-two (22) feet in width excluding parking.

- Note 2: Each lot shall have a minimum width of not less than seventy (70) feet of an interior lot, eighty (80) feet of a corner lot, or forty-five (45) feet when facing cul-de-sac turnaround or curve on a minor loop street.

- Note 3: Side yards shall not be less than eight (8) feet on one side and not less than eight (8) feet on the other side, except that on corner lots, the setback for all buildings shall be a minimum of sixty three (63) feet on the side abutting a street/road.

8.03 Site Plan Required

A complete plan of the mobile home park 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 recreational areas.
5. The location and width of roadways 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 park.

8.04 Ownership and Maintenance of Common Areas

Mobile Home Residential Districts shall provide for ownership and maintenance of common open space. Common open space within a development shall be owned, administered, and maintained. At the time of application, the applicant shall provide an improvement plan including all amenities required in these regulations, a management plan including any and all maintenance services to be offered to residents, and a plan to maintain all common areas in the park.

ARTICLE 9

C-1 COMMERCIAL DISTRICT

9.01 Purpose

The C-1 district accommodates commercial and office facilities that serve the needs of the market. This district includes auto-oriented, primarily retail/service/office commercial, and moderate to high density residential uses. Uses typically include small-scale retail and personal services as well as community uses such as major grocery stores and office buildings. C-1 Districts are typically located along major commercial or mixed use corridors, lining both sides of the street. The district also permits other uses with similar urban impacts to substantial commercial development.

9.02 Site Development Regulations for C-1 Districts

The height and minimum lot requirements shall be as follows except as provided in Article 17.

C-1 Commercial District	Permitted Residential Uses	All Other Permitted Uses
Minimum Lot Area (Note 1)	5 ac.	1 ac.
Minimum Lot Width	100′	150′
Minimum Yards (feet)		
Front Yard (Note 2)	83′	83′
Side Yard	25′	10′
Street Side Yard, Corner Lot	25′	10′
Rear Yard (Note 3)	35′	25′
Maximum Height of Primary Structures	35′	60′
Maximum Height of Accessory Structures	None	20′
Maximum Lot Coverage	n/a	40%

- Note 1: The specified minimum lot size does not include right-of-way. For example, the portion of the land located between the front property line and the center of the road will be deducted from the total lot area

- Note 2: Minimum required front, side, and rear yard setbacks for all uses or structures shall be no less than eighty-three (83) feet from the road centerline when such yards are contiguous to a public roadway. At road intersections, Vision Clearance Zone requirements of Section 17.11 shall apply.

- Note 3: Where an alley of record exists, the rear yard setback may be measured from the centerline of said alley.

9.03 Off-Street Parking and Loading

Parking:

The following are the minimum off-street parking requirements.

1. Retail, Wholesale, and Financial Businesses: One (1) space for each three hundred (300) square feet floor area.
2. Automobile and Farm Implement Sales, Service, and Repair Establishments: One (1) space for each four hundred (400) square feet of floor area.
3. Bowling Alley: Three and one third (3.3) spaces for each lane or alley.
4. Dance Hall and Skating Rinks: One (1) space for each one hundred and fifty (150) square feet of floor area.
5. Motels, Hotels, and Tourist Camps: One (1) space for each unit or suite plus one (1) space for each three hundred (300) square feet of commercial floor area.
6. Professional Offices, Personal Service, and Repair Shops: One (1) space for each seven hundred fifty (750) square feet of floor area.
7. Restaurants, Night Clubs, Cafes: One (1) space for each 3 person capacity in service area.
8. Frozen Food Lockers, Dry Cleaning Establishments, Clubs, and Lodges: One (1) space for each four hundred (400) square feet of floor area. Access to parking areas from major streets shall not be closer than fifty (50′) feet to an intersecting right-of-way line.
9. Other Uses: Uses not listed shall provide parking on the basis of how the floor area of the premise is employed.

    a. Office or Administration: 1 space per 300 square feet
    b. Indoor Sales, Display, or Service Area: 1 space per 500 square feet
    c. Outdoor Sales, Display, or Service Area: 1 space per 2,000 square feet
    d. Equipment Servicing or Manufacturing: 1 space per 1,000 square feet
    e. Indoor or Outdoor Storage or Manufacturing; 1 space per 5,000 square feet

Loading:

1. Off-Street Loading: One (1) space for each ten thousand (10,000) square feet of floor area or fraction thereof.

ARTICLE 10

I INDUSTRIAL DISTRICT

10.01 Purpose

The I-1 District provides appropriate space for industrial uses with relatively limited environmental effects. The district is designed to provide appropriate space and regulations to encourage good quality industrial development, while assuring that facilities are served with adequate parking and loading facilities.

10.02 Site Development Regulations for I-1 Districts

The height and minimum lot requirements shall be as follows except as provided in Article 17.

I-1 Industrial District	Permitted Uses
Minimum Lot Area (Note 1)	1 ac.
Minimum Lot Width	150′
Minimum Yards	
Front Yard (Note 2)	83′
Side Yard	10′
Street Side Yard, Corner Lot	10′
Rear Yard	25′
Maximum Height of Primary Structure (Note 3)	60′
Maximum Height of Accessory Structure	25′
Maximum Lot Coverage	50%

- Note 1: The specified minimum lot size does not include right-of-way. For example, the portion of the land located between the front property line and the center of the road will be deducted from the total lot area.

- Note 2: Minimum required front, side, and rear yard setbacks for all uses or structures shall be no less than eighty-three (83) feet from the road centerline when such yards are contiguous to a public roadway. At road intersections, Vision Clearance Zone requirements of Section 17.11 shall apply.

- Note 3: Maximum height of 60′ for principal structures shall apply except when located within one hundred (100′) feet of a Rural Residential District. When located within one hundred (100′) feet of a Rural Residential District, no structure shall exceed thirty five (35′) feet in height.

10.03 Off-Street Parking and Loading

Parking:

1. Warehousing, Storage, and Manufacturing: One (1) space for each two (2) employees plus one (1) space for each vehicle used by the industry.

2. Other Uses: Uses not listed shall provide parking on the basis of how the floor area of the premise is employed.

    a. Office or Administration: 1 space per 300 square feet
    b. Indoor Sales, Display, or Service Area: 1 space per 500 square feet
    c. Outdoor Sales, Display, or Service Area: 1 space per 2,000 square feet
    d. Equipment Servicing or Manufacturing: 1 space per 1,000 square feet
    e. Indoor or Outdoor Storage or Manufacturing: 1 space per 5,000 square feet

Loading:

1. Off-Street Loading: One (1) space for each twenty thousand (20,000) square feet of floor area or fraction thereof.

ARTICLE 11
OVERLAY DISTRICTS

11.01 Purpose

Overlay Districts are used in combination with Base Districts to modify or expand base district regulations. The district adapts to the special needs of the areas of the county and further allows Cuming County's Zoning Regulations to evolve as the planning and development needs and trends of specific areas also change. The Overlay Districts are designed to achieve the following objectives:

1. to recognize special conditions in specific parts of the county which require specific regulations;

2. to provide for the protection of special features in the natural and built environment of the county;

3. to allow for change and adaptability to different needs and trends in land development;

4. to encourage comprehensive neighborhood and environmental planning in the county, and to protect the integrity of vital city/county services such as the water supply and airport operation;

5. to provide flexibility in development and to encourage innovative design through comprehensively planned projects; and

6. To protect the public health, safety, and welfare without infringing on private property rights

11.02 Establishment of Districts

The following Overlay Districts are hereby established.

OVERLAY DISTRICTS

FL	Floodway/Floodplain Overlay District
GA	Gateway Corridor Overlay District
BL	Bluff Development Overlay District
LA	Lake Development Overlay District

ARTICLE 12

FL FLOODPLAIN/FLOODWAY OVERLAY DISTRICT

12.01 Statutory Authorization. Findings of Fact and Purpose

1. 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, in Sections 31-1001 to 31-1022, R.R.S. 1943, has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the county, city, or village with zoning jurisdiction over the flood-prone area. Therefore, the Planning Commission/Board of Supervisors of Cuming County, Nebraska, hereby adopts Article 12 of these Zoning Regulations as the Flood Plain Management Regulations of Cuming County (hereinafter referred to as "Floodplain Regulations" or "Article 12").

2. Findings of Fact

   a. Flood Losses Resulting from Periodic Inundation: The flood hazard areas of Cuming County, Nebraska, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection, and relief and impairment of the tax base; all of which adversely affect the public health, safety, and general welfare.

   b. 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.

   c. Methods Used to Analyze Flood Hazards: These Floodplain Regulations use a reasonable method of analyzing flood hazards, which consists of a series of interrelated steps.

      i. 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 these floodplain regulations. It is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to these floodplain regulations. 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 4/1/96 as amended, and any future revisions thereto.

      ii. 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.

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

iv. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any water surface increase along the floodway profile.

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

3. Statement of Purpose

It is the purpose of these Floodplain Regulations to promote the public health, safety, and general welfare, and to minimize those losses described in Section 12.01(2)(a) by applying the provisions of these Floodplain Regulations to:

a. 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.

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

c. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.

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

12.02 General Provisions

1. Lands to Which these Floodplain Regulations Apply

These Floodplain Regulations shall apply to all real property within the jurisdiction of Cuming County outside of the jurisdiction of involved municipalities, identified on the Flood Insurance Rate Map (FIRM) dated 4/1/96 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 12.04 of these Floodplain Regulations. In all areas covered by these Floodplain Regulations no development shall be permitted except upon the issuance of a Floodplain Development Permit to develop, granted by Cuming County or its duly designated representative, under such safeguards and restrictions as Cuming County, 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 12.05, 12.06, and 12.07.

2. The Enforcement Officer

The Zoning Administrator of Cuming County is hereby designated as the community's duly designated Enforcement Officer under these Floodplain Regulations. Henceforth through Article 12, the title Enforcement Officer shall be synonymous with Zoning Administrator.

3. 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 Zoning Administrator shall make the necessary interpretation. In such cases where the interpretation is contested, the 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 Board of Adjustment and to submit his own technical evidence, if he so desires.

4. Compliance

Within identified special flood hazard areas of Cuming County, no development shall be located, extended, converted, or structurally altered without full compliance with the terms of these Floodplain Regulations and other applicable regulations.

5. Abrogation and Greater Restrictions

It is not intended by these Floodplain Regulations to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where Article 12 imposes greater restrictions, the provision of these regulations shall prevail. All other regulations inconsistent with these regulations are hereby repealed to the extent of the inconsistency only.

6. Interpretation

In their interpretation and application, the provisions of these regulations 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.

7. Warning and Disclaimer of Liability

The degree of flood protection required by these regulations 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. These regulations do 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. These regulations shall not create liability on the part of Cuming County, or any officer or employee thereof, for any flood damages that may result from reliance on these regulations or any administrative decision lawfully made thereunder.

8. Severability

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

9. Appeal

Where a request for a Floodplain Development Permit is denied by the Zoning Administrator, the applicant may apply for such permit or variance directly to the Board of Adjustment. Appeals of the decisions of the Zoning Administrator concerning a Floodplain Development Permit, or any other decision regarding the regulations set out in Article 12, can be appealed to the Board of Adjustment of Cuming County.

12.03 Development Permit

1. 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.

2. Administration

a. The Zoning Administrator is hereby appointed to administer and implement the provisions of these regulations.

b. Duties of the Zoning Administrator shall include, but not be limited to:

i. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of these regulations have been satisfied;

ii. 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;

iii. 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;

iv. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished;

v. 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;

vi. When flood proofing is utilized for a particular structure the applicant shall present the Zoning Administrator with certification from a registered professional engineer or architect;

3. Application for Floodplain Development Permit

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:

a. identify and describe the development to be covered by the floodplain development permit;

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

c. indicate the use or occupancy for which the proposed development is intended;

d. be accompanied by plans and specifications for proposed construction;

e. be signed by the applicant or his authorized agent who may be required to submit evidence to indicate such authority; and

f. give such other reasonable information as may be required by the Zoning Administrator.

12.04 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 (FE) as identified in the Flood Insurance Study and accompanying map(s). Within these districts, all uses not meeting the standards of these Floodplain Regulations, and those standards of the underlying zoning district, shall be prohibited.

12.05 Standards for Floodplain Development

1. No Floodplain Development Permit for development shall be granted for new construction, substantial improvements, or other development(s), including the placement of mobile homes within all numbered and unnumbered A zones (including AE, AO, and AH zones), unless the conditions of this Section, 12.05, are satisfied.

2. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the base flood; however, the water surface elevation was not provided. The unnumbered A zones shall be subject to all development provisions of Section 12.06. Cuming County shall utilize base flood elevation or floodway data currently available from the FIRM and the *Flood Plain Study, Elkhorn River*, 3/87, *Nebraska Natural Resources Commission.*

3. 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. Certification will be supplied by the Applicant from a registered professional engineer or surveyor.

4. New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of mobile homes and other developments shall require:

    a. Design or anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

    b. 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.

    c. 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.

    d. All utility and sanitary facilities be elevated or flood proofed up to the regulatory flood protection elevation.

5. Storage of Material and Equipment:

    a. The storage or processing of materials that at the time of flooding, are buoyant, flammable, explosive, or could be injurious to human, animal or plant life, is prohibited.

    b. 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.

6. Subdivision proposals and other proposed new development, including mobile home parks or subdivisions, are 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.

    d. Proposals for development (including proposals for mobile home parks and subdivisions) of five (5) acres or fifty (50) lots, whichever is less, include within such proposals, the base flood elevation.

12.06 Flood Fringe Overlay District

1. <u>Permitted Uses</u>

    Any use permitted in Section 12.07 shall be permitted in the Flood Fringe Overlay District. No use shall be permitted in the district unless the standards of Section 12.05 are met.

