

ZONING ORDINANCE

PRAGUE, NEBRASKA

ORDINANCE No. 363

ADOPTED BY PRAGUE, NEBRASKA
SEPTEMBER 12, 2019

Prepared By



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ARTICLE 1: GENERAL PROVISIONS; NONCONFORMING

SECTION 1.01: PURPOSE

The regulations for the zoning districts as set forth in this Ordinance are made in accordance with a Comprehensive Plan for the purpose of setting minimum standards to promote the public health, safety, morals, convenience, order, prosperity, and general welfare of the community. They are designed to lessen congestion in the streets; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. They are made with responsible consideration, among other things, as to the character of each district and its peculiar suitability for particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the Municipality. (Ref. 19-901 RS Neb.)

SECTION 1.02: JURISDICTION

The provisions of this Ordinance shall apply within the corporate limits of the Municipality and within the territory beyond said corporate limits as now or hereafter fixed, for a distance of one (1) mile in all directions, as established on the map entitled "The Official Zoning Map of the Village of Prague, Nebraska," as the same may be amended by subsequent annexation. Said map and amendments thereto and all explanatory matter thereof accompany and are hereby made a part of this Ordinance. Said map shall be on file in the office of the Village Clerk. (Ref. 17-1001 RS Neb.)

SECTION 1.03: INTERPRETATION

In interpreting and applying these regulations, they shall be held to be minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare.

SECTION 1.04: CONFLICT

Whenever there is a discrepancy between minimum standards or dimensions noted herein and those contained in the Subdivision Regulations, Building Regulations, or other official regulations or ordinances, the most restrictive shall apply. (Ref. 19-914 RS Neb.)

SECTION 1.05: REGULATIONS APPLICATION; USE

- 1.05.1 No building or land shall hereafter be used or occupied and no building or structure or part thereof shall be erected, moved, or structurally altered except in conformity with the regulations of this Ordinance, or amendments thereto, for the district in which it is located.
- 1.05.2 No part of a yard or other open space required in connection with any building or structure for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space similarly required for another building or structure.
- 1.05.3 No building or use of land for other than agricultural purposes shall be established on a lot that does not abut a public street. (Ref. 19-902, 19-904.01 RS Neb.)

SECTION 1.06: NONCONFORMING LOTS OF RECORD

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

SECTION 1.07: NONCONFORMING STRUCTURES

- 1.07.1 Authority to continue Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.
- 1.07.2 Enlargement, Repair, Alterations Any such structure described in Section 1.07.1 may be enlarged, maintained, repaired or remodeled, 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, except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be in conformance with this section, and unless otherwise permitted by special permit as specified in the R-1 District.
- 1.07.3 Damage or Destruction In the event that any structure described in Section 1.07.1 is damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of its structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided that structures located on a lot that does not comply with the applicable lot size requirements in Section 1.06, whichever is applicable. When a structure is damaged to the extent of fifty percent (50%) or less, no repairs or restoration shall be made unless a zoning permit is obtained and restoration is actually begun within six months after the date of such partial destruction and is diligently pursued to completion.
- 1.07.4 Moving No 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.

SECTION 1.08: NONCONFORMING USES

- 1.08.1 Nonconforming Uses of Land Where at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:
- A. No such nonforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment or this ordinance;
 - B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance;
 - C. If any such nonconforming use of land ceases for any reason for a period of more than twelve (12) months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located;
 - D. Maintaining livestock shall be prohibited except in the Transitional Agriculture District. Where such animals exist as lawfully non-conforming, they may continue provided that there is no increase in number and discontinuance of more than twelve (12) months shall constitute abandonment of such use and such use shall not thereafter be re-established.
- 1.08.2 Nonconforming Uses of Structures If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:
- A. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or

structurally altered except in changing the use of the structure to use permitted in the district in which it is located;

- B. Any nonconforming use may be extended throughout many parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance but no such use shall be extended to occupy any land outside such building;
- C. If no structural alterations are made, any nonconforming use of a structure or structure and premises may be changed to another nonconforming use provided that the Board of Adjustment either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguard in accord with the provisions of this ordinance;
- D. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed;
- E. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for twelve (12) months or more, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located;
- F. Where nonconforming use status applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

SECTION 1.09: REPAIRS AND MAINTENANCE

- 1.09.1 On any building devoted in whole or in part to any nonconforming use, work may be done in any period of six (6) consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing provided that the cubic content of the building as it existed at the time of passage of amendment of this ordinance shall not be increased.
- 1.09.2 Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

SECTION 1.10: CONDITIONAL USE PERMIT USES NOT NONCONFORMING USES

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

ARTICLE 2: TERMS

SECTION 2.01: INTERPRETATION

For the purpose of interpreting this Ordinance, certain terms are herein defined. Except as defined herein, all other words used in this Ordinance shall have their customary dictionary meanings.

Words used in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular. The word "shall" is always mandatory. The word "lot" includes the word "plot" or "parcel." The word "building" includes the word "structure." The word "used" or "occupied," as applied to any land or buildings, shall be construed to include the words "intended, arranged, or designed to be used or occupied." The word "Map," or "Zoning Map," "Prague Zoning Map," or "Official Zoning District Map of Prague," shall mean the "Official Zoning Map of the Village of Prague, Nebraska," and the area comprising its one (1) mile extraterritorial zoning jurisdiction.

SECTION 2.02: DEFINITIONS

The following definitions shall be applied throughout this Ordinance. Where no definition is specified, the normal dictionary usage of the word shall apply.

Abut. Any situation where a lot borders directly on another lot or is separated from another lot by a public right-of-way which is twenty (20) feet or less in width.

Accessory Use or Structure. A use or structure on the same lot with and of a nature customarily incidental and subordinate to, the principal use or structure. Such structures shall include garages, satellite dishes, and other appurtenant structures. A single or double-wide mobile home shall not be construed to be considered an accessory building even if such mobile home is used for storage purposes only.

Agriculture. The planting, cultivating, harvesting, and storage of grains, hay or plants, commonly grown in the vicinity. The raising and feeding of livestock and poultry shall be considered an agricultural venture if the area in which the livestock or poultry is kept is ten (10) acres or more in the area and if such raising of livestock and poultry is incidental or supplemental to the raising of crops. Agriculture shall not include the confined raising, breeding, feeding or management of livestock, fish or fowl as defined by ALivestock Feeding Operation@ in this Ordinance.

Alley. A public thoroughfare less than twenty-five (25) feet in width which affords only a secondary means of access to property abutting thereon.

Alteration, Structural. Any change in the supporting members of a building such as bearing walls, columns, beams or girders.

Animal Hospital or Veterinary Clinic. An establishment where animals are admitted principally for examination, treatment, and/or care by a Doctor of Veterinary Medicine, excluding outdoor kennels or runs.

Animal Units. See Livestock Feeding Operation.

Apartment. A part of a building consisting of a room or rooms intended, designed, or used as a residence for three (3) or more families or households; also known as multi-family residence.

Automobile; Junk, Inoperable or Unlicensed. A vehicle or vehicle parts not kept in a building or fully screened enclosed area which due to condition, mechanical defect, or state of repair, is unable to move under its own power or does not have a current Nebraska license.

Automobile Storage Yard. An enclosed or fenced in area that is visually screened from adjacent properties used for storing junk, inoperable or unlicensed automobiles. Storage yards shall not be operated for salvage or resale of parts. See also Salvage Yard.

Apartment House. A building arranged, intended, or designed to be occupied by three (3) or more families living independently of each other.

Basement. A story having all or part of its height below grade. A basement is counted as a story for height regulations if subdivided and used for dwelling purposes.

Bed and Breakfast Use. A building, other than a hotel, motel or boarding or lodging house, where for compensation, temporary lodging and breakfast is provided to persons lodging in rooms at the premises where such rooms are not equipped with individual cooking facilities.

Block. A piece or parcel of land entirely surrounded by public highways, streets, streams, railroad rights-of-way, parks, or a combination thereof. There may be more than one numbered block as shown on a plat, falling within a single block as herein defined.

Block Front. All of the property on one (1) side of a street between two (2) intersecting streets.

Boarding House. A residential establishment other than a hotel or motel where at least two (2) and not more than six (6) sleeping accommodations are offered to the public with meals. This includes bed and breakfast facilities.

Buildable Area. The portion of a lot remaining after required yards have been provided.

Building. A structure that is completely enclosed by a roof and by solid exterior walls along the outside faces of which an unbroken line can be traced for the complete circumference of the structure, which is permanently affixed to a lot or lots, and used or intended for the shelter, support, or enclosure of persons, animals, or property of any kind. The connection of two buildings by means of an open porch, breezeway, passageway, carport, or other such open structures, with or without a roof, shall not be deemed to make them one (1) building.

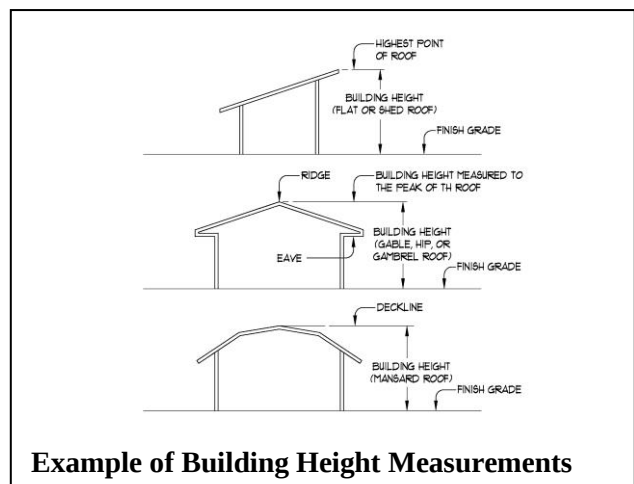
Building Height. The vertical distance from the established average sidewalk grade, street grade, or finished grade at the building line, whichever is the highest, to the highest point of the building.

Bulk Storage. The storage of materials for distribution to other locations and not used for use or consumption of such materials on the premises.

Campground. A premises where two (2) or more camping units are parked or placed for camping purposes, or premises used or set apart for supply to the general public, camping space for two (2) or more camping units for camping purposes, including any buildings, structures, vehicles or enclosure used or intended wholly or partially for the accommodation of transient campers.

Camping Unit. A vehicle, tent, trailer, or other movable shelter used for camping purposes.

Carport. An awning or roofed structure intended to provide shelter for a vehicle or vehicles which may be free standing or partially supported by a building.



Certificate of Zoning Compliance. A permit, issued by the Zoning Administrator, stating that the premises has been inspected after the erection, construction, reconstruction, alteration or moving or a building or structure, or after a change in use of the premises and that such building, structure, and use complies with the applicable provisions of this Ordinance.

Child Care Center. A facility used for the care of children from different families which is or should be licensed by the Nebraska Department of Social Services as a day care center or home.

Clinic, Medical, Dental or Health. A building designed for use by one or more persons lawfully engaged in the diagnoses, care and treatment of physical or mental ailments or diseases of human beings, including but not limited to doctors of medicine, dentists, chiropractors, osteopaths, optometrists, podiatrists, where no patients are lodged overnight.

Club. An establishment operated for social, fraternal, recreational or educational purposes which is open only to club members and not the general public.

Commission. The Prague, Nebraska Planning Commission.

Compatible Use. A use of land suitable for direct association with abutting and/or surrounding uses of land because of consistency with the intent of the applicable zoning district, because the use exhibits similar or comparable characteristics as abutting and/or surrounding uses, and because a mutually harmonious relationship with respect to protecting the use, value and enjoyment of property will result.

Comprehensive Plan. A plan or series of plans for the future development of the Village of Prague, Nebraska, prepared under the auspices of the Planning Commission, recommended to the Village Board of Trustees and duly adopted by resolution of the Village Board of Trustees of Prague, Nebraska.

Conditional Use. A use of land that would not be appropriate generally or without restriction throughout a zoning district, but which, if controlled as to number, size, height, intensity, location or relationship to the surrounding property would promote the public health, safety, morals, convenience and general welfare.

Conditional Use Permit. A written permit, issued by the Zoning Administrator after action by the Village Board, which provides permission under specific conditions to develop certain uses of land in certain zoning districts as set forth as conditional uses in each zoning district contained in this Ordinance.

Convenience Store. A retail store specializing in the sale of gasoline and the sale of articles such as food products, over-the-counter drugs, tobacco products, magazines, candy, beverages and similar convenience items which are purchased frequently for consumption and use. A retail store not selling both gasoline and convenience goods shall not be considered a convenience store.

Court. An outdoor, unoccupied space open to the sky, enclosed on all sides by the exterior walls of a building or buildings.

Cul-de-sac Street. A street having one end open to traffic and being terminated on the opposite end by a vehicular turnaround.

Dead Storage. The storage of any partially dismantled, not-operating, wrecked, junked or discarded vehicle on a lot or parcel, not having conditional use authorization as a salvage yard or outdoor storage of antique vehicles or farm equipment where such antique vehicles or equipment is at least twenty five (25) years old, for longer than thirty (30) days or for any length of time any vehicle is stored that has been unlicensed for a period in excess of thirty (30) days, provided that storage of such vehicles in entirely enclosed buildings shall be permitted without restriction.

Developed Area. An improved block front or a distance of one hundred fifty (150) feet on either side of the subject use, whichever is less, whereon at least fifty (50) percent of the lots are developed with buildings.

District (Zoning). A section or sections of this Ordinance which sets forth uniform regulations regarding use of land, minimum lots widths, frontages and areas, minimum yards, maximum building heights and similar regulations.

Duplex. See Dwelling, Two-Family.

Drive-in Restaurant. Any place or premises used for sale, dispensing, or serving food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

Dwelling. A building or portion thereof which is designed and used for residential living.

Dwelling, Attached. A dwelling which is joined to another dwelling unit at one or more sides by a party wall or walls. Generally, such units are intended for individual ownership.

Dwelling, Detached. A dwelling which is entirely surrounded by open space on the same lot.

Dwelling, Multi-Family. A building, other than a hotel, motel, boarding or lodging house or bed and breakfast facility, used by or designed for two or more unrelated persons or families living independently of each other in separate dwelling units.

Dwelling, Single Family. A building having accommodations for or occupied exclusively by one family, excluding mobile homes but including manufactured homes which meet all of the following standards:

- 1) The home shall have no less than nine hundred (900) square feet of floor area;
- 2) The home shall have no less than an eighteen (18) foot exterior width;
- 3) The roof shall be pitched with a minimum vertical rise of two and one-half (2 2) inches for each twelve (12) inches of horizontal run;
- 4) The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single-family construction;
- 5) The home shall have a non-reflective roof material which is or simulates asphalt or wood shingles, tile, or rock, or an approved ribbed metal material;
- 6) The home shall be placed on a permanent continuous foundation and have wheels, axles, transporting lights, and removable towing apparatus removed, and;
- 7) The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.

Dwelling, Two-Family. A building, other than a manufactured home or mobile home, having independent accommodations for and intended to be occupied exclusively by two (2) families and also known as a duplex.

Dwelling Unit. A dwelling that consists of one or more rooms which are arranged, designed or used as 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 for the use of a defined tract of land for a specific purpose or purposes by a property owner to the public, another person, corporation, or legal entity.

Family. Any number of individuals related by blood, marriage or adoption, occupying a dwelling unit; or group of unrelated persons occupying a dwelling unit; however, the number of unrelated individuals shall

be determined on the basis of two hundred (200) square feet of living area per individual. A family shall under no circumstances be construed as a boarding or rooming house, fraternity or sorority house, club, lodging house, hotel, motel, or commune.

Farm. An area which is used for growing of the usual farm products such as vegetables, fruit, and grain, and the storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of such area for one (1) or more of the above uses with the necessary accessory uses for treating or storing the produce: Provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activities and such accessory uses do not include a LFO or the feeding of garbage or offal to swine or other animals.

Fence. An enclosure or barrier, such as wooden posts, wire, iron, etc., used as a boundary, means of protection, privacy screening or confinement, but not including vehicles, machinery, equipment, buildings or hedges, shrubs, trees, or other natural growth. A fence shall include retaining walls over four feet in height.

Fence, Agricultural. An artificially erected barrier, other than a building, vehicles or machinery, constructed of manmade material, or combination of manmade materials, erected to enclose an area of land used for agricultural purposes. An agricultural fence may be constructed of barbed or meshed wire.

Fence, Open. A fence, including gates, which has 50 percent or more of the surface area in open spaces which affords direct views through the fence.

Fence, Seasonal. A temporary fence constructed of plastic or wood lathe erected and maintained from October through April to prevent snow drifting.

Fence, Solid. Any fence which does not qualify as an open fence.

Fence, Temporary. A fence that is erected for construction purposes or for event security and is removed upon completion of the project or end of the event.

Filling Station. Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail, and where in addition the following services may be rendered and sales made, and no other:

- 1) Sale and servicing of spark plugs, batteries, and distributors and distributor parts;
- 2) Tire servicing and repair, but not recapping or regrooving;
- 3) Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors and the like.

Flood Hazard Area. Any land which is subject to a one (1) percent or greater chance of flooding in any given year.

Floor. A level or story in a building.

Floor Area. The sum of the gross horizontal areas of the one or more floors in a building.

Floor Area Ratio. The total floor area of a building divided by the lot area on which the subject building or buildings is/are located.

Frontage. All the property on one side of a street between two intersecting streets (crossing or terminating) measured along the line of the street, or if the street is dead ended, then all property abutting on one side between an intersecting street and the dead end of the street.

Garage, Private. An accessory building or portion of a main building used for the storage only of motor vehicles owned and used for the occupants of the building to which it is accessory.

Garage, Public. A building or portion thereof, designed or used for the storage, sale, hiring, care or repair of motor vehicles.

Garage, Self Storage. A building or portion thereof designed for individual storage use on a rental basis for varying lengths of time.

Grade.

- 1) For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street.
- 2) For buildings having walls adjoining more than one street, the average of the elevations of the sidewalk at the center of all walls adjoining the streets.
- 3) For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.
- 4) Any wall approximately parallel to and not more than five (5) feet from a street line is to be considered as adjoining the street.

Group Home. A facility, licensed by the State of Nebraska, in which at least four (4), but not more than eight (8) persons not including resident managers or house parents, who are unrelated by blood, marriage, or adoption reside while receiving therapy, training or counseling for purposes of adaptation to living.

Group Housing Project. A dwelling project consisting of three (3) or more buildings, to be constructed on a plot of ground which is not subdivided into customary streets or lots, or where the existing or contemplated street or streets or lot layouts make it impractical to apply the requirements of these regulations to the individual building units in such housing projects.

Gun Club -A facility indoor or outdoor for the firing of handguns, rifles, or other firearms.

Health Officer. Any member of the Village Board of Health or State Board of Health.

Home Based Business. (See Home Occupation)

Home Occupation. A home craft, occupation or profession which:

- 1) Is wholly carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit;
- 2) Is carried on by a member or members of the family residing in the dwelling unit;
- 3) Is clearly incidental and secondary to the use of the dwelling unit for residential purposes;
- 4) Does not employ any more than two (2) persons outside of the immediate family;
- 5) Produces no offensive noise, vibration, glare, fumes, smoke, dust, odors, heat or electrical interference.
- 6) Has no retail sale of goods except those produced on the premise.
- 7) Meets other requirements listed in the Supplemental Regulations of this Ordinance.

Hotel. A building used as an abiding place of more than twenty (20) persons who are for compensation lodged with or without meals.

Incompatible Use. A use of land unsuitable for direct association with abutting and/or surrounding uses of land because of inconsistency with the intent of the applicable zoning district, because the use exhibits characteristics which would negatively impact abutting and/or surrounding uses with respect to the use, value and enjoyment of such abutting and/or surrounding property.

Institution. A building occupied by a non-profit corporation or a non-profit establishment for public use.

Junk Yard. A lot or parcel of land used for storage, keeping, or abandonment of junk, (including scrap metal or vehicles or machinery or parts thereof), and necessary salvage operations related to the sale of parts or components. See also Salvage Yard.

Kennel. Shall mean any facility, lot or premises on which four (4) or more dogs or four (4) or more cats or other similar animals maintained as pets of more than six (6) months of age are kept for the purpose of breeding, boarding, caring, raising or training.

Landscape Buffer. A maintained land area in the front yard of a lot, of which a minimum of eighty (80) percent shall be covered by any combination of living landscape material including trees, shrubs, grass or other living ground cover, provided that a minimum of fifty (50) percent of this eighty (80) percent area shall be covered by living trees or shrubs and the remaining twenty (20) percent of the total area shall be covered with landscape material, living or non-living.

Landscape Screen. Any fence, wall, hedge, shrubs or trees and other landscape customary materials or combination thereof which effectively provide a solid, dense and opaque mass which prohibits view from abutting property, absorbs sound and provides site delineation at all times throughout the year. Use of metal sheets, vehicle bodies or vehicular trailers for screening shall not be considered customary materials.

Livestock. Any domestic or non-domestic animal other than dogs and cats or domestic animals maintained as pets in the interior of a residential dwelling.

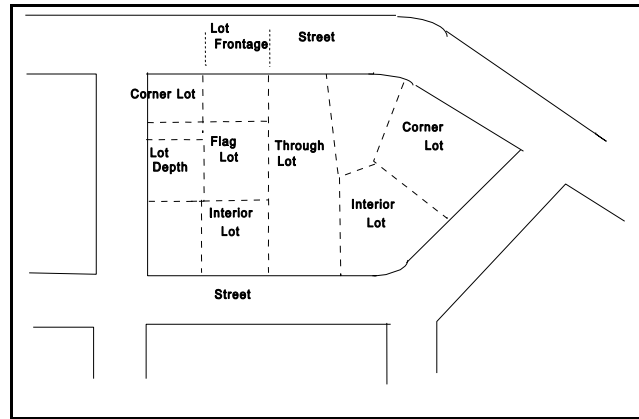
Livestock Feeding Operation. An agricultural industry in which the feeding, farrowing or raising of cattle, swine, sheep, poultry, or other livestock, in a confined area (buildings, lots, or pens) which is not used for the growing of crops or vegetation but does not include the holding of cattle in calving operations for less than ninety (90) days per year, and where the number of animals so maintained exceeds ten (10) animals units or more as defined below. The confined area of a livestock feeding operation shall include the pens, corrals, sheds, buildings, feed storage areas, waste disposal ponds and related facilities. Such facilities shall be constructed and operated in conformance with applicable County, State and Federal regulations. Two or more LFOs under common ownership are deemed to be a single LFO if they are adjacent (within 1,320 feet) to each other or if they utilize a common area or system for the disposal of livestock wastes. Animal units (AU) are defined as follows:

One (1) A.U.	=	One (1) Slaughter, Feeder Cattle;
One (1) A.U.	=	One Half (.5) Horses;
One (1) A.U.	=	Seven Tenths (.7) Mature Dairy Cattle;
One (1) A.U.	=	Two and One Half (2.5) Swine (55 pounds or more);
One (1) A.U.	=	Twenty Five (25) Weaned Pigs (less than 55 pounds);
One (1) A.U.	=	Two (2.0) Sows with litters;
One (1) A.U.	=	Ten (10) Sheep;
One (1) A.U.	=	One hundred (100) Chickens;
One (1) A.U.	=	Fifty (50) Turkeys;
One (1) A.U.	=	Five (5) Ducks.
One (1) A.U.	=	Two (2) Exotic Animals (Emus, Ostriches, similar animals)

Loading Space, Off-Street. Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

Lodging House or Rooming House. A building or place where lodging is provided (or which is equipped to provide lodging regularly) by prearrangement for definite periods, for compensation, for three (3) or more persons in contradistinction to hotels open to transients.

Lot. A piece, parcel or plot of land under single ownership or control, not divided by any public street or public alley, having frontage on a public street or officially approved private street, which is occupied or intended to be occupied by one principal building and its accessory buildings or structures. A lot may consist of a single lot of record, a portion of a lot of record, a combination of complete lots of record, of complete lots of record and portions of lots of record, or portions of lots of record, or a parcel described by metes and bounds.



Lot Area. The horizontal area of a lot exclusive of any portion of a street or alley right-of-way.

Lot, Corner. A lot situated at the intersection of two (2) or more streets, the interior angle of such intersection not exceeding 135 degrees. Both side abutting the street shall be considered a Front Yard for setbacks and the other two sides shall be side yards.

Lot Coverage. The total area of the lot, usually expressed as a percentage of the lot area, that is covered, occupied or enclosed by principal and accessory buildings, structures, porches, patios, decks, swimming pools, parking areas, loading areas, driveways or other constructed feature.

Lot, Depth. The average horizontal distance between front and rear lot lines.

Lot, Double Frontage. A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

Lot, Interior. A lot other than a corner lot with only one (1) frontage on a street.

Lot of Record. A lot which is a part of a plot, a map of which has been recorded in the office of the County Register of Deeds at the date of enactment of this Ordinance.

Lot, Through. A lot, other than a corner lot with frontage on more than one (1) street.

Lot, Width. The horizontal distance between side lot lines measured at the building line and at right angles to its depth.

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 in compliance with the National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et. Seq. promulgated by the United States Department of Housing and Urban Development, or a modular housing unit. See also Modular Housing Unit.

Mobile Home. Any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially a complete condition and mounted on wheels, skids or roller, jacks, blocks, horses, skirting or a permanent or temporary foundation or any prefabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term mobile home shall include trailer home and camp car, but the definition shall not apply to any vehicle lawfully operated upon fixed rails, and which is identified by a model number and serial number by its manufacturer, but which does not comply with definition of Manufactured Home or Modular Housing.

Mobile Home Park / Court. Any parcel or contiguous parcels of land designated, maintained, used or intended to be used for the placement of two (2) or more mobile homes where such homes are connected to public and/or semi-public utilities and used for living or sleeping purposes, whether or not a charge is made for location of such homes on such parcel or contiguous parcels of land.

Mobile Home Subdivision. An area of land which has been subdivided for the sale of two (2) or more lots for the purpose of placing a mobile home on such lots with such mobile homes to be used for living or sleeping purposes.

Modular Housing Unit. (Is considered a conventional type single-family dwelling). Any prefabricated structure, used for dwelling purposes moved on to a site essentially complete constructed condition, in one or more parts and when completed is a single family unit on a permanent foundation, attached to the foundation with permanent connections. To be a modular home it shall meet or be equivalent to the construction criteria as defined by the Nebraska State Department of Health under the authority granted by Section 17-1555 through 17-1567 Revised Statutes of Nebraska 1943, and any amendments thereto, that do not meet the listed criteria, shall be considered a mobile home:

- 1) The home shall have no less than nine hundred (900) square feet of floor area;
- 2) The home shall have no less than an eighteen (18) foot exterior width;
- 3) The roof shall be pitched with a minimum vertical rise of two and one-half (2 1/2) inches for each twelve (12) inches of horizontal run;
- 4) The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single-family construction;
- 5) The home shall have a non-reflective roof material which is or simulates asphalt or wood shingles, tile, or rock, or an approved ribbed metal material;
- 6) The home shall be placed on a permanent continuous foundation and have wheels, axles, transporting lights, and removable towing apparatus removed, and;
- 7) The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.

Non-Conforming Structure. A building or other structure, legally existing on the date of enactment of this Ordinance or amendment thereto, which does not comply with any of the minimum lot, lot coverage, height, yard, or other applicable regulation of this Ordinance other than use of such building or structure.

Non-Conforming Use. A use of a building, structure, or land, legally existing on the date of enactment of this Ordinance or amendment thereto, which fails to meet all of the requirements of this Ordinance applicable to the zoning district in which it is located.

Nursing Home. A home for the aged, chronically ill, or incurable persons in which three (3) or more persons not of the immediate family are received, kept and provided with food, shelter and care, for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis, treatment or care of the sick and injured.

Outdoor Storage Container. A fully enclosed, detached, and self-supporting structure, by itself incapable of motion or movement. The container must be manufactured/assembled off-site and transportable, by means other than its own, to a location where it is set into place on a graded surface of concrete, asphalt, or gravel and not upon a foundation or wheels. It shall be made of metal or a similar stable, durable, and acceptable material and shall not include a foundation, electricity, plumbing, or other mechanical systems as part of its assembly or use. Truck boxes meeting this definition shall be considered outdoor storage containers.

