

**VILLAGE OF ROCA  
LANCASTER COUNTY, NEBRASKA  
ZONING REGULATIONS**

**ORDINANCE NUMBER 2018-04**

**ADOPTED BY THE VILLAGE OF ROCA, NEBRASKA  
2018**



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# **ROCA, NEBRASKA** **ZONING ORDINANCE**

**ORDINANCE NO. 2018-04**

## **ARTICLE 1: TITLE AND PURPOSE**

**Section 1.01 Title.** These regulations, including the zoning district maps made a part thereof, shall be known and may be cited and referred to as the “Zoning Ordinance” of the Village of Roca, Nebraska.

**Section 1.02 Purposes.** This zoning ordinance has been made in accordance with a Comprehensive Development Plan to promote the health, safety, morals, convenience, order, prosperity and general welfare of the community. The ordinance is designed to lessen congestion in streets; to secure safety from fire and other dangers; to provide adequate light and air; to promote the distribution of population, land classifications and land development to support provisions for adequate transportation, water flows, water supply, drainage, sanitation, recreation, and other public requirements; to protect property against blight and depreciation; and to secure economy in governmental expenditures.

## ARTICLE 2: DEFINITIONS

**Section 2.01 Rules.** For the purpose of this ordinance the following rules shall apply:

- A. Words and numbers used singularly shall include the plural. Words and numbers used in the plural shall include the singular. Words used in the present tense shall include the future.
- B. The word “persons” includes a corporation, members of a partnership or other business organization, a committee, council, commission, trustee, receiver, agent or other representative.
- C. The word “shall” is mandatory.
- D. The word “may” is permissive.
- E. The words “use”, “used”, “occupy” or “occupied” as applied to any land or building shall be construed to include the words “intended”, “arranged” or “designed” to be used or occupied.
- F. The word “Board” shall refer to the Board of Adjustment of the Village of Roca, Nebraska.
- G. The word “Village” shall refer to the Village of Roca, Nebraska.
- H. The word “Commission” shall refer to the Planning Commission of the Village of Roca, Nebraska.
- I. Undefined words or terms not herein defined shall have their ordinary meaning in relation to the context.

### **Section 2.02 Definitions.**

**100 YEAR FLOOD** is a flood event that has a 1% probability of occurring in any given year. The 100-year flood is also referred to as the 1% flood, since its annual exceedance probability is 1%. For river systems, the 100-year flood is generally expressed as a flowrate.

**ABANDONMENT** shall mean to cease or discontinue a use or activity without intent to resume as distinguished from short term interruptions such as during periods of remodeling, maintenance, or normal periods of vacation or seasonal closure.

**ABUT, ABUTTING** shall mean to border on, being contiguous with or have property or district lines in common, including property separated by an alley.

**ACCESS OR ACCESS WAY** shall mean the place, means, or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by this Regulation.

**ACCESS BUILDING** (*See Building, accessory*)

**ACCESSORY LIVING QUARTERS** shall mean living quarters within an accessory building located on the same premises with the main building, for use by temporary guests of the occupant of the premises, such quarters having no kitchen facilities and not rented or otherwise used as a separate dwelling unit.

**ACCESSORY STRUCTURE** shall mean a detached subordinate structure located on the same lot with the principal structure, the use of which is incidental and accessory to that of the principal structure.

**ACCESSORY USE** shall mean a use incidental, related, appropriate and clearly subordinate to the main use of the lot or building, which accessory use does not alter the principal use of the subject lot or affect other properties in the district.

**ACRE** shall mean a full acre containing 43,560 square feet of area within the property lines of a lot or parcel.

**ACREAGE** shall mean any tract or parcel of land that does not qualify as a farm or development with three (3) or more acres.

**ADJACENT** shall mean near, close, or abutting; for example, an Industrial District across the street or highway from a Residential District shall be considered as "Adjacent".

**ADULT BOOKSTORE OR ADULT VIDEO STORE** 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 retail value (defined as the price charged to customers) of the establishment's displayed merchandise consists of said items, or
3. At least 35% of the establishment's revenues derive from the sale or rental, for any form of consideration, of said items, or
4. The establishment maintains at least 35% of its floor area for the display, sale, and/or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are rented or sold, shall be included in "floor area" maintained for the display, sale, or rental of said items); or
5. The establishment maintains at least five hundred square feet (500 sq. ft.) of its floor area for the display, sale, and/or rental of said items (aisles and walkways used to access said items, as well as cashier stations where said items are rented or sold, shall be included in "floor area" maintained for the display, sale, or rental of said items); or
6. The establishment regularly offers for sale or rental at least two thousand (2,000) of said items; or
7. The establishment maintains an "adult arcade," which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or "specified anatomical areas."

