

# VILLAGE OF FIRTH, ZONING REGULATIONS

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RURAL PLANNING

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# ARTICLE ONE: TITLE AND PURPOSE

## 1.1 Title

This title of the Firth Municipal Code, herein after “this Zoning Ordinance,” shall be known as the Village of Firth’s Zoning Ordinance. The Zoning Administrator for the purposes of this Zoning Ordinance shall be the Village Clerk.

## 1.2 Purpose

The purposes of this Village of Firth Zoning Ordinance are to:

1.2.01 Serve the public health, safety, and general welfare of the Village and its jurisdiction.

1.2.02 Classify property in a manner that reflects its suitability for specific uses.

1.2.03 Provide for sound, attractive development within the Village and its jurisdiction.

1.2.04 Encourage compatibility of adjacent land uses.

1.2.05 To prevent excessive population densities and overcrowding.

1.2.06 Protect environmentally sensitive areas.

1.2.07 Further the objectives of the Village of Firth Comprehensive Plan.

## 1.3 Application

No building, structure, or land shall be constructed, reconstructed, moved, structurally altered, used, or occupied except as provided by this Zoning Ordinance.

## 1.4 Consistency with Comprehensive Plan

The Village of Firth intends that this Zoning Ordinance and any amendments to it shall be consistent with the Village’s Comprehensive Plan. It is the Village’s intent to amend this Zoning Ordinance whenever such action is deemed necessary to keep regulatory provisions in conformance with the Comprehensive Plan. If this Zoning Ordinance is amended, such amendments shall be reflected in the Comprehensive Plan.

## 1.5 Relationship to Village Code

The use of buildings and land within the Village of Firth shall be subject to all applicable provisions of the Village Code and other Ordinances, as well as this Zoning Ordinance, whether or not those other provisions of the Village Code are specifically cross-referenced in this Zoning Ordinance. Cross-reference to other provisions of the Village Code found in this Zoning Ordinance are provided for the convenience of the reader; lack of a cross-reference should not be construed as an indication that other provisions of the Village Code do not apply.

## 1.6 Conflicting Provisions

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

## 1.7 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 or special permit.

## **1.8 Repeal of Conflicting Ordinances**

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

## **1.9 Severability of Provisions**

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

## **1.10 Planning Commission Recommendations**

Pursuant to §19-901 et. seq. Neb. Rev. Stat. 1943, it shall be the purpose of the Planning Commission, hereinafter the “Commission,” to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. The Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the Village Board shall not hold its public hearings or take action until it has received the final report.

## **1.11 District Regulations, Restrictions, Boundary Creation**

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

## **1.12 Jurisdiction**

The provision of this Zoning Ordinance shall apply within the corporate limits of the Village of Firth, Nebraska, and within the territory beyond said corporate limits as prescribed under Nebraska Revised Statutes, as established on the map entitled “The Official Zoning Map of the Village of Firth, Nebraska,” and as may be amended by subsequent annexation.

## **1.13 Protection Corridors**

In addition to the regulations of this Zoning Ordinance, all structures within any protection corridor of the Village, County, or the Nebraska Department of Transportation shall adhere to any permits, reviews, and established setbacks.

## **1.14 Provisions of Ordinance Declared to be Minimum Requirements**

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

## **1.15 Zoning Affects Every Building and Use**

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

## **1.16 Publication**

This Zoning Ordinance shall be published in book or pamphlet form and shall, together with the maps being a part hereof, be filed with the Village Clerk, of the Village of Firth, Nebraska.

## ARTICLE TWO: RULES & DEFINITIONS

### 21 Purpose

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

### 22 Rules of General Construction of the Language

For the purposes of this Zoning Ordinance the following rules shall apply:

- 2.2.1 Words and numbers used singularly shall include the plural, the plural shall include the singular, unless the context clearly indicates otherwise. Words used in the present tense shall include the future tense.
- 2.2.2 Any conflict between the text and any illustration explaining the text, the text shall apply.
- 2.2.3 The word “persons” includes a corporation, members of a partnership or other business organization, a committee, board, council, commission, trustee, receiver, agent, or any other representative.
- 2.2.4 The word “shall” is always mandatory. The word “may” is discretionary and not compulsory.
- 2.2.5 The words “use,” “used,” “occupy,” or “occupied” as applied to any land or building shall be construed to include the words “intended,” “arranged,” or “designed” to be used or occupied.
- 2.2.6 The word “and” indicates all connected items, conditions, provisions, or events shall apply. The word “or” indicates that one or more of the connected items, conditions, provisions, or events shall apply. “Either... or” indicates that the connected items or provisions shall apply singly, but not in combination.
- 2.2.7 The word “Commission” shall refer to the Planning Commission of the Village of Firth, Nebraska.
- 2.2.8 Undefined words or terms not herein defined shall have their usual and customary meaning as defined in a standard English dictionary or other applicable Village, State, or Federal regulation, unless the context clearly indicates another meaning was intended.
- 2.2.9 Computation of Time: Unless otherwise specifically provided, the time within which an act is to be completed shall be computed by excluding the first day and including the last day, unless it is Sunday or a Village holiday. All acts shall be completed within the time frame specified subject to extension periods provided herein.
- 2.2.10 Unless otherwise indicated, all public officials, bodies, and agencies referred to in this Chapter are those of the Village of Firth, Nebraska.



## 23 Definitions

For the purposes of this Zoning Ordinance, certain terms and words are hereby defined. Certain sections contain definitions which are additional to those listed here. These definitions shall be used in the interpretation of this Zoning Ordinance.

### 2.3.1 A

1. **ABANDONED:** intent of abandonment shall be assumed once an owner has ceased to use a property for a period of twelve (12) months. Indications of cessation include, without limitation, failure to provide utilities, lack of occupancy, failure to invest any resources into the property, lack of routine maintenance performance, defaulting on required financial payments, and failure to pay appropriate taxes. This is distinguished from short-term interruptions such as periods of remodel, maintenance, or normally accepted periods of vacation or seasonal closure.
2. **ABUT OR ABUTTING:** to border on, being contiguous with or have property or district lines in common. This shall include properties separated by an alley.
3. **ACCESS OR ACCESS WAY:** the place, means, or way by which pedestrians and vehicles shall have safe, adequate, and usable ingress and egress to a property or use as required by this Zoning Ordinance.
4. **ACCESSORY BUILDING:** any detached subordinate (in size and use) building which serves a function customarily incidental to that of the main building or main use of the premises. All accessory buildings shall be affixed to the ground. Accessory buildings not securely fastened to the ground are prohibited.
5. **ACCESSORY DWELLING UNIT (ADU):** a second dwelling unit located on the same lot as a primary dwelling unit (PDU) which: allows additional housing types that respond to the needs of changing households and are typically more affordable; allows additional housing units while respecting the style and scale of the surrounding areas; and utilizes existing infrastructure while adding population. The following definitions are types of ADUs:
  - a. **Detached ADU** - A dwelling that is detached from the primary dwelling unit (PDU) structure.
  - b. **Attached ADU** - A dwelling that is attached to the primary dwelling unit (PDU).
  - c. **Internal ADU** - A dwelling that is integrated into the primary dwelling unit (PDU).
6. **ACCESSORY STRUCTURE:** a detached subordinate (in size and use) structure located on the same lot with the principal structure, the use of which is incidental and accessory to that of the principal structure.
7. **ACCESSORY USE:** a use incidental, related, appropriate, and clearly subordinate to the main use of the lot or building, which accessory use does not alter the principal use of the subject lot or affect other properties in the district.
8. **ADJACENT:** near, close, or abutting. For example, a Commercial District across the street from a Residential District shall be considered as “adjacent.”
9. **ADULT ENTERTAINMENT ESTABLISHMENT, LIVE:** Any building or portion of a building which contains any exhibition or dance wherein any employee or entertainer is unclothed or in such attire, costume or clothing so as to expose to view any portion of the female breast below the areola, or male or female genitals, vulva, anus and/or buttocks, or any portion of the pubic hair and which exhibition or dance is for the benefit of a member or members of the adult public, or advertised for the use or benefit of a member of the adult public, held, conducted, operated or maintained for profit, direct or indirect.

10. **ADULT ORIENTED ENTERTAINMENT:** Any exhibition, performance or dance of any type conducted in a premise where such exhibition, performance or dance is distinguished or characterized by a predominant emphasis on the depiction, description, simulation or relation to the following sexual activities:
- Human genitals in a state of sexual stimulation or arousal;
  - Acts of human masturbation, sexual intercourse or sodomy; or
  - Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast; or
  - Any exhibition, performance or dance which is intended to sexually stimulate any member of the public and which is conducted on a regular basis or as a substantial part of the premises' activity. This includes, but is not limited to, any such exhibition, performance or dance performed for, arranged with or engaged in with fewer than all members of the public on the premises at the time, with separate consideration paid, either directly or indirectly, for such performance, exhibition or dance and which is commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing or straddle dancing.
11. **ADULT RETAIL:** An enclosed building or any portion thereof which, for money or any other form of consideration, devotes a significant or substantial portion of stock in trade to the sale, exchange, rental, loan, trade, transfer or viewing of "adult-oriented merchandise." For purposes of this definition, a retail establishment devotes a significant or substantial portion of its stock in trade to adult-oriented merchandise if the sale, exchange, rental, loan, trade, transfer or viewing of such adult-oriented merchandise is clearly material to the economic viability of the business. It is presumed that such adult-oriented merchandise accounts for any one or more of the following:
- Thirty percent or more of the retail dollar value of gross sales over any quarterly period;
  - Thirty percent or more of the floor area of the store open to the public;
  - Thirty percent or more of the retail dollar value of all merchandise displayed in the store;
  - Thirty percent or more of the store's inventory (whether measured by retail dollar value or number of items); or
  - Thirty percent or more of the store's stock in trade.
  - In no event shall a retailer whose transactions only incidentally or marginally relate to adult-oriented merchandise be considered an adult retail use establishment.
12. **AGRICULTURAL FARM OPERATION:** any tract of land over ten acres in area used for or devoted to the commercial production of farm products.
13. **AGRICULTURE:** planting, cultivating, harvesting, and storage of grains, hay, or plants commonly grown in the country. The raising and feeding of livestock and poultry shall be considered an agricultural venture if the area in which the livestock or poultry is kept is ten acres or more in area, and if such raising of livestock and poultry is incidental or supplemental to the raising of crops.
14. **ALLEY:** a dedicated public or private right-of-way, other than a street, which provides only a secondary means of access to abutting property, which is no less than twenty (20) feet in width. Buildings facing an alley shall not be construed as satisfying the requirements of this regulation related to frontage on a dedicated street.
15. **ALTERATION:** as applied to a building or structure, is a change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing in height or the moving from one location or position to another, shall be considered an "alteration."
16. **AMENDMENT:** a change in the wording, context, or substance of this Zoning Ordinance, an addition or deletion or a change in the district boundaries or classifications upon the official zoning map.

17. **ANIMAL HOSPITAL OR CLINIC:** an establishment where animals are admitted principally for examination, treatment, board, or care by a doctor of veterinary medicine. This does not include open kennels or runs.
18. **ANIMAL UNITS:** one animal unit equals one animal.
19. **APARTMENT:** a room or a suite of rooms within an apartment house or multiple family dwelling arranged, intended, or designed for a place of residence of an individual, a single family or group of individuals living together as a single housekeeping unit. (See also Dwelling, Multiple.)
20. **APPLICANT:** the titleholder of record, his agent, or a person holding a notarized letter authorizing the person to represent the legal owner of the property.
21. **APPEARANCE:** the outward aspect visible to the public.
22. **APPROPRIATE:** fitting to the context of the site and the whole community.
23. **APPURTENANCES:** shall mean the visible, functional, objects accessory to and part of buildings.
24. **AREA:** a piece of land capable of being described with such detail that its location may be established and boundaries ascertained.
25. **ATTACHED:** having one or more walls in common with a principal building or connected to a principal building by an integral architectural element.
26. **ATTACHED PERMANENTLY:** attached to real estate in such a way as to require dismantling, cutting away, unbolting, from a permanent foundation or structural change in such structure in order to relocate it to another site.

#### **2.3.2 B**

1. **BAR/TAVERN:** A business where alcoholic beverages are sold for on-site consumption, which are not part of a larger restaurant. Limits entry to persons 21 years of age or older. Includes bars, taverns, pubs, and similar establishments where any food service is subordinate to the sale of alcoholic beverages. May also include beer brewing as part of a microbrewery or brew-pub, and other beverage tasting facilities, such as wine or beer tasting rooms. Does not include adult oriented businesses.
2. **BASEMENT:** a level of building below street level that has at least one-half (1/2) of its height, measuring from its floor to its ceiling, 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. **BED AND BREAKFAST:** a house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises.
4. **BEDROOM:** a room within a dwelling unit planned and intended for sleeping, separable from other rooms by a door.
5. **BEST INTEREST OF THE COMMUNITY:** shall mean interests of the community at large and not interests of the immediate neighborhood.

6. **BLOCK:** a parcel of land platted into lots and bounded by public streets or by waterways, right-of-ways, unplatted land, Village-County boundaries, or adjoining property lines which has been designated as such on a plat for the purposes of legal description of a property.
7. **BOARD OF ADJUSTMENT:** the board that has been created by the Village and which has the statutory authority to hear and determine appeals, interpretations of, and variances to the zoning regulations.
8. **BOARDING OR LODGE HOUSE:** A building other than a hotel where, for compensation and by pre-arrangement for definite periods, meals, or lodging and meals, are provided for three (3) or more persons, but not exceeding twenty (20) persons. Individual cooking facilities are not provided.
9. **BOND:** any form of security including a cash deposit, security bond, collateral, property, or instrument of credit in an amount and form satisfactory to the Village Board which meets the intent of such security required by this Ordinance.
10. **BOUNDARY ADJUSTMENT:** the transfer of property by deed to a respective owner or owners of contiguous property for the purpose of adjusting a boundary line and not for the purpose of creating an additional lot or parcel.
11. **BREWERY-BREW PUB:** An establishment that produces ales, beers, meads, hard ciders, and/or similar beverages to serve on-site. Sale of beverages for off-site consumption is also permitted in keeping with the regulations of the Alcohol Beverage Control (ABC) and Bureau of Alcohol, Tobacco, and Firearms (ATF). Service of brewed beverages must be in conjunction with the service of food. Brew pubs may not produce more than 15,000 barrels of beverage (all beverage types combined) annually. May include the distribution of beverages for consumption at other sites.
12. **BREWERY-PRODUCTION:** An establishment which produces ales, beers, meads, hard ciders, and/or similar beverages on-site. Production Breweries are classified as a use which manufactures more than 15,000 barrels of beverage (all beverage types combined) annually. Breweries may also serve beverages on-site, and sell beverages for off-site consumption in keeping with the regulations of the Alcohol Beverage Control (ABC) and Bureau of Alcohol, Tobacco, and Firearms (ATF). In addition, uses which produce 15,000 barrels of beverage or less, but which do not meet one or more of the additional requirements to be considered a brew pub, are breweries.
13. **BUFFER:** strip of land established to protect one type of land use from another incompatible land use or between a land use and a private or public road. (*See also* Screening.)
14. **BUFFER ZONE:** an area of land that separates two zoning districts and/or land uses that acts to soften or mitigate the effects of one use on the other.
15. **BUILDING:** any structure entirely separated from any other structure by space or by walls, having a roof, which was built and maintained for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind. Trailers, with or without wheels, shall not be considered as buildings. The term “building” includes the term “structure.”
16. **BUILDING, AREA OF:** shall mean the sum in square feet of the ground areas occupied by all buildings and structures on a lot.
17. **BUILDING CODE:** the various codes of the Village that regulate construction and requires building permits, electrical permits, mechanical permits, plumbing permits, and other permits to do work regulated by the Uniform Building Code, and other codes adopted by the Village that pertain to building codes.

18. **BUILDING HEIGHT:** the vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched, hipped, or shed roof, measured from the highest adjoining sidewalk or ground surface within a five (5) foot horizontal distance at the exterior wall of the building.
19. **BUILDING LINE:** a line parallel, or nearly parallel, to the street line at a specified distance from the street line which marks the minimum set back distance a building may be erected. In the case of a cul-de-sac the building line shall be measured around the curvature of the street line and shall be located at the required front yard setback or where the lot width meets the minimum lot width required in the district, whichever is greater.
20. **BUILDING PERMIT:** a document that must be issued by the Zoning Administrator prior to erecting, constructing, enlarging, altering, repairing, moving, improving, removing, converting, or demolishing any building or structure regulated by this Zoning Ordinance or by the applicable building codes of the Village of Firth. Issuance of a building permit follows review of plans by the Zoning Administrator to determine that the proposed use of building or land complies with the provisions of this Zoning Ordinance.
21. **BUILDING SETBACK:** the minimum of distance as prescribed by this Zoning Ordinance between any property line and the closed point of the building line or face of any building or structure.

### 2.3.3 C

1. **CAMPGROUND:** a parcel of land intended for the temporary occupancy of tents, campers, and major recreational vehicles and which its primary purpose is recreational, having open areas that are natural in character.
2. **CAR WASH:** a building or structure or area of land with machine or hand operated facilities for the cleaning, washing, polishing, or waxing of motor vehicles, not including semi-trailer tractors, buses, and commercial fleets.
3. **CARPORT:** a permanent roofed accessory structure with not more than two (2) enclosed sides used or intended to be used for automobile shelter and storage. All carports shall be considered an accessory structure.
4. **CEMETERY:** land used or intended to be used for the burial of the dead and dedicated for such purposes, including columbarium, crematoriums, and mausoleums.
5. **CHARITABLE ORGANIZATION OR CLUB:** a public or semi-public institutional use of a philanthropic, charitable, benevolent, religious, or eleemosynary character, but not including sheltering or caring of animals.
6. **CHANGE OF USE:** the replacement of an existing use by a new use.
7. **CHILD CARE:**
  - a. **Family Childcare Home I:** child care is provided in the licensee's residence to at least four but not more than eight children, except that a licensee may be approved to serve up to two additional school-age children during non-school hours if no more than two of the other children in care are under 18 months of age.
  - b. **Family Child Care Home II (FCCH-II):** child care is provided for at least four, but not more than 12 children. An FCCH-II may be located in the licensee's residence or another location.

8. **CHILD CARE CENTER:** a facility licensed to provide child care for thirteen (13) or more children. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.
9. **CHURCH:** a permanently located building commonly used for religious worship fully enclosed with walls and having a roof and conforming to applicable legal requirements.
10. **CLUB:** an association of persons (whether incorporated or not), religious or otherwise, for a common purpose, but not including groups organized primarily to render a service or carried on as a business for profit.
11. **CLUSTER DEVELOPMENT:** a development designed to concentrate buildings 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.
12. **CODE:** The Village Code of the Village of Firth.
13. **COMMISSION:** The Village of Firth Planning Commission.
14. **COMMON AREA OR PROPERTY:** a parcel or parcels of land, together with improvements thereon, the use and enjoyment of which are shared by the owners of the individual building sites in a planned development or condominium development.
15. **COMMON OPEN SPACE:** an area of land or water or combination thereof planned for passive or active recreation, but does not include areas utilized for streets, alleys, driveways or private roads, off-street parking, or loading areas. Areas of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open space.
16. **COMMUNITY CENTER:** a place, structure, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve various segments of the community.
17. **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.
18. **COMPATIBLE USES:** a land use which is congruous with, tolerant of, and has no adverse effects on existing neighboring uses. Incompatibility may be affected by pedestrian or vehicular traffic generation, volume of goods handled and environmental elements such as noise, dust, odor, air pollution, glare, lighting, debris generated, contamination of surface or ground water, aesthetics, vibration, electrical interference, and radiation.
19. **COMPREHENSIVE PLAN:** Cultivating the Firth Comprehensive Plan of the Village of Firth, Nebraska as adopted by the Village Board, setting forth policies for the present and foreseeable future community welfare as a whole and meeting the purposes and requirements of Neb. Rev. Stat. §19-924-929 (1943) (Reissue 1997), as the same may, from time-to-time, be amended.
20. **CONDITIONAL ACCESSORY USE:** an incidental, related, appropriate, and clearly subordinate to the main use of the lot or building, and where allowed by the district regulations, that would not be appropriate generally throughout the zoning district without restrictions, but which, if controlled as to number, size, area, location, relation to the neighborhood, or other minimal protective characteristics would not be detrimental to the public health, safety, and general welfare.

21. **CONDITIONAL APPROVAL:** approval of a subdivision which requires the subdivide to take certain specified action in order to secure approval of the subdivision. The Resolution approving a subdivision shall specify the condition to be met and the time by which the condition is to be met.
22. **CONDITIONAL USE:** a use where allowed by the district regulations, that would not be appropriate generally throughout the zoning district without restrictions, but which, if controlled as to number, size, area, location, relation to the neighborhood or other minimal protective characteristics would not be detrimental to the public health, safety, and general welfare.
23. **CONDITIONAL USE PERMIT:** a permit issued by the Commission and Village Board that authorizes the recipient to make conditional use of the property in accordance with the provisions of this Zoning Ordinance and any additional conditions placed upon, or required by, said permit.
24. **CONDOMINIUM:** as defined in the Neb. Rev. Stat. §76-824--894 (1943) (Reissued 1997), the Condominium Law, whereby four or more apartments are separately offered for sale. Shall mean a multiple dwelling building as defined herein whereby the title to each dwelling unit 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 having an undivided interest in the common real estate.
25. **CONFLICTING LAND USE:** the use of property which transfers over neighboring property lines causes negative economic or environmental effects, including, but not limiting, noise, vibration, odor, dust, glare, smoke, pollution, water vapor, mismatched land uses, and/or density, height, mass, mismatched layout of adjacent uses, loss of privacy, and unsightly views.
26. **CONSERVATION:** the protection and care that prevent destruction or deterioration of historical or otherwise significant structures, buildings, or natural resources.
27. **CONSERVATION AREA:** environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance, or character, except in overriding public interest, including but not limiting, wetlands, floodways, flood plains, drainage ways, river, or stream banks, and areas of significant biological productivity or uniqueness.
28. **CONSERVATION EASEMENT:** an easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded condition and retaining such areas as suitable habitat for fish, plants, or wildlife, or maintaining existing land uses.
29. **CONSTRUCTION:** on-site erection, fabrication, installation, alteration, demolition, or removal of any structure, facility, or addition thereto, including all related activities, but not restricted to, clearing of land, earth moving, blasting, and landscaping.
30. **CONVENIENCE STORE:** a one-story, retail store containing less than 10,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items. It is dependent on, and is designed to attract and accommodate large volumes of stop-and-go traffic.
31. **COUNTY:** Lancaster County, Nebraska.
32. **COURT:** An open, unoccupied space, other than yard, bounded on three or more sides by exterior walls of a building and lot lines on which walls are allowable.
33. **COVERAGE:** the percentage of lot covered by buildings and structures.
34. **CROP PRODUCTION:** branch of agriculture that deals with growing crops for use as food and fiber.

35. CUL-DE-SAC: a short, public way that has only one outlet for vehicular traffic and terminates in a vehicular turn-around.

#### 2.3.4 **D**

1. DEDICATION: the intentional appropriation of land by the owner to some public use.
2. DENSITY: the number of dwelling units per gross acre of land.
3. DETACHED: fully separated from any other building or jointed to another building in such a manner as not to constitute an enclosed or covered connection.
4. DEVELOPMENT: any manmade change to improved or unimproved real estate, including but limiting, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations for which necessary permits may be required.
5. DEVELOPMENT REVIEW: the review, by the Village, of subdivision plats, site plans, rezoning requests, or permit review.
6. DISTRICT OR ZONE: sections of zoning area for which this Zoning Ordinance governing the use of land, building height and bulk, size of yards, and intensity of activity are uniform.
7. DOG: any canine species over twelve (12) months of age; a dog younger than 12 months is a puppy.
8. DOMESTIC LIVESTOCK USE: Any activity involving the breeding, raising, caring for, housing, and principally the hobby/personal use of domestic animals and products derived from those animals by the occupant, owner, or leaser of the lot on which such use is located. Such animals may include, but need not be limited to, chickens, sheep, goats, alpacas, cattle, horses or swine, and other species not defined as household pets or regulated elsewhere in this Ordinance.
9. DOWNZONING: a change in zoning classification of land to a less intensive or more restrictive district such as from a commercial district to residential district or from a multiple family residential district to single family residential district.
10. DRIVE-IN FACILITY: an establishment where customers can be served without leaving the confinement of their vehicles.
11. DRIVEWAY: any vehicular access to an off-street parking or loading facility.
12. DUPLEX: shall mean the same as “Dwelling, Two (2) Family.”
13. DWELLING: any building or portion thereof which is designed and used exclusively for single family residential purposes, excluding mobile homes.
14. DWELLING, MANUFACTURED HOME: a factory-built structure which is to be used as a place for human habitation, which is not constructed with or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axels, and which bears a label certifying that it was built in compliance with standards promulgated by the United States Department of Housing and Urban Development.



15. DWELLING, MOBILE HOME: any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved essentially in a completely constructed condition and mounted on wheels, skids or roller jacks, blocks, horses, skirting, or a permanent or temporary foundation or any prefabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term mobile home shall include trailer home and camper, but the definition shall not apply to any vehicle lawfully operated upon fixed rail.
- a. Permanently attached: attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent continuous foundation or structural change in such mobile home in order to relocate it on another site in accordance to manufacturers' recommendations.
  - b. Permanent Foundation: based on building rests to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of 42" below the final ground level.
16. DWELLING, MODULAR: (is considered a conventional type single-family dwelling). Any prefabricated structure, used for dwelling purposes, moved on to a site in an essentially complete constructed condition, in one or more parts, and when completed is a single-family unit on a permanent foundation, attached to the foundation with permanent connections. To be a modular home, it shall meet or be equivalent to the construction criteria as defined by the Nebraska State Department of Health and Human Services under the authority granted by Neb. Rev. Stat. §71- 1555-1567 (1943) (Reissued 1997), in addition to any amendments thereto; those that do not meet the above criteria shall be considered a mobile home.
17. DWELLING, MULTI-FAMILY: a building or buildings designed and used for occupancy by three (3) or more families, all living independently of each other and having separate kitchen and toilet facilities for each family.
18. DWELLING, SEASONAL: a dwelling designed and used as a temporary residence and occupied less than six (6) months in a year.
19. DWELLING, SINGLE FAMILY: a building having accommodations for or occupied exclusively by one family which meet all of the following standards:
- a. The home shall have no less than five hundred (500) square feet of floor area, above grade, for single story construction, unless otherwise noted in this Zoning Ordinance.
  - b. The home shall have no less than eighteen (18) foot exterior width.
  - c. The roof shall be pitched with a minimum vertical rise of two and one-half (2 ½) inches for each twelve (12) inches of horizontal run.
  - d. The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single family construction.
  - e. The home shall have a non-reflective roof material that is or simulates asphalt or wood shingles, tile, tin, steel, or rock.
  - f. The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed.
  - g. The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning districts.
  - h. Permanent foundation: continuous perimeter base on which building rests to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of forty-two (42) inches below the final ground level.