Parking Space. A surfaced area, enclosed or unenclosed, having an area of not less than one hundred eighty (180) square feet, together with a driveway connecting the parking space with a street, road, or alley and permitting ingress of that automobile without the necessity of moving another automobile.

Permanently Attached. Attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent continuous foundation or structural change in such mobile home in order to relocate it on another site.

Permanent Foundation. A base upon which a building rests to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of 42" below the final ground level.

Principal Building. A building in which the primary use of the lot, tract or parcel of land is situated.

Private Street. A privately owned, open and unoccupied space other than a public street or alley which is reserved as the principal means of a vehicular access to lots or parcels abutting such space and which is developed, improved and approved in accordance with the requirements for such spaces established by the Board of Trustees of Prague, Nebraska.

Salvage Yard. Any lot, parcel or tract of land or portion thereof used for the purpose of dismantling of machinery, equipment or vehicles or for the storage or keeping for sale of parts and equipment resulting from such dismantling, wrecking or other method of salvaging of such items, or for the storage of keeping of scrap metals and other scrap or waste materials other than solid waste.

Screen. A constructed, vegetative or natural barrier created to reduce visual, sound or other impacts between uses.

Service Building. A building housing toilet facilities for men and women, and such other facilities as may be required by this Ordinance.

Setback Line. A line defined by connecting two (2) points, each measured from the front, side or rear lot line which establishes the interior boundary of the front, side or rear yard on a lot. For purposes of this Ordinance, a front setback line shall be determined by measuring from the existing right-of-way line of the abutting street or the proposed right-of-way width for the classification of the abutting street as set forth in the Village=s Street Plan of current adoption, whichever is greater.

Shooting Range (see Gun Club)

Sign. Any advertisement, announcement, direction, or communication produced in whole or in part by the construction, erection, affixing, or placing of a structure on any land or on any other structure, or produced by painting on or posting or placing any printing, letter printed, lettered, pictured, figured, or colored material on any building, structure, or surface. Signs placed or erected by governmental agencies or nonprofit civic associations for a public purpose in the public interest shall not be included herein. Billboards shall be included in the definition of a sign for purposes of this Ordinance. Unless otherwise permitted, no sign or portion thereof shall extend beyond the property line.

Storage, Permanent. The presence of any regulated item not stored in an entirely enclosed building for a period of ten (10) or more consecutive days. Mobile homes as defined in this Ordinance shall not be considered an enclosed building and shall not be used as a building for such storage on any premises.

Story. That portion of a building, other than a basement, included between a floor and the floor next above it.

Story, Half. A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than sixty (60%) percent of the floor area is finished off for use.

Street. A right of way, dedicated to public use, which affords a primary means of access to abutting property. A street shall include a road, highway, thoroughfare, and avenue.

Street Centerline. A line extending down the center of a street right-of-way.

Street Line. The right-of-way line of a street or the dividing line between a lot, tract, or parcel of land and the private street abutting such lot, tract, or parcel of land.

Structural Alteration. Any addition to or subtraction from any building, including walls, columns, beams, girders, foundations, porches, garages, rooms, doors, and windows, or any complete rebuilding of a roof or exterior walls.

Structure. Anything constructed or erected, including a building which has permanent foundations on the ground, or anything attached to something having a permanent location on the ground.

Structure, Temporary. A non-permanent structure designed or used for a limited period of time.

Townhouse. One of a group or row of not less than three (3) and no more than twelve (12) attached single-family dwelling units designed and constructed as a single structure facing upon a street in which the individual dwelling units may or may not be owned separately.

Trailer, Recreational. The term "trailer" shall mean any vehicle without motive power, designated for living quarters and for being drawn by a motor vehicle and is suitable for recreational, vacation or travel purposes and which is not more than eight (8) feet in width nor more than thirty-two (32) feet in length including hitch; provided the length shall not apply if the gross weight does not exceed four thousand five hundred (4,500) pounds.

- 1) Subtrailer. A trailer which does not have a built-in flush toilet and a bath or shower.
- 2) Independent Trailer. A trailer which has a built-in flush toilet and a bath or shower in serviceable condition.

Trailer Court. See Mobile Home Park / Court.

Trailer Space. A plot of ground within a trailer court designated for the accommodation of one (1) trailer or mobile home and reserved for exclusive use of its occupants.

Use. The purpose or activity for which the land and/or buildings and structures thereon is designed, arranged, or intended, or for which it is occupied or maintained.

Variance. A variance is a relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of these zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or conditions of such piece of property, the strict application of any enacted regulation under this Ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Ordinance. Relaxation of the requirements of the Ordinance shall apply only to height, area and size of a building or structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited by this Ordinance shall not be allowed by relaxation of the requirements of the Ordinance, nor shall any relaxation of the requirements of this Ordinance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining district or because of conditions created by the owner of said real property.

Vehicle. Any device with a chassis and wheels or originally constructed with chassis and wheels, or runners, designed for the conveyance of persons or objects.

Wall. A vertical structure which encloses, divides, supports or protects.

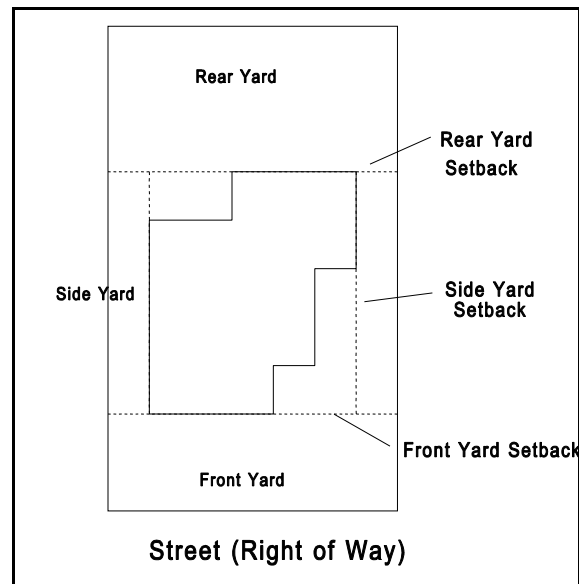
Yard. An open space, unoccupied and unobstructed by a structure of any sort from the ground upward and measured as the minimum horizontal distance between the lot line and the main building. On corner lots, set back shall be based on one interior lot line being treated as a side yard and the other interior lot line shall be treated as a rear yard.

Yard, Front. A yard extending across the front of a lot between the side yard lines and measured between the street line and the main building or any projection thereof, other than the ordinary projection of steps, terraces, uncovered porches or entrance ways. On corner lots, the front yard shall be considered as parallel to both streets.

Yard, Rear. A yard extending across the rear of the lot between the side lot line and measured between the rear lot line and the rear of the main building or any projections other than steps, uncovered porches, or any entrance ways. On all lots, the rear yard shall be at the opposite end of the lot from the front yard.

Yard, Side. An open, unoccupied space between the closest portion of the building to the side line and said side line of the lot.

Yard, Special. A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term “side yard” or “rear yard” clearly applies. In such cases, the Zoning Administrator shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the zoning district, determining which shall apply by the relationship of the portion of the lot on which the yard is to be located to the adjoining lot or lots with due regard to the orientation and location of buildings, structures and buildable areas thereon.



Yard, Street Side. The yard on a corner lot between the main building and side line of the lot along and adjacent to a street as determined in these Regulations. The Street Side Yard includes the minimum horizontal distance between the building and side lot line, and extending from the front yard line to the rear yard line. (See also Lot, Corner)

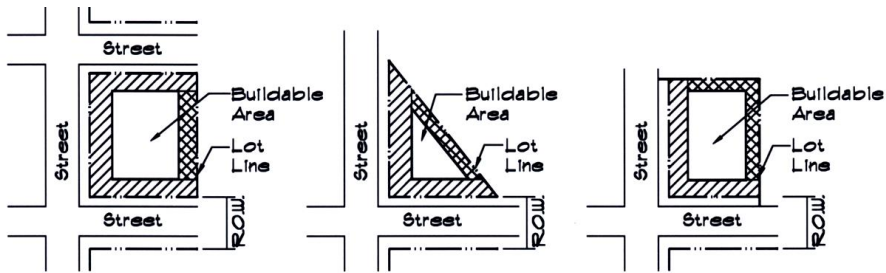
Yard, Transitional. A yard in effect where a non-residential zoning district abuts or is adjacent across a street or alley from a residential zoning district.

Zoning Administrator. The person or persons authorized and empowered by the Village of Prague to administer and enforce the requirements of this Ordinance.

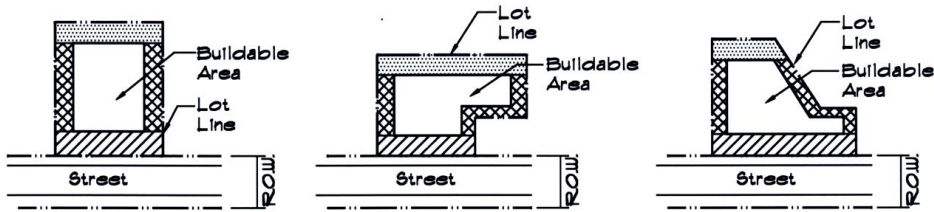
Zoning Districts. A portion of the zoned area of the Village of Prague, Nebraska and the extraterritorial jurisdiction for which uniform regulations governing the use, height, area size and intensity of the use of buildings and structures, land and open space are established by this Ordinance.

Zoned Area. The area included in the various zoning districts established by this Ordinance as indicated on the Official Zoning Map of the Village of Prague, Nebraska.

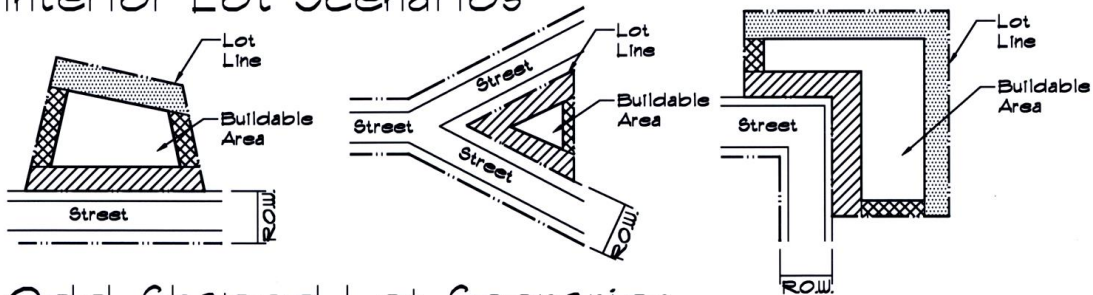
Zoning Regulations. The requirements stipulated in this Ordinance as it may be amended from time to time.



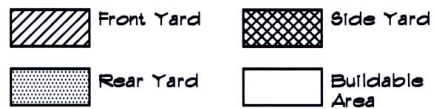
Corner Lot Scenarios



Interior Lot Scenarios



Odd-Shaped Lot Scenarios



ARTICLE 3: DISTRICTS

SECTION 3.01: ZONING DISTRICTS

For the purpose of this Ordinance, the Municipality is hereby divided into seven (7) districts, designated as follows:

- (TA) Transitional Agricultural District
- (R-1) Suburban Residential District
- (R-2) Urban Residential District
- (C-1) Highway Commercial District
- (C-2) General Commercial District
- (I-1) Industrial District
- (FW FF) Flood Plain Overlay Districts

SECTION 3.02: PROVISIONS FOR OFFICIAL ZONING MAP

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

3.02.2 In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Village Board may by resolution adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Board Chair attested by the Village Clerk and bearing the seal of the Village under the following words: “This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted [date of adoption of map being replaced] as part of Ordinance No. _____ of the Village of Prague, Nebraska.”

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

SECTION 3.03: INTERPRETATION

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

- 3.03.1 Where district boundaries are indicated as approximately following the centerline of streets, highways, streams or rivers, street or railroad right-of-way lines or said lines extended, such lines shall be construed to be such boundaries.
- 3.03.2 Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
- 3.03.3 Where district boundaries are so indicated that they are approximately parallel to the center lines of streets, highways, railroads, or reservoirs, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Maps. If no distance is given, such dimension shall be determined by use of the scale shown on said Zoning Maps.

- 3.03.4 Where a district boundary line divides a lot in single ownership, the district boundary lines shall be determined by the use of the scale or dimensions shown on the Zoning Maps. (Ref. 19-904 RS Neb.)

SECTION 3.04: CLASSIFICATION OF DISTRICTS UPON ANNEXATION AND CONFORMANCE WITH LAND USE PLAN

Areas annexed into the corporate limits of Prague, or into the extra-territorial jurisdiction due to annexation, shall be zoned to conform with the Land Use Plan.

SECTION 3.05: TRANSITIONAL AGRICULTURE DISTRICT (TA)

- 3.05.1 Intent. This district is established for the purposes of protecting the urban area of the Village from encroachment by incompatible agricultural or other land uses near the Village and preserving productive agricultural land and agricultural operations in the areas around the Village by avoiding agricultural versus non-agricultural use conflicts.
- 3.05.2 Permitted Uses. In the (TA) Transitional Agriculture District, buildings, structures, and land shall be used only for the following purposes:
- A. Farms, truck gardens, plant nurseries, green houses, grain storage facilities, and other agricultural uses, including the sale and distribution of agricultural products and produce excluding chemical sales.
 - B. Farms for breeding, raising, and sale of wild game, livestock (up to 10 animal units) and fish but not including livestock feeding operations, as defined in these regulations and provided that:
 - 1. No livestock feedlots shall be established adjacent to the corporate limits.
 - 2. There shall be no confinement or holding of any livestock of any number when adjacent to residential zoned property located within the corporate limits.
 - C. Roadside stands offering for sale agricultural products produced on the premises.
 - D. Fire stations.
 - E. Agriculture or truck gardening, provided that any building for the enclosure for the shelter of animals shall be at least fifty (50) feet from all street and lot lines.
 - F. Single-family dwellings, including manufactured homes meeting the definition for such homes and the performance standards for such homes as set forth in this Ordinance.
 - G. Church, school or library.
 - H. Public park, playground or community center.
 - I. Private clubs not operated for profit or golf course located on more than ten acres.
 - J. Colleges.
 - K. Educational, religious, or philanthropic institutions, but not including penal or mental institutions located on more than ten acres.
 - L. Private Kennels.
 - M. Irrigation wells, pivot and other irrigation systems and erosion, runoff control and flood control structures.
- 3.05.3 Conditional Uses. The following conditional uses may be located in this district subject to the provisions of Article 5 of this ordinance:
- A. Private schools, including nursery, pre-kindergarten, play, and special schools.
 - B. Hospitals, clinics and institutions, including educational, religious and philanthropic institutions and convalescent homes; provided however, that such buildings occupy not over forty (40%) percent of the total area of the lot and will not have any serious and depreciating effect upon the value of the surrounding property, and further that the buildings shall be set back from all yard lines a distance of not less than one (1) foot for each foot of building height, and that adequate off-street parking space is provided.
 - C. Utility substations, pumping stations, water reservoirs and telephone exchanges.
 - D. Public parks and recreation areas, libraries, museums, fire stations, community centers, forests and conservation areas.
 - E. Cemeteries or mausoleums.
 - F. Commercial recreation areas and facilities such as swimming pools, fishing lakes, and gun clubs.
 - G. Communication towers and transmitters.
 - H. Airports
 - I. Public and private riding academies provided that no stable, building or structure in which horses or other animals are kept may be closer than 300 feet to any residential district on not less than four (4) acres.

- J. Private stable and facilities for housing animals and fowl for non-commercial purposes provided the buildings shall be a distance of three hundred (300) feet from any residential district and have a minimum of four (4) acres.
- K. Commercial kennels and facilities for the raising, breeding and boarding of dogs and other small animals providing that all buildings and facilities be at least one hundred (100) feet from the property line and three hundred (300) feet from any residential district on not less than four (4) acres.
- L. Extraction of sand, gravel, or other raw materials.
It shall be unlawful for any owner or owners of property to extract, mine, quarry or remove soil for commercial purposes without a Conditional Use Permit except soil being sold for use by a municipality, county or state for public roadway purposes. When soil is sold, removed, and is transported over Saunders County Roads, to be used for public roadway purposes, it shall be the responsibility of the owner of the land from which the soil is being removed to meet the following conditions:
 - 1. A Soil Extract Permit shall be obtained from the Zoning Administrator.
 - 2. The character of drainage from and onto adjacent land shall not be changed. A map indicating all runoff onto and from proposed site shall accompany the application.
 - 3. There shall be no excavation closer than one hundred (100) feet of any abutting property not involved in the operation and six hundred sixty (660) feet from any residential district. Excavation shall be conducted in such a way as not to constitute a hazard to any person, nor to the adjoining property. All cuts shall be returned to a slope of less than three to one (3-1) as soon as possible.
 - 4. The operation shall provide a plan for any closure or abandonment. The topsoil shall be collected, stockpiled and redistributed over the exposed soil area at the termination of the operation. Within nine (9) months after completion of extraction of any portion of the site, the topography and soils in the excavation area shall then be stabilized, the land graded, seeded or sodded to prevent erosion and siltation, and to protect the health, safety and general welfare of the public. This requirement may be waived by the Zoning Administrator for that portion covered by an approved water impoundment.
 - 5. The protection of the public health and safety shall be the responsibility of the owner of the property from which the soil is being removed. Public health and safety methods shall be as directed by the Zoning Administrator who, upon observing a problem or verifying a complaint, may order the operation to cease until the problem is resolved.
 - 6. Materials excavated shall not be stored within the designated floodway. All extraction's of soils within a designed floodway shall conform to the Floodplain Regulations as specified by the State of Nebraska and adopted by the Village of Prague.
 - 7. All excavation developments shall be required to provide existing and future topographic plans for the area. Plans shall indicate where stockpiling and all existing and future drainages and channels which will be closed, altered or maintained.
- M. Community sewage disposal facilities.
- N. Bed and breakfast residence subject to the following conditions in addition to those imposed by the Planning Commission:
 - 1. The bed and breakfast residence shall be within a conforming single-family dwelling.
 - 2. Guest rooms shall be within the principal residential building only and not within an accessory building.
 - 3. Each room that is designated for guest occupancy must be provided with a smoke detector which is kept in good working order.

4. Two (2) off-street parking spaces shall be provided for each dwelling unit plus one (1) off-street parking space for each sleeping room designated for guests. Such parking areas shall not be within the required front or side yards.
 5. One (1) identification sign on not more than four (4) square feet of sign area shall be permitted.
- O. Livestock Feeding Operations having more than ten (10) and no more than three hundred (300) animal units.
1. Livestock Feeding Operations having eleven (11) to fifty (50) animal units shall locate at least 500 feet from any non-farm residence, other residence not on the applicant's property, a platted residential area, public park, recreational area, church, cemetery, religious area, school, historical site, Commercial District, Industrial District, and/or Residential District.
 2. Livestock Feeding Operations having fifty-one (51) to three hundred (300) animal units shall locate at least 1,320 feet from any non-farm residence, other residence not on the applicant's property, a platted residential area, public park, recreational area, church, cemetery, religious area, school, historical site, Commercial District, Industrial District, and/or Residential District.
- P. The application, spreading, composting or stockpiling of manure, dead animals, sludge, by-products from manufacturing or any processing plant, and/or paunch manure on agricultural land by municipalities or operations inside or outside of the County.
- Q. Temporary placement of one (1) mobile home on the same lot with an existing dwelling unit for the purpose of providing care for a member or members of the father, mother, or immediate family member of the owner-occupant of the existing dwelling unit when such family members are disabled, elderly and in need of care or otherwise in demonstrable need of care by said owner-occupant, subject to the following conditions and restrictions:
1. Placement of the mobile home shall be temporary and shall be limited to the time that the mobile home is needed to provide care for the family member or members. When such care is no longer needed or said mobile home is no longer occupied by such family member or members, said mobile home shall be removed from the premises within ninety (90) days of the date of non-occupancy unless said mobile home shall have been so located on the property that subdivision of the property to create a separate lot for said mobile home will result in said lot complying in all respects with the minimum lot area, lot width, lot frontage, and yard requirements of this district.
 2. Such mobile home shall be separated from the existing dwelling unit or any existing building on the premises by a distance of not less than twenty (20) feet and such mobile home shall be provided with adequate water supply and sewage disposal systems.
 3. Such mobile home shall not be leased, rented or occupied by any person or persons who is/are not the father, mother or member of the immediate family of the owner-occupant of the existing dwelling unit unless the premises on which the mobile home is located shall have been properly subdivided into a separate lot in accordance with the requirements of Paragraph A above.
- R. Small and Commercial/Utility Grade Wind Energy Systems, subject to Section 4.15.

3.05.4

Accessory Uses:

- A. Buildings and uses customarily incidental to the permitted uses.
- B. Home occupation.
- C. Private swimming pools, tennis courts, and other recreational facilities in conjunction with a residence.
- D. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
- E. Signs as provided for in Article 6.
- F. Parking as provided for in Article 6.

- G. Residential Wind Energy Conversion System and Building-Mountable Wind Turbines, subject to Section 4.15.
- H. Outdoor Storage Containers, subsection to Section 4.19.

3.05.5 Prohibited Uses and Structures. All other uses and structures which are not specifically permitted or authorized as conditional uses shall be prohibited in this zoning district.

3.05.6 Area, yard and height requirements for this district shall be a minimum of:

- A. The height and minimum lot requirements shall be as follows:

	Average Lot Area	Lot <u>Width</u>	Front <u>Yard</u>	Side <u>Yard</u>	Rear <u>Yard</u>	Maximum <u>Height</u>	Lot <u>Coverage</u>
Dwelling, Single Family	3A ¹	200'	35'	10'	35'	35'	35%
	1.5A ²	150'	35'	10'	35'	35'	35%
	20,000 s.f. ³	80'	35'	10'	35'	35'	35%
Other Permitted Uses	20,000 s.f.	80'	35'	10'	35'	45'	35%
Accessory Buildings	----	----	50'	10'	10'	35'	10% ⁴

¹ With private well and private septic system

² With public water and private septic system

³ With public water and sewer

⁴ Total not to exceed 900 sq. ft. for residential uses.

- B. Front yard depth; not less than thirty-five (35) feet from the front property line or one hundred feet (100) from the centerline of a county road, whichever is greater
- C. One or one and a half story single family dwellings with slab on grade or with no basement or, split level or multi-level dwelling with not more than five feet of vertical separation of floors, shall contain at least 1,000 square feet of floor area on one level exclusive of garages and other attached accessory floor area; a split level or multi-level single family dwelling shall contain not less than 750 square feet on the floor nearest the grade or ground line.

SECTION 3.06: SUBURBAN RESIDENTIAL DISTRICT (R-1)

- 3.06.1 Intent. This district is established to provide for the development of new residential areas on the periphery of the existing built-up areas of the Village and for the protection of such new residential areas from encroachment by incompatible land uses.
- 3.06.2 Permitted Uses. In the (R-1) Suburban Residential District, buildings, structures, and land shall be used only for the following purposes:
- A. Single family detached dwellings.
 - B. Two family dwellings.
 - C. Church, school or other public building.
 - D. Public parks and recreation areas, libraries, museums, community centers, forests and conservation areas.
 - E. Golf course or private club not operated for profit.
 - F. Child care
 - G. Parking for permitted uses as required by this Ordinance.
 - H. Truck gardens, plant nurseries, green houses, and roadside stands for the sale and distribution of agricultural products and products produced on the premises.
- 3.06.3 Permitted Conditional Uses. The following conditional uses may be located in this district subject to the provisions of Article 5 of this ordinance:
- A. Private schools, including nursery, pre-kindergarten, play, and special schools.
 - B. Hospitals, clinics and institutions, including educational, religious and philanthropic institutions and convalescent homes; provided however, that such buildings occupy not over forty (40%) percent of the total area of the lot and will not have any serious and depreciating effect upon the value of the surrounding property, and provided further, that the buildings shall be set back from all yard lines a distance of not less than one (1) foot for each foot of building height, and that adequate off-street parking space will be provided.
 - C. Utility substations, pumping stations, water reservoirs and telephone exchanges.
 - D. Private country clubs, and golf courses, but not including commercial miniature golf, golf driving ranges, motorized cart tracks, and similar uses on not less than ten (10) acres.
 - E. Commercial recreation areas and facilities such as swimming pools.
 - F. Nursing homes.
 - G. Bed and breakfast residence subject to the following conditions in addition to those imposed by the Planning Commission:
 - 1. The bed and breakfast residence shall be within a conforming single-family dwelling.
 - 2. Guest rooms shall be within the principal residential building only and not within an accessory building.
 - 3. Each room that is designated for guest occupancy must be provided with a smoke detector which is kept in good working order.
 - 4. Two (2) off-street parking spaces shall be provided for each dwelling unit plus one (1) off-street parking space for each sleeping room designated for guests. Such parking areas shall not be within the required front or side yards.
 - 5. One (1) identification sign on not more than four (4) square feet of sign area shall be permitted.
 - H. Mobile home parks and subdivisions, developed in accordance with the standards set forth in the Supplemental Regulations.
 - I. Garages as principle structure, subject to Section 4.20.
 - J. Outdoor Storage Containers, subjection to Section 4.19.
- 3.06.4 Accessory Uses
- A. Buildings and uses customarily incidental to the permitted uses, including satellite dishes.

- B. Private swimming pools, tennis courts, and other recreational facilities in conjunction with a residence.
- C. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
- D. Home Occupation.
- E. Signs as provided for in Article 6.
- F. Parking as provided for in Article 6.
- G. Residential Wind Energy Conversion System and Building-Mountable Wind Turbines, subject to Section 4.15.

3.06.5 Prohibited Uses and Structures. All other uses and structures which are not specifically permitted or authorized as conditional uses shall be prohibited in this zoning district. Confined feeding of livestock of any kind in buildings or pens is prohibited in this zoning district.

3.06.6 Area, yard and height requirements for this district shall be:

	Average Lot Area	Lot <u>Width</u>	Front <u>Yard</u>	Side <u>Yard</u>	Rear <u>Yard</u>	Maximum <u>Height</u>	Lot <u>Coverage</u>
Dwelling, Single Family	7,000s.f.	50'	15'	7'	35'	35'	35%
Attached	4,000s.f.	35'	25'	7'	35'	35'	35%
Two-Family	4,000s.f.	50'	25'	7'	35'	35'	35%
Other Permitted Uses	7,000s.f.	50'	25'	7'	35'	35'	35%
Accessory Buildings	----	----	25'	5'	5'	15'	10%

- A. Minimum lot size shall be single-family: seven thousand (7,000) square feet with a minimum width and frontage of fifty (50) feet.
- B. Minimum yard requirements.
 - 1. Front yard depth; not less than fifteen (15) feet.
 - 2. Side yard depth; not less than seven (7) feet for one-story buildings and eight (8) feet for two (2) or more story dwellings.
 - 3. Rear yard depth; not less than thirty-five (35) feet.
 - 4. Lot area coverage shall not exceed thirty-five (35%) percent for all structures with not more than 10% allocated to accessory buildings.
- C. The maximum height of structure in this district shall be thirty-five (35) feet or two and one half (2-1/2) stories.
- D. One or one and a half story single family dwellings with slab on grade or with no basement or, split level or multi-level dwelling with not more than five feet of vertical separation of floors, shall contain at least 1,000 square feet of floor area on one level exclusive of garages and other attached accessory floor area; a split level or multi-level single family dwelling shall contain not less than 750 square feet on the floor nearest the grade or ground line.

