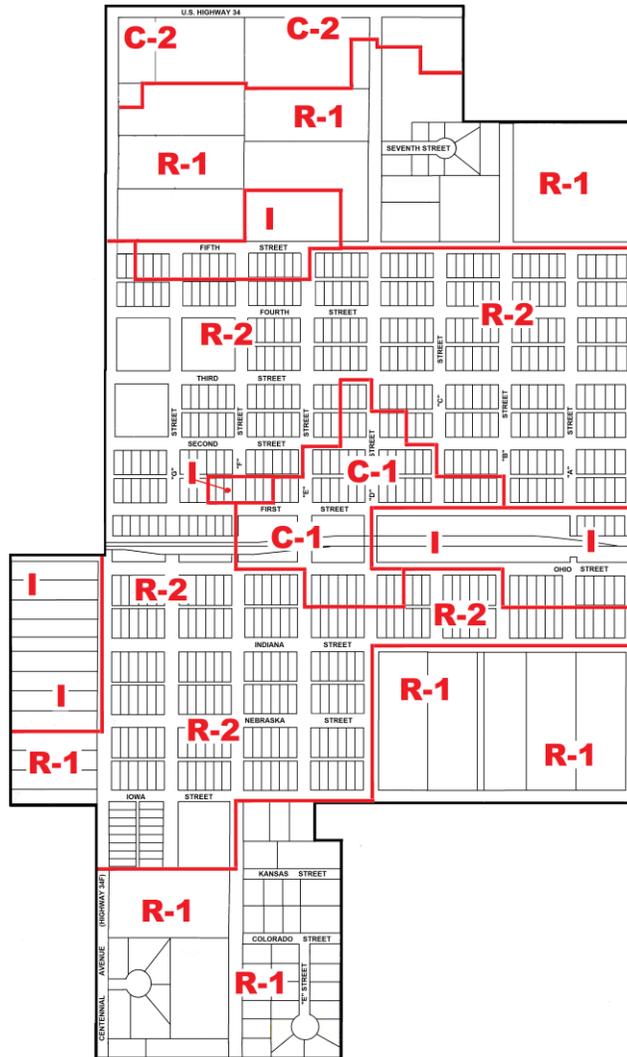


# UTICA, NEBRASKA



## ZONING REGULATIONS 2011

**HANNA:KEELAN ASSOCIATES, P.C.**  
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*COMPREHENSIVE PLANS & ZONING \* HOUSING STUDIES \*  
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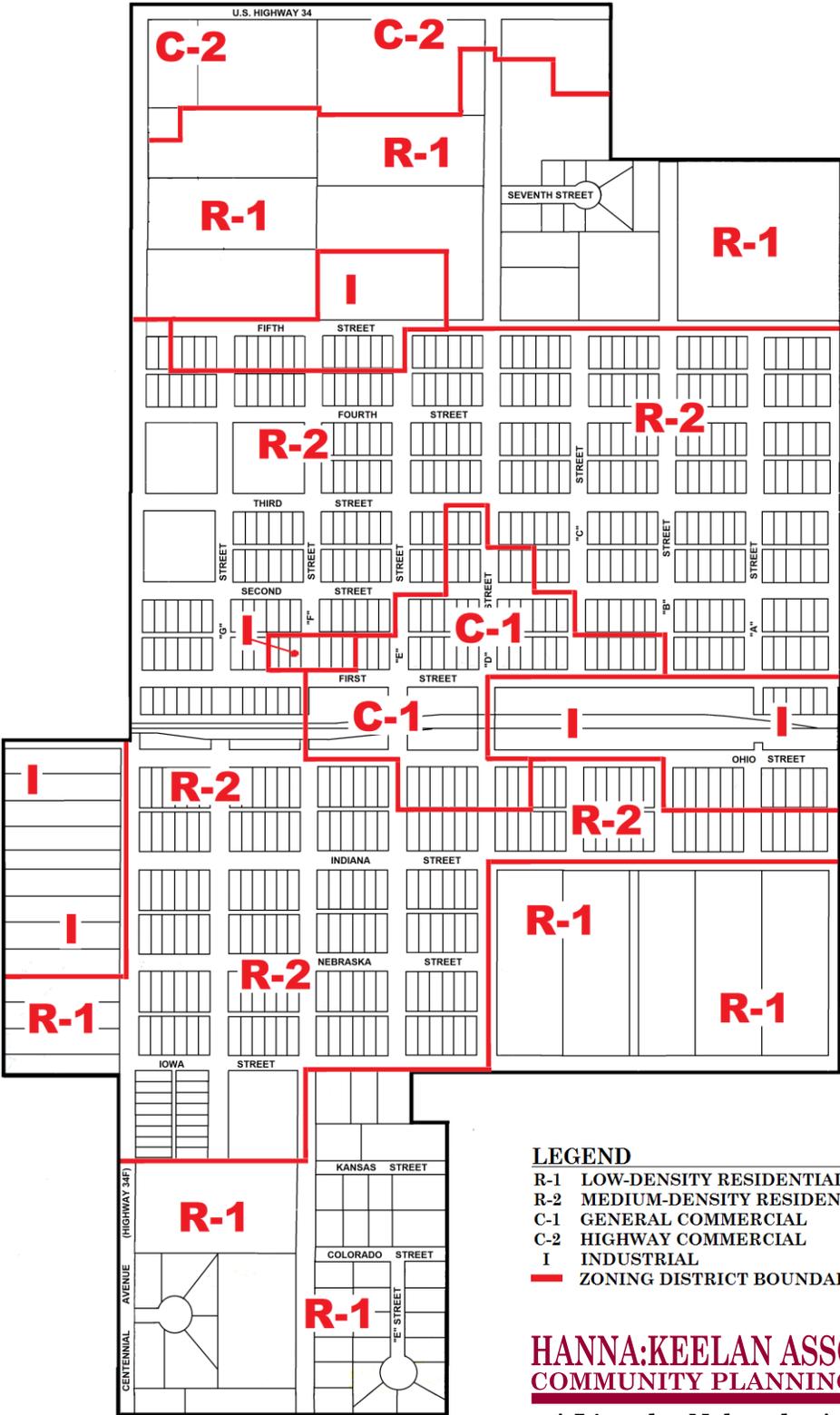
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# OFFICIAL ZONING MAP

## CORPORATE LIMITS

## UTICA, NEBRASKA



### LEGEND

- R-1 LOW-DENSITY RESIDENTIAL
- R-2 MEDIUM-DENSITY RESIDENTIAL
- C-1 GENERAL COMMERCIAL
- C-2 HIGHWAY COMMERCIAL
- I INDUSTRIAL
- ZONING DISTRICT BOUNDARY

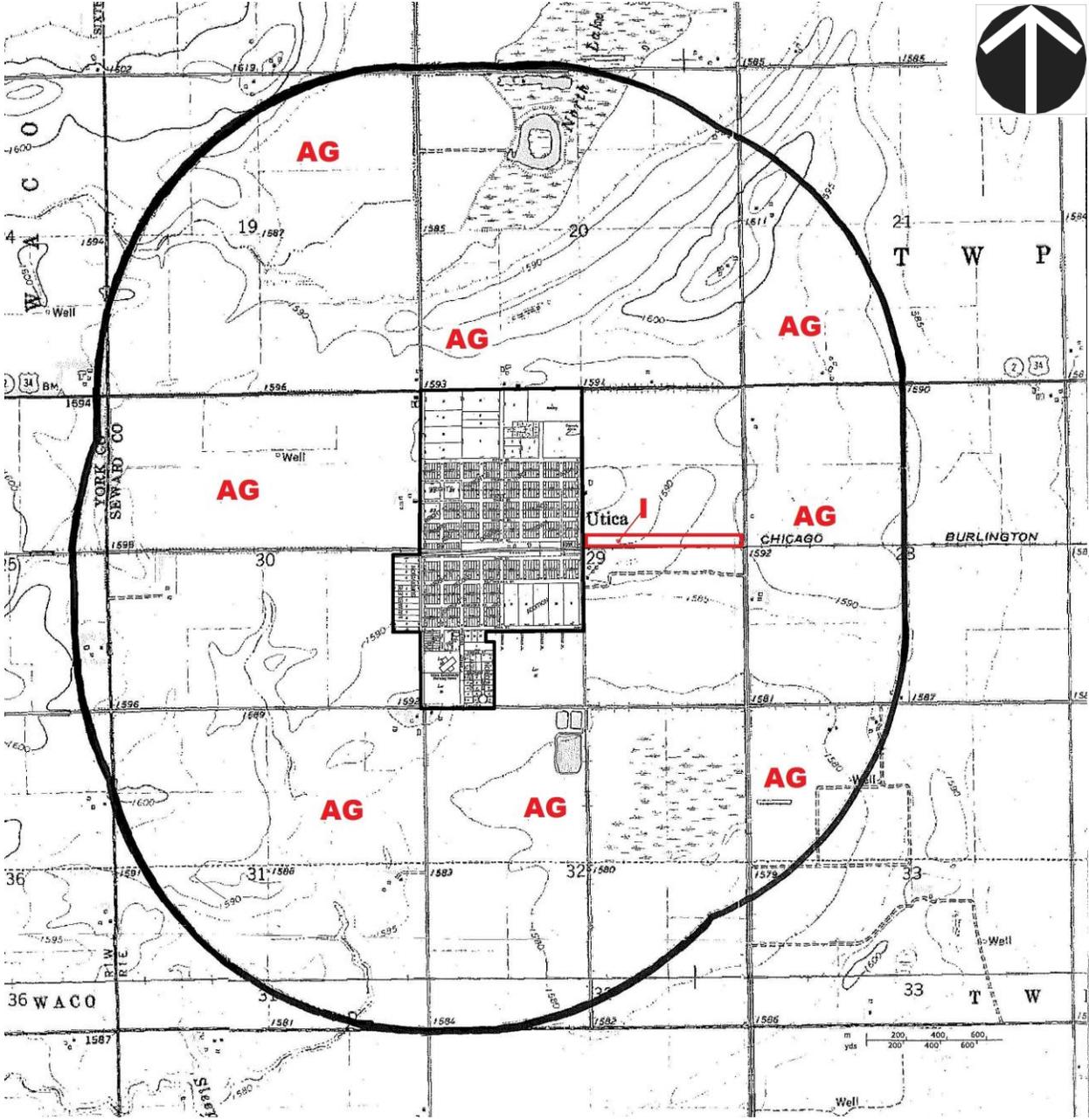
**HANNA:KEELAN ASSOCIATES, P.C.**  
**COMMUNITY PLANNING & RESEARCH**

\* Lincoln, Nebraska \* 402.464.5383 \*

# OFFICIAL ZONING MAP

PLANNING JURISDICTION

UTICA, NEBRASKA



**LEGEND**

- AG AGRICULTURAL DISTRICT
- I INDUSTRIAL

**HANNA:KEELAN ASSOCIATES, P.C.**  
**COMMUNITY PLANNING & RESEARCH**

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## ARTICLE 1

### GENERAL PROVISIONS

#### **1.1 TITLE**

These Regulations shall be adopted by Ordinance, and cited as the Zoning Regulations of the Village of Utica, Nebraska.

#### **1.2 JURISDICTION**

The provisions of these Regulations shall apply within the Planning Jurisdiction of Utica, Nebraska, as established on the map entitled "The Official Zoning Map of the Village of Utica, Nebraska." The jurisdiction includes the zoning areas within and up to One-Mile beyond the Corporate Limits of the Village of Utica, Nebraska.

#### **1.3 PURPOSE**

In pursuance of the authority conferred by Sections 19-901 through 19-914 of Nebraska Statutes as amended, this Ordinance is enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants in the Village of Utica by regulating and restricting the height, number of stories, and size of buildings and other structures, the size of yards, courts, and other open spaces, and the location and use of buildings, structures and land for trade, industry, residence, or other purposes in accordance with the Utica Comprehensive Plan and the Zoning Maps adopted herewith.

## ARTICLE 2

### APPLICATION OF REGULATIONS

#### **2.1 GENERAL**

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

#### **2.2 ZONING AFFECTS EVERY BUILDING AND USE**

No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, moved or structurally altered except in conformity with all of the Zoning Regulations herein specified for the District in which it is located.

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

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

#### **2.4 MINIMUM REQUIREMENTS**

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

#### **2.5 NONCONFORMITIES**

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

#### **2.51 NONCONFORMING LOTS OF RECORD:** The Zoning Administrator may issue a Permit for any nonconforming lot of record (in association with Section 8.6) provided that:

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

Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the Zoning Regulation, and Said lot can meet all required yard regulations for the District in which it is located.

## **2.52 NONCONFORMING STRUCTURES**

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

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

Damage or Destruction: In the event any nonconforming structure is damaged or destroyed, by any means, to the extent of more than 75 percent of its assessed fair market value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning District in which it is located. When a structure is damaged to the extent of 75 percent or less of its assessed fair market value, no repairs or restoration shall be made unless a building permit is obtained within six (6) months, and restoration is actually begun one (1) year after the date of such partial destruction and is diligently pursued to completion.

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

## **2.53 NONCONFORMING USES**

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

Ordinary Repair and Maintenance:

1. Normal maintenance and incidental repair, or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, water and/or waste disposal systems, may be performed on any structure or system that is devoted in whole or in part to a nonconforming use.

2. Nothing in these Regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official in charge of protecting the public safety who declares such structure to be unsafe and orders its restoration to a safe condition.

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

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

Damage or Destruction: In the event that a nonconforming building or use is damaged to the extent of more than seventy-five (75) percent of its reasonable replacement value, the property shall conform to the zone in which it is located.

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

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

Abandonment or Discontinuance: When a nonconforming use is discontinued or abandoned, for a period of twelve (12) consecutive months, (as per Ref. 19-904.01 R.S. Nebraska), such use shall not thereafter be re-established or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning District in which such land is located.

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

## ARTICLE 3

### GENERAL DEFINITIONS

#### **3.1 GENERAL PROVISIONS**

The following rules of construction shall apply unless inconsistent with the plain meaning of the context of these Zoning Regulations.

**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 these Zoning Regulations 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 "Village" shall mean the Village of Utica Nebraska. The term "Governing Body" shall mean the Village Board of Utica, Nebraska. The term "Planning Commission" shall mean the Planning Commission of Utica duly appointed by the governing body of the Village of Utica. The term "he/or his" shall mean "her/or hers."

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

#### **3.3 DEFINITIONS**

For the purpose of the Regulations, certain words and terms used herein are defined as follows;

**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, amateur radio or land mobile towers of less than one hundred (100) feet, and residential, agricultural and recreational 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.

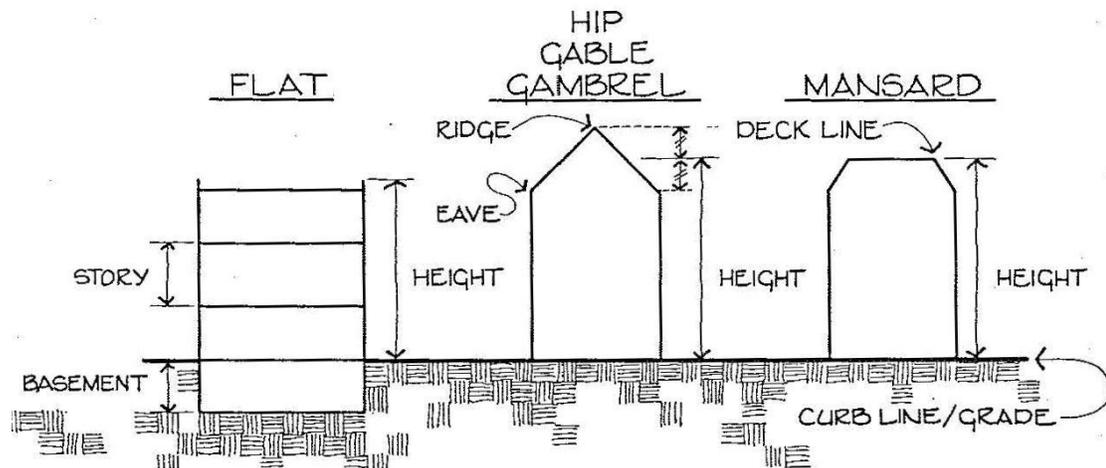
**AGRICULTURAL FARM OR OPERATION:** A tract of land or a combination of tracts of land utilized primarily for agricultural purposes which either singularly or jointly consist of at least twenty (20) acres and which produces one thousand dollars (\$1,000) or more of farm products each year.