20. **DWELLING, SINGLE FAMILY (ATTACHED):** a one-family dwelling unit that is attached to one additional single-family dwelling. Said dwelling units are separated by an un-pierced common wall through the center of the structure that also sits along the property line separating ownership of the structure.
21. **DWELLING, SINGLE FAMILY (DETACHED):** a dwelling which is entirely surrounded by open space on the same lot and is detached from another single-family dwelling.
22. **DWELLING, TWO (2) FAMILY:** a building designed or used exclusively for the occupancy of two (2) families living independently of each other and having a separate kitchen and toilet facilities for each family.
23. **DWELLING UNIT:** one room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or lease on a weekly, monthly, or longer basis, and physically separate from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, toilet, and sleeping facilities.

#### 2.3.5 **E**

1. **EASEMENT:** a privilege or right of use granted on, above, under, or across a particular tract of land for a specific purpose by one owner to another owner, public or private agency, or utility.
2. **EFFECTIVE DATE:** the date that this Zoning Ordinance shall have been adopted, amended, or the date land areas became subject to the regulations contained in this Zoning Ordinance as a result of such adoption or amendment.
3. **ENCLOSED:** a roofed or covered space fully surrounded by walls.
4. **ENCROACHMENT:** an advancement or intrusion beyond the lines or limits as designated and established by this Zoning Ordinance, and to infringe or trespass into or upon the possession or right of others without permission.
5. **ENLARGEMENT:** the expansion of a building, structure, or use in volume, size, area, height, length, width, depth, capacity, ground coverage, or in number.
6. **EXTERIOR BUILDING COMPONENT:** an essential and visible part of the exterior of a building.
7. **EXTRATERRITORIAL JURISDICTION:** the area beyond the corporate limits, in which the Village has been granted the powers by the state to exercise zoning and building regulations and is exercising such powers.

#### 2.3.6 **F**

1. **FAÇADE:** the exterior wall of a building exposed to public view from the building's exterior.
2. **FACTORY:** a structure or plant within which something is made or manufactured from raw or partly wrought materials into forms suitable for use.

3. **FAMILY:** a person living alone, or any of the following groups living together as a single, nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities:
  - a. Any number of people related by blood, marriage, adoption, guardianship, or duly-authorized custodial relationship.
  - b. Up to four unrelated persons and any related children.
  - c. A group care home.

The term “family” does not include occupancy of a residence by persons living in fraternities, sororities, clubs or transient, or permanent commercial residential facilities catering to the general public. The term “family” excludes nursing homes and convalescent homes.

4. **FARMERS MARKET, AGRICULTURAL:** an [outdoor] market at a fixed location open to the public, operated by a governmental agency, a non-profit corporation, or one (1) or more producers at which (a) 75% of the vendors sell Farm Products or value-added Farm Products, and (b) at least 75% of the vendors who regularly participate during the market's hours of operation are Producers, or family members, or employees of Producers.
5. **FARM PRODUCTS:** fruits, vegetables, mushrooms, herbs, nuts, shell eggs, honey, or other bee products, flowers, nursery stock, livestock food products (including meat, milk, cheese, and other dairy products), and fish.
6. **FENCE:** an enclosure or barrier, such as wooden posts, wire, iron, etc., used as a boundary, means of protection, privacy screening or confinement, but not including vehicles, machinery, equipment, buildings, or hedges, shrubs, trees, or other natural growth.
7. **FENCE, OPEN:** a fence, including gate, which has, for each one foot (1') wide segment extending over the entire length and height of fence, fifty percent (50%) or more of the surface area in open spaces which affords direct views through the fence.
8. **FENCE, SOLID:** any fence which does not qualify as an open fence.
9. **FLOOR AREA:** whenever the term “floor area” is used in this Zoning Ordinance as a basis for requiring off-street parking for any structure, it shall be assumed that, unless otherwise stated, said floor area applies not only to the ground floor area but also to any additional stories of said structure. All horizontal dimensions shall be taken from the exterior faces of walls.
10. **FRONTAGE:** the portion of a parcel of property which abuts a dedicated public street or highway.
11. **FRONTAGE ROAD:** minor streets parallel to and adjacent to arterial streets and highways, which reduce the number of access points to the arterial street or highway for the purpose of increased traffic safety.

#### **2.3.7 G**

1. **GARAGE, PRIVATE:** an accessory building designed or used for the storage of motor-driven vehicles owned and used by the occupants of the building to which it is accessory.
2. **GARAGE, PUBLIC:** any garage other than a private garage.
3. **GOVERNING BODY:** the body having jurisdiction in the zoning area.

4. **GRADE:** the horizontal 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 elevation of the sidewalk at the center of the wall facing the street shall be the grade.
  - b. For buildings having walls facing more than one street, the grade shall be the average of the grades of all walls facing each street.
  - c. For buildings having no walls facing a street, the average level of the finished surface of the ground adjacent to the exterior walls of the building shall be the grade.
  - d. Any wall approximately parallel to and not more than five feet (5') from a street line is considered as facing the street.
5. **GROSS FLOOR AREA (GFA):** the sum of the gross horizontal areas of the floor(s) of a building, including interior balconies and mezzanines, but excluding exterior balconies. All horizontal dimensions of each floor are measured from the faces of the exterior walls of each such floor.
6. **GROUP DAY CARE CENTER:** an establishment other than a public or parochial school, which provides day care, play groups, nursery schools, or education for five or more unrelated children.
7. **GROUP CARE HOME:** a home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home which is designed to provide twenty-four-hour care for individuals in a residential setting.
8. **GUEST ROOM:** a room which is designed to be occupied by one or more guests for sleeping purposes, having no kitchen facilities, not including dormitories.

#### 2.3.8 **H**

1. **HABITABLE:** state of a structure that allows for human occupation. Indications of habitability include, without limitation, heat in the winter months, no infestation of vermin, roaches, termites, or mold, and access to potable water.
2. **HALFWAY HOUSE:** a licensed home for individuals on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, living together as a single housekeeping unit, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently.
3. **HAZARDOUS WASTE:** any discarded material, refuse, or waste products, in solid, semisolid, liquid, or gaseous form, that cannot be disposed of through routine waste management techniques because they pose a present or potential threat to human health, or to other living organisms, because of their biological, chemical, or physical properties.
4. **HEDGE:** a plant or series of plants, shrubs, or other landscape material, so arranged as to form a physical barrier or enclosure.
5. **HOME OCCUPATION:** a business, profession, or trade conducted for gain or support entirely within a residential building subject to the following use limitations:
  - a. In all residential districts:
    - i. No commodities shall be displayed on the premises.
    - ii. No mechanical or electrical equipment shall be used other than that which is normally used for purely domestic or household purposes.
    - iii. No outdoor storage of materials or equipment used in the home occupation shall be permitted.

- iv. No alteration of the principal residential building shall be made which changes the character thereof as a residence.
  - v. Employed individuals from outside the immediate family are limited to two (2).
  - vi. No manufacturing or processing of any store whatsoever shall be done, and no stock-in-trade shall be displayed or sold on the premises.
- b. Particular Home Occupations permitted: customary home occupations include, but are not limited to, the following list of occupations:
- i. Dressmakers, seamstresses, tailors.
  - ii. Music teachers, provided that instruction shall be limited to five (5) pupils at a time.
  - iii. Dance and drama instructors, provided that instruction shall be limited to not more than ten (10) pupils at a time.
  - iv. Artists, sculptors, authors, and composers.
  - v. Offices for architects, engineers, lawyers, realtors, insurance agents, brokers, and members of similar professions.
  - vi. Ministers, rabbis, and priests.
  - vii. Offices for salespersons, sales representatives, manufacturer's representatives.
  - viii. Home crafts, such as model making, rug weaving, lapidary work, cabinet making, etc., provided that no machinery or equipment shall be used other than that which would customarily be used in connection with the above home crafts when pursued as a hobby or vocation.
  - ix. Day nurseries or babysitters caring for less than five unrelated children.
  - x. Barbershops and beauty parlors.
  - xi. Services such as small appliance, radio, and T.V. repair.
- c. Particular Home Occupations prohibited: permitted home occupations shall not, under any circumstances, include:
- i. Funeral homes.
  - ii. Group daycare centers caring for five (5) or more unrelated children unless specifically permitted by the district regulations.
  - iii. Adult Entertainment.
  - iv. Restaurants.
  - v. Grocery stores.
  - vi. Stables, animal kennels, or hospitals.
  - vii. Tourist homes, unless specifically permitted in the district.
  - viii. Renting of trailers or equipment.
  - ix. Auto and other vehicle repair.
6. **HOMEOWNERS ASSOCIATION:** a private, nonprofit corporation or association of homeowners of properties in a fixed area, established for the purpose of owning, operating, and maintaining various common properties and facilities.
7. **HOTEL:** a building or portion thereof, or a group of buildings, offering transient lodging accommodations on a daily rate to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities. The word "hotel" includes motel, inn, automobile court, motor inn, motor lodge, motor court, tourist court, and motor hotel.
8. **HOUSEHOLD PET:** shall mean animals ordinarily permitted in the dwelling area and kept for company or pleasure including; dogs, cats, birds, guinea pigs, hamsters, mice, snakes, iguana, and turtles. Household pet shall also include any domesticated animal that a person owns or that is sold or offered for sale generally for the purpose of being kept indoors as household pets, except unusual animals.

### 2.3.9 I

1. **IMPERVIOUS COVERAGE:** the total horizontal area of all buildings, roofed, or covered spaces, paved surface areas, walkways, 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 pools is excluded from this definition.
2. **IMPERVIOUS SURFACE:** a surface that has been compacted or covered with a layer of material making the surface highly resistant to infiltration by water, such as rock, gravel, or clay, and conventionally surfaced streets, routes, sidewalks, parking lots, and driveways.
3. **IMPROVEMENTS:** street grading, street surfacing and paving, curbs and gutters, street lights, street signs, sidewalks, crosswalks, water mains and lines, water meters, fire hydrants, sanitary sewers, storm drainage facilities, culverts, bridges, public utilities, or any other such installation as designated by the Village Board or its specific approving authority.
4. **INCIDENTAL USE:** a use which is subordinate to the main use of a premise.
5. **INDUSTRIAL PARK:** a planned, coordinated development of a tract of land with two or more separate industrial buildings. The development is planned, designed, constructed, and managed on an integrated and coordinated basis with an enforceable master plan and/or covenants, conditions, and restrictions with special attention to on-site vehicular circulation, parking, utility needs, building design, and orientation and open space.
6. **INDUSTRY:** the manufacture, fabrication, processing, reduction or destruction of any article, substance, or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance and including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.
7. **INFILL DEVELOPMENT:** the construction of a building or structure on a vacant parcel located in a predominately built up area.
8. **INFILL SITE:** any vacant lot, parcel, or tract of land within developed areas of the Village, where at least eighty percent (80%) of the land within a 300-foot radius of the site has been developed, and where water, sewer, streets, schools, and fire protection have already been constructed or are provided.
9. **INOPERABLE MOTOR VEHICLE:** any motor vehicle which:
  - a. Does not have a current state license plate or;
  - b. Which may or may not have a current state license plate, but is disassembled or wrecked in part or in whole, or is unable to move under its own power, or is not equipped as required by Nebraska State Law for operation upon streets or highways. A vehicle that is wholly or partially dismantled shall not be considered inoperable when said vehicle is inside a completely enclosed building.
10. **INTENSITY:** shall mean the degree to which land is used referring to the levels of concentration or activity in uses ranging from low intensity, being agricultural and residential, to uses of highest intensity, being heavy industrial. High intensity uses are normally uses that generate concentrations of vehicular traffic and daytime population and are less compatible with lower intensive uses.
11. **INTENT AND PURPOSE:** The Commission and Board by the adoption of this Zoning Ordinance, have made a finding that the health, safety, and welfare of the community will be served by the creation of these districts and by the regulations prescribed therein.

### 2.3.10 J

1. JUNK: any worn-out, cast-off, old, or discarded articles of scrap, wood, plastic, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material.
2. JUNK YARD: any lot, land parcel, building, or structure or part thereof for storage, collection, purchase, sale, salvage, or disposal of machinery, farm machinery, and including motor vehicles, parts and equipment resulting from dismantling or wrecking, or keeping of junk, including scrap metals or other scrap materials, with no burning permitted.

### 2.3.11 K

1. KENNEL, BOARDING: any lot or premises on which three (3) or more dogs, cats, or non-farm/non-domestic animal or any combination of five (5) or more thereof, at least four (4) months of age, are boarded, bred, or trained for a fee.
2. KENNEL, COMMERCIAL: an establishment where four or more dogs or cats, or any combination thereof, other household pets, or non-farm/non-domestic animals at least four months of age are groomed, bred, boarded, trained, or sold as a business.

### 2.3.12 L

1. LAGOON: a wastewater treatment facility that is a shallow, artificial pond where sunlight, bacterial action, and oxygen interact to restore wastewater to a reasonable state of purity. This includes both human and livestock wastes. All lagoons shall meet the minimum design criteria established by the Nebraska Department of Environmental Quality and the Nebraska Department of Health and Human Services. All lagoons shall have the proper permits approved prior to starting construction.
2. LANDFILL: a disposal site employing a method of disposing solid wastes in a manner that minimizes environmental hazards in accordance with state and federal requirements.
3. LANDSCAPE: plant materials, topography, and other natural physical elements combined in relation to one another and to man-made structures.
4. LEED: a professional credential that means Leadership in Energy and Environmental Design as administered and regulated by the United States Green Building Council.
5. LIGHT CUT-OFF ANGLE: an angle from vertical, extending downward from a luminaire, which defines the maximum range of incident illumination outward at the ground plane.
6. LOFT BUILDING: A building or space within a building designed for commercial or industrial use, generally constructed prior to 1930.
7. LOT: a parcel or tract of land which is or may be occupied by a use herein permitted, together with yards, and other open spaces herein required, that has frontage upon a street, and is a part of a recorded subdivision plat or has been recorded prior to the adoption of this Zoning Ordinance, or a parcel of real property delineated on an approved record of survey, lot-split or sub-parceling map as filed in the office of the County Recorder and abutting at least one (1) public street or right-of-way, two (2) thoroughfare easements, or one (1) private road. (*See Lot Configurations Diagram, page 44*)
8. LOT AREA: the total area, on a horizontal plane, within the lot lines of a lot.
9. LOT CONSOLIDATION: a method for approval of lot boundary adjustments which reduces the number of lots to not greater than two (2).

10. LOT CORNER: a lot located at the intersection of two (2) or more streets at an angle of not more than 135 degrees. If the angle is greater than 135 degrees, the lot shall be considered an "Interior Lot." On corner lots, the yard labeled as the front yard shall have a 25' set back and the adjoining side yard shall have a 15' setback.
11. LOT COVERAGE: The portion of a lot or building site which is occupied by any piece of real property, not including paved areas, sidewalks, other walkways, or swimming pools. Temporary or semi-permanent structures such as porches, pergolas, carports, fences, and playground structures shall not be included in the total lot coverage.
12. LOT DEPTH: the horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.
13. LOT, DOUBLE FRONTAGE: a lot having a frontage on two (2) non-intersecting streets as distinguished from a corner lot.
14. LOT, FRONTAGE: the side of a lot abutting a legally accessible street right-of-way other than an alley or an improved county road. For the purposes of this definition, on corner lots, all sides of a lot adjacent to streets or roads shall be considered frontage.
15. LOT INTERIOR: a lot other than a corner lot.
16. LOT LINE: the property boundary line(s) of record that divides one lot from another or a lot from the public or private street right-of-way or easement. Once established, lot lines may not be redefined due to a change of address which would result in a new definition of the prior defined lot lines.
  - a. Front line: the lot lines separating the lot and a public or private street right-of-way.
    - For an interior lot, the lot line separating the lot from the right-of-way or easement.
    - 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 Utilities Superintendent, or as may be noted on the final plat.
    - 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 Utilities Superintendent at the time of application for the original building permit for the lot, or as may be noted on the final plat.
  - b. Rear line: the lot line which is opposite and most distant from the front line.
  - c. Side Line: any lot line that is neither a front or a rear lot line. A side lot line separating a lot from a street, private way or court is a street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.
17. LOT, NONCONFORMING: a lot having less area or dimension than is required in the district in which it is located and which was lawfully created prior to the zoning thereof whereby the larger area or dimension requirements were established, or any lot, other than one shown on a plat recorded in the office of the County Register of Deeds, which does not abut a public road or public road right-of-way and which was lawfully created prior to the effective date of this Zoning Ordinance.
18. LOT, PLATTED: a lot which is part of a subdivision of the plat of which, or the appropriate permit for which, has been legally approved by the Village and recorded in the office of the Register of Deeds for Lancaster County.



19. **LOT OF RECORD:** a lot held in separate ownership as shown on the records of the County Register of Deeds at the time of the passage of a regulation or regulations establishing the zoning district in which the lot is located.
20. **LOT WIDTH:** the average horizontal distance between the side lot line, measured at right angles to the lot depth at a point midway between the front and rear lots.

#### 2.3.13 **M**

1. **MAIL ORDER SERVICE:** an establishment primarily engaged in the retail sale of products by television, telemarketing, internet, catalog, and mail order. Such a use may include warehousing, shipping and receiving of merchandise intended for retail sale.
2. **MOBILE HOME PARK:** a parcel of land under single ownership that has been planned and improved for the placement of 2 or more manufactured housing used or to be used for dwelling purposes and where manufactured home spaces are not offered for sale or sold. This does not include sales lots on which new or used manufactured homes are parked for the purposes of storage, inspection, or sale.
3. **MANUFACTURING:** uses primarily engaged in the mechanical or chemical transformation of materials or substances into new products. These uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Uses engaged in assembling component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of material such as lubricating oils, plastics, resins, or liquids. Manufacturing production is usually carried on for the wholesale market, for interplant transfer, or to order for industrial users, rather than for direct sale to the domestic consumer.
4. **MAP, OFFICIAL ZONING DISTRICT:** a map delineating the boundaries of zoning districts which, along with the zoning text, is officially adopted by the Firth Village Board.
5. **MEDICAL, DENTAL, OR HEALTH CLINIC:** any building designed for use by one or more persons lawfully engaged in the diagnosis, care and treatment of physical or mental diseases or ailments of human beings; including, but not limited to, doctors of medicine, dentists, chiropractors, osteopaths, optometrists, podiatrists, and in which no patients are lodged overnight, but which may include an apothecary.
6. **MIXED USE:** properties where various uses are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design.
7. **MOBILE HOME:** every transportable or relocatable device of any description originally designed to be mobile and designed for living quarters, including double-wide models, that is eight (8) body feet or more in width and forty (40) body feet or more in length, built on a permanent chassis, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. This includes the term “trailer homes.”
8. **MONUMENT:** an identification marker established by certified land survey and set by a registered land surveyor at each section corner, angle point, block corner, street centerline, or other point.

#### 2.3.14 N

1. **NIGHT CLUB:** A facility serving alcoholic beverages for on-site consumption, and providing entertainment, examples of which include live music and/or dancing, comedy, etc. Many times, a fee is charged for admission.
2. **NON-CONFORMING BUILDING:** a building or portion thereof which was lawful when established but which does not conform to this Zoning Ordinance or subsequently established zoning or zoning regulations.
3. **NON-CONFORMING STRUCTURE:** A structure which does not comply with the lot size requirements or bulk regulations applicable to new structures in the zoning district in which it is located.
4. **NON-CONFORMING USE:** a use lawful when established but which does not conform to this Zoning Ordinance or subsequently established zoning or zoning regulations.
5. **NUISANCE:** anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses of a reasonable person such as noise, dust, odor, smoke, gas, pollution, congestion, lighting, and litter, or meets any section of the definition of a nuisance as described in Article 3 of the Firth Municipal Code.
6. **NURSING HOMES OR CONVALESCENT HOMES:** An institution or agency licensed by the State for the reception, board, care or treatment of three or more unrelated individuals, but not including facilities for the care and treatment of mental illness, alcoholism, or narcotics addiction.

#### 2.3.15 O

1. **OFFICE:** a building or a portion of a building wherein services are performed involving, primarily administrative, professional, or clerical operations.
2. **OPEN LOTS:** pens or similar concentrated areas, including small shed-type areas or open-front buildings, with dirt, or concrete (or paved or hard) surfaces, wherein animals or poultry are substantially or entirely exposed to the outside environment except for possible small portions affording some protection by windbreak or small shed-type areas.
3. **OPEN SPACE:** a parcel or parcels of land, together with the improvements thereon, primarily set aside for recreational use and enjoyment, exclusive of land areas used for streets, alleys, roads, driveways, parking areas, structures, and buildings.
4. **OUTDOOR STORAGE:** the storage of materials, parts, or products that are related to the primary use of a site for a period exceeding three (3) days.
5. **OUTDOOR STORAGE CONTAINER:** a fully enclosed, detached, and self-supporting structure, by itself incapable of motion or movement. The container must be manufactured/assembled off-site and transportable, by means other than its own, to a location where it is set into place on a graded surface of concrete, asphalt, or approved aggregate material and not upon a foundation or wheels. It shall be made of metal or a similar stable, durable, and acceptable material and shall not include a foundation, plumbing, electricity, or other mechanical systems as part of its assembly or use.
6. **OVERLAY DISTRICT:** a district in which additional requirements act in conjunction with the underlying zoning district. The original zoning district designation does not change.
7. **OWNER:** An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land.

### 2.3.16 P

1. **PARCEL:** a lot or a contiguous group of lots in single ownership or under single control, which may be considered as a unit for purposes of development.
2. **PARK:** any public or private land available for recreational, educational, cultural, or aesthetic use.
3. **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 this Zoning Ordinance. Parking facilities include parking lots, private garages, and parking structures.
4. **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 townhome residential uses shall be considered to have a means of access to a public street.
5. **PAVED:** permanently surfaced with poured concrete, concrete pavers, or asphalt.
6. **PEDESTRIAN WAY:** a right-of-way or easement dedicated to public use, which cuts across a block to facilitate pedestrian access to adjacent streets and properties.
7. **PERMANENT FOUNDATION:** a base constructed from either poured concrete or laid masonry, rock or brick and placed on a footing located below ground level to a point below the frost line upon which a building or structure is permanently attached.
8. **PERMANENTLY ATTACHED:** connected to real estate in such a way as to require dismantling, cutting away, or unbolting in order to remove, relocate, or replace.
9. **PERMITTED USE:** any land use allowed without condition within a zoning district.
10. **PERSON:** an individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, Village, County, special district or any other group or combination acting as an entity, except that it shall not include Firth, Nebraska.
11. **PLACE:** An open unoccupied space, other than a publicly-dedicated street or alley, permanently reserved as the principal means of access to abutting property.
12. **PLANNED UNIT DEVELOPMENT:** development of land which is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.
13. **PLANNING COMMISSION:** The Planning Commission of Firth, Nebraska.
14. **PLAT:** a map showing the location, boundaries, and legal description of individual properties.
15. **PLAT, FINAL:** the Final Plat of the plat, subdivision or dedication of land prepared for filing or recording in conformance with these regulations.
16. **PLAT, PRELIMINARY:** the preliminary plan of the plat, subdivision or dedication prepared in accordance with the requirements of these regulations.

17. **PLAT OF RECORD:** a map prepared in accordance with the provisions of these regulations and any other applicable local regulations to be placed on record in the office of the Register of Deeds of Lancaster County.
18. **POD:** a portable storage container designed and intended for the temporary placement upon property for the onsite storage of household or other goods, with a size typically not exceeding 16 ft. x 8 ft. x 8 ft.
19. **PRINCIPAL BUILDING:** a building in which the primary use of the property is conducted. Any building or structure containing a dwelling unit shall be deemed a principal building or structure in all residential zoning districts.
20. **PRINCIPAL USE:** the primary activity or structure for which a lot is used, as permitted by this Zoning Ordinance
26. **PRODUCER:** a person or entity that raises or produces Farm Products on land that the person or entity farms and owns, rents, or leases.
27. **PROHIBITED USE:** any use of land, other than nonconforming, which is not listed as a permitted use or conditional use within a zoning district.
28. **PROTECTED ZONE:** all lands that fall outside of the buildable areas of a parcel, all areas of a parcel required to remain in open space, and/or all areas required as landscaping strips according to the provisions of this Zoning Ordinance.

### **2.3.2 Q**

1. **QUARRY:** an open pit from which stone, sand, gravel, mineral, or fill is taken to be processed for commercial purposes.

### **2.3.17 R**

1. **REAL PROPERTY:** Land and any buildings, structures, or equipment permanently attached or fixed to the land.
2. **RECREATIONAL FACILITY:** facilities used by the public for passive and active recreation. This shall include country clubs and athletic clubs, but not facilities accessory to a private residence used only by the owner and guests, nor arenas or stadiums used primarily for spectators to watch athletic events. In addition, recreational facilities shall mean museums, amphitheaters, race tracks, wildlife conservation areas used for public viewing, and theme parks.
3. **RECREATIONAL VEHICLE (RV):** a vehicular unit less than forty feet (40') in overall length, eight feet (8') in width, or twelve feet (12') in overall height, primarily designed as a temporary living quarters for recreational camping or travel use having either its own power or designed to be mounted on or drawn by a motor vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, camping trailer, and fifth wheel.
4. **RECREATIONAL VEHICLE PARK:** a tract of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes by campers, vacationers, or travelers.
5. **REDEVELOPMENT:** the act of preserving and/or rehabilitating existing buildings. In extreme cases, a building or structure could be demolished for the purposes of a new use or building.