SECTION 3.07: URBAN RESIDENTIAL DISTRICT (R-2)

- 3.07.1 Intent. This district is established for the purposes of protecting the existing residential areas within and around the Village from encroachment by incompatible land uses and encouraging the development of non-agricultural housing of varying types and densities and related uses in areas in and near the Village of Prague.
- 3.07.2 Permitted Uses. In the (R-2) Urban Residential District, buildings, structures, and land shall be used only for the following purposes:
- A. Single family attached and detached dwellings.
 - B. Two family and multiple family dwellings.
 - C. Boarding and lodging houses.
 - D. Child care.
 - E. Church, school or other public building.
 - F. Public parks and recreation areas, libraries, museums, community centers, forests and conservation areas.
 - G. Parking for permitted uses as required by this Ordinance.
- 3.07.3 Permitted Conditional Uses. The following conditional uses may be located in this district, subject to the provisions of Article 5 of this ordinance:
- A. Private schools, including nursery, pre-kindergarten, play, and special schools.
 - B. Hospitals, clinics and institutions, including educational, religious and philanthropic institutions and convalescent homes; provided however, that such buildings occupy not over forty (40%) percent of the total area of the lot and will not have any serious and depreciating effect upon the value of the surrounding property, and provided further, that the buildings shall be set back from all yard lines a distance of not less than one (1) foot for each foot of building height, and that adequate off-street parking space will be provided.
 - C. Utility substations, pumping stations, water reservoirs and telephone exchanges.
 - D. Private country clubs, and golf courses, but not including commercial miniature golf, golf driving ranges, motorized cart tracks, and similar uses on not less than ten (10) acres.
 - E. Group housing project.
 - F. Commercial recreation areas and facilities such as swimming pools.
 - G. Nursing homes.
 - H. Bed and breakfast residence subject to the following conditions in addition to those imposed by the Planning Commission:
 - 1. The bed and breakfast residence shall be within a conforming single-family dwelling.
 - 2. Guest rooms shall be within the principal residential building only and not within an accessory building.
 - 3. Each room that is designated for guest occupancy must be provided with a smoke detector which is kept in good working order.
 - 4. Two (2) off-street parking spaces shall be provided for each dwelling unit plus one (1) off-street parking space for each sleeping room designated for guests. Such parking areas shall not be within the required front or side yards.
 - 5. One (1) identification sign on not more than four (4) square feet of sign area shall be permitted.
 - I. Mobile home parks and subdivisions, developed in accordance with the standards set forth in the Supplemental Regulations.
 - J. Garages as principle structure, subject to Section 4.20.
 - K. Mobile homes.
 - L. Mortuaries and funeral homes.
 - M. Professional offices.
 - N. Private and public clubs, lodges, meeting halls, and fraternities.
 - O. Outdoor Storage Containers, subjection to Section 4.19.

3.07.4 Accessory Uses

- A. Buildings and uses customarily incidental to the permitted uses, including satellite dishes.
- B. Private swimming pools, tennis courts, and other recreational facilities in conjunction with a residence.
- C. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
- D. Home Occupation.
- E. Signs and parking as provided for in Article 6.
- F. Residential Wind Energy Conversion System and Building-Mountable Wind Turbines, subject to Section 4.15.

3.07.5 Prohibited Uses and Structures. All other uses and structures which are not specifically permitted or authorized as conditional uses shall be prohibited in this zoning district. Confined feeding of livestock of any kind in buildings or pens is prohibited in this zoning district.

3.07.6 Area, yard and height requirements for this district shall be:

	Average Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height	Lot Coverage
Dwelling, Single Family	3,500s.f.	25'	15'	5'	35'	35'	50%
Attached, multi-fam.	3,000s.f.	35'	25'	5'	35'	35'	50%
Two-Family	4,000s.f.	50'	25'	5'	35'	35'	50%
Other Permitted Uses	7,000s.f.	50'	25'	5'	35'	35'	50%
Accessory Buildings	----	----	25'	5'	5'	15'	10%

- A. Minimum yard requirements.
 - 1. Front yard depth; not less than fifteen (15) feet.
 - 2. Side yard depth; not less than five (5) feet for one-story (1) buildings and seven (7) feet for a two (2) or more story building.
 - 3. Rear yard depth; not less than thirty-five (35) feet.
 - 4. Lot area coverage shall not exceed 50% for all structures with not more than 10% allocated to accessory buildings.
- B. The maximum height of a structure in this district shall be thirty-five (35) feet or two and one half (2-1/2) stories.

SECTION 3.08: HIGHWAY COMMERCIAL DISTRICT (C-1)

- 3.08.1 Intent. This district is established to provide areas for development of commercial uses oriented to major traffic corridors serving the Village of Prague and to provide areas for development of non-highway oriented uses which are inappropriate or too land extensive for location in the C-2, General Commercial District.
- 3.08.2 Permitted Uses. In the (C-1) Highway Commercial District, buildings, structures, and land shall be used only for the following purposes:
- A. Automobile display, sales, service, and repair.
 - B. Billboard when at least fifty (50') feet from any (R) District boundary.
 - C. Bus Terminals.
 - D. Filling station.
 - E. Motels, hotels and trailer campgrounds.
 - F. Laundries and dry cleaning establishments.
 - G. Commercial greenhouse.
 - H. Farm implement display or salesroom.
 - I. Barber shops and beauty parlors.
 - J. Professional offices.
 - K. Business offices.
 - L. Antique sales.
 - M. Private clubs and lodges.
 - N. Restaurants, night clubs, cafes, taverns.
 - O. Golf driving ranges, miniature golf.
 - P. Mortuaries or funeral homes.
 - Q. Public utilities and railroads.
 - R. Frozen food lockers.
 - S. Lumber yards and building material sales yards.
 - T. Veterinarian or animal hospital, provided any such building, kennel, or exercise runway is located at least one hundred (100') feet away from any (R) District boundary.
 - U. When located at least one hundred (100') feet away from any (R) District Boundary:
 - 1. Bowling alley.
 - 2. Drive-In restaurant or similar establishment
 - 3. Drive-in theater.
 - 4. Other similar place of entertainment or amusement.
- 3.08.3 Permitted Conditional Uses. The following conditional uses may be located in this district subject to the provisions of Article 5 of this ordinance:
- A. Apartments above a store or shop.
 - B. Any retail business or service establishments supplying commodities or performing services such as:
 - 1. Bakeries
 - 2. Commercial schools
 - 3. Department stores
 - 4. Drug stores or pharmacies
 - 5. Furniture stores
 - 6. Grocery stores
 - 7. Gift shops
 - 8. Hardware stores
 - 9. Laundry pick-up and delivery stations
 - 10. Offices, business and professional
 - 11. Outdoor advertising signs
 - 12. Parking garages
 - 13. Parking lots
 - 14. Plumbing shops
 - 15. Restaurants (enclosed)

- 16. Self-service laundries
- 17. Taverns
- 18. Telephone exchanges
- 19. Theater (indoor)
- 20. Variety stores
- 21. Living quarters used by watchmen or custodians of the commercially used property.

- C. Self Storage Garages/Buildings.
- D. Small Wind Energy Systems, subject to Section 4.15.

3.08.4 Accessory Uses

- A. Buildings and uses customarily incidental to the permitted uses, including satellite dishes.
- B. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
- C. Signs as provided for in Article 6.
- D. Parking as provided for in Article 6.
- E. Residential Wind Energy Conversion System and Building-Mountable Wind Turbines, subject to Section 4.15.

3.08.5 Prohibited Uses and Structures. All other uses and structures which are not specifically permitted or authorized as conditional uses shall be prohibited in this zoning district.

3.08.6 Area, yard and height requirements for this district shall be:

	Average Lot Area	Lot <u>Width</u>	Front <u>Yard</u>	Side <u>Yard</u>	Rear <u>Yard</u>	Maximum <u>Height</u>	Lot <u>Coverage</u>
Permitted Uses	7,000s.f.	100'	25'	5'	5'	35'	90%
Accessory Buildings	----	----	25'	5'	5'	15'	10%

- A. Minimum lot size shall be 7,000 square feet and the minimum width for commercial purposes shall be 100 feet.
- B. Minimum yard requirements.
 - 1. Front yard depth; not less than twenty-five (25) feet.
 - 2. Side yard depth; The minimum side yard shall be five (5) feet where the lot line abuts another commercial or industrial district and minimum of twenty (20) feet and a landscape screen where the lot abuts a lot in any R District.
 - 3. Rear yard depth; Five (5) feet, except for a lot abutting any R District in which case twenty-five (25) feet shall be provided or five (5) feet if adjacent to an alley, whichever is greater.
- C. The maximum height of a structure in this district shall be thirty-five (35) feet.
- D. When adjacent to any residentially zoned district, new construction must include a six (6) foot high screen along the entire common boundary, except in the required front yard.
- E. Building setback shall be at least 100 feet from centerline of major arterial streets/roads as indicated in the Village Street Plan.
- F. The maximum lot coverage shall not exceed ninety (90) percent of the lot area.

SECTION 3.09: GENERAL COMMERCIAL DISTRICT (C-2)

3.09.1 Intent. This district is established to provide for the protection of existing commercial uses in the central business district of each Village and to provide areas within and around the central business district of the Village for commercial uses which provide a wide range of customer goods and services and which are oriented more to local customer trade and pedestrian oriented shopping than to the highway traveler.

3.09.2 Permitted Uses. In the (C-2) General Commercial District, buildings, structures, and land shall be used only for the following purposes:

- A. Stores or shops where goods are sold primarily at retail or where personal services are rendered, including a grocery, drug store, meat market, bank, beauty parlor, electrical repair or similar retail sales, services, or repairs shops.
- B. Automobile, vehicle or boat repair where all inoperable or junk vehicles are kept in a screened area or enclosed building.
- C. Public garage, when located at least fifty (50') feet from any (R) District boundary.
- D. Business or commercial school or dancing or music academy.
- E. Clinic.
- F. Printing shop.
- G. Automobile or trailer display or salesroom or when located at least fifty (50') feet from any Residential District, an automobile or trailer sales storage lot.
- H. Lumber yard.
- I. Frozen food locker.
- J. Milk distributing station.
- K. Undertaking establishment or mortuary.
- L. Painting, plumbing, tinsmithing, upholstering or similar general service shop.
- M. Gasoline filling stations.
- N. Laundry pick-up and delivery stations.
- O. Outdoor advertising signs.
- P. Self-service laundries.
- Q. Taverns.
- R. Telephone exchanges
- S. Theater (indoor)
- T. Utility substations
- U. Living quarters used by watchmen or custodians of the commercially used property.
- V. Accessory building or use customarily incident to a permitted use, including an advertising sign or bulletin board.
- W. Off-street parking as required by this Ordinance.
- X. Publicly owned and operated buildings and facilities.
- Y. Self-Storage Garages/Buildings

3.09.3 Conditional Uses and Structures:

- A. Farm and industrial equipment sales.
- B. Small Wind Energy Systems, subject to Section 4.15.
- C. Storage facilities as an accessory use to a permitted use in the front 20 feet of the structure.

3.09.4 Accessory Uses. The following accessory uses and structures may be located in the C-2 General Commercial District:

- A. Buildings and uses customarily incidental and accessory to the permitted uses.
- B. Signs as permitted in Article 6.
- C. Parking as required in Article 6.
- D. Residential Wind Energy Conversion System and Building-Mountable Wind Turbines, subject to Section 4.15.

3.09.5 Prohibited Uses and Structures. All other uses and structures which are not specifically permitted or authorized as conditional uses shall be prohibited in this zoning district.

3.09.6 Area, Yard and Height Requirements.

	Average Lot Area	Lot <u>Width</u>	Front <u>Yard</u>	Side <u>Yard</u>	Rear <u>Yard</u>	Maximum <u>Height</u>	Lot <u>Coverage</u>
Permitted Uses	0 s.f.	0'	0'	0'	0'	35'	90%
Accessory Buildings	----	----	0'	0'	0'	15'	10%

- A. There shall be no minimum lot size and no minimum width for commercial purposes.
- B. Minimum yard requirements for uses and accessory buildings.
 - 1. Front yard depth; none.
 - 2. Side yard depth; none, except along the side of a lot abutting a lot in any R District in which case twenty (20) feet shall be provided.
 - 3. Rear yard depth; none, except for a lot abutting any R District in which case twenty (20) feet shall be provided.
- C. The maximum height of a structure in this district shall be thirty-five (35) feet.
- D. When adjacent to any residentially zoned district, new construction must include a six (6) foot high screen along the entire common boundary, except in the required front yard.

SECTION 3.10: INDUSTRIAL DISTRICT (I-1)

- 3.10.1 Intent. This district is established to provide areas for a wide range of industrial and certain commercial uses which are able to meet certain performance standards designed to protect nearby non-commercial and non-industrial uses from land use conflicts or undesirable environmental impacts and to protect such industrial and commercial uses from negative impacts from other uses which would conflict with such industrial and commercial uses.
- 3.10.2 Permitted Uses. In the (I-1) Industrial District, buildings, structures, and land shall be used only for the following purposes:
- A. Industrial uses except those permitted in the I-2 Heavy Industrial District and except those which by reason of the emission of odor, dust, fumes, smoke, noise, and other obnoxious characteristics would be harmful to the public health, safety, and general welfare. Permitted uses may include uses such as:
 - 1. Assembly of metal products
 - 2. Building materials storage and sales
 - 3. Concrete or cement product manufacture
 - 4. Dying and cleaning establishments
 - 5. Farm and industrial equipment sales
 - 6. Laboratories
 - 7. Manufacture and assembly of electrical and electronic appliances
 - 8. Manufacturing, compounding, processing, packaging, or treatment of articles or merchandise from previously prepared materials such as bone, cloth, aluminum, cork, fiber, leather, glass, plastic, paper, stone, tin, rubber, and paint
 - 9. Machine shop or other metal working excluding drop hammers and other noise producing tools
 - 10. Grain storage bins
 - 11. Stone and monument works
 - 12. Storage of farm agricultural products
 - 13. Truck and freight terminals
 - 14. Utility substations and power plants, pumping stations and water reservoirs
 - 15. Warehouses and wholesale businesses
 - B. Living quarters used by watchman or custodians or the industrially used property.
 - C. Bottling work.
 - D. Carting, express, or storage yard.
 - E. Automobile storage yard, where all vehicles are kept in an enclosed and screened area.
 - F. Any other business, industry, or manufacturing use where the process of manufacture or treatment or other activity is such that only a nominal amount of dust, odor, gas, smoke or noise is emitted and not more than ten (10%) per cent of the lot or tract is used for the open storage of products, materials, or equipment.
 - G. Off-street parking.
 - H. Self storage, contractor and construction equipment storage yards
- 3.10.3 Conditional Uses. The following conditional uses may be located in this district subject to the provisions of Article 5 of this ordinance. In authorizing any of the uses in this section, there may be imposed such reasonable requirements as to the landscaping, screening and other features of the development as may be deemed necessary to protect adjacent property and prevent objectionable or hazardous conditions.
- A. Alfalfa dehydrating plant.
 - B. Asphalt mixing, manufacture, or refining.
 - C. Lime, gypsum, or plaster-of-Paris manufacture.
 - D. Ethanol Plant
 - E. Fertilizer manufacture and bone grinding.
 - F. Propane Storage.

- G. Auto wrecking yards or junkyard only when located inside a building or when wholly enclosed by a well-maintained wooden fence not less than 8 feet in height and in which the openings or cracks are less than fifteen (15) percent of the total area.
- H. Motorized cart tracks.
- I. Oiled, rubber, or leather goods manufacture.
- J. Paint, oil, shellac, turpentine, or varnish manufacture.
- K. Paper and pulp manufacture.
- L. Plating works.
- M. Sausage manufacture.
- N. Storage or baling or scrap paper, iron, bottles, rags, or junk.
- O. Tallow, grease, or lard manufacture or refining from animal fat.
- P. Tanning, curing, or storage of rawhides or skins.
- Q. Contractors yard.
- R. Grain elevator.
- S. Livestock auction or sales barn.
- T. Small Wind Energy Systems, subject to Section 4.15.

3.10.4 Accessory Uses

- A. Buildings and uses customarily incidental to the permitted uses, including satellite dishes.
- B. Private swimming pools, tennis courts, and other recreational facilities in conjunction with a residence.
- C. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
- D. Signs as provided for in Article 6.
- E. Parking as provided for in Article 6.
- F. Residential Wind Energy Conversion System and Building-Mountable Wind Turbines, subject to Section 4.15.
- G. Outdoor Storage Containers, subjection to Section 4.19.

3.10.5 Prohibited Uses and Structures. All other uses and structures which are not specifically permitted or authorized as conditional uses shall be prohibited in this zoning district.

3.10.6 Performance Standards:

The following standards shall be met unless there are greater standards required by the United States Environmental Protection Agency or the Nebraska Department of Environmental Quality.

- A. **Physical Appearance:** All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be displayed or stored in the open, if the applicable zoning district permits. Normal daily wastes of an inorganic nature may be stored in containers not in a building when such containers are not readily visible from a street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles for sale or the outdoor storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition. However, allowable outdoor storage or display shall be visually screened from public roadways and residential properties.
- B. **Fire hazard:** No operation shall involve the use of highly flammable gasses, acid, liquids, grinding processes, or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels and welding gasses when handled in accordance with other regulations of the Village of Prague.
- C. **Noise:** No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume or in excess of eighty (80) decibels, whichever is greater. Noise shall be measured at the property line and when the level of such noise cannot be determined by observation

with the natural senses, a suitable instrument may be used and measurement may include breakdowns into a reasonable number of frequency ranges.

- D. **Exterior Lighting:** Exterior lighting, when used, shall enhance the building design and the adjoining landscape. Building fixtures shall be of a design and size compatible with the building and adjacent areas. Lighting shall be restrained in design and excessive brightness avoided. Lighting shall be designed to a standard that does not impact adjoining properties, especially residential areas and public right-of-ways.
- E. **Sewage and Liquid Wastes:** No operation shall be carried on which involves the discharge of waste into a stormsewer, water course, or the ground; nor should any liquid waste of any radioactive or poisonous nature or chemical waste which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations be dumped into wastewater sewerage.
- F. **Air Contaminants:**
 - 1. Air Contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one four minute period in each one-half hour. Light colored contaminants of such an capacity as to obscure an observer's view to a degree equal to or greater than the aforesaid shall not be permitted
 - 2. Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of two tenths (0.2) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit, except for a period of four minutes in any one-half hour, at which time it may equal but not exceed six tenths (0.6) grains per cubic foot as corrected to a temperature of 500 degrees Fahrenheit.
 - 3. Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantities of air contaminants or other material in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public in general; or to endanger the comfort, repose, health, or safety of any such considerable number of persons or to the public in general, or to cause, or have a natural tendency to cause injury or damage to business, vegetation, or property.
 - 4. **Odor:** The emission of odors that are generally agreed to be obnoxious to any considerable numbers of persons, shall be prohibited. Observations of odor shall be made at the property line of the establishment causing the odor. As a guide to classification of odor it shall be deemed that strong odors of putrefaction and fermentation tend to be obnoxious and that such odors as associated with baking or the roasting of nuts and coffee shall not normally be considered obnoxious within the meaning of this ordinances.
 - 5. **Gasses:** The gasses sulphur dioxide and hydrogen sulphide shall not exceed five parts per million, carbon monoxide shall not exceed five parts per million. All measurements shall be taken at the zoning lot line.
 - 6. **Vibration:** All machines including punch presses and stamping machines shall be so mounted as to minimize vibration and in no case shall such vibration exceed a displacement of three thousands (0.003) of an inch measured at the zoning lot line.
 - 7. **Glare and heat:** All glare, such as welding arcs and open furnaces shall be shielded so that they shall not be visible from the zoning lot line. No heat from furnaces or processing equipment shall be sensed at the zoning lot line to the extent of raising the temperature of air or materials more than five degrees Fahrenheit.

3.10.7 Area, yard and height requirements for this district shall be:

	Average Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height	Lot Coverage
Permitted Uses	7,000s.f.	100'	25'	10'	20'	45'	70%
Accessory Buildings	----	----	25'	5'	5'	15'	10%

- A. The minimum lot size shall be 7,000 square feet and the minimum width for industrial purposes shall be 100 feet.
- B. Minimum yard requirements.
 1. Front yard depth; not less than twenty-five (25) feet.
 2. Side yard depth; ten (10) feet, except along the side of a lot abutting a lot in any (R) District in which case fifty (50) feet shall be provided.
 3. Rear yard depth; twenty (20) feet, except for a lot abutting any (R) District in which case fifty (50) feet shall be provided.
- C. The maximum height of a structure in this district shall be forty-five (45) feet or three (3) stories except as provided for in Section 4.07 of Article 4.
- D. A forty five (45) foot minimum height may be exceeded, if the setbacks are increased by one (1) foot for every one (1) foot increase in height.
- E. When adjacent to any residentially zoned district, new construction must include a six (6) foot high screen along the entire common boundary, except in the required front yard.
- F. The maximum lot coverage shall not exceed seventy (70) percent of the lot area.

**SECTION 3.11: FF/FW FLOOD PLAIN DISTRICT (FF/FW OVERLAY DISTRICT) – APRIL 3RD,
2010 FLOODWAY AND FLOOD FRINGE ORDINANCE #321, AS AMENDED**

3.11.1 The 2010 Floodway and Flood Fringe Ordinance #321, (replacing Ordinance #257) shall continue in affect and enforced, until such time as they are amended.

3.11.2 **DISCLAIMER OF LIABILITY**

The degree of flood protection required by Ordinance 321 is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. Said Ordinances do not imply that areas outside floodplain district boundaries or land uses permitted within such districts will be free from flooding or flood damage. Said Ordinances shall not create liability on the part of the village or any officer or employee thereof for any flood damages that may result from reliance on said Ordinances or any administrative decision lawfully made thereunder.

SECTION 3.12 FRD FLOODWATER RETARDING DAM BREACH OVERLAY DISTRICT

3.12.01 **Intent:**

The intent of this district is to protect certain areas of Prague below Floodwater Retarding Dams (hereinafter referred to as FRD) that may be subject to substantial flooding should a FRD breach (dam failure) occur or that would increase the Dam Hazard Classification. This could result in significant losses due to:

1. The cumulative effect of obstructions in the FRD breach impact area district causing increases in flood heights and velocities; and
2. The occupancy of the FRD breach impact area district by uses vulnerable to floods or hazardous to others which are inadequately elevated or otherwise protected from flood damage.

The FRD breach impact area district is designed to permit the gainful use of certain lands which are considered to be in the path of potential flood waters and from which structures and other valuable property use that is subject to damage by flood water should be regulated. This would permit surface runoff through such areas in the event of a FRD breach with a minimum of structural damage or property loss, and a minimum of obligation upon governmental authorities for flood or disaster assistance.

As such, this Article is intended to promote the public health, safety, and general welfare, and minimize these losses by applying the provisions of this article to the designated areas within Prague. And by taking action to:

- Restrict or prohibit uses which are dangerous to health, safety, or property in the FRD breach impact area, or which might cause undue increase in flood heights; and
- Protect individuals from buying lands for the purpose of building in the FRD breach impact area which is unsuited for intended purposes because of flood hazard.

3.12.02 **Findings of Fact:**

1. The FRD breach impact area district of Prague, Nebraska, is subject to inundation which, in the event of a FRD breach, could result in potential loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief, and impairment of the tax base; all of which adversely affect the public health, safety, and general welfare.
2. Such flood losses are caused by:

- a. The cumulative effect of obstructions in FRD breach impact areas causing increases in flood heights and velocities.
- b. The occupancy of FRD breach impact areas by uses vulnerable to floods or hazardous to others, and which are inadequately elevated or otherwise protected from flood damages.
- 3. This article uses a reasonable method of analyzing FRD breach impact flood hazards which consists of a series of interrelated steps, as follows:
 - a. The use of engineering calculations and breach impact studies which indicate the area and potential depth of inundation for each FRD.
 - b. Delineation of breach impact area encroachment lines within which no habitable structure is permitted which could cause any increase in flood height

3.12.03 General Provisions

1. Land to which Regulations Apply. This article shall apply to all lands within the incorporated portion of Prague, Nebraska, and its Extra Territorial Jurisdiction (ETJ) identified on the FRD Maps as elaborated by the official Professional Engineering Breach Impact Studies. No new development of habitable structures shall be permitted in any defined FRD breach impact area except as authorized herein.
2. The Enforcement Officer. The Zoning Administrator of Prague, Nebraska or their designee is designated as the enforcement officer.
3. Rules for Interpretation of District Boundaries. The boundaries of the FRD breach impact area district shall be determined by scaling distances on the engineering Breach Impact Studies. The Zoning Administrator shall make all interpretations as to the exact location of said boundaries. In such cases where the interpretation is contested, the Board of Zoning Appeals will resolve the dispute.
4. Existing Development: No development of habitable structures presently located within a known FRD breach impact area shall be relocated, extended, converted, or structurally altered without a permit with the exception that a structure may be relocated to an approved site out of a FRD breach impact area.
5. Abrogation and Greater Restrictions: It is not intended by this Article to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Article imposes greater restrictions, the provisions of this Article shall prevail. All other regulations inconsistent with this Article are hereby repealed to the extent of the inconsistency only.
6. Interpretation: In their interpretation and application, the provisions of this Article shall be held to be minimum requirements and shall be liberally construed in favor of the Governing body and Prague.
7. Warning and Disclaimer of Liability: The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. In the event of a FRD breach, larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes. This Article does not imply that areas outside boundaries of the FRD breach impact area or land uses permitted within such districts will be free from flooding or flood damages. This Article shall not create liability on the part of Prague or any officer or employee thereof for any flood damages that may result from reliance on this Article or any administrative decision lawfully made thereunder.
8. Appeal: Where a request for a permit to develop, build, locate, extend, convert or structurally alter any structure or building is denied by the Zoning Administrator, the applicant may appeal such decision and apply for relief to the Board of Zoning Appeals in the method provided in these Regulations for appeals.

3.12.04 Permitted Uses

Only uses having a low flood damage potential and not obstructing flood flows shall be permitted within the Floodwater Retarding Dam Breach Impact Overlay District to the extent they are not prohibited by any other provision of these Regulations and provided they do not require structures or storage of materials or equipment. Subject to the requirements of these Regulations, the following uses are permitted:

- a. Agricultural uses.
- b. Residential accessory uses such as lawns, gardens, parking, play areas, and yard areas that do not have a habitable structure.
- c. Nonresidential uses such as loading areas, parking, landing strips, and
- d. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, and wildlife and nature preserve.
- e. Residential structures with a finished floor elevation certified to exceed a minimum of one-foot above the Wahoo Creek Dam Breach Inundation elevation.
- f. Or other uses that will not affect the Dam Hazard Classification and are in conformance with the underlying zoning district.

ARTICLE 4: SUPPLEMENTAL REGULATIONS

SECTION 4.01: LOT OF RECORD.

Where the owner of a lot of official record in any district at the time of the adoption of this Ordinance or his successor in title thereto does not own sufficient contiguous land to enable him to conform to the minimum lot size requirements of this Ordinance, such lot may be used as a building site provided that said lot is used so as to conform to all yard requirements of this Ordinance.

SECTION 4.02: SETBACKS

Where thirty (30%) percent or more of any block front is improved with buildings, no part of any new building shall project beyond that front line of the two (2) nearest buildings.

SECTION 4.03: SIDE YARD

The required side yard shall be maintained on each side of a dwelling, but such side yard may be reduced to ten (10%) percent of the lot width on lots of less than sixty (60) feet in width; provided however, that no side yard shall be less than five (5) feet.

SECTION 4.04: REAR YARD; DEPTH

The required rear yard may be reduced to twenty (20%) percent of the depth of the lot. An accessory building may be built within a required rear yard when located at least five (5) feet from the rear lot line and when occupying not more than thirty (30%) percent of the area of such required rear yard. Further, where access to a garage is provided from an alley, such structure shall be no closer than eight (8) feet to said alley.