**ALLEY:** A public or private thoroughfare which affords only a secondary means of access to the property abutting thereon.

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

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

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



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

**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.

**CHILD CARE CENTER:** A facility which is or should be licensed by the Nebraska Department of Health and Human Services under the authority of Sections 71-1908 through 71-1918, Revised Statutes of Nebraska, as provided and defined under the Title 474 of the Nebraska Administrative Code, Chapter 6, Section 002.

**CHILD CARE HOME:** A private home providing care (for children) for compensation which is or should be licensed by the Nebraska Department of Health and Human Services.

**CONDITIONAL USE:** A use which is allowed in a zone when specified conditions have been complied with as identified for each District as a conditional use. A conditional use permit is reviewed and issued by the zoning administrator.

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

**DWELLING, MULTIFAMILY:** A building or portion thereof used for occupancy by three (3) or more families living independently of each other and containing three (3) or more dwelling units.

**DWELLING, SINGLE FAMILY:** A dwelling having accommodations for and occupied by one (1) family.

**DWELLING, TWO-FAMILY:** A residential building containing two (2) dwelling units entirely surrounded by open space on the same lot.

**DWELLING UNIT:** consists of one or more rooms which are arranged, designed or used as a separate living quarters by a single family or other group of persons living together as a household or a person living alone. Individual bathrooms and complete kitchen facilities, permanently installed, shall always be included for each "dwelling unit".

**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.

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

**FARMSTEAD:** Any building site that includes at least two (2) buildings that have combined assessed valuation for tax purposes of at least \$5,000 as of the date on which these regulations go into effect.

**GROUP HOME:** means a facility which houses more than five (5) but less than sixteen (16) persons who are unrelated by blood, marriage or adoption. Those facilities may offer, in addition to lodging, accommodations, meals, resident support services, counseling, guidance and varying levels of medical care. Such facility shall be licensed or approved by the State of Nebraska or other appropriate agency.

**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.

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

**LANDFILL:** A disposal site employing an engineering method of disposing solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day and in conformance with the requirements of the Nebraska Department of Health and Human Service System.

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

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

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

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

**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 metes and bounds the description of which has been so recorded.

**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.

**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.

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

**MOBILE HOME PARK:** Any area of land which two (2) 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) ore 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.

**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.

**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 the approval date of this Ordinance 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.

**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.

**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.

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

**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.

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

**SANITARY LANDFILL:** A lot or parcel of land used primarily for the disposal, abandonment, dumping, burial or burning of garbage, sewage, trash, refuse, junk, discarded machinery or motor vehicles, or parts thereof, or other waste, and which is in conformance with the requirements of the Nebraska Department of Health and Human Service System.

**SANITARY TRANSFER STATION:** A collection point for temporary storage of refuse. No processing of refuse would be allowed. The transfer station must be in conformance with the requirements of the Nebraska Department of Health and Human Service System.

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

**SPECIAL USE PERMIT:** A written permit issued with authorization of the applicable governing body. The special permit provides permission under specific conditions to make certain special uses of land in certain zoning Districts as stipulated under permitted special uses in each of the District zoning regulations.

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

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

**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.

**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, street signs, bridges and culverts.

**STRUCTURAL ALTERATION:** 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.

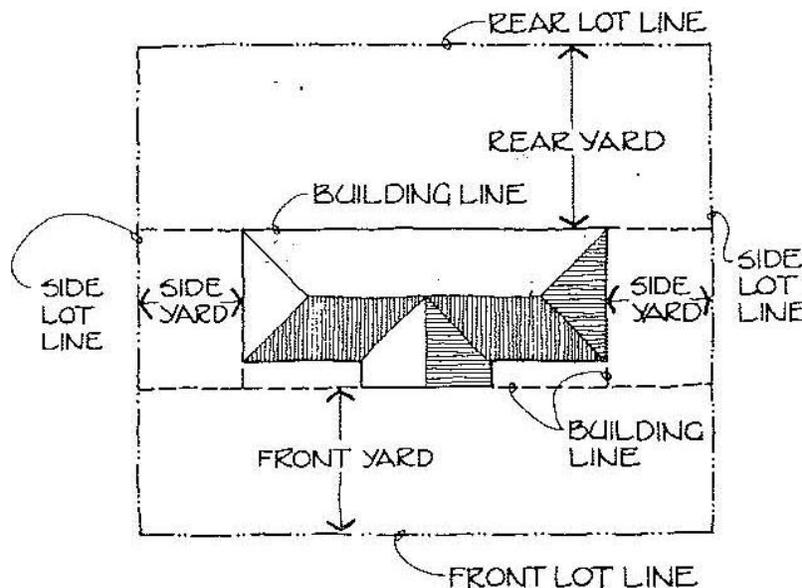
**TEMPORARY HOUSING UNITS:** Include travel trailers, campers or self contained motor homes not exceeding eight (8) feet in width, nor thirty-two (32) feet in length.

**TOWNHOUSE:** One of a group or row of not less than two (2) nor more than twelve (12) attached, single family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately. For the purpose of the side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

**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 Ordinance would result in unnecessary and undue hardship.

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

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



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

**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.

**YARD, REQUIRED:** The required minimum open space between the property line and the yard 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 these regulations.

**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.

**ZONING BOARD OF ADJUSTMENT:** The legally appointed board empowered to hear and decide appeals from, and to provide interpretations of, the terms of the zoning Regulations and official maps as defined within this Ordinance and in accordance with the laws of the State of Nebraska.

**ZONING DISTRICT:** The term "Zoning District" means an area delineated on a zoning map for which uniform use regulations are specified.

**ZONING MAP:** The term "Zoning Map" means a map or maps officially enacted by the governing body as part of this Ordinance 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 Village Clerk as an official record of the Village.

**ZONING ADMINISTRATOR:** The person or persons authorized and empowered by the governing body to administer the requirements of the Zoning Regulations.

## ARTICLE 4

### ESTABLISHMENT AND DESIGNATION OF DISTRICTS

#### **4.1 PLANNING COMMISSION RECOMMENDATIONS**

It shall be a purpose of the Planning Commission to recommend the boundaries of the various original Districts and appropriate regulations to be enforced therein. The Planning Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the governing body 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 the Zoning Regulations, there are hereby created zoning Districts, as named and described in Article 5 of this Ordinance.

AG	Agriculture District
R-1	Residential Single Family District
R-2	Residential Single and Multifamily District
C-1	General Commercial District
C-2	Highway Commercial District
I	Industrial

#### **4.3 OFFICIAL ZONING MAP**

1. The boundaries of the District are shown upon maps, which are made a part hereof by reference, which map(s) are designated as the Village of Utica Zoning District Map, dated \_\_\_\_\_ and signed by the Chairperson of the Village Board and attested by the Village Clerk and hereinafter referred to as the "Official Zoning Maps."
2. The signed copy of the Zoning Map(s) containing the zoning Districts designated at the time of adoption of this Ordinance shall be maintained in the office of the Village Clerk for the use and benefit of the public.
3. If in accordance with the provisions of these Regulations, changes are made in the District boundaries or other matter portrayed on the Official Zoning Map(s), such changes shall be entered on the appropriate part of the Official Zoning Map(s) promptly after the amendment has been approved by the governing body, with an entry on the Official Zoning Map(s) as follows:

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

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

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

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

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

Where uncertainty exists as to the boundaries of Districts as shown on the Official Zoning Map(s), 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 Village limits shall be construed as following such Village limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
5. Boundaries indicated as parallel to or extension of features indicated in subsection 1 through 4 above shall be so construed. Distances not specifically indicated on the Official Zoning Map(s) shall be determined by the scale of the map.

6. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map(s), or in other circumstances not covered by subsection 1 through 5 above, the Board of Zoning Adjustment shall interpret the District boundaries.
  
7. Where a District boundary line divides a lot which was in single ownership at the time of passage of this Ordinance 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.

## ARTICLE 5

### ZONING DISTRICTS

#### **5.1 AG - AGRICULTURE DISTRICT**

**5.11 INTENT:** This District is intended for general agricultural purposes within one-mile of the Village of Utica.

**5.12 PERMITTED PRINCIPAL USES AND STRUCTURES:** The following shall be permitted as uses by right:

1. Single family dwellings, ranch and farm residences;
2. General farming and ranching activities, excluding any expansion of existing or development of livestock confinement facilities/operations.
3. Public facilities and utility distribution systems;
4. One additional single family, ranch or farm residence for the purpose of housing relatives or agricultural workers; and
5. Churches, places of worship and cemeteries.

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

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as special uses;
2. Home occupations in accordance with Article 8.2; and
3. Roadside stands for the sale of agricultural produce grown on the agricultural farm or operation.

**5.14 PERMITTED SPECIAL USES:** A building or premise may be used for the following purposes in the “AG” Agriculture District if a special permit for such use has been obtained in accordance with Article 6 of these Regulations.

1. Alternative energy systems to supplement public utility service in conformance with Article 6.5 of these Regulations;
2. Sewage disposal and water systems, including agricultural irrigation wells;
3. Public and private uses including parks, playgrounds, golf courses, campgrounds, recreation uses, riding stables, dude ranches, public utilities and utility distribution system;
4. Flood, erosion and sediment control projects;
5. Broadcast towers and stations, including Amateur Radio or land mobile towers of more than 100 feet;
6. Bed and breakfast establishments;
7. Salvage or junk yard in accordance with Section 6.3;
8. Mineral extraction, which shall include the following: oil wells, sand and gravel extraction and quarries;
9. Expansion of existing livestock confinement facilities up to a maximum of fifty (50) head of livestock. Livestock not confined for a period of 180 consecutive days or longer shall be considered grazing livestock and not defined as a confinement facility.
10. Rural subdivisions with individual parcels less than three (3) acres in accordance with the Nebraska Department of Environmental Quality - Title 124 and Department of Health and Human Services Regulations and with a shared or “community” drinking water and sanitary sewer system, then the minimum lot area of individual parcels may be reduced to one-half (1/2) acre.
11. Commercial Wind Energy Conversion System in accordance with Article 6.6.

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

**5.16 SPECIAL REGULATION:** Provisions must be made for disposal of wastes in accordance with local and state regulations.

**5.17 MINIMUM LOT REQUIREMENTS:**

1. The minimum lot area for AG uses shall be three (3) acres.
2. The minimum lot width for AG uses shall be three-hundred (300) feet.

**5.18 MINIMUM YARD REQUIREMENTS:**

Front Yard: There shall be a minimum front yard of not less than a depth of thirty-five (35) feet, measured from the existing road way right-of-way line.

Rear Yard: No limitations; unless abutting a residential District then the minimum rear yard shall be thirty-five (35) feet.

Side Yard: No limitations; unless abutting a residential District then the minimum side yard shall be twenty-five (25) feet.

**5.19 MAXIMUM HEIGHT:** The maximum height for any structure in an AG Agriculture District, excluding farm buildings, will be set at forty-five (45) feet.

**5.110 SIGN REGULATIONS:** Signs within the AG Agriculture District shall be in conformance with the provisions of Article 8.10 of this Ordinance.

**5.111 UTILITY REQUIREMENTS:** Notwithstanding other provisions of this Ordinance, all dwellings hereafter erected, enlarged or reconstructed in a AG Agriculture District shall conform to the following regulations:

1. No waste absorption field (septic tank, cess pools, etc.) shall be constructed any closer than fifty (50) feet from any adjacent property line.
2. There shall be no waste absorption field located closer than seventy-five (75) feet from any other residential structure.
3. There shall be no waste absorption field located closer than fifty (50) feet from a water well provided; however, where geology and subsurface conditions and topography would indicate that seepage could reach the well supply, a greater distance shall be required.
4. An individual residential waste absorption field shall contain a minimum of ten-thousand (10,000) square feet, exclusive of the area required by structure. The entire tract shall contain not less than three (3) acres.

**5.2 R-1 RESIDENTIAL LOW DENSITY DISTRICT**

**5.21 INTENT:** This District is intended to provide for residential uses consisting primarily of single family dwelling units and accessory structures in residential areas having larger individual lots. Generally, these areas are located towards the perimeter of the developed areas of Utica, or in future residential subdivisions planned beyond the current corporate limits of the Village.

**5.22 PERMITTED PRINCIPAL USES AND STRUCTURES:** The following shall be permitted as uses by right:

1. Single family dwellings;
3. Two family dwellings;
4. Manufactured homes which comply with the provisions of Article 8.3;
5. Public and parochial schools;
6. Public uses: including but not limited to public parks, playgrounds, recreational uses, fire stations, public utilities and utility distribution systems; and
7. Places of worship such as churches and synagogues.

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

1. Home occupations in accordance with Article 8.2.
2. Accessory uses and structures normally appurtenant to permitted uses and structures.

**5.24 PERMITTED SPECIAL USES:** A building or premises may be used for the following purpose in the R-1 Residential Low Density District if a special permit for such use has been obtained in accordance with Article 6 of these Regulations.

1. Alternative energy systems to supplement public utility service in conformance with Article 6.5 of these Regulations;
2. Bed and breakfast homes;
3. Child care homes and Child care centers;
4. Hospitals, Medical clinics and other Medical facilities;
5. Mortuaries;
6. Museum and art galleries;
6. Nursing homes;
7. Public and private golf courses;
8. Retirement homes;
9. Townhouses; and
10. Multifamily dwellings; and
11. Mobile Home Parks in accordance with Article 8.7 of these Regulations.

**5.25 PROHIBITED USES AND STRUCTURES:** All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the R-1 Residential Low Density District.

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

a) General Requirements:

	<u>Lot Area</u> (Sq. Ft.)	<u>Required</u> <u>Lot</u> <u>Width</u>	<u>Required</u> <u>Front</u> <u>Yard</u>	<u>Required</u> <u>Side</u> <u>Yard</u>	<u>Rear</u> <u>Yard</u>	<u>Height</u>
Single Family Dwelling	8,500	75'	25'	7' (15' for Corner Lots)	30'	45'
Two Family Dwelling	12,000	75'	25'	7'	25'	45'
Multifamily Dwelling	4,000	15'	25'	7'	10'	45'
Other Permitted Uses	7,000	75'	25'	7'	25'	45'

b) Buildings on corner lots shall provide front yard setbacks of twenty-five (25) feet on one street side and fifteen (15) feet on the other front yard and designate remaining yards as one rear and one side yard;

c) Building and structures shall not exceed two and one half (2 ½) stories, or forty-five (45) feet in height;

d) The side yard setback between individual units of two-family dwellings may be reduced to zero, if a one-hour fire rated constructed common wall between units starting at the basement level and continuing through to the roof line is maintained.

**5.27 PARKING REGULATIONS:** Parking within the R-1 Residential Zoning District shall be in conformance with the provisions of Article 7 of these Zoning Regulations.