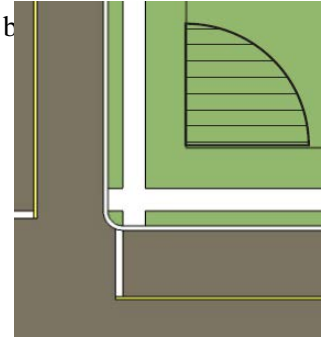
6. **REGULATION:** a specific requirement set forth by this Zoning Ordinance which must be followed.
7. **REPLAT:** the further subdivision of a lot or parcel of land previously subdivided, whether the re-subdivision results in more lots or fewer lots.
8. **RESIDENCE:** a building used, designed, or intended to be used as a home or dwelling place for one or more families.
9. **RESTAURANT:** Establishment that: sells, or offers for sale, food and beverages during all hours it is open for business primarily by way of table service. Prepares food on-site in a kitchen capable of preparing food from its component ingredients. Does not limit entry to persons 21 years of age or older and service of alcoholic beverages is secondary to service of food. Take-out service is permissible but must be secondary to on-site table service.
10. **REVERSE SPOT ZONING:** an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and that uniquely burdens an individual land owner largely to secure some public benefit. Reverse spot zoning usually results from downzoning a tract of land to a less intensive use classification than that imposed on nearby properties.
11. **REZONING:** an amendment to or change in the zoning regulations either to the text or map or both.
12. **RIGHT-OF-WAY:** an area or strip of land, either public or private, on which an irrevocable right of passage has been dedicated, recorded, or otherwise legally established for the use of vehicles or pedestrians or both.

#### 2.3.18 S

1. **SCREENING:** a structure or planting that conceals from the area behind from abutting property and from public view from a public street.
2. **SELF-SERVICE STATION:** an establishment where motor fuels are stored and dispensed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products.
3. **SELF-SERVICE STORAGE FACILTIES:** a building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage.
4. **SERVICE STATION:** a service station shall consist of a building or group of buildings and surfaced area where automotive vehicles may be refueled and serviced, self-service pumps without buildings shall also be included, such service shall not include tire recapping, body repairs or major overhaul.
5. **SETBACK:** the distance, as required by the minimum setback(s) which establishes the horizontal component(s) of the building envelope.
6. **SIGN:** any device which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of, an advertisement or announcement which directs attention to an object, product, place, activity, person, institution, organization or business.
7. **SITE:** the parcel of land to be developed or built upon. A site may encompass a single lot; or a group of lots developed as a common development under the special and overlay districts provisions of this Zoning Ordinance.

8. **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 that may be reasonably requested by the Village in order that an informed decision can be made on the associated request.

9. **SIGHT TRIANGLE:** an area at a street intersection in which nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of two and one-half feet (2 1/2') and ten feet (10') above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets, sixty feet (60') in each direction along the centerline of the streets.



10. **SHIPPING CONTAINER/STORAGE OR SHIPPING CONEX:** an industrial, standardized reusable metal vessel that was originally, specifically, or formerly designed for or used in the packing, shipping, movement or transportation of freight, articles, goods, or commodities by commercial trucks, trains, and/or ships. Shipping containers as defined are not railroad cars, truck vans, converted mobile homes, travel trailers, recreational vehicles, bus bodies, vehicles, and similar prefabricated items and structures originally built for purposes other than storage of goods and materials. Shipping containers, as defined, also include a POD, a portable storage container designed and intended for the temporary placement upon property for the onsite storage of household or other goods, with a size typically not exceeding 16' x 8' x 8'.

11. **SPORTS AND ENTERTAINMENT ASSEMBLY:** A large-scale indoor or outdoor facility accommodating spectator-oriented sports, concerts, and other entertainment activities. Examples of this land use include amphitheaters, race tracks, stadiums and coliseums. May also include commercial facilities customarily associated with the above uses, including bars and restaurants, gift shops, video game arcades, etc.

12. **SPOT ZONING:** an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and primarily promotes the private interest of the owner rather than the general welfare. Spot zoning usually results from an up zoning to a more intensive use classification.

13. **STATE:** The State of Nebraska.

14. **STORAGE:** the keeping, in a roofed or unroofed area, of any goods, junk, material, merchandise, or vehicles on the same tract or premises for more than thirty (30) days.

15. **STORY:** that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

16. **STREET:** a public thoroughfare or right-of-way dedicated, deeded, or condemned for use as such, other than an alley, which affords the principal means of access to abutting property including avenue, place, way, drive, lane, boulevard, highway, road, and any other thoroughfare except as excluded in this Zoning Ordinance.

17. **STREET, ARTERIAL:** a street designed with the primary function of efficient movement of through traffic between and around areas of a village, or county with controlled access to abutting property.

18. **STREET, COLLECTOR:** a street or highway, which is intended to carry traffic from minor streets to major streets. Collector streets are usually the principal entrance streets to residential developments and the streets for circulation within the development.

19. **STREET, LOCAL:** a street designed for local traffic that provides direct access to abutting residential, commercial, or industrial properties.
20. **STRUCTURE:** anything constructed or erected, the use of which requires permanent attachment on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures, and street signs.
21. **STRUCTURAL ALTERATIONS:** any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls. For the purpose of this regulation, the following shall not be considered as structural alterations:
  - a. attachment of a new front where structural supports are not changed.
  - b. addition of fire escapes where structural supports are not changed.
  - c. new windows where lintels and support walls are not materially changed.
  - d. repair or replacement of non-structural members.
22. **SUBDIVIDER:** any person, group, corporation, partnership, or other entity, or any agency thereof, dividing or proposing to divide land so as to constitute a subdivision.
23. **SUBDIVISION:** the division of land, lot, tract, or parcel into two or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future. The term shall also include the division of residential, commercial, industrial, agricultural, or other land whether by deed, metes and bounds description, lease, map, plat, or other instrument.
24. **SUBDIVISION AGREEMENT:** an agreement between a subdivider and the Village that clearly establishes the subdivider's responsibility regarding project phasing, the provision of public and private facilities and improvements, and any other mutually agreed to terms and requirements.

#### 2.3.19 **T**

1. **TANK FARMS:** a facility having two (2) or more storage containers for the transfer of inorganic liquids or gases from which no retail sale of the fuel to the public is or may be conducted.
2. **TAVERN:** an establishment in which the primary function is the public sale and serving of alcoholic beverages for consumption on the premises, including establishments, commonly known as key clubs, which are open, and in which alcoholic beverages are served only to members and their guests.
3. **TEMPORARY STRUCTURE:** a structure without any foundation or footing and removed when the designated time period, activity, or use for which the temporary structure was erected has ceased. Structure cannot be in place for more than ten (10) days.
4. **TEMPORARY USE:** a use intended for limited duration, not to exceed six months, to be located in a zoning district not permitting such use.
5. **TOWNHOUSE:** A dwelling unit having a common wall with or abutting one or more adjacent dwelling units in a town house structure, with its own front and rear access to the outside, and neither above nor below any other dwelling unit.
6. **TURNAROUND:** a space on private property that permits the turning around of any passenger vehicle without the necessity of using any public right-of-way to turn around.

### 2.3.20 U

1. **UPZONING:** a change in the zoning classification of land to a more intensive or less restrictive district.
2. **USE:** the conduct of an activity, or the performance of a function or operation, on a site or in a building or facility.
3. **USE, BEST:** the recommended use or uses of land confined in an adopted comprehensive plan. Such use represents the best use of public facilities, and promotes health, safety, and general welfare.
4. **USE, HIGHEST:** an appraisal or real estate market concept that identifies the use of a specific tract of land that is most likely to produce the greatest net return on investment.
5. **USE, PERMITTED:** any land use allowed without condition within a zoning district.
6. **USE, PRINCIPAL:** the main use of land or structure, as distinguished from an accessory use.
7. **USE, PROHIBITED:** any use of land, other than nonconforming, which is not listed as a permitted use or conditional use within a zoning district.
8. **UTILITIES:** the conduct of an activity, or the performance of a function or operation, on a site or in a building or facility.

### 2.3.21 V

1. **VALUE ADDED FARM PRODUCT:** any product processed by a Producer from a Farm Product, such as baked goods, jams, and jellies.
2. **VARIANCE:** relief from or variation of the provisions of this Zoning Ordinance, other than use regulations, as applied to a specific piece of property, as distinct from rezoning. A variance is a relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship. As used in this Zoning Ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.
3. **VIEW CORRIDOR:** the line of sight identified as to height, width, and distance of an observer looking toward an object of significance to the community or the route that directs a viewer's attention.
4. **VILLAGE:** The Village of Firth, Nebraska.

### 2.3.22 W

1. **WAIVER:** permission to depart from the requirements of an Ordinance with respect to the submission of required documents.
2. **WAREHOUSE:** a building used primarily for the storage of goods and materials.
3. **WATERS OF THE STATE:** all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water surface or underground, material or artificial, public or private, situated wholly within or bordering upon the state.



4. **WETLAND:** an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soiled conditions, commonly known as hydrophytic vegetation.

#### 2.3.23 **X**

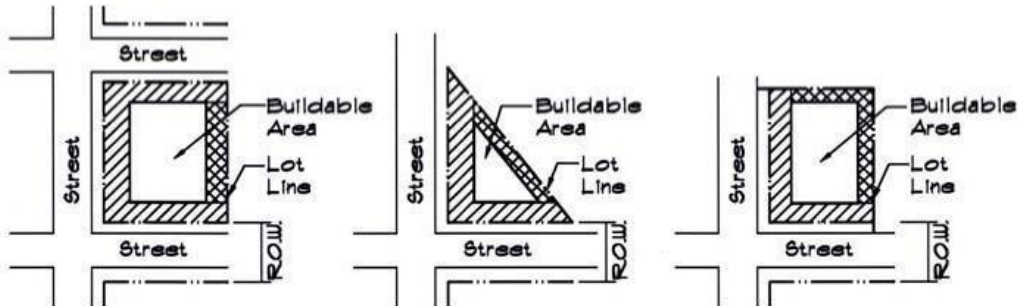
#### 2.3.24 **Y**

1. **YARD:** any open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed from the ground upward to the sky, except for building projections or for accessory buildings or structures permitted by this Zoning Ordinance.
2. **YARD, FRONT:** a space between the front yard setback line and the front lot line or highway setback line, and extending the full width of the lot.
3. **YARD, REAR:** a space between the rear yard setback line and the rear lot line, extending the full width of the yard.
4. **YARD, SIDE:** a space extending from the front yard, or from the front lot line where no front yard is required by this Zoning Regulation, to the rear yard, or rear lot line, between a side lot line and the side yard setback line.

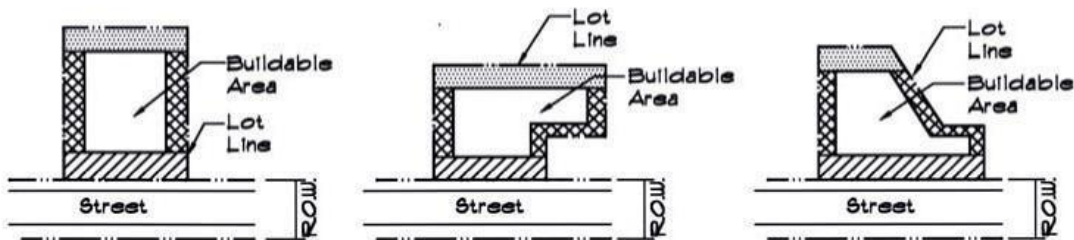
#### 2.3.25 **Z**

1. **ZONE OR DISTRICT:** a section of the Zoning Area for which uniform regulations governing the use, height, area, size and intensity of the use of buildings, land, and open spaces about buildings are herein established.
2. **ZONED LOT:** a parcel of land in single ownership that is of sufficient size to meet minimum zoning requirements for area, coverage, and use, and that can provide such yards and other open spaces as required by this Zoning Ordinance.
3. **ZONING ADMINISTRATIVE OFFICER:** the person or persons authorized and empowered by the Governing Body having jurisdiction to administer the requirements of this Zoning Ordinance.
4. **ZONING PERMIT:** any permit required by the Village and issued by the Zoning Administrator to be obtained by any person engaged in any activity governed by the regulations set forth in this Ordinance.
5. **ZONING REGULATIONS:** the term zoning regulations or this or these regulations shall mean the requirements stipulated in the regulations herewith attached.

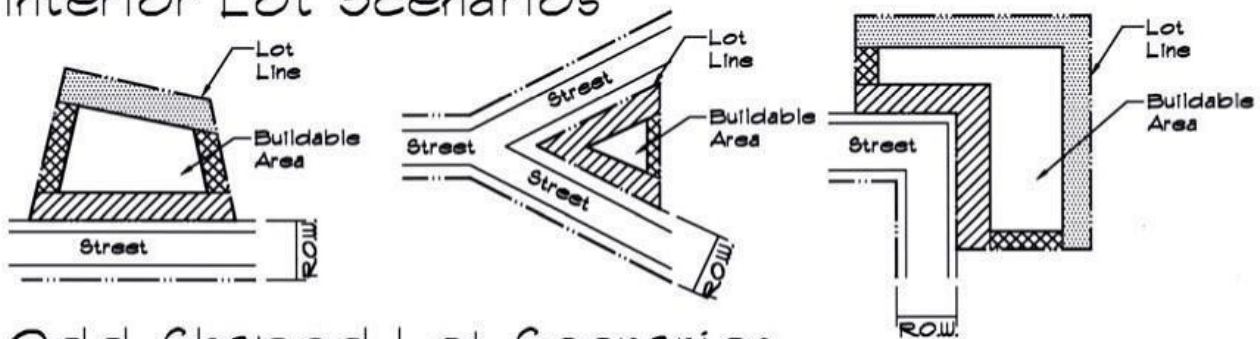
### 2.3.12.6 LOT CONFIGURATIONS DIAGRAM



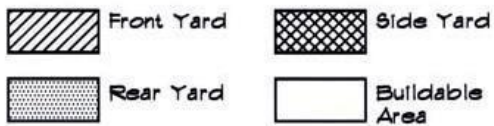
#### Corner Lot Scenarios



#### Interior Lot Scenarios



#### Odd-Shaped Lot Scenarios



## ARTICLE THREE: ZONING DISTRICTS & OFFICIAL ZONING MAP

### **31 Purpose**

The purpose of Article Three is to present the Zoning District Regulations. Zoning Districts are established in the Zoning Regulations to promote compatible land use patterns and to establish site development regulations appropriate to the purpose and specific nature of each district.

### **32 Districts**

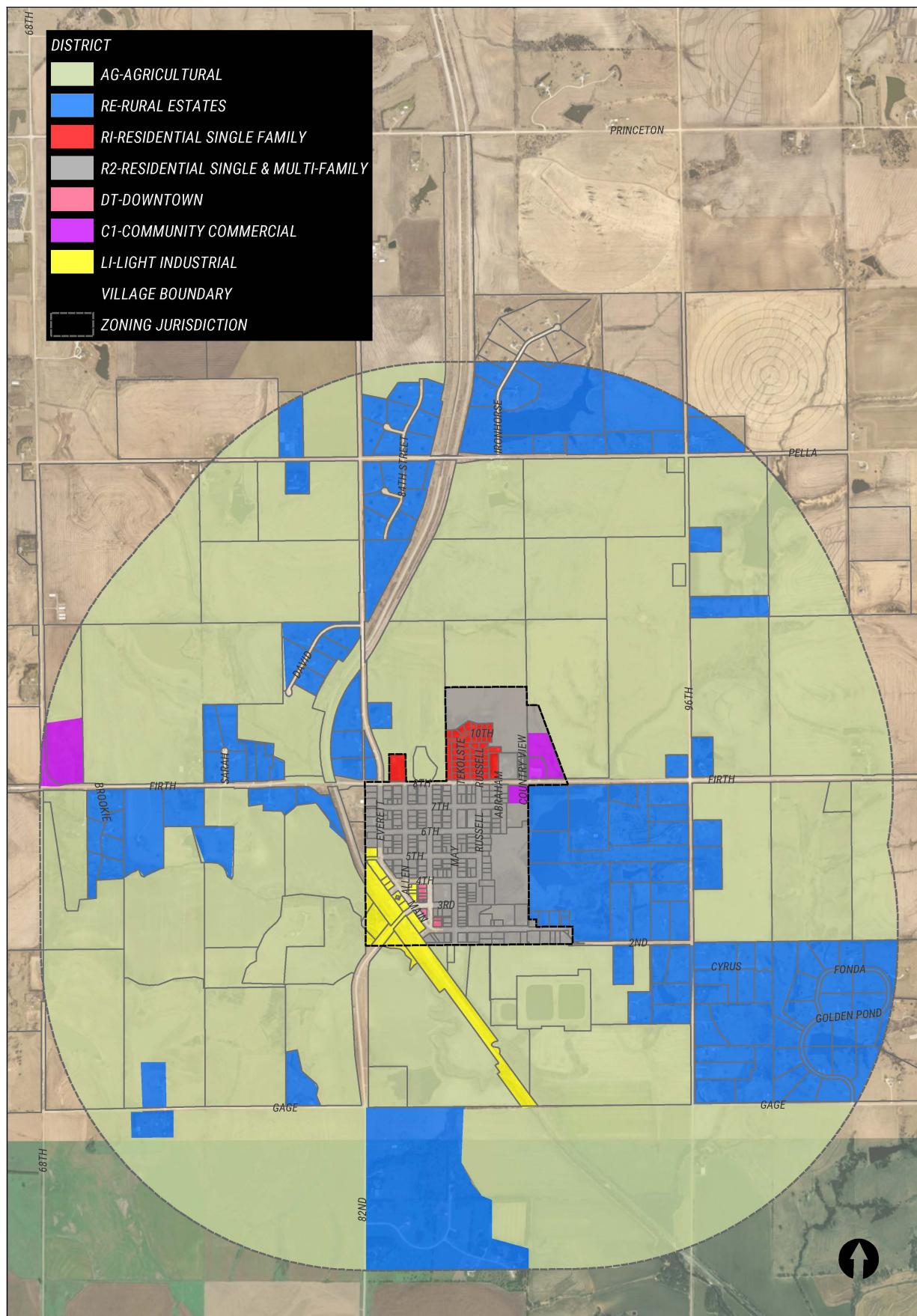
In order to regulate and restrict the height, location, size, and type of buildings, structures, and uses allowed on land in the Village and the area within one (1) mile of the corporate boundaries, the Village is hereby divided into districts.

### **33 Hierarchy**

References in this Zoning Ordinance to less intensive or more intensive districts shall be deemed to refer to those districts established in Article Three and shall represent a progression for Agriculture (AG) as the least intensive to Industrial (I) as the most intensive. The Overlay Districts shall not be included in this reference.

### **34 District Boundaries**

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



### **36 Rules for Interpretation of District Boundaries**

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

- 3.6.1 Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
- 3.6.2 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- 3.6.3 Boundaries indicated as approximately following Village limits shall be construed as following such Village limits.
- 3.6.4 Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- 3.6.5 Boundaries indicated as parallel to or extensions of features indicated in subsections (3.5.1) - (3.5.4) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- 3.6.6 Where a district boundary line divides a lot which was in single ownership at the time of passage of this Zoning Ordinance, The Board of Zoning Adjustment may permit the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

### **37 Provisions for Official Zoning Map**

3.7.1 The Village is hereby divided into districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Zoning Ordinance. The Official Zoning Map shall be identified by the signature of the Board Chairperson and attested by the Village Clerk, under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 3.5 of Ordinance No. 12-2020-1 of the Village of Firth, Nebraska," together with the date of the adoption of this Zoning Ordinance. If, in accordance with the provisions of this Zoning Ordinance, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Village Board.

3.7.2 In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Village Board may, by resolution, adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Board Chairperson, attested by the Village Clerk under the following words, "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted by Ordinance No. 12-2020-1 of the Village of Firth, Nebraska".

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

### **38      Annexation of Territory**

All unimproved or agricultural territory which may hereafter be annexed to the Village shall be considered as lying in the Agricultural District (AG) until such classification shall be changed as provided by this Zoning Ordinance. Any improved property that is annexed into the Village shall be zoned according to the district that most nearly describes either its present use or the proposed use by Firth's Comprehensive Plan. This Zoning Ordinance shall be established by the Planning Commission and Village Board at the time of annexation.



### **39 Agricultural District (AG)**

*Agricultural Districts provide areas for agricultural operations and natural resource industries. These districts are composed mainly of unsubdivided lands that are vacant or are in an agricultural use with some dwellings and some accessory uses. The AG District is not suitable for areas with central water and sewer, or where collector or higher-order streets are spaced closer than one (1) mile apart.*

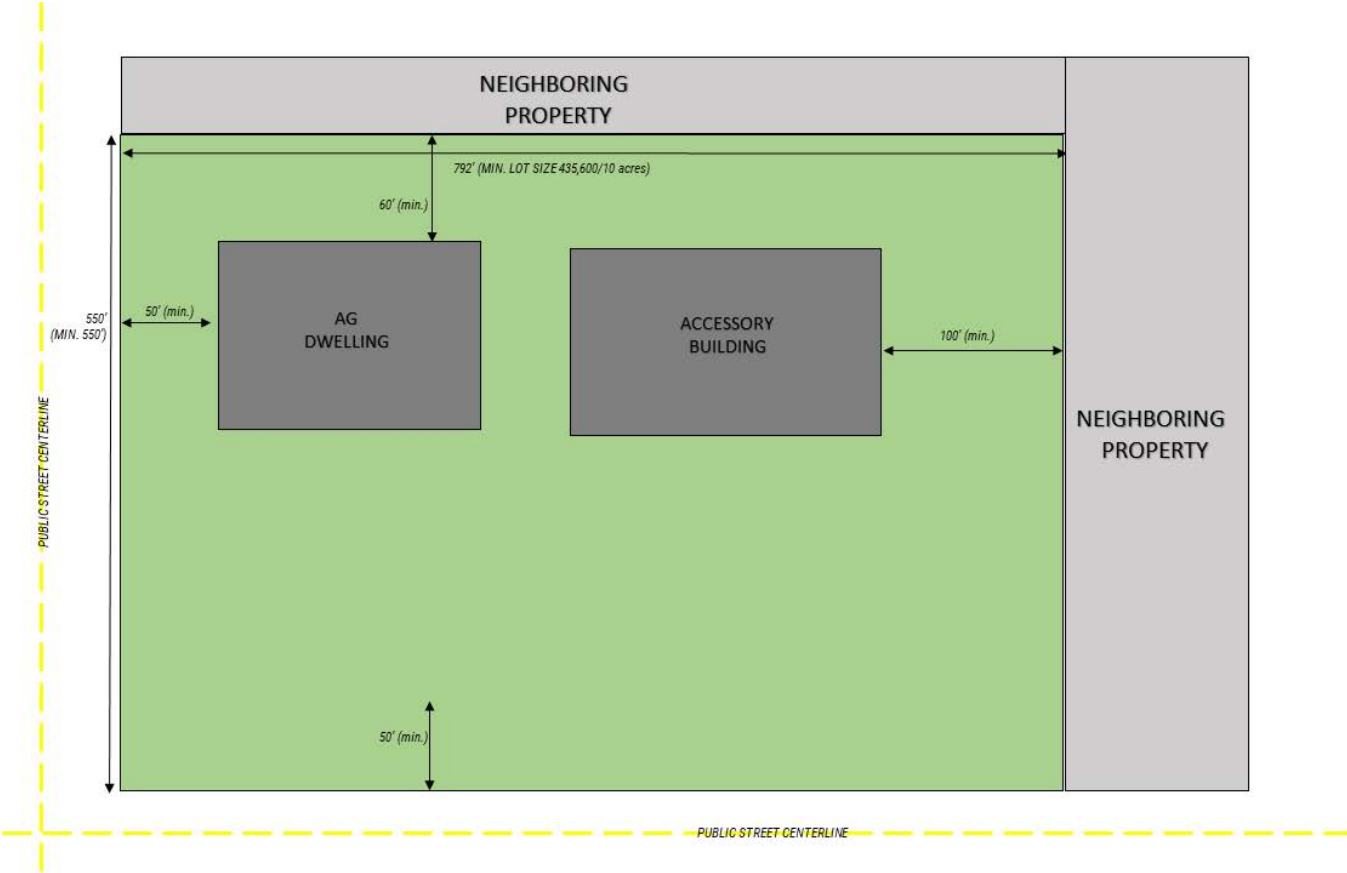
Lot size (min, acres)	10
Density (max units/acre)	.1
Frontage (min-sf)	550
Minimum lot width	-
Maximum lot width	-
Height (max feet)	35
Stories	-
Minimum front setback	50
Maximum width of driveway approach	25
Minimum side setback	60
Minimum rear setback	100
Maximum lot coverage (%)	5%

#### **3.9.1 Livestock Confinement is a Conditional Use**

Livestock confinement facilities of up to a maximum of 50 head of livestock are conditional. Livestock not confined for a period of 180 consecutive days or longer shall be considered grazing livestock and not defined as a confinement facility.