2. Standards for the Flood Fringe Overlay District

a. 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. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

b. 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 flood proofed 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 Zoning Administrator as set forth in Section 12.03(2)(b)(vi).

c. Require for all new construction and substantial improvements of 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 be certified by a registered professional engineer or architect, and meet or exceed the following minimum criteria:

i. 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.

ii. The bottom of all openings shall be not higher than one foot above grade.

iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

d. Within AH zones adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

e. Mobile Homes

i. All mobile homes shall be anchored to resist floatation, collapse, or lateral movement. Mobile 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:

1. over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, and mobile homes less than 50 feet long requiring one additional tie per side;

2. frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side;

3. all components of the anchoring system be capable of carrying a force of 4,800 pounds; and

4. any additions to the mobile home be similarly anchored.

ii. Require that all mobile homes to be placed on substantially improved within special flood hazard areas on the community's FIRM on sites be:

1. outside of a mobile home park or subdivision;

2. in a new mobile home park or subdivision;

3. in an expansion to an existing mobile home park or subdivision; or

4. in an existing mobile home park or subdivision on which a mobile home has incurred "substantial damage" as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the mobile 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 12.06(2)(e)(i).

iii. Require that mobile homes to be placed or substantially improved on sites in an existing mobile home park or subdivision within special flood hazard areas on the community's FIRM that are not subject to the provisions of Section 12.06(2)(e) be elevated so that either:

1. the lowest floor of the mobile home is at or above one (1) foot above the base flood elevation; or

2. the mobile home 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 adequately anchored foundation system in accordance with the provisions of Section 12.06(2)(e)(ii)(4).

f. Recreational vehicles placed on sites within the special flood hazard areas on the community's official map shall either;

1. be on the site for fewer than 180 consecutive days,

2. be fully licensed and ready for highway use,

3. meet the permit requirements and the elevation and anchoring requirements for mobile homes of these regulations. 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.

g. Located within the areas of special flood hazard established in Section 12.02 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:

i. 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).

ii. All new construction and substantial improvements of non-residential structures shall:

1. 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

2. together with attendant utility and sanitary facilities be completely flood proofed 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 12.03(2)(b)(vi).

iii. Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

12.07 Floodway District

1. <u>Permitted Use</u>

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 resolution. The following are recommended uses for the Floodway District:

a. Agricultural uses such as farming, pasture, nurseries, forestry.

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

c. Non-residential areas such as loading areas, parking, and airport landing strips.

d. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife, and nature preserves.

2. Standards for the Floodway Overlay District

   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 12.05 and 12.06. In Zone A unnumbered; obtain, review, and reasonably utilize, any flood elevation and floodway data available through Federal, State or other sources of Section 12.05(6)(d) of these regulations, in meeting the standards of this section.

12.08 Variance Procedures

1. The Board of Adjustment established by Cuming County shall hear and decide appeals and requests for variances from the requirements of Article 12.

2. The 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 Zoning Administrator in the enforcement or administration of Article 12.

3. Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the District Court as provided by Nebraska Law in Section 23-168, R.R.S. 1943.

4. In reviewing such applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of Article 12, and:

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

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

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

   d. the importance of the services provided by the proposed facility to the community;

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

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

   g. the compatibility of the proposed use with existing and anticipated development;

   h. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

   i. the safety of access to the property in times of flood for ordinary and emergency vehicles;

   j. 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,

k. 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.

5. Conditions for Variances:

a. 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 ("b" through "f" below) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

b. 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.

c. 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.

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

e. 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 regulations.

f. The applicant shall be given a written notice over the signature of a Zoning Administrator that:

i. 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 $l00.00 of insurance coverage; and

ii. 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 these regulations.

12.09 Non-conforming Use

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

    a. If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to the Zoning Regulations.

    b. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as non-conforming uses.

2. If any non-conforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred, except that, if it is reconstructed in conformity with the provisions of these Zoning Regulations. 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.

12.10 Penalties for Violation

Violation of the provisions of Article 12 or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances) shall constitute a misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof, be fined not more than $5,000.00, 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 Cuming County or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

12.11 Amendments

The regulations, restrictions, and boundaries set forth in these regulations may, from time to time, be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing, in relation thereto, at which parties of 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 Cuming County. 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. These Floodplain Regulations 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.

12.12 Definitions

In cases of confusion, definitions in the main body of the Zoning Regulations will determine meaning. Unless specifically defined below, words or phrases used in these Floodplain Regulations

shall be interpreted so as to give them the meaning they have in common use and to give these Floodplain Regulations it's most reasonable application:

1. *"Appeal"* means a request for a review of the Floodplain Administrator's interpretation of any provision of these floodplain regulations.

2. *"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.

3. *"Base Flood"* means the flood having a one per cent chance of being equaled or exceeded in magnitude in any given year.

4. *"Basement"* means any area of the building having its floor subgrade (below ground level) on all sides.

5. *"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.

6. *"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 FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures".

7. *"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 these Floodplain Regulations adopted by Cuming County.

8. *"Flood" or "Flooding"* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

    a. Water of any watercourse or drainage way which is above the bank or outside the channel and banks of such watercourse or drainage way.

    b. The overflow of inland or tidal waters.

    c. The usual and rapid accumulation of runoff of surface waters from any source.

9. *"Flood Fringe"* is that portion of the floodplain of the base flood which is 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).

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.

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.

    a. "Floodplain" means any land area susceptible to being inundated by water from any source (see definition of flooding).

12. *"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.

13. *"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.

14. *"Highest Adjacent Grade"* means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

15. *"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:

        i. By an approved state program as determined by the Secretary of the Interior; or

        ii. Directly by the Secretary of the Interior in states without approved programs.

16. *"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 these floodplain regulations.

17. *"Mobile 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 "mobile home" does not include a "recreational vehicle".

18. *"Mobile Home Park or Subdivision"* means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

19. *"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.

20. *"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.

21. *"Principally Above Ground"* means that at least 51 percent of the actual cash value of the structure is above ground.

22. *"Recreational Vehicle"* means a vehicle which is:

    a. Built on a single chassis;

    b. 400 square feet or less when measured at the largest horizontal projections;

    c. Designed to be self-propelled or permanently towable by a light duty truck; and

    d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

23. *"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.

24. *"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 zoning 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 pouting 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.

25. *"Structure"* means a walled and roofed building that is principally above ground, as well as a mobile home, and a gas or liquid storage tank that is principally above ground.

26. *"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.

27. *"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;

    a. 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

    b. any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

28. *"Variance"* is a grant of relief to a person from the requirements of these Floodplain Regulations, which permits construction in a manner otherwise prohibited by these Floodplain Regulations, where specific enforcement would result in unnecessary hardship.

29. *"Watercourse"* means any depression two feet or more below the surrounding land which serves to give direction to a current of water at least nine months of the year and which has a bed and well-defined banks.

ARTICLE 13

GA GATEWAY CORRIDOR OVERLAY DISTRICT

13.01 Intent

The GA Gateway Corridor Overlay District provides enhanced design standards for the highly traveled corridors and gateways into the incorporated areas of Cuming County. These locations are of special importance by virtue of their location, high visibility, and strategic importance to the overall development and image of the county.

These special design standards apply to commercial, office, and residential development within these corridors and will improve both the quality and function of projects developed in these areas. The need to enhance the gateway corridors in Cuming County, through the adoption of enhanced design standards, is identified in the County's Comprehensive Plan.

13.02 Design Guidelines for Office and Commercial Development in GA Gateway Corridor Overlay Districts

1. Site Design Guidelines

    a. Relationship to Landforms

        i. Buildings shall maintain a minimum buffer of 30 feet from the edge of any floodway, or from the edge of any wetlands, identified by the National Wetlands Inventory or a site specific inventory of wetlands.

        ii. Site design shall minimize cut-and-fill and, to the maximum degree possible, follow the natural topography of the site.

        iii. Developments shall preserve natural and scenic areas, streams and natural drainage ways, floodplains, prairies, and wetlands. Developments shall, to the maximum degree possible, preserve individual trees or stands of trees. Developments that remove trees shall replace the trees with a diverse selection of native species.

2. Signs

    a. Attached signs shall be designed as an integral part of the building elevation and integrated into the overall design of the building. Attached signs shall be located above the building entrance, storefront opening, or at other locations that are consistent with and emphasize the architectural features of a building.

    b. All new commercial or office development shall use monument or ground signs. The width of any vertical element over fifteen feet in height shall not exceed ten feet. Pole signs shall not be permitted for new commercial or office development covered by these guidelines.

13.03 Building Design Guidelines

Building Materials

1. Permitted exterior building materials shall be high quality, durable materials that include, but are not limited to, brick; native or manufactured stone (Renaissance stone or similar masonry materials); integrally colored, burnished, textured, or glazed concrete masonry units; pre-finished metal panel systems; quality metals such as copper; high quality pre-stressed concrete systems; and drainable (water managed) EIFS.

2. The following exterior materials are prohibited: split shakes, rough-sawn wood; painted concrete block; tilt-up concrete panels without an architectural finish; field-painted or pre-finished standard corrugated metal siding; standard single- or double-tee concrete systems; or barrier type EIFS.

    a. Materials on all sides of the building shall be consistent with materials and colors of the front façade when visible from public streets and trails and adjacent residential areas.

    b. These guidelines are not intended to inhibit creativity and innovation in building design. The County Planning and Zoning Administrator may permit the use of other materials if the applicant demonstrates that the use of such materials will result in a building that gives a sense of quality and permanence.

13.04 Landscaping

Setback from Street Right of Way

All permitted commercial uses must provide a minimum 10 foot landscape setback from the street right-of-way. Landscaping may consist of trees, shrubs, flowering perennials, ornamental tall grass, fountains, water features, decorative stonework, planters, sculpture, and decorative paving.

13.05 Parking Lot Landscaping

Landscape and Screening Requirements

Unless otherwise noted, each un-enclosed parking facility consisting of more than four parking spaces shall conform to the following standards:

1. Each un-enclosed parking facility shall provide a minimum landscaped buffer of ten feet along any street property line.

2. Each parking facility that abuts a residential district shall provide a ten-foot landscaped buffer along its common property line with the residential district.

3. Each un-enclosed parking facility of over 6,000 square feet within any street yard shall provide interior landscaped area equal to no less than 5 percent of the total paved area of the parking facility. Parking facilities within the I Districts shall be exempt from this requirement.

Landscaping or screening installed in any required landscaped area shall not obstruct the view from the off-street parking facility to any driveway approach, street, alley, or sidewalk. Landscaping shall not obstruct any views among parking spaces and circulation ways, or visibility between vehicles and pedestrians.

ARTICLE 14

BL BLUFFS DEVELOPMENT OVERLAY DISTRICT

14.01 Intent

The intent of the BL Bluffs Development Overlay District is to preserve the unique landscape and natural beauty while providing for rural density residential development, along with compatible supporting uses in areas. These developments include single family dwellings on moderate sized lots.

This district provides enhanced development regulations in order to ensure residential development complements the landscape and the unique context of the area and therefore promotes conservation development techniques. Conservation Development techniques require that the natural landforms determine the design and character of new residential development in environmentally sensitive areas.

14.02 Process

Cuming County Bluffs Development Overlay District generally follow the minimum lot size and bulk regulations of the underlying zoning districts, typically AG-1, AG-2 or RR. Because of the environmental sensitivity of the bluffs area and the desire to minimize development impacts, the Bluffs Development Overlay District provides flexibility in meeting minimum requirements. Minimum lot size requirements are reduced to allow clustering of dwellings and preservation of the resulting undeveloped open space. Proposed developments are required to meet the following requirements, in addition to other Cuming County development requirements.

14.03 Permitted Density Yield

When developed using traditional development techniques, residential development is permitted at a density not to exceed district requirements. For AG-1 Zoned land, the allowable density is one unit per ten (10) acres. For AG-2 zoned land, the permitted density is one unit per five (5) acres. When a development applies conservation development techniques, the permitted yield in dwelling units (Y) is calculated by the formula:

> Total dwelling units permitted + total parcel area/minimum lot size required by underlying district.

While the total parcel dwelling unit yield is based on the minimum lot size requirement of the underlying district, building lots are allowed to be clustered in the developable area on the parcel, subject to the following requirements. Minimum individual lot size is determined by the requirements for the applicable sanitary sewage system.

14.04 Minimum Percentage of Open Space

1. The minimum percentage of land that shall be designated as permanent open space, not to be further subdivided, and protected through a conservation easement held by Cuming County, a Homeowners Association, or a recognized land trust or conservancy, shall be a minimum of thirty-five percent (35%) of the Net Developable Area, defined as .90(TA-UA).

2. The above areas shall generally be designated as undivided open space, to facilitate easement monitoring and enforcement, and to promote appropriate management by a single entity according to approved land management standards.

3. The required open space may be used, without restriction, for underground drainage fields for individual or community septic systems, and for "spray fields" for spray irrigation purposes in a "land treatment" sewage disposal system. However, "mound" systems protruding above grade and aerated sewage treatment ponds shall be limited to no more than ten percent (10%) of the required minimum open space.

4. Storm water management ponds or basins may be included as part of the minimum required open space, as may land within the rights-of-way for underground pipelines. However, land within the rights-of-way of high tension power lines shall not be included as comprising part of the minimum required open space.

14.05 Conservation Areas as Open Space

1. The location of open space shall be consistent with the policies contained in Cuming County's Comprehensive Plan, and with the recommendations contained in this Section and the following section ("Evaluation Criteria").