**ADULT CABARET** shall mean a nightclub, bar, juice bar, restaurant, bottle club, lounge, or similar commercial establishment that regularly features live conduct characterized by semi-nudity. No establishment shall avoid classification as an adult cabaret by offering or featuring nudity.

**ADULT COMPANIONSHIP ESTABLISHMENT** shall mean an establishment which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

**ADULT DAY CARE CENTER** shall mean a facility that provides care and an array of social, medical, or other support services for a period of less than 24 consecutive hours to four or more persons who require or request such services due to age or functional impairment.

**ADULT ESTABLISHMENT** shall mean an "adult bookstore or adult video store," an "adult cabaret," an "adult motion picture theater," or an "adult paraphernalia store."

**ADULT HOTEL OR MOTEL** shall mean a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

**ADULT MASSAGE PARLOR, HEALTH CLUB** shall mean a massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

**ADULT MINI-MOTION PICTURE THEATER** shall mean a business premises within an enclosed building with a capacity for less than 50 persons used for presenting visual-media material if such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

**ADULT MOTION PICTURE ARCADE** shall mean any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motor picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."

**ADULT MOTION PICTURE THEATER** shall mean a commercial establishment to which the public is permitted or invited wherein an image-producing device is regularly maintained to show images to more than five persons at any one time, and where the images so displayed are characterized by their emphasis upon "specified sexual activities" or "specified anatomical areas."

**ADULT NOVELTY BUSINESS** shall mean a business which has as a principal activity the sale of devices which simulate human genitals or devices, which are designed for sexual stimulation.

**ADULT PARAPHERNALIA STORE** shall mean a commercial establishment that regularly offers 100 or more sexual devices for sale. For purposes of this definition, "sexual device" means 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. "Sexual device" shall not be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

**ADULT SAUNA** shall mean a sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

**ADVERTISING STRUCTURE** shall mean any notice or advertisement, pictorial or otherwise, and all such structures used as an outdoor display, regardless of size and shape, for the purposes of making anything known, the origin or place of sale of which is not on the property with such Advertising Structure.

**AESTHETIC ZONING** shall mean the regulation of a building or site to accomplish a standard of exterior architectural appeal and/or neighborhood harmony.

**AGRICULTURAL AND FARM BUILDINGS AND STRUCTURES** shall mean any building or structure which is necessary or incidental to the normal conduct of a farm including but not limited to residence of the operator, residence of hired men, barns, buildings and sheds for housing livestock, poultry and farm machinery, buildings for the storage or shelter of grain, hay and other crops, silos, windmills and water storage tanks.



**AGRICULTURE** shall mean the use of land for agricultural purposes, of obtaining a profit by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products, or any other agricultural or horticultural use. Agricultural use shall not be construed to include any parcel of land of less than twenty (20) acres or any non-agricultural commercial or industrial development.

**AGRICULTURAL ATTRACTION** shall mean a premises used primarily for agriculture with the purpose of raising and harvesting crops for sale, but that also includes a limited amount of area devoted to the provision of entertainment for a period of no more than four months per year. Examples of agricultural attractions include, but are not limited to, pumpkin patch, apple orchard or corn maze where in addition to agricultural production there are areas for sale of other goods and entertainment. Attractions shall not include mechanical rides other than hayrack and sightseeing vehicles.

**AIRPORT** shall mean any area which is used or is intended to be used for the taking off and landing of aircraft, including helicopters, and any appurtenant areas which are used or are intended to be used for airport buildings or facilities, including open spaces, taxiways, and tie-down areas.

**AIRPORT HAZARD ZONE** consists of Operation Zones, Approach Zones, Turning Zones and Transition Zones. The outer boundary of the Hazard Zone is composed of a series of connected tangents and simple curves that also constitute the outer boundaries of the Approach and Turning Zones.

**ALLEY** shall mean a minor public service street or public thoroughfare 20 feet or less in width, through a block of lots primarily for vehicular service access to the rear or side of properties otherwise abutting on another street. Buildings facing an alley shall not be construed as satisfying the requirements of this regulation related to frontage on a dedicated street.