3.9.2 Agricultural District (AG) Diagram



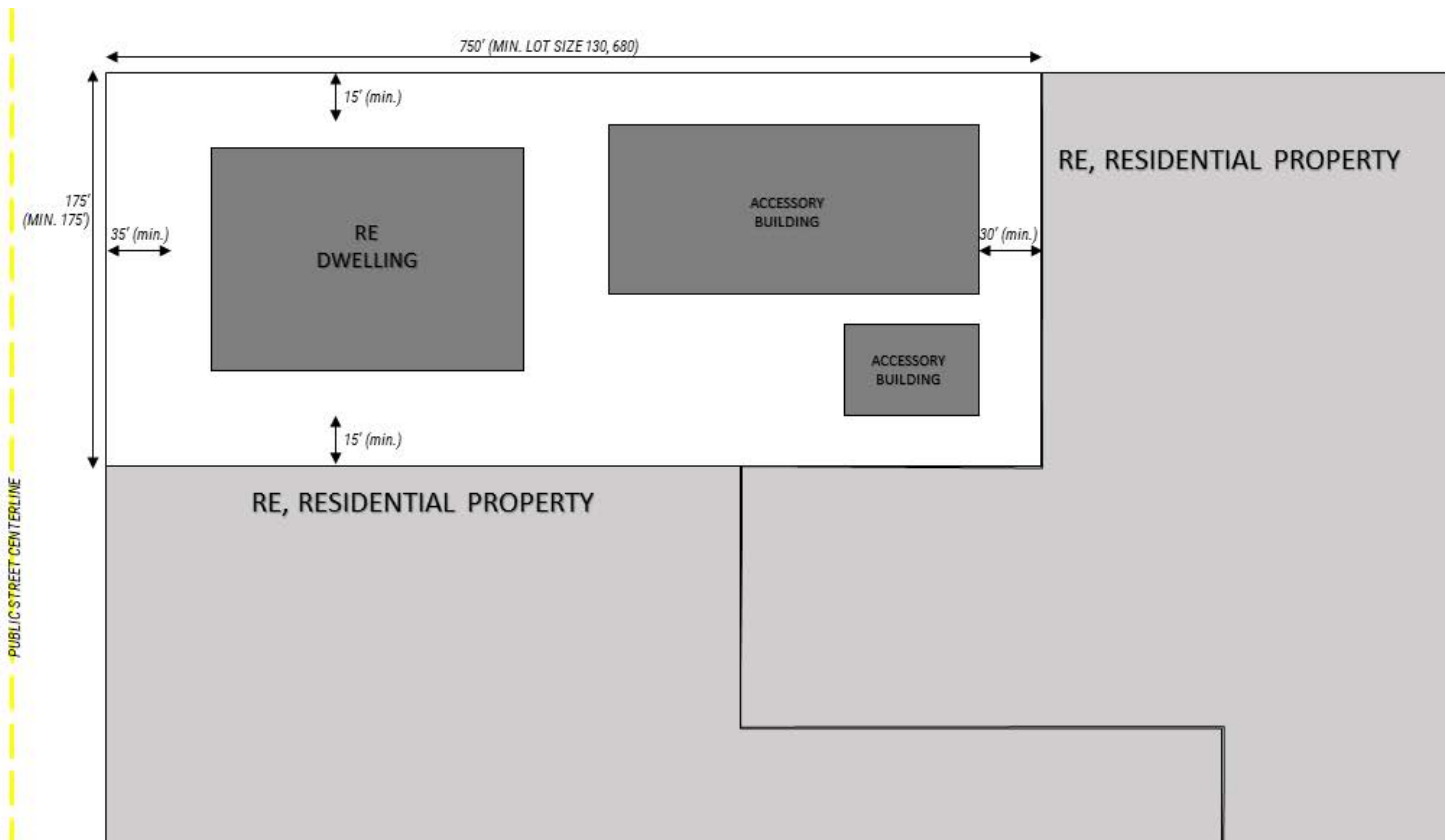
### **310 Rural Estates District (RE)**

*Rural Estates districts are designated for a low-density residential use on a lot that is a minimum of 3 acres.*

Lot size (min, square feet)	130,680 (3 acres)
Density (max units/acre)	.3
Frontage (min-sf)	175
Minimum lot width	100
Maximum lot width	-
Height (max feet)	35
Stories	2 ½
Minimum front setback	35
*Maximum front setback	-
Minimum side setback	15
Minimum rear setback	30
Maximum lot coverage (%)	10

\* Maximum width of driveway approach-25'

3.10.1 Rural Estates District (RE) Diagram



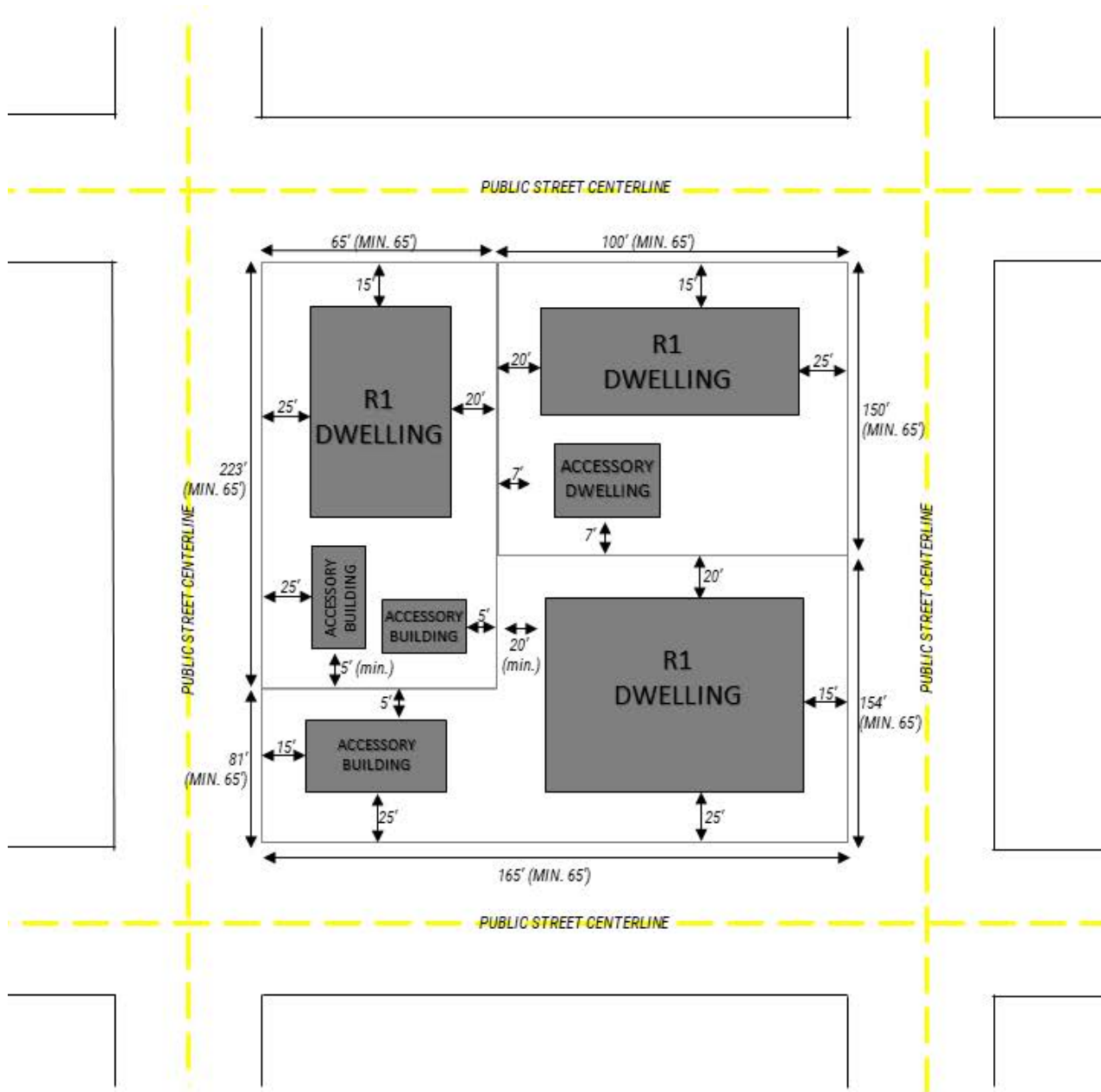
**311 Residential Single Family (R1)**

*The R-1 District provides for areas of low-density, single family uses.*

Lot size (min, square feet)	7,000
Density (max dwelling units/acre)	3
Frontage (minimum)	65'
Minimum lot width	65'
Maximum lot width	-
Maximum Building Height	35'
Stories	2 ½
Minimum front setback	25
Maximum width of driveway approach	25
*Minimum side setback	Principal Dwelling-7' Accessory Building- 5' Accessory Dwelling-7'
Minimum rear setback	Principal Dwelling-20' Accessory Building- 5' Accessory Dwelling-7'
Maximum lot coverage (%)	40%

\*Buildings on corner lots shall provide front yard setbacks of 25' on one street side and 15' on the other front yard and designate remaining yards as one rear yard and one side yard

### 3.11.1 Residential Single Family (R1) Diagram



### 312 Single and Multi-Family Residential (R2)

*Single and Multi-family residential districts provide areas for medium density and single-family residential uses mixed with a variety of housing types. These districts are composed mainly of a mixture of single family, two-family, and multifamily dwellings, and open space where similar residential development seems likely to occur.*

Lot size (min, square feet)	5,000
Density (max units/acre)	6
Frontage (min-sf)	50
*Minimum lot width	50
Maximum lot width	150
Height (max feet)	35
Stories	2 ½
Minimum front setback	25
***Maximum front setback	35
**Minimum side setback	Principal Dwelling-7' Accessory Building-5' Accessory Dwelling-7'
Minimum rear setback	Principal Dwelling-20' Accessory Building-5' Accessory Dwelling-7'
Maximum lot coverage (%)	40%

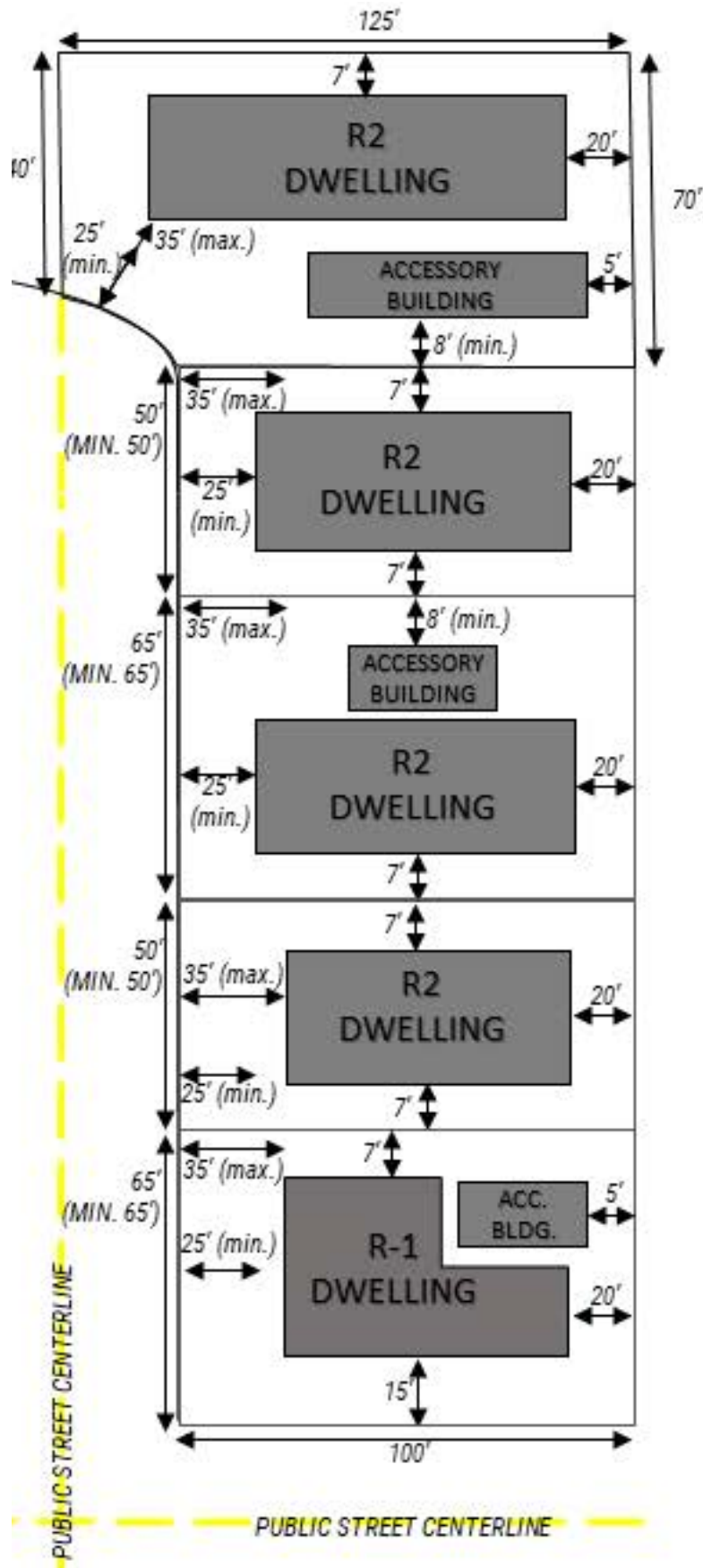
\*Minimum lot width-50'

\*No less than three and no more than five lots shall be clustered together when lot frontage is 50' to 64'

\*\*Buildings on corner lots shall provide front yard setbacks of 25' on one street side and 15' on the other front yard and designate the remaining yards as one rear yard and one side yard.

\*\*\*Maximum width of driveway approach-25'

### 3.12.1 Single and Multi-Family Residential (R2) Diagram



### 313 Community Commercial (C1)

*Community commercial districts provide areas for offices, professional services, service, and small to medium retail uses-all designed in scale with surrounding residential uses. This district is intended to reduce auto trips by permitting a limited number of commercial uses to be located in close proximity to residential areas.*

Minimum lot area	10,000 sf <sup>2</sup>
Minimum lot width	65'
Front yard setback (minimum)	25'
*Side yard setback (minimum)	0'
Street side yard setback (minimum)	25'
Rear yard setback (minimum)	15
Maximum building height	45'
Maximum building coverage	60%
Minimum street-facing facades utilizing improved surface	35%
Minimum buffer yard next to residential use	20'
Minimum depth of landscaping next to street right of way (ROW)	10'

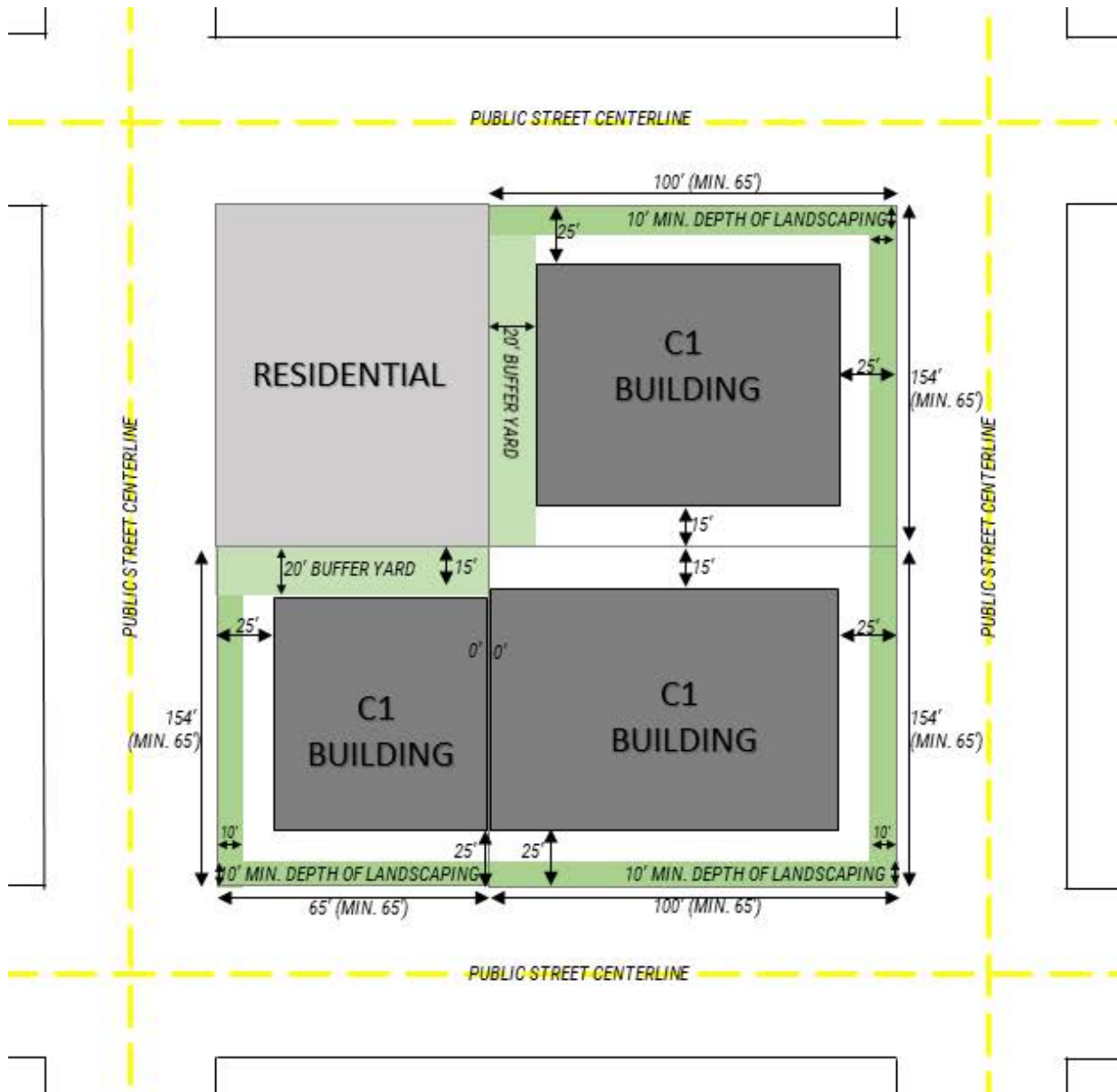
\*Minimum side yard setback of 0 feet shall be required only when the adjacent use is a commercial or light industrial use.

#### 3.13.1 Stormwater Planning Required

All new commercial construction shall be required to submit a drainage assessment. The assessment shall compare runoff from the site pre-construction and post-construction. Any net increase shall be mitigated on the site. Mitigation measures shall be demonstrated on the site plan. The drainage assessment and site plan shall be prepared by a professional engineer.



### 3.13.2 Community Commercial (C1) Diagram



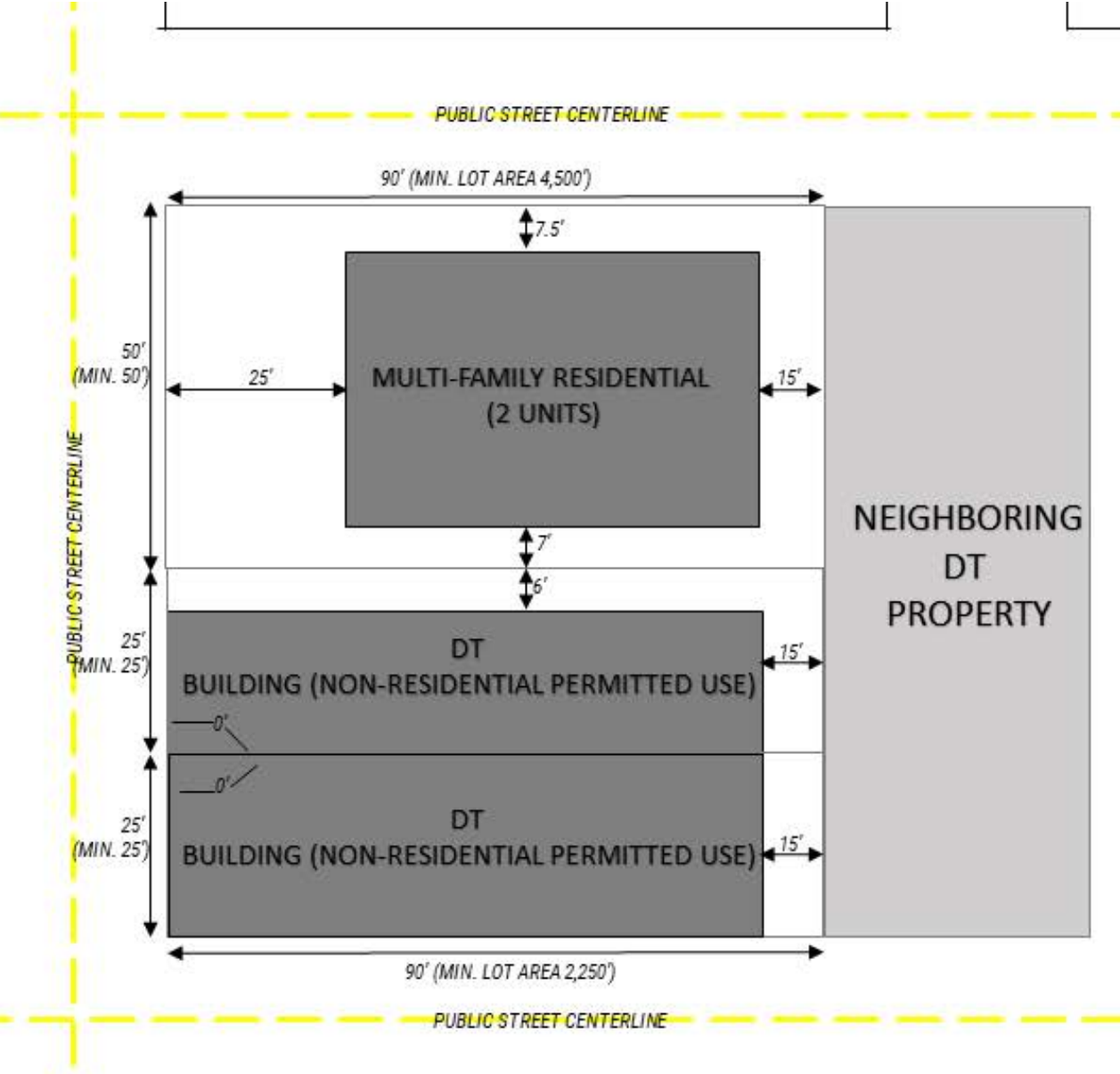
**314 Downtown (DT)**

*The Downtown District is designed to provide for a wide range of retail, office, and service uses normally found in a central business district. Highest density and intensity of uses are permitted in this district.*

	Permitted Uses
Lot size (min, square feet)	2,250
Density (max units/acre)	-
Minimum lot width (feet)	25
Height (max feet)	45
Stories	-
Minimum front setback (feet)	0
Maximum front setback (feet)	0
*Minimum side setback (feet)	0
Minimum rear setback (feet)	7
Maximum lot coverage (%)	-

\*Minimum side yard setback for permitted uses is 6' when abutting a residential use.

3.14.1 Downtown (DT) Diagram



### **315 Light Industrial (LI)**

*Light industrial districts provide for a mix of light manufacturing, flex space, and limited retail and service uses that service other industrial uses.*

Lot size (min, square feet)	10,000
Minimum lot width (feet)	100
Height (max feet)	35
**Minimum front setback (feet)	50
*Minimum side setback (feet)	0
Minimum rear setback (feet)	40
Minimum buffer yard next to residential use	20'
Maximum lot coverage (%)	70

\*Minimum side yard setback for permitted uses is 20' when abutting a residential use.

\*\*Maximum width of driveway approach-25'

#### **3.15.1 Light Manufacturing**

Light manufacturing operations shall not include uses that are noxious by reason of vibration or noise beyond the confines of the building, or by the emission of particulate, fumes, gas, odor, or smoke.

#### **3.15.2 Use Limitations**

All operations, activities, and storage shall be conducted entirely inside of a building, or buildings, unless the nearest point of such operation or activity is more than 200 feet from the boundary of any other zoning district other than an Industrial District.

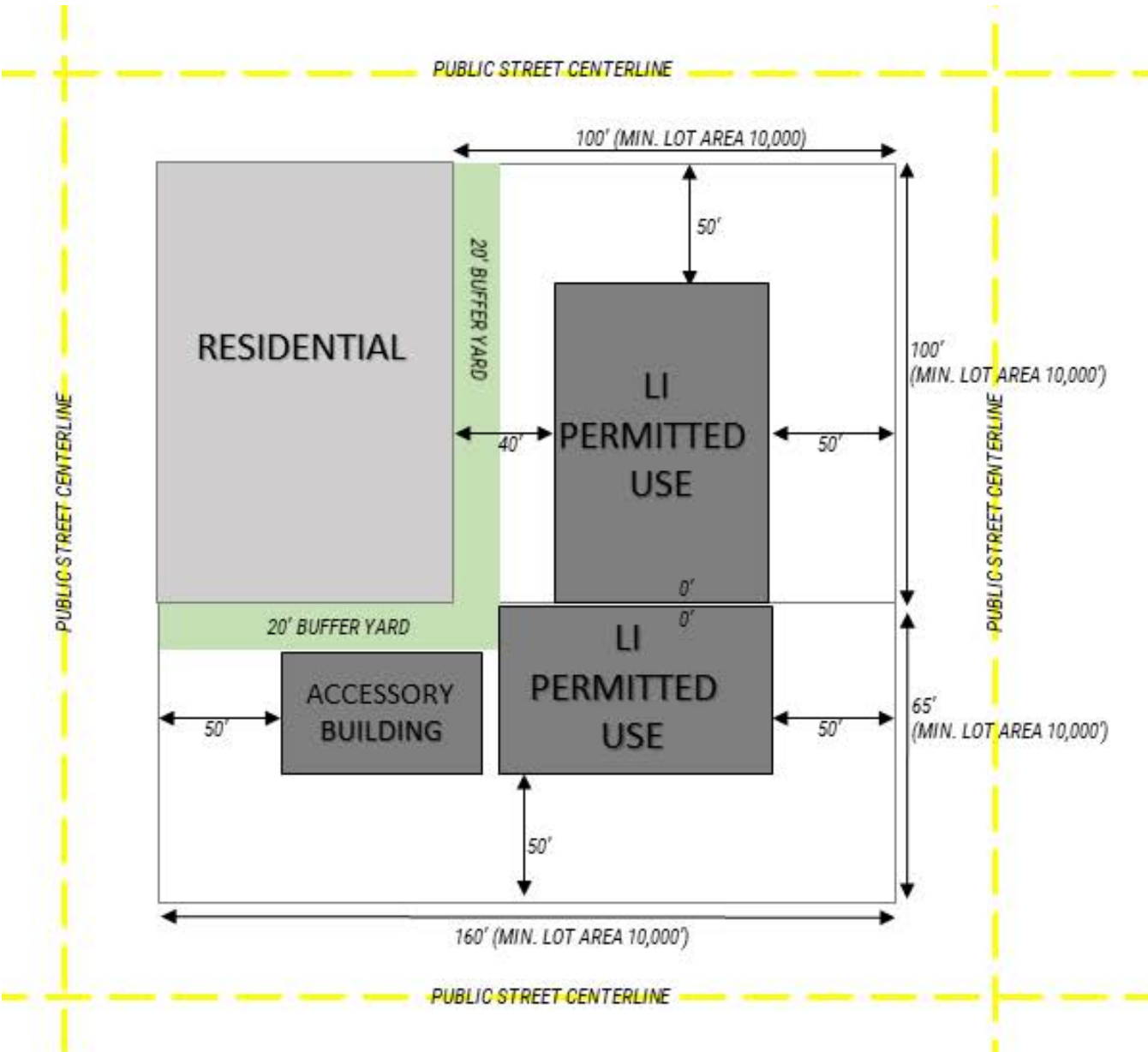
#### **3.15.3 Outdoor Storage**

Storage may be maintained outside the building and side yards or rear yards if such storage area is separated from public streets and other property by screening of not less than 6 feet in height.

#### **3.15.4 Additional Screening**

If a lot in an industrial district adjoins a residential district, screening shall be provided at the lot lines sufficient to protect, on a year-round basis, the privacy of adjoining residential uses.