2. Open space shall be comprised of two (2) types of land; "Primary Conservation Areas" and "Secondary Conservation Areas." All lands within both Primary and Secondary Conservation Areas shall be protected by a permanent conservation easement prohibiting future development, and setting other standards safeguarding the site's special resources from negative changes.

    a. <u>Primary Conservation Areas</u>

    This category consists of wetlands designated by the National Wetlands Survey, Water of the United States, slopes exceeding twenty-five percent (25%), floodways, and soils subject to slumping, as indicated on the medium intensity maps contained in the County Soil Survey published by the United States Department of Agriculture (USDA) Natural Resources Conservation Service.

    b. <u>Secondary Conservation Areas</u>

    Secondary Conservation Areas comprise at least thirty-five percent (35%) of the Net Developable Area and shall be designated and permanently protected. Full density credit shall be allowed for land in this category that would otherwise be buildable under local, state, and federal regulations, so that their development potential is not reduced by this designation. Such density credit may be applied to other unconstrained parts of the site. Secondary Conservation Areas are determined by specific project design and typically include all or some of the following kinds of resources:

        i. A one hundred feet (100') deep greenway buffer along all water bodies and watercourses, and a fifty feet (50') greenway buffer alongside wetlands soils classified as "very poorly drained" in the medium intensity County Soil Survey of the United States Department of Agriculture (USDA) Natural Resources

Conservation Service. These areas must be conserved as Secondary Conservation Areas but are considered as developable areas for the purpose of calculating yield.

ii. one hundred (100) year floodplains,

iii. woodlands, individual specimen trees, or small stands of trees with a caliper size of twelve inches (12") or greater,

iv. aquifer recharge areas and areas with highly permeable ("excessively drained") soil,

v. significant wildlife habitat areas,

vi. agriculture land,

vii. historic, archaeological, or cultural features listed (or eligible to be listed) on the National Register of Historic Places, or on inventories developed by the State of Nebraska,

viii. slopes in excess of fourteen percent (14%),

ix. ridgelines and view corridors,

x. land with soils that do not support residential development.

14.06 Location Standards for Open Space

1. Access to Residential Lots. Undivided open space shall be directly accessible to the largest practicable number of lots within a conservation subdivision. To achieve this, the majority of house lots should abut undivided open space in order to provide direct views and access. Safe and convenient pedestrian access to the open space from all lots not adjoining the open space shall be provided (except in the case of farmland, or other resource areas vulnerable to trampling damage or human disturbance). Where the undivided open space is designated as separate, noncontiguous parcels, no parcel shall consist of less than three (3) acres in area nor have a length-to width ratio in excess of four to one (4:1), except such areas that are specifically designed as village greens, ball fields, upland buffers to wetlands, water bodies or watercourses, or trail links.

2. Interconnection of Open Spaces. Protected open spaces in each new subdivision are encouraged to adjoin each other, ultimately forming an interconnected network of Primary and Secondary Conservation Areas across the County.

14.07 Special Process for Conservation Development.

1. The review and approval process for conservation developments is the same as that for conventional subdivisions, as required by Cuming County.

2. Existing Features Plan

Plans analyzing each site's special features are required for all proposed subdivisions. The Existing Features Plan shall include at a minimum:

a. A contour map based at least upon topographical maps published by the U.S. Geological Survey;

i. The location of severely constraining elements such as steep slopes over twenty-five percent (25%), wetlands, watercourses, intermittent streams and one hundred (100) year floodplains, and all rights-of-way and easements;

ii. Soil boundaries as shown on United States Department of Agriculture (USDA) Natural Resources Conservation Service medium intensity maps; and

iii. The location of significant features such as woodlands, tree lines, open fields or meadows, scenic views into, or out from property, watershed divides and drainage ways, fences or stone walls, rock outcrops, and existing structures, roads, tracks and trails.

b. The Existing Features Plan shall identify both Primary Conservation Areas and Secondary Conservation Areas, as described in Section 14.05(2) of these regulations. The Existing Features Plan shall form the basis for the Conceptual Preliminary Plan, which shall show the tentative location of houses, streets, lot lines, and greenway lands in new subdivisions, according to the four-step design process described in subparagraph b, below.

3. Conceptual Site Plan

A sketch plan or a Conceptual Preliminary Plan shall be submitted for all proposed subdivisions to the Zoning Administrator before submission of a formal preliminary plat application. A Conceptual Preliminary Plan presents a conceptual layout for greenway and open lands, house sites, and street alignments. Each Conceptual Preliminary Plan shall follow a four-step design process, as described below. Applicants shall be prepared to demonstrate to the Zoning Administrator that these four (4) design steps were followed in the preparation of the plan.

a. **Step One: Designating the Open Space.** During the first step, all potential conservation areas (both primary and secondary as defined above) are identified, using the Existing Features Plan.

b. **Step Two: Location of House Sites.** During the second step, potential house sites are located. Subdivision applicants shall identify tentative house sites on the Conceptual Preliminary Plan and proposed house sites on the detailed Final Plan. House sites should generally be located not closer than one hundred feet (100') from Primary Conservation Areas, but may be situated within fifty feet (50') of Secondary Conservation Areas, in order to enjoy views of the latter without negatively affecting the former.

c. **Step Three: Street and Lot Layout.** The third step consists of aligning proposed streets to provide vehicular access to each house in the most reasonable and economical way.

When lots and access streets are laid out, they shall be located in a way that avoids or at least minimizes adverse impacts on both the Primary and Secondary Conservation Areas. To the greatest extent practicable, wetland crossings and streets traversing existing slopes over fourteen percent (14%) shall be strongly discouraged. Street connections shall generally be encouraged to minimize the number of new cul-de-sacs to be maintained by the County and to facilitate easy access to and from homes in different parts of the property (and on adjoining parcels). Where cul-de-sacs are necessary, those serving six (6) or fewer homes may be designed with "hammerheads" facilitating three-point turns.

d. **Step Four: Lot Lines.** The fourth step is simply to draw in the lot line (where applicable). These are generally drawn midway between house locations and may include L-shaped "flag lots" meeting the County's minimum standards for the same.

e. **Review and Comments.** The Zoning Administrator and the County's Engineer shall return written comments on the Conceptual Preliminary Plan to the applicant within thirty (30) days of submittal. These comments should recommend changes to be made prior to submittal of a Preliminary Plat application.

14.08 Ownership and Maintenance of Common Open Space

1. Conservation Developments

Conservation developments shall provide for ownership and maintenance of common open space. Common open space within a development shall be owned, administered, and maintained by any of the following methods; either individually or in combination, and subject to approval by the County.

2. Offer of Dedication

Cuming County shall have the first and last offer of dedication of undivided open space in the event said land is to be conveyed. Dedication shall take the form of a fee simple ownership. The County or other public agency may, but shall not be required to, accept undivided open space provided:

a. such land is accessible to the residents of the County;

b. there is no cost of acquisition other than any costs incidental to the transfer of ownership such as title insurance; and

c. the County agrees to, and has access to, maintain such lands, and

d. alternatively, a public agency may accept an easement, subject to the above conditions.

3. Homeowners' Association

The undivided open space and associated facilities may be held in common ownership by a homeowners' association. The association shall be formed and operated under the following provisions:

a. The developer shall provide a description of the association, including its bylaws and methods for maintaining the open space.

b. The association shall be organized by the developer, and shall be operated with financial assistance from the developer, before the sale of any lots within the development.

c. Membership in the association is automatic (mandatory) for all purchasers of homes therein and their successors. The conditions and timing of transferring control of the association from developer to homeowners shall be identified.

d. The association shall be responsible for maintenance of insurance and taxes on undivided open space, enforceable by liens placed by the County on the association. The association may place liens on the homes or house lots of its members who fail to pay their association dues in a timely manner. Such liens may require the imposition of penalty interest charges.

e. The members of the association shall share equitably the costs of maintaining and developing such undivided open space. Shares shall be defined within the association bylaws.

f. In the event of a proposed transfer, within the methods here permitted, of undivided open space land by the homeowners' association, or of the assumption of maintenance of undivided open space land by a public agency, notice of such action shall be given to all property owners within the development.

g. The homeowners' association may lease open space lands to any other qualified person, or corporation, for operation and maintenance of open space lands.

4. Condominiums

The undivided open space and associated facilities may be controlled through the use of condominium agreements. Such agreements shall be in conformance with the state statute. All undivided open space land shall be held as a "common element."

5. Transfer of Easements to a Private Conservation Organization

An owner may transfer easements to a private, nonprofit organization, among whose purposes it is to conserve open space and /or natural resources, provided that:

a. the organization is acceptable to the County, and is a bona fide conservation organization with perpetual existence;

b. the conveyance contains appropriate provisions for proper reverting or re-transferring in the event that the organization becomes unwilling or unable to continue carrying out its functions; and

c. a maintenance agreement acceptable to the County is entered into by the developer and the organization.

14.09 Maintenance Standards

1. Financial Responsibility**:**

   The ultimate owner of the open space (typically a homeowners' association) shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space through annual dues, special assessments, or other methods.

2. Maintenance Enforcement;

   a. In the event that the association or any successor organization shall, at any time after establishment of a development containing undivided open space, fail to maintain the undivided open space in reasonable order and condition in accordance with the development plan, the County may serve written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the undivided open space in reasonable condition.

   b. Failure to adequately maintain the undivided open space in reasonable order and condition constitutes a violation of these regulations.

   c. Should any bill or bills for maintenance of undivided open space by the County be unpaid, a late fee of fifteen percent (15%) shall be added to such bills and a lien shall be filed against the premises in the same manner as other county claims.

14.10 Evaluation Criteria

1. In evaluating the layout of lots and open space, the following criteria will be considered by the Planning and Zoning Commission and Board of Supervisors as indicating design appropriate to the site's natural, historical, and cultural features, and meeting the purpose of these regulations:

   a. Protection of floodplains, wetlands, and steep slopes from clearing, grading, filling, or construction except as may be approved for essential infrastructure or active or passive recreation amenities.

   b. Preservation and maintenance of woodlands, existing fields, pastures, meadows, and orchards, and sufficient buffer areas to minimize conflicts between residential and agricultural uses.

   c. Maintenance of buffers adjacent to wetlands and surface waters, including creeks, streams, springs, lakes and ponds.

   d. Design around existing tree lines between fields or meadows, and minimal impacts on large woodlands (greater than five (5) acres), especially those containing many mature trees or a significant wildlife habitat.

   e. Maintenance of scenic views.

   f. Avoidance of new construction on prominent hilltops or ridges, by taking advantage of lower topographic features.

g. Protection of wildlife habitat areas of species listed as endangered, threatened, or of special concern by the U.S. Environmental Protection Agency.

h. Design around and preserve sites of historic, archaeological, or cultural value, including stone walls, barn foundations, cellar holes, earthworks, and burial grounds.

i. Protection of rural character and improvement of public safety and vehicular carrying capacity by avoiding development fronting directly onto existing public roads.

j. Landscaping of common areas, if appropriate.

k. Provision of active or passive recreational areas in suitable locations that offer convenient access by residents and adequate screening from nearby house lots.

l. Inclusion of a pedestrian circulation system providing access between properties, activities, or special features within the neighborhood's open space system. All roadside footpaths should connect with off-road trails.

m. Provision of open space that is reasonably contiguous, avoiding fragmented open spaces.

ARTICLE 15

LA LAKE DEVELOPMENT OVERLAY DISTRICT

15.01 Intent

The intent of the LA Lake Development Overlay District is to preserve the unique landscape and natural beauty, while providing for rural density residential development, along with compatible supporting uses in areas. These developments include single family dwellings on moderate sized lots.

This district provides enhanced development regulations in order to ensure residential development complements the landscape and the unique context of the area and therefore promotes conservation development techniques. Conservation Development techniques require that the natural landforms determine the design and character of new residential development in environmentally sensitive areas.

15.02 Process

Cuming County Lake Development Overlay District generally follow the minimum lot size and bulk regulations of the underlying zoning districts, typically AG-1, AG-2 or RR. Because of the environmental sensitivity of the lake area and the desire to minimize development impacts, the Lake Development Overlay District provides flexibility in meeting minimum requirements. Minimum lot size requirements are reduced to allow clustering of dwellings and preservation of the resulting undeveloped open space. Proposed developments are required to meet the following requirements, in addition to other Cuming County development requirements.

15.03 Permitted Density Yield

When developed using traditional development techniques, residential development is permitted at a density not to exceed district requirements. For AG-1 Zoned land, the allowable density is one unit per ten (10) acres. For AG-2 zoned land, the permitted density is one unit per five (5) acres. When a development applies conservation development techniques, the permitted yield in dwelling units (Y) is calculated by the formula:

> Total dwelling units permitted + total parcel area/minimum lot size required by underlying district

While the total parcel dwelling unit yield is based on the minimum lot size requirement of the underlying district, building lots are allowed to be clustered in the developable area of the parcel, subject to the following requirements. Minimum individual lot size is determined by the requirements for the applicable sanitary sewage system.

15.04 Minimum Percentage of Open Space

1. The minimum percentage of land that shall be designated as permanent open space, not to be further subdivided, and protected through a conservation easement held by Cuming County, a Homeowners' Association, or a recognized land trust or conservancy, shall be a minimum of thirty-five percent (35%) of the Net Developable Area, defined as .90(TA-UA).

2. The above areas shall generally be designated as undivided open space, to facilitate easement monitoring and enforcement, and to promote appropriate management by a single entity according to approved land management standards.

3. All undivided open space and any lot capable of further subdivision shall be restricted from further subdivision through a permanent conservation easement, in a form acceptable to the County and duly recorded in the Cuming County Register of Deeds Office.

4. The required open space may be used, without restriction, for underground drainage fields for individual or community septic systems, and for "spray fields" for spray irrigation purposes in a "land treatment" sewage disposal system. However, "mound" systems protruding above grade and aerated sewage treatment ponds shall be limited to no more than ten percent (10%) of the required minimum open space.

5. Storm water management ponds or basins may be included as part of the minimum required open space, as may land within the rights-of-way for underground pipelines. However, land within the rights-of-way of high tension power lines shall not be included as comprising part of the minimum required open space.