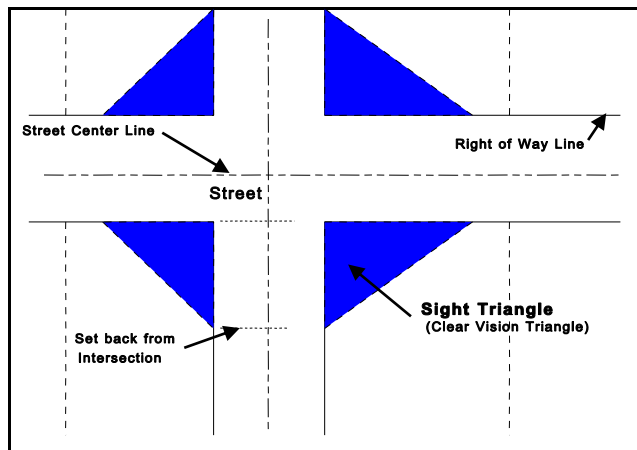
SECTION 4.05: PROJECTIONS

The following shall not be considered to be obstructions when located in the required yards:

- 4.05.1 *All Yards:* Steps and accessibility ramps used for wheelchair and other assisting devices which are four feet or less above grade which are necessary for access to a permitted building or for access to a lot from a street or alley; chimneys projecting 24 inches or less into the yard; recreational and laundry-drying equipment; approved freestanding signs; arbors and trellises; flag poles; window unit air conditioners projecting not more than 18 inches into the required yard; and fences or walls subject to applicable height restrictions, cantilevers and/or fireplaces not more than 24 inches into the required yard, are permitted in all yards.
- 4.05.2 *Front Yards:* Bay windows projecting three feet or less into the yard are permitted.
- 4.05.3 *Rear and Side Yards:* Open off-street parking spaces or outside elements of central air conditioning systems.
- 4.05.4 *Double Frontage Lots:* The required front yard shall be provided on each street, unless otherwise provided.
- 4.05.5 *Building Groupings:* For the purpose of the side yard regulation a group of business or industrial buildings separated by a common party wall shall be considered as one building occupying one lot.

SECTION 4.06: CORNER LOTS

- 4.06.1 On corner lots, the yard on that side of the lot abutting the side street shall not be less than the front yard required for the district in which the lot is located; Provided, that on a lot of record the building width shall not be reduced to less than forty (40) feet. Accessory buildings on the side of the lot abutting the side street shall not be closer to the lot line abutting on that side street than the distance specified for front yards of lots fronting on such side street.



- 4.06.2 Clear Vision Triangle: Nothing above 18 inches or lower than 8 feet shall be located, erected or maintained in the area within a triangle formed by the intersection of the lot lines of a corner lot adjacent to a street or alley back a distance of twenty-five (25) feet from such intersection.

SECTION 4.07: HEIGHT LIMITATIONS

The height limitations of this Ordinance shall not apply to chimneys, cooling or water towers, elevators, bulkheads, fire towers, monuments, stacks, storage towers, tanks, spires, church steeples, radio towers, or necessary mechanical apparatus.

Public, semi-public, or public service buildings, hospitals, institutions, churches, and schools, when permitted in a district may be erected to a height not exceeding sixty (60) feet; Provided, that all required yards are increased by one (1) foot for each foot of building height above the height limit otherwise provided.

SECTION 4.08: SWIMMING POOLS

All "above" or "in" ground swimming pools of a permanent nature constructed within the zoning jurisdiction, the area encompassed by the swimming pool shall be fenced with a six-foot (6) fence with self closing locked gate. Drainage of said swimming pool must not be onto adjoining property. There shall be no drainage of said swimming pool into the sanitary sewer of the Village. Drainage may be permitted into the storm sewer provided the chemicals contained in said swimming pool are first diluted. All chemicals for said swimming pool must be stored in a secure area.

SECTION 4.09: RECREATIONAL VEHICLES, TRAILERS, OR EQUIPMENT

All vehicles, trailers or equipment expressly designated or used for recreational or seasonal use shall not be used for dwelling purposes on any lot except as may be authorized elsewhere. Such vehicles or equipment shall not be allowed to be parked or maintained in the required front or side yard setback.

SECTION 4.10: FENCES (FENCES, WALLS & STRUCTURAL SCREENS)

No fence shall be constructed within the zoning jurisdiction of the Village of Prague unless a permit is approved and issued by the zoning administrator and is constructed in conformance with the following requirements, except where exempted herein:

- 4.10.1 The height limitation for fences, walls or structural screens shall be six (6) feet above ground level except as provided herein. The height of a fence shall be determined by a measurement from the ground beneath the fence to the top of the highest part of the fence. Manmade earth berms, terraces, and retaining walls that elevate the fence shall be considered a part of the fence.
 - A. A fence constructed within a front yard of a residential lot and vegetation used as a barrier, screen, or fence along and parallel to the front line of a residential lot, shall not exceed forty-two (42) inches in height.
 - B. Where it is demonstrated that for security purposes, the perimeter fencing around a plant, lot or building located in an area zoned as Industrial must be higher than six (6) feet in height may be approved by through a conditional use permit.
 - C. Fences constructed along and parallel to lot lines separating a residential lot from property located in a commercial or industrial district shall not exceed eight (8) feet in height.
 - D. Fences constructed along and parallel to rear and side lot lines adjoining arterial streets, as designated by the Nebraska Department of Roads, shall not exceed eight (8) feet in height.
- 4.10.2 Fences located within a front yard of a residential or commercial lot must qualify as an ornamental fence, open fence or chain link fence (fence having 50% unobstructed openings). Solid fences may be constructed along a side and rear lot line. A solid fence may be constructed in a front yard of a lot located in a Transitional Agriculture or Industrial District.
- 4.10.3 No fence or vegetation shall be situated or constructed in such a way as to obstruct the vehicular traffic or otherwise create a traffic safety hazard within the triangular area required for sight distance of vehicles entering or exiting the property or entering any adjacent intersection as prescribed in Article 4, Section 4.06.2.
- 4.10.4 The use of barbed wire in the construction of any fence is prohibited except:

- A. Perimeter security fencing of buildings constructed in an industrial district or municipal owned buildings or structures. The plans and specifications for any such fencing must be approved by the Village before commencement of construction.
 - B. Farm fencing constructed for agricultural purposes located in the Transitional Agriculture District.
- 4.10.5 All fences shall be located inside the boundaries of the property upon which constructed except where two (2) adjacent property owners pursuant to written agreement filed with the Village agree to build one (1) fence on the common lot line of adjacent side yards and rear yards.
 - 4.10.6 No electric fence shall be constructed or maintained within the corporate limits of the Village or within its extraterritorial zoning jurisdiction except in a Transitional Agriculture District.
 - 4.10.7 The finished surface of all fences shall face toward adjoining property or street frontage. However, in the case of two (2) or more property owners wishing to share a common fence line between their properties, said property owners shall jointly determine upon which side of the common fence line the finished face of the fence shall be placed. Such determination shall be consistent for the entire length of the common fence line.
 - 4.10.8 Fences utilized for agriculture located outside the Village Corporate Limits and meeting the requirements of this section, except solid fences, shall be exempt from a zoning permit.
 - 4.10.9 Any existing fence constructed pursuant to a permit issued and approved by the Village of Prague which was in conformity with the prior provisions of this section as of January 11, 2001 and which was in place as of said date, may remain without change in accordance with this section; provided, however, and replacement or change of said existing fence or addition of a new fence, must hereby meet the requirements of this section as amended hereby.
 - 4.10.10 It is not intended that any structure other than a fence is permitted on any part of a lot or premises by this section, and all other structures must comply with these regulations. The provisions of this section shall not apply to retaining walls.

SECTION 4.11: PRIMARY STRUCTURE AND ACCESSORY USES.

- 4.11.1 No more than one (1) primary structure shall be located on a single lot, except where primary structures are designed and platted as a single entity under single ownership and control such as multi-family and clustered residential developments, townhouse development, guest houses not used as a permanently occupied dwelling unit, or shopping centers and lots located in recognized industrial parks.
- 4.11.2 Accessory uses shall be incidental to, subordinate to, and commonly associated with the principal use of the premises and be operated and maintained under the same ownership and on the same lot as the principal use, except in the TA District and for garages permitted by conditional use as principal structures as per these regulations and Section 4.20.
- 4.11.3. Accessory uses shall not be larger than 600 sq. ft. unless the structure is subordinate to the principal structure on the lot in height, area, bulk, extent and purpose. Structures shall not be located closer to any lot line than set forth in the minimum yard requirements for the zoning district in which it is located and shall be included in the calculation of maximum lot coverage regulations of the zoning district in which it is located.
- 4.11.4 No accessory building shall be constructed upon a lot for more than six (6) months prior to beginning construction of the principal building, except in the TA District. No accessory building shall be used for more than six (6) months unless the main building on the lot is also being used or unless the main building is under construction; however, in no event shall such building be used as a dwelling unless a certificate of occupancy has been issued for such use.
- 4.11.5 No detached accessory building or structure shall exceed the maximum permitted height of the principal building or structure.
- 4.11.6 No accessory building shall be erected in or encroach upon the required front yard.
- 4.11.7 Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than ten feet (10').
- 4.11.8 Garages and outbuildings in Residential Districts for storage uses and other structures customary and appurtenant to the permitted uses and detached accessory garages shall be constructed of materials customarily used in residential construction, including colored metal

siding and roofing. See also Section 4.20 for additional standards for garages as principle structures.

4.11.9 Regulation of accessory uses shall be as follows:

1. Except as herein provided, no accessory building shall project beyond a required yard line along any street.
2. Service station pumps and pump island may occupy the required yards, provided, however, that they are not less than fifteen feet (15') from street lines.
3. Storage of an unlicensed boat, boat trailer, camp trailer, or other vehicle shall not be permitted in any required yard, unless provided herein.

SECTION 4.12: HOME OCCUPATIONS AND HOME BASED BUSINESSES.

- 4.12.1 A home occupation or home based business may be permitted to accompany any residential use only after the issuance of an occupancy permit by the Zoning Administrator and such permit shall be issued only if the home occupation or home based business complies in all respects to the requirements of this Section.
- 4.12.2 A home occupation or home based business shall be of a personal or professional service nature and such home occupations or home based business shall not change the residential character of the premises or the structures thereon or interfere with the residential use of adjoining residential uses or residential uses across the street of the premises. No provision for additional off-street parking or loading facilities other than those which would normally be accessory to the residential use shall be permitted and on-street parking for customers of such home occupation or home based business shall be limited to those on-street parking spaces located on the same side of the street and along the frontage of the lot or premises where such home occupation or business is located. In instances where on-street parking is prohibited on one or both sides of the street, customer parking shall be limited to the off-street parking on the premises.
- 4.12.3 The principal use of the premises shall be for residential purposes and the owner and operator of the home occupation or home based business shall be the occupant of the residential dwelling on the premises.
- 4.12.4 The owner/operator of the home occupation or home based business shall not employ more than two (2) employees in addition to members of the immediate family members of the owner/operator who reside on the premises.
- 4.12.5 No exterior alteration which would change the residential appearance of the residential dwelling structure or any accessory building, including the use of lighted canopies, shall be permitted.
- 4.12.6 If the home occupation or home based business is located in the residential dwelling structure, such use shall not occupy more than twenty-five (25) percent of the total floor area of all finished floors. A home occupation or home based business may be conducted in an accessory building, provided such is a building that is accessory to the residential use.
- 4.12.7 No additional or separate entrance which is inconsistent with the use of the residential dwelling structure shall be constructed solely for the purpose of conducting such home occupation or home based business.
- 4.12.8 No display of goods or exterior evidence of the home occupation or home based business shall be permitted except for one (1) non-animated, non-illuminated, non-flashing sign which identifies the home occupation or home based business. Said sign shall not exceed a total of ten (10) square feet in area and shall be attached flat against a wall of the residential dwelling structure or accessory structure in which the home occupation or home based business is conducted.
- 4.12.9 No equipment of process shall be used in any home occupation or home based business which creates noise, vibration, glare, fumes, odors, or electrical interference detectable off the premises.
- 4.12.10 No stock in trade or products, other than those used, manufactured, assembled, produced or created on the premises shall be sold on the premises, provided that stocking of products to be sold where the operator of the home occupation or business delivers such products to the

purchaser or the number of customers visiting the location of the home occupation/business to pick up such products does not exceed four (4) per day.

SECTION 4.13: MOBILE HOMES.

The Village Board, by granting of a conditional use permit, may allow mobile homes to be located in the R-2 Zoning District; provided, the proposed use meets all of the following standards and regulations:

- 4.13.1 Each mobile home shall meet the setbacks of the respective district in which it is to be located.
- 4.13.2 Each mobile home shall connect with a public sewer and water.
- 4.13.3 The conditional use permit is granted to the property owner and is subject to review every two (2) years.
- 4.13.4 All appropriate State and County sanitation regulations shall be strictly observed.

SECTION 4.14: MOBILE HOME PARKS, COURTS AND SUBDIVISIONS.

Mobile Home Parks, Courts or Subdivisions shall be permitted by conditional use in those zoning districts which specify that mobile home parks, courts or subdivisions are permitted by conditional use. Any authorized mobile home park, court or subdivision may contain mobile homes as defined in this Ordinance, manufactured homes or site built dwelling units. All mobile home parks, courts or subdivisions authorized under this Ordinance and expansions of any mobile home parks, courts or subdivisions and the mobile homes, manufactured homes and site built homes placed in such mobile home park, court or subdivision shall comply with the following minimum requirements.

4.14.1 Mobile Home Park / Court

The following minimum requirements shall apply to any mobile home park or court developed after the effective date of this Ordinance and to any expansion of any mobile home park or court already existing as of the effective date of this Ordinance:

- A. A mobile home park / court shall have an area of not less than one (1) acre measured to the centerline of any streets or alleys abutting such park / court.
- B. Each lot provided for placement of a dwelling unit shall have a minimum area of four thousand (4,000) square feet, provided that any home placed on any lot shall comply with the minimum yard requirements specified herein. The minimum lot width for any lot shall be thirty-six (36) feet.
- C. The minimum front yard shall be fifty (50) feet from any street classified on the Village's Street Plan as a major or minor arterial, or twenty (20) feet from any street classified as a collector or local street. The front yard shall be measured from the right-of-way line of any public street or from a point that is twelve (12) feet from the centerline of any private street providing access to individual lots in the mobile home park/court. The front yard may contain vehicle parking spaces required for each mobile home lot.
- D. The minimum side yard for each dwelling unit, including any additions including, but not limited to porches, decks, and room additions, shall be six (6) feet.
- E. The minimum rear yard for each dwelling unit shall be fifteen (15) feet.
- F. Each lot in the mobile home park/court shall be served by a hard surfaced street at least twenty-four (24) feet in width. Any dead-end street shall be provided with a hard surfaced turn-around at least sixty (60) feet in diameter.
- G. Municipal water and sewer utilities shall be provided to each lot. The water supply shall be sufficient to provide water for domestic consumption and adequate flow for fire protection. Fire hydrants shall be installed so that no lot within the mobile home park/court is more than three hundred (300) feet from any lot within the mobile home park/court, measured along the streets on the perimeter or within the park/court.
- H. Each lot shall be provided with a minimum of two (2) off-street parking spaces. Each parking space shall be surfaced with gravel, rock or may be hard surfaced, provided that if gravel or rock is used, such parking spaces shall be equipped with permanent edging in the form of sidewalks, treated wood or other durable material not subject to breakage from movement of vehicles, people or lawn maintenance equipment. The

parking spaces shall be connected by hard surfaced walkways connecting the parking spaces to the entrance to the dwelling unit.

- I. Street lighting within and on the perimeter of a mobile home park/court shall be installed so that the spacing and type of street lighting is equivalent to the street lighting for other residential areas of the community.
- J. Not less than eight (8) percent of the total land area in the mobile home park/court, measured exclusive of any perimeter streets, shall be designated for use as common open space for recreation purposes. Any such area shall be designed so that its length is not more than twice its width and so that it is not traversed by any street or motor vehicle traffic. This open space requirement may be eliminated if a public park is located immediately across any street which is on the perimeter of the mobile home park/court.
- K. If common refuse storage areas are to be provided, such areas shall not be located more than one hundred fifty (150) feet from any lot and all such areas shall be screened from view by a solid fence at least six (6) feet in height and shall be equipped with a hinge gate(s) to permit dumping of waste into the waste containers and emptying of the containers.
- L. The owner/management of a mobile home park/court shall prohibit storage of any materials equipment, refuse containers, except outdoor charcoal or gas grills and outdoor seating and licensed, operable vehicles, outside or underneath any dwelling unit unless such materials are stored in an enclosed building or inside a solid fence with a minimum height of six (6) feet which will screen such materials from the front, side and rear.
- M. All manufactured, mobile or other dwelling units not placed on a permanent foundation shall be completely skirted, provided that recreational vehicles which are temporarily parked in a mobile home park/court shall not be required to be skirted. Temporary parking of recreational vehicles shall be construed to mean a period not exceeding four (4) consecutive months.
- N. Each lot within the mobile home park/court shall be provided with a roofed building containing at least eighty (80) square feet for storage of refuse containers, lawn maintenance equipment, bicycles and other items. Such storage space may be provided in the form of individual buildings on each lot, in the form of a centralized storage building(s) sufficient in size and divided to provide eighty (80) square feet of lockable storage space for each lot in the park/court, or in the form of oversized garages sufficient in size to provide the required eighty (80) square feet of storage space.
- O. All manufactured homes and mobile homes placed in a mobile home park/court lots shall be provided with pads and anchors for the support of and windstorm protection and such pads and anchors shall be constructed and installed in accordance with the dwelling unit=s manufacturer specifications or in the event of non-availability of such specifications, such pads and anchors shall be constructed to meet the requirements of 24 CFR 3280.
- P. Not less than one (1) reinforced storm shelter shall be provided for use by occupants of the mobile home park/court. Such shelter shall be of adequate size and capacity to safely house all occupants of the park/court and shall provide at least ten (10) square feet of floor area for each occupant utilizing an average of two and one-half (2 ½) persons per lot provided in the mobile home park/court. Such storm shelter may be a reinforced building, combined with a common laundry, recreation space, common storage building and such storm shelter shall be located so that a storm shelter is available within one hundred fifty (150) feet of each lot in the park/court.

4.14.2 Mobile Home Park/Court Plan Requirements

As part of any application, the developer of any new or expanded mobile home park/court shall submit a complete, accurately scaled plan of the proposed park/court. Said plan shall include at least the following items:

- A. The legal description and area of land to be included in the park/court.

- B. The number, size and location of each lot to be provided, including the location of required vehicle parking spaces.
- C. The location and width of all streets and walkways.
- D. A grading and drainage plan for the park/court.
- E. The size and location of all water and sewer lines to be installed, including all fire hydrants, valves and other infrastructure improvements together with easement locations and widths.
- F. The location of all proposed street lights and utility easements to provide power to such lights.
- G. The location and dimensions of the required common open space recreation area.
- H. The location(s), size and capacity of the required storm shelter(s).
- I. The location of all common refuse storage areas, other buildings and structures and other improvements to be provided within the park/court.
- J. Plans and specifications for all buildings to be provided, including the plans and specifications for any individual storage buildings to be used in the park/court.

4.14.3 Mobile Home Subdivision

The following minimum requirements shall apply to any mobile home subdivision developed after the effective date of this Ordinance and to any expansion of any mobile home subdivision already existing as of the effective date of this Ordinance.

- A. A mobile home subdivision shall have an area of not less than one (1) acre measured to the centerline of any streets or alleys abutting such subdivision.
- B. Each lot provided for placement of a dwelling unit shall have a minimum area of six thousand (6,000) square feet, provided that any home placed on any lot shall comply with the minimum yard requirements specified herein. The minimum lot width for any lot for the placement of a dwelling unit eighteen (18) feet or less in exterior width shall be forty-eight (48) feet. The minimum lot width for any lot for placement of a dwelling unit in excess of eighteen (18) feet in exterior width shall be sixty-two (62) feet.
- C. The minimum front yard shall be fifty (50) feet from any street classified on the Village's Street Plan as an arterial, or twenty (20) feet from any street classified as a collector or local street. The front yard shall be measured from the right-of-way line of any public street or from a point that is twelve (12) feet from the centerline of any private street providing access to individual lots in the mobile home park/court. The front yard may contain vehicle parking spaces required for each mobile home lot.
- D. The minimum side yard for each dwelling unit, including any additions including, but not limited to porches, decks, and room additions, shall be ten (10) feet.
- E. The minimum rear yard for each dwelling unit shall be fifteen (15) feet.
- F. Each lot in the mobile home subdivision shall be served by a hard surfaced dedicated public street or private street constructed in accordance with the Village's subdivision regulation ordinance. No private street shall be less than twenty-four (24) feet in width and any dead-end street shall be provided with a hard surfaced turn-around at least eighty (80) feet in diameter.
- G. Municipal water and sewer utilities shall be provided to each lot. The water supply shall be sufficient to provide water for domestic consumption and adequate flow for fire protection. Fire hydrants shall be installed so that no lot within the mobile home subdivision is more than three hundred (300) feet from any lot within the mobile subdivision, measured along the streets on the perimeter or within the subdivision.
- H. Each lot shall be provided with a minimum of two (2) off-street parking spaces. Each parking space shall be hard surfaced. The parking spaces shall be connected by hard surfaced walkways connecting the parking spaces to the entrance to the dwelling unit.
- I. Street lighting within and on the perimeter of a mobile home subdivision shall be installed so that the spacing and type of street lighting is equivalent to the street lighting for other areas of the community.
- J. Not less than eight (8) percent of the total land area in the mobile home subdivision, measured exclusive of any perimeter streets, shall be designated for use as common

open space for recreation purposes. Any such area shall be designed so that its length is not more than twice its width and so that it is not traversed by any street or motor vehicle traffic. This open space requirement may be eliminated if a public park is located immediately across any street which is on the perimeter of the mobile home subdivision.

- K. If common refuse storage areas are to be provided, such areas shall not be located more than one hundred fifty (150) feet from any lot and all such areas shall be screened from view by a solid fence at least six (6) feet in height and shall be equipped with a hinge gate(s) to permit dumping of waste into the waste containers and emptying of the containers.
- L. The developer of a mobile home subdivision shall establish restrictive covenants to prohibit storage of any materials equipment, refuse containers, except outdoor charcoal or gas grills and outdoor seating and licensed, operable vehicles, outside or underneath any dwelling unit unless such materials are stored in an enclosed building or inside a solid fence with a minimum height of six (6) feet which will screen such materials from the front, side and rear.
- M. The developer of the mobile home subdivision shall establish restrictive covenants to require all manufactured, mobile or other dwelling units not placed on a permanent foundation shall be completely skirted.
- N. All manufactured homes and mobile homes placed in a mobile home subdivision shall be placed on and affixed to a permanent foundation or be provided with pads and anchors for the support of and windstorm protection and such pads and anchors shall be constructed and installed in accordance with the dwelling unit's manufacturer specifications or in the event of non-availability of such specifications, such pads and anchors shall be constructed to meet the requirements of 24 CFR 3280.
- O. Not less than one (1) reinforced storm shelter shall be provided for use by occupants of the mobile subdivision. Such shelter shall be of adequate size and capacity to safely house all occupants of the subdivision and shall provide at least ten (10) square feet of floor area for each occupant utilizing an average of two and one-half (2 ½) persons per lot provided in the mobile home subdivision. Such storm shelter may be a reinforced building, combined with a common laundry, recreation space, common storage building and such storm shelter shall be located so that a storm shelter is available within one hundred fifty (150) feet of each lot in the subdivision.

4.14.4 Mobile Home Subdivision Platting Requirements

As part of any application, the developer of any new or expanded mobile home subdivision shall submit a complete, accurate plat of the proposed subdivision in accordance with the requirements of the Subdivision Regulations of the Village of Prague, Nebraska.

SECTION 4.15: WIND ENERGY CONVERSION SYSTEMS

4.15.01 Purpose:

It is the purpose of this ordinance to promote the safe, effective and efficient use small wind energy systems installed to reduce the on-site consumption of utility supplied electricity and of commercial/utility grade wind energy systems and that such systems are appropriately sited within the zoning jurisdiction of the Village of Prague

4.15.02 Definitions:

The following are defined for the specific use of this section.

- A. A-weighted Sound Level (dbA): a measurement of sound pressure level, which has been filtered or weighted to progressively de-emphasize the importance of frequency components below 1,000 Hz and above 5,000 Hz. This reflects the fact that human hearing is less sensitive at low frequencies and at extremely high frequencies, relative to the mid-range of the frequency spectrum. This area of sensitivity also corresponds to the human speech band. This measurement is the most commonly used filter in both industrial noise applications (governed by OSHA) and community noise regulations.

- B. Aggregate Project shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.
- C. Applicant: A property owner, or any person or entity acting as an agent for the property owner, in an application for a WECS Permit under this Article.
- D. Blade Glint: The intermittent reflection of the sun off the gloss surface of wind turbine blades.
- E. Building-Mounted Wind Turbine (BMWT): a wind energy conversion system consisting of a wind turbine mounting system and associated control or conversion electronics and which is mounted to a building and intended to primarily reduce on-site consumption of utility power.
- F. Commercial Wind Energy Conversion System (CWECS): an electrical generating facility comprised of one or more wind turbines and accessory facilities generating capacity, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy generated will be used by a utility company for off-site use. A wind energy conversion system of equal to or greater than 100 kW in total name plate generating capacity.
- G. Decibel (db): The measurement of a sound pressure relative to the logarithmic conversion of the sound pressure reference level often set as 0 dbA. In general, this means the quietest sound we can hear is near 0 dbA and the loudest we can hear without pain is near 120 dbA. Most sounds in the typical day-to-day environment range from 30 dbA to 100 dbA. Normal speech at 3 feet averages about 65 dbA.
- H. FAA: Federal Aviation Administration.
- I. Fall Zone: shall mean the area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of a structural failure. This area is less than the total height of the structure.
- J. FCC: Federal Communications Commission.
- K. Feeder Line: shall mean any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.
- L. Furling: A design characteristic of a wind turbine intended to limit its power output in high winds by changing the rotor's plane of rotation to a plane that is not perpendicular to the prevailing wind direction.
- M. Hub Height: the distance measured from ground level to the centerline of the rotor.
- N. Ice Throw: Ice build-up that is thrown by the spinning turbine blades.
- O. Meteorological Tower: shall mean, for purposes of this ordinance, a tower, including the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Roads, or other applications to monitor weather conditions.
- P. Micro-Wind Energy Conversion System: shall mean a Wind Energy Conversion System of 1 kW nameplate generating capacity or less and utilizing supporting towers of 40 feet or less.
- Q. Nacelle: A cover housing that holds all of the generating components of a WECS, such as the gearbox, drive train, rotor shaft, and brake assembly.
- R. Operator: The person or entity responsible for the day-to-day operation and maintenance of the WECS.

- S. Public Conservation lands: shall mean land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, Federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this ordinance, public conservation lands will also include lands owned in fee title by non-profit conservation organizations, Public conservation lands will also include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.
- T. Pure Tone: A sound whose instantaneous sound pressure is a simple sinusoidal function of the time and is characterized by a single frequency or singleness of pitch. For the purpose of these regulations, a pure tone shall exist if the one-third octave band sound pressure level in the bandwidth of the tone exceeds the arithmetic average of the sound pressure levels on the two contiguous one-third octave bands by five db for center frequencies of 500 Hz and above, and eight db for center frequencies between 160 and 400 Hz, and by 15 db for center frequencies less than or equal to 125 Hz.
- U. Residential Wind Energy Conversion System (RWECS): a wind energy conversion system consisting of a wind turbine, tower, and associated control or conversion electronics, and which is intended to primarily reduce on-site consumption of utility power. A system is considered a residential wind energy system only if it supplies electrical power solely for on-site 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 on-site use may be used by the utility company.
- V. Rotor: The rotating part of a turbine, including the blades.
- W. Rotor Diameter: shall mean the diameter of the circle described by the moving rotor blades.
- X. Sensitive Receptor: Structures that have occupants on a routine basis and whose occupants could be negatively affected by noise, vibration, shadow, or flicker, including those structures intended for four season human habitation (whether inhabited or not), public parks, state designated wildlife areas, the manicured areas of private recreational establishments such as golf courses or the campsites in a state approved campground, schools, daycare centers, elderly care facilities, hospitals, places of public assembly, and businesses.
- Y. Shadow Flicker: When the blades of an operating wind turbine pass between the sun and an observer, casting a readily observable, moving shadow on the observer and his or her immediate environment.
- Z. Small Wind Energy Conversion System (SWECS): a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, and which will be used primarily to reduce on-site consumption of utility power. Such system has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.
- AA. Stall Control: A braking mechanism on wind turbines where the rotor blades are bolted onto the hub at a fixed angle. The rotor blade profile is aerodynamically designed to ensure that the moment the wind speed becomes too high it creates turbulence on the side of the rotor blade which is not facing the wind. This stall prevents the lifting force of the rotor blade from acting on the rotor.
- BB. Substations: shall mean any electrical facility to convert electricity produced by wind turbines to a voltage greater than 35,000 (35,000 KV) for interconnection with high voltage transmission lines.
- CC. Total Height: shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.
- DD. Tower: shall mean the vertical structures that support the electrical, rotor blades, or meteorological equipment.
- EE. Tower Height: shall mean the total height of the Wind Energy Conversion System exclusive of the rotor blades.
- FF. Transmission Line: shall mean the electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long

distances rather than directly interconnecting and supplying electric energy to retail customers.