**ALTERATION** shall mean any change, addition or modification in construction or occupancy of an existing structure.

**ALTERATION, STRUCTURAL** (*See Structural alteration.*)

**AMENDMENT** shall mean a change in the wording, context, or substance of this Regulation, an addition or deletion or a change in the district boundaries or classifications upon the zoning map.

**AMUSEMENT ARCADE** shall mean a building or a part of a building where five or more pinball machines, video games, or other similar player-orientated amusement devices are available and are maintained for use.

**AMUSEMENT PARK** shall mean a facility, primarily outdoors, that may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or sale of items, buildings for shows and entertainment, and restaurants and souvenir sales.

**ANIMAL UNIT** shall mean a unit of measurement to compare various domestic animal types based upon equivalent waste generation. One animal unit equals the following:

- One A.U.= One Cow/Calf combination
- One A.U.= One Slaughter, Feeder Cattle;
- One A.U.= One Horse;
- One A.U.= Seven Tenths Mature Dairy Cattle;
- One A.U.= Two and One-Half Swine (55 pounds or more);
- One A.U.= Twenty-Five Weaned Pigs (less than 55 pounds);
- One A.U.= Two Sows with Litters;
- One A.U.= 10 Sheep;
- One A.U.= 100 Chickens;
- One A.U.= 50 Turkeys;
- One A.U.= Five Ducks.

**ANIMAL HOSPITAL** (*See* Veterinary Services.)

**ANIMALS, DOMESTIC** (*See* Household pet.)

**ANTENNA** shall mean any attached or external system of wires, poles, rods, reflecting disks or similar devices used for the transmission or reception of electromagnetic waves. (Also *see* Satellite Dish Antenna and Tower.)

**APARTMENT** shall mean a room or a suite of rooms within an apartment house or multiple family dwelling arranged, intended or designed for a place of residence of a single family or group of individuals living together as a single housekeeping unit. (Also, *see* Dwelling Unit.)

**APARTMENT HOUSE** (*See* Dwelling, multiple family.)

**APPAREL SHOP** shall mean retail stores where clothing is sold, such as department stores, shoe stores, and dress, hosiery, and millinery shops.

**APPLIANCE STORE** shall refer to retail shops selling equipment used for domestic functions. A store may include heavy appliances such as refrigerators, washers, dryers, ovens, dishwashers, or other similar domestic equipment. The store may also include smaller appliances such as televisions, computers, radios, microwaves, and other similar domestic equipment.

**APPEARANCE** shall mean the outward aspect visible to the public.

**APPROPRIATE** shall mean the sympathetic, or fitting, to the context of the site and the whole community.

**APPURTENANCES** shall mean the visible, functional objects accessory to and part of buildings.

**ARCHITECTURAL CANOPY SIGN** (*See* Sign, architectural canopy.)

**ARCHITECTURAL CHARACTER** (*See* Architectural Concept.)

**ARCHITECTURAL CONCEPT** shall mean the basic aesthetic idea of a building, or group of buildings or structures, including the site and landscape development that produces the architectural character.

**ARCHITECTURAL FEATURE** shall mean a prominent or significant part or element of a building, structure, or site. Architectural features may include special lines, massing, and/or texture.

1. **LINES** shall mean visual elements of the building, either within the façade or on the building edge, which are in a linear form either horizontally or vertically and may be composed of masonry, glass, or other related materials.
2. **MASS** shall pertain to the volume, bulk of a building or structure.
3. **TEXTURE** shall mean the quality of a surface, ranging from mirror finish, smooth, to coarse and unfinished.

**ARCHITECTURAL STYLE** shall mean the characteristic form and detail, as of buildings of a particular historic period.

**AREA** shall mean a piece of land capable of being described with such detail that its location may be established and boundaries definitely ascertained.

**ART GALLERY** shall mean an establishment engaged in the sale, loan, or display of art books, paintings, sculpture, or other works of art. This clarification does not include libraries, museums, or non-commercial art galleries.

**ARTISAN PRODUCTION SHOP** shall mean a building or portion thereof used for the creation of original handmade works of art or craft items by more than three but less than six artists or artisans, as either a principal or accessory use.

**ARTIST STUDIO** shall mean a place designed to be used, or used as, both a dwelling place and a place of work by an artist, artisan, or craftsman, including persons engaged in the application, teaching, or performance of fine arts such as, but not limited to, drawing, vocal or instrumental music, painting, sculpture, and writing.