3.15.5 Light Industrial (LI) Diagram



### **316 Planned Unit Development Overlay (PUD)**

The Planned Development District is intended to provide flexibility in the planning and construction of development projects by allowing a combination of uses as long as they are developed in accordance with an approved plan that ensures compatibility with existing developments. PUD projects should surpass the quality of development that would have otherwise resulted from the application of conventional zoning districts.

3.16.1 A PUD may include residential, commercial, industrial, and public land uses, subject to the requirements of the underlying zoning district.

3.16.2 A PUD may be established on a site of any size. Setbacks shall be established by the Planned District Site Plan. Lots located on the perimeter of the site shall adhere to the minimum setback requirements on the underlying zoning district unless a lesser setback is approved in the Planned District Site Plan. The maximum height of structures shall adhere to the requirements of the underlying zoning district unless a lesser height is approved in the Planned District Site Plan.

3.16.3 Applicant must submit a Planned District Application to the Utility Superintendent. The Planned District application shall include a Development Agreement establishing the development regulations for the property. The Development Agreement must include the following information:

1. Location and quantities of various land uses.
2. When applicable, residential densities.
3. Maximum lot coverage.
4. Front, side, and rear yard setbacks.
5. Maximum heights of proposed structures.
6. Design standards applicable to the project.
7. Accompanying development plan that communicates development agreement regulations.

3.16.4 The Zoning Administrator shall not issue a building permit or certificate of occupancy within a PUD unless the proposed structure is in compliance with the Approved Development Agreement.

3.16.5 Any modifications to the Development Agreement and accompanying site plan must be submitted to Planning Commission and Village Board for approval. The Zoning Administrator is authorized to approve amendments to an approved development plan only if the changes in alignment and location of structures does not exceed ten (10) feet in any direction.

### **317 Floodplain Zoning Overlay District**

- 3.17.1 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, general welfare, and property of the people of the state. The Legislature, in Neb. Rev. Stat. §§ 31-1001 to 31-1023 (as amended), has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the county, city, or village with zoning jurisdiction over the flood prone area. Therefore, the Village Board of the Village of Firth, Nebraska ordains all the following.
- 3.17.2 Flood losses resulting from periodic inundation: the flood hazard areas of Firth, Nebraska are subject to inundation that results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- 3.17.3 General causes of the flood losses: these flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities as well as the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others that are inadequately elevated or otherwise unprotected from flood damages.
- 3.17.4 Statement of purpose: it is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 3.17.2 and 3.17.3 by applying the provisions of this Ordinance to:
1. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
  2. Require that uses vulnerable to floods, including public facilities that service such uses, be provided with flood protection at the time of initial construction.
  3. Reduce financial burdens from flood damage borne by the community, its governmental units, its residents, and its businesses by preventing excessive and unsafe development in areas subject to flooding.
  4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance from the National Flood Insurance Program.
- 3.17.5 Adherence to regulations: the regulations of this Ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the Nebraska Minimum Standards for Floodplain Management Programs as published in the Nebraska Administrative Code Title 455, Chapter 1.
- 3.17.6 Lands to which this Ordinance applies: this Ordinance shall apply to all lands the jurisdictions of the Village of Firth identified on the Flood Insurance Rate Map (FIRM) panels: 31109C0575G, effective 4.16.13; 31067C0075C, effective 6.18.10; 31109C0586G; 31109C0600G, effective 4.16.13; 31109C0588G, effective 4.16.13 as Zone A and within the Zoning District established in 3.17.13 of this Ordinance. In all areas covered by this Ordinance, no development shall be allowed except upon the issuance of a floodplain development permit to develop, granted by the Floodplain Administrator or the governing body under such safeguards and restrictions as the Village Board 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 this Ordinance.

- 3.17.7 Rules for interpretation of district boundaries: the boundaries of the floodway and the flood fringe overlay districts shall be determined by scaling distances on the official zoning map on the effective Flood Insurance Rate map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the zoning or other community map, the Floodplain Administrator shall make the necessary interpretation. In such cases where the interpretation is contested, the Firth Zoning Board of Adjustment will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present their case to the Firth Zoning Board of Adjustment and to submit their own technical evidence, if so desired.
- 3.17.8 Compliance: within identified floodplains of this community, no development shall be located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations.
- 3.17.9 Abrogation and greater restrictions: this Ordinance does not intend to repeal, abrogate, or impair any existent easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provision of this Ordinance shall prevail. All other Ordinances inconsistent with this Ordinance shall prevail. All other Ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.
- 3.17.10 Interpretation: in their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.
- 3.17.11 Warning and disclaimer of liability: the degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside floodway and flood fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This Ordinance shall not create liability on the part of the Village of Firth or any officer or employee thereof for any flood damages that may result from reliance on this Ordinance or any administrative decision lawfully made thereunder.
- 3.17.12 Severability: if any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.
- 3.17.13 Establishment of zoning districts: the mapped floodplain areas within the jurisdiction of this Ordinance are hereby established as the Floodplain Overlay District, as identified in the most recent Flood Insurance Study and on accompanying FIRM panels as established in 3.14.6. The Floodplain Overlay District shall correspond to Flood Zone A. Within this district, all uses not meeting the standards of this Ordinance and those standards of the underlying zoning district shall be prohibited.
- 3.17.14 Designation of Floodplain Administrator: the Village Clerk of the community is hereby designated as the community's local Floodplain Administrator. The Floodplain Administrator is authorized and directed to administer, implement, and enforce all provisions of this Ordinance. If the local Floodplain Administrator position is unfilled, the community CEO shall assume the duties and responsibilities herein.
- 3.17.15 Permits required: a floodplain development permit shall be required before any development, construction, or substantial improvement is undertaken. No person, firm, corporation, government



agency, or other entity shall initiate any floodplain development without first obtaining a floodplain development permit.

3.17.16 Duties of the Floodplain Administrator: duties of the Floodplain Administrator shall include, but not be limited to the following:

1. Review, approve, or deny all applications for floodplain development permits.
2. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this Ordinance have been satisfied.
3. Review applications for proposed development to assure that all necessary permits have been obtained from those federal, state, or local government agencies from which prior approval is required.
4. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding.
5. Coordinate with the Nebraska Department of Natural Resources to obtain base flood elevation information when applicable and required.
6. Notify adjacent communities and the Nebraska Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.
7. Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.
8. Verify, record, and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures in the floodplain.
9. Verify, record, and maintain record of the actual elevation (in relation to mean sea level) to which all new or substantially improved structures have been flood proofed.
10. Verify, record, and maintain record of all improved or damaged structures to ensure compliance with standards in applicable sections. Track value of improvements and market value with permits. Also, ensure consistent market value estimations to evaluate against damaged or improved values.
11. Ensure Comprehensive Development Plan as amended is consistent with this Ordinance.
12. In the event the Floodplain Administrator discovers work done that does not comply with applicable laws or Ordinances, the Floodplain Administrator shall revoke the permit and work to correct any possible violation in accordance with this Ordinance.

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

1. Identify and describe the proposed development and estimated cost to be covered by the floodplain development permit.

2. Describe the land on which the proposed development is to be done by lot, block, tract, house and street address, or similar description that will readily identify and definitely locate the proposed building or development.
  3. Indicate the use or occupancy for which the proposed development is intended.
  4. Be accompanied by plans and specifications for proposed construction.
  5. Be signed by the permittee and authorized agent who may be required to submit evidence to indicate such authority.
- 3.17.18 If any proposed development is located entirely or partially within a floodplain, applicants shall provide all information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
1. All such proposals are consistent with the need to minimize flood damage;
  2. All utilities and facilities such as sewer, gas, water, electrical, and other systems are located and constructed to minimize or eliminate flood damage;
  3. Structures will be anchored to prevent flotation, collapse, or lateral movement;
  4. Construction materials are flood resistant;
  5. Appropriate practices to minimize flood damage have been utilized; and
  6. Electrical, heating, ventilation, air conditioning, plumbing, and any other service facilities have been designed and located to prevent entry of floodwaters.
- 3.17.19 For all new and substantially improved structures, an elevation certificate based upon the finished construction certifying the elevation of the lowest floor, including basement, and other relevant building components shall be provided to the Floodplain Administrator and be completed by a licensed surveyor, engineer, or architect.
- 3.17.20 When floodproofing is utilized for an applicable structure, a floodproofing certificate shall be provided to the Floodplain Administrator and be completed by a licensed professional engineer or architect.
- 3.17.21 Any other information as may reasonably be required by the Floodplain Administrator shall be provided.
- 3.17.22 All Zone A areas on the FIRM are subject to inundation of the base flood; however, the base flood elevations are not provided. Zone A areas shall be subject to all development provisions of this Ordinance. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation or floodway data currently available from federal, state, or other sources, including from a study commissioned by the applicant pursuant to best technical practices.
- 3.17.23 Until a floodway has been designated, no development or substantial improvement may be permitted within the floodplain unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one (1) foot at any location as shown in the Flood Insurance Study or on base flood elevation determinations.

### 3.17.24 Variance and Appeals Procedures

1. The Firth Zoning Board of Adjustment as established by the Firth Village Board shall hear and decide appeals and requests for variances from the requirements of this Ordinance.

2. The Firth Zoning Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Ordinance.

3. Any person aggrieved by the decision of the Firth Zoning Board of Adjustment or any taxpayer may appeal such decision to the District Court as provided in Neb. Rev. Stat. §23-168 (for counties) and Neb. Rev. Stat. §19-192 (for municipalities).

4. In evaluating such appeals and requests, the Firth Zoning Board of Adjustment shall consider technical evaluation, all relevant factors, standards specified in other sections of this Ordinance, and:

- a. The danger to life and property due to flooding or erosion damage;
- b. The danger that materials may be swept onto other lands to the injury of others;
- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner, future owners, and neighboring properties;
- d. The importance of the services provided by the proposed facility to the community;
- e. The necessity of the facility to have a waterfront location, where applicable;
- f. The availability of alternative locations that are 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 the floodplain management program for that area;
- i. The safety of access to the property in times of flood for ordinary 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 government services during and after flood conditions including emergency management services and maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges.

### 3.17.25 Conditions for Variances

1. Variances shall only be issued upon a showing of good and sufficient cause and also upon a determination that failure to grant the variance would result in an exceptional hardship to the applicant.
2. Variances shall only be issued based upon a determination that the granting of a variance will not result in increased flood heights.
3. Variances shall only be issued based upon a determination that the granting of a variance will not result in additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.
4. 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. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
5. 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 on the National Register of Historic Places and the variance is the minimum necessary to preserve the historic character and design of the structure.
6. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
7. The applicant shall be given a written notice over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage and also that such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this Ordinance.
8. All requests for variances and associated actions and documents, including justification for their issuance, shall be maintained by the community.

3.17.26 Violations: failure to obtain a floodplain development permit or the failure of a structure or other development to be fully compliant with the provisions of this Ordinance shall constitute a violation. A structure or other development without a floodplain development permit, elevation certificate, certification by a licensed professional engineer of compliance with these regulations, or other evidence of compliance is presumed to be in violation until such time as documentation is provided.

3.17.27 Notices: when the Floodplain Administrator or other authorized community representative determines, based on reasonable grounds, that there has been a violation of the provisions of this Ordinance, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

1. Be in writing;
2. Include an explanation of the alleged violation;
3. Allow a reasonable time for the performance of any remedial act required;
4. Be served upon the property owner or their agent as the case may require; and

5. Contain an outline of remedial actions that, if taken, will bring the development into compliance with the provisions of this Ordinance.

### 3.17.28 Penalties

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

2. The imposition of such fines or penalties for any violation or non-compliance with this Ordinance shall not excuse the violation or non-compliance or allow it to continue. All such violations or non-compliant actions shall be remedied within an established and reasonable time.

3. Nothing herein contained shall prevent the Village of Firth or other appropriate authority from taking such other lawful action as is necessary to prevent.

### 3.17.29 Alteration or Relocation of a Watercourse

1. A watercourse or drainway shall not be altered or relocated in any way that in the event of a base flood or more frequent flood will alter the flood carrying characteristics of the watercourse or drainway to the detriment of upstream, downstream, or adjacent locations.

2. No alteration or relocation shall be made until all adjacent communities that may be affected by such action and the Nebraska Department of Natural Resources have been notified and all applicable permits obtained. Evidence of such notification shall be submitted to the Federal Emergency Management Agency.

### 3.17.30 Encroachments

1. When proposing to permit any of the following encroachments, the standards in Section 3.14.30(b)(ii) shall apply:

- a. Any development in Zone A without a designated floodway that will cause a rise of more than one foot (1') in the base elevation; or
- b. Alteration or relocation of a stream; then

2. The applicant shall:

- a. Apply to FEMA for conditional approval of such action via the Conditional Letter of Map Revision process (as per Title 44 of the Code of Federal Regulations, Chapter 1, Part 65.12) prior to the permit for the encroachments; and
- b. Supply the fully approved package to the Floodplain Administrator, including any required notifications to potentially affected property owners.

3.17.31 Residential structures: in Zone A, all new construction and substantial improvements shall have the lowest floor, including basement, elevated to or above one foot (1') above the base flood elevation.

3.17.32 Nonresidential structures: in Zone A, all new construction and substantial improvements shall have the lowest floor, including basement, elevated to or above one foot (1') above the base flood elevation or, together with attendant utility and sanitary facilities, floodproofed so that below one foot (1') above the base flood elevation:

1. The structure is watertight with walls substantially impermeable to the passage of water; and
2. The structure has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyance.

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

#### 3.17.33 Space below lowest floor

1. Fully enclosed areas below the lowest floor (excluding basements) and below the base flood elevation shall be used solely for the parking of vehicles, building access, or limited storage of readily removable items.
2. Fully enclosed areas below the lowest floor (excluding basements) and below the base flood elevation shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
  - a. A minimum of two openings having a net total area of not less than one square inch (1") for one square foot (1') of enclosed space;
  - b. The bottom of all openings shall not be higher than one foot (1') above grade; and
  - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they allow the automatic entry and exit of floodways.

#### 3.17.34 Manufactured Homes: option within any floodplain, manufactured homes shall be prohibited.

#### 3.17.35 Existing Structures

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

#### 3.17.36 Design and Construction Standards

1. Anchoring: all buildings or structures shall be firmly anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

#### 2. Building materials and utilities:

- a. All buildings or structures shall be constructed with materials and utility equipment resistant to flood damage. All buildings or structures shall also be constructed by methods and practices that minimize flood and flood-related damages.
- b. All buildings or structures shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities that are designed

and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. Drainage: within Zones AO and AH, adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures

4. Water Supply and Sanitary Sewer Systems

- a. All new or replacement water supply and sanitary sewer systems shall be located, designed, and constructed to minimize or eliminate flood damages to such systems and the infiltration of floodwaters into the systems.
- b. All new or replacement sanitary sewage systems shall be designed to minimize or eliminate discharge from the system into floodwaters.
- c. On-site waste disposal systems shall be located and designed to avoid impairment to them or contamination from them during flooding.

5. Other utilities: all other utilities such as gas lines, electrical, telephone, and other utilities shall be located and constructed to minimize or eliminate flood damage to such utilities and facilities.

6. Storage of materials:

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

7. Recreational vehicles: recreational vehicles to be placed on sites within the floodplain shall:

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

3.17.37 Subdivisions: subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, shall require assurance that:

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

3.17.38 Nonconforming Use: a structure or use of a structure or premises that was lawful before the passage or amendment of this Ordinance, but that is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:

1. If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Ordinance. The Utility Department shall notify the Floodplain Administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of twelve (12) months.

2. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

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

3.17.40 The regulations, restrictions, and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in federal, state, or local regulation provided, however, that no such action may be taken until after a public hearing in relation thereto at which citizens and parties in interest shall have an opportunity to be heard. Notice of the time and place of such a hearing shall be published in a newspaper of general circulation in the Village of Firth. At least five (5) days shall elapse between the date of this publication and the public hearing.

1. A copy of such amendments will be provided to the Nebraska Department of Natural Resources and the Federal Emergency Management Agency for review and approval before being adopted.

3.17.41 Definitions: Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance it's most reasonable application:

1. AREA OF SHALLOW FLOODING: a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent (1%) or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

2. BASE FLOOD: the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

3. BASE FLOOD ELEVATION: the elevation to which floodwaters are expected to rise during the base flood.

4. BASEMENT: any area of the building having its floor subgrade (below ground level) on all sides.

5. BUILDING: see definition for "structure."

6. DEVELOPMENT: any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets and other paving; utilities; filling, grading, and excavation; mining; dredging; drilling operations; storage of equipment or materials; or obstructions.

7. DRAINWAY: see definition for "watercourse."



8. **EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:** a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.
9. **EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:** the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
10. **FLOOD OR FLOODING:** a general and temporary condition of partial or complete inundation of normally dry land areas.
11. **FLOOD FRINGE:** that area of the floodplain, outside of the floodway, that has a one percent (1%) chance of flood occurrence in any one (1) year.
12. **FLOOD INSURANCE RATE MAP (FIRM):** an official map of a community on which the Flood Insurance Study has delineated the special flood hazard area boundaries and the risk premium zones applicable to the community.
13. **FLOOD INSURANCE STUDY (FIS):** the official report provided by the Federal Emergency Management Agency. The report contains flood profiles as well as the Flood Insurance Rate Map and the water surface elevation of the base flood.
14. **FLOODPLAIN:** any land use susceptible to being inundated by water from any source (see definition of “flooding”). Floodplain includes flood fringe and floodway. Floodplain and special flood hazard area the same for use by this Ordinance.
15. **FLOODPROOFING:** any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, and structures and their contents.
16. **FLOODWAY OR REGULATORY FLOODWAY:** 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 (1’).
17. **FREEBOARD:** 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.
18. **HIGHEST ADJACENT GRADE:** the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
19. **HISTORIC STRUCTURE:** 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:

- By an approved state program as determined by the Secretary of the Interior; or
- Directly by the Secretary of the Interior in states without approved programs.

20. **LOWEST FLOOR:** the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built or modified so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

21. **MANUFACTURED HOME:** a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

22. **MANUFACTURED HOME PARK OR SUBDIVISION:** a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

23. **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.

24. **NEW MANUFACTURED HOME PARK OR SUBDIVISION:** a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

25. **OBSTRUCTION:** any wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation (including the alteration or relocation of a watercourse or drainageway), channel rectification, bridge, conduit, culvert, building, stored equipment or material, wire, fence, rock, gravel, refuse, fill, or other analogous structure or matter which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the natural flow of the water would carry such structure or matter downstream to the damage or detriment of either life or property. Dams designed to store or divert water are not obstructions if permission for the construction thereof is obtained from the Department of Natural Resources pursuant to the Safety of Dams and Reservoirs Act (Neb. Rev. Stat. §§ 46-1601 to 46-1670 as amended).

26. **OVERLAY DISTRICT:** a district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.

27. **POST-FIRM STRUCTURE:** a building that was constructed or substantially improved after December 31, 1974 or on or after the community's initial Flood Insurance Rate Map dated: 11/26/10 [31019C0515D]; 9/26/08 [31079C0225D]; or 11/26/10 [31019C0500D], whichever is later.

28. **PRE-FIRM STRUCTURE:** a building that was constructed or substantially improved on or before December 31, 1974 or before the community's initial Flood Insurance Rate Map dated: 11/26/10 [31019C0515D]; 9/26/08 [31079C0225D]; or 11/26/10 [31019C0500D], whichever is later.

29. **PRINCIPALLY ABOVE GROUND:** that at least fifty-one percent (51%) of the actual cash value of the structure is above ground.

30. **RECREATIONAL VEHICLE:** a vehicle 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.

31. **REGULATORY FLOOD ELEVATION:** the base flood elevation (BFE) plus a freeboard factor as specified in this Ordinance.

32. **SPECIAL FLOOD HAZARD AREA (SFHA):** the land in the floodplain within a community subject to one percent (1%) or greater chance of flooding in any given year.

33. **START OF CONSTRUCTION:** the date the floodplain development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. "Start of construction" also includes substantial improvement, and means the date of building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

34. **STRUCTURE:** a walled and roofed building that is principally above ground, as well as a manufactured home and a gas or liquid storage tank that is principally above ground.

35. **SUBDIVISION:** the division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels, or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership, or building or lot development.

36. **SUBSTANTIAL DAMAGE:** damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damage condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

37. **SUBSTANTIAL IMPROVEMENT:** any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) 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.”

38.       **VARIANCE:** a grant of relief to an applicant from the requirements of this Ordinance that allows construction in a manner otherwise prohibited by this Ordinance where specific enforcement would result in unnecessary hardship.

39.       **VIOLATION:** a failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the Elevation Certificate, other certifications, or other evidence of compliance required in this Ordinance is presumed to be in violation until such time as that documentation is provided.

40.       **WATERCOURSE:** any depression two feet (2’) or more below the surrounding land that serves to give direction to a current of water at least nine (9) months of the year that has a bed and well-defined banks.

## ARTICLE FOUR: USE REGULATION MATRIX

	USE/ACTIVITY	AG	RE	R1	R2	C1	DT	LI	SUPPLEMENTAL INFORMATION
1	Accessory dwellings units	-	-	C-A	C-A	-	-	-	See Supplemental Regulations 5.13
2	Accessory buildings and uses	-	-	P-A	P-A	P-A	-	-	See Supplemental Regulations 5.12
3	Active open space/ athletic fields/ golf courses	C	C	P	C	P	-	P	
4	Adult entertainment est., live/adult oriented entertainment/adult retail		-	-	-	-	-	C	
5	Agricultural Farmers Markets	P	P	P	P	P	P	P	See Supplemental Regulations 5.29
6	Airport control tower	C	-	-	-	-	-	-	
7	Airport maintenance and hangar facility	C	-	-	-	-	-	-	
8	Airport terminal	C	-	-	-	-	-	-	
9	Amphitheater	-	-	-	-	-	P	-	
10	Amusement or theme park	-	-	-	-	-	P	P	
11	Animal hospitals	P	-	-	-	-	C	P	
12	Apiary and other related structures (Bees)	P	A	-	-	-	-	P	
13	Aquarium	-	-	C	-	P	P	-	
14	Assembly and construction-type plants	-	-	-	-	-	-	P	
15	Assisted living services	-	-	C	C	-	-	-	
16	Automobile parking facilities	-	-	-	-	C	A	P	
17	Automobile repair and services structures	-	-	-	-	P	P	P	
18	Automobile sales and services	-	-	-	-	P	P	P	
19	Automotive Wash Facilities	-	-	-	-	P	P	P	
20	Automotive wreckings and graveyards, salvage yards, and junkyards	C	-	-	-	-	-	C	
21	Bakeries	-	-	-	-	P	P	P	
22	Barbershops, beauty parlors, shoe shine shops	-	-	-	-	P	P	-	

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**C1=COMMUNITY COMMERCIAL, DT=DOWNTOWN COMMERCIAL, LI=LIGHT INDUSTRIAL**

	USE/ACTIVITY	AG	RE	R1	R2	C1	DT	LI	SUPPLEMENTAL INFORMATION
23	Barracks	-	-	-	-	-	-	-	
24	Bars, taverns, and nightclubs	-	-	-	-	C	C	C	
25	Bed-and-breakfast inn	A	A	-	C-A	P	P	-	
26	Beer, wine, and liquor store (off-premises consumption of alcohol)	-	-	-	-	P	P	P	
27	Boat or craft dealer	-	-	-	-	-	P	P	
28	Building material sales, except for redi-mix concrete plants and similar uses which emit particulate, odor, and smoke	-	-	-	-	-	-	P	
29	Bus or truck maintenance facility	-	-	-	-	-	P	P	
30	Bus stop shelter	-	-	-	-	-	P	P	
31	Bus terminal	-	-	-	-	-	P	P	
32	Bus, truck, mobile home, or large vehicle dealers	-	-	-	-	-	P	P	
33	Camps, camping, and related establishments	C	-	-	-	-	-	C	
34	Car rental and leasing	-	-	-	-	-	P	P	
35	Cemetery, tombstone, or mausoleum	C	C	-	-	-	-	-	
36	Child and youth services	-	-	-	-	P	P	-	
37	Child care center	-	-	C	C	P	P	-	
38	Child care institution Nebraska Designated Home I	C	C	P	P	P	-	-	
39	Child care institution Nebraska Designated Home II	C	C	P	P	P	-	-	
40	Churches, temples, synagogues, mosques, and other religious facilities	P	P	P	P	P	P	P	
41	Clubs or lodges, fraternities and meeting place of non-commercial nature	-	-	-	C	-	C	C	
42	College fraternities	-	-	-	-	-	-	-	
43	College or university facility (privately owned)	C	C	P	P	P	P	P	
44	Commercial amusement, sports, or recreation establishment (arcade skating rink such as bowling alleys, billiards, pool)	C	C	-	-	P	P	P	

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	USE/ACTIVITY	AG	RE	R1	R2	C1	DT	LI	SUPPLEMENTAL INFORMATION
45	Commercial center	-	-	-	-	P	P	-	
46	Commercial Forestry and logging	P	-	-	-	-	-	-	
47	Commercial Greenhouse/nurseries	P	A	-	-	P	P	P	
48	Communication and utility buildings and uses	-	-	-	P	P	P	P	
49	Communication towers	C	C	-	-	-	C	C	
50	Community buildings	-	-	-	P	P	P	-	
51	Community food services	-	-	-	-	P	P	-	
52	Congregate living services (Homeless Shelter)	-	-	-	C	-	-	-	
53	Construction-related businesses (to include construction sales and service)	-	-	-	-	-	P	C	
54	Contractors and carpenters' offices and shops, cabinet, plumbing, electrical HVAC, or sheet metal shops	-	-	-	-	-	C	P	
55	Convenience stores or centers	-	-	-	-	P	P	P	
56	Correctional or rehabilitation facility	C	-	-	-	-	-	C	
57	Courier and messenger services	C	-	-	-	P	P	P	
58	Covered or partially covered atriums and public enclosures	-	-	-	-	P	A	P	
59	Cremation facilities	C	-	-	-	-	-	P	
60	Crop production	P	A	-	-	-	-	-	
61	Culvert	P	P	-	P	P	P	P	
62	Dam	C	C	-	C	C	C	C	
63	Demolition business	-	-	-	-	-	-	C	
64	Department store building	-	-	-	-	-	P	-	
65	Domestic Livestock Use	P	P	-	-	-	-	-	See Supplemental Regulations
66	Dormitories	-	-	-	-	-	-	-	