**5.28 FENCE REGULATIONS:** Fences within the R-1 Residential District shall be in conformance with the provisions of Article 8.8 of this Ordinance.

**5.29 SIGN REGULATIONS:** Signs within the R-1 Residential District shall be in conformance with the provisions of Article 8.9 of this Ordinance.

**5.3 R-2 RESIDENTIAL HIGH DENSITY DISTRICT**

**5.31 INTENT:** It is the intent of this District to provide for single and multifamily residential uses. Individual lot sizes provided by this District are intended to include those located in or near the center of the Village of Utica.

**5.32 PERMITTED PRINCIPAL USES AND STRUCTURES:** The following shall be permitted as uses by right:

1. Single family dwellings;
2. Manufactured homes which comply with the provisions of Article 8.3;
3. Two-family dwellings;
4. Community buildings;
5. Public uses: including but not limited to public parks, playgrounds, recreational uses, fire stations, public elementary and high schools, public utilities and utility distribution systems; and
6. Places of worship such as churches and synagogues.

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

1. Home occupations in accordance with Article 8.2; and
2. Accessory uses and structures normally appurtenant to the permitted uses and structures.

**5.34 PERMITTED SPECIAL USES:** A building or premises may be used for the following purposes in the R-2 Residential High Density District if a special permit for such use has been obtained in accordance with Article 6 of these regulations:

1. Alternative energy systems to supplement public utility service in conformance with Article 6.5 these Regulations;
2. Bed and breakfast homes;
3. Child care homes and Child care centers;
4. Clubs, fraternities, lodges, and meeting places of a non-commercial nature;
5. Communication and utility buildings and uses;
6. Funeral homes and mortuaries;
7. Hospitals, Medical clinics and other Medical facilities;
8. Public and/or private golf courses.
9. Multifamily dwellings;
10. Mobile Home Parks, in accordance with Article 8.2 of these Regulations; and
11. Townhouses.

**5.35 PROHIBITED USES AND STRUCTURES:** All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the R-2 Residential High Density District.

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

a) General Requirements

	<u>Lot Area (Sq. Ft.)</u>	<u>Lot Width</u>	<u>Required Front Yard</u>	<u>Required Side Yard</u>	<u>Required Rear Yard</u>	<u>Height</u>
Single Family Dwelling	5,400	44'	25'	7'	Principal - 25' Accessory - 5'	45'
Two Family per Dwelling	6,000	60'	25'	7'	15'	45'
Multifamily Dwelling	4,000	15'	25'	7'	10'	45'
Other Permitted Uses	6,000	60'	25'	7'	15'	45'

- b) Buildings on corner lots with a width of fifty (50) feet or less shall provide a second frontage on the street side of not less than seven (7) feet, provided that the buildable width need not be reduced to less than twenty-eight (28) feet, yards remaining shall be designated side yards each with a minimum depth of five (5) feet;
- c) Buildings on corner lots with a width of fifty (50) feet or greater shall provide a second frontage on the street side of not less than fifteen (15) feet, yards remaining shall be designated side yards with a minimum depth of five (5) feet;
- d) Building and structures shall not exceed three (3) stories or forty-five (45) feet in height.

**5.37 PARKING REGULATIONS:** Parking within the R-2 Residential District shall be in conformance with the provisions of Article 7 of these regulations.

**5.38 FENCE REGULATIONS:** Fences within the R-2 Residential District shall be in conformance with the provisions of Article 8.8 of this Ordinance.

**5.39 SIGN REGULATIONS:** Signs within the R-2 Residential District shall be in conformance with the provisions of Article 8.9 of this Ordinance.

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## 5.4 C-1 GENERAL COMMERCIAL DISTRICT

**5.41 INTENT:** This District is designed to provide for a wide range of retail, office, amusement and service uses normally found in a Central Business District. Highest density and intensity of use are permitted in this District.

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

1. Apartments on floors other than ground floor;
2. Automobile sales and services;
3. Automotive wash facilities;
4. Bakery;
5. Banks, savings and loan associations, credit unions and finance companies;
6. Barbershops, beauty parlors and shoeshine shops;
7. Business offices;
8. Child care homes and centers;
9. Commercial recreation facilities (bowling alleys, miniature golf courses and similar uses);
10. Convenience store or filling station;
11. Detached banking facilities (ATM);
12. Dry cleaning or laundry establishments;
13. Food service, restaurants and taverns;
14. Food storage lockers;
15. Funeral homes and mortuaries;
16. Garden centers;
17. Motels and hotels;
18. Museums and art galleries;
19. Office buildings;
20. Parking lots and other off-street parking facilities;
21. Personal and professional services;
22. Photography studios;
23. Private schools, including but not limited to business or commercial schools, and dance or music academies,
24. Public and private charitable institutions;
25. Public parks, buildings and grounds;
26. Public uses of an administrative, public service or cultural type including city, county, state or federal administrative centers and courts, libraries, police and fire stations and other public buildings, structures, and facilities;
27. Retail store or business;
28. Public utility facilities;
29. Sales and showrooms, including service facilities and rental of equipment, provided all displays and merchandise are within the enclosure walls of the buildings;
30. Service stations; and
31. Stores or shops for the sale of goods at retail and/or wholesale.

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

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

**5.44 PERMITTED SPECIAL USES:** A building or premises may be used for the following purposes in the C-1 Commercial Business District if a special permit for such use has been obtained in accordance with Article 6 of these Regulations.

1. Alternative energy systems to supplement public utility service in conformance with Article 6.5 these Regulations;
2. Single Family dwellings;
3. Multifamily dwellings;
4. Bed and breakfast guest home;
5. Recycling center; and
6. Mini storage facilities.

**5.45 PROHIBITED USES AND STRUCTURES:** All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the C-1 Commercial Business District.

**5.46 SCREENING REQUIREMENTS:**

1. All business, service, repair, processing, storage or merchandise display on property abutting or facing a lot within a residential District shall be conducted wholly within an enclosed building unless screened from the residential District by a sight-obscuring barrier permanently maintained at least six (6) feet in height.
2. Open storage of materials attendant to a permitted use or special permit use shall be permitted only within an area surrounded or screened by a solid wall or fence.

**5.47 PROHIBITED USES:**

1. No use shall be permitted and no process, equipment or materials shall be used which are found by the Village to be objectionable to persons living or working in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, noise, vibrations, illumination, glare, or unsightliness or to involve any hazard of fire or explosion.

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

a) General Requirements:

	<u>Lot Area (Sq. Ft.)</u>	<u>Lot Width</u>	<u>Required Front Yard</u>	<u>Required Side Yard</u>	<u>Required Rear Yard</u>	<u>Height</u>
Permitted	No Limit	22'	0'	0' or 10' when abutting a Residential District	0' or 15' when abutting a residential District	45'
Multifamily Dwelling	2,250 per Family	22'	0'	7' or 7 1/2' on corner lots	15'	45'

**5.49 FENCE REGULATIONS:** Fences within the C-1 General Commercial District shall be in conformance with the provisions of Article 8.8 of this Ordinance.

**5.410 SIGN REGULATIONS:** Signs within the C-1 General Commercial District shall be in conformance with the provisions of Article 8.9 of this Ordinance.

**5.5 C-2 HIGHWAY COMMERCIAL DISTRICT**

**5.51 INTENT:** The C-2 Highway Commercial District is intended for the purpose of servicing highway travelers and providing limited commercial services. Off-street parking is required in order to reduce possible adverse effects on adjacent properties.

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

1. Automobile sales;
2. Automobile wash facilities;
3. Churches and other religious institutions;
4. Construction sales and services;
5. Commercial operations and businesses, intended for the purpose of servicing travel and recreational users;
6. Commercial recreational facilities (bowling alleys, miniature golf courses and similar uses);
7. Convenience store or filling station;
8. Detached banking facilities (ATM);
9. Electric and telephone substations;
10. Farm implement sales and services;
11. Garden centers and nurseries;
12. Irrigation equipment sales and services;
13. Mini storage facilities;
14. Mobile homes sales;
15. Motels, including accessory service uses, such as swimming pools, liquor stores and restaurants;
16. Restaurants and cafes;
17. Service stations;
18. Single family homes;
19. Stores or shops for sale of goods at retail;
20. Transportation warehousing;
21. Trucks and freight terminals;
22. Utilities, including shops and offices; and
23. Medical clinics.

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

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

**5.54 PERMITTED SPECIAL USES:** A building or premises may be used for the following purposes in the C-2 Highway Commercial District if a special use permit for such use has been obtained in accordance with Article 6 of these Regulations.

- 1. Alternative energy systems to supplement public utility service in conformance with Article 6.5 these Regulations;
- 2. Private clubs and lodges;
- 3. Facilities for the commercial storage or sale of fertilizer or toxic or flammable agriculture chemicals;
- 4. Radio studios, transmitters and antenna; and
- 5. Recycling centers.

**5.55 SCREENING REQUIREMENTS:**

- 1. All business, service, repair, processing, storage or merchandise display on property abutting or facing a lot within a residential District shall be conducted wholly within an enclosed building unless screened from the residential District by a sight-obscuring barrier permanently maintained at least six (6) feet in height.
- 2. Open storage of materials attendant to a permitted use or special permit use shall be permitted only within an area surrounded or screened by a solid wall or fence.

**5.56 PROHIBITED USES:**

- 1. All other uses and structures which are not specifically permitted or permissible as special uses shall be prohibited from the C-2 Highway Commercial District.

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

General Requirements:

	<u>Lot Area</u> <u>(Sq. Ft.)</u>	<u>Lot</u> <u>Width</u>	<u>Required</u> <u>Front</u> <u>Yard</u>	<u>Required</u> <u>Side</u> <u>Yard</u>	<u>Required</u> <u>Rear</u> <u>Yard</u>	<u>Height</u>
Permitted Uses	10,000	100'	25'	20'	25'	45'

**5.58 PARKING REGULATIONS:** Parking within the C-2 Highway Commercial District shall be in conformance with the provisions of Article 7 of these Regulations.

**5.59 FENCE REGULATIONS:** Fences within the C-2 Highway Commercial District shall be in conformance with the provisions of Article 8.8 of this Ordinance.

**5.510 SIGN REGULATIONS:** Signs within the C-2 Highway Commercial District shall be in conformance with the provisions of Article 8.9 of this Ordinance.

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## 5.6 I INDUSTRIAL DISTRICT

**5.61 INTENT:** This District is designed to provide for a wide range of industrial and related uses.

**5.62 PERMITTED PRINCIPAL USES AND STRUCTURES:** The following shall be permitted as uses by right:

1. Agriculture, excluding the expansion of existing or development of commercial livestock facilities/operations;
2. Animal care;
3. Automobile sales and services;
4. Automotive wash facilities;
5. Bottling works;
6. Building material sales and ready-mix concrete plants;
7. Carpenter, cabinet, plumbing or sheet metal shops;
8. Grain storage;
9. Construction sales and services;
10. Dry cleaning and/or laundry plants;
11. Farm implementation sales and services;
12. Farm produce sales;
13. Food service, restaurants and taverns;
14. Freight and truck terminals;
15. Frozen food lockers;
16. Furniture warehouses;
17. Garden centers and nurseries;
18. Groceries, retail and wholesale;
19. Light manufacturing operations, providing that such use is not noxious by reason of vibration or noise beyond the confines of the building, or by the emission of particulate, fumes, gas, odor, or smoke;
20. Machinery sales and storage lots;
21. Mini storage facilities
22. Mobile and modular home sales and manufacturing;
23. Newspaper publishing plants;
24. Public and quasi-public uses of an educational, recreational or religious type including public and parochial elementary schools and junior high schools, high schools; private non-profit schools, churches, parsonages, and other religious institutions; parks and playgrounds;
25. Public utility and public service uses;
26. Transportation warehousing;
27. Warehouse or storage houses;
28. Wholesale sales and services; and
29. Any similar uses that are determined by the Village Board after referral to and recommendation by the Planning Commission to be of an industrial use similar to the above listed uses.

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

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

- 1. Alternative energy systems to supplement public utility service in conformance with Article 8.10 of these Regulations;
- 2. Junk and salvage yard (in conformance with Article 6.3);
- 3. Recycling center;
- 4. Ethanol and/or alcohol plants; and
- 5. Landfills and Sanitary Landfills (in conformance with Article 6.3).

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

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

a) General Requirements:

	<u>Lot Area</u> (Sq. Ft.)	<u>Lot</u> <u>Width</u>	<u>Required</u> <u>Front</u> <u>Yard</u>	<u>Required</u> <u>Side</u> <u>Yard</u>	<u>Required</u> <u>Rear</u> <u>Yard</u>	<u>Height</u>
Permitted Uses	15,000	100'	35'	0', 50' when abutting Residential District	50'	None'

**5.67 PARKING REGULATIONS:** Parking within the I-1 Industrial District shall be in conformance with the provisions of Article 7 of these Regulations.

**5.68 FENCE REGULATIONS:** Fences within the I-1 Industrial District shall be in conformance with the provisions of Article 8.8 of this Ordinance.

**5.69 SIGN REGULATIONS:** Signs within the I-1 Industrial District shall be in conformance with the provisions of Article 8.9 of this Ordinance.

**5.610 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 two-hundred (200) feet from the boundary of any other zoning District other than an I District and except that storage may be maintained outside the building and side yards or rear yards of such storage area is separated from public streets and other property by screening of not less than six (6) feet in height. 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.

## ARTICLE 6

### SPECIAL USE PERMIT

#### **6.1 GENERAL**

The Village Board may authorize by special permit after public hearing, any of the following buildings or uses designated in these Zoning Regulations as permitted special uses.

#### **6.2 PROCEDURES**

Such application shall be in writing, filed at the office of the Village Clerk, state the proposed location and use of the property, and such other relevant matters as may be requested by the governing body. Upon receipt of such application, the Zoning Administrator shall forward the application to the Planning Commission for its recommendation. Upon hearing, the Planning Commission shall forward its recommendation to the Village Board, within thirty (30) days. Upon hearing, the Village Board may approve or deny the application in whole or in part, or prescribe conditions for such use of the property. No special use permit shall become effective until after separate public hearings are held by both the Planning Commission and the Village Board in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the purpose, time, and place of such hearing shall be given by publication thereof in a paper of general circulation in the Village, one time at least ten (10) days prior to such hearing. (Ref. 19-904 R.S. Neb.).

In addition to the publication of the notice herein prescribed, a notice, in sign form, of the hearing shall be posted in a conspicuous place on or near the property on which such action is pending. The sign shall be placed at least ten (10) days prior to date of each hearing.

Except as otherwise provided herein, no special use permit shall be granted by the Village Board, without an affirmative vote of a majority of all members of the Village Board and unless the proposed use is found to:

1. Be compatible with and similar to the use permitted in the District, and
2. Not be a matter which should require re-zoning of the property, and
3. Not be detrimental to adjacent property, and
4. Not tend to depreciate the value of the surrounding structures or property, and

5. Be compatible with the stated intended use of the District, and
6. Not change the character of the District, and
7. Be in accordance with the Comprehensive Plan.

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

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

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

1. Located on a tract of land at least one-fourth (1/4) mile from a residential or agricultural farm residence.
2. The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a visual obscuring fence, wall or hedge. The fence, wall or hedge shall be of uniform height (at least eight (8) feet high) and uniform texture and color shall be so maintained by the proprietor as to insure maximum safety to the public and preserve the general welfare of the neighborhood. The fence, wall or hedge shall be installed in such a manner as to retain all scrap, junk or other material within the yard and no scrap, junk or other material shall protrude above the fence.
3. No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge fence or wall, or within the public right-of-way.
4. Any other requirement deemed appropriate and necessary by the Village Board for the protection of the general health and welfare.