**ASSEMBLY HALL** shall mean a building or portion of a building in which facilities are provided for civic, educational, political, religious, or social purposes.

**ASSISTED LIVING FACILITY** shall mean any place or facility caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes apartments for residents and provides or coordinates a range of services including personal care or supervised nursing care available 24 hours a day, seven days a week for the support of resident independence. The provision of skilled nursing procedures to a resident in an assisted living facility is not prohibited by this act. Generally, the skilled services provided in an assisted living facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

**ATTACHED PERMANENTLY** shall mean attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent foundation or structural change in such structure in order to relocate it to another site.

**ATTRACTIVE** shall mean having qualities that arouse interest and pleasure in the observer.

**AUCTION SALES** shall mean a building or structure, or lands used for the storage of goods, materials or livestock which are to be sold on the premises by public auction and for the sale of the said goods, materials or livestock by public auction and on an occasional basis. Auction sales also includes garage sales and motor vehicle wholesale sales, including trucks, vans, recreational vehicles, boats or motorcycles or other similar motorized transportation vehicles. Auction sales are limited to four sales per calendar year per property not to exceed two weeks per sale, unless otherwise provided for or allowed herein.

**AUTOMATED TELLER MACHINE (ATM)** shall mean an automated device that performs banking or financial functions at a location remote from the controlling financial institution.

**AUTOMOBILE SALES** shall mean the storage and display for sale or lease of more than two motor vehicles or any type of trailer (provided the trailer is unoccupied) at any one time and/or a total of ten or more sold or leased during the course of a calendar year, and where repair or body work is incidental to the operation of the new or used vehicle sales or leasing. Automobile sales includes all motor vehicle retail sales and leases including trucks, vans, recreational vehicles, boats or motorcycles or other similar motorized transportation vehicles. (Also, see Auction Sales)

**AUTOMOTIVE REPAIR SERVICES** shall refer to any building, structure, improvements, or land used for the repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles including but not limited to body, fender, muffler, or upholstery work; oil change and lubrication; major painting services; collision services; and tire service and sales.

**AUTOMOBILE SERVICES** shall refer to any building, structure, improvements or land used for the general maintenance of automobiles, motorcycles, trucks, trailers or similar vehicles including but not limited to washing, cleaning, and/or detailing; installation of car stereos, accessories, or other light equipment; and minor painting.

**AUTOMOBILE WASH FACILITY** shall mean a building, or portion thereof, containing facilities for the primary purpose of washing automobiles, using production line methods with a chain conveyor, blower, steam cleaning device, or other mechanical devices; or providing space, water, equipment, or soap for the complete or partial hand-washing of such automobiles, whether by operator or by customer.

**AUTOMOBILE WRECKING YARD** shall mean any lot, or the use of any portion of a lot, for the dismantling or wrecking of automobiles, tractors, farm machinery, or other motor vehicles, or for the storage or keeping for sale of parts and equipment resulting from such dismantling or wrecking.

**AWNING** shall mean a roof-like cover, often of fabric, metal, or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure over a window, walk, door, or the like.

**BAKERY SHOP** shall mean an establishment primarily engaged in the retail sale of baked products. The products may be prepared either on or off site. A bakery shop shall be considered a general retail uses.

**BALLROOM** shall mean a place or hall used for dancing, but not any place listed under the definition of "Adult Establishments." Ballrooms shall also be used for reunions, weddings and receptions.

**BANK** shall mean a freestanding building, with or without a drive-up window, for the custody, loan, or exchange of money; for the extension of credit; and for facilitating the transmission of funds.

**BAR** shall mean any establishment whose principal business is serving alcoholic beverages at retail for consumption on the premises. (Also *see* Nightclub.)

**BASE FLOOD** shall a flood having one percent chance of being equaled or exceeded in any given year. (Also, *see* 100 Year Flood.)

**BASEMENT** shall mean a building space partly underground or completely underground.

**BEACON** shall mean any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

**BEAUTY SHOP** shall mean any establishment where cosmetology services are provided including hair care, nail care, and skin care on a regular basis for compensation.

**BED and BREAKFAST INN** shall mean a house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises.

**BEDROOM** shall mean a room within a dwelling unit planned and intended for sleeping, separable from other rooms by a door.