15.05 Conservation Areas as Open Space

1. The location of open space shall be consistent with the policies contained in Cuming County's Comprehensive Plan, and with the recommendations contained in this Section and the following section ("Evaluation Criteria").

2. Open space shall be comprised of two (2) types of land; "Primary Conservation Areas" and "Secondary Conservation Areas." All lands within both Primary and Secondary Conservation Areas shall be protected by a permanent conservation easement prohibiting future development, and setting other standards safeguarding the site's special resources from negative changes.

    a. Primary Conservation Areas: This category consists of wetlands designated by the National Wetlands Survey, Water of the United States, slopes exceeding twenty-five percent (25%), floodways, and soils subject to slumping, as indicated on the medium intensity maps contained in the County Soil Survey published by the United States Department of Agriculture (USDA) Natural Resources Conservation Service.

    b. Secondary Conservation Areas: Secondary Conservation Areas comprise at least thirty-five percent (35%) of the Net Developable Area and shall be designated and permanently protected. Full density credit shall be allowed for land in this category that would otherwise be buildable under local, state, and federal regulations, so that their development potential is not reduced by this designation. Such density credit may be applied to other unconstrained parts of the site. Secondary Conservation Areas are determined by specific project design and typically include all or some of the following kinds of resources:

        i. A one hundred feet (100') deep greenway buffer along all water bodies and watercourses, and a fifty feet (50') greenway buffer alongside wetlands soils classified as "very poorly drained" in the medium intensity County Soil Survey

of the United States Department of Agriculture (USDA) Natural Resources Conservation Service. These areas must be conserved as Secondary Conservation Areas but are considered as developable areas for the purpose of calculating yield.

ii. One hundred (100) year floodplains.

iii. Woodlands, individual specimen trees, or small stands of trees with a caliper size of twelve inches (12") or greater.

iv. Aquifer recharge areas and areas with highly permeable ("excessively drained") soil.

v. Significant wildlife habitat areas.

vi. Agriculture Land.

vii. Historic, archaeological or cultural features listed (or eligible to be listed) on the National Register of Historic Places, or on inventories developed by the State of Nebraska.

viii. Slopes in excess of fourteen percent (14%).

ix. Ridgelines and view corridors.

x. Land with soils that do not support residential development.

15.06 Location Standards for Open Space

1. Access to Residential Lots. Undivided open space shall be directly accessible to the largest practicable number of lots within a conservation subdivision. To achieve this, the majority of house lots should abut undivided open space in order to provide direct views and access. Safe and convenient pedestrian access to the open space from all lots not adjoining the open space shall be provided (except in the case of farmland, or other resource areas vulnerable to trampling damage or human disturbance). Where the undivided open space is designated as separate, noncontiguous parcels, no parcel shall consist of less than three (3) acres in area nor have a length-to width ratio in excess of four to one (4:1), except such areas that are specifically designed as village greens, ball fields, upland buffers to wetlands, water bodies or watercourses, or trail links.

2. Interconnection of Open Spaces. Protected open spaces in each new subdivision are encouraged to adjoin each other, ultimately forming an interconnected network of Primary and Secondary Conservation Areas across the County.

15.07 Special Process for Conservation Development.

1. The review and approval process for conservation developments is the same as that for conventional subdivisions, as required by Cuming County.

2. Existing Features Plan: Plans analyzing each site's special features are required for all proposed subdivisions. The Existing Features Plan shall include at a minimum:

    a. A contour map based at least upon topographical maps published by the U.S. Geological Survey;

        i. The location of severely constraining elements such as steep slopes over twenty-five percent (25%),wetlands, watercourses, intermittent streams and one hundred (100) year floodplains, and all rights-of-way and easements;

        ii. Soil boundaries as shown on United States Department of Agriculture (USDA) Natural Resources Conservation Service medium intensity maps; and

        iii. The location of significant features such as woodlands, tree lines, open fields or meadows, scenic views into or out from property, watershed divides and drainage ways, fences or stone walls, rock outcrops, and existing structures, roads, tracks and trails.

    b. The Existing Features Plan shall identify both Primary Conservation Areas and Secondary Conservation Areas, as described in Section 15.05(2) of these regulations. The Existing Features Plan shall form the basis for the Conceptual Preliminary Plan, which shall show the tentative location of houses, streets, lot lines, and greenway lands in new subdivisions, according to the four-step design process described in subparagraph b, below.

3. Conceptual Site Plan: A sketch plan or a Conceptual Preliminary Plan shall be submitted for all proposed subdivisions to the Zoning Administrator before submission of a formal preliminary plat application. A Conceptual Preliminary Plan presents a conceptual layout for greenway and open lands, house sites, and street alignments. Each Conceptual Preliminary Plan shall follow a four-step design process, as described below. Applicants shall be prepared to demonstrate to the Zoning Administrator that these four (4) design steps were followed in the preparation of the plan.

    a. **Step One: Designating the Open Space.** During the first step, all potential conservation areas (both primary and secondary as defined above) are identified, using the Existing Features Plan.

    b. **Step Two: Location of House Sites.** During the second step, potential house sites are located. Subdivision applicants shall identify tentative house sites on the Conceptual Preliminary Plan and proposed house sites on the detailed Final Plan. House sites should generally be located not closer than one hundred feet (100') from Primary Conservation Areas, but may be situated within fifty feet (50') of Secondary Conservation Areas, in order to enjoy views of the latter without negatively affecting the former.

    c. **Step Three: Street and Lot Layout.** The third step consists of aligning proposed streets to provide vehicular access to each house in the most reasonable and economical way. When lots and access streets are laid out, they shall be located in a way that avoids or at least minimizes adverse impacts on both the Primary and Secondary Conservation Areas. To the greatest extent practicable, wetland crossings and streets traversing existing slopes

over fourteen percent (14%) shall be strongly discouraged. Street connections shall generally be encouraged to minimize the number of new cul-de-sacs to be maintained by the County and to facilitate easy access to and from homes in different parts of the property (and on adjoining parcels). Where cul de-sacs are necessary, those serving six (6) or fewer homes may be designed with "hammerheads" facilitating three-point turns.

d. **Step Four: Lot Lines.** The fourth step is simply to draw in the lot line (where applicable). These are generally drawn midway between house locations and may include L-shaped "flag lots" meeting the County's minimum standards for the same.

e. **Review and Comments.** The Zoning Administrator and the County's Engineer shall return written comments on the Conceptual Preliminary Plan to the applicant within thirty (30) days of submittal. These comments should recommend changes to be made prior to submittal of a Preliminary Plat application.

15.08 Ownership and Maintenance of Common Open Space

1. Conservation Developments

Conservation developments shall provide for ownership and maintenance of common open space. Common open space within a development shall be owned, administered, and maintained by any of the following methods, either individually or in combination, and subject to approval by the County.

2. Offer of Dedication

Cuming County shall have the first and last offer of dedication of undivided open space in the event said land is to be conveyed. Dedication shall take the form of a fee simple ownership. The County or other public agency may, but shall not be required to accept undivided open space provided:

a. Such land is accessible to the residents of the County;

b. There is no cost of acquisition other than any costs incidental to the transfer of ownership such as title insurance; and

c. The County agrees to and has access to maintain such lands.

d. Alternatively, a public agency may accept an easement, subject to the above conditions.

3. Homeowners Association

The undivided open space and associated facilities may be held in common ownership by a homeowners' association. The association shall be formed and operated under the following provisions:

a. The developer shall provide a description of the association, including its bylaws and methods for maintaining the open space.

b. The association shall be organized by the developer and shall be operated with financial assistance from the developer, before the sale of any lots within the development.

c. Membership in the association is automatic (mandatory) for all purchasers of homes therein and their successors. The conditions and timing of transferring control of the association from developer to homeowners shall be identified.

d. The association shall be responsible for maintenance of insurance and taxes on undivided open space, enforceable by liens placed by the County on the association. The association may place liens on the homes or house lots of its members who fail to pay their association dues in a timely manner. Such liens may require the imposition of penalty interest charges.

e. The members of the association shall share equitably the costs of maintaining and developing such undivided open space. Shares shall be defined within the association bylaws.

f. In the event of a proposed transfer, within the methods here permitted, of undivided open space land by the homeowners' association, or of the assumption of maintenance of undivided open space land by a public agency, notice of such action shall be given to all property owners within the development.

g. The homeowners' association may lease open space lands to any other qualified person, or corporation, for operation and maintenance of open space lands.

4. Condominiums

The undivided open space and associated facilities may be controlled through the use of condominium agreements. Such agreements shall be in conformance with the state statute. All undivided open space land shall be held as a "common element."

5. Transfer of Easements to a Private Conservation Organization

An owner may transfer easements to a private, nonprofit organization, among whose purposes it is to conserve open space and /or natural resources, provided that:

a. The organization is acceptable to the County, and is a bona fide conservation organization with perpetual existence;

b. The conveyance contains appropriate provisions for proper reverting or re-transferring in the event that the organization becomes unwilling or unable to continue carrying out its functions; and

c. A maintenance agreement acceptable to the County is entered into by the developer and the organization.

15.09 Maintenance Standards

1. Financial Responsibility

   The ultimate owner of the open space (typically a homeowners' association) shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space through annual dues, special assessments, or other methods.

2. Maintenance Enforcement

   a. In the event that the association or any successor organization shall, at any time after establishment of a development containing undivided open space, fail to maintain the undivided open space in reasonable order and condition in accordance with the development plan, the County may serve written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the undivided open space in reasonable condition.

   b. Failure to adequately maintain the undivided open space in reasonable order and condition constitutes a violation of these regulations.

   c. Should any bill or bills for maintenance of undivided open space by the County be unpaid, a late fee of fifteen percent (15%) shall be added to such bills and a lien shall be filed against the premises in the same manner as other municipal claims.

15.10 Evaluation Criteria.

1. In evaluating the layout of lots and open space, the following criteria will be considered by the Planning and Zoning Commission and Board of Supervisors as indicating design appropriate to the site's natural, historic, and cultural features, and meeting the purpose of these regulations:

   a. Protection of floodplains, wetlands, and steep slopes from clearing, grading, filling, or construction except as may be approved for essential infrastructure or active or passive recreation amenities.

   b. Preservation and maintenance of woodlands, existing fields, pastures, meadows, and orchards, and sufficient buffer areas to minimize conflicts between residential and agricultural uses.

   c. Maintenance of buffers adjacent to wetlands and surface waters, including creeks, streams, springs, lakes and ponds.

   d. Design around existing tree lines between fields or meadows, and minimal impacts on large woodlands (greater than five (5) acres), especially those containing many mature trees or a significant wildlife habitat.

   e. Maintenance of scenic views.

   f. Avoidance of new construction on prominent hilltops or ridges, by taking advantage of lower topographic features.

g. Protection of wildlife habitat areas of species listed as endangered, threatened, or of special concern by the U.S. Environmental Protection Agency.

h. Design around and preserves sites of historic, archaeological, or cultural value, including stone walls, barn foundations, cellar holes, earthworks, and burial grounds.

i. Protection of rural character and improvement of public safety and vehicular carrying capacity by avoiding development fronting directly onto existing public roads.

j. Landscaping of common areas if appropriate.

k. Provision of active or passive recreational areas in suitable locations that offer convenient access by residents and adequate screening from nearby house lots.

l. Inclusion of a pedestrian circulation system providing access between properties, activities, or special features within the neighborhood's open space system. All roadside footpaths should connect with off-road trails.

m. Provision of open space that is reasonably contiguous, avoiding fragmented open spaces.

ARTICLE 16

AV AVIATION OVERLAY DISTRICT

16.01 Scribner Airport, Scribner, Nebraska

1. For areas described and impacted by the Scribner Airport and applicable regulations current and future, all regulations described therein shall apply.

16.02 Karl Stefan Memorial Field, Norfolk, Nebraska

1. For areas described and impacted by the Karl Stefan Memorial Field and applicable regulations current and future, all regulations described therein shall apply.

16.03 Pender Airport, Pender, Nebraska

1. For areas described and impacted by the Pender Airport and applicable regulations current and future, all regulations described therein shall apply.

ARTICLE 17

SUPPLEMENTAL REGULATIONS

17.01 Purpose

Supplemental Use Regulations set forth-additional standards for certain uses located within the various zoning districts. These regulations recognize that certain use types have characteristics that require additional controls in order to protect public health, safety, and welfare. These regulations complement the use regulations contained in Articles 5 through 16 of the Zoning Regulations.

Supplemental Site Development Regulations establish basic requirements for developable lots, including frontage requirements. They recognize the existence of special conditions that cannot comply literally with the site development regulations set out for each zoning district. Therefore, these regulations qualify or modify the district regulations of the Zoning Regulations and provide for specific areas of exception.

This article includes both Supplemental Use and Development Regulations applicable to permitted uses and development sites in Cuming County.