In making any decision granting a special 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.

#### **6.4 LANDFILLS AND SANITARY LANDFILLS**

Private landfill operations shall only be allowed by special permit in the AGR Agriculture District upon prior approval of the Nebraska Department of Health and Human Services System and with conformance to the following conditions:

1. Located on a tract of land at least three hundred (300) feet from a residential or agricultural farm residence.
2. 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 eight (8) feet high) and uniform texture and color shall be so maintained by the proprietor as to insure maximum safety to the public and preserve the general welfare of the neighborhood. The fence, wall or hedge shall be installed in such a manner as to retain all material within the yard and no material shall protrude above the fence.
3. 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.
4. Any other requirement deemed appropriate and necessary by the Village Board for the protection of the general health and welfare.
5. Special use permits granted under this section shall be subject to annual review and renewal by the Village Board.

In making any decision granting a special 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.

#### **6.5 ALTERNATIVE ENERGY SYSTEMS TO SUPPLEMENT PUBLIC**

**UTILITY SERVICE:** The following provisions are to be utilized in conjunction with Nebraska State Statutes “70-2001 to 2005 1. Effective Date: August 30, 2009,” commonly known as “Net Metering.” Alternative energy sources are limited to methane, wind, solar, biomass, hydropower resources, or geothermal. One or multiple alternative energy sources may be used by a resident to supplement their household’s reliance on the local or regional electricity provider.

1. **Application Requirements for a Alternative Energy Systems.**
  - A. A survey map at an appropriate scale identifying: site boundary; adjacent public right-of-way; existing structures; proposed alternative energy system and accessory structures; adjacent ownership and existing residences; any overhead utility lines.

B. Applicant shall provide documentation containing:

1. Small wind energy system specifications including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed); documentation to establish that the tower has sufficient structural integrity for the proposed use at the proposed location; certification that the small wind energy system complies with all applicable state construction and electrical codes and the National Electrical Code.
2. All components of any alternate energy system shall be located within the lot setbacks, and maximum height limits of the District in which the property is located. If sufficient land area is available, the height of a small wind energy system may exceed the maximum height limit of the District it is located when the radius of a circle equal to twice the height of the tower fits within the setbacks of a parcel, or multiple adjacent parcels under same ownership.

**2. General Site and Design Standards.**

- A. Located on a legal lot(s) or parcel(s) of record in the Village of Utica, identifiable on the Village Plat Map or within the One-Mile Planning Jurisdiction.
- B. Setback from property lines, public rights-of-way, and access easements shall be at least height of the tower of a small wind energy system. All other Alternative Energy Systems shall meet the height and setback requirements of the Zoning District in which there located.
- C. Turbines and towers must be painted or coated in a non-reflective white, grey, or other neutral color and shall not be used to display advertising.
- D. Small wind energy systems shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA).
- E. All electrical wires associated with a alternative energy system other than the wires necessary to connect the generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires, shall be located underground.
- F. The maximum distance between the ground and the tip of the rotor blade of a small wind energy system, shall be thirty (30) feet.

- G. All ground mounted electrical and control equipment must be labeled and secured to prevent unauthorized access. A tower may not have step bolts or a ladder within eight (8) feet of the ground that is readily accessible to the public.
- H. The owner of any alternative energy system shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by the energy system.
- I. Construction access must be re-graded and re-vegetated to minimize environmental impacts.
- J. Alternative Energy System applications must include an agreement that addresses decommissioning and abandonment of the facility. The agreement must at a minimum provide for reuse or dismantlement of the facility at the owner's expense.

## **6.6 COMMERCIAL WIND ENERGY CONVERSION SYSTEMS**

In order to balance the need for clean, renewable energy resources with the protection of the health, safety, and welfare of the residents of Utica, Nebraska, finds these regulations are necessary in order to ensure that all commercial wind energy conversion systems (CWECS) are appropriately designed, sited, and installed. (See #6. below for Definitions)

### **1. Application Requirements**

The applicant for a conditional use permit for construction of a CWECS shall file an application with the Zoning Administrator. The application shall include the name(s) of the project applicant(s), the name of the project owner(s), and the legal description and address for the project. The application shall also include the following documents:

- A. Survey map illustrating the following:
  - 1. Property lines, dimension, acreage and contours with appropriate intervals for site evaluation;
  - 2. Location and elevation of all components of the proposed CWECS;
  - 3. Location and dimensions of all existing structures and uses on property within three hundred (300) feet of the system;
  - 4. Height of any structures over thirty-five (35) feet within a five hundred (500) foot radius on site or offsite of the proposed CWECS;
  - 5. Location of any overhead utility lines on the property;
  - 6. Location of all known communications towers within two (2) miles of the proposed CWECS

7. Access roads;
  8. Adjacent ownership, land uses, existing residences, schools, churches, hospitals, public libraries, federal, state, county or local parks, recognized historic or heritage sites, identified wildlife preserves, or habitat areas to a distance of 2,640 feet (one-half mile).
- B. Applicant shall identify potential effects in terms of constraints or benefits the wind energy facility may place on current or future use of the land within the project site and the surrounding area. The extent of any limitations due to public health and safety risks shall be specifically addressed, and the effects on the following activities shall also be addressed:
1. Existing or proposed tourist or recreation activities;
  2. Residential activities;
  3. Industrial activities;
  4. Agricultural activities;
  5. Commercial activities
- C. Soil erosion, sediment control, and storm water runoff plan shall address what types of erosion control measures will be used during each phase of the project. It shall identify plans for:
- A. Grading;
  - B. Construction and drainage of access roads and turbine pads;
  - C. Design features to control dust;
  - D. Design features to maintain downstream water quality;
  - E. Re-vegetation to ensure slope stability;
  - F. Restoring the site after temporary project activities;
  - G. Disposal or storage of excavated materials;
  - H. Protecting exposed soil;
  - I. Stabilizing restored material and removal of silt fences or barriers when the area is stabilized; and
  - J. Maintenance of erosion controls throughout the life of the project.
- D. Applicant shall provide information regarding flora and fauna of the proposed project area including:
1. Officially listed threatened or endangered species;
  2. Critical habitat and habitat conditions;
  3. An avian study based on the US Fish and Wildlife Services “Interim Guidelines to Avoid and Minimize Wildlife Impacts from Wind Turbines”

- E. Standard drawings of the structural components of the CWECS, including structures, tower, base, and footings.
- F. Certification by a registered engineer that:
  - 1. There is a substantial need for the proposed use or CWECS, one hundred (100) kW or greater;
  - 2. All applicable local, state, and federal building, structural and electrical codes have been followed;
  - 3. The site is feasible for a CWECS; the CWECS can be successfully operated in the climate conditions found in Seward County;
  - 4. The rotor and over speed control have been designed for the proposed use on the proposed site;
  - 5. The design and safety of the proposed tower to withstand winds of ninety (90) miles per hour; and
  - 6. If the wind turbine were to fall, no building or structure, existing or potential, would be damaged.

**2. General Site and Design Standards**

- A. CWECS shall be located on a parcel of at least ten (10) acres in size.
- B. CWECS shall be designed and placed in such a manner as to minimize to the greatest extent feasible, adverse visual and noise impacts on adjacent areas. This shall include documentation of:
  - 1. Noise levels conforming to the International Electromechanical Commission (IEC) Standard 61400-11 part 11; and
  - 2. Projections of the “shadow flicker” on any existing structures located off the property on which the CWECS will be constructed and the extent and duration of the shadow flicker on these existing structures.
- C. CWECS shall maintain a minimum setback distance from any property lines of two (2) times the combined height of the tower and blade.
- D. CWECS shall maintain a minimum setback distance from any public road or highway of at least two (2) times the combined height of the tower and blade.
- E. In no case shall a CWECS be located within any required setback or in any front yard area.
- F. If an aggregated project, setbacks from participating property owners shall be one and one-tenth (1.1) times the height of the total system.

- G. Structures for wind turbines shall be self-supporting tubular towers painted a neutral color such as white or pale gray. No lattice structure shall be used. No logos or advertisements are allowed on these structures. Each turbine shall be marked with a visible identification number located no higher than fifteen (15) feet above ground level.
- H. Colors and surface treatment of the CWECS and supporting structures shall, to the greatest extent possible, minimize disruption of the natural characteristics of the site.
- I. Reasonable measures shall be taken to mitigate specific adverse visual impacts such as reflections, shadow flicker, and blade glint affecting residences within or immediately adjacent to the project area.
- J. Appropriate landscaping shall be provided to screen accessory structures from roads and adjacent residences
- K. CWECS shall be equipped with air traffic warning lights or other marking lights only if so required by the Federal Aviation Administration and in which event, such light should be positioned or shielded to avoid visual impact on neighboring properties, and shall be a white flashing light from daylight till twilight and a steady red light night time.
- L. The applicant shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any wind energy facility.

**3. Construction and Operations**

- A. All county roads to be used for the purpose of transporting CWECS, substation parts, cement or equipment for construction, operation, or maintenance of the CWECS shall be identified and applicable weight and size permits from the impacted road authority(ies) shall be obtained prior to construction
- B. The CWECS owner shall be responsible for immediate repair of damage to public roads and drainage systems stemming from construction, operation, or maintenance of the CWECS
- C. Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants shall be removed from the site promptly and disposed of in accordance with all applicable local, state, and federal regulations.

**4. Safety Measures**

- A. Each CWECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.
  
- B. The Planning Commission shall determine the height, color, and type of fencing for the CWECS installation. CWECS shall include no sign or advertising of any kind, except for one sign not to exceed two (2) square feet posted at the base of the tower, electrical equipment, and entrances. The sign shall contain the following information:
  - 1. Warning – high voltage
  - 2. Manufacturer’s name
  - 3. Operator’s name
  - 4. Emergency phone number
  - 5. Emergency shutdown procedures
  
- C. Each CWECS shall be properly grounded to safely sustain natural lightning strikes in conformance with the National Electric Code.
  
- D. Any CWECS facility shall be equipped with anti-climbing devices. Tower climbing apparatus shall not be located within fifteen (15) feet of the ground. Where the tower is capable of being climbed, a locked, protective fence at least six (6) feet high shall enclose the tower.
  
- E. The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.
  
- F. The CWECS operator shall maintain a current insurance policy which will cover installation, operation, and any possible damage or injury that might result from the failure of a tower or towers or any other part or parts of the generation and transmission facility. The amount of said policy shall be established as a condition of approval. The CWECS shall be warranted against any system failures reasonably expected in severe weather operation conditions

**5. Discontinuation and Decommissioning.**

- A. CWECS shall be considered a discontinued use after one (1) year without energy production, unless a plan is developed and submitted to the Seward County Zoning Administrator outlining the steps and schedule for returning the CWECS to service. All CWECS and accessory facilities shall be removed four (4) feet below ground level within ninety (90) days of the discontinuation of use.

- B. Each CWECS shall have a decommissioning plan outlining the anticipated means and costs of removing CWECS at the end of the serviceable life or upon becoming a discontinued use. The cost estimates shall be made by a competent party, such as a profession engineer, a contractor capable of decommissioning, or a person with suitable expertise or experience with decommissioning. The plan shall include documentation showing financial capability to carry out the decommissioning and restoration requirements. Applicant shall submit an escrow account/surety bond/insurance policy in an amount approved by the Planning Commission as reasonably necessary to restore the site to its pre-wind energy facility topography and topsoil quality. The purpose of this account/bond/policy is to assure removal of all improvements subject to the Conditional Use Permit.
- C. At the end of the wind energy facility's useful life, the site shall be restored in accordance with the requirements of this condition within eighteen (18) months.

**6. Definitions**

- A. **Aggregated Project** – Those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual CWECS within a larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregated project.
- B. **Commercial Wind Energy Conversion System (CWECS)** – A wind energy conversion system under common or aggregated ownership or operating control that includes substations, MET towers, cables/wires and other building accessories, whose main purpose is to supply electricity to off-site customers.
- C. **Fall Zone** – The area, defined as the furthest distance from the tower base, in which a tower will collapse in the event of a structural failure.
- D. **Feeder Line** – Any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of the interconnection shall be the substation serving the CWECS.
- E. **Height, total system** – The height above grade of the system, including the generating unit and the highest vertical extension of any blades or rotors.
- F. **Height, tower** – The height above grade of the fixed portion of the tower, excluding the generation unit and attached blades and rotors.

- G. **Meteorological Tower** – For the purposes of wind energy conversion systems, meteorological towers are those which are erected primarily to measure wind speed and direction plus other data relevant to locating a CWECS. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Transportation or other similar applications to monitor weather conditions.
- H. **Shadow flicker** – Strobe effect that occurs when sun is horizontal to rotor blades, which causes repetitive intermittent shadows that can affect people on near by properties.
- I. **Small Wind Energy Conversion System (SWECS)** – A wind energy conversion system which has a **rated capacity of up to one hundred (100) kilowatts** and which is incidental and subordinate to another use on the same parcel. A system is considered a small wind energy system only if it supplies electrical power for onsite use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for onsite use may be sold back to the utility company. *(State Statute § 70-2001 to 2005 limits SWECS to 25 kilowatts or less – scheduled to be reviewed next session)*
- J. **Tower** – The vertical component of a wind energy conversion system that elevates the wind turbine generator and attached blades above the ground.
- K. **Wind Energy Conversion System (WECS)** – An aggregation of parts including the base, tower, generator, rotor, blades, supports, and configuration as necessary to convert the power of wind into mechanical or electrical energy, e.g. wind charger, windmill, or wind turbine.
- L. **Wind Turbine Generator** – The component of a wind energy system that transforms mechanical energy from the wind into electrical energy.

## ARTICLE 7

### PARKING REGULATIONS

#### 7.1 GENERAL PROVISIONS

1. All buildings and structures erected and all uses of land in all Districts, with the exception of the C-1 Commercial 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.
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 reasonable provided on the same lot, such space shall be provided on any of-street lot a substantial portion of which is within five hundred (500) feet of such use.
3. Owners of two or more uses or parcels of land may agree to jointly utilize the same parking spaces provided that satisfactory legal evidence is presented in the form of deeds, leases, or contract documents to establish such a joint area of use.
4. All yard area including driveways, except the required front yard for residential uses may be used for off-street parking. Garages and driveways may be considered as off-street parking spaces. 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. For the purpose of computing the number of parking spaces in a given area, the formula of two hundred (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.
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.
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 certificate. The plan shall show all elements necessary to indicate that the requirements are being fulfilled.

7.2 OFF-STREET PARKING REQUIREMENTS

At the time of construction, or enlargement of more than fifty (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:

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

**7.3 OFF-STREET LOADING REQUIREMENTS**

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

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

ARTICLE 8

ACCESSORY USES AND SUPPLEMENTAL REGULATIONS

**8.1 ACCESSORY BUILDING**

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

Any accessory building shall have a minimum side yard setback of five (5) feet on interior lots and fifteen (15) on corner lots, provided it is located between the rear property line and the rear building line of the principle building. No accessory building shall be located between the front building line of the principle building and the front property line. No accessory building shall be located closer than five (5) feet from the rear property line or within ten (10) 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. All garage entrances must have a minimum fifteen (15) feet long drive when garage opening is perpendicular to the access alley or twenty (20) feet perpendicular to the access street. Attached garages are considered part of principal building.

**8.2 HOME OCCUPATIONS**

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

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

- a. The primary use of the building or structure in which the occupation is situated shall clearly be the dwelling used by the person as his, or her, private residence.
- b. Signs and displays shall be limited to one (1) non-illuminated sign not exceeding six (6) square feet in area.
- c. No equipment or machinery shall be used in such activities that create excessive noise, smoke, odor, dust, radiation, electrical interference or vibration. Parking shall be handled in such a manner as to not impede or hinder traffic on any public right of way.