**BERM** shall mean a raised form of earth to provide screening or to improve the aesthetic character.

**BEST INTERESTS OF COMMUNITY** shall mean interests of the community at large and not interest of the immediate neighborhood.

**BILLBOARD** shall mean the same as "Advertising Structure".

**BIG BOX RETAIL** shall mean a singular retail or wholesale user. These uses typically include: membership wholesale clubs emphasizing large bulk sales, discount stores, pharmacies, grocery stores, especially warehouse style point sale concepts and department stores. Big box retail is a store having 40,000 square feet of gross floor area or more.

**BLOCK** shall mean a parcel of land platted into lots and bounded by public streets or by waterways, right-of-ways, unplatted land, Village-County boundaries, or adjoining property lines.

**BLOCK FRONTAGE** shall mean that section of a block fronting on a street between two intersecting streets or another block boundary.

**BOARD OF ADJUSTMENT** shall mean the Board, which has been created by the Village and has the statutory authority to hear and determine appeals, interpretations of, and variances to the zoning regulations.

**BOARDING OR LODGING HOUSE** shall mean a building containing a single dwelling unit and provisions for not more than five (5) guests, where lodging is provided with or without meals for compensation.

**BOOK STORE** shall mean a retail establishment that, as its primary business, engages in the sale, rental, or other charge-for-use of books, magazines, newspapers, greeting cards, postcards, videotapes, computer software, or any other printed or electronically conveyed information or media, excluding any uses defined as “adult entertainment establishments”.

**BOWLING CENTER** shall mean an establishment that devotes more than 50 percent of its gross floor area to bowling lanes, equipment, and playing area. Accessory uses such as the retail sale of snacks, the retail sale of beverages, and video game arcade are customary.

**BREW-ON PREMISES STORE** shall mean a facility that provides the ingredients and equipment for a customer to use to brew malt liquor at the store. Brew-on-premises stores do not include the sale of intoxicating liquor, unless the owner of the brew-on-premises store holds the appropriate liquor license.

**BREW PUB** shall mean a restaurant or hotel which includes the brewing of beer as an accessory use. The brewing operation processes water, malt, hops, and yeast into beer or ale by mashing, cooking, and fermenting. By definition, these establishments produce no more than 10,000 barrels of beer or ale annually. The area, by definition, used for brewing, including bottling and kegging, shall not exceed 25 percent of the total floor area of the commercial space.

**BREWERY** shall mean an industrial use that brews ales, beers, meads and/or similar beverages on site. Breweries are classified as a use that manufactures more than 10,000 barrels of beverage (all beverages combined) annually.

**BREWERY, CRAFT** shall mean a brew pub or a micro-brewery.

**BREWERY, MICRO** shall mean a facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail or wholesale, on or off premises, with a capacity of not more than 10,000 barrels per year. The development may include other uses such as standard restaurant, bar, or live entertainment as otherwise permitted in the zoning district.

**BROADCASTING TOWER** shall mean a structure for the transmission or broadcast of radio, television, radar, or microwaves which exceeds the maximum height permitted in the district in which it is located; provided, however, that noncommercial radio towers not exceeding fifty (50) feet in height shall not be considered broadcast towers.

**BUFFER** shall mean a strip of land established to protect one type of land use from another incompatible land use or between a land use and a private or public road. (Also *see* Screening.)

**BUFFER ZONE** shall mean an area of land that separates two zoning districts and/or land uses that acts to soften or mitigate the effects of one use on the other.

**BUILDABLE AREA** shall mean that part of a zoned lot not included within the required yards or subject to other restrictions herein required.

**BUILDING** shall mean any structure built and maintained for the support, shelter or enclosure of persons, animals, chattels, or property of any kind, but shall not include temporary buildings as defined in "Structure, Temporary". Trailers, with or without wheels, shall not be considered as buildings.

**BUILDING, ACCESSORY** shall mean any detached subordinate building, which serves a function customarily incidental to that of the main building or main use of the premises. Customary accessory building includes farm buildings, garages, carports, and small storage sheds.

**BUILDING COVERAGE, AREA OF** shall mean the sum in square feet of the ground areas occupied by all buildings and structures on a lot.

**BUILDING CODE** shall mean the various codes adopted and enforced by the Village that regulate construction and requires Building Permits, electrical permits, mechanical permits, plumbing permits, and other permits to do work that pertain to building construction.