17.02 Supplemental Regulations: Agricultural Uses

1. Animal Production: Separation from Residential Uses

    a. Livestock Feeding Operations (LFO) shall mean the feeding, farrowing or raising of cattle, swine, sheep, poultry, or other livestock, in a confined area where grazing is not possible, and where the confined area is for more than six (6) months in any one calendar year, and where the number of animals so maintained exceeds three hundred (300) 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.

    b. LFOs shall construct and operate such facilities 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 share a property line or share a common Livestock Waste Control Facility.

    c. Animal units (AU) are defined as follows:

        i. One (1) A.U. = One (1) Slaughter, Feeder Cattle;
        ii. One (1) A.U. = One Half (.5) Horses;
        iii. One (1) A.U. = Seven Tenths (.7) Mature Dairy Cattle;
        iv. One (1) A.U. = Two and One Half (2.5) Swine (55 pounds or more);
        v. One (1) A.U. = Twenty-five (25) Weaned Pigs (less than 55 pounds)
        vi. One (1) A.U. = Ten (10) Sheep;
        vii. One (1) A.U. = One hundred (100) Chickens;
        viii. One (1) A.U.= Fifty (50) Turkeys;
        ix. One (1) AU. = Fifty (50) Ducks.

d. LFOs are subject to the license requirements, waste disposal requirements and recommendations of the State of Nebraska and the Land Use Specifications in the Cuming County Comprehensive Plan.

e. LFOs will be classified in one of nine levels according to total number of animal units (A.U.) in the operation at any one time as identified in the LFO Scale and Separation Table below. LFOs which have more than one type feeding operation, at one location, shall be categorized according to the operation which constitutes the majority of the total operation.

i. Livestock Operations of 300 A.U.s and under are considered a farm as defined in these regulations and do not require a Livestock Feeding Operation Permit.

ii. **All LFOs operating under a current and valid Department of Environmental Quality (DEQ)** permit as of the Date of Adoption of these regulations, September 30, 2015, shall be permitted to expand to the maximum number of A.U. listed on their DEQ permit or to the maximum number of A.U. of the level of Table 1, that the LFO was in on September 30, 2015, without seeking additional administrative approval.

LFO Scale and Separation Table 1		
Level	Animal Units	Separation Distance (feet)
1	300 and fewer	None
2	301-1,000	1,320
3	1,001-5,000	1,980
4	5,001-10,000	2,640
5	10,001-25,000	3,960
6	+25,000	5,280
Note: Table 1 is taken from the prior Zoning Regulations of Cuming County adopted in 2000. With the adoption of these Zoning Regulations, it is the intent to give existing LFOs the benefit of Table 1 but at the same time implement Table 2 for new and expanding LFOs.		

iii. **All new LFOs and all existing LFOs which desire to expand** above the levels set out in 17.02(1)(e)(ii) shall require administrative approval through a Zoning Permit by the Zoning Administrator and shall be located no less than a distance

from a dwelling unit (which is not located on the owner of the LFO's real estate) in any affected Zoning District as hereafter described:

LFO Scale and Separation Table2		
Level	Animal Units	Separation Distance (feet)
1	300 and fewer	None
2	301-1,000	1,320
3	1,001-2,500	1,650
4	2,501-5,000	1,980
5	5,001-7,500	2,310
6	7,501-10,000	2,640
7	10,001-17,500	3,300
8	17,501-25,000	3,960
9	More than 25,000	5,280

F. Newly constructed dwelling units shall be located no less than 3,960 feet from an LFO with fewer than 5,001 A.U. and 5,280 feet from an LFO with than 5,001 A.U. or more.

G. Separation distances shall be measured from the nearest edge of the LFO as shown on the LFO's DEQ Site Plan, if applicable to the LFO at issue, to the nearest eve of a dwelling unit. If the LFO doesn't have, or isn't required to have a site plan, separation distance shall be measured from the nearest edge of the LFO or proposed LFO. For the purpose of measurement, LFO facilities shall include, but not be limited to, the following: livestock containment structure; livestock pen; building; or livestock waste control facility.

H. The distance requirements for levels (1) through (9) of Table 2 may be decreased or waived by a waiver signed by all of the record title owners of the real estate where the dwelling unit is located within the distances specified. The record title owners of the real estate shall sign a waiver on a form provided by the Zoning Administrator which form shall be acknowledged before a Notary Public and filed in the office of the Cuming County Register of Deeds. The wavier, when filed, shall be evidence of the property owner's consent to the decrease and/or waiver of the required spacing distances as described in Article 17.

I. LFOs with at least 301 and up to 1,000 A.U. shall locate 2,640 feet from any Lake Development Overlay District, or Bluff Development Overlay District. LFOs having more than 1,001 A.U. shall locate at least one (1) mile from any Lake or Bluff Overlay District. No waivers to the requirements of this paragraph are allowed for the siting of new LFOs.

17.03 Supplemental Regulations: Residential Uses

1. Design standards for all Single-Family detached dwellings

   All single-family detached dwellings for which a zoning permit has been issued after the date of adoption of these regulations, shall comply with the following minimum design standards as required herein by the Cuming County Zoning Regulations and by Neb. Rev. Stat. Sect. 23-114(3)a:

   a. Any dwelling unit shall have no less than nine hundred (900) square feet of floor area.

   b. Any dwelling unit shall have no less than eighteen (18) feet exterior width.

   c. Any dwelling unit shall have a roof pitch with a minimum vertical rise of two and one half inches for each twelve inches of horizontal run.

   d. The dwelling unit shall have wheels, axles, transporting lights, and removable towing apparatus removed if present.

   e. The dwelling unit shall be placed upon a permanent foundation, compatible with HUD model foundation requirements, and approved by Cuming County.

   f. All utility services shall be directly connected to the structure.

2. Separation from Livestock Feeding Operations (LFOs)

   a. New residential uses shall comply with the separation requirements from an existing LFO as set forth in the table below, except for the residence of the owner or operator of the LFO, employee, or working tenant on the same property as the LFO:

      i. The distance requirements from Table 3 may be decreased or waived by a waiver signed by all of the record title owners of the real estate where the LFO is located within the distances specified. The record title owners of the real estate shall sign a waiver on a form provided by the Zoning Administrator which consent form shall be acknowledged before a Notary Public and filed in the office of the Cuming County Register of Deeds. The wavier, when filed, shall be evidence of the property owner's consent to the decrease and/or waiver of the required spacing distances as described in Article 17.

LFO Scale and Separation Table 3	
Animal Units	Separation Distance (feet)
0 – 5,000	3,960
More than 5,000	5,280

   b. The Lake Development Overlay and Bluff Area Overlay Districts are areas reserved for future residential development. These areas shall be exempt from the above separation provision from existing LFOs.

3. Cabin

A structure used as a recreational dwelling and inhabited occasionally throughout a twelve month period but does not meet all criteria listed in the definition of a single-family detached dwelling required by Neb. Rev. Stat. Sect. 23-114(3)(a). A manufactured home which does not meet all of the design standards in Section 23-114(3) (a) is not included in the definition of a cabin.

17.04 Supplemental Regulations: Civic Uses

1. Day Care Centers (General)

   a. Each day care center (general) must be validly licensed by the State of Nebraska.

   b. Conditional Use Permit applications for each day care center (general) shall specify the number and projected ages of children to be cared for at the facility, and the number of projected full- and part-time staff.

2. Group Care Facilities and Group Homes

   a. Each group care facility or group home must be validly licensed by either the State of Nebraska or the appropriate governmental agency.

17.05 Supplemental Regulations: Commercial Uses

1. Bed and Breakfasts

   a. When permitted in residential district or agricultural district, bed and breakfasts shall include a maximum of four guest units and the residence of the facility owner.

   b. Bed and Breakfasts shall provide one parking space per rentable bedroom. Tandem parking is allowed, however, not more than two (2) cars per tandem space shall be allowed.

   c. Signage shall be limited to necessary and reasonable for identifying the establishment and in keeping with the residential character of the district.

   d. Additional uses of the premises, such as “tearoom”, “coffee house”, or “conference center” require application for Conditional Use Permit in any zone and must comply with all other applicable requirements of the Cuming County Code and secure all applicable permits.

2. Campgrounds

   a. Minimum Size: Each campground established after the effective date of this title shall have a minimum size of more than ten acres.

   b. Setbacks: All campgrounds shall maintain a 50-foot front yard setback and a 25-foot buffer yard from all other property lines.

c. Each campground must maintain water supply, sewage disposal, and water and toilet facilities in compliance with all County regulations; or, alternately, be limited to use by self-contained campers, providing their own on-board water and disposal systems.

3. Kennels

a. Commercial Kennels and facilities for raising, breeding and boarding of dogs and other small animals, including exotic, non-farm and non-domestic animals, provided that all buildings and facilities be at least one hundred (100) feet from the property line and three hundred (300) feet from any neighboring residence.

i. The minimum lot size shall be one acre.

4. Adult Entertainment Facilities: The intent of the Cuming County Zoning Resolution is not to prohibit these uses but to regulate the secondary effects of these uses within the community.

a. Adult Entertainment establishments.

i. No adult business shall be closer than 1,000 feet to any similar use and no closer than 1,000 feet to a residential district/use, religious uses, 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.

ii. Said businesses shall be screened along adjoining property lines as to prevent any direct visual contact of the adult business at the perimeter.

iii. 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 **Permit**.

iv. No adult business shall be open for business between the hours of 12 midnight and six (6) a.m.

v. 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.

vi. Such use shall not impair an adequate supply of light and air to surrounding property,

vii. Such use shall not unduly increase congestion in the streets or public danger of fire and safety,

viii. Such use shall not diminish or impair established property values in adjoining or surrounding property,

ix. Such use shall be in accord with the intent, purpose and spirit of this Resolution and the Comprehensive Plan of Cuming County.

x. Applications for adult businesses under the terms of this Section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan defining the areas to be developed for buildings and structure, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls, the location and type of landscaping, the location, size and number of signs and the manner of providing water supply and sewage treatment facilities.

xi. An adult business shall post a sign at the entrance of the premises which shall state the nature of the business and shall state that no one under the age of 18 of age is allowed on the premises. This Section shall not be construed to prohibit the owner from establishing an older age limitation for coming on the premises.

xii. Prohibited Activities of Adult Businesses: (1) No adult business shall employ any person under 18 years of age (2) No adult business shall furnish any merchandise or services to any person who is under 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 Resolution or any other laws of the State.

xiii. 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.

17.06 Supplemental Regulations: Industrial Uses

1. <u>Biologic Digesters</u>

   b. A Biologic Digester must be located no less than 2,640' from a non-farm dwelling and must meet all local, State, and Federal regulations.

2. <u>Resource Extraction</u>

   a. Development of natural resources and the extraction of raw materials such as rock, gravel, sand, etc., including gas and oil extraction and exploration, where permitted, is subject to the following additional requirements:

      i. Erosion Control: A resource extraction use may not increase the amount of storm run-off onto adjacent properties as determined by review of the Zoning

Administrator. Erosion control facilities, including retention and sediment basins, are required of each facility, if necessary, to meet this standard.

ii. Storage of Topsoil: Topsoil shall be collected and stored for redistribution following the end of the operation.

iii. Elimination of Hazards: Excavation shall not result in a hazard to any person or property. The following measures are required:

iv. Installation of perimeter safety screening and/or fencing.

v. Installation of visual screening adjacent to any property within a residential district.

vi. Restoration of Landscape: The topography and soil of the resource extraction site shall be restored and stabilized within nine months of completion of the operation. The site shall be seeded, planted, and contoured in a way that prevents erosion. Alternately, the site may be used as a lake or body of water, subject to approval by the Board of Supervisors with the recommendation of the Planning Commission and the Department of Natural Resources.

3. Salvage Services and Long-term Vehicle Storage and Dismantling

a. Vehicle wrecking yards, junkyards, salvage yards, and scrap processing yards subject to the following:.

i. The operation shall be located on a tract of land at least six hundred and sixty (660) feet from a residential district zone.

ii. The operation shall be conducted wholly within a non-combustible building or within an area completely surrounded on all sides by a solid fence or wall, of uniform height, insure maximum safety to the public, obscure the junk from normal view of the public, and preserve the general welfare of the neighborhood. The fence or wall shall be installed in such a manner as to retain all scrap, junk, or other material within the yard.

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

iv. Burning of paper, trash, junk, or waste materials shall be permitted only after approval of the Fire Department. The burning, when permitted, shall be done only during daylight hours.

v. No junk, salvage, scrap, or other materials shall be piled or stacked higher than the top of the required fence or wall.

vi. This use shall not be located on or visible from an arterial or major street or highway.

17.07 Telecommunications Towers

In any district where radio, television, microwave, cellular, or other communication towers are allowed as a permitted or Conditional Use Permit, such towers are subject to the following additional requirements.

1. Tower Siting

   a. The applicant for a communications tower location is required to demonstrate as part of its application, that the tower must be located on the proposed site in order to satisfy its function in the company's system. The applicant must also demonstrate that the proposed height is the minimum height necessary for the successful functioning of the tower.

2. Tower Setbacks, Design, and Height

   a. Free-standing towers shall be located so that the distance from the base of the tower to any adjoining property line, or the supporting structure of a separate neighboring tower, is a minimum of 100 % of the tower height. The Planning Commission may recommend, and the Board of Supervisors approve, a reduction to the setback with a Conditional Use Permit if they determine that such reduction does not constitute a hazard to safety or property on adjacent properties or rights-of-way.

   b. As part of the Conditional Use Permit approval process, the Board of Adjustment may permit the tower to exceed the height restrictions otherwise allowable in the district.

   c. Lights, Signals and Signs: No signals, lights or signs shall be permitted on towers unless required by the FCC or the FAA. Should lighting be required, at the time of construction of the tower in cases where there are residential users located within a distance which is 300% of the height of the tower from the tower, then dual mode lighting shall be requested from the FAA. Lighting on towers shall not exceed the minimum requirements of the FAA or other regulatory agencies.

   d. Adequate security measures are required at the base of the tower to prevent vandalism or hazards resulting from casual access to the facility.

3. County Site Selection Criteria in Evaluating Applications for Communications Towers

   a. Consistent with the policy of the Zoning Regulations, the telecommunications company proposing to construct an antenna support structure, or mount an antenna on an existing structure, shall demonstrate, using technological evidence, that the antenna must go where it is proposed in order to satisfy its function in the company's grid system. Further, the company must demonstrate by technological evidence that the height requested is the minimum height necessary.

   b. Applications for necessary permits will only be processed when the applicant demonstrates that it is either an FCC licensed telecommunications provider or has in place necessary agreements with an FCC licensed telecommunications provider for use or lease of the support structure.

c. Personal wireless service facilities should be located and designed to minimize any impacts on residential property values. Sites should be placed in locations where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening.

d. Location and design of sites in all Districts should consider the impact of the site on the surrounding neighborhood and the visual impact within the zone district. In residential districts and residential land use areas, the minimum lot size for towers shall be three acres.