- GG. Turbine, or Wind Turbine: see “Wind Energy Conversion System.”
- HH. Upwind Rotor: A design in which the rotor on a wind turbine tower faces into the wind.
- II. Well-designed Braking System: The primary braking system, which uses a mechanical brake, pitch-control of the turbine blades, or stall-control to bring the turbine to a stop in such a way that stall-induced vibrations/noise are avoided.
- JJ. Wind Energy Conservation System (WECS): shall mean an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.
- KK. Wind Energy Conversion System (WECS) Facility: An electric generating facility, whose main purpose is to supply electricity, consisting of one or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.
- LL. Wind Turbines: shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture the wind.

4.15.03 Requirements for Residential Wind Energy Conversion System (RWECS):

Residential wind energy systems shall be permitted as an accessory use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met. See Section 4.15.07 for regulations on building mounted wind turbines.

- A. Wind energy towers shall to the extent possible blend into the surrounding environment and architecture, including painting to reduce visual obtrusiveness. The Village Zoning Administrator may require a photo of an RWECS system of the same model that is the subject of the landowner’s application adjacent to a building or some other object illustrating scale (e.g., manufacturer’s photo).
- B. RWECS shall not be artificially lighted unless required by the FAA or another appropriate authority.
- C. No tower should have any sign, writing, or picture that may be construed as advertising.
- D. RWECS shall not exceed 60 dBA, as measured at the closest property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
- E. An RWECS shall be located on a parcel that is at least one-half (1/2) acre in size.
- F. The applicant shall provide information demonstrating that the system will be used primarily to off-set on-site consumption of electricity. No residential wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer’s intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- G. The minimum distance between the ground and any protruding blades utilized on an RWECS shall be 20 feet, as measured at the lowest point on the arc of the rotor. The supporting tower shall also be enclosed with a six foot tall fence or the base of the tower shall not be climbable for a distance of 12 feet.
- H. Compliance with FAA regulations: An RWECS must comply with applicable regulations of the Federal Aviation Administration, including any necessary approvals for installations close to airports.
- I. Compliance with applicable Building Code: Zoning permit applications for an RWECS shall be accompanied by standard drawings of the wind turbine structure, including the tower base, and footings. An engineering analysis of the tower showing compliance with the applicable Building Code(s) and certified by a professional engineer licensed in the State of Nebraska shall also be submitted.
- J. Compliance with applicable Electric Code: Zoning permit applications for an RWECS shall be accompanied by a line drawing of the electrical components in sufficient detail to

allow for a determination that the manner of installation conforms to the applicable Electric Code(s). This information may be supplied by the manufacturer.

K. Setbacks

1. See Section 4.15.07 for setbacks.
2. No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site

L. Tower Height

The applicant shall provide evidence that the proposed height of the RWECS does not exceed the height recommended by the manufacturer or distributor of the system.

1. The maximum tower height is 80, unless a greater restriction is imposed by FAA regulations.

4.15.04 Requirements for Small Wind Energy Conversion System (SWECS)

Small wind energy systems shall be permitted as a conditional use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met. See Section 4.15.07 for regulations on building mounted wind turbines.

- A. Small wind energy towers shall maintain a galvanized steel finish, unless FAA standards require otherwise, or if the owner is attempting to match the finish on the tower to the surrounding environment and architecture, in which case it may be painted to reduce visual obtrusiveness. The Village Zoning Administrator may require a photo of an SWECS system of the same model that is the subject of the landowner's application adjacent to a building or some other object illustrating scale (e.g., manufacturer's photo).
- B. SWECS shall not be artificially lighted unless required by the FAA or another appropriate authority.
- C. No tower should have any sign, writing, or picture that may be construed as advertising.
- D. SWECS shall not exceed 60 dBA, as measured at the closest property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
- E. An SWECS shall be located on a parcel that is at least three (3) acres in size.
- F. The applicant shall provide information demonstrating that the system will be used primarily to off-set on-site consumption of electricity. No residential wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- G. The minimum distance between the ground and any protruding blades utilized on an SWECS shall be 20 feet, as measured at the lowest point on the arc of the rotor. The supporting tower shall also be enclosed with a six foot tall fence or the base of the tower shall not be climbable for a distance of 12 feet.
- H. Compliance with FAA regulations: An SWECS must comply with applicable regulations of the Federal Aviation Administration, including any necessary approvals for installations close to airports.
- I. Compliance with the applicable Building Code: Zoning permit applications for an SWECS shall be accompanied by standard drawings of the wind turbine structure, including the tower base, and footings. An engineering analysis of the tower showing compliance with the applicable Building Code(s) and certified by a professional engineer licensed in the State of Nebraska shall also be submitted.
- J. Compliance with applicable Electric Code: Zoning permit applications for an SWECS shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the applicable Electric Code(s). This information may be supplied by the manufacturer.
- K. Setbacks
 1. See Section 4.15.07 for setbacks.
 2. No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site.

L. Tower Height

The applicant shall provide evidence that the proposed height of the SWECS does not exceed the height recommended by the manufacturer or distributor of the system.

1. The maximum tower height is 120, unless a greater restriction is imposed by FAA regulations.

4.15.05 Requirements for Commercial/Utility Grade Wind Energy Systems (CWECS)

Commercial/Utility Grade wind energy systems shall be permitted as a Conditional Use within any district where the use is listed and allowed. The following requirements and information shall be met and supplied:

- A. The name(s) of project applicant.
- B. The name of the project owner.
- C. The legal description and address of the project.
- D. A description of the project of the project including: Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.
- E. Site layout, including the location of property lines, wind turbines, electrical grid, and all related accessory structures. This site layout shall include distances and be drawn to scale.
- F. Engineer's certification from a professional engineer licensed in the State of Nebraska.
- G. Documentation of land ownership or legal control of the property.
- H. The latitude and longitude of individual wind turbines.
- I. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other Wind Energy Conversion System, within 10 rotor distances of the proposed CWECS not owned by the applicant.
- J. Location of wetlands, scenic, and natural areas (including bluffs) within 1,320 feet of the proposed CWECS.
- K. An Acoustical Analysis that certifies that the noise requirements within these regulations can be met.
- L. FAA and FCC permit, if necessary. Applicant shall submit permit or evidence that the permit has been filed with the appropriate agency.
- M. Location of all known Communication Towers within two miles of the proposed Wind Energy Conversion System and evidence that there will be no interference with any such commercial and/or public safety communications towers.
- N. Decommissioning Plan as required by this ordinance.
- O. Description of potential impacts on nearby Wind Energy Conversion Systems and wind resources on adjacent properties.
- P. A CWECS shall be located on a parcel that is at least ten (10) acres in size.
- Q. Setbacks identified as required in Section 4.15.07

4.15.06 Aggregated Projects

- A. Aggregated projects may jointly submit a single application and be reviewed under joint proceedings, including notices, public hearings, reviews and as appropriate approvals.
- B. Permits may be issued and recorded separately.
- C. Joint projects will be assessed fees as one project.

4.15.07 Setbacks

All towers shall adhere to the setbacks established in the following table:

	Wind Turbine – Non Commercial WECS (residential & small)	Wind Turbine – Commercial/Utility WECS	Meteorological Towers
Property Lines	1.1 times the total height or in an Agricultural or Transitional Agricultural Districts only. In other districts, the setback shall be the distance of the fall zone, as certified by a professional engineer, + 10 feet	1.25 times the total height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or 1.1 times the total height.
Neighboring Dwelling Units*		750 feet	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or 1.1 times the total height.
Road Rights-of-Way**	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.	One times the height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.
Other Rights-of-Way	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.
Public conservation lands	NA	1320 feet	600 feet
Wetlands, USFW Types III, IV, and V	NA	1320 feet	600 feet
Other structures	NA	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.
Other existing WECS	NA	To be considered based on: • Relative size of the existing and proposed WECS • Alignment of the WECS relative to the predominant winds • Topography • Extent of wake interference impacts on existing WECS • Property line setback of existing WECS • Other setbacks required Waived for internal setbacks in multiple turbine projects including aggregated projects	
River Bluffs	NA	1,320 feet	NA

* The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System.

** The setback shall be measured from any future Rights-of-Way if a planned change or expanded right-of-Way is known.

4.15.08 Special Safety and Design Standards

All towers shall adhere to the following safety and design standards:

- A. Clearance of rotor blades or airfoils must maintain a minimum of 20 feet of clearance between their lowest point and the ground.
- B. All CWECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information.
- C. All wind turbines, which are a part of a CWECS, shall be installed with a tubular, monopole type tower.
- D. Consideration shall be given to painted aviation warnings on all towers less than 200 feet.
- E. The design of the nacelles of turbines and towers shall not use designs or construction methods that provide perches for avian predators.
- F. Turbine identification:
 1. Each site access road shall be named according to the Village street (or county road) naming convention;
 2. Each individual turbine shall be designated with a numeric or alphanumeric identifier;
 3. Each individual turbine shall be labeled with its respective identifier and the name of the access road it is located along; and
 4. Signage shall be provided at the intersection of each access road with the public right-of-way indicating the towers that may be found along that access road, along with subsequent signage at each road intersection within the site further indicating the direction to specific towers.
- G. Wind turbines that are not designed in “accordance with proven good engineering practices” shall be prohibited. Turbines designed with the following characteristics shall be deemed in “accordance with proven good engineering practices:”
 1. at least 3 blades;
 2. upwind rotor;
 3. no furling;
 4. tapered and twisted blades; and
 5. a well-designed braking system.
- H. Color and finish:
 1. All wind turbines and towers that are part of a CWECS shall be white, grey or another non-obtrusive single color.
 2. Blades may be black in order to facilitate deicing.
 3. Finishes shall be matte or non-reflective.
 4. CWECS shall not display advertising, except for reasonable identification of the manufacturer, facility owner or operator, which may be placed on the nacelle.
- I. Visual Impact
 1. To provide visual order to a WECS facility, all individual turbines shall have the same number of rotor blades and all rotor blades shall spin in the same direction (i.e., clockwise or counter-clockwise) in relation to the wind.
 2. To promote visual uniformity, all turbines at a similar ground elevation shall have the same height from blade tip to the ground.
 3. Distinct groupings or clusters of wind turbines shall be limited to no more than 12 machines per cluster. A cluster shall be defined as a grouping of machines that are greater than 1,320 feet (¼ mile) from another grouping.
 4. In light wind conditions, turbine rotor blades shall not be kept in a locked position except as necessary to meet operational or maintenance requirements;
 5. Except during construction, re-construction or removal, outdoor storage is not permitted within the facility boundary except at locations that are screened from view, as shown on the approved site plan;
 6. If turbines become inoperable for any reason, they shall be repaired as soon as reasonably possible;

7. To avoid cluttering the skyline, inverters and pendant power cables shall be located inside the wind turbine tower, nacelle or structure;
 8. No telecommunications dishes, antennas, cellular telephone repeaters or other similar devices shall be attached to wind turbine towers;
 9. The maximum total height of the turbines shall be 355 feet. Greater height, but not in excess of 400 feet, may be considered on a case by case basis if the applicant can sufficiently demonstrate that the increased height will result in increased energy efficiencies thereby reducing the overall number of turbines in the project. However, in all cases, due consideration shall be given to the scale of the turbines in relation to the surrounding landscape.
- J. Lighting:
1. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations.
 2. Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds.
 3. Red pulsating incandescent lights shall be prohibited.
- K. All signage shall comply with the sign regulations found in these regulations.
- L. All communications and feeder lines installed as part of a CWECS shall be buried, where feasible.
- M. No CWECS shall exceed 50 dbA at the nearest structure or use occupied by humans.
- N. Controls and brakes:
1. All WECS shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode.
 2. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
- O. Interference.
1. The applicant shall minimize or mitigate interference with any commercial or public safety electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any CWECS.
 2. The applicant shall notify all communication tower operators within five miles of the proposed CWECS location upon application to the Village for permits.
- P. Roads, applicant shall:
1. Identify all village, county or townships streets/roads to be used for the purposes of transporting CWECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the CWECS and obtain applicable weight and size permits from the impacted jurisdictions prior to construction.
 2. Conduct a pre-construction survey, in coordination with the appropriate jurisdictions to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public road/facility.
 3. Be responsible for restoring or paying damages as agreed to by the applicable jurisdiction sufficient to restore the road(s) and bridges to preconstruction conditions.
- Q. The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the CWECS.
- R. 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.

4.15.09 Building-Mountable Wind Turbines (BMWT)

A BMWT and its essential support facilities shall be allowed as a permitted accessory use when attached to the principle structure in any zoning district subject to the following:

- A. A simple site plan shall be submitted for each BMWT providing the following information:

- B. Mounting location of the BMWT on the principle structure.
- C. Description of the BMWT height and width, including a photo (if available) or other visual representation.
- D. BMWT shall not exceed 60 dBA, as measured at the closest property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
- E. BMWT shall comply with the maximum height requirement of the zoning district in which it is located. Applicants proposing an installation higher than allowed by the zoning district in which it will be located may apply for a variance to the Board of Adjustment.
- F. No BMWT may occupy, encroach or “overhang” any public right-of-way without the expressed approval of the Village of Prague.
- G. Each BMWT installation shall require a separate zoning permit.

4.15.10 Noise and Shadow Flicker

- A. Audible sound from a WECS facility shall not exceed 50 dbA if it is determined a pure tone is generated by the facility, as measured at the exterior of any occupied building on a non-participating landowner's property. Methods for measuring and reporting acoustic emissions from the WECS facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 (1989) titled *Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier*.
- B. The Facility owner and Operator shall make reasonable efforts to minimize shadow flicker to any occupied building on a non-participating landowner's property.

4.15.11 Use of Public Roads; Bond Required

The property owner of a CWECS facility shall be responsible for extraordinary maintenance and restoration of all Village/County roads leading to the project site that may be damaged during construction or due to activities involving the CWECS facility unless the property owner can prove that operation of the CWECS facility was not the cause of the roadway damage. All maintenance and restoration of roads shall be done with the approval of and to the satisfaction of the Village Board, County Highway Superintendent, or Township Board depending on which road. The following information shall be submitted along with an application for a CWECS Permit:

- A. Detailed maps of access and haul routes;
- B. If weight and size permits are required by the Nebraska Department of Roads, Village, County, or Township, a pre-construction baseline survey shall be provided to document and determine existing road conditions;
- C. A report on potential road damage that may result from the construction and maintenance of the CWECS facility;
- D. If, in the discretion of the appropriate Road Department, road damage may occur, a road damage mitigation plan and/or long-term road maintenance agreement shall be submitted, which shall include a bond, escrow, security agreement, or other form of guarantee approved by the Village/County/Township Attorney, in an amount determined by the Village/County/Township to be sufficient to guarantee the necessary restoration or extraordinary maintenance required due to the construction or operation of the CWECS facility; and
- E. If impacts may occur to public roads in other jurisdictions, the Applicant shall give notice to such other jurisdictions, providing information regarding road impacts, and submit to the Village proof that such notice was given.

4.15.12 Decommissioning Plan; Bond Required

- A. The facility owner and operator shall, at its expense, complete decommissioning of the CWECS facility, or individual turbines, within six months after the end of the useful life of the facility or individual turbines. The CWECS facility or individual turbines will

presume to be at the end of their useful life if no electricity is generated for a continuous period of 12 months. A decommissioning plan shall be submitted with an application for a CWECS permit, which shall document:

1. The removal of turbines, buildings, cabling, electrical components, roads, foundations to a depth of four feet within 180 days;
 2. Grading and re-seeding all disturbed earth;
 3. A report prepared by an independent professional engineer licensed in the State of Nebraska that estimates the total cost of decommissioning ("Decommissioning Costs") without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment ("Net Decommissioning Costs"). Said estimates shall be submitted to the Village of Prague after the first year of operation and every fifth year thereafter.
 4. The facility owner or operator shall post and maintain Decommissioning Funds in an amount equal to Net Decommissioning Costs, provided, at no point shall Decommissioning Funds be less than 25 percent of Decommissioning Costs. The Decommissioning Funds shall be posted and maintained as a bond, escrow, security agreement, or other form of guarantee approved by the Village Attorney.
 5. If the facility owner or operator fails to complete decommissioning within the period prescribed herein, then the landowner shall have six months to complete decommissioning.
 6. If neither the facility owner or operator, nor the landowner complete decommissioning within the periods prescribed herein, then the Village of Prague may take such measures as necessary to complete decommissioning.
 7. An easement allowing the Village of Prague access to the project site, pursuant to reasonable notice, to effect or complete decommissioning.
 8. The escrow agent shall release the Decommissioning Funds when the facility owner or operator has demonstrated and the Village of Prague concurs that decommissioning has been satisfactorily completed, or upon written approval of the Village of Prague in order to implement the decommissioning plan.
 9. An agreement that the Village of Prague is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the right to seek reimbursement from the facility owner or operator, or property owner, for decommissioning costs in excess of the amount guaranteed, and to file a lien against any real estate owned by the facility owner or operator, or property owner, or in which they have an interest, for the amount of the excess, and to take all steps allowed to enforce such lien.
- B. Financial provisions shall not be so onerous as to render CWECS facilities unfeasible in the Village of Prague.

4.15.13 Repair; Abandonment; Removal

Small Wind Energy Conversion Systems: Any SWECS found to be unsafe by the Village shall be repaired by the owner to meet federal, state and local safety standards, or removed within six months. If any SWECS is not operated for a continuous period of 12 months, the Village shall notify the landowner by registered mail that such SWECS is deemed abandoned, and provide 45 days for a response. In their response, the landowner shall set forth reasons for the operational difficulty and provide a timetable for corrective action not exceeding six months. If the corrective action is not completed with six months, the Village shall notify the landowner that such SWECS shall be removed within 12 days of receipt of the notice.

4.15.14 Liability Insurance

For each CWECS facility, there shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least \$1 million per occurrence and \$1 million in the aggregate. Copies of such certificates shall be made available to the Village of Prague upon request.

SECTION 4.16: WIRELESS COMMUNICATION TOWERS**4.16.01 Intent:**

Based upon the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act) grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunication services. This section is intended to regulate towers, telecommunications facilities and antennas in the Village in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunication service. Telecommunication facilities, towers and antennas in the Village's jurisdiction, to protect residential areas and land uses from potential adverse impact of installation of towers and antennas through careful design, siting, and camouflaging, to promote and encourage shared use / collocation of towers and other antenna support structures rather than the construction of additional single use towers, to avoid potential damage to property caused by towers, telecommunications facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed when no longer used or are determined to be structurally unsound and to ensure that towers and antennas are compatible with surrounding land uses.

4.16.02 Definitions:

All terms in this Section which are not specifically defined herein shall be construed in accordance with the Communications Act of 1934, the Telecommunications Act of 1996 and the Rules and Regulations of the Federal Communications Commission (FCC). As used in this Section, the following terms shall have the following meanings:

- A. Antenna shall mean a device, designed and intended for transmitting or receiving television, radio, or microwave signals, direct satellite service (including direct-to-home satellite service), and/or video programming services via multi-point distribution services.
- B. Antenna Support Structure shall mean any building or structure other than a tower which can be used for location of telecommunications facilities.
- C. Applicant shall mean any person that applies for a Tower Development Permit.
- D. Application shall mean a process by which the owner of a tract of land within the zoning jurisdiction of the Village submits a request to develop, construct, modify, or operate a tower upon such tract of land. The term application includes all written documentation, verbal statements, and representations, in whatever, formal forum, made by an applicant to the Village concerning such request.
- E. Conforming Commercial Earth Station shall mean a satellite dish which is two meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this ordinance.
- F. Engineer shall mean any engineer qualified and licensed by any state or territory of the United States of America.
- G. Owner shall mean any person with a fee simple title or a leasehold exceeding 10 years in duration to any tract of land within the zoning jurisdiction of the Village who desires to develop, construct, modify, or operate a tower upon such tract of land.
- H. Person shall mean any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
- I. Satellite Dish Antenna shall mean an antenna consisting of a radiation element intended for transmitting or receiving television, radio, microwave, or radiation signals and supported by a structure with or without a reflective component to the radiating dish, usually circular in shape.
- J. Stealth shall mean any telecommunications facility, tower, or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than a tower, such as light poles, power poles and trees.

- K. Telecommunications Facilities shall mean any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:
1. Any Conforming Commercial Earth Station antenna two meters or less in diameter which is located on real estate zoned TA, RE, MUC, HC, GC, I-1 or I-2.
 2. Any earth station antenna or satellite dish antenna of one meter or less in diameter, regardless of zoning applicable to the location of the antenna.
- L. Tower shall mean a self-supporting lattice, guyed, or monopole structure which supports Telecommunications Facilities. The term Tower shall not include non-commercial amateur radio operator's equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively.
- M. Tower Development Permit shall mean a permit issued by the Village upon recommendation of the Planning Commission and approval by the Village Board of an application to develop a tower within the zoning jurisdiction of the Village; which permit shall continue in full force and effect for so long as the tower to which it applies conforms to this Section. Upon issuance, a Tower Development Permit shall be deemed to run with the land during the permit's duration and may be transferred, conveyed, and assigned by the applicant to assigns and successors-in-interest. A tower development permit shall follow the same procedure as a conditional use permit and be administered the same.
- N. Tower Owner shall mean any person with an ownership interest of any nature in a proposed or existing tower following the issuance of a Tower Development Permit.
- 4.16.03 Location of Towers and Construction Standards
- A. Towers shall be permitted by conditional uses of land in only those zoning districts where specifically listed and authorized in this ordinance.
 - B. No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the Village prior to approval of its application for a Tower Development Permit by the Village Board and issuance of the permit by the Village. Applicants shall submit their application for a Tower Development Permit to the Zoning Administrator and shall pay a filing fee in accordance with the Master Fee Schedule.
 - C. All towers, telecommunications facilities and antennas on which construction has commenced within the zoning jurisdiction of the Village after the effective date of this ordinance shall conform to the Building Codes and all other construction standards set forth by the Village, County, federal, and state law and applicable American National Standards Institute (ANSI). Upon completion of construction of a tower and prior to the commencement of use, an engineer's certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed with the Zoning Administrator.
- 4.16.04 Application to develop a Tower
- Prior to commencement of development or construction of a tower, an application shall be submitted to the Zoning Administrator for a Tower Development Permit and shall include the following:
- A. Name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. The application shall be executed by all applicants.
 - B. The legal description and address of the tract of land on which the tower is to be located.
 - C. The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one mile radius of the proposed tower, including publicly and privately owned towers and structures.

- D. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicants telecommunications facilities on a tower or useable antenna support or written technical evidence from an engineer that the applicants telecommunications facilities cannot be installed or collocated on another tower or useable antenna support structure.
- E. Written technical evidence from an engineer that the proposed tower will meet the applicable Building Code(s), and all other applicable construction standards set forth by the Village Board and federal and state and ANSI standards.
- F. Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residentially used and/or zoned property and nearest roadway, street or highway.
- G. Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna, manufacturers literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.

4.16.05 Tower Development Permit: Procedure

After receipt of an application for a Tower Development Permit (conditional use permit), the Village shall schedule a public hearing before the Planning Commission, following all Statutory requirements for publication and notice, to consider such application. The Planning Commission shall receive testimony on the Tower Development Permit and shall make a recommendation to the Village Board. Upon the completion of the Planning Commission Public Hearing the Village shall schedule a public hearing before the Village Board, following all Statutory requirements for publication and notice, to consider such application and the recommendation of the Village Planning Commission. Notice, for each Public Hearing, shall be made at least one time and at least 10 days prior to such hearing. In addition, the Village shall cause a notice to be posted in a conspicuous place on the property on which action is pending. Such notice shall conform to Section 5.02 of this ordinance. The Planning Commission and Village Board may approve the Tower Development Permit as requested in the pending application with any conditions or safeguards it deems reasonable and appropriate based upon the application and / or input received at the public hearings or deny the application. In all zoning districts in which towers are a permitted conditional use of land, the Tower Development Permit shall be deemed a conditional use permit for said tract of land.

4.16.06 Setbacks and Separation or Buffer Requirements

- A. All towers up to 50 feet in height shall be setback on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of 50 feet in height shall be set back one additional foot for each foot of tower height in excess of 50 feet. The height of the tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.
- B. Towers exceeding 100 feet in height may not be located in any residentially zoned district and must be separated from all residentially zoned districts and occupied structures other than those utilized by the tower owner, by a minimum of 200 feet or 100 percent of the height of the proposed tower, whichever is greater.
- C. Towers of 100 feet or less in height may be located in residentially zoned districts provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the tower owner, by a minimum of 100 percent of the height of the tower.
- D. Towers must meet the following minimum separation requirements from other towers:
 - 1. Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed by a minimum of 750 feet.

2. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of 1,500 feet.

4.16.07 Structural Standards for Towers Adopted

The *Structural Standards for Steel Antenna Towers and Antenna Supporting Structures*, 1991 Edition (ANSI/EIA/TIA 222-E-1991) is hereby adopted, together with any amendments thereto as may be made from time to time, except such portions as are hereinafter deleted, modified, or amended by regulation and set forth in this Article of the Zoning Regulation.

4.16.08 Illumination and Security Fences

- A. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). In cases where there are residential uses / zoned properties within a distance of 300 percent of the height of the tower, any tower subject to this Section shall be equipped with dual mode lighting.
- B. All self-supporting lattice or guyed towers shall be enclosed within a security fence of at least six feet in height or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which will preclude to the extent practical, unauthorized climbing of said structure.

4.16.09 Exterior Finish

Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, subject to review and approval by the Zoning Administrator as part of the application approval process. All towers which must be approved as a conditional use shall be stealth design unless stealth features are impractical or the cost of such features represents an undue burden on the applicant.

4.16.10 Landscaping

All tracts of land on which towers, antenna support structures, telecommunications facilities and/or antennas are located shall be subject to the landscaping requirements of the Village.

4.16.11 Maintenance, Repair or Modification of Existing Towers

All towers constructed or under construction on the date of approval of this ordinance may continue in existence as a non-conforming structure and may be maintained or repaired without complying with any of the requirements of this Section. Non-conforming structures or uses may not be enlarged or the degree of nonconformance increased without complying with this Section, including applying for and obtaining a Tower Development Permit. Any modification or reconstruction of a tower constructed or under construction on the date of approval of this ordinance shall be required to comply with the requirements of this Section including applying for and obtaining a Tower Development Permit. Said application shall describe and specify all items which do not comply with this Section and may request, subject to final review and approval of the Village Board, an exemption from compliance as a condition of the Tower Development Permit.

4.16.12 Inspections

The Village reserves the right to conduct inspection of towers, antenna support structures, telecommunications facilities and antenna upon reasonable notice to the tower owner or operator to determine compliance with this Section and to prevent structural and equipment failures and accidents which may cause damage, injuries or nuisances to the public. Inspections may be made to determine compliance with the applicable Building Codes and any other construction standards set forth by the Village, federal and state law or applicable ANSI standards. Inspections shall be made by either the Zoning Administrator, or a duly appointed independent representative of the Village.

