

ARTICLE 1

GENERAL PROVISIONS

1.1 TITLE

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

1.2 JURISDICTION

The provisions of this Regulation shall apply within the planning jurisdiction of Gage County as established on the map entitled "The Official Zoning Map of Gage County, Nebraska." The jurisdiction includes the rural and unincorporated areas of Gage County.

1.3 PURPOSE

In pursuance of the authority conferred by Section 23-114.03-114.05 and 23-164 to 174.10 of Nebraska Revised Statutes as amended, and other applicable laws, this regulation is enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of Gage County, including, among others, such specific purposes as:

1. Developing both urban and non-urban areas;
2. Lessening congestion in the streets or roads;
3. Reducing the waste of excessive amount of roads;
4. Securing safety from fire and other dangers;
5. Lessening or avoiding the hazards to persons and damage to property resulting from the accumulation or runoff of storm or flood waters;
6. Providing adequate light and air;
7. Preventing excessive concentration of population and excessive and wasteful scattering of population or settlement;
8. Promoting such distribution of population, such classification of land uses, and such distribution of land development as well assure adequate provisions for transportation, water flowage, water supply, drainage, sanitation, recreation, soil fertility, food supply, and other public requirements;
9. Protecting the tax base;
10. Protecting property against blight and depreciation;
11. Securing economy in governmental expenditures;
12. Fostering the state's agriculture, recreation, and other industries;
13. Encouraging the most appropriate use of land in the county; and
14. Preserving, protecting, and enhancing historic buildings, places, and districts.

ARTICLE 2

APPLICATION OF REGULATIONS

2.1 GENERAL

The Zoning Regulations set forth within each Zoning District shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

2.2 ZONING AFFECTS EVERY BUILDING AND USE

Excepting nonconforming lot sizes, structures and usages, as set forth in Sections 14.1, 14.2 and 14.3 of these Regulations and as otherwise excepted by state law, after effective date of this Regulation or any amendments thereto, no building, construction, or land shall be used or occupied, and no building or structure or part thereof shall be erected, constructed, moved or structurally altered except in conformity with all of the Zoning Regulations herein specified for the district in which it is located.

2.3 YARD AND LOT REDUCTION PROHIBITED

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

2.4 MINIMUM REQUIREMENTS

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

ARTICLE 3

GENERAL DEFINITIONS

3.1 GENERAL PROVISIONS

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

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

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

3.13 SHALL AND MAY: The word “shall” is mandatory; the word “may” is permissive.

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

3.2 GENERAL TERMINOLOGY

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

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

3.3 DEFINITION

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

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

3.32 **AGRICULTURAL FARM OR OPERATION:** Farm or farm operation shall mean any tract of land over twenty (20) acres in area used for or devoted to the commercial production of farm products, with sales of at least one thousand dollars (\$1,000) annually.

3.33 **ALL WEATHER ROAD -** A road currently maintained with a regular placement of gravel or rock as a surface material.

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

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

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

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

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

3.38 CEMETERY: A place of burial of human remains.

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

3.40 CONDITIONAL USE PERMIT: A permit issued by the Zoning Administrator when the proposed conditional use is determined to be in conformance with the list of conditions stipulated for that use. A conditional use permit does not require any review, nor public hearings by, the Planning Commission or the Gage County Board.

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

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

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

3.44 DWELLING, TWO-FAMILY: A building designed or used exclusively for the occupancy of two (2) families living independently of each other and having separate kitchen and toilet facilities for each family.

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

3.46 FARM RESIDENCE: Residential dwellings located on a farm including, but not limited to, mobile homes appurtenant to agricultural operations including the living quarters for persons employed on the premises.

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

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

3.49 LAGOON: An impoundment made by constructing an excavated pit, dam, embankment, tank or combination of these for storage or treatment of waste by anaerobic, aerobic or facultative digestion. A lagoon is a structure under these regulations.

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

3.51 LIVESTOCK CONFINEMENT FACILITIES/ OPERATIONS: Shall mean any building(s), lot(s), pen(s), pool(s), pond(s), lagoon(s) and or manure or compost pile(s) or other confined spaces, which normally are not used for raising crops or grazing animals, which are designed and/or used for on-going confined raising, feeding or management of animals, which exceed any combination of three hundred (300) animal units from the following:

Animal Units Equal:

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

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

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

3.53 LOT, CORNER: A lot abutting two (2) or more streets or roads at their intersection.

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

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

3.56 LOT OF RECORD: A lot of which is part of a subdivision recorded in the Office of the Register of Deeds, or a lot or parcel described by deed or other conveyance the description of which has been recorded and on file with the Gage County Register of Deeds prior to the effective date of these regulations.