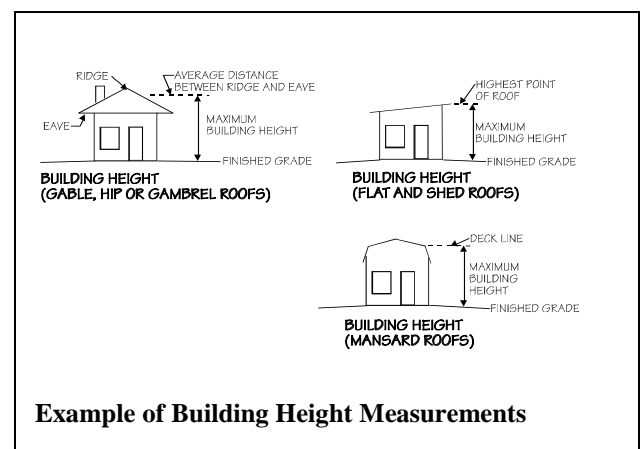
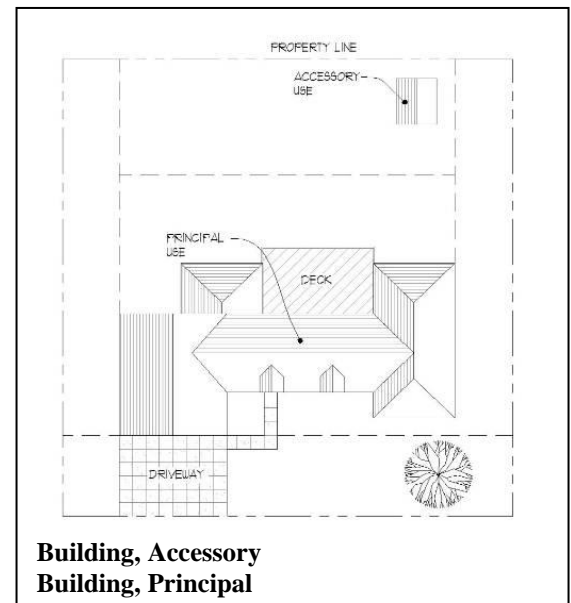
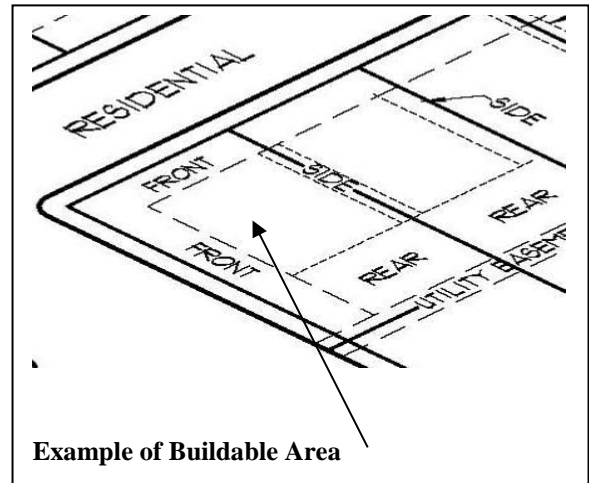
**BUILDING, HEIGHT** shall mean the vertical distance above grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched, hipped, or shed roof, measured from the highest adjoining sidewalk or ground surface within a five (5) foot horizontal distance at the exterior wall of the building. (Also *see* Height.)

**BUILDING INSPECTOR** shall mean the Building Inspector of Roca, Nebraska.

**BUILDING PRINCIPAL** shall mean a building within which the main or primary use of the lot or premises is located. (Also *see* Principal Use.)

**BUILDING SETBACK LINE** shall mean the minimum of distance as prescribed by this regulation between any property line and the closed point of the building line or face of any building or structure related thereto.

**BUSINESS OR TRADE SCHOOL** (See Vocational Training Facilities)



**BUSINESS SERVICES** shall mean establishments primarily engaged in rendering services to business establishments on a contract or fee basis, such as advertising, credit reporting, collection of claims, mailing, reproduction, stenographic, news syndicates, computer programming, photocopying, duplicating, data processing, services to buildings, and help supply services.

**CAMPGROUND** shall mean a parcel of land intended for the temporary occupancy of tents, campers, and major recreational vehicles and which primary purpose is recreational, having open areas that are natural in character.

**CAR WASH** shall mean a building or structure or an area of land with machine or hand operated facilities for the cleaning, washing, polishing, or waxing of motor vehicles.