4.16.13 Maintenance

The towers, antenna support structures, telecommunications facilities and antennas shall at all

times be kept and maintained in good condition, order and repair so that the same does not constitute a nuisance to or a danger to the life or property of any person or the public.

4.16.14 Abandonment

If any tower shall cease to be used for a period of one year, the Zoning Administrator shall notify the tower owner that the site will be subject to determination of abandonment. Upon issuance of written notice to show cause by the Zoning Administrator, the tower owner shall have 30 days to show preponderance of evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower has been in use or under repair during the relevant period, the Zoning Administrator shall issue a final determination of abandonment of the site and the tower owner shall have 75 days thereafter to dismantle and move the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Zoning Administrator, or his/her designee and a written request shall be directed to the Village Attorney to proceed to abate said public nuisance pursuant to authority of the Revised Nebraska State Statutes and Village of Prague codes, and charge the costs thereof against the real estate on which the tower is located or the owner of record of the said real estate.

4.16.15 Satellite Dish Antennas, Regulation

Upon adoption of this ordinance, installation of satellite dish antennas shall be permitted within the zoning jurisdiction of Prague only upon compliance with the following criteria and the issuance of a permit:

- A. In residentially zoned districts, satellite dish antennas may not exceed a diameter of 10 feet.
- B. Single family residences may not have more than one satellite dish antenna over 3 feet in diameter.
- C. Multiple family residences with 10 or less dwelling units may have no more than one satellite dish antenna over three feet in diameter. Multiple family residences with more than 10 dwelling units may have no more than two satellite dish antennas over three feet in diameter.
- D. In residential zoning districts, satellite dish antennas shall not be installed in the required front yard setback or side yard setback area.
- E. All satellite dish antennas installed within the zoning jurisdiction of Prague, upon adoption of this ordinance, shall be of a neutral color such as black, gray, brown, or such color as will blend with the surrounding dominant color in order to camouflage the antenna.

4.16.16 Amateur Radio Towers and facilities, Regulation

All amateur radio antennas, towers, and associated facilities not in compliance with the provisions for accessory structures within individual zoning districts shall comply with the standards of Section 4.16.

4.16.17 Severability

If any clause, subsection, or any other part of this Section shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Section shall not be affected thereby, but shall remain in full force and effect.

SECTION 4.17 KEEPING OF ANIMALS

Animals may be kept within the zoning jurisdiction of the Village of Prague subject to the following restrictions:

- 4.17.01 No bees or livestock including but not limited to sheep, goats, cattle or swine shall be allowed within R-1 or R-2 residential zoning districts or commercial zoning districts. Refer to the individual district for additional regulations.
- 4.17.02 The keeping of birds or fowl in the TA zoning district shall be subject to the following conditions:
 - A. All birds or fowl shall be confined to the property of the owner of said birds or fowl.
 - B. All birds or fowl shall be kept at least 50 feet from any property line.
- 4.17.03 No bird or fowl shall be allowed within residential or commercial zoning districts. Grandfather rights shall be granted upon application to the Village so that this section will not apply to bird or fowl owned, kept or harbored prior to the adoption of this section, subject to the following conditions:
 - A. No more than two fowl of any one species or a total of more than five fowl shall be allowed on any one residence or dwelling unit. All fowl shall be confined to the premises of the residence or dwelling unit of the person owning, keeping or harboring such fowl.
- 4.17.04 The keeping of dogs, cats, rabbits, pigeons and household pets shall be a permitted accessory use in residential and commercial districts subject to the regulations for kennels as defined in Article 2 of this Ordinance and the provision found in the Prague Municipal Code. For the purposes of this section, a “household pet” is any animal or creature kept inside a residential dwelling not outside, and in no event shall include any of the following: any live monkey (non-human primate), raccoon, skunk, fox, poisonous or dangerous insect or reptile, leopard, panther, tiger, lion, lynx, or any other warm-blooded animal or other exotic animal which can normally be found in the wild state. The keeping of pigeons is subject to the following conditions.
 - A. Such birds shall be banded with some form or identification.
 - B. Such birds shall be confined in sanitary, secure structures subject to inspection and approval by the Village of Prague.
 - C. No more than 10 such birds shall be allowed on any one piece of property.
 - D. Trained pigeons may be exercised under supervision of owner or trainer and be trained to recall on command.
 - E. A permit for the keeping of such birds shall be obtained from the Village of Prague.
- 4.17.05 The restrictions contained in this section shall not apply to any pet store or veterinary services.

SECTION 4.18 SOLAR PANELS

No solar panel shall be constructed within the residential zoning jurisdiction of the Village of Prague unless a permit therefore is approved and issued by the Zoning Administrator and is constructed in conformance with the following requirements. For those devices that include electrical, plumbing and heating constructions, the applicable permits shall also be obtained. Solar panels shall meet the following requirements.

- 4.18.01 Lot and Height Requirements: Solar panels shall conform to the required front, side and rear lot setback requirements except as provided herein:
 - A. A solar panel which is attached to an integral part of the principal building may project two feet into the front yard; six feet into the rear yard; and two feet into the side yard.
 - B. A solar panel which is freestanding may be located only in the required rear yard provided it does not exceed six feet in height and is located not less than five feet from the rear lot line and not closer than one foot to any existing easement as measured from

the closest point of the structure including its foundation and anchorage's, nor shall the solar panel be located in the required side yard or front yard.

- 4.18.02 Structural Requirements: The physical structure and connections to existing structures shall conform to the applicable Prague building codes.
- 4.18.03 Plot Plan: The application for a permit shall be accompanied by a plot plan drawn to scale showing property lines, existing structures on the lot, proposed solar panel location with respect to property lines, and dimensions of the proposed solar panel.
- 4.18.04 Permit Fee: A permit fee is required. This permit fee shall be paid prior to the issuance of the zoning permit. The amount of the fee shall be as established in the Master Fee Schedule.
- 4.18.05 Pre-existing Solar Panels: Notwithstanding noncompliance with the requirements of this section, a solar panel erected prior to January 1, 2011, pursuant to a valid zoning permit issued by the Village, may continue to be utilized so long as it is maintained in operational condition.

SECTION 4.19 OUTDOOR STORAGE CONTAINERS

A permit may be granted for the use outdoor storage containers in the designated districts, provided the following conditions are met:

- 4.19.01 Outdoor Storage Containers
- A. Number: Outdoor storage containers are limited to two containers per principle use in the TA and Industrial Districts and one per principle use in the R-1 and R-2 Districts.
 - B. Location: Containers shall be located to the rear 50 percent of the site. Containers shall not be located in any required setback or yard area, required landscape area, required drive aisle, driveway, or parking area. Containers shall not encroach upon spaces necessary to satisfy the minimum parking requirement, nor shall they block, impede, or divert traffic in or access to emergency, snow removal, circulation and fire lanes. Containers shall not be stacked upon one another and shall be located an appropriate distance from all structures, in accordance with the Fire Code.
 - C. Condition: The exterior of the storage containers shall be kept free of rust, holes, dents, or other corrosion and shall be painted or otherwise maintained such that they are consistent with the character of adjacent buildings, and secured at all times.
 - D. Use: At no time shall an outdoor storage container be used as a place of business or residence, nor shall a container house, store, or contain goods, products, or materials other than those that are accessory and essential to daily on-site use and operation of the principal building or business requesting the conditional use permit.
 - E. Time Period: Where allowed by conditional use, such permits for storage containers shall be allowed for (1) year. Renewals are subject to Planning Commission and Council approval. Storage containers must be removed no later than five (5) working days after the expiration of the permit.
 - F. Exemptions: The temporary use of construction trailers or containers at a building site is exempt from this requirement.

SECTION 4.20 STANDARDS FOR GARAGES

No conditional use permit shall be granted for a garage as a principal structure in a Residential District unless Article 5 has been complied with, and the Planning Commission and Village Board has also found:

- 4.20.1 The garage shall be constructed of materials normally used in residential construction within Prague. The exterior coverings and finishes, including siding, shingles, and paint or stucco, shall be similar to those normally used in residential construction within Prague.
- 4.20.2 The owner of the property on which the garage sits shall be a resident of and own other land within Prague.

- 4.20.3 The sidewalls shall not exceed twelve feet (12') in height, and the overall height must conform to the requirement for an accessory structure in the respective Residential District.
- 4.20.4 The roof of the garage shall be pitched at a minimum of two and one-half to twelve (2-1/2:12).
- 4.20.5 The use of any portion of the garage for living quarters or habitable space by any human or animal shall be prohibited.
- 4.20.6 The use of any portion of the garage for a Home Occupation, garage sale, or similar type of use shall be prohibited.
- 4.20.7 Exterior storage on the lot shall be prohibited.
- 4.20.8 Vehicle parking spaces provided on the lot shall not be counted as part of the parking requirements for any other use.
- 4.20.9 When unoccupied, all openings to the structure shall remain closed and locked.
- 4.20.10 Consideration of location shall be given for future buildings/structures/uses on the property so as to be in compliance with the regulations of the appropriate zoning district.

SECTION 4.21 ADULT ESTABLISHMENTS

(A) *Purpose and Intent* It is the purpose of this section to regulate Adult Establishments to promote the health, safety, morals and general welfare of the citizens of the Village, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of Adult Establishments within the Village's jurisdiction. The provisions of these regulations have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of these regulations to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of these regulations to condone or legitimize the distribution of obscene material.

(B) *Findings and Rationale* Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Village, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); *Sewell v. Georgia*, 435 U.S. 982 (1978); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *City of Dallas v. Stanglin*, 490 U.S. 19 (1989); and

Farkas v. Miller, 151 F.3d 900 (8th Cir. 1998); *Jakes, Ltd. v. City of Coates*, 284 F.3d 884 (8th Cir. 2002); *BZAPS, Inc. v. City of Mankato*, 268 F.3d 603 (8th Cir. 2001); *SOB, Inc. v. County of Benton*, 317 F.3d 856 (8th Cir. 2003); *Scope Pictures v. City of Kansas City*, 140 F.3d 1201 (8th Cir. 1998); *ILQ Invs. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *City of Lincoln v. ABC Books, Inc.*, 470 N.W.2d 760 (Neb. 1991); *Xiong v. City of Moorhead*, 2009 WL 322217 (D. Minn. Feb. 2, 2009); *Entm't Prods., Inc. v. Shelby County*, 721 F.3d 729 (6th Cir. 2013); *Lund v. City of Fall River*, 714 F.3d 65 (1st Cir. 2013); *Imaginary Images, Inc. v. Evans*, 612 F.3d 736 (4th Cir. 2010); *LLEH, Inc. v. Wichita County*, 289 F.3d 358 (5th Cir. 2002); *Ocello v. Koster*, 354 S.W.3d 187 (Mo. 2011); *84 Video/Newsstand, Inc. v. Sartini*, 2011 WL 3904097 (6th Cir. Sept. 7, 2011); *Plaza Group Properties, LLC v. Spencer County Plan Commission*, 877 N.E.2d 877 (Ind. Ct. App. 2007); *Flanigan's Enters., Inc. v. Fulton County*, 596 F.3d 1265 (11th Cir. 2010); *East Brooks Books, Inc. v. Shelby County*, 588 F.3d 360 (6th Cir. 2009); *Entm't Prods., Inc. v. Shelby County*, 588 F.3d 372 (6th Cir. 2009); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Peek-a-Boo Lounge v. Manatee County*, 630 F.3d 1346 (11th Cir. 2011); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Heideman v. South Salt Lake City*, 348 F.3d 1182 (10th Cir. 2003); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *Jacksonville Property Rights Ass'n, Inc. v. City of Jacksonville*, 635 F.3d 1266 (11th Cir. 2011); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); *Fantasy Ranch, Inc. v. City of Arlington*, 459 F.3d 546 (5th Cir. 2006); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Richland Bookmart, Inc. v. Knox County*, 555 F.3d 512 (6th Cir. 2009); *Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *Richland Bookmart, Inc. v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *DCR, Inc. v. Pierce County*, 964 P.2d 380 (Wash. Ct. App. 1998); *City of New York v. Hommes*, 724 N.E.2d 368 (N.Y. 1999); *Taylor v. State*, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); *Fantasyland Video, Inc. v. County of San Diego*, 505 F.3d 996 (9th Cir. 2007); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *Z.J. Gifts D-4, L.L.C. v. City of Littleton*, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); *People ex rel. Deters v. The Lion's Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); *Reliable Consultants, Inc. v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005); *Major Liquors, Inc. v. City of Omaha*, 188 Neb. 628 (1972); *DLH Inc. v. Nebraska Liquor Control Commission*, 266 Neb. 361 (2003); *Village of Winslow v. Sheets*, 261 Neb. 203 (2001),

and based upon reports concerning secondary effects occurring in and around adult establishments, including, but not limited to, "Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD," *Journal of Urban Health* (2011); "Does the Presence of Sexually Oriented Businesses Relate to Increased Levels of Crime? An Examination Using Spatial Analysis," *Crime & Delinquency* (2012) (Louisville, KY); Metropolis, Illinois – 2011-12; Manatee County, Florida – 2007; Hillsborough County, Florida – 2006; Clarksville, Indiana – 2009; El Paso, Texas – 2008; Memphis, Tennessee – 2006; New Albany, Indiana – 2009; Louisville, Kentucky – 2004; Fulton County, GA – 2001; Chattanooga, Tennessee – 1999-2003; Jackson County, Missouri – 2008; Ft. Worth, Texas – 2004; Kennedale, Texas – 2005; Greensboro, North Carolina – 2003; Dallas, Texas – 1997; Houston, Texas – 1997, 1983;

Phoenix, Arizona – 1995-98, 1979; Tucson, Arizona – 1990; Spokane, Washington – 2001; St. Cloud, Minnesota – 1994; Austin, Texas – 1986; Indianapolis, Indiana – 1984; Garden Grove, California – 1991; Los Angeles, California – 1977; Whittier, California – 1978; Oklahoma City, Oklahoma – 1986; New York, New York Times Square – 1994; the Report of the Attorney General's Working Group On The Regulation Of Adult establishments, (June 6, 1989, State of Minnesota); Dallas, Texas – 2007; “Rural Hotspots: The Case of Adult Businesses,” 19 Criminal Justice Policy Review 153 (2008); “Stripclubs According to Strippers: Exposing Workplace Sexual Violence,” by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; “Adult establishments: An Insider’s View,” by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; Sex Store Statistics and Articles; and Law Enforcement and Private Investigator Affidavits (Adult Cabarets in Forest Park, GA and Sandy Springs, GA), McCleary and Weinstein; Do “Off-Site Adult Businesses Have Secondary Effects? Legal Doctrine, Social Theory and Empirical Evidence, Law and Policy, Vol. 31, No. 2 (April 2009), Adult Business Study: Town and Village of Ellicottville, Cattaraugus County, New York (January 1998), the Village finds:

- (1) Adult Establishments, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation. Alcohol consumption impairs judgment and lowers inhibitions, thereby increasing the risk of adverse secondary effects.
- (2) Adult Establishments should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other adult establishments, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of adult establishments in one area.
- (3) Each of the foregoing negative secondary effects constitutes a harm which the Village has a substantial government interest in preventing and/or abating. Additionally, the Village’s interest in regulating Adult Establishments extends to preventing future secondary effects of either current or future adult establishments that may locate in the Village. The Village finds that the cases and documentation relied on in this resolution are reasonably believed to be relevant to said secondary effects.

The Village hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of adult establishments, including the judicial opinions and reports related to such secondary effects.

(C) *Definitions.* As used in this section, the following terms shall have the meanings indicated:

Adult Arcade: shall mean a commercial establishment to which the public is permitted or invited that maintains booths or rooms smaller than 100 square feet, wherein image-producing devices are regularly maintained, where a fee is charged to access the booths or rooms, and where minors are excluded from the booths or rooms by reason of age.

Adult Bookstore: shall mean a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of “specified sexual activities” or “specified anatomical areas.” A “principal business activity” exists where the commercial establishment meets any one or more of the following criteria:

- (1) At least 35% of the establishment’s displayed merchandise consists of said items, or
- (2) At least 35% of the establishment’s revenues derive from the sale or rental, for any form of consideration, of said items, or
- (3) The establishment maintains at least 35% of its floor area for the display, sale, and/or rental of said items; or
- (4) The establishment maintains at least seven hundred fifty square feet (750 sq. ft.) of its floor area for the display, sale, and/or rental of said items.

Adult Establishment: shall mean an “adult arcade,” an “adult bookstore,” an “adult motion picture theater,” a “semi-nude lounge,” or a “sex paraphernalia store.”

Adult Motion Picture Theater: shall mean a commercial establishment to which the public is permitted or invited that maintains viewing rooms that are 100 square feet or larger wherein films or videos

characterized by their emphasis upon “specified sexual activities” or “specified anatomical areas” are regularly shown.

Characterized By: shall mean describing the essential character or quality of an item. As applied to adult establishments, no business shall be classified as an adult establishment by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

Employee of an Adult Establishment: shall mean any person who works on the premises of an adult establishment, on a full time, part time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, lessee, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

Nudity or Nude Conduct: shall mean the showing of the human male or female genitals, pubic area, vulva, or anus with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

Operator of Adult Establishment: shall mean any person on the premises of an adult establishment who manages, supervises, or controls the business or a portion thereof. A person may be found to be an operator regardless of whether such person is an owner or part owner, of the business.

Semi-Nude or Semi-Nudity: shall mean the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

Semi-Nude Lounge: shall mean a nightclub, juice bar, restaurant, bottle club, massage parlor, or similar commercial establishment that regularly offers live semi-nude conduct. No establishment shall avoid classification as a semi-nude lounge by offering nude conduct.

Sexual Device: shall mean any three (3) dimensional object designed for stimulation of the male or female human genitals, anus, buttocks, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

Sex Paraphernalia Store: shall mean a commercial establishment where more than 100 sexual devices are regularly made available for sale or rental. This definition shall not be construed to include any establishment located within an enclosed regional shopping mall or any establishment primarily dedicated to providing medical products.

Specified Anatomical Areas: shall mean less than completely and opaquely covered human genitals, pubic region, buttock, and/or female breast below a point immediately above the top of the areola.

Specified Sexual Activities: shall mean intercourse, oral copulation, masturbation or sodomy.

Viewing Room: shall mean the room or booth where a patron of an adult establishment would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video on an image-producing device.

(D) Regulations

- (1) No person shall establish, operate, or cause to be operated an adult establishment in Geneva’s jurisdiction within:
 - (a) 1,000 feet of another adult establishment;
 - (b) 500 feet of a business licensed to sell alcohol at the premises; or
 - (c) 1,000 feet of a residential district, residential use, residence, church, educational institution, park, or recreational facility.

- (d) For the purpose of this section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of the structure containing the adult establishment to the closest point on a property boundary of another adult establishment, a business licensed to sell alcohol at the premises, a residential district, a residential use, a residence, a church, an educational institution, park, or a recreational facility.
- (2) No adult establishment shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day.
- (3) No patron, employee of an adult establishment, or any other person shall knowingly or intentionally, in an adult establishment, appear in a state of nudity or engage in a specified sexual activity.
- (4) No person shall knowingly or intentionally, in an adult establishment, appear in a semi-nude condition unless the person is an employee of an adult establishment who, while semi-nude, remains at least six (6) feet from all patrons and on a stage at least eighteen (18) inches from the floor in a room of at least six hundred (600) square feet.
- (5) No employee of an adult establishment who appears semi-nude in an adult establishment shall knowingly or intentionally touch a customer or the clothing of a customer on the premises of an adult establishment. No customer shall knowingly or intentionally touch such an employee of an adult establishment or the clothing of such an employee of an adult establishment on the premises of an adult establishment.
- (6) No person shall possess alcoholic beverages on the premises of an adult establishment.
- (7) No person shall knowingly or recklessly allow a person under the age of eighteen (18) years to be or remain on the premises of an adult establishment.
- (8) No operator of an adult establishment shall knowingly or recklessly allow a room in the adult establishment to be simultaneously occupied by any patron and any other employee of an adult establishment who is semi-nude or who appears semi-nude on the premises of the adult establishment, unless an operator of the adult establishment is present in the same room.
- (9) A person who operates or causes to be operated an adult establishment which exhibits in a booth or viewing room on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.
- (a) The operator of the adult establishment shall, within one week of opening the adult establishment for business, submit to the Zoning Administrator a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain equipment for displaying films, video cassettes, digital video discs, or other video reproductions. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches.
 - (b) It shall be the duty of the operator of the adult establishment, and of any employees of the adult establishment present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
 - (c) The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level. It shall be the duty of the operator of an adult establishment, and of any employees of an adult establishment present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.
 - (d) It shall be the duty of the operator of an adult establishment, and of any employees of an adult establishment present on the premises, to ensure that no specified sexual activity occurs in or on the licensed premises.
 - (e) It shall be the duty of the operator of an adult establishment to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
 - (i) That the occupancy of viewing rooms less than 150 square feet is limited to one person.
 - (ii) That specified sexual activity on the premises is prohibited.
 - (iii) That the making of openings between viewing rooms is prohibited.
 - (iv) That violators will be required to leave the premises.
 - (v) That violations of these regulations are unlawful.
 - (f) It shall be the duty of the operator of an adult establishment to enforce the regulations articulated

in e.i. though e.v. above.

- (g) The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator of the adult establishment's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator of an adult establishment to ensure that at least one employee of an adult establishment is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator of an adult establishment, and it shall also be the duty of any employees of an adult establishment present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.
- (h) It shall be the duty of the operator of an adult establishment to ensure that no porous materials are used for any wall, floor, or seat in any booth or viewing room.
- (i) It shall be unlawful for a person having a duty under subsections 9.a. through 9.h above to knowingly or recklessly fail to fulfill that duty.
- (j) No patron shall knowingly or recklessly enter or remain in a viewing room less than 150 square feet in area that is occupied by any other patron.
- (k) No patron shall knowingly or recklessly be or remain within one foot of any other patron while in a viewing room that is 150 square feet or larger in area.
- (l) No person shall knowingly or recklessly make any hole or opening between viewing rooms.
- (10) It shall be the duty of the operator of an adult establishment to ensure that the interior premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level and the illumination must be maintained at all times that any customer is present in or on the premises.
- (11) Unless a culpable mental state is otherwise specified herein, a showing of a reckless mental state shall be sufficient to establish a violation of a provision of this section.

SECTION 4.22 RESIDENTIAL AND SMALL WIND ENERGY SYSTEMS

(A) *Purpose.* It is the purpose of this ordinance to promote the safe, effective and efficient use of small wind energy systems installed to reduce the on-site consumption of utility supplied electricity and that such systems are appropriately sited within Prague's zoning jurisdiction.

(B) *Definitions.* The following are defined for the specific use of this section.

BUILDING-MOUNTED WIND TURBINE (BMWT): a wind energy conversion system consisting of a wind turbine mounting system and associated control or conversion electronics and which is mounted to a building and intended to primarily reduce on-site consumption of utility power.

DECIBEL (db): The measurement of a sound pressure relative to the logarithmic conversion of the sound pressure reference level often set as 0 dbA. In general, this means the quietest sound we can hear is near 0 dbA and the loudest we can hear without pain is near 120 dbA. Most sounds in the typical day-to-day environment range from 30 dbA to 100 dbA. Normal speech at 3 feet averages about 65 dbA.

FAA: Federal Aviation Administration.

MICRO-WIND ENERGY CONVERSION SYSTEM shall mean a Wind Energy Conversion System of 1 kW nameplate generating capacity or less and utilizing supporting towers of 40 feet or less.

RESIDENTIAL WIND ENERGY CONVERSION SYSTEM (RWECS): a wind energy conversion system consisting of a wind turbine, tower, and associated control or conversion electronics, and which is intended to primarily reduce on-site consumption of utility power. A system is considered a residential wind energy system only if it supplies electrical power solely for on-site 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 on-site use may be used by the utility company.

SMALL WIND ENERGY CONVERSION SYSTEM (SWECS): a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, and which will be used primarily to reduce on-site consumption of utility power. Such system has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

TOTAL HEIGHT shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.

TOWER HEIGHT shall mean the height above grade of the first fixed portion of the tower, excluding the wind turbine itself.

(C) *Requirements for Residential Wind Energy Conversion System (RWECS).* Residential wind energy systems shall be permitted as a conditional use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met. See Section 8.16.07 for regulations on building mounted wind turbines.

- (1) Wind energy towers shall to the extent possible blend into the surrounding environment and architecture, including painting to reduce visual obtrusiveness. The Village Planner may require a photo of an RWECS system of the same model that is the subject of the landowner's application adjacent to a building or some other object illustrating scale (e.g., manufacturer's photo).
- (2) RWECS shall not be artificially lighted unless required by the FAA or another appropriate authority.
- (3) No tower should have any sign, writing, or picture that may be construed as advertising.
- (4) RWECS shall not exceed 60 dBA, as measured at the closest property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
- (5) An RWECS shall be located on a parcel that is at least one-half (1/2) acre in size.
- (6) The applicant shall provide information demonstrating that the system will be used primarily to off-set on-site consumption of electricity. No residential wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- (7) The minimum distance between the ground and any protruding blades utilized on an RWECS shall be 20 feet, as measured at the lowest point on the arc of the rotor. The supporting tower shall also be enclosed with a six foot tall fence or the base of the tower shall not be climbable for a distance of 12 feet.

- (8) Compliance with FAA regulations: An RWECS must comply with applicable regulations of the Federal Aviation Administration, including any necessary approvals for installations close to airports.
- (9) Compliance with the International Building Code: Building permit applications for an RWECS shall be accompanied by standard drawings of the wind turbine structure, including the tower base, and footings. An engineering analysis of the tower showing compliance with the International Building Code and certified by a professional engineer licensed in the State of Nebraska shall also be submitted.
- (10) Compliance with National Electric Code: Building permit applications for an RWECS shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code. This information may be supplied by the manufacturer.
- (11) Setbacks
 - (a) See Section 3 for base Zoning Setbacks.
 - (b) No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site
- (12) Tower Height. The applicant shall provide evidence that the proposed height of the RWECS does not exceed the height recommended by the manufacturer or distributor of the system.
 - (a) The maximum tower height is 80, unless a greater restriction is imposed by FAA regulations.

(D) *Requirements for Small Wind Energy Conversion System (SWECS).* Small wind energy systems shall be permitted as a conditional use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met. See Section 8.16.07 for regulations on building mounted wind turbines.

- M. Small wind energy towers shall maintain a galvanized steel finish, unless FAA standards require otherwise, or if the owner is attempting to match the finish on the tower to the surrounding environment and architecture, in which case it may be painted to reduce visual obtrusiveness. The Village Planner may require a photo of an SWECS system of the same model that is the subject of the landowner's application adjacent to a building or some other object illustrating scale (e.g., manufacturer's photo).
- N. SWECS shall not be artificially lighted unless required by the FAA or another appropriate authority.
- O. No tower should have any sign, writing, or picture that may be construed as advertising.
- P. SWECS shall not exceed 60 dBA, as measured at the closest property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
- Q. An SWECS shall be located on a parcel that is at least three (3) acres in size.
- R. The applicant shall provide information demonstrating that the system will be used primarily to off-set on-site consumption of electricity. No residential wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- S. The minimum distance between the ground and any protruding blades utilized on an SWECS shall be 20 feet, as measured at the lowest point on the arc of the rotor. The supporting tower shall also be enclosed with a six foot tall fence or the base of the tower shall not be climbable for a distance of 12 feet.
- T. Compliance with FAA regulations: An SWECS must comply with applicable regulations of the Federal Aviation Administration, including any necessary approvals for installations close to airports.
- U. Compliance with the International Building Code: Building permit applications for an SWECS shall be accompanied by standard drawings of the wind turbine structure, including the tower base, and footings. An engineering analysis of the tower showing compliance with the International Building Code and certified by a professional engineer licensed in the State of Nebraska shall also be submitted.
- V. Compliance with National Electric Code: Building permit applications for an SWECS shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code. This information may be supplied by the manufacturer.
- W. Setbacks
 - (a) See Section 3 for setbacks.
 - (b) No part of the wind system structure, including guy-wire anchors, may extend closer than 10 feet to the property lines of the installation site.
- X. Tower Height. The applicant shall provide evidence that the proposed height of the SWECS does not exceed the height recommended by the manufacturer or distributor of the system.
 - (a) The maximum tower height is 120, unless a greater restriction is imposed by FAA regulations.