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

3.58 MANUFACTURED HOME: A factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built to compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or a modular housing unit as defined in Section 71-1557 of the Nebraska Revised Statutes bearing the seal of the Department of Health and Human Service System.

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

3.60 MOBILE HOME PARK: Any area of land which one (1) or more mobile homes are parked, connected to utilities and used by one (1) or more persons for living or sleeping purposes. A mobile home parked in this area can either be placed on permanent foundation or supported only by its wheels, jacks, blocks, or

skirtings or a combination of these devices. A mobile home park includes any premises set apart for supplying to the public parking space, either free of charge or for revenue purposes for one (1) or more mobile homes, connected to utilities and used by one (1) or more persons living, or sleeping purposes and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park.

3.61 MOBILE HOME SPACE: A designated portion of a mobile home park designed for the accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants. (Neb. Rev. Stat. 76-1465)

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

3.63 NONCONFORMING LOT OF RECORD: A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to June 11, 2001 (date of adoption), and neither said lot nor parcel complies with the lot width or area requirements for any permitted uses in the district in which it is located.

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

3.65 NONCONFORMING USE: An existing use of a structure or of land which does not comply with the use regulation applicable to new uses in the Zoning District in which it is located.

3.66 PARCEL: A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person(s) or entity.

3.67 PARKING SPACE, OFF-STREET: An area, enclosed or unenclosed, sufficient in size to store one (1) automobile, together with a driveway connecting the parking space with a street or road and permitting ingress and egress of an automobile.

3.68 PROPERTY LINE: A line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space.

3.69 RECREATIONAL VEHICLE: A vehicular type unit primarily designed as temporary living quarters for recreational camping, or travel use, which unit either

has its own motive power or is mounted on or towed by another vehicle. Recreational vehicle includes, but is not limited to, travel trailer, park trailer, camping trailer, truck camper, motor home, van conversion, or fifth-wheel trailer.

- a) Travel Trailer: A vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use of such size or weight as not to require special highway movement permits when towed by a motorized vehicle and of gross trailer area less than three hundred twenty square feet.
- b) Camping Trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping or travel use.
- c) Truck Camper: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor and sides and designed to be loaded onto and unloaded from the bed of a pickup truck.
- d) Motor Home: A vehicular unit primarily designed to provide temporary living quarters which are built into an integral part of, or permanently attached to, a self-propelled motor vehicle chassis or van, containing permanently installed independent life-support systems that meet the state standard for recreational vehicles and providing at least four of the following facilities: Cooking; refrigeration or ice box; self-contained toilet; heating, air conditioning, or both; a portable water supply system including a faucet and sink; separate one-hundred-twenty-nominal-volt electrical power supply; or LP gas supply.
- e) Park Trailer: A vehicular unit which meets the following criteria: (a) Built on a single chassis mounted on wheels; (b) Designed to provide seasonal or temporary living quarters which may be connected to utilities necessary for operation of installed fixtures and appliances; (c) Constructed to permit setup by persons without special skills using only hand tools which may include lifting, pulling and supporting devices; and (d) Having a gross trailer area not exceeding four hundred square feet when in the setup mode.
- f) Van Conversion: A completed vehicle permanently altered cosmetically, structurally, or both which has been recertified by the state as a multipurpose passenger vehicle but which does not conform to or otherwise meet the definition of a motor home in this section and which contains at least one plumbing, heating, or one-hundred-

twenty-nominal-volt electrical component subject to the provisions of the state standard for recreational vehicles. Van conversion does not include any such vehicle that lacks plumbing, heating, or one-hundred-twenty-nominal-volt electrical system but contains an extension of the low-voltage automotive circuitry.

- g) Fifth-Wheel Trailer: A unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use of such size or weight as not to require a special highway movement permit, of gross trailer area not to exceed for hundred square feet in the setup mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle. (Neb. Rev. Stat, 71-4603)

3.70 RECYCLING CENTER: A facility which accepts salvage material limited to paper, aluminum foil, containers made of glass, plastic, metal, aluminum and paper, and similar household wastes; no hazardous material as defined by State and Federal law is accepted; there is no wrecking or dismantling of salvage material and no salvage material is held outside a building.