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	USE/ACTIVITY	AG	RE	R1	R2	C1	DT	LI	SUPPLEMENTAL INFORMATION
67	Drive-in theater	P	-	-	-	-	P	P	
68	Dry cleaning and/or laundry plants	-	-	-	-	-	-	P	
69	Dry cleaning/laundry establishments	-	-	-	-	P	P	P	
70	Duplex structures	-	-	P	P	-	-	-	
71	Emergency and relief services	-	-	-	-	P	P	-	
72	Emergency operation center	C	-	-	-	P	P	P	
73	Environmental monitoring station (air, soil, etc.)	C	C	-	-	-	-	C	
74	Exhibitions and art galleries	-	-	C	C	P	P	-	
75	Exhibition, convention, or conference structure	-	-	-	-	C	P	P	
76	Facilities for the comm. storage/sale of fertilizer/toxic/flammable ag chemicals	-	-	-	-	-	C	C	
77	Farm implement sales and service establishments	-	-	-	-	C	P	P	
78	Fire and rescue station	P	P	P	P	P	P	P	
79	Fishing, hunting, and trapping, including game preserves and retreats	P	-	-	-	-	-	-	
80	Fitness, recreational sports, gym, or athletic club	C	C	-	-	P	P	P	
81	Fountain, sculpture, monument, or other aesthetic structure	P	P	P	P	P	A	P	
82	Funeral home	-	-	C	C	P	P	-	
83	Gas or electric power generation facilities (incl. wind towers) and/or sub-stations	C	-	-	-	-	C	C	
84	Gasoline Service Stations	-	-	-	-	C	P	P	
85	Grain silos and other storage structure for grains and agricultural products	P	C	-	-	-	-	P	
86	Grocery-retail	-	-	-	-	P	P	P	
87	Hazardous waste collection	-	-	-	-	-	-	C	
88	Hazardous waste treatment and disposal	-	-	-	-	-	-	C	
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	USE/ACTIVITY	AG	RE	R1	R2	C1	DT	LI	SUPPLEMENTAL INFORMATION
89	Heliport facility	C	-	-	-	-	-	-	
90	High-rise mini-warehouse	-	-	-	-	-	-	P	
91	Highway rest stops and welcome centers	P	-	-	-	-	P	P	
92	Home occupations	A	A	A	A	C-A	-	-	See Supplemental Regulations 5.32
93	Hospital building	-	-	-	-	-	P	-	
94	Hotel, motel, or tourist court	-	-	-	-	P	P	-	
95	Incinerator, composting, or similar facility	C	-	-	-	-	-	C	
96	Industrial parks	-	-	-	-	-	-	P	
97	Interurban, charter bys, and other similar establishments	C	-	-	-	-	P	P	
98	Irrigation facilities	P	-	-	-	-	-	P	
99	Kennels and other canine-related facilities	P	A	-	-	-	-	P	
100	Kiosks (to include ATM's)	P	-	-	-	P	P	P	
101	Laboratory or specialized industrial facility	-	-	-	-	-	-	P	
102	Large area distribution or transit warehouse	-	-	-	-	-	-	P	
103	Leasing trucks, trailers, recreational vehicles, etc.	-	-	-	-	-	P	P	
104	Library building	-	-	-	P	P	P	-	
105	Life care or continuing care services	-	-	C	C	-	-	-	
106	Livestock Confinement Fac/Operations	C	-	-	-	-	-	-	
107	Livestock grazing operations	P	-	-	-	-	-	-	
108	Lumberyard and building materials	-	-	-	-	-	P	P	
109	Manufactured housing, residential design	P	P	P	P	-	-	-	
110	Manufacturing plants	-	-	-	-	-	-	P	

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	USE/ACTIVITY	AG	RE	R1	R2	C1	DT	LI	SUPPLEMENTAL INFORMATION
111	Market shops, including open markets	-	-	-	-	P	P	-	
112	Medical clinic building	-	-	C	C	P	P	-	
113	Mill-type factory structures	-	-	-	-	-	-	P	
114	Mineral extraction, which shall include oil wells, sand, and gravel	C	-	-	-	-	-	-	
115	Miniature golf establishments	C	C	-	-	P	P	-	
116	Mini-warehouse (mini-storage)	-	-	-	-	-	-	P	
117	Mobile homes & Mobile home parks	-	-	-	C	-	-	-	
118	Mobile/Modular home manufacturing	-	-	-	-	-	-	P	
119	Motor vehicles sales and service establishments	-	-	-	-	C	P	P	
120	Movie theater	-	-	-	-	P	P	-	
121	Multifamily dwellings	-	-	C	P	C	-	-	
122	Multistoried parking structure with ramps	-	-	-	-	-	A	P	
123	Museum, exhibition, or similar facility	-	-	C	C	P	P	-	
124	Newspaper publishing plants	-	-	-	-	-	-	P	
125	Office and or store building with residence where it least 51% of space is for business use	-	-	-	-	C	C	-	
126	Office and/or bank building (with drive-through facility)	-	-	-	-	C	P	P	
127	Office building with storefronts	-	-	-	-	C	P	P	
128	Office or bank buildings, stand-alone (without drive-through facility)	-	-	-	-	P	P	P	
129	Outdoor stage, bandstand, or similar structure	C	C	-	C	P	A	-	
130	Passenger terminal, mixed mode	-	-	-	-	-	P	P	
131	Passive open space	P	P	P	P	P	P	P	
132	Pawnshops		-	-	-	-	P	P	

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	USE/ACTIVITY	AG	RE	R1	R2	C1	DT	LI	SUPPLEMENTAL INFORMATION
133	Performance theater	-	-	-	-	-	P	-	
134	Personal and professional services	-	-	-	-	P	P	-	
135	Photography studios	-	-	-	-	P	P	-	
136	Pipeline transportation	-	-	-	-	-	-	-	
137	Planetarium	-	-	C	-	P	P	-	
138	Playground equipment	P	P	P	P	P	-	P	
139	Police station	P	P	P	P	P	P	P	
140	Post offices	-	-	-	-	P	P	-	
141	Postal transportation services	C	-	-	-	-	-	P	
142	Private Wells	C	C	-	-	-	-	C	
143	Process plants (metals, chemicals, etc.)	-	-	-	-	-	-	P	
144	Produce warehouse and and grocery wholesale (refrigerated and frozen food storage and distribution)	-	-	-	-	P	-	P	
145	Public administration	-	-	-	-	P	P	P	
146	Public and parochial elementary and Secondary	C	C	P	P	P	P	P	
147	Public safety-related facility	P	P	P	P	P	P	P	
148	Racetrack	C	-	-	-	-	C	C	
149	Radio, television, or wireless transmitter and/or substations	C	C	-	-	-	C	C	
150	Railroad facility	C	-	-	-	-	-	P	
151	Recycling business	-	-	-	-	C	C	P	
152	Research-and-development services (scientific, medical, and technology	-	-	-	-	-	-	P	
153	Restaurant, with incidental consumption of alcoholic beverages	-	-	-	-	P	P	P	

**P=PERMITTED, C=CONDITIONAL USE PERMIT REQUIRED, A=ACCESSORY USE ONLY,**

**CA=ACCESSORY ONLY, CONDITIONAL USE PERMIT REQUIRED**

**AG= AGRICULTURAL, RE=RURAL ESTATES, R1=RESIDENTIAL SINGLE FAMILY, R2=RESIDENTIAL SINGLE & MULTIFAMILY,  
C1=COMMUNITY COMMERCIAL, DT=DOWNTOWN COMMERCIAL, LI=LIGHT INDUSTRIAL**

	USE/ACTIVITY	AG	RE	R1	R2	C1	DT	LI	SUPPLEMENTAL INFORMATION
154	Restaurant, with no consumption of alcoholic beverages permitted	-	-	-	-	P	P	P	
155	Retail shop of store building without drive-through facility	-	-	-	C	P	P	P	
156	Retail/wholesale sale of parts, accessories, or tires	-	-	-	-	P	P	P	
157	Retail/wholesale shops or stores without drive-through facility	-	-	-	-	P	P	-	
158	Retirement housing services	-	C	C	C	-	-	-	
159	Road, ground passenger, and transit transportation	C	-	-	-	-	P	P	
160	Roadside stand, pushcarts, etc. to include sale of farm produce	P	A	-	-	P	A	P	
161	Rooftop parking facility	-	-	-	-	-	A	P	
162	Runway	C	-	-	-	-	-	-	
163	Sales and service of irrigation equipment	-	-	-	-	-	P	P	
164	Sales and showrooms, including service facilities and rental of equipment, provided all displays and merchandise are within the enclosure of buildings	-	-	-	-	P	P	P	
165	School and employee bus transportation	C	C	-	-	-	P	P	
166	Septic tank and related services	C	C	-	-	-	-	C	
167	Services for elderly and disabled	C	C	-	-	P	P	-	
168	Services to buildings and dwellings (pest control, janitorial, landscaping, carpet/upholstery cleaning, parking, and crating)	-	-	-	-	-	-	P	
169	Sewer treatment plant	C	-	-	-	-	-	P	
170	Shipping container/storage or shipping conex	-	-	-	-	-	-	P	See supplemental regulations 5.27
171	Shop or store building with drive-through facility	-	-	-	-	P	P	-	
172	Shopping center	-	-	-	-	P	P	-	
173	Single-family attached dwellings	P	P	P	P	C	P	-	
174	Single-family detached dwellings	P	P	P	P	C	-	-	
175	Single-room occupancy units	-	-	-	-	-	-	-	

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	USE/ACTIVITY	AG	RE	R1	R2	C1	DT	LI	SUPPLEMENTAL INFORMATION
176	Skilled nursing services (nursing home)	-	C	C	C	-	-	-	
177	Slaughterhouse	C	-	-	-	-	-	C	
178	Social assistance, welfare, and charitable services (not otherwise enumerated)	-	-	-	-	P	P	P	
179	Solid waste collection	P	P	-	-	-	-	P	
180	Solid waste combustor or incinerator	-	-	-	-	-	-	C	
181	Solid waste landfill facility	C	-	-	-	-	-	C	See supplemental regulations 5.31
182	Sports stadium or arena	-	-	-	-	-	P	P	
183	Stand-alone store or shop building	-	-	-	-	P	P	P	
184	Support functions for agriculture and forestry to include machinery sales and service	P	-	-	-	-	-	P	
185	Surface parking, covered	-	-	-	-	C	A	P	
186	Surface parking, open	-	-	-	-	C	A	P	
187	Tank farms	C	-	-	-	-	-	C	
188	Tattoo parlors	-	-	-	-	P	P	P	
189	Taxi and limousine service	C	-	-	-	-	P	P	
190	Temporary structures, tents, etc., for shelter	-	-	-	-	A	A	-	
191	Towing and other road services	C	-	-	-	-	P	P	
192	Townhouses	-	-	C	P	-	-	-	
193	Trade or specialty school facility (privately owned) (incl. dance/music acad.)	C	C	-	-	P	P	P	
194	Truck and freight transportation	-	-	-	-	-	P	P	
195	Utility structures on right-of-way	P	P	P	P	P	P	P	
196	Warehouse discount store/superstore	-	-	-	-	-	P	P	
197	Warehouse structure (cold storage)	-	-	-	-	-	-	P	
<b>P=PERMITTED, C=CONDITIONAL USE PERMIT REQUIRED, A=ACCESSORY USE ONLY,  CA=ACCESSORY ONLY, CONDITIONAL USE PERMIT REQUIRED  AG= AGRICULTURAL, RE=RURAL ESTATES, R1=RESIDENTIAL SINGLE FAMILY, R2=RESIDENTIAL SINGLE &amp; MULTIFAMILY,  C1=COMMUNITY COMMERCIAL, DT=DOWNTOWN COMMERCIAL, LI=LIGHT INDUSTRIAL</b>									

	USE/ACTIVITY	AG	RE	R1	R2	C1	DT	LI	SUPPLEMENTAL INFORMATION
198	Wastewater storage or pumping station facility; lift stations	P	P	-	-	-	-	P	
199	Water reservoir	C	C	-	-	-	-	P	
200	Water supply pump station	P	P	P	P	P	P	P	
201	Water supply-related facility	P	P	P	P	P	P	P	
202	Water tank (elevated, at grade, underground)	P	P	-	P	P	P	P	
203	Water treatment and purification facility	C	C	-	-	-	-	P	
204	Weather stations or transmitters	C	C	-	-	-	C	C	
205	Wholesale trade - durable goods	-	-	-	-	-	-	P	
206	Wholesale trade - nondurable goods	-	-	-	-	-	-	P	
207	Zoological parks	C	-	C	-	-	C	-	
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## ARTICLE FIVE: SUPPLEMENTAL REGULATIONS

### 51 Purpose

The Supplemental Provisions 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 Article Four of this Zoning Ordinance.

The regulations contained in this Article pertain both to uses allowed by right within various zoning districts and to uses that require approval as Special Uses by the Board of Adjustment. Nothing contained in this section shall limit the right of the Board of Adjustment to impose additional conditions on developments seeking Special Use approval.

### 52 Exception to Height Regulations

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

### 53 Lot Requirements

Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot or lot of record and in no case shall there be more than one (1) principal building on a lot unless otherwise provided.

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

- a. Institutional buildings
- b. Public/semi-public buildings
- c. Multiple-family dwellings
- d. Commercial/industrial buildings
- e. Home for the aged
- f. Agricultural buildings

### 54 Reductions in Lot Area Prohibited

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

### 55 Exceptions to Lot Size Requirements

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

### 56 Mobile Home Parks

5.6.1 Mobile Home Parks shall only be allowed as a conditional use in the R2 District under the following conditions:

5.6.2 Individual mobile home lots shall have an area of not less than 4,000 square feet per single wide mobile home and 6,000 square feet for double wide mobile homes and the total number of lots per gross acre shall not exceed six.

5.6.3 Mobile homes shall be situated on individual lots so there will be a minimum of 15 feet between mobile homes and that each mobile home will be set back at least 15 feet from the nearest service road.

Mobile homes parked end-to-end shall have an end-to-end clearance of not less than 10 feet. Enclosed additions shall be considered a part of the mobile home in measuring required yard distance. The required area for each mobile home space shall not include area required for access or service roads, service buildings, recreation areas, office, and other similar mobile home park needs.

- 5.6.4 The mobile home park shall have direct access to a public street or highway by a right-of-way at least 50 feet in width and a minimum length of 100 feet to permit the easy entrance and exit from the mobile home park. Service roads shall be provided to each mobile home space. Each service road shall provide for continuous forward movement, shall connect with a street or highway, and shall have a minimum clear width of 20 feet paved with a suitable dustless material.
- 5.6.5 Walkways not less than 4 feet wide shall be provided from mobile home spaces to the service buildings. All walkways within the park shall be hard surfaced and lighted at night with a minimum illumination of 25-watt lamps spaced at intervals of not more than 100 feet.
- 5.6.6 Two off-street parking spaces for each mobile home space shall be provided at each mobile home space or in group parking. Each off-street parking space shall be at least 300 square feet.
- 5.6.7 The area of the mobile home stand shall be improved to provide an adequate and approved foundation for the placement and tie-down of the mobile home, thereby securing the super-structure against uplift, sliding, rotation, or overturning.
- 5.6.8 The mobile home or trailer stand shall be on incombustible materials and shall not shift or settle unevenly under the weight of the mobile home or trailer due to frost action, inadequate drainage, vibration or other forces acting upon the super-structure. The mobile home or trailer stand may be provided by means of a solid concrete footer block (16" x 16" x 4" minimum) placed on solid uniform soil with at least two standard concrete blocks with cells placed vertically beside each other on the footer block. A solid 4-inch concrete cap covering the two concrete blocks shall be provided as the bearing area to be positioned directly beneath the steel frame of the mobile home or trailer. Such blocking shall be provided along the full length of the mobile home or trailer unit, spaced not more than 10 feet apart, and not more than 5 feet from the ends of the unit.
- 5.6.9 The mobile home or trailer stand shall be provided with anchors and the tie downs such as cast-in-place concrete "dead men," eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors or other devices securing the stability of the mobile home or trailer. The tie-down devices shall be compatible with the foundation system provided for the mobile home or trailer such that the tie-downs are designed to resist the action of frost in the same manner as the foundation system.
- 5.6.10 The skirting of all mobile homes and trailers is required. Such skirting shall not attach a mobile home or trailer permanently to the ground, but shall be sufficient to withstand wind load requirements and shall not provide a harborage for junk or rodents, nor create a fire hazard. Such skirting shall be provided with removable access panels sufficient to provide easy access to all utility connection points of the mobile home or trailer and its subsequent connection to the utility raisers if they are located within the skirted area.
- 5.6.11 Permit the Creation of Mobile Home Parks in Which the Individual Mobile Home Lots Are Available for Sale. Wherever a mobile home park is permitted by this ordinance to be created through the granting of conditional uses or otherwise, said mobile home park may be designed to permit the sale of the individual mobile home lots within said park. A proposed mobile home park in which the individual mobile home lots will be offered for sale must meet all of the following requirements:
  - a. The individual mobile home lots shall, for the district within which such mobile home park is located, meet the minimum lot requirements, minimum yard requirements, maximum lot coverage, and maximum height requirements of such districts.
  - b. Each mobile home lot shall be individually serviced with all utilities and shall



be individually metered for all utilities and treated in all respects by the Village as a separate user of utilities.

- c. The developer of such mobile home park shall be required to secure a preliminary and final plat as per the subdivision process outlined in the Village of Firth Subdivision Regulations.
- d. At the time of an application for a conditional use permit, or at the time of the application for subdivision in a mobile home park where the lots are to be offered for sale, the developer shall submit all legal documents necessary for the creation of an association having the purpose of maintaining, controlling, and covering all expenses, taxes and costs incurred on common areas within the mobile home park. Such association shall require that all property owners within the mobile home park be members thereof and pledge the lots owned within the mobile home park as security for the association performing such obligations. Covenants shall be placed on the property by the developer and owners thereof so as to ensure this obligation. These documents shall be submitted by the proper officials to the Village Board for its approval and no subdivision permit or special use permit may be issued without the approval of these documents by the Village Board.

## **57 Through Lots**

Through Lots shall follow the following criteria in all districts except for AG and RE:

- 5.7.1 Where a through lot abuts a major thoroughfare and access is made from the other frontage street and access along said thoroughfare is restricted, the rear yard setback for fences and screening devices shall be zero feet. The rear yard setback for accessory buildings shall follow the prescribed setback within the zoning district.
- 5.7.2 Where a through lot is part of a triple frontage lot and abuts a major thoroughfare, the rear yard shall meet the standards of the rear yard of the zoning district, while the other two frontages shall be treated as a corner lot with a front yard setback and a street side yard setback.
- 5.7.3 Where a through lot occurs, other than along a major thoroughfare, the following shall apply:
  - a. Where all principal structures in the development face the same frontage, then the rear yard setback for fences and screening shall be zero feet and all accessory buildings shall meet the prescribed setback within the zoning district. This shall apply similarly at triple frontage lots, provided the remaining two frontages are treated like a typical corner lot.
  - b. Where principal structures face different directions along both frontages, the rear yard setback for fences and screening shall be the same as any prescribed rear yard setback within the zoning district. This shall apply similarly at triple frontage lots, provided the remaining two frontages are treated like a typical corner lot. All accessory buildings in this condition, shall comply with the minimum rear yard setbacks rather than the reduced setback allowed for accessory buildings.

## **58 Obstructions to Vision at Street Intersections Prohibited**

A corner lot, within the area formed by the center line of streets at a distance of sixty feet (60') from their intersections, there shall be no obstruction to vision between a height of two and one-half feet (2 ½') and a height of ten feet (10') above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets. At the intersection of major or arterial streets, the 60-foot distance shall be increased to ninety feet (90') for each arterial leg of the intersection. The requirements of this section shall not be deemed to prohibit any necessary retaining wall. This shall not apply to any properties within the AG and RE districts.

## **59 Yard Regulations**

- 5.9.1 **FRONT YARDS:** The front yards heretofore established shall be adjusted in the following cases:
- a. Where 40 percent or more of the frontage on one side of a street between two intersecting streets is developed with buildings that have a front yard less than the required, new buildings shall not be erected closer to the street than the nearest building on the block.
- 5.9.2 **STRUCTURAL PROJECTIONS:** The ordinary projections of chimneys and flues, buttresses, eaves, overhangs, egress window wells, open/unenclosed steps or stoops or porches, may extend into required yards for a distance of:
- a. Not more than 3 feet to the side yard lot line.
  - b. Not more than 15 feet from the back property lot line.
  - c. Not more than 5 feet in the front yard, unless such property adjoins a 100-foot street right of way in the front, in which event not more than 10 feet, so long as there is at least a 15-foot setback from the structural projection to the front property line.

(Am. by Ord. No. 10-2017-1, 10/3/17)

## **510 Fence Regulations**

Fence regulations shall not apply within AG and RE districts. Notwithstanding other provisions of this ordinance, fences and walls may be permitted in any required yard, provided that no fence or wall along the sides or front edge of any front yard shall be over 3½ feet (42 inches) in height. Additionally, on a corner lot in a residential district, a sight triangle shall be provided such that nothing shall be erected or placed in such a manner as to materially impede vision between a height of 2½ feet and 10 feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines 50 feet from the point of the intersections. The following regulations shall apply to the construction of fences:

- 5.10.1 No solid fence shall be constructed closer to the street than the property line. No fence shall be closer than 2 feet to the sidewalk. Owner is responsible for property between fence and property line.
- 5.10.2 No fence erected in a required front yard shall materially obstruct public view. Permitted types of fences shall include split rail, chain link, or other similar material. No component of a front yard fence shall exceed 3½ feet in height, nor shall any structural member exceed 36 inches in cross-sectional area.
- 5.10.3 No fence shall be constructed which will constitute a traffic hazard as identified in the site triangle of a corner lot.
- 5.10.4 No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals by intent of its construction or inadequate maintenance.
- 5.10.5 No fence within residential districts, except fences erected upon public or parochial school grounds or in public parks and in public playgrounds, shall be constructed of a height greater than 6 feet 6 inches.
- 5.10.6 All fences shall conform to the construction standards of the building code and other applicable ordinances and resolutions.
- 5.10.7 In commercial and industrial districts, maximum height of fences shall be 8 feet. When industry standards for certain types of businesses require fences of greater heights, the zoning administrator at

his/her direction, may allow greater heights.

5.10.8 All fences constructed in the Village shall comply with the provision of this section and obtain a fence permit.

5.10.9 Good side of fence shall face to the outside of the property.

(Am. by Ord. No. 10-2017-1, 10/3/17)

## **511 Drainage**

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

## **512 Accessory Buildings and Uses**

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

5.12.2 Any accessory buildings in R-1 and R-2 shall have a minimum side yard setback of 5 feet on interior lots and 25 feet on corner lots provided it is located between the rear property line and the rear building line of the principal building. No accessory building shall be located between the front building line of the principal building and the front property line. No accessory building shall be located closer than 5 feet from the rear property line or within 15 feet of any other building on adjacent properties, and no accessory building shall be located within any easement or right-of-way along the rear property line.

5.12.3 No accessory building shall be constructed upon a lot for more than six (6) months prior to beginning construction, defined here as the commencement of grading or dirt work, of the principal building. No accessory building shall be used for more than six (6) months unless the main building on the lot is also being used or unless the main building is under construction; however, in no event shall such building be used as a dwelling unless a certificate of occupancy shall have been issued for such use. A conditional use permit may be sought from the Village Board to deviate from this requirement and build an accessory building on a lot without a principal building.

5.12.4 No detached accessory building or structure shall exceed the maximum permitted height of the principal building or structure.

5.12.5 No accessory building shall be erected in or encroach upon the required side yard on a corner lot or the front yard of a double frontage lot.

5.12.6 All accessory buildings located in R-1 and R-2 shall be to the side or rear of the principal structure.

5.12.7 Garages and outbuildings in residential districts for storage uses and other structures customary and appurtenant to the permitted uses and detached accessory garages shall be constructed of materials customarily used in residential construction.

- 5.12.8 All accessory buildings and accessory dwellings require a building permit from the Village. A site map proving that the structure is within the setbacks and is going to be permanently anchored must be provided when applying for the permit.

### **513 Accessory Dwelling Units (ADUs)**

- 5.13.1 ADUs are conditional uses as outlined in Article Four. All ADUs require a building permit.
- 5.13.2 Only one ADU is permissible per lot.
- 5.13.3 All ADUs shall be installed upon a permanent foundation and with separate, permanent utility connections. Attached and internal ADU's must be on separate utility meters.
- 5.13.4 Site Development Regulations. All site development regulations shall be followed, unless specifically stated below.
- a. The PDU and ADU combined shall comply with all lot coverage maximums.
  - b. An existing structure, at the time of passage of this ordinance, whose height or setback(s) does not meet the ADU requirements may be converted into an ADU but the structure shall not be altered in any manner that would increase the degree of non-conformance.
  - c. A detached ADU shall be setback a minimum of 20 feet behind the front facing facade of the PDU. Corner ADUs must have a front setback of 25 feet and side setback of 15 feet. All garage entrances must have a minimum 15 feet long drive when garage opening is perpendicular to the access alley or 20 feet when garage opening is perpendicular to the access street.
  - d. If acceptable documentation verifying no easements are present, a detached ADU may be located a minimum of 7 feet from the interior side and 7 feet from the rear lot line, if set back 60 feet or more from the front lot line. No accessory dwelling units dwelling unit shall be located closer than 7 feet from the rear property line.
- 5.13.5 Size
- a. The square footage of an internal ADU shall be no larger than the PDU.
  - b. The maximum square footage of an attached or detached ADU shall not exceed 50% of the gross square footage of the PDU or 750 square feet, whichever is less.
  - c. The minimum size of an ADU shall conform to the minimum size required by the current and adopted building code.
  - d. Detached and attached ADUs shall be limited to a maximum of one bedroom, internal ADUs shall be limited to a maximum of two bedrooms.
  - e. No detached or attached ADU height shall exceed the PDU height.
- 5.13.6 Entrances
- a. One ground level, street-facing entrance may be added to a PDU with an attached or internal ADU, if none currently exist. Any additional entrances on facade(s) facing public streets shall not face the street. Street-facing entrances are generally parallel to and easily visible from streets.

- b. Detached structures may have entrances facing public streets, if setback a minimum of 20 feet behind the front facing facade of the PDU. Existing, at the time of passage of this ordinance, pedestrian doorways on detached garages may be converted to an ADU entrance, regardless of setback or orientation.
- c. No entrances shall be added to façade(s) facing the rear of the lot unless abutting an alley or meeting base zoning district setback requirements.
- d. Any other entrance(s) shall face the buildable area of the lot or meet the base zoning district setback requirements.

