

Chapter 11

ZONING REGULATIONS

Article 1. Zoning

§11-101 ZONING; PERMITTED; USES; DEFINITIONS.

1. Residential District. In a "Residential District" no building or premises shall be used and no building shall be hereafter erected or altered unless otherwise provided in this ordinance, except for the following uses:
 - a. One- and Two-Family Dwellings
 - b. Churches and Schools
 - c. Libraries, museums, parks, swimming pools, playgrounds, branch telephone exchanges, and community buildings owned and controlled by the Municipality or buildings for public service corporations or for public utility purposes which the Board of trustees declares reasonably necessary for the public convenience and welfare.
 - d. Nurseries and Greenhouses for the propagation, cultivation and sale of plants and cut flowers only.
 - e. Hospitals and Clinics.
 - f. Institutions of an educational, philanthropic or charitable nature.
 - g. Accessory buildings in compliance with the requirements of this Ordinance.
 - h. Uses customarily incident to any of the above uses including home occupation not involving the conduct of a business on the premises, and the office of a physician, chiropractor, osteopath, barber shop, beauty parlor, surgeon, dentist, musician or artist when situated in the dwelling on said lot, and provided no name plate shall exceed two square feet (2 sq. ft.) in area. No signs exceeding eight square feet (8 sq. ft.) in area appertaining to the lease, hire or sale of a building or premises, nor advertising sign or any other character shall be permitted.
2. Commercial Business District Use Provisions. In any commercial district no building or premises shall be used for other than one (1) or more of the following uses:
 - a. Any use permitted in the residential district.
 - b. Retail business and service establishments, including bakeries and shops for custom work or for making articles to be sold at retail on the premises.
 - c. Business and professional offices.
 - d. Restaurants, cafes, refreshment stands and other eating places.
 - e. Public garages, vehicle repair shops and filling stations; provided that none of the forgoing shall have any entrance or exit for motor vehicles within three hundred feet (300'), measured within street or alley lines, of any entrance or exit of a public or private school.
 - f. Theatres and assembly halls.
 - g. Dance halls, bowling alleys and other commercial recreation establishments.
 - h. Taverns, night clubs and bars; provided, however, that no such establishment shall have any entrance or exit within three hundred feet (300') of any public or private school.
 - i. Accessory buildings and accessory uses in compliance with the requirements of this Ordinance.

- j. Such other uses as, in the opinion of the Board of Trustees, are of the same general character as those listed in this section and will not be detrimental to the district in which located.

3. Industrial District Use Provisions.

- a. Any use permitted in the commercial district.
- b. Foundry, boiler works.
- c. Grain drying or poultry feed manufacture; feed mill; flour mill.
- d. Light or power plant central station.
- e. Brick or tile manufacture.
- f. Warehouse or bulk storage, except bulk storage of gas or liquid fertilizer and gas petroleum product such as propane and butane shall not be permitted without the issuance of a special permit by the Board of Trustees.
- g. Junk yard, wrecking or dismantling establishments; provided, however, that the same shall be conducted entirely within a completely enclosed building or behind a masonry wall or painted wood wall of approved design not less than seven feet (7') in height. Such uses shall not be permitted without prior issuance of a special use permit by the Board of Trustees.
- h. Any manufacturing or industrial operations of any kind not otherwise prohibited by law; provided that any process which emits dust, odor, gas, fumes, noise or vibration exceeding in amount or offensive character that of any use listed above, shall be subject to special use permit to be granted by the Board of Trustees.
- i. Accessory buildings and accessory uses in compliance with the requirements of this Ordinance.

4. Accessory Building/Accessory Use. For purposes of Section 11-101, the terms "accessory building" or "accessory use" shall mean a subordinate structure or use incidental to and commonly associated with the main permitted use of the property, located on the same lot with the permitted main use. Customary accessory uses in a Residential District include, but are not limited to, tennis courts, swimming pools, detached garages, garden houses, antenna/satellite dishes, and residential 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. Accessory buildings and accessory uses within any District shall further be subject to the following:

- a. Subject to the restrictions set forth herein, 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 so as not to produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat, or glare which is injurious, damaging, unhealthful or disturbing to adjacent property of the main use.
- b. An accessory building shall not be constructed of or be part of any of the following:
 - (1) Mobile Homes;
 - (2) Grain Bins;
 - (3) Pickup Toppers;
 - (4) Campers;
 - (5) Railcars;
 - (6) Semi-trailers;
 - (7) Cargo Containers;