SECTION 4.23 COMMERCIAL/UTILITY GRADE WIND ENERGY SYSTEMS

(A) *Purpose.* It is the purpose of this ordinance to promote the safe, effective and efficient use of commercial/utility grade wind energy systems and that such systems are appropriately sited within the zoning jurisdiction of the Village of Prague.

(B) *Definitions.* The following are defined for the specific use of this section.

A-WEIGHTED SOUND LEVEL (dbA): a measurement of sound pressure level, which has been filtered or weighted to progressively de-emphasize the importance of frequency components below 1,000 Hz and above 5,000 Hz. This reflects the fact that human hearing is less sensitive at low frequencies and at extremely high frequencies, relative to the mid-range of the frequency spectrum. This area of sensitivity also corresponds to the human speech band. This measurement is the most commonly used filter in both industrial noise applications (governed by OSHA) and community noise regulations.

AGGREGATE PROJECT shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregated project.

APPLICANT: A property owner, or any person or entity acting as an agent for the property owner, in an application for a WECS Permit under this Article.

BLADE GLINT: The intermittent reflection of the sun off the gloss surface of wind turbine blades.

BUILDING-MOUNTED WIND TURBINE (BMWT): a wind energy conversion system consisting of a wind turbine mounting system and associated control or conversion electronics and which is mounted to a building and intended to primarily reduce on-site consumption of utility power.

COMMERCIAL WIND ENERGY CONVERSION SYSTEM (CWECS): an electrical generating facility comprised of one or more wind turbines and accessory facilities generating capacity, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy generated will be used by a utility company for off-site use. A wind energy conversion system of equal to or greater than 100 kW in total name plate generating capacity.

DECIBEL (db): The measurement of a sound pressure relative to the logarithmic conversion of the sound pressure reference level often set as 0 dbA. In general, this means the quietest sound we can hear is near 0 dbA and the loudest we can hear without pain is near 120 dbA. Most sounds in the typical day-to-day environment range from 30 dbA to 100 dbA. Normal speech at 3 feet averages about 65 dbA.

FAA: Federal Aviation Administration.

FALL ZONE shall mean the area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of a structural failure. This area is less than the total height of the structure.

FCC: Federal Communications Commission.

FEEDER LINE shall mean any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.

FURLING: A design characteristic of a wind turbine intended to limit its power output in high winds by changing the rotor's plane of rotation to a plane that is not perpendicular to the prevailing wind direction.

HUB HEIGHT: the distance measured from ground level to the centerline of the rotor.

ICE THROW: Ice build-up that is thrown by the spinning turbine blades.

METEOROLOGICAL TOWER shall mean, for purposes of this ordinance, a tower, including the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location. Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Roads, or other applications to monitor weather conditions.

MICRO-WIND ENERGY CONVERSION SYSTEM shall mean a Wind Energy Conversion System of 1 kW nameplate generating capacity or less and utilizing supporting towers of 40 feet or less.

NACELLE: A cover housing that holds all of the generating components of a WECS, such as the gearbox, drive train, rotor shaft, and brake assembly.

OPERATOR: The person or entity responsible for the day-to-day operation and maintenance of the WECS.

PUBLIC CONSERVATION LANDS shall mean land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, Federal Wildlife Refuges and Waterfowl Production Areas. For purposes of this ordinance, public conservation lands will also include lands owned in fee title by non-profit conservation organizations, Public conservation lands will also include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

PURE TONE: A sound whose instantaneous sound pressure is a simple sinusoidal function of the time and is characterized by a single frequency or singleness of pitch. For the purpose of these regulations, a pure tone shall exist if the one-third octave band sound pressure level in the bandwidth of the tone exceeds the arithmetic average of the sound pressure levels on the two contiguous one-third octave bands by five db for center frequencies of 500 Hz and above, and eight db for center frequencies between 160 and 400 Hz, and by 15 db for center frequencies less than or equal to 125 Hz.

RESIDENTIAL WIND ENERGY CONVERSION SYSTEM (RWECS): a wind energy conversion system consisting of a wind turbine, tower, and associated control or conversion electronics, and which is intended to primarily reduce on-site consumption of utility power. A system is considered a residential wind energy system only if it supplies electrical power solely for on-site 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 on-site use may be used by the utility company.

ROTOR: The rotating part of a turbine, including the blades.

ROTOR DIAMETER shall mean the diameter of the circle described by the moving rotor blades.

SENSITIVE RECEPTOR: Structures that have occupants on a routine basis and whose occupants could be negatively affected by noise, vibration, shadow, or flicker, including those structures intended for four season human habitation (whether inhabited or not), public parks, state designated wildlife areas, the manicured areas of private recreational establishments such as golf courses or the campsites in a state approved campground, schools, daycare centers, elderly care facilities, hospitals, places of public assembly, and businesses.

SHADOW FLICKER: When the blades of an operating wind turbine pass between the sun and an observer, casting a readily observable, moving shadow on the observer and his or her immediate environment.

SMALL WIND ENERGY CONVERSION SYSTEM (SWECS): a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, and which will be used primarily to reduce on-site consumption of utility power. Such system has a rated capacity of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

STALL CONTROL: A braking mechanism on wind turbines where the rotor blades are bolted onto the hub at a fixed angle. The rotor blade profile is aerodynamically designed to ensure that the moment the

wind speed becomes too high it creates turbulence on the side of the rotor blade which is not facing the wind. This stall prevents the lifting force of the rotor blade from acting on the rotor.

SUBSTATIONS shall mean any electrical facility to convert electricity produced by wind turbines to a voltage greater than 35,000 (35,000 KV) for interconnection with high voltage transmission lines.

TOTAL HEIGHT shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.

TOWER shall mean the vertical structures that support the electrical, rotor blades, or meteorological equipment.

TOWER HEIGHT shall mean the total height of the Wind Energy Conversion System exclusive of the rotor blades.

TRANSMISSION LINE shall mean the electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

TURBINE, or WIND TURBINE: see “Wind Energy Conversion System.”

UPWIND ROTOR: A design in which the rotor on a wind turbine tower faces into the wind.

WELL-DESIGNED BRAKING SYSTEM: The primary braking system, which uses a mechanical brake, pitch-control of the turbine blades, or stall-control to bring the turbine to a stop in such a way that stall-induced vibrations/noise are avoided.

WIND ENERGY CONSERVATION SYSTEM (WECS) shall mean an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

WIND ENERGY CONVERSION SYSTEM (WECS) FACILITY: An electric generating facility, whose main purpose is to supply electricity, consisting of one or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

WIND TURBINES shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture the wind.

(C) *Requirements.* Commercial/Utility Grade wind energy systems shall be permitted as a Conditional Use within any district where the use is listed and allowed. The following requirements and information shall be met and supplied:

- R. The name(s) of project applicant.
- S. The name of the project owner.
- T. The legal description and address of the project.
- U. A description of the project of the project including: Number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.
- V. Site layout, including the location of property lines, wind turbines, electrical grid, and all related accessory structures. This site layout shall include distances and be drawn to scale.
- W. Engineer’s certification from a professional engineer licensed in the State of Nebraska.
- X. Documentation of land ownership or legal control of the property.
- Y. The latitude and longitude of individual wind turbines.
- Z. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other Wind Energy Conversion System, within 10 rotor distances of the proposed CWECS not owned by the applicant.
- AA. Location of wetlands, scenic, and natural areas (including bluffs) within 1,320 feet of the proposed CWECS.

- BB. An Acoustical Analysis that certifies that the noise requirements within these regulations can be met.
- CC. FAA and FCC permit, if necessary. Applicant shall submit permit or evidence that the permit has been filed with the appropriate agency.
- DD. Location of all known Communication Towers within two miles of the proposed Wind Energy Conversion System and evidence that there will be no interference with any such commercial and/or public safety communications towers.
- EE. Decommissioning Plan as required by this ordinance.
- FF. Description of potential impacts on nearby Wind Energy Conversion Systems and wind resources on adjacent properties.
- GG. A CWECS shall be located on a parcel that is at least ten (10) acres in size.
- HH. Setbacks identified as required in Section 8.16.05.

(D) Aggregated Projects

- D. Aggregated projects may jointly submit a single application and be reviewed under joint proceedings, including notices, public hearings, reviews and as appropriate approvals.
- E. Permits may be issued and recorded separately.
- F. Joint projects will be assessed fees as one project.

(E) *Setbacks.* All towers shall adhere to the setbacks established in the following table:

	Wind Turbine – Non Commercial WECS (residential & small)	Wind Turbine – Commercial/Utility WECS	Meteorological Towers
Property Lines	1.1 times the total height or in an Agricultural or Transitional Agricultural Districts only. In other districts, the setback shall be the distance of the fall zone, as certified by a professional engineer, + 10 feet	1.25 times the total height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or 1.1 times the total height.
Neighboring Dwelling Units*		750 feet	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or 1.1 times the total height.
Road Rights-of-Way**	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.	One times the height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.
Other Rights-of-Way	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.
Public conservation lands	NA	1320 feet	600 feet
Wetlands, USFW Types III, IV, and V	NA	1320 feet	600 feet
Other structures	NA	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.	The greater of: The fall zone, as certified by a professional engineer, + 10 feet or one times the total height.
Other existing WECS	NA	To be considered based on: • Relative size of the existing and proposed WECS • Alignment of the WECS relative to the predominant winds • Topography • Extent of wake interference impacts on existing WECS • Property line setback of existing WECS • Other setbacks required Waived for internal setbacks in multiple turbine projects including aggregated projects	
River Bluffs	NA	1,320 feet	NA

* The setback for dwelling units shall be reciprocal in that no dwelling unit shall be constructed within the same distance required for a commercial/utility Wind Energy Conversion System.

** The setback shall be measured from any future Rights-of-Way if a planned change or expanded right-of-Way is known.

(E) *Special Safety and Design Standards.* All towers shall adhere to the following safety and design standards:

- (1) Clearance of rotor blades or airfoils must maintain a minimum of 20 feet of clearance between their lowest point and the ground.
- (2) All CWECS shall have a sign or signs posted on the tower, transformer and substation, warning of high voltage. Other signs shall be posted on the turbine with emergency contact information.
- (3) All wind turbines, which are a part of a CWECS, shall be installed with a tubular, monopole type tower.
- (4) Consideration shall be given to painted aviation warnings on all towers less than 200 feet.
- (5) The design of the nacelles of turbines and towers shall not use designs or construction methods that provide perches for avian predators.
- (6) Turbine identification:
 - A. Each site access road shall be named according to the Village street (or county road) naming convention;
 - B. Each individual turbine shall be designated with a numeric or alphanumeric identifier;
 - C. Each individual turbine shall be labeled with its respective identifier and the name of the access road it is located along; and
 - D. Signage shall be provided at the intersection of each access road with the public right-of-way indicating the towers that may be found along that access road, along with subsequent signage at each road intersection within the site further indicating the direction to specific towers.

- (7) Wind turbines that are not designed in “accordance with proven good engineering practices” shall be prohibited. Turbines designed with the following characteristics shall be deemed in “accordance with proven good engineering practices:”
 - (a) at least 3 blades;
 - (b) upwind rotor;
 - (c) no furling;
 - (d) tapered and twisted blades; and
 - (e) a well-designed braking system.
- (8) Color and finish:
 - (a) All wind turbines and towers that are part of a CWECS shall be white, grey or another non-obtrusive single color.
 - (b) Blades may be black in order to facilitate deicing.
 - (c) Finishes shall be matte or non-reflective.
 - (d) CWECS shall not display advertising, except for reasonable identification of the manufacturer, facility owner or operator, which may be placed on the nacelle.
- (9) Visual Impact
 - (a) To provide visual order to a WECS facility, all individual turbines shall have the same number of rotor blades and all rotor blades shall spin in the same direction (i.e., clockwise or counter-clockwise) in relation to the wind.
 - (b) To promote visual uniformity, all turbines at a similar ground elevation shall have the same height from blade tip to the ground.
 - (c) Distinct groupings or clusters of wind turbines shall be limited to no more than 12 machines per cluster. A cluster shall be defined as a grouping of machines that are greater than 1,320 feet (¼ mile) from another grouping.
 - (d) In light wind conditions, turbine rotor blades shall not be kept in a locked position except as necessary to meet operational or maintenance requirements;
 - (e) Except during construction, re-construction or removal, outdoor storage is not permitted within the facility boundary except at locations that are screened from view, as shown on the approved site plan;
 - (f) If turbines become inoperable for any reason, they shall be repaired as soon as reasonably possible;
 - (g) To avoid cluttering the skyline, inverters and pendant power cables shall be located inside the wind turbine tower, nacelle or structure;
 - (h) No telecommunications dishes, antennas, cellular telephone repeaters or other similar devices shall be attached to wind turbine towers;
 - (i) The maximum total height of the turbines shall be 355 feet. Greater height, but not in excess of 400 feet, may be considered on a case by case basis if the applicant can sufficiently demonstrate that the increased height will result in increased energy efficiencies thereby reducing the overall number of turbines in the project. However, in all cases, due consideration shall be given to the scale of the turbines in relation to the surrounding landscape.
- (10) Lighting:
 - (a) Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by the FAA permits and regulations.
 - (b) Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds.
 - (c) Red pulsating incandescent lights shall be prohibited.
- (11) All signage shall comply with the sign regulations found in these regulations.
- (12) All communications and feeder lines installed as part of a CWECS shall be buried, where feasible.
- (13) No CWECS shall exceed 50 dbA at the nearest structure or use occupied by humans.
- (14) Controls and brakes:
 - (a) All WECS shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode.
 - (b) Stall regulation shall not be considered a sufficient braking system for overspeed protection.
- (15) Interference.
 - (a) The applicant shall minimize or mitigate interference with any commercial or public safety electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any CWECS.

- (b) The applicant shall notify all communication tower operators within five miles of the proposed CWECS location upon application to the Village for permits.
- (16) Roads, applicant shall:
 - (a) Identify all Village, county or townships streets/roads to be used for the purposes of transporting CWECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the CWECS and obtain applicable weight and size permits from the impacted jurisdictions prior to construction.
 - (b) Conduct a pre-construction survey, in coordination with the appropriate jurisdictions to determine existing road conditions. The survey shall include photographs and a written agreement to document the condition of the public road/facility.
 - (c) Be responsible for restoring or paying damages as agreed to by the applicable jurisdiction sufficient to restore the road(s) and bridges to preconstruction conditions.
- (17) The applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the CWECS.
- (18) 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.

(F) *Building-Mountable Wind Turbines (BMWT)*. A BMWT and its essential support facilities shall be allowed as a permitted accessory use when attached to the principle structure in any zoning district subject to the following:

- (1) A simple site plan shall be submitted for each BMWT providing the following information:
- (2) Mounting location of the BMWT on the principle structure.
- (3) Description of the BMWT height and width, including a photo (if available) or other visual representation.
- (4) BMWT shall not exceed 60 dBA, as measured at the closest property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
- (5) BMWT shall comply with the maximum height requirement of the zoning district in which it is located. Applicants proposing an installation higher than allowed by the zoning district in which it will be located may apply for a variance to the Zoning Board of Adjustment.
- (6) No BMWT may occupy, encroach or “overhang” any public right-of-way without the expressed approval of the Village of Prague.
- (7) Each BMWT installation shall require a separate building permit.

(G) *Noise and Shadow Flicker*

- (1) Audible sound from a WECS facility shall not exceed 50 dbA if it is determined a pure tone is generated by the facility, as measured at the exterior of any occupied building on a non-participating landowner's property. Methods for measuring and reporting acoustic emissions from the WECS facility shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1 (1989) titled *Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier*.
- (2) The Facility owner and Operator shall make reasonable efforts to minimize shadow flicker to any occupied building on a non-participating landowner's property.

(H) *Use of Public Roads; Bond Required*. The property owner of a CWECS facility shall be responsible for extraordinary maintenance and restoration of all Village roads leading to the project site that may be damaged during construction or due to activities involving the CWECS facility unless the property owner can prove that operation of the CWECS facility was not the cause of the roadway damage. All maintenance and restoration of roads shall be done with the approval of and to the satisfaction of the Public Works Director. The following information shall be submitted along with an application for a CWECS Permit:

- (1) Detailed maps of access and haul routes;
- (2) If weight and size permits are required by the Nebraska Department of Roads, a pre-construction baseline survey shall be provided to document and determine existing road conditions;
- (3) A report on potential road damage that may result from the construction and maintenance of the CWECS facility;
- (4) If, in the discretion of the Public Works Department, road damage may occur, a road damage mitigation plan and/or long-term road maintenance agreement shall be submitted, which shall include a bond, escrow, security agreement, or other form of guarantee approved by the Village Attorney, in an amount determined by the Public Works Director to be sufficient to guarantee the necessary restoration or extraordinary maintenance required due to the construction or operation of the CWECS facility; and

- (5) If impacts may occur to public roads in other jurisdictions, the Applicant shall give notice to such other jurisdictions, providing information regarding road impacts, and submit to the Public Works Department proof that such notice was given.

(I) *Decommissioning Plan; Bond Required*

- (1) The facility owner and operator shall, at its expense, complete decommissioning of the CWECS facility, or individual turbines, within six months after the end of the useful life of the facility or individual turbines. The CWECS facility or individual turbines will presume to be at the end of their useful life if no electricity is generated for a continuous period of 12 months. A decommissioning plan shall be submitted with an application for a CWECS permit, which shall document:
- (a) The removal of turbines, buildings, cabling, electrical components, roads, foundations to a depth of four feet within 180 days;
 - (b) Grading and re-seeding all disturbed earth;
 - (c) A report prepared by an independent professional engineer licensed in the State of Nebraska that estimates the total cost of decommissioning ("Decommissioning Costs") without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment ("Net Decommissioning Costs"). Said estimates shall be submitted to the Village of Prague after the first year of operation and every fifth year thereafter.
 - (d) The facility owner or operator shall post and maintain Decommissioning Funds in an amount equal to Net Decommissioning Costs, provided, at no point shall Decommissioning Funds be less than 25 percent of Decommissioning Costs. The Decommissioning Funds shall be posted and maintained as a bond, escrow, security agreement, or other form of guarantee approved by the Village Attorney.
 - (e) If the facility owner or operator fails to complete decommissioning within the period prescribed herein, then the landowner shall have six months to complete decommissioning.
 - (f) If neither the facility owner or operator, nor the landowner complete decommissioning within the periods prescribed herein, then the Village of Prague may take such measures as necessary to complete decommissioning.
 - (g) An easement allowing the Village of Prague access to the project site, pursuant to reasonable notice, to effect or complete decommissioning.
 - (h) The escrow agent shall release the Decommissioning Funds when the facility owner or operator has demonstrated and the Village of Prague concurs that decommissioning has been satisfactorily completed, or upon written approval of the Village of Prague in order to implement the decommissioning plan.
 - (i) An agreement that the Village of Prague is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the right to seek reimbursement from the facility owner or operator, or property owner, for decommissioning costs in excess of the amount guaranteed, and to file a lien against any real estate owned by the facility owner or operator, or property owner, or in which they have an interest, for the amount of the excess, and to take all steps allowed to enforce such lien.
- (2) Financial provisions shall not be so onerous as to render CWECS facilities unfeasible in the Village of Prague.

(J) *Repair; Abandonment; Removal.* Small Wind Energy Conversion Systems: Any SWECS found to be unsafe by the Building Official shall be repaired by the owner to meet federal, state and local safety standards, or removed within six months. If any SWECS is not operated for a continuous period of 12 months, the Village shall notify the landowner by registered mail that such SWECS is deemed abandoned, and provide 45 days for a response. In their response, the landowner shall set forth reasons for the operational difficulty and provide a timetable for corrective action not exceeding six months. If the corrective action is not completed within six months, the Village shall notify the landowner that such SWECS shall be removed within 12 days of receipt of the notice.

(K) *Liability Insurance.* For each CWECS facility, there shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least \$1 million per occurrence and \$1 million in the aggregate. Copies of such certificates shall be made available to the Village of Prague upon request.

SECTION 4.23 SOLAR PANELS

No solar panel shall be constructed within the residential zoning jurisdiction of the Village of Prague unless a permit therefore is approved and issued by the building inspector and is constructed in conformance with the following requirements. For those devices that include electrical, plumbing and heating constructions, the applicable permits shall also be obtained. Solar panels shall meet the following requirements.

(A) *Lot and Height Requirements:* Solar panels shall conform to the required front, side, street side, and rear lot setback requirements except as provided herein:

- C. A solar panel which is attached to an integral part of the principal building may project three feet into the front yard and street side yard; six feet into the rear yard; and two feet into the side yard.
- D. A solar panel which is freestanding may be located only in the required rear yard provided it does not exceed six feet in height and is located not less than five feet from the rear lot line and not closer than one foot to any existing easement as measured from the closest point of the structure including its foundation and anchorage's, nor shall the solar panel be located in the required side yard, front yard or street side yard.

(B) *Structural Requirements:* The physical structure and connections to existing structures shall conform to the applicable Prague building codes.

(C) *Plot Plan:* The application for a permit shall be accompanied by a plot plan drawn to scale showing property lines, existing structures on the lot, proposed solar panel location with respect to property lines, and dimensions of the proposed solar panel.

(D) *Permit Fee:* A permit fee is required. This permit fee shall be paid prior to the issuance of the building permit. The amount of the fee shall be as established in the Master Fee Schedule.

(E) *Pre-existing Solar Panels:* Notwithstanding noncompliance with the requirements of this section, a solar panel erected prior to December 1, 2019, pursuant to a valid building permit issued by the Village, may continue to be utilized so long as it is maintained in operational condition.

SECTION 4.24 WIRELESS COMMUNICATION TOWERS.

(A) *Intent.* Based upon the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act) grants the Federal Communications Commission (FCC) exclusive jurisdiction over certain aspects of telecommunication services. This section is intended to regulate towers, telecommunications facilities and antennas in the Village in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunication service. Telecommunication facilities, towers and antennas in the Village, to protect residential areas and land uses from potential adverse impact of installation of towers and antennas through careful design, siting, and camouflaging, to promote and encourage shared use / collocation of towers and other antenna support structures rather than the construction of additional single use towers, to avoid potential damage to property caused by towers, telecommunications facilities and antennas by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, repaired and removed when no longer used or are determined to be structurally unsound and to ensure that towers and antennas are compatible with surrounding land uses.

(B) *Definitions.* All terms in this Section which are not specifically defined herein shall be construed in accordance with the Communications Act of 1934, the Telecommunications Act of 1996 and the Rules and Regulations of the Federal Communications Commission (FCC). As used in this Section, the following terms shall have the following meanings:

ANTENNA shall mean a device, designed and intended for transmitting or receiving television, radio, or microwave signals, direct satellite service (including direct-to-home satellite service), and/or video programming services via multipoint distribution services.

ANTENNA SUPPORT STRUCTURE shall mean any building or structure other than a tower that can be used for location of telecommunications facilities.

APPLICANT shall mean any person that applies for a Tower Development Permit.

APPLICATION shall mean a process by which the owner of a tract of land within the zoning jurisdiction of the Village submits a request to develop, construct, modify, or operate a tower upon such tract of land. The term application includes all written documentation, verbal statements, and representations, in whatever, formal forum, made by an applicant to the concerning such request.

CONFORMING COMMERCIAL EARTH STATION shall mean a satellite dish that is two meters or less in diameter and is located in an area where commercial or industrial uses are generally permitted under this regulation.

ENGINEER shall mean any engineer qualified and licensed by any state or territory of the United States of America.

OWNER shall mean any person with a fee simple title or a leasehold exceeding ten (10) years in duration to any tract of land within the zoning jurisdiction of the Village who desires to develop, construct, modify, or operate a tower upon such tract of land.

PERSON shall mean any person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

SATELLITE DISH ANTENNA shall mean an antenna consisting of a radiation element intended for transmitting or receiving television, radio, microwave, or radiation signals and supported by a structure with or without a reflective component to the radiating dish, usually circular in shape.

STEALTH shall mean any telecommunications facility, tower, or antenna which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than a tower, such as light poles, power poles and trees.

TELECOMMUNICATIONS FACILITIES shall mean any cables, wires, lines, wave guides, antennas, or any other equipment or facilities associated with the transmission or reception of communications, which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:

- (1) Any Conforming Commercial Earth Station antenna two (2) meters or less in diameter which is located on real estate zoned TA, R, C-1, C-2, or I.
- (2) Any earth station antenna or satellite dish antenna of one (1) meter or less in diameter, regardless of zoning applicable to the location of the antenna.

TOWER shall mean a self-supporting lattice, guyed, or monopole structure, which supports Telecommunications Facilities. The term Tower shall not include non-commercial amateur radio operator's equipment as licensed by the FCC or structure supporting an earth station antenna serving residential premises or dwelling units exclusively.

TOWER DEVELOPMENT PERMIT shall mean a permit issued by the Village upon approval by the Village Board of an application to develop a tower within the zoning jurisdiction of the Village; which permit shall continue in full force and effect for so long as the tower to which it applies conforms to this Section. Upon issuance, a Tower Development Permit shall be deemed to run with the land during the permit's duration and may be transferred, conveyed, and assigned by the applicant to assigns and successors-in-interest.

TOWER OWNER shall mean any person with an ownership interest of any nature in a proposed or existing tower following the issuance of a Tower Development Permit.

(C) Location of Towers and Construction Standards

- (1) Towers shall be permitted conditional uses of land in only those zoning districts where specifically listed and authorized in this regulation.
- (2) No person shall develop, construct, modify or operate a tower upon any tract of land within the zoning jurisdiction of the Village prior to approval of its application for a Tower Development Permit by the Village Board and issuance of the permit by the Village. Applicants shall submit their application for a Tower Development Permit to the Zoning Administrator and shall pay a filing fee in accordance with the Village Fee Schedule.
- (3) All towers, telecommunications facilities and antennas on which construction has commenced within the zoning jurisdiction of the Village after the effective date of this regulation shall conform to the Building Codes and all other construction standards set forth by the Village, federal, and state law and applicable American National Standards Institute (ANSI). Upon completion of construction of a tower and prior to the commencement of use, an engineer's certification that the tower is structurally sound and in conformance with all of the aforementioned applicable regulatory standards shall be filed in the Zoning Administrator.

(D) Application to develop a Tower. Prior to commencement of development or construction of a tower, an application shall be submitted to the Zoning Administrator for a Tower Development Permit and shall include the following:

- (1) Name, address, and telephone number of the owner and if applicable, the lessee of the tract of land upon which the tower is to be located. Applicants shall include the owner of the tract of land and all persons having an ownership interest in the proposed tower. The application shall be executed by all applicants.
- (2) The legal description and address of the tract of land on which the tower is to be located.
- (3) The names, addresses and telephone numbers of all owners of other towers or useable antenna support structures within a one (1) mile radius of the proposed tower, including publicly and privately-owned towers and structures.
- (4) An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or collocate the applicants telecommunications facilities on a tower or useable antenna support or written technical evidence from an engineer that the applicants telecommunications facilities cannot be installed or collocated on another tower or useable antenna support structure.
- (5) Written technical evidence from an engineer that the proposed tower will meet the established Building Code, and all other applicable construction standards set forth by the Village Board and federal and state and ANSI standards.
- (6) Color photo simulations showing the proposed location of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the nearest residentially used and / or zoned property and nearest roadway, street or highway.
- (7) Descriptions and diagrams of the proposed tower, telecommunications facilities and/or antenna,

manufacturers literature, appurtenances such as buildings, driveways, parking areas, and fences or other security enclosures with significant detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.