4. Priorities for Siting

The following establishes the order of priorities for locating new communications facilities:

a. Public property, (excluding prairie, conservation or wildlife areas, or historic structures).

b. Appropriate existing structures, such as buildings, towers, water towers, and smokestacks in other zoned districts.

c. AG-1, AG-2, C1, or I districts that do not adjoin or adversely impact residential neighborhoods.

d. Residential districts only if locations for which a need has been demonstrated are not available on existing structures or in non-residential districts; and only on or in existing churches, parks, schools, utility facilities or other appropriate public facilities.

e. An applicant for a new antenna support structure to be located in a residential zoning district shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a government structure, a private institutional structure, or other appropriate existing structures within a non-residential zoning district, and that due to valid considerations including physical constraints, or technological feasibility, no appropriate location is available.

17.08 Supplemental Regulations: Miscellaneous Uses

1. Landfills

a. Sanitary landfill siting or expansion conducted in a manner and method approved by the County Board of Supervisors, provided said landfill is not closer than one thousand (1,000) feet to a municipal well and/or one (1) mile to any village or city limits or any subdivision, addition, or residence platted as of the effective date of this resolution.

b. Compliance with Codes: Each landfill must comply with all relevant County, State, or Federal Codes and Statutes.

c. Prevention of Hazards: No facility shall present a hazard to surrounding residents or properties.

d. Drainage and Water Supply: No landfill may modify or prevent the flow of major natural drainage ways within the jurisdiction of Cuming County. Landfills shall not produce a measurable increase in pollution in any public water-based recreational facility or in any waterway or well that is a part of a public or private water supply.

e. Minimum Separation from Residential Uses: No non-putrescible landfill may be established within 300 feet of a developed residential or public use. No landfill involving the disposal of putrescible or septic wastes shall be established within one-fourth mile of any residential, public, or commercial zoning district; or any State or Federal Highway.

f. Restoration of Site: The site of any landfill must be restored, stabilized, planted, and seeded within six months after the end of the operation. Dissipation of waste products must be accomplished in a manner approved by the State of Nebraska's Department of Natural Resources.

g. Toxic Waste: The disposal of hazardous, toxic, or radioactive wastes as defined by the Federal Environmental Protection Agency shall be prohibited within Cuming County.

2. <u>Wind Energy Conservation Systems (WECS)</u>

a. Small Wind Energy Systems:

i. 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.

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

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

2. Tower Height shall mean the height above grade of the hub portion of the tower, excluding the wind turbine itself.

iii. Requirements: Small wind energy systems may be permitted as a conditional use with AG-1, AG-2, RR, R-MH, and C; and a permitted use in I. Certain requirements as set forth below shall be met:

1. Tower Height

a. For all property sizes the tower height shall be limited to 80 feet.

2. Setbacks

a. No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site.

3. Noise

a. Small wind energy systems shall not exceed 50 dBA, as measured at the closest neighboring inhabited dwelling unit.

b. The noise level may be exceeded during short term events such as utility outages and/or severe wind storms.

4. Approved Wind Turbines

a. Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.

5. Compliance with Building and Zoning Codes

a. Applications for small wind energy systems shall be accomplished by standard drawings of the wind turbine structure, including the tower base, and footings.

6. Compliance with FAA Regulations

a. Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.

7. Utility Notification

a. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator,

b. Off-grid systems shall be exempt from this requirement.

8. Permit fees: Applicant(s) shall remit and application fee of $50 per tower

b. Commercial/Utility Grade Wind Energy Systems:

i. Purpose: it is the purpose of this regulation to promote the safe, effective and efficient use of commercial/utility grade wind energy stems within Cuming County.

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

1. Aggregate Project: 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.

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

3. Fall Zone: the area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of a structural failure. This area is less than the total height of the structure.

4. Feeder Line: any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.

5. Meteorological Tower: for purposes of this regulation, a tower which is erected primarily to measure wind speed and directions plus other data relevant to citing 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

6. Public Conservation Lands: 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.

7. Rotor Diameter: the diameter of the circle described by the moving rotor blades shown in Figure 1.

8. Small Wind Energy System: a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

9. Substations: any electrical facility to convert electricity produced by wind turbines to a voltage greater than 35,000 (35 kV) for interconnection with high voltage transmission lines.

10. Total Height: the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.

11. Tower: the vertical structures that support the electrical, rotor blades, or meteorological equipment.

12. Tower Height: the total height of the Wind Energy Conversion System exclusive of the rotor blades.

13. Transmission Line: 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.

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

15. Wind Turbines: 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.

iii. Requirements: Commercial/Utility Grade wind energy systems shall be permitted as a Conditional use within any district where the use is listed and allowed Except Industrial where it is a permitted use. The applicant must submit an abstractor's list of any parcel owner within a three (3) mile radius of building site. The Zoning Administrator will use the list to send a notice. The following requirements and information shall be met and supplied

1. The name(s) of project applicant.

2. The name of the project owner.

3. The legal description and address of the project.

4. A description of the project including; Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the feeder lines.

5. Site layout, including the location of property lines, wind turbines, electrical grid, and all related accessory structures. This site layout shall include distances and be drawn to scale.

6. Certification by an Engineer competent in disciplines of WECS.

7. Documentation of land ownership or legal control of the property.

8. The latitude and longitude of individual wind turbines. Included in the submitted permit will be an area or zone in close proximity and meets setbacks.

9. An Acoustical Analysis that certifies that the noise requirements within this regulation can be met.

10. FAA and FCC permit: Applicant shall submit permits from the appropriate agency prior to any power being produced

11. Location of and evidence that there will be no interference with any commercial and/or public safety communication towers within two miles of the proposed Wind Energy Conversion System.

12. Decommissioning Plan as required by this regulation.

13. Description of potential impacts on nearby Wind Energy Conversion Systems and wind resources on adjacent properties not owned by the applicant.

iv. Aggregated Projects

1. Aggregated projects may jointly submit a single application and be reviewed under joint proceedings, including notices, public hearings, reviews and as appropriate approvals.

2. Permits may be issued and recorded separately.

3. Joint projects will be assessed fees as one project.

4. Setbacks to property lines, not

c. Setbacks: All towers shall adhere to the setbacks established in the following table. (Turbines shall be 1000 feet from a participating landowner's home.)

	Wind Turbines Non Commercial WECS	***Wind Turbines Commercial/Utility WECS***	***Meteorological Towers***
Property Lines	1.1 Times the total height	1.1 Times length of rotor blade	1.1 Times the total height
*Neighboring Dwelling Units**		2000 Ft.	1.1 Times the total height
Road Right-of-ways	1.1 Times the height	1.1 Times length of rotor blade	1.1 Times the total height
Other Right-of-ways	1.1 Times the height	1.1 Times length of rotor blade	1.1 Times the total height

Public Conservation Lands: Wildlife Management, State Rec Areas	Same setback as accessory buildings	1.1 Times length of rotor blade, plus 100ft.	600 ft.
Wetlands	NA	600 ft.	600 ft.
Other structures and cemeteries not on the applicant's site	NA	1.1 Times the height	1.1 Times the total height

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

d. Special Safety and Design Standards: all towers shall adhere to the following safety and design standards.

1. Clearance of rotor blades or airfoils must maintain a minimum of twenty-five (25) feet of clearance between their lowest point and the ground.

2. All Commercial/Utility WECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information.

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

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

5. 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 decking; Finishes shall be matte or non-reflective.

6. 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.

7. Other signage: All other signage shall comply with the sign regulations found in these regulations.

8. Feeder Lines: All communications and feeder lines installed as part of a WECS shall be buried, where feasible. Feeder lines installed as part of a WECS shall not be considered an essential service.

9. 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 rules and regulations.

10. 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 removed to four (4) feet below ground level within 180 days of the discontinuation of use. This period may be extended by the Board of Supervisors following a written request by an agent of the owner of the WECS if proof of weather delays and non-availability of equipment is provided.

    Each Commercial/Utility WECS shall have a Decommissioning plan out lining the anticipated means and cost of removing WECS at the end of their serviceable life or upon 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.

11. Noise: No Commercial/Utility WECS shall not exceed 50 dBA at the nearest existing inhabited dwelling. Exception: a Commercial/Utility WECS may exceed 50 dBA during periods of severe weather as defined by the US Weather Service or during shut down or restart for normal maintenance.

12. Interference: The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. The applicant shall notify all communication tower operators within five miles of the proposed WECS location upon application to the county for permits.

13. Roads: Applicants shall:

    a. Identify all county, municipal or township roads to be used for the purpose of transporting WECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted jurisdictions prior to construction.

14. 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.

15. Permit Fees: Applicant(s) shall remit an application fee of $50.00 + $250.00 per tower in the proposed WECS.

17.09 Supplemental Use Regulations: Accessory Uses

1. Biologic digesters accessory to an LFO must meet all applicable local, State, and Federal requirements.

2. Home-Based Businesses / Home Occupations

   a. Home-Based Businesses / Home Occupations are permitted in the Rural Residential Zone and properties under the Lake Development Overlay District and the Bluffs Development Overlay District and are defined and regulated as described below.

   b. Home occupation shall mean an occupation, profession, activity, or use that is:

      i. Clearly incidental and secondary use of a residential dwelling unit, carried on by a member or members of the family who occupy the dwelling for living purposes, which does not alter the exterior of the property or affect the residential character of the neighborhood, or

      ii. The primary source of income, but employs no more than three (3) employees other than family members, and causes limited change in traffic to and from the property.

   c. External Effects:

      i. There shall be no change in the exterior appearance of the building or premises housing the home occupation other than signage permitted within this section.

      ii. No noise, odors, bright lights, electronic interference, storage or other external effects attributable to the home occupation shall be noticeable from any adjacent property or public right of way.

      iii. The home occupation shall be carried on entirely within the principal residential structure, or within an accessory structure.

      iv. No home occupation shall discharge into any sewer, drainage way, or the ground any material which is radioactive, poisonous, detrimental to normal sewer plant operation, or corrosive to sewer pipes and installations.

      v. Signage: No sign, other than a nameplate no more than two square feet in area, shall be allowed; the sign shall be non-lighted, shall be non-reflecting in nature and may be attached to the dwelling unit or accessory building or may be freestanding. A freestanding sign shall be at least five feet from all property lines.

   d. Prohibited Home-Based Businesses/Home Occupations: The following activities are prohibited as home-based businesses, even if they meet the other requirements set forth in this section:

      i. Animal hospitals;

ii. General retail sales. General retail means sale of items typically available in retail outlets in commercial districts. Specialty retail items not generally available in retail outlets are permitted;

iii. Restaurants.

3. Permitted Accessory Uses: Residential Uses

Residential uses may include the following accessory uses, activities, and structures on the same lot:

a. Private garages and parking for the residency use;

b. Home occupations, subject to the provisions of the Zoning Regulations;

c. Garage sales, provided that the frequency of such sales at any one location are limited to one sale of no more than three consecutive days duration in a month, and four sales during any twelve month period.

4. Permitted Accessory Uses: Other Use Types

Other use types may include the following accessory uses, activities, and structures on the same lot:

a. Minor manufacturing or fabrication of products made for sale in a principal commercial use, provided such manufacturing is totally contained within the structure housing the principal use.

b. Services operated for the sole benefit of employees of the principal use.

5. Permitted Accessory Uses: Agricultural Use Types

Other uses and activities necessarily and customarily associated with the purpose and functions of agricultural uses.

a. Buildings that directly serve and are required for the conduct of crop and animal production are exempt from requirements for building permits and inspections. Zoning permits shall apply.

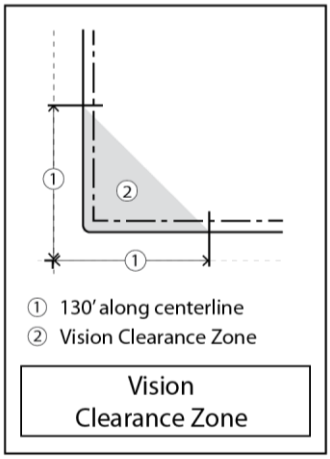
b. Structures that house other uses are subject to the Zoning Regulations, even if located on property zoned, or primarily zoned, or used for agricultural purposes.

c. Livestock Feeding Operation Signage

Livestock Feeding Operation shall be permitted one off-site sign in the right of way of county roads subject to all County and State regulations. The sign shall not exceed 200 square feet and shall not obstruct county or directional signage.

17.10 Division of Zoning Lots

No improved zoning lot shall hereafter be divided into two or more zoning lots and no portion of any improved zoning lot shall be sold, unless all improved zoning lots resulting from each such division or sale shall conform with all the regulations of the zoning district in which the property is located.



17.11 Vision Clearance Zones

At road intersections, no permanent structures, including grain bins, shall be allowed to be constructed in the "Intersection Vision Clearance Zone" which is measured from the intersection of two county road centerlines and measuring 130' in each direction and then connecting the points with a diagonal line. This shall also apply to trees being placed within the space.

17.12 Setback Exception for Irrigation Systems

The setback for irrigation wells, affixed irrigation accessory equipment, irrigation re-use pits and livestock pollution control facilities (the road dam structure being excluded) shall be 33 feet from the centerline of any public road except State Highways in which case, State Regulations would apply.

17.13 Height Exceptions

These provisions allow exceptions to the height limit of any zoning district in certain situations.