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

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

**8.4 YARD REGULATIONS:**

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

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

Where forty (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.

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

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

**8.6 EXCEPTION 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.

**8.7 MOBILE HOME PARKS:** Mobile Home Parks shall only be allowed in the Residential Zoning Districts under the following conditions:

1. Individual mobile home lots shall have an area of not less than four thousand (4,000) square feet per single wide mobile home and six thousand (6,000) square feet for double wide mobile homes, and the total number of lots per gross acre shall not exceed six (6).
2. Mobile homes shall be situated on individual lots so there will be a minimum of fifteen (15) feet between mobile homes and that each mobile home will be set back at least fifteen (15) feet from the nearest service road. Mobile homes parked end-to-end shall have an end-to-end clearance of not less than ten (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.
3. The mobile home park shall have direct access to a public street or highway by a right-of-way at least fifty (50) feet in width and a minimum length of one hundred (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 twenty (20) feet paved with a suitable dustless material.

4. Walks and Lighting. Walkways not less than four (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 twenty-five (25) watt lamps spaced at intervals of not more than one hundred (100) feet.
5. Off-Street Parking. 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 three hundred (300) square feet.
6. 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.

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 (2) standard concrete blocks with cells placed vertically beside each other on the footer block. A solid four (4) inches concrete cap covering the two (2) concrete blocks shall be provided as the bearing area to be positioned directly beneath the steel frame of the mobile home or trailer. Such clocking shall be provided along the full length of the mobile home or trailer unit, spaced not more than ten (10) feet apart, and not more than five (5) feet from the ends of the unit.

7. The mobile home or trailer stand shall be provided with anchors and the tie downs such as cast-in-lace 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 designated to resist the action of frost in the same manner as the foundation system.
8. 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.

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:

1. 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.
2. Each such 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.
3. 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 Utica Subdivision Regulations.
4. At the time of an application for a special 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.

**8.8 FENCE REGULATIONS:** Except as otherwise specifically provided in other codes, ordinances or resolutions, the following regulations shall apply to the construction and placement of fences:

A. General Requirements:

1. No fence shall be constructed which will constitute a traffic hazard.
2. No fence shall be constructed in such a manner to be of such design as to be hazardous or dangerous to persons or animals, specifically, the use of barbed wire and electrical fences in residential districts is prohibited.
3. No fence shall be constructed on public right of way unless approved by the Village Board.
4. All fences constructed shall conform to the construction standards of the Building Code.
5. No fence shall be constructed or moved until a building permit shall have been produced from the building inspectors office and appropriate fee paid.
6. It is recommended that the owner have a survey completed locating the property lines and easements of record where the fence is to be installed. It is the owners responsibility to know where their property lines are located.
7. Before digging or excavating, the owner or contractor shall contact Diggers Hotline.
8. Access shall be allowed for the maintenance of all existing utility lines, poles, wires, transformers or manholes.
9. All outdoor swimming pools shall be enclosed by a fence or wall at least six (6) feet, but not more than eight (8) feet in height with a gate or gates which can be securely locked.

B. Fence Definition:

Any vertical structure, other than a building or plant material, which is for the purpose of obstructing visual observation or for the purpose of obstructing pedestrian, automotive or animal movement or for the purpose of beautification, and which is attached to the ground or to a building, but excluding retaining walls.

C. Fence Location:

Residential Districts

1. Front Yard: A fence not more than 78 inches in height and not more than 30 inches within the sight triangle on a corner lot or the sight triangle adjacent to an alley.
2. Corner Lot Second Frontage: (Street side yard) A fence not more than 30 inches in height within the sight triangle on a corner lot or the sight triangle adjacent to an alley.

Commercial/Industrial Districts

1. Fences shall be located and constructed as per Landscaping/Screening requirements for the district.

Sidewalks/Alleys

1. A fence shall not be constructed within two feet of any public sidewalk or within one foot of any alley.

D. Easements:

1. Any fence, or part thereof, erected within that part of any lot, block or other tract of land which is subject to an easement for the construction, maintenance, operation or replacement of any water sanitary or storm sewer, gas line, electric line, cable television or telephone line or other utility poles, wires or cables shall be constructed of such material and so designed as to be readily removable, as determined by the building inspector and appropriate departments or utilities. Such fences shall be subject to removal by the City/Utility or may be contracted by the City/Utility for removal whenever necessary for the construction, maintenance or replacement of any utility line or apparatus. Fences shall be removed or replaced at the expense of the owner of the premises. Replacement shall be the responsibility of the owner of the premises. In the event that an existing fence violates toe public right-of-way or an easement and the Village deems it necessary to remove the fence for reasons of street or utility work, said fence shall be removed at the property owner's expense. Replacement shall be the responsibility of the owner of the premises

E. Construction Requirements:

1. All fences shall be constructed of wood, metal, plastic, fiberglass or masonry materials, shall be structurally sound, shall have neat and finished appearance and shall be straight and true.
2. Fences shall be so constructed so as to have the finished side facing adjacent properties and street frontages.
3. Fences shall not be constructed within two feet of any public sidewalk or within one foot of any alley.

4. Fences must be maintained in good repair. The building inspector may order any dilapidated, listing, dangerous, unsound or nonconforming fence repaired or removed.

**8.9 SIGN REGULATIONS:** The following regulations shall govern the location, area and type of signs permitted within the Village:

A. Intent and Applicability:

1. The following regulations shall govern the locations, areas heights and types of signs permitted within the zoning jurisdiction of this Ordinance.
2. All signs hereafter constructed, erected, printed or otherwise established, moved, altered or changed shall comply with these regulations.
3. After the effective date of this Ordinance, no sign shall be erected, enlarged, constructed or otherwise installed without first obtaining a sign permit. A sign permit shall be legally issued only when in compliance with these sign regulations.
4. No accessory sign, advertising display or structure, poster or device shall be erected, moved, enlarged, maintained or reconstructed except as expressly permitted by this Article; provided, however, that such State, County and municipal signs and traffic signs as are installed for public purposes are exempt from these requirements.
5. Nonconforming signs existing at the time of enactment of this Ordinance may be repaired or maintained, but may not be otherwise established, moved, altered, or changed except in compliance with the provisions of this Ordinance.
6. Temporary signs or banners on or over public property may be authorized by the Village Board for a period not to exceed ten days.
7. Signs attached to a building and projecting over a street, alley, or other public space shall project no more than ten (10) feet and be no closer than two (2) feet to a plumb-line from curb-line; clearance below such signs shall be a minimum of nine (9) feet.

8. No Sign except for those of incidental sales of a non-commercial basis shall be constructed, erected, remodeled, relocated, or expanded, until a sign permit for such sign has been obtained authorized and signed by the Zoning Administrator excluding general maintenance. Such requirement shall pertain to both permanent and temporary signs. A fee for application for a sign permit for signs shall be paid to the Village to handle processing costs. In addition, information pertinent to the sign characteristics and dimensions must be presented to the Zoning Administrator sufficient to determine compliance with the Ordinance.

B. On and Off-Site Signs on Interstate or Federal Aid Primary Highways

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 et 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. As of July, 1976, Primary Highways within Utica's zoning jurisdiction are Highways 1 and 50.

C. Prohibited Signs

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.

D. District Regulations

1. Agriculture District (AG)

- a. No regulations apply other than those outlined herein.

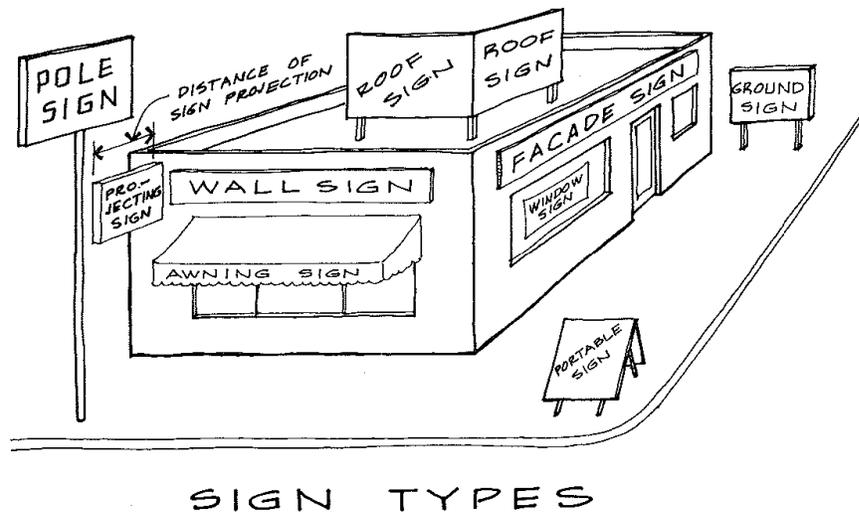
2. Residential Districts (R-1 and R-2)

- a. Signs permitted in the Residential Districts shall be erected and maintained at least fifteen (15) feet from the street or road line.
- b. One sign not illuminated, less than six (6) square feet in area for each dwelling. A maximum of two (2) signs are permissible for multifamily apartment buildings, whether attached to the apartment building or mounted on the ground, at a maximum size of twelve (12) square feet for each sign.
- c. Any temporary sign, not illuminated, less than six (6) square feet in area, advertising the sale, lease or rental of the property.

3. General Commercial District (C-1)
  - a. Illuminated, or non-illuminated signs identifying the character or the establishment. No one (1) sign shall exceed fifty (50) square feet in area.
4. Highway Commercial District (C-2)
  - a. Illuminated, or non-illuminated signs identifying the character of the establishment. No one (1) sign shall exceed one-hundred (100) square feet in area.
5. Industrial District (I)
  - a. In an I District, identification and advertising signs accessory to the allowed use are permitted except that each sign shall be limited to one hundred (100) square feet in area.

F. Discontinuation of Use

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 thirty (30) days notice and failure to do so, the Village shall remove the sign and assess the charges to the owner.



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

## ARTICLE 9

### BOARD OF ZONING ADJUSTMENT

#### **9.1 CREATION, MEMBERSHIP**

The Village Board of Zoning Adjustment is hereby created and shall be known as the Village Board of Zoning Adjustment. The members of said board shall be appointed by the Village Board. The legislative body of a village may provide by Ordinance that it shall constitute a board of adjustment. (Ref. 19-911 R.S. Neb.)

One (1) member only of said board shall be appointed from membership of the Planning Commission and the loss of membership on the planning commission by such member shall also result in the immediate loss of membership on the Village Board of Zoning Adjustment.

Said board shall consist of five (5) regular members, plus one additional member designated as an alternate who shall attend and serve only when one (1) of the regular members is unable to attend for any reason, each to be appointed for a term of three (3) years and removable for cause by the Village Board upon written charges and after public hearings. Vacancies shall be filled for the unexpired terms of any member whose terms become vacant.

#### **9.2 MEETINGS**

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

#### **9.3 INTERPRETATIONS AND VARIANCES**

**9.31** The Board of Adjustment shall, subject to appropriate conditions and safeguards as specified in these regulations, have the following powers (Ref. 19-910 R.S. Neb.):

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

2. To hear and decide, in accordance with the provisions of any regulation, requests for interpretation of any maps, or for decisions upon other special questions upon which the Board is authorized by any such regulation to pass; and
3. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of adoption of the Zoning Regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this section 19-910, and sections 19-901, 19-903 to 19-904.01, and 19-908 would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize, upon appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardships, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of these Zoning Regulations, but no such variance shall be authorized unless the Board finds that:
  - a. The strict application of the regulation would produce undue hardship;
  - b. Such hardship is not shared generally by other properties in the same zoning District and the same vicinity;
  - c. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the District will not be changed by the granting of the variance; and
  - d. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.

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

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

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

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

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

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

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

Any person or persons, jointly or separately, aggrieved by any decision of the Board of Zoning Adjustment, or any officer, departments, board or bureau of the Village, may seek review of such decision by the District court for the Village in the manner provided by the laws of the State and particularly by Ref. 19-912 R.S. Nebraska.

**ARTICLE 10**

**ADMINISTRATIVE PROVISIONS, ENFORCEMENT  
AND FEES**

**10.1 ENFORCEMENT**

**10.11 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:

1. Approve and issue all building permits and occupancy certificates when compliance is made with this Ordinance.
2. Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of this Ordinance.
3. Receive, file and forward to the Board of Zoning Adjustment the records in all appeals for variances.
4. 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.
5. Prepare and have available in book, pamphlet or map for each year.
  - a. The compiled text of the Zoning Regulations and amendments thereto, including all amendments adopted through the preceding December 31; and
  - b. A zoning map or maps, showing the zoning Districts, divisions and classifications in effect on the preceding December 31.
6. 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 insure compliance with, or to prevent violation of, its provisions.

## **10.2 BUILDING PERMITS REQUIRED**

**10.21 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 of Utica and with all orders, and variances lawfully issued by the Board of Adjustment. A building permit shall not be required for agricultural (nonresidential) buildings or structures in the AGR Agricultural Districts or for improvements which have a value of one thousand dollars (\$1,000) or less. If the work for which a permit has been issued shall not have begun within six (6) months of the date thereof, or if the construction shall be discontinued for a period of six (6) 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.

**10.22 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.

**10.23 APPROVAL OR DISAPPROVAL OF PERMIT:** The zoning inspector shall examine all applications for building permits, including plans, specifications and documents filed therewith and shall either approve or disapprove such application within thirty (30) days of receipt of same. Upon approval and receipt of required fees, the zoning administrator shall promptly issue the 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."

**10.24 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 (10) days after the determination of the zoning administrator has been filed.

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

**10.31 GENERAL:** No building, structure or land shall be used or occupied, in whole or in part, nor shall any change made in the use or type of occupancy of an existing building or structure requiring a 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.

**10.32 TEMPORARY CERTIFICATE:** Upon request, the zoning administrator may issue a partial certificate of occupancy for a period not to exceed ninety (90) days, for a building or structure or part thereof, before the entire work covered by the 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.

**10.33 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.

**10.34 ISSUANCE OF CERTIFICATE OF OCCUPANCY:** Before issuing a certificate of occupancy, the zoning administrator 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.

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

### **10.4 SCHEDULE OF FEES**

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.

**ARTICLE 11**

**AMENDMENT**

**11.1 GENERAL**

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, Planning Commission or upon application of the owner of the property affected. A filing fee established by the Village Board is required for each application to be considered by the Planning Commission.

**11.2 SUBMISSION TO PLANNING COMMISSION**

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

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

**11.3 AMENDMENT CONSIDERATION AND ADOPTION**

The procedure for the consideration and adoption of any such proposed amendments, 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 (½) of all the members. A vote either for or against an amendment by a majority of all the Planning Commission members present constitutes a recommendation of the commission; whereas a vote either for or against an amendment by less than a majority of the Planning Commission present constitutes a failure to recommend.

When the Planning Commission submits a recommendation of approval or disapproval of such amendment, the Village Board, 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. 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 Map(s) to be changed to reflect such amendment, and shall amend the section of the Ordinance incorporating the same and reincorporate such map as amended.

#### **11.4 PROTEST**

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 fourteen (14) days after the date of the conclusion of the public hearing pursuant to said publication notice, duly signed and acknowledged by the owners of twenty (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 one hundred (100) feet there from, or of those directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite lots, such amendments shall not become effective except by the favorable vote of two-thirds (2/3) majority of the Village Board.

## ARTICLE 12

### COMPLAINTS, PENALTIES, REMEDIES

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

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.