#### 5.13.7 Parking.

- a. The combined ADU and PDU must provide a minimum 2 off street parking spaces.

#### 5.13.8 Design Regulations.

- a. The PDU shall not be altered in any way so as to appear from a public street to be a multiple-unit dwelling use.
- b. The primary exterior materials and finishes of an ADU must generally match or exceed the quality or grade of the PDU.
- c. Exterior stairways, that are not enclosed and more than five treads, leading to an ADU entrance shall not be allowed on structure facades facing public streets.
- d. The lot serving the ADU and PDU shall only have one driveway per street frontage.

#### 5.13.9 Occupancy.

- a. The total combined number of dwelling units of the ADU and the PDU shall not exceed 2 dwelling units.

#### 5.13.10 Ownership.

- a. The owner of the lot on which an ADU use is maintained shall occupy either the PDU or the ADU as the owner's legal and permanent residence. For purposes of this provision, "the owner's legal and permanent residence" shall mean a property owner who makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means. Leasing of the owner's unit, under any terms, is prohibited.
- b. The property shall be subject to a deed restriction stating that the accessory dwelling unit shall not be sold separate from the main building.

### **514 Nonconforming, General Intent**

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

## **515 Nonconforming Lots of Record**

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

## **516 Nonconforming Structures**

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

5.16.2 Enlargement, Repair, Alterations: Any such structure described in Section 5.13.1 may be enlarged, maintained, repaired or remodeled, so long as no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure, except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be in conformance with this section, and unless otherwise permitted by or as specified in the Residential District. All enlargements shall meet all existing required setbacks unless provided elsewhere in this Zoning Ordinance.

5.16.3 Damage or Destruction: In the event that any structure described in Section 5.13.1 is damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided that structures located on a lot that does not comply with the applicable lot size requirements in Chapter Three, shall not have a side yard of less than five feet (5'). When a structure is damaged to the extent of less than fifty percent (50%) of its structural value, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one (1) year after the date of such partial destruction and may be extended six (6) months upon an approved Building Permit extension request.

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

## **517 Nonconforming Uses**

5.17.1 Nonconforming Uses of Land: Where at the effective date of adoption or amendment of this Zoning Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Zoning Ordinance 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 this Zoning Ordinance.
- b. No such nonconforming use shall be moved in whole or in part to any

other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Zoning Ordinance.

- c. If any such nonconforming use of land ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use of such land shall conform to the regulations specified by this Zoning Ordinance for the district in which such land is located.

5.17.2 Nonconforming Uses of Structures: If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Zoning Ordinance, that would not be allowed in the district under the terms of this Zoning Ordinance, 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 this Zoning Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to use permitted in the district in which it is located.
- b. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Zoning Ordinance but no such use shall be extended to occupy any land outside such building.
- c. If no structural alterations are made, any nonconforming use of a structure or structures and premises may be changed to another nonconforming use provided that the Planning Commission and Village Board, after each has completed a Public Hearing as per State Statute, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Planning Commission and/or Village Board may require appropriate conditions and safeguard in accord with the provisions of this Zoning Ordinance.
- d. Any structure, or structure and land in combination, in any or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed.
- e. When a nonconforming 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 nonconforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming statutes of the land.

## **518 Repairs and Maintenance**

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing provided that the cubic content of the building as it existed at the time of passage of amendment of this Zoning Ordinance shall not be increased. Nothing in this Zoning Ordinance shall be deemed to prevent the strengthening or restoring to a safe

condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

#### **519 Uses Under Special Use Permits Not Nonconforming Uses**

Any use for which a special permit is issued as provided in this Zoning Ordinance shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

#### **520 Fees**

All fees for any zoning or subdivision related action shall be required prior to the issuance or investigation of any said permit request. Fees shall be a part of the Master Fee Schedule adopted by the Village Board by separate Ordinance.

#### **521 Sign Regulations**

5.21.1 The following regulations shall govern the location, area and type of signs permitted within the Village:

5.21.2 No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a land use permit except those signs excepted below and without being in conformity with the provisions of this ordinance.

5.21.3 All signs are prohibited in the AG, RE, R1, R2 and PUD Districts except the following:

- a. Signs over show windows or doors of a nonconforming business establishment announcing without display or elaboration only the name and occupation of the proprietor and not to exceed 4 square feet.
- b. Real estate signs, not to exceed 4 square feet in area, which advertise the sale, rental, or lease of the premises upon which said signs are temporarily located.
- c. Name, occupation and warning signs not to exceed 2 square feet located on the premises.
- d. Bulletin boards for public, charitable, or religious institutions not to exceed 8 square feet in area located on the premises.
- e. Memorial signs, such as traffic control, parking restriction, information and notices.
- f. Official signs, such as traffic control, parking restriction, information and notices.
- g. Temporary signs or banners when authorized by the Planning Commission.

5.21.4 Signs are permitted in the CI, DT, and LI Districts subject to the following restrictions:

- a. Wall signs placed against the exterior walls of building shall not extend more than 6 inches out from a building's wall surface; shall not exceed a total of 200 square feet in area or 40 percent of the wall surface (whichever is smaller) for any one premises and shall not extend above the wall on which it is placed.
- b. Projecting signs fastened to, suspended from, or supported by structures shall not exceed 20 square feet in area for any one premises, shall not extend more than 6 feet into any required yard, shall not extend more than 3 feet from all side lot lines, shall not exceed a height of 20 feet above the mean centerline



street grade, and shall not be less than 10 feet above a driveway or an alley.

- c. Ground signs shall not exceed 20 feet in height above the mean centerline street grade, shall meet all requirements for the district in which it is located, shall not exceed 100 square feet on one side nor 200 square feet on all sides for any one premises.
- d. Roof signs shall not exceed 10 feet in height above the roof, shall meet all the yard and height requirements for the district in which it is located, and shall not exceed 300 square feet on all sides for any one premises.
- e. Window signs shall be placed only on the inside of commercial buildings and shall not exceed 25 percent of the glass area of the pane upon which the sign is displayed.
- f. Combinations of any of the above signs shall meet all the requirements for the individual sign.

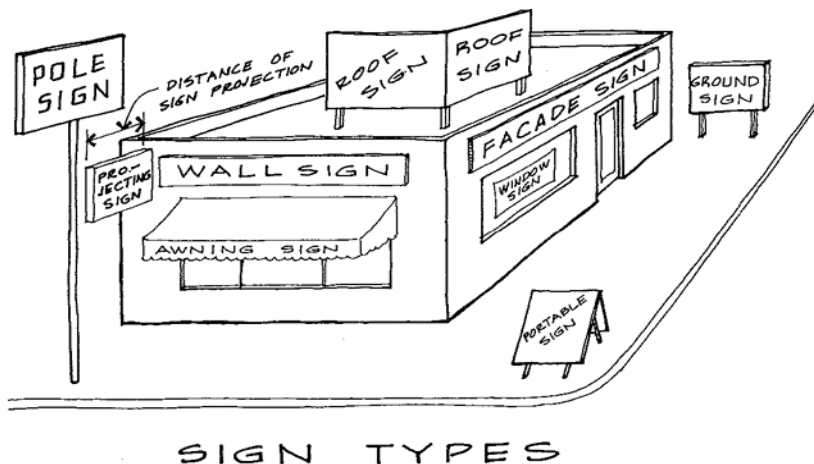
5.21.5 Signs shall not resemble, imitate, or approximate the shape, size, form or color of railroad or traffic signs, signals or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices. No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape, and no sign shall be attached to a stand- pipe or fire escape. No sign shall be placed so as to obstruct or interfere with traffic visibility.

5.21.6 The erection or maintenance of any advertising sign, display or device which is visible to the traveled way of the National System of Interstate and Defense Highways and the system of federal aid primary roads of the State of Nebraska, as defined by the Nebraska Department of Roads, is hereby prohibited unless in compliance with the regulations set forth in Rules and Regulations Relating to the Control of Advertising in Areas Adjacent to the Interstate and Federal Aid Primary Highways, as amended, adopted and published by the Nebraska Department of Roads.

5.21.7 Signs shall not be erected or maintained in such a manner as to obscure, or otherwise physically interfere with an official traffic sign, signal or device, or in such a manner as to obstruct or interfere with a driver's view of approaching, merging, or intersecting traffic. This shall also mean pedestrian traffic on sidewalks. All road signs shall be maintained in a neat and presentable condition.

5.21.8 In the event the use or need of a sign shall cease, the sign shall be removed promptly and the area restored to a condition free from refuse and rubbish. After 30 days' notice and failure to do so, the Village shall remove the sign and assess the charges to the owner.

#### 5.21.9 Sign Types:



(Source: The Illustrated Book of Development Definitions (Maskowitz, Harvey and Carl Lindbloom, 1995))

### 522 Parking Regulations: General Provisions

- 5.22.1 All buildings and structures erected and all uses of land in all districts, with the exception of the DT Downtown District, established after the effective date of adopting these Zoning Regulations, by ordinance, shall provide accessory parking and loading facilities as required under this section.
- 5.22.2 All off-street parking spaces required by these regulations shall be located on the same lots as the use it serves, provided, that no parking space can be reasonably provided on the same lot, such space shall be provided on any off-street lot a substantial portion of which is within 500 feet of such use.
- 5.22.3 Owners of two or more uses or parcels of land may agree to jointly utilize the same parking spaces provided that satisfactory legal evidence is presented in the form of deeds, leases, or contract documents to establish such a joint area of use.
- 5.22.4 All yard area including driveways, except the required front yard for residential uses may be used for off-street parking. Garages and driveways may be considered as off-street parking spaces. Each required off-street parking space shall open directly upon an aisle or driveway which provides direct access to a street or alley or shall itself be directly accessible to such street or alley.
- 5.22.5 For the purpose of computing the number of parking spaces in a given area, the formula of 200 square feet per parking space shall be required. Standing areas, aisles for maneuvering and entrance and exit roadways shall not be computed as parking space and shall be provided, when necessary, in addition to required parking spaces in order to provide for appropriate access.
- 5.22.6 Any lighting used to illuminate off-street parking or loading areas shall be directed away from residential properties in such a way as not to interfere with such residential use.
- 5.22.7 A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be met shall accompany an application for a building permit. The plan shall show all elements necessary to indicate that the requirements are being fulfilled.

### **523 Off Street Parking Requirements**

- 5.23.1 At the time of construction, or enlargement of more than 50 percent of an existing structure or building or change in the use of land, off-street parking spaces and loading areas shall be provided, constructed, and maintained for all uses as follows:

<b>USE</b>	<b>MINIMUM NUMBER OF PARKING SPACES</b>
Residential	
Single family or 2 dwelling unit	2 per dwelling unit
Apartment-efficiency and one bedroom	1 per dwelling unit
Apartment-two bedroom	1.5 per dwelling unit
Apartment-three or more bedrooms	2 per dwelling unit
Mobile home park	2 per dwelling unit
Hotel and motel	1 per rental unit plus 1 for every 4 employees
Hospitals, nursing homes, or similar uses	1 for every 2.5 patient beds and 1 for each staff and employee on the largest shift
Places of public assembly (auditoriums, theaters, churches, community centers, etc.)	1 for every 4 seats
Bowling alleys	2 for each alley
Retail sales, department stores, restaurants, taverns, grocery stores or similar uses	1 per 200 square feet of floor area as determined by exterior wall dimensions
Professional office establishments or similar uses	1 per 500 square feet of floor area as determined by exterior wall dimensions
Manufacturing, wholesale warehouse, and similar uses	1 for every 2 employees on the largest working shift

### **524 Off-Street Loading Requirements**

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

<b>NUMBER</b>	<b>LOADING AREA</b>	<b>GROSS FLOOR AREA</b>
One	500 square feet	For every 5,000 to 20,000 square feet
One	500 square feet	For every 20,000 square feet or fraction thereof

**525 Off-street Parking, Parking for Individuals with Disabilities**

Each off-street parking facility shall provide the number of parking spaces set forth in the following table. Parking facilities for single-family, duplex, and mobile homes are exempt from the requirement. Spaces designated for the handicapped shall have minimum width of twelve feet (12') and provide a barrier free route to an accessible building entrance. Such space shall be designated with an upright sign exhibiting the universal symbol for accessibility by the handicapped. All such spaces shall be designed in compliance with the standards of the Americans with Disabilities Act.

NUMBER OF STALLS	NUMBER OF REQUIRED ACCESSIBLE SPACES
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1,000	2% of Total

**526 Storage or Parking for Vehicles, Boats, Campers, and Trailers**

- 5.26.1 No lot, parcel or tract of land or part thereof, situated within the zoning jurisdiction of the Village of Firth shall be used for any of the following:
- 5.26.2 The storage or keeping of motor vehicles not having a properly issued current motor vehicle registration and current motor vehicle license plate properly displayed; provided however, that the following shall not constitute a violation of this subparagraph:
- The storage or keeping of operable off-highway farm or industrial vehicles on tracts zoned Agricultural (AG) or any Industrial (LI) District and used in agricultural or industrial activity conducted on said premises.
  - The storage, keeping or abandonment of parts, including scrap metals, from motor vehicles or machinery, or parts thereof, except in enclosed buildings or garages or where otherwise authorized by the Firth zoning regulations.

## 527 Storage and Shipping Container Placement and Use Requirements

- 5.27.1 Permitted Locations and Prohibitions: it shall be unlawful to place, use, allow, or maintain shipping containers on residential property zoned Residential (R1, R2, and RE) unless specifically exempted by this provision:
- a. One (1) shipping container shall be permitted on residential zoned property (R1, R2, and RE) for a period not to exceed six (6) months for the limited purpose of loading and unloading household contents and related items.
  - b. Licensed contractors may use shipping containers for the temporary location of an office, equipment and/or materials storage during construction which is taking place on the property where the shipping container is located, if the use is authorized pursuant to a building permit.
- 5.27.2 It shall be unlawful to place, use, allow, or maintain more than two (2) shipping containers on properties zoned either Commercial (C1) or Industrial (LI). Any shipping container placed, used, allowed or maintained on a property zoned either Commercial (C1) or Industrial (LI) shall meet the following conditions:
- a. Shipping containers must be securely anchored to the ground.
  - b. Shipping containers shall not be stored in a manner that impedes access to public rights-of-way, public utility, or drainage easements or adjacent structures and buildings.
  - c. Shipping containers may be used for storage only and shall not be used for human habitation.
  - d. Shipping containers shall not be used to store hazardous materials in violation of any local, state or federal law or requirements.
  - e. No signage shall be allowed on any permanent shipping container, and all permanent shipping containers shall be painted a non-reflective neutral color that is compatible with the primary structure or to blend in with the surrounding environment.
  - f. Shipping containers shall not be stacked on top of each other or another structure.
  - g. All shipping containers shall be operated in a safe manner, and be structurally sound, stable, and in good repair. The container shall not contain any holes, peeling paint, rust, damage, or structural modifications.
  - h. Shipping containers used for long-term storage shall not be visible from the portion of any public or private street that abuts the lot or property. Acceptable screening features for a shipping container include landscaping, fencing, terrain, existing structure, or a combination of these features.
  - i. Shipping containers used for temporary storage must be placed to the rear of the business.

5.27.3 Shipping containers may also be placed or installed in the Agricultural (AG), districts and shall be subject to the following restrictions:

- a. No shipping container shall be stacked on top of another or on top of any other object.
- b. Shipping containers must be placed or located behind the main or primary structure on the lot or parcel of ground and shall be set back from all property lines a minimum of fifty feet (50').
- c. No container shall be used to store hazardous material.
- d. No shipping container shall be used to store or keep refuse or debris in, against, on, or under the shipping container.
- e. Every shipping container shall be secured, structurally sound, stable, and in good repair.

5.27.4 Exceptions to these requirements.

- a. These restrictions shall not apply to, and no permit shall be required for, any shipping container that is placed, kept, or stored upon the premises of a business directly engaged in transporting goods and used solely in conjunction with such business and not used for storage or other purposes on the business premises.
- b. These restrictions shall not apply to, and no permit shall be required for, the placement of PODS in any zoning district for temporary use for not more than thirty (30) days out of every 365 days. Persons placing PODS upon their premises shall register such placement with the Village Clerk, noting the date upon the PODS where first placed upon the premises.

## **528 Keeping of Animals**

5.28.1 Livestock are allowed to be kept as a use within the AG and RE districts.

The keeping of livestock is not permitted in any other district, except that: 1) per Municipal Code 3:2-201, Animals Generally, the RI and R2 districts may have up to 10 chickens and 10 rabbits; and 2) the keeping of household pets shall be permitted as an accessory use in all zoning districts, subject to the regulations for Kennels in Article 4 of this Ordinance.

5.28.2 Minimum Requirements: The following regulations serve as a minimum requirement for the consideration of a conditional use permit for the keeping of Livestock in any zoning district in the Village of Firth.

5.28.3 Minimum Lot Size:

- a. Land designated as acreage for each Animal Unit shall be used exclusively for the animal(s) of the domestic livestock as proposed.
- b. Minimum lot size for the zone in which the use is located must be met.
- c. Minimum of one (1) acre of land, exclusive of buildings and impervious surfaces must be provided for the first two animal units which are housed or pastured on the lot.

- d. One (1) additional acre of land shall be provided for each additional animal unit, beyond the two (2) permitted on the first acre, which is to be housed or pastured on the lot.

#### 5.28.4 Setback Requirements

- a. All buildings and structures housing animals and any building or structures used to store feed other materials used for the domestic livestock use shall be located at a minimum of thirty-five (35) feet from all property lines, or the setback required by the zoning district in which the use is located, whichever is greater.
- b. A minimum setback of one-hundred (100) feet shall be provided between any area or structure used for the storage of animal wastes and all property lines, and existing street right-of-ways.

#### 5.28.5 Fencing Requirements

- a. All animals shall be kept within a fenced enclosure at all times when said animals are not leashed, haltered, or bridled under the direct control of the owner or an authorized agent of the owner of the animals.

5.28.6 Nuisance Effect: the presence of domestic livestock shall not constitute a nuisance with regard to noise, odor, vectors, dust, vibration, or any other definition as stated in the Village of Firth Municipal Code 4-302-Nuisances: Specifically Defined.

5.28.7 Conversion: conversion of a domestic livestock use to a more intense, commercial livestock operation shall not be permitted. No conversion of a domestic livestock use to any other principal or accessory use shall be permitted unless such use complies with all ordinance and permitting requirements in full force and effect at the time such conversion is applied for.

5.28.8 Compliance with Other Regulations: the proposed use shall comply with all applicable State, Federal, and Local regulations including, but not limited to, nutrient management, building codes, erosion and sedimentation control, and storm water management, as well as standards for signs, lighting, and parking access.

### **529 Agricultural Farmers' Market**

5.29.1 Farmers Markets are a permitted use in all zoning districts in the Village of Firth.

5.29.2 Additional Requirements: prior to the opening or establishment of a Farmers' Market, the following requirements must be met.

5.29.3 All vendors must comply with federal, state, and local laws and regulations relating to the operation, use, and enjoyment of the market premises.

5.29.4 Markets are permitted to operate in the months of April-November of each calendar year

5.29.5 All Markets and their vendors must receive all required operating and health permits, and these permits (or copies) shall be in the possession of the Farmers' Market Manager or the vendor, as applicable, on the site of the Farmers' Market during all hours of operation.

5.29.6 All Farmers' Markets have an established set of operating rules addressing the governance structure of the farmers' market, hours of operation, maintenance and security requirements and responsibilities; and appointment of a Market Manager.

5.29.7 Village Board Approval Required: Markets must present proposed hours of operation to the Village Board of Trustees and receive approval prior to the establishment or opening of any market created after the adoption of this Zoning Ordinance.

### **530 Salvage or Junk Yard**

- 5.30.1 In making any decision granting a conditional use permit, the Village Board shall impose such restrictions, terms, time limitations, landscaping, improvement of off-street parking lots, and other appropriate safeguards as required to protect adjoining property.
- 5.30.2 Salvage or Junk Yard operations and related facilities shall only be allowed by conditional permit in the AG and LI Zoning Districts under the following conditions:
- 5.30.3 Located on a tract of land at least one-fourth (1/4) of a mile from a residential or agricultural farm residence.
- 5.30.4 The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a visual obscuring fence, wall, or hedge. The fence, wall, or hedge shall be of uniform height (at least 8 feet high) and uniform texture and color shall be so maintained by the proprietor as to ensure maximum safety to the public and preserve the general welfare of a neighborhood. The fence, wall, or hedge shall be installed in such a manner as to retain all scrap, junk, or other material within the yard and no scrap, junk or other material shall protrude above the fence.
- 5.30.5 No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge fence or wall, or within the public right of way.
- 5.30.6 Any other requirement deemed appropriate and necessary by the Village Board for the protection of the general health and welfare.

### **531 Landfills and Sanitary Landfills**

- 5.31.1 In making any decision granting a conditional use permit, the Village Board shall impose such restrictions, terms, time limitations, landscaping, improvement of off-street parking lots, and other appropriate safeguards as required to protect adjoining property.
- 5.31.2 Private landfill operations shall only be allowed by conditional use permit in the AG District upon prior approval of the Nebraska Department of Health and Human Services System and with conformance to the following conditions:
- 5.31.3 Located on a tract of land at least 300 feet from a residential or agricultural farm residence.
- 5.31.4 The operation shall be conducted wholly within an area completely surrounded on all sides by a fence, wall, or hedge. The fence, wall, or hedge shall be of uniform height (at least 8 feet high) and uniform and color shall be so maintained by the proprietor as ensure maximum safety to the public and preserve the general welfare of the neighborhood. The fence, wall or hedge shall be installed in such a manner as to retain all material within the yard and no material shall protrude above the fence.
- 5.31.5 No material shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge fence or wall, or within the public right of way.
- 5.31.6 Any other requirement deemed appropriate and necessary by the Village Board for the protection of the general health and welfare.
- 5.31.7 Conditional use permits granted under this section shall be subject to annual review and renewal by the Village Board.

### **532 Home Occupations**

- 5.32.1 A home occupation must be an activity carried on within the dwelling or accessory building by a member of the household residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character nor infringe upon the right of neighboring residents to enjoy an peaceful occupancy of their homes. Home occupations must comply with these restrictions.



- 5.32.2 The primary use of the building or structure in which the occupation is situated shall clearly be the dwelling used by the person as his/her private residence.
- 5.32.3 Signs and displays shall be limited to one non-illuminated sign not exceeding six (6) square feet in area.
- 5.32.4 No equipment or machinery shall be used in such activities that create excessive noise, smoke, dust, radiation, electrical interference or vibration.
- 5.32.5 Parking shall be handled in such a manner as to not impede or hinder traffic on any public right of way.

### **533 Manufactured Homes**

- 5.33.1 All manufactured homes located within the zoning jurisdiction of the Village of Firth shall meet these standards.
- 5.33.2 The home shall have no less than 900 square feet of floor area.
- 5.33.3 The home shall have no less than an 18-foot exterior width.
- 5.33.4 The roof shall be pitched with a minimum vertical rise of 2.5 inches for each 12 inches of horizontal run.
- 5.33.5 The exterior material shall be of a color, material and scale comparable with existing residential site-built, single family construction.
- 5.33.6 The home shall have a nonreflective roof material which is or simulated asphalt or wood shingles, tile or rock.
- 5.33.7 The home shall have wheels, axles, transporting lights and removable towing apparatus removed.
- 5.33.8 Nothing in this Article shall be deemed to supersede any valid restrictive covenants of record.
- 5.33.9 The home must meet building codes adopted by the Village of Firth.

### **534 Radio Towers**

- 5.34.1 The following shall be permitted without regulation of this ordinance, provided that the primary use of the property is not a telecommunications facility and that the antenna use is accessory to the primary use of the property. (Note, however, that these may be under the regulatory jurisdiction of other county or local ordinances.)
  - a. Personal and non-commercial use of all television antennas and satellite dishes.
  - b. Personal and non-commercial use of radio towers are exempt from the provisions of this ordinance, including the installation of any antenna and supporting towers, poles and masts that are owned and/or operated by a federally licensed amateur radio operator or used exclusively for receive-only antennas.
  - c. Mobile service providing public information coverage of news events of a temporary nature. (Am. by Ord. No. 10-2017-1, 10/3/17)

## **535 Solar Energy Systems**

5.35.1 Solar energy systems may be installed only as a use accessory to a permitted principal use. Such systems may be installed only as accessory uses either on the roof of a permitted principal or accessory structure or as a free-standing structure. Installation requirements shall be as follows:

- a. Roof-mounted solar panels shall be mounted parallel to the roof angle and, if mounted on a sloping roof, shall not exceed a height of 15 inches above the ridge of the roof.
- b. A roof-mounted solar panel that is mounted on a flat roof may be angled to achieve maximum sun exposure but shall not exceed 8 feet above the roof. No such mounted panel shall exceed the maximum permitted height of the structure.
- c. Solar panels shall be placed such that concentrated solar radiation or glare shall not be directed onto nearby properties, businesses, residential homes or road- ways.
- d. An external disconnect switch, readily accessible by emergency responders and which is clearly identifiable and unobstructed, shall be provided to disconnect power at the solar panel.
- e. Ground mounted solar energy systems shall be located behind the rear lot line of the principal structure on a residential lot. When located in the side or rear yard of a residential lot, solar panels shall comply with the height limitations and yard setback requirements applicable to accessory structures in said zone district.
- f. Ground mounted solar energy systems, complying with the height limitations and the required rear yard setback applicable to accessory structures in said zone district, may be located in the rear yard of all non-residential zones.
- g. When installed as an accessory use on a lot with a principal use or structure, solar energy systems shall be designed and sized to provide energy for the principal use of the property whereon the solar energy system is installed and shall not be for the generation of power for commercial purposes. This provision shall not be interpreted to prohibit the sale of excess power generated from time to time from an accessory use solar energy system designed and sized to meet the energy needs of the principal use located on the same property whereon the solar energy system is installed. This provision is not applicable to solar energy systems installed as the principal use of the property. In these cases, there is no other principal use on the property that could utilize the energy generated by the solar energy system. (Am. by Ord. No. 10-2017-1, 10/3/17)

### **536 Small Wind Energy Systems**

- 5.36.1 Small wind energy systems are allowed as a restricted use in all zoning districts. The following specific conditions shall apply:
- 5.36.2 The base of the tower shall be set back from all property lines, utility easements and rights of way equivalent to the height of the tower, including turbine blades. Any facility mounted on a building shall be set back from the edge of the building equivalent to the height of the facility measured from the building mount.
- 5.36.3 Noise: Small wind energy systems shall not exceed 60 dB measured at the closest neighboring inhabited structure. The level may be exceeded during short term events such as utility outages or severe wind events greater than 50 mph.
- 5.36.4 All small wind energy systems shall be designed and approved by a listing agency such as the American Wind Energy Association, UL, Factory Mutual or other listing agency or shall be designed by a licensed engineer.
- 5.36.5 All building permit applications shall be accompanied by engineered drawings and specifications for the tower, base, footings, and other facilities from the manufacturer or designer.
- 5.36.6 All small wind energy systems shall be located, constructed and operated to comply with any applicable Federal Aviation Administration (FAA) regulations or guidelines.
- 5.36.7 All small wind energy systems shall be in compliance with the National Electrical Code.
- 5.36.8 **Utility Notification:** No small wind energy system shall be installed without prior notification and approval of the Village Board of the intent to construct, install and operate an interconnected customer-owned generator and must meet all the requirements of the board for interconnection. Off-grid systems shall be exempt from this requirement.
- 5.36.9 All small wind energy systems shall have utility company-approved metering transfer switches.
- 5.36.10 If a wind generator is inoperable for more than one year, the owner shall be notified that he/she/it must, within three months of receiving notice, restore the system to working order or remove it.
- 5.36.11 No signs other than manufacturer, safety and warning labeling shall be placed on the tower of turbine. For a system which exceeds 12 volts, "High Voltage" warning signs shall be posted on or near the system.
- 5.36.12 The wind generator system shall not have any illumination unless required by FAA regulations or guidelines.
- 5.36.13 Any climbing devices shall be removed below 12 feet to prevent unauthorized climbing.
- 5.36.14 The tower shall be freestanding without the aid of guy wires.