- (8) Sea Containers;
 - (9) Shipping Containers; or
 - (10) Any other sealed mobile storage containers.
- c. An accessory building shall not be part of or consist of a vehicle, trailer, or portions thereof, originally designed or designated for travel or use upon a public roadway.
 - d. An accessory building shall not consist of any recycled or salvaged materials unless the structure meets all applicable building codes. The exterior siding of any accessory building shall consist of new materials, with the exception that logs, bricks, cement blocks, non-rusted steel metal or recomposed plastics are exempt from the need of new material exterior siding.
 - e. No more than two (2) accessory buildings shall be constructed in conjunction with a residential use. If the lot size is 7,500 square feet or less: (1) no accessory buildings shall exceed 720 square feet, and (2) if there are two accessory buildings, the smaller accessory building shall not exceed 120 square feet, and the combined square footage of the two accessory buildings shall not exceed 840 square feet. If the lot size is more than 7,500 square feet but not more than 15,000 square feet: (1) no accessory building shall exceed 960 square feet, and (2) if there are two accessory buildings, the smaller accessory building shall not exceed 120 square feet, and the combined square footage of the two accessory buildings shall not exceed 1,080 square feet. If the lot size is more than 15,000 square feet: (1) no accessory building shall exceed 1,200 square feet, and (2) if there are two accessory buildings, the smaller accessory building shall not exceed 120 square feet, and the combined square footage of the two accessory buildings shall not exceed 1,320 square feet.
 - f. Accessory buildings shall not exceed a height of 15 feet at the midline of the roof, and the side walls shall not exceed 9 feet in height.
 - g. Accessory buildings shall have either footings at least 36 inches in depth or shall be constructed as a pole buildings with each of the four corners set in concrete.
 - h. Any accessory building and use shall be operated and maintained under the same ownership and control and on the same lot as the primary use of the lot.
 - i. No accessory building shall be built or moved onto a lot prior to commencing construction of the primary permitted building.
 - j. No accessory building or use shall be erected in any required front yard or side yard.
 - k. Accessory buildings may be located in the rear yard, but shall be a minimum of three (3) feet from the rear lot line and minimum of three (3) feet from the side lot line.
 - l. No accessory building shall be erected closer than three (3) feet from any other building. *(Amended by Ord. Nos. 11-101A, 12/12/17; 11-101A, 2/13/18)*

§11-102 ZONING; BOUNDARIES. The boundaries of the corporate limits established by this ordinance re shown upon the map designated as the “Zoning Map” and such map and all notations, references and other things shown thereon, shall be as much a part of this ordinance as if the matters and things set forth by such map were all fully described herein. Such map shall be kept on file in the office of the Village Clerk and a copy of said map is set out in this volume.

§11-103 ZONING; GENERAL USE PROVISIONS. No premises shall be used and no building shall be used, constructed, reconstructed, extended or structurally altered or moved into any district except in conformity with the provisions of this ordinance which apply to the district in which said premises or building is located. Structural alterations are hereby defined as any change in the supporting member of a building, such as bearing walls, columns, beams or girders. Except where otherwise provided in this Code, no building of whatever description, shall be moved either into or out of or within any district except on issuance of a special permit therefor. Any building so moved shall conform to the surrounding buildings both as to typw, structure and condition.

§11-104 ZONING; EXISTING USES, ALTERATIONS. The lawful use of any premises or building existing at the time of the adoption of this ordinance, though not in conformity with the provisions hereof, may be continued; but if such non-conforming use is abandoned for any period of six (6) consecutive months, any future use shall be in conformity with the provisions of said ordinance. A non-conforming use shall not be physically extended except to any portion of the same premises or building which portion was arranged or designed for such non-conformance at the time of passage of this ordinance. A building devoted to non-conforming uses may not be reconstructed or structurally altered to any extent exceeding fifty percent (50%) of the value of the building, providing such reconstructing or structurally altering shall not increase the square footage of the premises, nor may such building be moved to another site, unless the use of said building is changed to a conforming use. A non-conforming use shall not be changed except to a more restrictive use. Any building or premises changed from a non-conforming use to a conforming use may not thereafter be changed back to any non-conforming use.

§11-105 ZONING; CHANGE IN DISTRICT. Whenever a Use District shall be hereafter changed, any then existing non-conforming use in such changed district may be continued or changed to a use permitted in that district, provided all other regulations governing the new use are complied with.

§11-106 ZONING; NON-CONFORMING USE CHANGE. Whenever a non-conforming use of a building has been changed to a more restricted use or to a conforming use, such shall not hereafter be changed to a less restricted use.

§11-107 ZONING; TEMPORARY BUILDINGS AND STRUCTURES. Temporary buildings and other temporary structures existing at the time of passage of this ordinance shall not be considered as legal non-conforming uses, but shall be subject to all provisions of said ordinance. On written order from the Board of Adjustment, the owner or owners of any such building or structure shall make, within a period of sixty (60) days, such changes as to use and location as may be required to bring the same into compliance with this ordinance. For the purpose of this ordinance, a temporary building shall be considered as any portable or demountable building, or any building not securely anchored or bonded to a substantial foundation extending at least three feet (3') below grade; and temporary structures shall be considered to include, but without limitation, all outdoor advertising, signboards and billboards.

§11-108 ZONING; BOARD OF ADJUSTMENT CREATED. The Board of Trustees is hereby designated as the Zoning Board of Adjustment and as such Board of Adjustment shall meet at least once each month

and at such other times as it may determine. The Village Clerk shall be Clerk of the Board of Adjustment, and shall issue permits upon application from builders showing character of building and location, and special use permits when ordered by the Board of Adjustment.