#### **12.2 PENALTIES**

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

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

#### **12.3 REMEDIES**

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure or land is used in violation of these regulations 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.

## ARTICLE 13

### LEGAL STATUS PROVISIONS

#### **13.1 SEPARABILITY**

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

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

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

#### **13.3 REPEAL OF CONFLICTING ORDINANCES**

All other Ordinances and Regulations in conflict with these are hereby repealed to the extent necessary to give these Regulations full force and effect.

#### **13.4 EFFECTIVE DATE**

These Ordinance for these Zoning Regulations shall take effect and be in force from and after its passage and publication according to law.

# *UTICA, NEBRASKA*



## **SUBDIVISION REGULATIONS 2011**

**HANNA:KEELAN ASSOCIATES, P.C.  
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**SECTION 1. AUTHORITY.** These Regulations are hereby adopted and enacted under authority of R.R.S., Nebr. 1943, Chapters 19-916 thru 19-922 and 17-1001 thru 17-1003, and amendments thereto, and comprise requirements, standards and specifications with respect to provisions for the proper location and width of streets, building lines, open spaces, safety, recreation; and, for the manner in which streets will be graded and improved; and, the extent to which water, sewer and other utility services shall be provided; and, to provide for the approval of preliminary plats and final plats and endorsement thereof by the Utica, Nebraska Planning Commission and by the Village Board. No final plat of a subdivision shall be approved and accepted by the Utica Village Board unless it conforms to the provisions of these regulations.

**SECTION 2. PURPOSE.** The purpose of these regulations is to provide for the orderly development of Utica and its environs; to proscribe standards for the laying out of subdivisions in harmony with the comprehensive plan; for the coordination of streets and utilities within subdivisions with other existing or planned streets and utilities; for coordination of subdivisions with other features of the comprehensive plan to provide for adequate open space for traffic, recreation, light and air; and for the distribution of population and traffic in such a manner so as to create conditions favorable to health, safety, convenience or prosperity, all in accordance with applicable state statutes.

**SECTION 3. JURISDICTION.** The provisions of this ordinance shall apply within the area of planning and zoning jurisdiction as defined on the Official Zoning Map of the Village of Utica, Nebraska, as may be amended from time to time.

**SECTION 4. APPLICABILITY.** Any plat, hereafter made, for each subdivision or part thereof lying within the jurisdiction of this ordinance, shall be prepared for approval and recorded as herein prescribed. The regulations contained here in shall apply to the subdivision of a lot, tract, parcel of land into two or more lots, tracts, or other division of land for the purpose of sale or development, whether immediate or future, including the re-subdivision or re-platting of land or lots, except that the division of land when the smallest parcel created is more than ten (10) acres in area shall be exempt from these regulations. Further, the regulations set forth by this ordinance shall be minimum regulations which shall apply uniformly throughout the jurisdiction of this ordinance except as hereafter provided.

A. Each separate principal use/building within the jurisdiction of this ordinance shall be situated on a separate and single subdivided lot of record unless otherwise provided in the zoning ordinance of the Village of Utica, Nebraska.

B. No subdivision of land shall be permitted within the planning jurisdiction of Utica unless a plat is approved in accordance with the provisions of these Regulations. Further, no lot in a subdivision may be sold, transferred or negotiated to sell, no permit to erect, alter, or repair any building upon land in a subdivision may be issued, and no building may be erected in a subdivision unless a final plat has been approved by the Utica Village Board and recorded with the Seward County Register of Deeds.

C. These Subdivision Regulations shall not apply to the following:

1. To a subdivision of land whereby the smallest parcel created or remaining is more than ten (10) acres.
2. The subdivision of burial lots in cemeteries.
3. A change in the boundary between adjoining lands which does not create an additional lot or does not result in a nonconformity of an existing lot.

**SECTION 5. DEFINITIONS.** For the purposes of these Regulations, certain terms or words used herein shall be interpreted as follows:

The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

**BLOCK.** A tract or parcel of land bounded by public streets or lands, streams, railroads, unplatted lands or a combination thereof.

**BUILDING LINE.** A line parallel or nearly parallel, to either the street line or the lot line not abutting the street and at a specified distance from the street or lot line which marks the minimum distance from either line that 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.

**BUILDING OFFICIAL.** The person or persons designated by the governing body to administer this subdivision ordinance whether such person or persons be entitled Building Official, Building Inspector, Administrative Official, or Zoning Administrator.

**COMMON OPEN SPACE.** That undivided land in a subdivision which may be jointly owned by all property owners of the subdivision, for the benefit of the owners of the individual building sites of said development.

COMMON SEWER SYSTEM. A sanitary sewage system in public ownership which provides for the collection and treatment of domestic effluent in a central sewage treatment plant which meets the minimum requirements of the Nebraska Department of Environmental Quality for primary and secondary sewage treatment and which does not include individual septic tanks or portable sewage treatment facilities.

COMMON WATER SYSTEM. A water system which provides for the supply, storage and distribution of potable water on an uninterrupted basis which is in public ownership.

COMPREHENSIVE PLAN. The long range development plan adopted by the Utica Village Board.

COVENANT. Written promise or pledge.

CULVERT. A transverse drain that channels water under a bridge, street or driveway.

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

ENGINEER. One, licensed by the State of Nebraska, designated by the Utica Village Board to act for the Village.

FRONTAGE. The length of the property abutting on one (1) side of a street measured along the dividing line between the property and the street.

GREEN AREA. Same as common open space.

IMPROVEMENT. Street pavement or resurfacing, curbs, gutter, sidewalks, water lines, sewer lines, storm drains, street lights, flood control and drainage facilities, utility lines, landscaping, and other related matters normally associated with the development of raw land into building sites.

LOT. A parcel of land occupied or intended for occupancy by a use permitted in this Article, including one (1) main building together with its accessory buildings, the open spaces and parking required by this Article and fronting upon a street.

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

LOT, INTERIOR. A lot other than a corner lot which has frontage on one street only.

LOT, THROUGH. A lot other than a corner lot fronting on more than one street.

LOT OF RECORD. A tract of land described as an integral portion of a subdivision plat which is properly recorded in the office of the Seward County Clerk.

**MONUMENTS.** Permanent concrete or iron markers used to establish definitely all lines of the plat of a subdivision, including all lot corners, boundary line corners and points of change in street alignment.

**OUT LOT.** Property shown on a subdivision plat outside of the boundaries of the land which is developed and which is to be excluded from the development of the subdivision.

**PARKING SPACE, OFF-STREET.** Off-street parking shall mean an area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress.

**PEDESTRIAN WAYS.** A tract of land dedicated to public use, which cuts across a block to facilitate pedestrian access to adjoining streets and properties.

**PLANNED DEVELOPMENT.** Special development of certain tracts of land, planned and designed as a unit for one (1) or more land uses under rules and procedures contained in these Regulations.

**PLANNING AREA.** The statutory zoning jurisdiction of the Village of Utica.

**PLANNING COMMISSION.** The appointed planning body designated by the Utica Village Board.

**PLAT.** Map, drawing, or chart upon which the developer's plan of subdivision (preliminary) is presented to the Village Board for approval and, after such approval, to the appropriate County Clerk for recording.

**PLOT.** A parcel of ground.

**PUBLIC WAY.** An alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway, right-of-way, road, sidewalk, street, subway, tunnel, viaduct, walk, or other ways in which the general public or a public entity have a right, or which are dedicated, whether improved or not.

**RIGHT-OF-WAY.** A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage facilities, and may include special features such as grade separation, landscaped areas, viaducts and bridges.

**SETBACK LINE.** The term "setback line" means a line, as shown on a record plat or otherwise established by the Utica Village Board, beyond which no part of a main exterior wall of a building or structure may project.

SEWERS, ON-SITE. A septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitation officials having jurisdiction.

STREET. Street shall mean a public or private thoroughfare including avenues, which affords principle means of access to abutting property.

SUBDIVIDER. The owners, developers or agents of persons or corporations affecting subdivision.

SUBDIVISION. The division of a parcel of land into two (2) or more lots or parcels for the purpose of transfer of ownership, building development, or, if a new street is involved, any division of a parcel of land. The term includes re-subdivision, and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

SURVEYOR. Any person registered in Nebraska to practice surveying.

THOROUGHFARE, STREET OR ROAD. The full width between property lines bounding every public way of whatever nature, with a part thereof to be used for vehicular traffic and designated as follows:

Alley: A dedicated public right-of-way, other than a street, which provides only a secondary means of access to abutting property.

Arterial Street: A street which provides for through traffic movement between and around streets with direct access to abutting property, subject to necessary control of entrances, exits, and curb use.

Collector Street: A street which provides for traffic movement between arterials and local streets, with direct access to abutting property.

Cul-de-sac: A local street of relatively short length with one (1) end open to traffic and the other end terminating in a vehicular turnaround.

Dead-end Street: A street temporarily having only one (1) outlet for vehicular traffic and intended to be extended or continued in the future.

Local Street: A street which provides direct access to abutting land and local traffic movement, whether in business, industrial or residential land.

Marginal Access Street: A local or collector street, parallel and adjacent to an arterial or collector street, providing access to abutting properties and protection from arterial or collector streets (Also called frontage street or service road).

**VICINITY MAP.** A drawing located on the plat which sets forth by dimensions or other means, the relationship of the proposed subdivision or use to other nearby developments or landmarks and community facilities and services within the Village of Utica, in order to better locate and orient the area in question.

**WALKWAY.** See sidewalk.

**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 established.

**SECTION 6. SEVERABILITY.** Should any section or provision of these Regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of these Regulations as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

## **SECTION 7. PROCEDURES**

**7.1 Plat Submission Requirements.** The subdivider shall submit to the Village Clerk eleven (11) copies of the preliminary plat and supplemental material specified, with written application for conditional approval, at least ten (10) days prior to the regular meeting of the Utica Planning Commission at which the request will be heard.

**7.2 Fees.** Fees are set by the Utica Village Board.

**7.3 Scale and Preliminary Plat Contents.** Preliminary plats shall be a scale of one (1") inch to one hundred (100') feet, or 1" = 200' if seventy-five (75) percent of the lots are one (1) acre or larger, and shall be prepared with the following information:

- A. Name, location, acreage, owner and designer of subdivision with legal description as shown by land records.
- B. Present zoning.
- C. Date, north point and graphic scale.
- D. Location of property lines, roads, existing utilities with size of lines, and other underground installations and easement.
- E. Names of adjoining properties or subdivisions.
- F. Proposed utility system, including water, sewer and paving.
- G. Dimensions, lot lines, except that in industrial type subdivisions, lot lines may be excluded.
- H. Location of proposed drainage.
- I. Contours at five (5') feet intervals at 1" = 200' scale.
- J. Proposed improvements and grading concepts.
- K. Location of existing buildings.
- L. Proposed easements, dedications and reservations of land required.

7.4 Notification of Improvement Schedule. Subdivider shall indicate by a letter when improvements as required will be provided; any proposed restrictive covenants for the land involved shall accompany the letter.

7.5 Notification of County Planning Commission. The Village shall notify the Seward County Planning Commission of any proposed subdivision plat and provide the Commission with all available materials on the proposed plat, when such proposed plat lies partially or totally within the extraterritorial subdivision jurisdiction being exercised by that Municipality in such County. The Commission shall be given four (4) weeks to officially comment on the appropriateness of the design and improvements proposed in the plat. The review period shall run concurrently with subdivision review activities of the Village after the Commission receives all available material for a proposed subdivision plat.

7.6 Notification of School Board. At least ten (10) days prior to the Utica Planning Commission meeting at which the preliminary plat is to be considered for approval, the Planning Commission shall submit a copy of the proposal to the School Board of each School District which the proposed development affects, and shall notify the School Board of the meeting date. Copies of the plat may be submitted to any other agency which may be affected.

7.7 Approval or Rejection. After review of the preliminary plat and negotiations with the subdivider, the Utica Planning Commission shall reject or conditionally approve the preliminary plat, within thirty (30) days after the official meeting at which the plat was considered.

7.8 Recording of Action. The action of the Utica Planning Commission shall be noted on three (3) copies of the preliminary plat, referenced and attached to any conditions determined. One (1) copy shall be returned to the subdivider, one (1) copy relayed to the Village Board and one (1) copy retained by the Planning Commission.

7.9 Approval is Conditional. Approval of a preliminary plat shall not constitute approval of the final plat; it shall be deemed an expression of approval or conditional approval of the submitted plat, as a guide for the preparation of the final plat, which will be subject to further consideration by the Utica Planning Commission and the Utica Village Board. Any conditional approval of the preliminary plat shall be effective for a period of one (1) year unless an extension is granted by the Planning Commission.

7.10 Installation of Improvements for Final Plat Approval. Following approval of the preliminary plat, the subdivider shall:

- (1) Agree to install the required improvements or;

- (2) Sign an agreement, which shall be entered into only at the option of the Village, thereby guaranteeing the installation of improvements; or
- (3) Furnish a bond or enter into an escrow or security agreement approved by the Village Attorney in an amount sufficient to guarantee the installation of the required improvements.

**7.11 Final Plat Submission Requirements.** Final plats, showing entire concept, shall be submitted to the Village Clerk within one (1) year of approval of the preliminary plat, unless an extension is granted by the Planning Commission. The final plat shall conform to the preliminary plat as approved and to the requirements of all applicable ordinances and State statutes; and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time; provided, however, that such portion conforms to all requirements of these Regulations.

**7.12 Scale and Final Plat Contents.** One (1) original and two (2) mylar copies of the final plat and other exhibits required for approval shall be submitted. The final plat shall be drawn in ink on mylar and shall be at a scale of one (1") inch to one hundred (100') feet or larger. The final plat shall show the following:

- A. Date, title, name and location of subdivision.
- B. Streets and street names, lots, setback lines, lot numbers, etc, except that in industrial type subdivision lot designation may be excluded.
- C. Graphic scale and north arrow.
- D. Monuments (ferrous) one (1) inch diameter, maximum, thirty (30) inches length minimum.
- E. Dimensions, angles and bearings, and complete legal description of the property.
- F. Sufficient survey data to reproduce any line on the ground.
- G. Names of adjoining subdivisions.
- H. Location and dimensions of any easements.
- I. Purpose for which sites are dedicated or reserved, and the transfer of ownership of the same.
- J. Certification by surveyor as to accuracy of survey and plat.
- K. Certification signed and acknowledged by all parties holding title or having any title interest in the land subdivided and consenting to the preparation and recording of the plat as submitted.
- L. Certification recording the approval by the Planning Commission.
- M. Certification recording the approval by the Village Board and the acceptance of any dedications.

**7.13 Supplementary Data Required.** The final plat shall be accompanied with Construction plans of all required public improvements, approved by an Engineer.

**7.14 Professional Assistance.** The Village Board or the Planning Commission may request such professional assistance as it deems necessary to properly evaluate the plats submitted.

**7.15 Planning Commission Recommendations.** The Planning Commission shall reject or approve the final plat and have prepared a recommendation to the Village Board recommending rejection or approval. All reasons for recommending rejection shall be clearly stated. Notification of approval or rejection by the Planning Commission or Village Board shall be given the subdivider within sixty (60) days after submission of the final plat to the Planning Commission.