1. <u>Civic Buildings</u>

    a. In Agricultural and Residential Districts, buildings housing civic use types may be built to a maximum height of 45 feet for the main structure and up to 75 feet for a tower or steeple structure. Such buildings located in Residential Districts shall be set back one foot in addition to required setbacks from each property line for each foot of height over the maximum height of the zoning district.

    b. In the Commercial Districts, the maximum height of 60′ for principal structures shall apply, except when located within one hundred (100′) feet of a Rural Residential District. When located within one hundred (100′) feet of a Rural Residential District, no structure shall exceed thirty five (35′) feet in height. Churches and other permitted civic uses are permitted a maximum height of 45 feet for the main structure and 75 feet for towers or steeples.

2. <u>Wind Energy Conservation Systems (WECS)</u>

    a. Wind Energy Conservation Systems are subject to the regulations of Section 17.08(2).

ARTICLE 18

ADMINISTRATION AND ENFORCEMENT

18.01 Zoning Administrator. The Board of Supervisors, or their designee, shall administer and enforce the Zoning Regulations as the Zoning Administrator. Said Zoning Administrator may be provided with the assistance of such other persons as the Board of Supervisors may direct. If the Zoning Administrator finds that any of the provisions of these Zoning Regulations are being violated, the Zoning Administrator shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures, or of illegal work being done, or shall take any other action authorized by these Zoning Regulations to ensure compliance with or to prevent violation of the provisions hereof.

18.02 Zoning Permits Required. No building or other structure shall be erected, moved, added to or structurally altered without a permit issued by the Zoning Administrator. No zoning permit shall be issued by the Zoning Administrator except in conformity with the provisions of these Zoning Regulations, unless the Zoning Administrator receives written order from the Board of Supervisors in the form of an administrative review or a variance from the Board of Adjustment as provided herein.

18.03 Application for Permit. All applications for zoning permits shall be accompanied by plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration or other similar drawing so required by the Zoning Administrator. The application shall include such other information as lawfully may be required by the Zoning Administrator, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for, the enforcement of these Zoning Regulations.

18.04 Expiration of Zoning Permit. If the work described in any zoning permit has not begun within one (1) year from the date of issuance thereof, said permit shall expire; it shall be canceled by the Zoning Administrator; and written notice thereof shall be given to the persons affected. Zoning Administrator shall have discretion to renew a Zoning Permit on a case-by-case basis depending on the facts and circumstances necessitating a renewal.

18.05 Construction and Use to be as provided in Application, Plans and Permits

Zoning permits issued on the basis of plans and specifications approved by the Zoning Administrator authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. A change in use, arrangement, or construction, that is different from what was authorized, shall be deemed a violation of the Zoning Regulations.

18.06 Non-Conforming Uses.

1. <u>Intent</u>

   Within the districts established by these regulations or amendments that may later be adopted, there exists lots, structures, and uses of land and structures which were lawful and not in

violation of any Zoning Regulation of Cuming County before these regulations were adopted or amended, but which would be prohibited, regulated or restricted under the terms of these regulations or future amendment.

It is the intent of these regulations to permit these non-conformities to continue until they are removed. Such uses are declared by these regulations to be incompatible with permitted uses in the districts involved. It is further the intent of these regulations 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.

In those instances where lots, structures, and uses of land and structures were not lawful at the time these regulations were passed or amended, Cuming County reserves the right to, and intends to take action, to require correction of such unlawful practices. Unlawful uses and practices shall not be accepted as non-conforming uses and practices by allowing such to exist for any period of time.

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

To avoid undue hardship, nothing in these regulations shall be deemed to require a change in the construction of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of these regulations and upon which actual building construction has been diligently carried on.

Actual construction is hereby defined to include the placing of construction materials in permanent positions and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

2. Non-Conforming Uses of Land

Where, at the effective date of adoption or amendment of these regulations, lawful use of land exists that is made no longer permissible under the terms of these Zoning Regulations as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

a. 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 these regulations, unless such enlargement thereby brings the use into conformity;

b. No such non-conforming use shall be moved in whole, or in part, of any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of these regulations;

c. If any such non-conforming 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 these Zoning Regulations for the district in which such land is located.

3. Non-Conforming Structures

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

a. no such structure may be enlarged or altered in a way which increases its non-conformity;

b. should such structure be destroyed by fire, explosion, act of God, or public enemy, said building may be rebuilt within 12 months. Notwithstanding, an extension to the 12 months may be granted by the Planning Commission for up to three years from the time of the destruction;

c. should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved;

d. dwelling units and other structures or accessory buildings located on Existing Non-conforming Farmsteads may be enlarged and altered, and replaced for any reason. New construction of accessory buildings and structures is allowed on an Existing Non-Conforming Farmstead. However,

i. An Existing Non-Conforming Farmstead loses its legal non-conforming status if the dwelling unit located thereon has been unoccupied for more than 12 months. An Existing Non-Conforming Farmstead may retain its legal non-conforming status even if the dwelling unit is unoccupied due to a temporary absence longer than 12 months, if the following conditions are met:

1. Utilities remain hooked up to the dwelling unit;

2. The dwelling unit remains in a habitable condition while unoccupied longer than 12 months;

a. Habitability shall be determined by an annual inspection by the Zoning Administrator at the request of the record title owner or any interested person based on habitability factors voted on and approved by the County Board of Supervisors.

b. The Zoning Administrator shall provide the record title owner or interested person with documentation that the inspection was completed and the determination of the Zoning Administrator regarding habitability within 30 days of the inspection.

c. Habitability inspections are required annually after the first year of vacancy in order to utilize the protections of this section. If no habitability inspection occurs at least one time per year, and the dwelling unit has been unoccupied for more than 12 months, the real estate shall no longer be considered an Existing Non-Conforming Farmstead and any Zoning Permit requested for construction of any structure thereon shall comply with the Zoning Regulations for such District in which the real estate is located.

4. Non-Conforming Uses of Structures

If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of these regulations, that would not be allowed in the district under the terms of these regulations, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

a. No existing structure, devoted to a use not permitted by these regulations in the district in which it is located, shall be enlarged, extended, constructed, reconstructed, moved or structurally altered, except in changing the use of the structure to a use permitted in the district in which it is located.

b. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of these regulations, but no such use shall be extended to occupy any land outside such building.

c. If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change to a more compliant use, the Zoning Administrator require appropriate conditions and safeguards in accord with the provisions of these regulations. The Zoning Administrator may elect to defer the review and decision to the Planning Commission.

d. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed.

e. When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for twelve (12) consecutive months, the structure or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

f. Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

5. Uses under Exception Provisions, Not Non-Conforming Use

Any use for which a Conditional Use Permit is issued, as provided, in these regulations, shall not be deemed a non-conforming use, but shall without further action be deemed a conforming use in such district subject to conditions of the permit.

18.07 County Planning Commission.

A Cuming County Planning Commission (Commission) is hereby created in accordance with state statute 23-114.01. The members of the Commission shall be residents of the County to be planned and shall be appointed with due consideration to geographical and population factors. Since the primary focus of concern and control in county planning and land-use regulatory programs is the unincorporated area, a majority of the members of the commission shall be residents of unincorporated areas, except that this requirement shall not apply to joint planning commissions. Members of the commission shall hold no county or municipal office, except that a member may also be a member of a city, village, or other type of planning commission. Members of the commission may be removed by a majority vote of the county board for inefficiency, neglect of duty, or malfeasance in office or other good and sufficient cause upon written charges being filed with the county board and after a public hearing has been held regarding such charges. Vacancies occurring, otherwise than through the expiration of terms, shall be filled for the unexpired terms by individuals appointed by the County Board of Supervisors. Members of the commission shall be compensated for their actual and necessary expenses incurred in connection with their duties in an amount to be fixed by the Board of Supervisors. Reimbursement for mileage shall be made at the rate provided in State Statute section 81-1176. The Board of Supervisors may provide a per diem payment for members of the commission of not to exceed fifteen dollars for each day that each such member attends meetings of the commission or is engaged in matters concerning the commission, but no member shall receive more than one thousand dollars in any one year. Such per diem payments shall be in addition to and separate from compensation for expenses.

The Commission

a. shall prepare and adopt as its policy statement a comprehensive plan and such implemental means as a capital improvement program, subdivision regulations, building codes, and a zoning resolution;

b. shall consult with and advise public officials and agencies, public utilities, civic organizations, educational institutions, and citizens relating to the promulgation of implemental programs;

c. may delegate authority to any of the groups named in subdivision (b) of this subsection to conduct studies and make surveys for the commission; and

d. shall make preliminary reports on its findings and hold public hearings before submitting its final reports. The Board of Supervisors shall not hold its public meetings or take action on matters relating to the comprehensive plan, capital improvements, building codes, subdivision development, or zoning until it has received the recommendations of the commission.

The Commission may, with the consent of the Board of Supervisors, in its own name: make and enter into contracts with public or private bodies; receive contributions, bequests, gifts, or grants of funds from public or private sources; expend the funds appropriated to it by the Board of Supervisors; employ agents and employees; and acquire, hold, and dispose of property. The Commission may, on its own authority: Make arrangements consistent with its program; conduct or sponsor special studies or planning work for any public body or appropriate agency; receive grants, remuneration, or reimbursement for such studies or work; and at its public hearings, summon witnesses, administer oaths, and compel the giving of testimony.

18.08 Amendments.

1. Hearing Required; Notice

   The Board of Supervisors may, on its own motion or as the result of a petition by a private party, amend, supplement, change and/or repeal these Zoning Regulations including the boundaries of zoning districts. No such action shall be effective until a public hearing on the amendment, supplement, change and/or repeal has been held by the Board of Supervisors, at which parties of interest and citizens shall have an opportunity to be heard. Notice of time and place of public hearing shall be published in a newspaper of general circulation in the County not more than 20 days in advance and at least 10 days prior to the public hearing and in no case shall the public hearing be held earlier than the next regularly scheduled Board meeting following the published notice.

2. Planning Commission Report Required; Hearing

   Before the Board of Supervisors holds its public hearing, the proposed amendment, supplement, change, modification or repeal shall be referred to the Commission for its recommendations and report. No report or recommendation shall be made to the Board of Supervisors until the Commission holds a public hearing, at which parties of interest and citizens shall have an opportunity to be heard. Not less than 10 or more than 20 days' notice of time and place of such hearing shall be published in a newspaper of general circulation in the County. This notice may be published concurrently with the notice required in subsection (a) above. If the Commission makes no report or recommendation within 30 days, it shall be considered to have made a report approving the proposed amendment, supplement, modification, change or repeal.

3. Application Fee

   A nonrefundable fee shall be paid by the applicant to the County at the time of filing application for amendment, supplement, change, modification or repeal. The fee shall be in an amount established by the Board of Supervisors and set by resolution.

4. Procedures

   Any person may submit to the Planning Commission an application requesting a change in the zoning district boundaries as shown on the Official Zoning District Map. Such application shall be filed with the Zoning Administrator accompanied by a fee set by resolution of the Board of Supervisors, and shall contain the following information:

   a. The legal description and local address of the property;

b. The present zoning classification and the zoning classification requested for the property;

c. The existing use and proposed use of the property;

d. The names and addresses of all the owners of all property within 200 feet of the property for which the change is requested;

e. A statement of the reasons why the applicant feels the present zoning classification is no longer valid; and

f. A plat showing the locations, dimensions and use of the applicant's property and all property within 200 feet thereof, including streets, alleys, railroads and other physical features.

18.09 Conditions on Rezoning

As a part of an ordinance changing land from one zoning district to another zoning district or a resolution approving a site development plan, the Board of Supervisors may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property owner before the public hearing required under this section or any adjournment of the hearing. The conditions must be reasonable and imposed to satisfy public needs which are directly caused by the requested change.

18.10 Conditional Use Permits

1. Procedures

a. The Board of Supervisors may, after receiving a recommendation from the Planning Commission, grant exceptions to the provisions of the Zoning Regulations but only in those instances where the Board of Supervisors is specifically authorized to grant such exceptions to these Zoning Regulations. In no event shall exceptions to the provisions of the Zoning Regulations be granted where the use or exceptions contemplated is not specifically listed as an exception in the Zoning Regulations. Further, under no conditions shall the Board of Supervisors have the power to grant an exception when the conditions of this exception, as established by these regulations, are not found to be present.

b. Final action on an application for a Conditional Use Permit shall be taken only after public hearings by the Planning Commission and the Board of Supervisors have been held, and a recommendation received from the Planning Commission.

c. In considering any application for a Conditional Use Permit hereunder, the Planning Commission and Board of Supervisors shall give consideration to the Comprehensive Zoning Plan, the health, safety, morals, comfort, and general welfare of the inhabitants of the community including, but not limited to, the following factors:

i. the stability and integrity of the various zoning districts;

ii. conservation of property values;

iii. protection against fire and casualties;

iv. observation of general police regulations;

v. prevention of traffic congestion;

vi. promotion of traffic safety;

vii. promotion of the safety of individuals and property;

viii. provision of adequate light and air;

ix. provision of over-crowding and excessive intensity of land uses;

x. provision of public utilities and schools;

xi. invasion by inappropriate uses;

xii. value, type and character of existing and authorized improvements and land uses;

xiii. work to prevent acreage development from having urban characteristics;

xiv. protect agricultural industry while promoting new development and protecting resources; and

xv. encouragement of improvements and land uses in keeping with overall planning.