§11-109 ZONING; SPECIAL USE PERMITS. Special use permits may be issued by order of the Board of Adjustment for any of the following reasons:

1. Public utility or public service uses or public buildings in any district found to be necessary for the public health, safety, convenience or welfare.
2. A temporary use or structure for a specified period of time and subject to specified conditions including cessation of such use and removal of such structure whenever, in the opinion of the Board of Adjustment, the condition of development or occupancy of other premises in the district, in conformance with the provision of this resolution, render such cessation or removal desirable.
3. The extension of a district where the boundary line thereof divides a lot in one ownership at the time of adoption of this resolution. Such extension shall not exceed a maximum distance of twenty feet (20') into any Residential District or forty feet (40') into the Commercial District. Written application for a special use permit shall accompany an application for a building permit where such building permit is required.

§11-110 ZONING; VARIANCES. The Board of Adjustment shall have power to vary or modify the strict application of any provisions of this resolution in cases where there are practical difficulties or unnecessary hardships in the way of such strict application, and in no other case. The Board shall not grant a variance unless it finds that:

1. There are special circumstances or conditions applying to the land, buildings or use referred to in the application.
2. The granting of the application will not materially affect adversely the health or safety for persons residing or working in the neighborhood of the proposed use, and will not be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood. In granting any variance under the provisions of this section, the Board of Adjustment shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of the regulations or provision in the application of which the variance is granted, as to light, air, character of the neighborhood, and generally, the public health, safety, comfort, convenience and general welfare.

§11-111 ZONING; APPEALS. Appeals from any decision of the Board of Adjustment may be made by an aggrieved person or persons in the manner provided by law.

§11-112 ZONING OF ADDITIONS TO VILLAGE. Whenever any territory is added to the Village, such added territory shall be deemed to be within the district which it adjoins prior to such inclusion, unless it adjoins two (2) or more such districts, in which case the Board of Trustees shall, in any ordinance providing for an addition to the Village, designate the district or districts which it is to be included, and such addition shall be governed by the provisions of this Chapter governing the district to which it is attached.

§11-113 ZONING; NOXIOUS, OFFENSIVE USES PROHIBITED. No building or premises in any part or purpose that is noxious or offensive by reason of the emission of odor, dust, smoke, gas, fumes or noise, or that is detrimental to the public health, safety or welfare.

§11-114 ZONING; BOUNDARIES OF DISTRICTS. Where uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of this ordinance, the following rules shall apply:

1. The district boundaries are either streets or alleys, unless otherwise shown, and where the designation on the maps accompanying and made a part of this ordinance indicating the various districts are approximately bounded by street or alley line, said street or alley shall be construed to be the boundary of such district. Where no alley exists and lots have irregular depth or face other streets, it is assumed that the district extends for a depth of one hundred and thirty-two feet (132') from the street line.

2. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be lot lines, and where the designations on the map accompanying and made a part of this ordinance indicating the various districts and approximately bounded by lot lines, said lot line shall be construed to be the boundary of such district, unless said boundaries are otherwise indicated on the map.

3. In unsubdivided property, the district boundary lines on the map accompanying and made a part of this ordinance shall be determined by use of the scale contained on such maps, and where uncertainty exists, the district boundary line shall be determined by the Board of Trustees.

§11-115 ZONING; AMENDMENTS, CHANGES AND PROTEST. The Board of Trustees may from time to time, amend, supplement or change the regulations, restrictions and boundaries as set forth in this ordinance, provided that no such change shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be given by publication thereof in a paper of general circulation in Bertrand, Nebraska, at least one (1) time ten (10) days prior to such hearing.

In case, however, a protest against such change, signed by the owners of twenty percent (20%) or more of either of the area of the lots included in such proposed change, or of those immediately adjacent to the rear thereof, extending one hundred feet (100') therefrom or of those directly opposite thereto extending one hundred feet (100') from the street frontage of such opposite lots, such amendment shall not become effective except by a favorable vote of three-fourths (3/4) of all the members of the Board of Trustees.

Whenever the owners of fifty percent (50%) or more of the area of the lots in any district, or part thereof, desire any amendment, supplement or change in any of the provisions of this ordinance applicable to such area, or to have the classification of that particular area changed to another existing classification, they may file a petition with the Village Clerk requesting the Board of Trustees to make such amendment, supplement, or change. Such petition shall be accompanied by a map or drawing showing the area affected by the proposed change, together with the names and addresses of all owners of record title of lots therein. Within ninety (90) days from the time of filing such petition, the

Board shall vote thereon and if a three-fourths (3/4) majority are favorable to the request, shall proceed to initiate such change, hold the hearings required and entertain protests as outline herein.

§11- VIOLATIONS; PENALTY.

(1) Any person, or any person's agent or servant, who violates any of the provisions of this Article, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding five hundred dollars (\$500.00). A new violation shall be deemed to have been committed every twenty-four (24) hours of failure to comply with the provisions of this Article.

(2)(a) Whenever a nuisance exists as defined in this Article, the Municipality may proceed by a suit in equity to enjoin, abate, and remove the same in the manner provided by law.

(b) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. *(Ref. 17-207, 17-505, 18-1720, 18-1722 RS Neb.)(Amended by Ord. No. 469, 7/11/00)*