**7.16 Administrative Subdivision.** In the event that a proposed subdivision does not involve the platting and dedication of streets, extension of utility systems, change in subdivision class and type, change in zoning district, change in surface drainage, and will not result in the creation of more than three (3) lots of record, the subdivider may apply for administrative subdivision under the provisions of this section. The utilization of the administrative subdivision does not relieve the subdivider of its obligation to comply with Section 8: Streets, Alleys, Sidewalks and Driveways; and Section 9: Utility and Drainage Facilities of the Subdivision Regulations. The necessity of establishing and dedicating easements for utilities shall not bar the utilization of the administrative subdivision. The procedure for such application will be as follows:

1. Application will be made to the Village Board and the Village Board may act or may at their option refer the application to the Planning Commission. In the event it is referred to the Planning Commission, the procedures outlined under the final plat provisions shall be followed.
2. The subdivider shall submit an original and eleven (11) copies of the plat. The original shall be drawn in ink on tracing cloth, mylar, or similar material, and shall be at a scale of 1" to 100' or larger. The plat shall contain the following:
  - a. Date, title, name, and location of the subdivision.
  - b. Names and locations of abutting streets and lots identifying street names and lot and block numbers.
  - c. Identification of the new lot and block numbers and set back lines.
  - d. Graphic scale and true north point.
  - e. Monuments.
  - f. Dimensions, angles and bearings and complete legal description of the property.
  - g. Sufficient engineering data to reproduce any line on the ground.
  - h. Location, dimensions, and purposes of any existing easements.
  - i. Certification by surveyor or engineer certifying to the accuracy of the survey and plat.
  - j. Certification signed and acknowledged by all parties holding title or having any title interest in the land subdivided and consenting to the preparation and recording of the plat as submitted.

3. The plat shall be accompanied by:
  - a. Protective covenants in form for recording if such are desired by the subdivider.
  - b. For subdivisions adjoining or touching the boundaries of the Utica corporate limits; a tract or area for which annexation proceedings have commenced; an approved subdivision which touches or adjoins the Utica corporate limits, a petition signed by the owner or owners requesting annexation to the Village.
  - c. Utility easements signed by the owner or owners to permit all lots created access to all utilities available in the Village, including but not limited to, sanitary sewer, storm sewer, water, electrical, telephone, and cable television.

## **SECTION 8. STREETS, ALLEYS, SIDEWALKS, DRIVEWAYS.**

**8.1 Streets.** The arrangements, character, extent, width, grade and location of all streets shall conform to the comprehensive development plan and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

**8.2 Street Extension.** The street layout of the proposed subdivision shall provide for the continuation of appropriate projection of streets and alleys already existing in areas being subdivided. Where, at the determination of the Village Board, it is desirable to provide street access to adjoining properties, proposed streets shall be extended by dedication to the boundaries of such properties. Where the Village Board deems it necessary, such dead-end streets shall be provided with a temporary turnaround having a radius of at least sixty (60') feet. The street system for the proposed subdivision shall provide for extending existing streets at the same or greater width, but in no case shall a street extension be of less width than the minimum width required in these regulations for a street in its category.

**8.3 Dedication of Right-of-Way for New Streets.** The dedication of right-of-way for new streets measured from lot line to lot line shall be as shown on the comprehensive development plan. All streets classified as arterial streets by the comprehensive development plan shall have all points of access approved by the Village Board. Marginal access streets may be required by the Village Board for subdivisions fronting on arterial streets.

**8.4 Dedication of Right-of-Way for Existing Streets.** Subdivisions platted along existing streets shall dedicate additional right-of-way if necessary to meet the minimum street width requirements set forth in these Regulations. The entire minimum right-of-way width shall be dedicated where the subdivision is on both sides of an existing street. When the subdivision is located on only one (1) side of an existing street, one half of the required right-of-way width, measured from the center line of the existing roadway, shall be dedicated. Dedication of one half of the right-of-way for proposed streets along the boundaries of land proposed for subdivision shall be prohibited.

**8.5 Intersections.** Streets shall intersect as nearly as possible at an angle of ninety (90) degrees, and no intersection shall be at any angle of less than sixty (60) degrees. Street curb intersections shall be rounded by radii of at least twenty (20) feet. When the smallest angle of street intersection is less than seventy-five (75) degrees, the Village Board may require curb radii of greater length. Wherever necessary to permit the construction of a curb having a desirable radius without reducing the sidewalk at a street corner to less than normal width, the property line at such street corner shall be rounded or otherwise set back sufficiently to permit such curb construction. No lot or other parcel of land which abuts on and has access to either a collector or a minor street shall have a service drive, curb cut, or other means of access to an arterial street within fifty (50) feet of the right-of-way of any street which intersects such arterial street on the side on which such lot or parcel is located.

**8.6 Widths, Grades and Sight Distance Requirements.** Right-of-way widths, pavements widths, grades and sight distance requirements shall be as follows:

<b>TYPE</b>	<b>R.O.W.</b>	<b>PAVEMENT</b>	<b>GRADE</b>	<b>MINIMUM SIGHT DISTANCE ON CURVES</b>
Arterial Street	*100'	46'	8%	400'
Marginal Access Streets	60'	22' w/ 6' shoulders	10%	300'
Collector Streets	*70'	44'	10%	300'
Local Streets	60'	22' w/ 6' shoulders	10%Av.	300'
Alleys	20'	20' Residential 20' Commercial	no max. no max.	none none
Cull-de-sac Streets	100'	40'	10% Av.	200'

\* Streets in these classifications shall be designed and graded to the full right-of-way widths stated

The horizontal alignment on all streets except in unusual cases as determined by the Utica Planning Commission shall as follows:

<b>STREET TYPE</b>	<b>RADII OF HORIZONTAL CURVES</b>
Arterial Streets	700' Minimum
Collector Streets	300' Minimum
Local Streets	100' Minimum

**8.7 Marginal Access Streets.** Where a subdivision abuts or contains an existing or proposed arterial street, the Village of Utica may require access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

Where the proposed subdivision abuts upon or contains an existing or proposed arterial street or highway or which traffic volumes and vehicular speeds warrant special safety considerations, the Village may require that marginal access streets be provided in order that no lots front on such existing or proposed arterial street or highway.

Where a subdivision borders on or contains a railway right-of-way or limited access highway right-of-way, the Village may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

**8.8 Street Jogs.** Street jogs with center line offsets of less than one hundred twenty-five (125) feet shall be prohibited. Cul-de-sacs, minor terminal or dead-end streets or courts which are designed so as to have one end permanently closed shall not be longer than five hundred (500) feet and shall be provided at the closed end with a turnaround having a radius at the outside of the right-of-way of at least one-hundred (100) feet.

**8.9 Street Names.** Proposed streets which are in alignment with other already existing and named streets shall bear the names of such existing streets. The name of a proposed street which is not in alignment with an existing street shall not duplicate the name of any existing street, irrespective of the use of the suffix street, avenue, boulevard, drive, place, court, lane, road, pike, highway, parkway or similar suffix. Whenever a street alignment changes direction more than forty-five (45) degrees without a return to the original alignment within a distance of five hundred (500) feet, then the name of the street shall be changed at the point of curvature. Whenever a cul-de-sac street serves not more than three (3) lots, the name of the intersecting street shall apply to the cul-de-sac. To avoid duplication and confusion, the proposed names of all streets shall be approved by the designated Village Engineer prior to such names being assigned or used.

**8.10 Private Streets and Reserve Strips.** There shall be no private streets platted within a subdivision. There shall be no reserve strips in a subdivision except where their control is definitely vested in the Village or County under conditions approved by the Village Board as authorized herein.

**8.11 Grading Specifications.** All streets, roads and alleys shall be graded to their full widths by the subdivider, so that street pavements and sidewalks can be constructed on the same level plane. Deviation from this standard due to special topographical conditions will be allowed only with the approval of the Village Board. Before grading is started, the entire right-of-way area shall be first cleared of all tree stumps, roots, brush, and other objectional materials and of all trees not intended for preservation. The sub-grade shall be properly shaped, rolled and uniformly compacted to conform with the accepted cross-section and grades. In cuts and fills, all tree stumps, boulders, organic material, soft clay, spongy material and other objectionable materials shall be removed to a depth of at least two (2) feet below the graded surface. This objectionable matter, as well as similar matter from cuts, shall be removed from the right-of-way area and disposed of in such a manner that it will not become incorporated in fills or hinder proper operation of the drainage system.

**8.12 Minimum Pavement Widths.** Pavement widths shall be measured between curb backs.

**8.13 Street Surfacing.** The streets in the proposed subdivision shall be paved, including curbs and gutters, and street surfacing shall be of concrete or any other suitable surface as recommended by the designated Village Engineer and approved by the Village Board.

**8.14 Curb and Gutter.** Curb and gutter shall be provided as required by the Village Engineer. In areas of notable flash flooding or heavy rain run-off, curbs shall be required on all streets designed for areas where the existing or anticipated residential density of the areas surrounding the proposed subdivision equals or exceeds three (3) dwelling units per net acre. In commercial developments, or where other similar intensive urban uses exist or are anticipated, curbs shall be required. Where curbs exist on abutting properties, their extension shall be required throughout the proposed subdivision. All curb and gutter shall be constructed in conformance with the minimum standards of the Village and as approved by the Village Engineer.

**8.15 Blocks.** Except in unusual circumstances, the maximum length of blocks shall be seven hundred (700) feet.

**8.16 Street Name Signs.** Street name signs, of a type in use throughout the Village of Utica, shall be erected by the subdivider at all intersections.

**8.17 Alleys.** Alleys shall be provided to give access to the rear of all lots used for commercial and industrial purposes. Minimum width of an alley shall be sixteen (16') feet. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate facilities at the dead-end, as determined by the Utica Village Board. Alleys need not be provided in residential areas where the subdivider produces evidence of easements which are satisfactory to the Village Board.

**8.18 Sidewalks.** Sidewalks shall be provided as required by Village ordinances and shall be constructed of Portland cement concrete or other acceptable materials as approved by the Village Board. Sidewalk thickness shall be not less than four (4) inches and sidewalk width not less than four (4) feet.

**8.19 Driveways.** Driveways shall have a maximum grade of ten (10) percent. Driveways and curb cuts shall be located not less than three (3) feet from the side lot lines. Curb cuts for straight curbs and the flare for rolled curbs shall be three (3) feet wider than the driveway pavement on each side.

**8.20 Street and Walkway Lighting.** The street lights shall be installed by the Village of Utica. Such lights shall be located at each street and walkway entrance to the subdivision. In addition, whenever the distance between two (2) adjacent street or walkway lights would exceed three hundred (300) feet, then additional street lights shall be installed in such manner that proper light intensity shall be provided and maintained. New subdivision street and walkway lighting may be installed with all associated wiring underground or overhead, as required by the Village.

**SECTION 9. UTILITY AND DRAINAGE FACILITIES.**

**9.1 Sewer and Water.** It shall be required that the owner or developer of the tract to be subdivided install, satisfactory sewer and water lines which are necessary to serve such subdivision. Installation of the above shall be in accordance with the specifications of the Village and under the direction and supervision of the Utica Village Board. Where adequate water and sewer lines are accessible within thirteen hundred twenty (1,320) feet of the final plat, connections to these lines shall be made. Water lines shall be looped according to specifications set by the Village Board.

The cost of providing this engineering service will be the responsibility of the owner or developer of the tract to be subdivided or by other agreement with the Village. Design of municipal water mains and sanitary sewer lines shall conform to standards and guidelines approved by the Utica Village Engineer.

**9.2 Sanitary Sewer Improvements.** The following requirements shall govern sanitary sewer improvements:

1. Where an adequate public sanitary sewer system is reasonably accessible in the determination of the Utica Village Board, public sanitary sewers shall be installed to adequately serve all lots, including lateral connections to the public system. Public sewer system extensions shall meet the requirements of the Village standards and the Nebraska Department of Environmental Quality and the Department of Health and Human Services System. Combinations of sanitary sewers and storm sewers shall be prohibited.
2. Where a public sanitary sewer system is not reasonably accessible, the subdivider may provide:
  - a. A central treatment plant, provided that such central treatment plant is installed in accordance with the Village and State Department of Environmental Quality and Department of Health and Human Services System requirements, or
  - b. Lots may be served by individual disposal systems, if the provisions of the following section are met.
3. a. Where the installation of individual disposal systems is considered, the suitability of the soil for individual systems, the absorptive ability of the soil, surface drainage, ground water level, and topography shall be the criteria for determining whether or not the installation of individual systems is permissible. Criteria shall be in accordance with the requirements of the Village and the Nebraska Department of Environmental Quality and Department of Health and Human Services System.

- b. Each lot so served shall be of a size and shape to accommodate the necessary length of tile field at a safe distance from and at a lower elevation than the proposed buildings. Such lot size and shape shall conform to the requirements of the zoning district in which they are located, provided that in no case shall said minimum lot be less than one (1) acre in area where there is a public water supply available at the lot, and two and a half (2 1/2) acres where there is not public water supply available.
- c. At least one (1) percolation test shall be made for each lot area being platted, and each test shall be located in close proximity to the proposed individual sewage disposal unit, be numbered and its location shown on the preliminary plat. All percolation tests shall be performed in accordance with the requirements of the Utica Village Board.

**9.3 Drainage Improvements.** An adequate system for the drainage of all surface water within the area being subdivided, including ditches, pipes, culverts, intersectional drains, drop inlets, bridges, and other structures, shall be constructed by the developer. Such drains shall comply as to size with such requirements, conformable to good engineering practice, as the Utica Village Board shall prescribe; provided that such drains in no event shall be less than twelve (12) inches in diameter. Cross drains shall be constructed to accommodate all natural water flow, be built on a straight line and grade, be laid on a firm base but not on rock and be of sufficient length to permit construction of streets and alleys to their required width and grades. Surface drainage pipes shall be laid with the spigot end pointed in the direction of the flow, and all ends shall be fitted and matched to provide tight joints and a smooth uniform invert. Such pipes shall be placed at a depth below the road bed that is sufficient to avoid dangerous pressure from impact, and the top, in no event, shall be less than one (1) foot below the surface of the road bed.

A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Utica Village Engineer shall determine the necessary size of the facility, based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development permitted by the Zoning Regulations.

The Village Engineer shall also study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. Where it is anticipated that the additional runoff incident to the development or the subdivision will overload an existing downstream drainage facility or flood existing development upstream, the Utica Planning Commission may withhold approval of the subdivision until provision has been made for the improvement of said potential condition in such sum as the Planning Commission shall determine. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

Subdivision proposals and other proposed new development be required to assure that (a) all such proposals are consistent with the need to minimize flood damage, (b) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated and constructed to minimize or eliminate flood damage, (c) adequate drainage is provided so as to reduce exposure to flood hazards so as to assure that all building sites are reasonably safe from flood hazards.

Lots shall be laid out so as to provide positive drainage away from all buildings and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot into areas not designed to handle flood waters. Lot drainage plans shall conform to the drainage study required for submittal approval.

9.4 Storm Sewers and Storm Water Drainage. Where an adequate public storm sewer system is available at the plat boundary, the Village shall construct a storm sewer system and connect with such storm sewer line. If such a storm sewer system is not accessible, natural drainage channels with easement of adequate width shall be provided, as determined by the Village Engineer and approved by the Village Board. Paved gutters or storm sewers shall be required if velocities are greater than specified in these regulations or cause destructive erosion. Storm drainage, including drain tile around basements, shall not be permitted to discharge into any sanitary sewer facility, but shall connect to an adequate drainage outlet.

9.5 Culverts and Bridges. Where natural drainage channels intersect any street right-of-way, it shall be the responsibility of the Village of Utica to have satisfactory bridges and/or culverts constructed. Where culverts are required, minimum requirements shall be observed as follows:

1. All culverts shall extend across the entire right-of-way width of the proposed street. The cover over the culvert and its capacity shall be determined by the Village Engineer. The minimum diameter of a culvert pipe shall be eighteen (18) inches. Depending on existing drainage conditions, head walls may be required.
2. Driveway culverts shall have a minimum length of twenty (20) feet, and a minimum diameter of eighteen (18) inches. The driveway culverts shall be laid so as to maintain the flow lines of the ditch or gutter. Head walls may be required.