(E) *Tower Development Permit: Procedure.* After receipt of an application for a Tower Development Permit, the Zoning Administrator shall schedule a public hearing before the Planning Commission, following all Statutory requirements for publication and notice, to consider such application. The Planning Commission shall receive testimony on the Tower Development Permit and shall make a recommendation to the Village Board. Upon the completion of the Planning Commission Public Hearing the Zoning Administrator shall schedule a public hearing before the Village Board, following all Statutory requirements for publication and notice, to consider such application and the recommendation of the Village Planning Commission. Notice, for each Public Hearing, shall be made at least one (1) time and at least ten (10) days prior to such hearing. In addition, the Zoning Administrator shall cause a notice to be posted in a conspicuous place on the property on which action is pending. Such notice shall conform to this regulation. The Planning Commission and Village Board may approve the Tower Development Permit as requested in the pending application with any conditions or safeguards it deems reasonable and appropriate based upon the application and / or input received at the public hearings or deny the application. In all zoning districts in which towers are a permitted conditional use of land, the Tower Development Permit shall be deemed a conditional use permit for said tract of land.

(F) *Setbacks and Separation or Buffer Requirements*

- (1) All towers up to fifty (50) feet in height shall be setback on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of fifty (50) feet in height shall be set back one (1) additional foot for each foot of tower height in excess of fifty (50) feet. The height of the tower shall be measured from the grade at the foot of the base pad to the top of any telecommunications facilities or antennas attached thereto. Setback requirements shall be measured from the base of the tower to the property line of the tract of land on which it is located.
- (2) Towers exceeding one hundred (100) feet in height may not be located in any residentially zoned district and must be separated from all residentially zoned districts and occupied structures other than those utilized by the tower owner, by a minimum of two hundred (200) feet or one hundred percent (100%) of the height of the proposed tower, whichever is greater.
- (3) Towers of one hundred (100) feet or less in height may be located in residentially zoned districts provided said tower is separated from any residential structure, school, church, and/or occupied structures other than those utilized by the tower owner, by a minimum of one hundred percent (100%) of the height of the tower.
- (4) Towers must meet the following minimum separation requirements from other towers:
 - (a) Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed by a minimum of seven hundred fifty (750) feet.
 - (b) Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of one thousand five hundred (1,500) feet.

(G) *Structural Standards for Towers Adopted.* The *Structural Standards for Steel Antenna Towers and Antenna Supporting Structures*, 1991 Edition (ANSI/EIA/TIA 222-E-1991) is hereby adopted, together with any amendments thereto as may be made from time to time, except such portions as are hereinafter deleted, modified, or amended by regulation and set forth in this Article of the Zoning Regulation.

(H) *Illumination and Security Fences*

- (1) Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). In cases where there are residential uses / zoned properties within a distance of 300% of the height of the tower, any tower subject to this Section shall be equipped with dual mode lighting.
- (2) All self-supporting lattice or guyed towers shall be enclosed within a security fence or other structure designed to preclude unauthorized access. Monopole towers shall be designed and constructed in a manner which will preclude to the extent practical, unauthorized climbing of said structure.

(I) *Exterior Finish.* Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, subject to review and approval by the Planning Commission and Village Board as part of the application approval process. All towers, which must be approved as a conditional use, shall be stealth design unless stealth features are impractical or the cost of such features represents an undue burden on the applicant.

(J) *Landscaping.* All tracts of land on which towers, antenna support structures, telecommunications facilities

and/or antennas are located shall be subject to the landscaping requirements of the Village.

(K) *Maintenance, Repair or Modification of Existing Towers.* All towers constructed or under construction on the date of approval of this regulation may continue in existence as a non-conforming structure and may be maintained or repaired without complying with any of the requirements of this Section. Nonconforming structures or uses may not be enlarged or the degree of nonconformance increased without complying with this Section, including applying for and obtaining a Tower Development Permit. Any modification or reconstruction of a tower constructed or under construction on the date of approval of this regulation shall be required to comply with the requirements of this Section including applying for and obtaining a Tower Development Permit. Said application shall describe and specify all items which do not comply with this Section and may request, subject to final review and approval of the Village Board, an exemption from compliance as a condition of the Tower Development Permit.

(L) *Inspections.* The Village reserves the right to conduct inspection of towers, antenna support structures, telecommunications facilities and antenna upon reasonable notice to the tower owner or operator to determine compliance with this Section and to prevent structural and equipment failures and accidents which may cause damage, injuries or nuisances to the public. Inspections may be made to determine compliance with the Village's Building Codes and any other construction standards set forth by the Village, federal, and state law or applicable ANSI standards. Inspections shall be made by either an employee of the Village, Building Inspector, or a duly appointed independent representative of the Village.

(M) *Maintenance.* The towers, antenna support structures, telecommunications facilities and antennas shall at all times be kept and maintained in good condition, order and repair so that the same does not constitute a nuisance to or a danger to the life or property of any person or the public.

(N) *Abandonment.* If any tower shall cease to be used for a period of one (1) year, the Zoning Administrator shall notify the tower owner that the site will be subject to determination by the Village that the site has been abandoned. Upon issuance of written notice to show cause by the Zoning Administrator, the tower owner shall have thirty (30) days to show preponderance of evidence that the tower has been in use or under repair during the period of apparent abandonment. In the event the tower owner fails to show that the tower has been in use or under repair during the relevant period, the Zoning Administrator shall issue a final determination of abandonment of the site and the tower owner shall have seventy-five (75) days thereafter to dismantle and move the tower. In the event the tower is not dismantled and removed, the tower shall be declared a public nuisance by the Zoning Administrator, or his/her designee and a written request shall be directed to the Village Attorney to proceed to abate said public nuisance pursuant to authority of the Revised Nebraska State Statutes and Village of Prague codes, and charge the costs thereof against the real estate on which the tower is located or the owner of record of the said real estate.

(O) *Satellite Dish Antennas, Regulation.* Upon adoption of this regulation, installation of satellite dish antennas shall be permitted within the zoning jurisdiction of Prague only upon compliance with the following criteria:

- (1) In residentially zoned districts, satellite dish antennas may not exceed a diameter of ten (10) feet.
- (2) Single family residences may not have more than one (1) satellite dish antenna over three (3) feet in diameter.
- (3) Multiple family residences with ten (10) or less dwelling units may have no more than one (1) satellite dish antenna over three (3) feet in diameter. Multiple family residences with more than ten (10) dwelling units may have no more than two (2) satellite dish antennas over three (3) feet in diameter.
- (4) In residential zoning districts, satellite dish antennas shall not be installed in the required front yard setback or side yard setback area.
- (5) All satellite dish antennas installed within the zoning jurisdiction of Prague, upon adoption of this regulation, shall be of a neutral color such as black, gray, brown, or such color as will blend with the surrounding dominant color in order to camouflage the antenna.

(P) *Severability.* If any clause, subsection, or any other part of this Section shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Section shall not be affected thereby, but shall remain in full force and effect.

ARTICLE 5: CONDITIONAL PERMITTED USES

SECTION 5.01: PURPOSE

In order to provide for the most appropriate use of land throughout the district and giving the maximum consideration to the character of the district and its peculiar suitability for particular uses in the area affected by this ordinance, special exceptions in the form of conditional uses are hereby established.

SECTION 5.02: PROCEDURE

The Village Board may, by conditional use permit after referral to and recommendation from the Planning Commission and public hearing, authorize conditional uses designated in the district regulations if it is found that the location and characteristics of the use will not be injurious to the health, safety, morals and general welfare of the area.

SECTION 5.03: STANDARDS

The conditional uses shall conform to the intent and purpose of this ordinance and the following requirements:

- 5.03.1 The use shall in all other respects conform to the applications of the district in which it is located.
- 5.03.2 The use shall conform to all other applicable ordinances, laws and regulations of any governmental jurisdiction.
- 5.03.3 The use shall have adequate water, sewer and drainage facilities.
- 5.03.4 Entrance and exit shall be so designed as to minimize traffic congestion in the public streets.
- 5.03.5 The use shall be in harmony with the character of the area and the most appropriate use of land.

The Planning Commission and the Village Board in considering an application for a conditional use may consider, among other things, the most appropriate use of the land, the conservation and stabilization of the value of property; adequate open space for light and air; concentration of population; congestion of public streets; and the promotion of public safety, health, convenience, and comfort. The Village Board may stipulate and require such conditions and restrictions upon the conditional use and operation deemed necessary for the protection of the public interest and to secure compliance with this ordinance.

SECTION 5.04: PERMITTED CONDITIONAL USES

Upon application, pursuant to the provisions of this Ordinance and the rules and procedures of the Village Board, said Board shall grant or refuse a conditional use in accordance with the standards of this Article and the intent of this Ordinance and after a public hearing and review and recommendation of the Planning Commission. In granting any conditional use, the Village Board may prescribe and impose appropriate conditions and safeguards, including a specified time limit for a conditional use.

- 5.04.1 Permitted Conditional Uses. The Village Board, after receiving recommendations from the Planning Commission and subject to conditions and protective restrictions, may authorize the following conditional uses in any zoning district:
 - A. Cemetery or mausoleum.
 - B. Greenhouse or a nursery.
 - C. Hospital, clinic or institution, except for the mentally ill or those with contagious diseases; Provided, that less than forty (40%) percent of the total land area is occupied by buildings and that all the required yards are increased by one (1) foot for each foot of building height.
 - D. Landing field or strip for aircraft.
 - E. Communication tower or broadcasting station.
 - F. Removal of gravel, top soil or similar natural materials, with safeguards for protection of the adjoining property and the community as a whole.
 - G. Road-side stand, commercial amusement or recreational development for temporary or seasonal periods. (ref. 19-907 RS Neb.)

5.04.2 Special Site Design Options This conditional use permit is intended to allow for flexible site design and arrangement of buildings, parking, screening and landscaping. This permit allows the Planning Commission and Village Board to approve modifications, consistent with the standards in Section 5.03 of Article 5 in district requirements, including:

- A. Parking
- B. Building height
- C. Setbacks
- D. Number of buildings on lot
- E. Screening
- F. Indicate location of proposed modifications and include justification.

Public Hearing shall be required with proper notice by the Planning Commission as well as the Village Board prior to approval.

ARTICLE 6: PARKING AND SIGNS

SECTION 6.01: OFF-STREET AUTOMOBILE STORAGE

- 6.01.1 Off-street automobile storage or parking space shall be provided on any lot on which any of the following uses are hereafter established; such space shall be provided with vehicular access to a street or an alley. For purposes of computing the number of parking spaces available in a given area, the ratio of two hundred fifty (250) square feet per parking space shall be used. The administrator shall determine the most similar requirement where such use is not specifically mentioned. The following are the minimum requirements for specific uses:
- A. Dwellings - Two (2) spaces for each family dwelling unit.
 - B. Boarding Houses and Rooming Houses - One (1) space for each room occupied or intended for occupancy by boarders or roomers, in addition to the requirements of A.
 - C. Tourist Accommodations - One (1) space for each room offered for tourist accommodations.
 - D. Theater, Auditorium, Church, Stadium, or Other Place of Public Assembly - One (1) space for each four (4) seats available at maximum capacity.
 - E. Industrial Plant - One (1) space for each four (4) persons employed or intended to be employed on such lot.
 - F. Commercial or Business Building in a C-1 or C-2 District - Four (4) spaces for the first one thousand (1,000) square feet of ground floor space and one (1) additional space for each additional three hundred (300) square feet of such floor space.
- 6.01.2 If vehicle storage space or standing space required above cannot be reasonably provided on the same lot on which the principal use is conducted, in the opinion of the Board of Adjustment, the Board of Adjustment may permit such space to be provided on other off-street property, provided such space lies in the same zoning district and within three hundred (300) feet of an entrance to such principal use. Such vehicle standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.

SECTION 6.02: REQUIRED PARKING**SCHEDULE OF MINIMUM OFF-STREET
PARKING AND LOADING REQUIREMENTS**

<u>Structures and Uses</u>	<u>Parking Requirements</u>	<u>Loading Requirements</u>
Bowling Alleys	4 Spaces per alley	1 Space per establishment
Churches, Synagogues, and Temples	1 Space per 4 seats in main unit of worship	None required
Eating and Drinking Places	Parking spaces equal to 30% of capacity in persons	2 Spaces per establishment
Educational Uses, Nursery	Parking spaces equal to 20% capacity in students	2 Spaces per structure
Educational Uses, All Other	Parking spaces equal to 40% of capacity of students	2 Spaces per structure
Funeral Homes and Chapels	8 Spaces per reposing room	2 Spaces per establishment
Hospitals	1 Space per 2 beds	3 Spaces per structure
Hotels	1 Space per rental unit	1 Space per establishment
Industrial Uses	1 Space per 3 employees on largest shift	2 Spaces per establishment
Libraries	1 Space per 500 square feet of floor area	1 Space per structure
Lodging and Boarding Houses	1 Space per rental unit	None required
Medical Clinics	5 Spaces per staff doctor or dentist	None required
Mobile Home Park	2 Spaces per dwelling unit	None required
Motels	1 Space per rental unit	None required
Private Clubs and Lodges	1 Space per 500 square feet of floor area	1 Space per establishment
Residential Structures (including Mobile Home Dwellings)	2 Spaces per dwelling unit	None required
Roadside Stands	4 Spaces per establishment	None required
Sanitariums, Convalescent, and Rest Home Services	1 Space per 3 beds plus 1 space per employee	1 Space per establishment
Service Establishments	1 Space per 200 square feet of gross floor area	1 Space per establishment
Theaters, Auditoriums, and Places of Assembly	1 Space per 4 people in designed capacity	1 Space per establishment
Veterinary Establishments	3 Spaces per staff doctor	None required
Wholesaling and Distribution Operations	1 Space per 2 employees on largest shift	2 Spaces per establishment

SECTION 6.03: STANDARD OF MEASUREMENT

6.03.1 The total area of all signs permitted on a lot shall include:

- A. The total area of the faces of all permanent exterior signs visible from a public way, plus,
- B. The area of permanent signs placed upon the surface of windows and doors, plus,
- C. The area within the outline enclosing the lettering, modeling or insignia of signs integral with the wall and not designed as a panel.

6.03.2 A building or use having frontage on a second street may include twenty percent (20%) of the length of the lot facing the second street.

SECTION 6.04: SIGNS: TYPE

- 6.04.1 Real Estate. Not more than two (2) signs per lot may be used as a temporary sign no larger than 6 square feet (except may be up to 12 square feet) and set back twenty (20) feet from the road right of way or road easement boundary.
- 6.04.2 Announcement. Small announcement or professional signs, not over six (6) square feet in area, except that an announcement sign or bulletin board not over 18 square feet in area, set back at least 20 feet from any highway, street, road, or roadway easement may be erected in connection with any of the permitted principal uses of a nonresidential nature.
- 6.04.3 Wall. A sign flat against a building not exceeding in the aggregate fifty (50) square feet in area.
- 6.04.4 Name Plate. One nameplate not exceeding 2 square feet for each dwelling.
- 6.04.5 Billboard. Billboards, signboards, and other similar advertising signs subject to the same height and location requirements as other structures in the district and also subject to the following conditions and restrictions.
- A. No billboard, signboard, or similar advertising signs shall be located at intersections so as to obstruct vision, hearing, or interfere with pedestrian or vehicular safety.
 - B. No billboard, signboard, or similar advertising signs shall be located within one hundred (100) feet of any lot in a residential district.
 - C. No billboard, signboard, or similar advertising signs shall exceed seven hundred (700) square feet in area.
 - D. No billboard, signboard, or similar advertising signs shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property.
- 6.04.6 Ground. Ground signs at least five (5) feet from any lot line with a maximum height of ten (10) feet.
- 6.04.7 Projecting or Pole. One free standing or projecting sign for each enterprise on the premises of not more than one hundred (100) square feet per sign face, at no point closer to the front line or a side line than one-half of the required building setback distance, and not exceeding fifty (50) feet in height from the established grade level. The lowest horizontal projecting feature of any post or pole mounted sign shall be eight (8) feet above the established grade level.

SECTION 6.05: SIGN SCHEDULE

- 5.1 Signs shall be permitted in the various districts according to the following schedule:

Sign Schedule								
<u>Zoning District</u>	TA	R-1	R-2	C-1	C-2	I-1	FF	FW
<u>Sign Type</u>								
Real Estate	+	+	+	+	+	+	c	-
Announcement	+	+	+	+	+	+	c	-
Wall	+	-	-	+	+	+	c	-
Name Plate	+	+	+	+	+	+	c	-
Billboard	c	-	-	c	+	+	c	-
Ground	c	c	c	+	c	+	c	-
Projection or Pole	-	-	-	+	-	+	c	-

+: permitted

-: not permitted

c: Conditional Use

ARTICLE 7: BOARD OF ADJUSTMENT

SECTION 7.01: MEMBERS, TERMS AND MEETINGS

7.01.1 Notwithstanding the provisions of sections 19-907 and 19-908 RS Neb., the legislative body shall appoint a board of adjustment or may act as the board of adjustment, and may exercise only the powers granted to boards of adjustment by section 19-910 RS Neb. The concurring vote of two-thirds of the members of the village board acting as a board of adjustment shall decide any question upon which it is required to pass as such board.

SECTION 7.02: APPEALS TO BOARD, RECORD OF APPEAL, HEARINGS AND STAYS

7.02.1 Appeals to the Board of Adjustment may be taken by any person officer, department, board or bureau of the Village affected by any decision of the Zoning Administrator. Such appeal shall be taken within thirty (30) days of the decision of said officer, department, board or bureau, by filing with the officer from whom the appeal is taken and with the board of adjustment, a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment, after the notice of appeal shall have been filed with him or her, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown. The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

SECTION 7.03: POWERS AND JURISDICTION ON APPEAL

- 7.03.1 The Board of Adjustment shall have only the following powers:
- A. *Errors*: To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulations or any regulation relating to the location or soundness of structures;
 - B. *Interpretation of Regulations or Map*: To hear and decide, in accordance with the provisions of any zoning regulations, requests for the interpretation of any map; and
 - C. *Variance of Requirements*: Where one or more of the following conditions exist, the board may authorize a variance if it makes specific findings that by reason of:
 - 1. exceptional narrowness
 - 2. shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations
 - 3. or by reason of exceptional topographic conditions or other extraordinary and exceptional situations or condition of such piece of property.

The strict application of any enacted regulation under this ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any ordinance or resolution.

- 7.03.2 The Board shall, by resolution, set out findings of fact based on evidence and testimony that the following conditions exist or would result:
- A. The strict application of the zoning 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 reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.

Under no circumstance shall the Board grant a variance if the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

7.03.3 In exercising the above-mentioned powers such board may, in conformity with the provisions hereof, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of two-thirds members of the board of adjustment shall be necessary to reverse any order, requirement, decision or determination of any such regulation or to effect any variation in such regulation.

7.03.4 A fee shall accompany each application of appeal to the board of adjustment.

SECTION 7.04: APPEALS TO DISTRICT COURT

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

ARTICLE 8: AMENDMENTS

SECTION 8.01: GENERAL

This Ordinance, including the official zoning map, may from time to time be amended, supplemented, changed, modified or repealed. In case of a protest against such change, signed by the owners of twenty (20%) percent of more either of the area of the lots included in such proposed changes, or of those immediately adjacent on the sides and in the rear thereof extending three hundred (300) feet there from, and of those directly opposite thereto extending three hundred (300) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths (3/4) of all the members of the Village Board.

The Village Board shall request and receive the recommendation of the Planning Commission before taking definite action on any contemplated amendment, supplement, change, modification or repeal. No such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be given by publication thereof in a paper of general circulation at least one (1) time ten (10) days prior to such hearing. In the event that such application is not approved by the Village Board, the same request or one substantially similar shall not be resubmitted to the Village within six (6) months of such denial.

In addition to the publication of the notice therein prescribed, a notice shall be posted in a conspicuous place on or near the property on which action is pending. Such notice shall be in conformance with the requirements with Section 19-905 of the Nebraska State Statutes. It shall be unlawful for anyone to remove, mutilate, destroy, or change such notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor. The owners or occupants of the real estate to be zoned or rezoned and all real estate located within three hundred (300) feet of the real estate to be zoned or rezoned may be personally served with a written notice thereof at least ten (10) days prior to the date of the hearing, if they can be served with such notice within the county. Where such notice cannot be served personally upon such owners or occupants in the county, a written notice of such hearing may be mailed to such owners or occupants addressed to their last known address at least ten (10) days prior to such hearing.

The provisions of this Section in reference to notice shall not apply, (1) in the event of a proposed change in such regulations, restrictions, or boundaries throughout the entire area of an existing zoning district within the village zoning jurisdiction, or (2) in the event additional or different types of zoning districts are proposed, whether or not such additional or different are made applicable to areas, or parts of areas, already within a zoning district of the village, but only the requirements of the first paragraph of this Section shall be applicable.

SECTION 8.02: FEES

Before any action shall be taken as provided in this Article, the party or parties proposing a change in the zoning regulations or district boundary, shall deposit with the Village Clerk a fee set by resolution of the Governing Body to cover the approximate cost of this procedure, and under no condition shall said fee or any part thereof be refunded for failure of said change to be adopted by the Governing Body.

ARTICLE 9: ENFORCEMENT

SECTION 9.01: RESPONSIBILITY

The provisions of this Ordinance shall be enforced by the Zoning Administrator appointed by the governing body. Appeal from the decision of the Zoning Administrator may be made to the Board of Adjustment as provided herein. (Ref. 19-909, 19-913 RS Neb.)

SECTION 9.02: ZONING PERMIT

- 9.02.1 A Zoning Permit shall be required to erect, construct, enlarge, move, or use any building or structure, or to use any land as herein specified. It shall be the duty of the Zoning Administrator to issue a Zoning Permit if the building or other structure and the proposed use thereof, or the proposed use of the land or premise, conforms with all of the requirements herein set forth. (Ref. 19-902 RS Neb.)
- 9.02.2 Application for a zoning permit shall be accompanied by a sketch, drawn to scale, showing the name of the applicant, the actual dimensions of the lot to be built upon, the size, shape, and location of the building to be erected, enlarged or moved, and such other information as may be necessary for the enforcement of these regulations.
- 9.02.3 The application shall include such other information as lawfully may be required by the Zoning Administrator, including the identification of building alterations, existing and proposed uses of the building(s) and land, the number of families, housekeeping units, or rental units the building is designed to accommodate, conditions existing on the lot, easement locations, and such other matters as may be necessary to determine conformance of the proposed building, structure or use with the requirements of this Ordinance and its enforcement.
- 9.02.4 One (1) copy of any approved zoning permit, together with any conditions of such permit shall be provided to the applicant by the Zoning Administrator. If an application for a zoning permit is denied, the Zoning Administrator shall indicate to the applicant the reason(s) for such denial. The Zoning Administrator shall maintain a permanent record of all applications for zoning permits and maintain one (1) copy of each zoning permit which is approved. The issuance of a zoning permit shall, in no case, be construed by the applicant or any other person or persons as waiving any requirement of this Ordinance.

SECTION 9.03: CERTIFICATE OF ZONING COMPLIANCE (OCCUPANCY PERMIT) FOR NEW, ALTERED, NON-ALTERED OR NON-CONFORMING USE.

- 9.03.1 It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator. Said certificate shall state that the use or uses of the building or premises conforms to the requirements of this Ordinance and authorize occupancy of such building or premises for the use or uses so stated.
- 9.03.2 No Certificate of Zoning Compliance shall be issued except in conformity with the requirements of this Ordinance, unless the Administrator has received a written order from the Board of Zoning Adjustment in the form of a variance for any attribute of the building, structure or premises other than the use, authorized under the terms and conditions of this Ordinance.
- 9.03.3 If the Zoning Administrator determines that the construction or development for which a zoning permit has been issued is not proceeding according to applicable requirements of this Ordinance or is contrary in any way to the information and conditions included on such approved zoning permit, or is otherwise proceeding in violation of law, the zoning permit shall be revoked and the Zoning Administrator shall issue a "Stop Work Order" to the applicant whose name and address is indicated on the affected zoning permit.

- 9.03.4 A Certificate of Zoning Compliance shall not be issued to any non-conforming use, except when a non-conforming use is converted to a permitted use or another non-conforming use which is authorized in accordance to the requirements of the Ordinance.
- 9.03.5 When a Certificate of Zoning Compliance is requested by any applicant between November 1 and April 30 of any year and all required landscape screens or buffers required by this Ordinance have not or cannot be installed due to weather conditions, the Zoning Administrator shall issue a Certificate of Zoning Compliance, provided the applicant shall first submit a detailed landscaping plan conforming to the definition(s) of landscape screen and/or landscape buffer set forth in this Ordinance to the Zoning Administrator and shall sign and certify on said plan that the landscaping indicated shall be installed by June 30 of the following year if the Certificate of Zoning Compliance is issued on or before November 1, and by June 30 of the same year if said certificate is issued between January 1 and April 30. This deferred landscaping provision shall not apply to any Certificate of Zoning Compliance issued on dates other than specified in this paragraph.
- 9.03.6 The Zoning Administrator shall maintain a permanent record of all Certificates of Zoning Compliance issued. Failure to obtain a Certificate of Zoning Compliance shall be a violation of this Ordinance and shall be punishable under Section 9.07 of this Article.

SECTION 9.04: EXPIRATION OF ZONING PERMIT.

If the construction described in any issued zoning permit has not been initiated within six (6) months from the date of the issuance thereof, said zoning permit shall expire and be canceled by the Zoning Administrator with written notice thereof provided to the applicant for such permit. If the construction described in an issued zoning permit has not been completed beyond one-fourth (1/4) of it's construction cost within two (2) years from the date of issuance thereof, said zoning permit shall expire and be canceled by the Zoning Administrator with written notice thereof indicating to the applicant for such permit that no further construction shall proceed unless a new zoning permit has been issued.

SECTION 9.05: ZONING PERMIT / CERTIFICATE OF ZONING COMPLIANCE AUTHORIZE STATED USE.

A zoning permit and Certificate of Zoning Compliance issued on the basis of plans and application and approved by the Zoning Administrator shall authorize only the use, arrangement and construction set forth in such permit or certificate and not other use, arrangement or construction. Any use, arrangement or construction at variance with the approved permit or certificate shall be deemed a violation of this Ordinance and punishable in accordance with Section 9.07 of this Article.

SECTION 9.06: SCHEDULE OF FEES AND CHARGES.

The fees and charges for a rezoning application, conditional use application, variance application, zoning permit, Certificate of Zoning Compliance, or such other permit, as may be utilized under the terms of the Ordinance, shall be as established in the form of a Fee Schedule by the Village Board through Resolution and shall be paid by the applicant at the time of application. A Fee Schedule shall be posted in the Office of the Village Clerk and may be amended only by action of the Village Board. Until all applicable fees and charges are paid, no action shall be taken on any permit or certificate.

SECTION 9.07: PENALTIES AND REMEDIES

Any owner(s) or agent of a building, structure or premises in or upon which a violation of any provisions of this Ordinance has been committed or shall exist or lessee or tenant or an entire building or entire premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed one hundred (\$100.00) dollars for any one offense recoverable with costs. Each and every day during which such illegal locating, erection, construction, reconstruction, enlargement, change, or use continues after receiving written notice of violation may be deemed a separate offense. Any person other than those listed above in this Section who commits, participates in, or maintains such violation, may be found guilty of a separate offense and suffer the penalties herein

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

In case any building is erected, constructed, reconstructed, altered, repaired, converted, or moved, or any building or land is used in violation of this Ordinance, the Zoning Administrator, or any other appropriate Municipal authority, or any person who would be damaged by such violation, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use of land, 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 10: LEGAL STATUS PROVISIONS

SECTION 10.01: SEPARABILITY.

Should any article, section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision 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.

SECTION 10.02: REPEAL OF CONFLICTING ORDINANCES AND EFFECTIVE DATE.

All ordinances or parts of ordinances in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect. This Zoning Ordinance of the Village of Prague shall take effect and be in force from and after its passage and publication according to law.

ADOPTED AND APPROVED by the Governing Body of the Village of Prague, Nebraska,

This _____ day of _____, 2019.

(Seal)

(Board Chairperson)

ATTEST: _____
(Village Clerk)