2. Application: The Procedure for Requesting a Hearing for a Conditional Use Permit are as Follows:

a. All applications shall be in writing on forms provided by the Zoning Administrator and fees paid as set by the Board of Supervisors.

b. A notice of the time, place, and subject of each hearing shall be published in the official newspaper (as designated by the Board of Supervisors) at least ten (10) days prior to the date fixed for the public hearing. A copy of the notices of public hearings shall be sent to each party of interest as stated in Subpart c below.

c. At least ten (10) days prior to the date fixed for the public hearings, the Zoning Administrator shall notify the following interested parties by Regular United States Mail:

i. all neighboring property owners of property located within 1,000 feet of the property in question if said neighboring property is located within County Zoning Jurisdiction;

ii. all neighboring property owners of property located within 300 feet of the property in question if said neighboring property is located within any municipal zoning jurisdiction;

iii. any other interested parties as determined by the Planning Commission, Board of Supervisors and/or Zoning Administrator;

iv. the applicant shall provide the Planning Commission with a list of the names and addresses of all neighboring property owners that are to be notified pursuant to Subparts a and b of this section;

v. the applicant shall submit a statement in writing justifying the Conditional Use Permit applied for, and indicating under which Article and Section of the Zoning Regulations for the Planning Commission is believed to have jurisdiction;

vi. the applicant shall prepare and submit in duplicate at the time of filing the application, a detailed plot plan drawn to scale, showing all existing and proposed structures, property lines with dimensions, parking spaces, and points of ingress and egress, driveways and any other information which would be helpful to the Planning Commission and the Board of Supervisors in consideration of the application; and

vii. the applicant shall provide a metes and bounds description for the subject property unless described by an aliquot part. At the discretion of the Zoning Administrator, a survey may be required.

3. Performance

The Planning Commission may impose such restrictions, terms, time limitations, landscaping and other appropriate safeguards to protect adjoining property as may be necessary.

a. The Planning Commission may require a performance bond to guarantee the installation of improvements such as parking lot surfaces, landscaping, etc. The amount of the bond shall be based on a general estimate of cost for the improvement as determined by the Planning Commission and shall be enforceable by or payable to the Planning Commission in the sum equal to the cost of constructing the required improvements.

b. In lieu of the performance bond requirement, the Planning Commission may specify a time limit for the completion of such required improvements and, in the event the improvements are not completed within the specified time, the Planning Commission may declare the granting of the application null and void after reconsideration.

18.11 Administrative Review

1. Administrative Review and Approval of Farmstead Land Area Additions and Expansions

An Existing Non-Conforming Farmstead that currently exists with less than the minimum required lot area is exempt from the provisions contained in Section 18.06(3)(d) which pertain to the expansion of a non-conforming use. Further, the addition of land which has the effect to bring the property more into compliance, may occur through an administrative review and approval process by the Zoning Administrator. The Zoning Administrator, at their discretion, may direct a request to the formal review processes of the Planning and Zoning Commission, the Zoning Board of Adjustment and the Board of Supervisors.

2. Administrative Review and Approval for Reducing Non-Conformities

Modifications to a property or use which would reduce non-conformance with the Zoning Regulations may be granted through an administrative review and approval process by the Zoning Administrator. The Zoning Administrator, at their discretion, may direct a request to the formal review processes of the Planning Commission, the Zoning Board of Adjustment, and the Board of Supervisors.

18.12 Zoning Board of Adjustment

A Board of Adjustment is hereby created in accordance with Neb. Rev. Stat. Sect. 19-912.01 the Nebraska Revised Statute covering such creation. The word "Board" when used in this Article shall mean Board of Adjustment. The Board of Adjustment shall adopt rules of procedure, as may be necessary and proper to govern its own proceedings; such rules shall not be in conflict with other laws, ordinances, or resolutions. Meetings of the Board of Adjustment shall be held at the call of the chairman and at such other times as the Board of Adjustment may determine. The Board of Adjustment shall keep minutes of its proceedings, showing the description of evidence presented, the findings of fact by the Board of Adjustment, the decision of the Board of Adjustment and 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 filed in the office of the County Clerk immediately, and shall be a public record.

1. Powers and Jurisdictions

The Board of Adjustment shall have the following powers and jurisdictions:

a. Appeals: To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of these regulations.

b. Appeals to the Board of Adjustment may be taken by the person aggrieved, or by any officer, department, or Bureau of the government affected by any decision of the Zoning Administrator. Such appeal shall be taken within a reasonable time, as shall be prescribed by the Board of Adjustment by general rule, by filing with the Zoning Administrator and with the Secretary of the Board of Adjustment a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Secretary of the Board of Adjustment all papers constituting the record upon which the action appealed from is taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Adjustment, after the Notice of Appeals shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause eminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Adjustment or by a court of record on application or notice to the Zoning Administrator on good cause shown.

c. Variance: To authorize, in specific cases, a variance from the specific terms of these regulations which will not be contrary to the public interest, and where, owing to special conditions, a provision of these regulations will, in an individual case, result in

unnecessary hardship, provided the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done.

i. The applicant must show that his property was acquired in good faith and whereby reason of exceptional narrowness, shallowness or shape of this specific piece of property at the time of the effective date of the Zoning Regulations, or where by reason of exceptional topographical conditions or other extraordinary or exceptional circumstances, that the strict application of the terms of the Zoning Regulations actually prohibit the use of his property in the manner similar to that of other property in the zoning district where it is located.

ii. Variances shall include intensity of use, yard and height regulations only and are limited to the following:

1. a yard regulation variance shall not encroach upon the required setback for adjacent buildings or land uses;

2. one story in height may be allowed for each one foot of additional building setback provided in addition to that required by the district regulation in which the property is located;

3. a request for a variance may be granted, upon a finding of the Board of Adjustment that all of the following conditions have been met. The Board of Adjustment shall make a determination on each condition and the finding shall be entered in the record:

a. the variance requested arises from such conditions which are unique to the property in question and which are not ordinarily found in the same zone or district, and are not created by an action or actions of the property owner or applicant;

b. the granting of the permit for the variance shall not adversely affect the rights of adjacent property owners or residents;

c. the strict application of the provisions of the Zoning Regulations of which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application;

d. the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and

e. the granting of the variance desired will not be opposed to the general spirit and intent of the Zoning Regulations;

d. Interpretation: To hear and decide, in accordance with the provisions of this regulation, requests for the interpretation of any map.

e. Conditions of Determination: In exercising the foregoing powers, the Board of Adjustment, in conformity with the provisions of this act, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the officer from where the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a permit.

A majority of the Board of Adjustment shall constitute a quorum for the transaction of business and a concurring vote of four members of the Board of Adjustment shall be necessary to reverse an order, requirements, decision or determination of the Zoning Administrator, or to decide in favor of the applicant upon any matter which it is required to pass under any such regulation, or to affect any variation in such regulation. Upon the hearing, any party may appear in person, or by agent, or by attorney.

2. Application

a. The procedure for requesting a hearing before the Board of Adjustment shall be as follows:

i. All applications to the Board of Adjustment shall be in writing on forms provided by the Board.

ii. The Board of Adjustment shall fix a reasonable time for the hearing of an application and notice of the time, place and subject of each hearing shall be published in the official newspaper, (as designated by the Board of Supervisors), at least ten (10) days prior to the date fixed for the public hearing. A copy of the notice of public hearing shall be sent to each party of interest and to the Planning Commission.

iii. At least ten (10) days prior to the date fixed for the public hearing, the Board of Adjustment shall notify the following interested parties by Regular United States Mail:

1. all neighboring property owners of property located within 1,000 feet of the property in question if said neighboring property is located within County zoning jurisdiction;

2. all neighboring property owners of property located within 300 feet of the property in question if said neighboring property is located within any municipal zoning jurisdiction;

3. any other interested parties as determined by the Board of Adjustment and/or Zoning Administrator; and

4. the applicant shall provide the Board of Adjustment with a list of the names and addresses of all neighboring property owners that are to be notified pursuant to Subparts 1 and 2 above. Said list shall be certified by a registered land abstractor.

a. Application Fee. A nonrefundable fee shall be paid by the applicant to the County at the time of filing application for amendment, supplement, change, modification or repeal. The fee shall be in an amount established by the Board of Supervisors and set by resolution.

b. In addition to the above requirements, certain applications require additional information as follows:

iv. Appeals

1. An application for an appeal shall be filed within sixty (60) days after a ruling has been made by the Zoning Administrator.

2. A copy of the order, requirement, decision or determination of the Zoning Administrator which the appellant believes to be in error.

3. A clear and accurate written description of the proposed use, work or action in which the appeal is involved and a statement justifying the appellant's position.

4. Where necessary, a plot plan, drawn to scale, in duplicate showing existing and proposed plans for the area in question shall be submitted.

v. Variance

1. The applicant shall submit a statement, in writing, justifying the variance requested indicating specifically the Zoning Regulations from which the variance is requested, and outlining, in detail, the manner in which it is believed that this application will meet each of the five conditions as set out in Section 18.12(3) of this Article.

2. The applicant shall prepare and submit in duplicate at the time of filing the application, a detailed plot plan drawn to scale, showing all existing and proposed structures, property lines with dimensions, parking spaces points of ingress and egress, driveways and any other information which would be helpful to the Board of Adjustment in consideration of the application.

3. Performance

In making any decision varying or modifying any provisions of the Zoning Regulations or in granting an exception to the district regulations, the Board shall impose such restrictions, terms, time limitations, landscaping and other appropriate safeguards to protect adjoining property.

The Board of Adjustment may require a performance bond to guarantee the installation of improvements such as parking lot surfacing, landscaping, etc. The amount of the bond shall be based on a general estimate of cost for the improvements as determined by the Board of

Adjustment, and shall be enforceable by, or payable to, the County Treasurer in the sum equal to the cost of constructing the required improvements.

In lieu of the performance bond requirement, the Board of Adjustment may specify a time limit for the completion of such required improvements and in the event the improvements are not completed within the specified time, the Board of Adjustment may declare the granting of the application null and void after reconsideration.

4. Who May Appeal From the Board of Adjustment

   Any person, persons, department or departments of the government jointly or separately aggrieved by any decision of the Board of Adjustment may present to the District Court having jurisdiction, a petition, duly verified, stating that such decision is illegal in whole or in part, specifying the grounds of the illegality and asking for relief therefrom. Such petition shall be presented to the Court within thirty (15) days after the date of filing the decision in the office of the Board of Adjustment.

18.13 Violations

1. Any person, firm corporation, partnership, or association whether as principal, owner, agent, tenant, or otherwise who violates, disobeys, omits, or refuses to comply with or who resists the enforcement of any of the provisions of these regulations is subject to a civil violation or a criminal violation.

2. Notwithstanding subsection 1 of this section, a second or subsequent violation of any of the provisions of these Zoning Regulations within a two-year period shall be deemed a misdemeanor.

18.14 Commencement of Action

1. A civil violation may be commenced by issuance of a citation.

2. The citation will be substantially in the same form as the Nebraska traffic ticket. The citation shall direct the defendant to appear in Cuming County Court within thirty (30) days after issuance of the citation.

3. The citation will further notify the defendant that if he fails to appear on or before the date specified in the complaint, a judgment by default will be entered against him, and the court may, in its discretion, impose a civil violation not to exceed $500.00 for a first offense or $750.00 for a repeat offense.

4. Service of the citation may be accomplished and will be deemed proper and complete by any of the following methods:

   a. by having the defendant sign the citation with a promise to appear in court within thirty (30) days or sooner of the issuance of the citation;

   b. if the defendant refuses to sign the citation, by hand delivering a copy of the citation to the defendant;

c. by mailing a copy of the citation to the person charged, by certified or registered mail, return receipt requested, to the person's last known address; and

d. in the event service cannot be accomplished as set forth in subsections 4(a-c.), the County may serve the defendant by any means allowed by the Nebraska State Statutes.

18.15 Authority to Issue Civil Citation

1. Any peace officer, the Board of Supervisors, or Zoning Administrator, may issue a civil citation pursuant to this chapter.

18.16 Appearance by Defendant

The defendant shall within thirty (30) days of the issuance of the citation, appear in person or through his attorney, in the Cuming County Court and shall either admit or deny the allegations contained in the citation. If the defendant admits the allegation, the court shall enter judgment against the defendant, and in its discretion, may impose a civil sanction for the violation. If the defendant denies the allegations contained in the citation, the court shall set dates for a pre-trial conference and for trial of the matter.

18.17 Default Judgment

1. If the defendant fails to appear as directed on the citation, the court shall enter a default judgment and may, in its discretion, impose a civil sanction for the violation.

2. If the defendant fails to appear for a pre-trial conference or trial, the defendant's failure to appear shall be deemed an admission of the offense, and the court shall enter judgment against the defendant, and may, in its discretion, impose a civil sanction for the violation.

18.18 Collection of Civil Sanctions

Any judgment for civil sanctions taken pursuant to this article may be collected as any other civil judgment.

18.19 Violations Not Exclusive

Violations of these regulations are in addition to any other violation enumerated within the County resolutions and Nebraska State Statutes and in no way limits the penalties, actions, or abatement procedures which may be taken by the County for any violation of the Zoning Regulations, which is also a violation of any other resolution or code provision of the County, or Statutes of the State.

18.20 Each Day Separate Violation

Each day any violation of any provision of these regulations continues, shall constitute a separate offense.

18.21 Injunction

1. If any building or structure is constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of the Zoning Regulations, the County, or any owner or tenant of real property in the same contiguous zoning district as the building or structure in question in addition to other remedies may institute any appropriate action or proceedings:

    a. to prevent the unlawful construction, reconstruction, alteration, repair, conversion, maintenance, or use;

    b. to prevent the occupancy of the building structure or land;

    c. to prevent any illegal act, conduct, business or use in or about the premises; of

    d. to restrain, correct, or abate the violation.

2. When any such action is instituted by an owner or tenant, notice of such action shall be served upon the County at the time suit is begun, by serving a copy of the complaint to the County Clerk.

In any such action or proceeding, the court with jurisdiction thereof, has the power and in its discretion, may issue a restraining order, or a preliminary injunction, as well as a permanent injunction, upon such terms and under such conditions as will do justice and enforce the purpose of the Zoning Regulations.