9.6 Solar Access. In order to promote the conservation of energy through the use of both passive and active solar systems, streets in residential subdivisions should, where possible, have an east-west alignment. Lots intended for detached dwellings should be of sufficient width to allow the structure to be built with its longest axis running east-west.

In order to allow the orientations of structures on the site so as to maximize potential solar gain, side lot lines should run as near to north-south as possible providing that the angle between the side of lot line and the street right-of-way line on a straight street or the tangent to a curved street shall not be less than eighty (80) degrees.

Any property owner or developer may grant or establish a solar sky-space easement to protect solar energy systems from shade. The easements shall be created in writing and shall be recorded separately or should be contained on the face of the plat. The easements shall run with the land.

9.7 Erosion Control. The subdivider shall be required to provide for the control of erosion of areas of the subdivision which are disturbed by grading operations by constructing temporary terraces on slopes, temporary silting basins, sod swales and spillways, and whatever may be necessary to prevent erosion and damage to adjacent properties from surface drainage as approved by the Village and the Village Engineer.

9.8 Fire Protection. Fire hydrants shall be provided by the Village in all subdivisions with public water supplies. The hydrants shall be located between property lines and curbs with all outlets facing or parallel to the street. Hydrants shall be placed at the corners of all blocks and mid-block for blocks exceeding eight hundred (800) feet in length. Hydrants shall also be required at the entrance and end of all cul-de-sacs exceeding four hundred (400) feet in length. The type of hydrant and control valves and the location of the hydrant shall be approved by the Fire Chief. The minimum size of any water line serving any hydrant shall not be less than six (6") inches in diameter and should be circulating water lines. The size and location of water lines shall be approved by the Village Engineer and the Fire Chief.

9.9 Electric, Gas, and Telephone Improvements.

1. Electric service and telephone service shall be provided within each subdivision. Gas service may be required where reasonably accessible. Whenever such facilities are reasonably accessible and available, they may be required to be installed within the area prior to the approval of the final plat. Telephone, electric, street lighting, and communications conductors may be installed underground at the option of the Village Board.
2. Overhead secondary utility lines, where installed shall be located at the rear of all lots.
3. Whenever a sanitary sewer line and electric and/or telephone line is each placed underground in the same utility easement, the following provisions shall be applicable:
  - a. the total easement width shall not be less than fifteen (15) feet, and
  - b. the sanitary sewer line shall be installed within three (3) feet of the easement, and the electric and/or telephone line shall be installed within three (3) feet of the opposite side of the easement.

## **SECTION 10. SHARED IMPROVEMENT COSTS.**

**10.1 Extensions to Boundaries.** The subdivider may be required to extend the necessary improvements to the boundary of the proposed subdivision to serve adjoining unsubdivided land, as determined by the Utica Village Board.

**10.2 Off-site Extensions.** If street or utilities are not available at the boundary of a proposed subdivision, and if the Village Board finds the extensions across undeveloped areas would not be warranted as a special assessment to the intervening properties or as a Municipal expense until some future time, the subdivider may be required, prior to the approval of the final plat, to obtain necessary easements or right-of-way and construct and pay for such extensions. Such improvements shall be available for connections by subdividers of adjoining land.

## **SECTION 11. SUBDIVISION IMPROVEMENT PROCEDURE.**

**11.1 Subdivision Improvements Guarantees.** Prior to the final plat approval, but after approval of all improvement plans and specifications, the subdivider shall complete all improvements required for the subdivision. Final plat approval shall not be given until the dedication of all appropriate improvements and acceptance thereof by the Village Board.

In lieu of requiring the completion of all improvements prior to the final plat approval, the Village Board may enter into an agreement with the subdivider whereby the subdivider shall guarantee to complete all improvements required by this Ordinance and approved by the Planning Commission and Village Board in a manner satisfactory to the Village Board. To secure this agreement, the subdivider shall provide, subject to the approval of the Village Board, one (1) or more of the guarantees set forth in Sections 11.2, 11.3 and 11.4.

**11.2 Surety Performance Bond.** The subdivider shall obtain a performance bond from a bonding company authorized to do business in the State of Nebraska. The bond shall be payable to the Village and shall be in an amount to cover one hundred ten (110) percent of the cost of all improvements, as estimated by the subdivider and accepted by the Village Board upon recommendations of the Village Attorney and Engineer. The duration of the bond shall be until such time as the improvements are accepted by the Village Board in accordance with Section 11.9 of this Ordinance.

**11.3 Escrow Account.** The subdivider shall deposit cash, or other instrument readily convertible to cash at face value, either with the Village Board or in escrow with a bank. The use of any instrument other than cash, and in the case of an escrow account, the bank with which the funds are to be deposited, shall be subject to the approval of the Village Board. The amount of the deposit shall be an amount equal to one hundred ten (110) percent of the estimated cost of all required improvements as estimated by the subdivider and accepted by the Village Board upon recommendation of the Village Engineer.

11.4 Security Agreement. The subdivider shall provide a Security Agreement guaranteeing the installation of all required improvements. The Security Agreement must be approved by the Village Attorney and in an amount sufficient to guarantee the installation of all improvements.

In the case of an escrow account, the subdivider shall file with the Village Board an agreement between the bank and himself guaranteeing the following:

1. That the funds of said escrow account shall be held in trust until released by the Village Board and may not be used or pledged by the subdivider as security in any other matter during that period.
2. That in the case of a default on the part of the subdivider to complete said improvements, the bank shall immediately make the funds of said account available to the Village Board for use in completion of the improvements.

11.5 Improvement (Assessment) District. Because the original intent of such improvements in already built-up areas, and because the Village should not assume the risk of real estate development which results if the lots are unable to be sold and the subdivider defaults on the assessment payments, the use of improvement districts in connections with new subdivision developments shall not be used as a method of financing such improvements. Only in specific cases where the subdivider illustrates through extensive market research will the Village Board consider acceptances of an improvement district as a means of financing the necessary improvements and providing financial security to the Village.

11.6 Time Limits. Prior to the granting of final plat approval, the subdivider and the Village Board shall agree upon a deadline for the completion of all improvements. Such deadline shall not exceed two (2) years from the date of final plat approval, provided, however, the Village Board may extend that deadline for one (1) additional year where the subdivider present substantial reason for doing so and provides any additional performance surety made necessary due to inflation or increased cost of completing the improvements.

11.7 Installation of Improvements. Developers may select either method or combination of methods listed below to comply with the minimum improvement requirements:

1. They may install the required improvements upon acceptance of plans and specifications being approved by Village Engineer and Village Board.
2. They may submit a petition or petitions requesting the Village to construct street surfacing, sanitary sewer, and water mains in the proposed subdivision by the district method. In that event, the Village will prepare plans and specification for all such improvements districts and shall assess the cost of such improvements to the adjacent property, as provided by law. The size of any street improvement district, sanitary sewer district, or water main district, shall be determined by the Village Board and the construction of any such district shall be subject to the Village's ability to finance any of the improvements.

11.8 Plan Review Reimbursement. The subdivider or Sanitary and Improvements District shall reimburse the Village such costs incurred by the Village for Plan Review, Plan Check, and Plan Approval as to conformance with approved Village Standards and Specifications, but such costs shall not exceed one (1) percent of the total contracted cost for improvements in the subdivision.

11.9 Failure to Complete Improvements. If any portion of the required improvements shall fail to be completed and accepted for dedication in compliance with Section 11.9 below within the required time period, either for reason of non-completion or for reason of substandard and unacceptable construction, the Village Board shall accept one (1) of the following sections:

1. Where improvements have Utica guaranteed under Section 11.1 of this Ordinance, the bond shall be forfeited to the Village.
2. Where improvements have Utica guaranteed under Section 11.2 of this Ordinance, the Village Board shall declare whatever security has Utica pledged as a guarantee to be forfeited. Where the Village Board is not already in possession of said security, it shall immediately take the actions necessary to obtain it. Upon receipt of the security, the Village Board shall use such to finance the completion of the improvements or rebuilding of substandard improvements. Unused portions of the surety shall be returned to the subdivider without interest.

11.10 Inspection and Certification. The Village Engineer or other authorized person shall regularly inspect construction of required improvements for defects. Upon completion of the improvements, the Village Engineer or other authorized person shall file with the Village Board a statement either certifying that the improvements have been completed in the specified manner or listing defects in those improvements which do not meet the requirements of the approved improvement plans and specifications.

Upon completion of the improvements, the subdivider shall file with the Village Board a statement stipulating the following:

1. That all required improvements are complete
2. That these improvements are in compliance with the minimum standards specified by the Planning Commission and Village Board.
3. That the subdivider knows of no defects from any cause in the improvements.
4. That these improvements are free and clear of any encumbrance or lien.

If the Village Engineer or other authorized person has certified that the improvements are complete and free from defect, the Village Board shall accept any dedication of improvements. The Village Board may, at its discretion, accept the dedication of any portion of the improvements provided that all statements and agreements specified above have Utica received for that portion of the improvements.

11.11 Reduction of Guarantees. In those cases where improvement guaranteed have Utica made under Section 11.1 or 11.2 of this Ordinance, the amount of the guarantee may be reduced upon acceptance in compliance with Section 11.9 of the dedication of a portion of the improvements.

11.12 Release of Guarantees. Upon acceptance, in accordance with Section 11.10 of this Ordinance, the Village Board shall authorize the release of the performance bond or the remaining portion of the escrow.

## **SECTION 12 DEDICATION OF PUBLIC LAND**

### **12.1 Dedication.**

1. At the time of final plat approval by the Village Board, the owners shall be required to dedicate to the public use all streets, alleys, easements, and buffer strips as required by the Village Board and these Regulations. Acceptance of dedicated land shall be recorded in the minutes of the Village Board.
2. Subdividers of "Commercial" type subdivisions may be required to dedicate land for off-street parking as determined necessary by the Village Board.

## **SECTION 13. ANNEXATION AND RECORDING OF PLAT**

13.1 Subdivision Annexation of Adjoining or Contiguous Properties. All subdivisions or additions laid out adjoining or contiguous to the corporate limits shall be included within the same and become a part of the municipality for all purposes whatsoever, upon approval of and acceptance by Resolution of the Village Board. (Ref §§ 19-916)

13.2 Subdivision Annexation: Petition for Annexation. Any subdivision in which there are lands dedicated to the Village or any subdivision serviced by public utilities shall be annexed to the Village. Before approval for the final plat is given, the Municipal Body shall receive a Petition for annexation from the owners of the subdivided properties.

13.3 Subdivision Annexation: Adoption Plan by Resolution. The Village Board desiring to annex land under the authority of this section shall first adopt both a resolution stating that the Village is considering the annexation of the land and a plan for extending Village services to the land. The resolution shall state:

1. The time, date and location of the public hearing required below;
2. A description of the boundaries of the land proposed for annexation; and
3. That the plan of the Village for extension of Village services to the land proposed for annexation is available for inspection during regular business hours in the office of the Village Clerk.

The plan adopted by the Village Board shall contain sufficient detail to provide a reasonable persons with a full and complete understanding of the intentions of the Village for extending Village services to the land proposed for annexation. The plan shall:

1. State the estimated cost impact of providing the services to such land.
2. State the method by which the Village plans to finance the extension of services to the land and how any services already provided to the land will be maintained.
3. Include a timetable for extending service to the land proposed for annexation, and
4. Include a map drawn to scale clearly delineating the land proposed for annexation, the current boundaries of the Village, the proposed boundaries of the Village after annexation and the general land-use pattern in the land proposed for annexation.

A public hearing on the proposed annexation shall be held within sixty days following the adoption of the resolution to allow the Village Board to receive testimony from interested persons. The Village Board may recess the hearing, for good cause, to a time and date specified at the hearing.

A copy of the resolution providing for the public hearing shall be published in the official newspaper or the Village at least once not less than ten days preceding the date of the public hearing. A map drawn to scale delineating the land proposed for annexation shall be published with the resolution. A copy of the resolution providing for the public hearing shall be sent by first-class mail, following its passage, to the school board of any school district in the land proposed for annexation.

## **SECTION 14. VARIANCES.**

14.1 Granting of Variances; Conditions. The Utica Village Board may grant variances from the provisions herein, but only after determining that:

1. There are unique circumstances or conditions affecting the property.
2. The variance is necessary for the reasonable and acceptable development of the property in question.
3. The granting of the variance will not be detrimental to the public welfare or injurious to the adjacent property.

14.2 Recording of Plat. In no case shall the requirement of filing and recording a plat for subdivision be waived.

14.3 Planned Development. The Village Board may also grant reasonable variances, if the subdivider concurrently submits an application for, and obtains approval of, a planned development. The subdivider shall indicate where the plans vary from the requirements of this Article and shall present sufficient evidence to support the request, indicating why the request will not be detrimental to the public health, safety and welfare.

**SECTION 15. WAIVER FOR SMALL SUBDIVISIONS.** The subdivider may make application for, and the Village Board may grant, a waiver of some or all of the requirements provided for herein for small residential, commercial and industrial subdivisions where the following conditions exist:

1. The subdivision contains no more than four (4) lots, which total area of said lots shall not exceed one half (1/2) acre each, and conform to existing zoning ordinances,
2. All lots of the proposed subdivisions shall be platted on existing streets,
3. Surfaces of all streets serving the subdivision meet, or exceed, street surface standards of the Village,
4. Public water, sanitary sewer, storm sewer system facilities are available to all lots in the subdivision,
5. The development of the subdivision will not increase erosion or flooding potential, and
6. The subdivider demonstrates to the Village Board that said development is in conformity with the potential development of abutting property. A subdivider requesting a waiver hereunder shall submit said request in writing to the Village Board prior to the submission of a preliminary plat. The request for a waiver shall include a list of all requirements for which a waiver is sought by reference to code numbers and descriptive headings.

**SECTION 16. PUBLIC SITES AND OPEN SPACES.**

16.1 Recreation Standards. The Utica Planning Commission may require that land be dedicated for parks and playgrounds or other recreation purposes. Such areas shall be shown and marked on both the preliminary and final plat, as "Dedicated for Park and/or Recreation Purpose." The developer shall dedicate all such recreation areas to the Village of Utica as a condition of final subdivision plat approval. The Commission may require that the recreation area be located at a suitable place on the edge of the subdivision so that additional land may be added at such time as the adjacent land is subdivided. In no case shall an area of less than one (1) acre be reserved for recreation purposes if it will be impractical or impossible to secure additional lands in order to increase its area.

16.2 Recreation Sites. Land reserved for recreation purposes shall be of a character and location suitable for use as a playground, playfield, or for other recreation purposes; and shall be improved by the developer to the standards required by the Planning Commission, which improvements shall be included in the performance bond.

A recreation site shall have a total frontage on one (1) or more streets of at least one hundred (100) feet, and no other dimension of the site shall be less than one hundred (100) feet unless it is for a designated linear park. The Planning Commission may refer any subdivision proposed to contain a dedicated park to the Utica Park Board for a recommendation. All land to be reserved for dedication to the Village of Utica for park purposes shall have prior approval of the Village Board and shall be shown marked on the plat "Dedicated for Park."

**SECTION 17. AMENDMENTS.** Any provision herein from time to time may be amended, supplemented, changed, modified or repealed by the Governing Body according to law; Provided, however, that such amendments, supplements, changes, modifications or repealed provisions shall not become effective until after study and report and recommendations of the Planning Commission.