- 5.36.15 Turbine blades, whether horizontal or vertical, shall be a minimum of 12 feet above the adjacent grade.
- 5.36.16 All communications and connector lines associated with the installation shall be buried. If obstacles prevent an underground installation, the applicant shall receive a waiver from the Board of Public Works. (Am. by Ord. No. 10-2017-1, 10/3/17)
- 5.36.17 Maximum tower height, measured to the highest point of the turbine blades, in the following districts:
- a. Residential and Commercial, 60 feet
  - b. Agricultural and Industrial, 100 feet
  - c. Commercial and Industrial, 80 feet

### **537 Solar and Wind Energy Systems**

5.37.1 Definitions: the following definitions shall apply to solar and wind energy systems:

- a. “Large scale wind generator (wind farm)” shall mean any wind generator facilities that do not qualify for small scale wind energy systems according to the standards of these regulations
- b. “Energy” shall mean the ability to do work.
- c. “Photovoltaic” shall refer to technology which uses a device, typically a solar panel, to convert light into electricity.
- d. “Small wind energy systems” shall mean facilities used to generate energy from wind as a use accessory to other permitted structures on the premises.
- e. “Solar array” shall mean a group of multiple solar panels connected together to provide a single electrical output.
- f. “Solar energy” shall mean energy from the sun that is converted into thermal or electrical energy.
- g. “Solar energy system” shall mean all associated equipment which converts solar energy into usable electrical energy, heats water or produces hot air, or other similar function.
- h. “Solar panel” shall mean a structure containing one or more receptive cells, the purpose of which is to convert solar energy into usable electrical energy by way of a solar energy system. (Am. by Ord. No. 10-2017-1, 10/3/17)

## ARTICLE SIX: CONDITIONAL USE PERMITS

### **61 General Provisions**

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

### **62 Application for Conditional Use Permit**

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

### **63 Planning Commission Public Hearing**

Before any proposal for a conditional use permit is considered by the Village Board, the Planning Commission shall conduct a public hearing after prior notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in the Village of Firth, one (1) time at least ten (10) days prior to such hearing. Said notice must include the name and address of the applicant, the legal description of the property in question, the address of the property requiring action, and an explanation of the request requiring the public hearing. A notice shall be posted in a conspicuous place on or near the property on which the action is pending. Such notice shall not be less than eighteen (18) inches in height and twenty-four (24) inches in width with a white background and black letters not less than one and one-half (1 ½) inches in height. Such posted notice shall be so placed upon such premises that is easily visible from the street and shall be so posted at least ten (10) days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy, or change such posted notice prior to such hearing.

### **64 Village Board Public Hearing**

Before issuance of any conditional use permit, the Board will consider the application for the conditional use permit together with the recommendations of the Planning Commission at a public hearing after prior notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in the Village of Firth, one (1) time at least ten (10) days prior to such hearing. A notice shall be posted in a conspicuous place on or near the property on which the action is pending. Such notice shall not be less than eighteen (18) inches in height and twenty-four (24) inches in width with a white background and black letters not less than one and one-half (1 ½) inches in height. Such posted notice shall be so placed upon such premises that is easily visible from the street and shall be so posted at least ten (10) days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy, or change such posted notice prior to such hearing.

### **65 Decisions**

A majority vote of the Board shall be necessary to grant a conditional use permit. No order of the Board granting a conditional use permit, which has not been acted upon by the applicant, shall be valid for a period longer than twelve (12) months from the date of such order. Unless the following is completed:

6.5.1 The Zoning Administrator, in consultation with Village Board, has granted an

additional twelve (12) month administrative extension provided:

- a. The character (including uses, parking conditions, traffic, and others) of the area in which the use(s) were approved has not changed significantly.
- b. The applicant has made some effort to follow through with said permit or there were circumstances that slowed the applicants' progress.
- c. If the administrative extension of the second twelve (12) month period has lapsed without establishment of said conditionally permitted use; or, if staff deems the character of the area has changed within the initial twelve (12) month period, the applicant shall be required to reapply to both the Planning Commission and Village Board for further approval(s).

## **66 Standards**

No conditional use permit shall be granted unless that Planning Commission or Village Board has found:

- 6.6.1 That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the community.
- 6.6.2 That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
- 6.6.3 That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.
- 6.6.4 That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.
- 6.6.5 That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- 6.6.6 The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
- 6.6.7 The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.
- 6.6.8 The use shall not involve any malodorous gas or matter which is discernible on any adjoining lot or property.
- 6.6.9 The use shall not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road, or highway.
- 6.6.10 The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
- 6.6.11 The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

# ARTICLE SEVEN: SUBDIVISION REGULATIONS

## 71 Jurisdiction and Applicability

This chapter shall be applicable to all property within the corporate limits and one (1) mile extraterritorial jurisdiction.

## 72 Necessary for Building Permit Approval

No owner of real property within the jurisdiction of the Village of Firth may construct buildings and other structures on any lots or parts of real property, less than ten (10) acres that are not subdivided, platted, or laid out in accordance with the requirements of this regulation.

## 73 Interpretations, Conflict, and Severability

These regulations shall be held to provide the minimum requirements necessary for the promotion of the public health, safety, and welfare. If any provision conflicts with any other provision, or any applicable state or federal law, the more restrictive provision shall be enforced. 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 Ordinance or statute.

## 74 Approval Necessary for Acceptance of Subdivision Plats

Approval shall require:

7.4.1 Any proprietor of any land within the corporate limits or ETJ of the Village of Firth may lay out such land into lots, blocks, streets, avenues, alleys, and other grounds under the name of [NAME] Addition to the Village of Firth and shall cause an accurate map or plat to be made out, designating explicitly the land so laid out and particularly describing the lots, blocks, streets, avenues, alleys, and other grounds belonging to such addition. The lots shall be designated by numbers, streets, avenues, and other grounds by names or numbers.

7.4.2 If the parcel of land involved is more than ten (10) acres, that parcel of land is exempt from this requirement to be laid out in lots, blocks, streets, avenues, alleys, and other grounds.

7.4.3 Such plat shall be submitted to the Village Clerk. A fee as determined by the Master Fee Schedule (kept at the Village Office) shall be paid to the Village Clerk at the time that the plat is filed. Such plat shall be acknowledged by the **Zoning Administrator** for the Village of Firth and shall contain a dedication of the streets, alleys, and public grounds therein to the use and benefit of the public and have appended a survey made by some competent surveyor with a certificate attached, certifying that he/she has accurately surveyed such addition and that the lots, blocks, streets, avenues, alleys, parks, commons, and other grounds are well and accurately staked off and marked.

7.4.4 When such map or plat is completed, acknowledged, certified, and has been approved by the Village Board, the same shall be filed in the Office of the County Register of Deeds and Assessor.

## 75 Subdivision Plat Specifications

The Subdivision Plat shall be drawn to a scale of one inch (1") to one hundred feet (100'); shall be plainly marked "Subdivision Plat" and shall include, show, or be accompanied by the following information:

7.5.1 A location map showing the general location of the proposed subdivision in relation to surrounding developments with a north arrow, scale, and legend.

7.5.2 The proposed name of the subdivision, designated as "\_\_\_\_\_ Addition to the

Village of Firth, Nebraska”, which must not be so similar to an existing subdivision as to cause confusion.

- 7.5.3 The names and addresses of the owner and subdivider, and any engineer, surveyor, or landscape architect responsible for the Preliminary Plat.
- 7.5.4 The legal description of the area being platted, boundary lines and dimensions, the location of monuments found or set, section lines, and the approximate acreage of the proposed development.
- 7.5.5 The width and location of platted streets and alleys within or adjacent to the property.
- 7.5.6 The physical features of the property, including location of water courses, ravines, bridges, culverts, present structures and other features affecting the subdivision; contours with intervals of five feet (5') or less; the location of all existing utilities with their sizes indicated, as well as flow lines; elevations of existing sanitary and storm sewer, the outline of wooded areas (the location of important individual trees may be required), and any floodway, floodplain, and flood fringe areas.
- 7.5.7 The proposed lot layout, lot and block numbers, and approximate lot dimensions and square footage and grounds proposed to be dedicated for public use.
- 7.5.8 The location and width of proposed streets, easements, building setback lines, rights-of-way, pavement widths and type, sidewalks, alleys, location of all proposed improvements including: sanitary sewers (including proposed flow lines), water mains, storm water drainage and other features and improvements required by these regulations.
- 7.5.9 The existing and proposed zoning classification and proposed uses of land within and adjacent to the proposed subdivision.
- 7.5.10 The subdivider shall submit a complete list of the names and mailing addresses of all owners of record of all land within 300 feet of the perimeter of the property being proposed for subdivision.
- 7.5.11 Names of adjacent subdivisions together with arrangement of streets and lots.
- 7.5.12 One (1) draft copy of the Subdivision Agreement including any requests for waivers from the requirements of this Ordinance.
- 7.5.13 The subdivider or subdividers representative shall be in attendance at the Village Planning Commission meeting when Subdivision Plat is discussed.
- 7.5.14 Two (2) copies of the following, prepared by a registered professional engineer, to be delivered to the Village Engineer for review:
  - 1. A sanitary sewer plan.
  - 2. A drainage plan.
  - 3. A street profile plan with a statement of proposed street improvements.



4. A water distribution plan.

5. A traffic impact analysis.

**7.6 Approval Necessary for Further Subdivisions (Minor-Subdivisions)**

Further subdivision of existing lots and blocks must be reviewed by Planning Commission and approved by the Village Board in the same manner as new subdivision plats are reviewed and approved.

**7.7 Dedication of Public Lands**

Upon approval by the Village Board, such plats shall be equivalent to a deed in fee simple absolute to the Village of Firth from the proprietor of all streets, avenues, alleys, public squares, parks, and commons, and of such portion of the land is therein set apart for public and municipal use.

**7.8 Hearings Necessary for Approval of Additions**

Prior to the approval of newly subdivided Additions of land, the Planning Commission and Village Board will hold separate public hearings on the approval of the Addition, giving notice of the time and place of such hearing, as provided in Article Nine: Amendments and Enforcement, Notice of Hearings section, of this regulation.

**7.9 Annexation**

All additions laid out adjoining or contiguous to the Corporate Limits may be included in the Corporate Limits of the Village of Firth for all purposes whatsoever at such time as the addition is approved or at any time after the addition is approved.

**7.10 Hearings Necessary for Approval of Annexations**

Prior to the approval of the inclusion of newly subdivided additions of land into the Corporate Limits of the Village of Firth, the Planning Commission and Village Board will hold separate public hearings on the annexation of the addition, giving notice of the time and place of such hearing, as provided in Article Nine: Amendments and Enforcement, Notice of Hearings section, of this regulation. Residents of the addition included into the Corporate Limits of the Village of Firth shall be entitled to all the rights and privileges, and shall be subject to all the laws, Ordinances, rules, and regulations of the Village of Firth.

**7.11 Vacations**

The Village of Firth may vacate any such existing plat and addition in accordance with Nebraska Revised Statutes 19-917.

**7.12 Force and Effect**

No owner of real estate within the Corporate Limits or one (1) mile Extraterritorial Jurisdiction of the Village of Firth shall be permitted to subdivide, plat, or lay out such land into blocks, lots, streets, or other portions of the same intended to be dedicated for public use, or for the use of the purchasers or owners of lots fronting thereon or adjacent thereto, without first having obtained the approval of the Village Board. No plat or instruments effecting the subdivision of real property shall be recorded or have any force and effect unless the same be approved by the Village Board of the Village of Firth.

## ARTICLE EIGHT: BOARD OF ADJUSTMENT

### **81 Members, Terms, and Meetings**

Pursuant to §19-908, Nebraska Reissue Revised Statutes of 1943 (in full): The Board of Adjustment shall consist of five regular members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three years and removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in his or her immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment. After September 9, 1995, the first vacancy occurring on the Board of Adjustment shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the City at such time as more than two hundred persons reside within such area. Thereafter, at all times, at least one member of the Board of Adjustment shall reside outside of the corporate boundaries of the City but within its extraterritorial zoning jurisdiction. The Board of Adjustment shall adopt rules in accordance with the provisions of any Ordinance adopted pursuant to sections 19-901 to 19-914. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. Such chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record

### **82 Legislative Body of Village May Act as Board of Adjustment**

Pursuant to §19-911, Nebraska Reissue Revised Statutes of 1943, the Legislative Body of a village may provide by Ordinance that it shall constitute a Board of Adjustment, and in the regulations and restrictions adopted pursuant to the authority of sections 19-901 to 19-905 may provide that as such Board of Adjustment it may exercise only the powers granted to the boards of adjustment by §19-910, provided at 6.4.

### **83 Appeals to Board, Record of Appeal, Hearings and Stays**

As provided in Section 19-909, Reissue Revised Statutes of 1943 (in full): Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of the appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent 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 in application on notice to the officer from whom the appeal is taken and on due cause shown. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties, in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.

### **84 Powers and Jurisdiction on Appeals**

The Board of Adjustment shall have the following powers:

- 8.4.1 To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in

the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures to hear and decide, in accordance with the provisions of this Zoning Ordinance, requests for interpretation of any map, or for decisions upon other special questions upon which the Board is authorized by this Zoning Ordinance to pass; and

8.4.2 To grant variances, where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of this Zoning Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Zoning Ordinance would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Zoning Ordinance.

- a. The Board of Adjustment shall authorize no such variance, unless it finds that:
  - i. The strict application of the Ordinance would produce undue hardship;
  - ii. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
  - iii. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
  - iv. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Zoning Ordinance.

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

## **85 Appeals to District Court**

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

# ARTICLE NINE: ENFORCEMENT AND AMENDMENT

## 91 Enforcement

- 9.1.1 ZONING ADMINISTRATOR. This ordinance shall be enforced and administered by a zoning administrator who shall be appointed by the Village Board and who may be provided with the assistance of such other persons as the Village Board may direct in order to carry out the following duties and responsibilities.
- 9.1.2 Approve and issue all building permits and occupancy certificates when compliance is made with this ordinance.
- 9.1.3 Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of this ordinance.
- 9.1.4 Receive, file and forward to the Board of Zoning Adjustment the records in all appeals for variances.
- 9.1.5 Maintain permanent and current records of the Zoning Regulations including but not limited to, all zoning maps, amendments, special use permits, variances, appeals and applications thereof and records of hearings thereon.
- 9.1.6 Prepare and have available in book, pamphlet or map for each year.
- 9.1.7 The compiled text of the Zoning Regulations and amendments thereto, including all amendments adopted through the preceding December 31; and
- 9.1.8 A zoning map or maps, showing the zoning districts, divisions and classifications in effect on the preceding December 31.
- 9.1.9 Whenever the zoning administrator shall find that any of the provisions of this ordinance have been or are being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He/she may order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings, structures or additions or alterations thereto; discontinuance of any illegal work being done; or take any other appropriate action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

## 92 Building Permits Required

- 9.2.1 GENERAL. No building or other structure shall be erected, moved, added to, or structurally altered without a building permit first having been issued by the zoning administrator. No building permit shall be issued unless the proposed construction or use is in conformance with all of the provisions of this ordinance and with all other applicable codes, regulations and laws of the Village and with all orders and variances lawfully issued by the Board of Adjustment. A building permit shall not be required for agricultural (non-residential) buildings or structures in the AG, Agricultural District, or for building improvements which have a value of less than \$1,000. If the work for which a permit has been issued shall not have begun within six months of the date thereof, or if the construction shall be discontinued for a period of six months, the permit shall be void. Before work can be resumed, a new permit shall be obtained in the same manner and form as an original permit. (Am. by Ord. No. 10-2017-1, 10/3/17)
- 9.2.2 APPLICATION FOR BUILDING PERMIT. All applications for a building permit shall be accompanied by a plot plan showing the location, ground area, height and bulk of all present and proposed structures, additions, parking areas and site improvements; the actual dimensions and shape of the lot lines; the uses to be built upon; the building lines in proposed structures or additions; and any other reasonable and pertinent information as may be required by the zoning administrator or the proper enforcement of this ordinance.

- 9.2.3 **APPROVAL OR DISAPPROVAL OF PERMIT.** The plan reviewer shall examine all applications for building permits, including plans, specifications and documents filed therewith and shall either approve or disapprove such application within 30 days of receipt of same. Upon approval and receipt of required fees, the zoning administrator shall promptly issue the building permit and shall affix his/her signature to the permit and the plans and mark the plans "Approved." Upon disapproval of the application, the zoning administrator shall refuse to issue the permit and shall state in writing on the plans the reasons for disapproval, affix his/her signature and mark the plans "Disapproved."
- 9.2.4 **APPEAL FROM APPROVAL OR DISAPPROVAL.** An appeal from approval or disapproval of any application shall be made to the Board of Zoning Adjustment in writing within ten days after the determination of the zoning administrator has been filed.

### **93 Certificate of Occupancy Required**

- 9.3.1 **GENERAL.** No building, structure or land shall be used or occupied, in whole or in part, nor shall any change made in the use or type of occupancy of an existing building or structure requiring a building permit, nor shall any change be made in the use of land, except to any use which is primarily agricultural, unless a certificate of occupancy shall be issued by the zoning administrator in accordance with this ordinance.
- 9.3.2 **TEMPORARY CERTIFICATE.** Upon request, the zoning administrator may issue a partial certificate of occupancy for a period not to exceed 90 days, for a building or structure or part thereof, before the entire work covered by the building permit shall have been completed, provided such portion or portions as have been completed may be occupied safely without endangering life or the public welfare.
- 9.3.3 **APPLICATION FOR CERTIFICATE OF OCCUPANCY.** All applications for certificate of occupancy shall be made by the owner or his/her agent and shall be accompanied by an affidavit of the owner, registered architect, licensed professional engineer, or superintendent of construction who shall state that he has examined the approved plans of the structure, that said structure has been erected in accordance with the approved plans and that it complies with this ordinance and all local code and resolutions/ordinances governing building construction. The application and affidavit shall be filed with the zoning administrator.
- 9.3.4 **ISSUANCE OF CERTIFICATE OF OCCUPANCY.** Before issuing a certificate of occupancy, the building inspector shall examine all buildings, structures or sites for which an application has been filed for a building permit to construct, enlarge, alter, repair, remove, demolish, or change the use or occupancy. The zoning administrator shall maintain a record of all examinations and inspections, together with a record of findings of violations of the law.
- 9.3.5 **AUTHORIZATION.** A certificate of occupancy shall be deemed to authorize, and is required for, both initial and continued occupancy and use of the building or land to which it applies and shall continue in effect so long as such building or land is used as authorized in the certificate of occupancy.

### **94 Schedule of Fees**

- 9.4.1 The schedule of fees shall be established for these regulations by the Village Board. The schedule of fees shall be posted in the office of the zoning administrator and may be altered or amended only by the Village Board. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

### **95 Notice of Hearings**

- 9.5.1 Hearings required under the provisions of this regulation shall not be held until notice thereof has been given in compliance with the following provisions:

- 9.5.2 A notice shall be posted in a conspicuous place on or near the property on which the action is pending. Such notice shall not be less than eighteen inches (18") in height and twenty-four inches (24") in width with a white background and black letters not less than one and one-half inches (1 ½") in height. Such posted notice shall be so placed upon such premises that is easily visible from the street and shall be so posted at least ten (10) days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy, or change such posted notice prior to such hearing.
- 9.5.3 The provisions of Section 9.2.1 a. in reference to notice shall not apply: (1) in the event of a proposed change in such regulations, restrictions, or boundaries throughout the entire area of an existing zoning district or of such municipality, or (2) in the event additional or different districts are made applicable to areas, or parts of areas, already within a zoning district of the Village.
- 9.5.4 Notice of time and place of such hearing shall be given by publication thereof in the newspaper of general circulation of the Village of Firth at least one time ten (10) days prior to such hearing.
- 9.5.5 It shall not be necessary to give further notice of adjourned or continued meetings.

## **96 Amendments**

- 9.6.1 Pursuant to Section 19-905, Reissue Revised Statutes of 1943 (in full): The Village Board may from time to time supplement, change, or generally revise the boundaries or regulations contained in this Ordinance. A proposal for such amendment may be initiated by the Village Board or Planning Commission or upon application of the owner of the property affected.
- 9.6.2 The provisions of this section of the Ordinance relative to public hearings and official notice shall apply equally to all changes or amendments. In addition to the publication of the notice therein prescribed, a notice shall be posted in a conspicuous place on or near the property on which action is pending. Such notice shall not be less than eighteen inches (18") in height and twenty-four inches (24") in width with a white or yellow background and black letters not less than one and one-half inches (1 ½") in height.
- 9.6.3 Such posted notice shall be so placed upon such premises that it is easily visible from the street nearest the same and shall be so posted at least ten (10) days prior to the date of such hearing. It shall be unlawful for anyone to remove, mutilate, destroy, or change such posted notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars (\$50) or more than one hundred dollars (\$100).
- 9.6.4 The provisions of Section 9.3.2 in reference to notice shall not apply: (1) in the event of a proposed change in such regulations, restrictions, or boundaries throughout the entire area of an existing zoning district or of such municipality, or (2) in the event additional or different districts are made applicable to areas, or parts of areas, already within a zoning district of the Village.
- 9.6.5 Planning Commission Review: No amendment, supplement, change or modification of this Zoning Ordinance, including the boundaries of any zoning district, shall be made by the Village Board without first the consideration by the Planning Commission.
- 9.6.6 Upon the development of tentative recommendations, the Planning Commission shall hold a public hearing thereon and shall cause an accurate written summary to be made of proceedings, and shall give notice in accordance with Section 9.2 of this Article. The Commission shall submit in writing its recommendations on each amendment, supplement, change or modification to the Village Board within forty-five (45) days after receipt thereof.
- 9.6.7 Said recommendations shall include approval, disapproval, or other suggestions and the reasons thereof, and a discussion of the effect of each amendment, supplement, change or modification on the Comprehensive Plan. Said recommendations shall be of an advisory nature only. In addition, any person or persons seeking such an amendment, supplement, change, or modification of any zoning district, shall deposit a fee at the time

that application for a change of zoning district or amendment to the zoning test is filed with the Planning Commission. The fee as determined by the Master Fee Schedule (kept at the Village Office) to cover investigation, legal notices, or other expenses incidental to the determination of such matter.

- 9.6.8 The procedure for the consideration and adoption of any such proposed amendments, to the Zoning Regulations, shall be in like manner as that required for the consideration and adoption of the ordinance except herein before or herein after modified. For action on zoning amendments, a quorum of the Planning Commission is more than one-half of all the members. A vote either for or against an amendment by a majority of all the Planning Commission members present constitutes a recommendation of the commission; whereas a vote either for or against an amendment by less than a majority of the Planning Commission present constitutes a failure to recommend.
- 9.6.9 When the Planning Commission submits a recommendation of approval or disapproval of such amendment, the Village Board shall hold a public hearing and give notice in conformance in section 9.2 of this Article. If it approves such recommendation, may either adopt such recommendation by ordinance or take no further action thereof as appropriate. In the event the Planning Commission submits a failure to recommend, the Village Board may take such action as it deems appropriate.
- 9.6.10 Upon receipt of a recommendation of the Planning commission which the Village Board disapproves, the said governing body shall return such recommendation to the Planning Commission with a statement specifying the basis for disapproval, and such recommendation shall be considered in like manner as that required for the original recommendation returned to the Planning Commission. If such amendment shall affect the boundaries of any district, the ordinance shall define the change or the boundary as amended, shall order the Official Zoning Maps to be changed to reflect such amendment, and shall amend the section of the ordinance incorporating the same and reincorporate such maps as amended.
- 9.6.11 Regardless of whether or not the Village Board approves or disapproves a proposed zoning amendment or fails to recommend, if a protest against such amendment be filed in the office of the village clerk within 14 days after the date of the conclusion of the public hearing pursuant to said publication notice, duly signed and acknowledged by the owners of 20 percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending 100 feet therefrom, or of those directly opposite thereto extending 100 feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of a two-thirds majority of the Village Board.

## **97 Complaints Regarding Violations**

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

## **98 Penalties**

- 9.8.1 Pursuant to § 19-913, Reissue Revised Statutes of 1943 (in full), the owner or agent of a building or premises in or upon which a violation of any provisions of this Zoning Ordinance has been committed or shall exist or lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed one hundred dollars (\$100) for any one (1) offense.
- 9.8.2 Each and every day that such violation continues after notification shall constitute a separate offence of not more than \$500 for each offense.

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

## **99 Remedies**

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or land is used in violation of § 19-901 to 19-914, Reissue Revised Statutes of 1943 (in full), or this Zoning Ordinance, or any regulation made pursuant to said sections, the appropriate authorities of the Village may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

## **910 Effective Date**

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