3.71 RECYCLING COLLECTION POINT: A collection point for small refuse items, such as bottles, cans and newspapers, used oil and fluids collection, located either in a container or small structure.

3.72 RESIDENCE: A home, abode, or structure or place where an individual or family is actually living at a specific point in time.

3.73 SALVAGE OR JUNK YARD: A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, more than seven (7) unlicensed abandoned or inoperable motor vehicles or parts thereof, and other used materials are bought, sold, exchanged, stored, baled or cleaned; and places or yards for the storage of salvaged metal, materials and equipment; but not including pawn shops and establishments for the sale, purchase or storage or used cars or trucks presently in operable condition, boats or trailers presently in operable condition, and used furniture and household equipment in usable condition and not including the processing of used, discarded or salvaged material as part of manufacturing operations.

3.74 SEAL: A device of insignia issued by the Nebraska Department of Health and Human Services Regulation and Licensure prior to May 1, 1998, or by the Nebraska Public Service Commission on or after May 1, 1998, to be displayed on the exterior of a manufactured home or recreational vehicle to evidence compliance with state standards. The federal manufactured-home label shall be recognized as a seal.

(Neb Rev. Stat. 71-4603)

3.75 SPECIAL USE PERMIT: A written permit issued with authorization of the County Board. The special permit provides permission under specific conditions and, possibly, performance standards to make certain special uses of land in each of the zoning districts are permitted in accordance with the zoning regulations.

3.76 STREET, ROAD OR HIGHWAY: All property acquired or dedicated to the public and accepted by the appropriate governmental agencies for street, road or highway purposes. The term COUNTY ROAD shall also include township roads, streets and highways.

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

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

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

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

3.81 TOWNHOUSE: One of a group or row of not less than three (3) or more than twelve (12) attached, single family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately. For the purpose of the side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

3.82 VARIANCE: A variance is a relaxation of the terms of the Zoning Regulations 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 Zoning Regulations would result in unnecessary and undue hardship.

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

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

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

3.86 YARD, REQUIRED: The required minimum open space between the property line and the building line. The required yard shall contain no building or structure other than the projection of the usual steps, or open porches, or as otherwise provided in this Regulation.

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

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

3.88 ZONING ADMINISTRATOR: The person duly designated by the County governing body to enforce these Zoning Regulations.

3.89 ZONING DISTRICT: The term “zoning map” means a map or maps officially enacted by the County Board, as part of this chapter showing the boundaries of a Zoning District or Districts, a copy or copies of which, certified to have been enacted as provided by law, is filed in the office of the County Clerk, as an official record of Gage County.

ARTICLE 4

ESTABLISHMENT AND DESIGNATION OF DISTRICTS

4.1 ZONING AND PLANNING COMMISSION RECOMMENDATIONS

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

4.2 DISTRICTS CREATED

For the purpose of this resolution, there are hereby created Zoning Districts for Gage County, as named and described in Article 5 of this Regulation.

1. AG - 1 General Agriculture District
2. AG - 2 Transitional Agriculture District
3. AG - 3 Agricultural Conservation District
4. AG - 4 Urban Reserve District
5. R Residential District
6. I Industrial District

4.3 OFFICIAL ZONING MAP

1. The boundaries of the Zoning Districts are shown upon a map, which is made a part hereof by reference, which map is designated as the Gage County Zoning Map, dated June 11, 2001 and signed by the Chairperson of the County Board and attested by the County Clerk and hereinafter referred to as the "Official Zoning Map."
2. The signed copy of the Zoning Map containing the Zoning Districts designated at the time of adoption of this Regulation shall be maintained in the offices of the County Clerk and Zoning Administrator for the use and benefit of the public.
3. If in accordance with the provisions of this resolution, changes are made in

the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the appropriate part of the Official Zoning Map promptly after the amendment has been approved by the governing body with an entry on the Official Zoning Map as follows:

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

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

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

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

4.4 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of a zoning District(s) as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following city/village limits shall be construed as following such city/village limits;
4. Boundaries indicated as following railroad right-of-way lines shall be construed to midway between the railroad right-of-way lines;
5. Boundaries indicated as parallel to or extension of features indicated in subsection 1 through 4 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by

the scale of the map.

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