**CAR WASH, INDUSTRIAL** shall mean a mechanical facility for the washing, waxing and vacuuming of heavy trucks and buses.

**CARPORT** shall mean a permanent roofed structure with not more than two (2) enclosed sides used or intended to be used for automobile shelter and storage.

**CELLAR** shall mean a building space having more than one-half (½) of its height below the average adjoining grade lines.

**CEMETERY** shall mean land used or intended to be used for the burial of the dead and dedicated for such purposes, including columbariums, crematoriums, and mausoleums.

**CENTERLINE** shall have the same meaning as "Street Center Line".

**CHANNEL** shall mean the geographical area within either the natural or artificial banks of a watercourse or drainway.

**CHARITABLE ORGANIZATION or CLUB** shall mean a public or semi-public institutional use of a philanthropic, charitable, benevolent, religious, or eleemosynary character, but not including sheltering or caring of animals.

**CHILD CARE CENTER** shall mean an establishment other than a public or parochial school, which provides day care, play groups, nursery schools or education for nine (9) or more children under age 13, at any one time. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.

**CHILD CARE HOME** shall mean an operation in the provider's place of residence which serves at least four (4), but not more than eight (8) children at any one time, from families other than that of the provider. A Family Child Care Home I provider may be approved to serve no more than two (2) additional school-age children during non-school hours. In addition to these regulations, Child Care Homes shall meet all requirements of the State of Nebraska.

**CHURCH, STOREFRONT** shall mean a religious facility contained within a store or similar structure not typically used for religious activities that are now used as a meeting place for a congregation. Structures adapted for congregations including barns, stores, warehouses, old public buildings, and single-family dwellings.

**CLEAR VIEW ZONE** shall mean the area of a corner lot closest to the intersection, which is kept free of visual impairment to allow full view of both pedestrian and vehicular traffic. (Also *see* Sight Triangle.)

**CLEARING** shall mean any intentional or negligent act to cut down, remove all or a substantial part of, or damage a tree or other vegetation that will cause the tree or other vegetation to decline and/or die. Such acts shall include but not be limited to damage inflicted upon the root system of the vegetation by the application of toxic substances, by the operation of equipment and vehicles, by storage of materials, by the

change of natural grade due to unapproved excavation or filling, or by the unapproved alteration of natural physical conditions.

**CLINIC, MEDICAL OR DENTAL** shall mean an organization of specializing physicians and/or dentists who have their offices in a common building. A clinic shall not include in-patient care.

**CLUB** shall mean an association of persons (whether or not incorporated), religious or otherwise, for a common purpose, but not including groups which are organized primarily to render a service carried on as a business for profit.

**CLUSTER DEVELOPMENT** shall mean a development designed to concentrate buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and the preservation of environmentally sensitive areas.

**CODE** shall mean the Municipal Code of the Village of Roca.

**COFFEE KIOSK** shall mean a retail food business in a freestanding building that sells coffee, or other beverages, and remade bakery goods from a drive-through window or walk-up window to customers for consumption off the premises and that provides no indoor or outdoor seating.

**COHESIVENESS** shall mean the unity of composition between design elements of a building and/or a group of buildings and the landscape development.

**COLLEGE or UNIVERSITY** shall mean facilities which conduct regular academic instruction at collegiate levels, including graduate schools, universities, junior colleges, trade schools, nonprofit research institutions and religious institutions. Such institutions shall confer degrees as a college or university for undergraduate or graduate standing, conduct research, or give religious instruction. Private schools, academies, or institutes incorporated or otherwise, which operate for a profit, commercial, or private trade schools are not included in this definition.

**COMMISSION** shall mean the Planning Commission of the Village of Roca. (Also *see* Planning Commission)

**COMMON AREA OR PROPERTY** shall mean a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the Owners of the individual building sites in a Planned Development or condominium development.

**COMMUNICATION SERVICES** shall mean establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded are facilities classified as utility services or wireless communication towers. Typical uses include television studios, communication service centers, internet service offices, or film and sound recording facilities.

**COMMUNITY CENTER** shall mean a place, structure, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve various segments of the community.

**COMMUNITY HALL** shall mean a building or premises open for rental and use by the public for recreational, social, and other special gatherings on an occasional basis.

**COMMUNITY SANITARY SEWER SYSTEM** shall mean an approved central sewer collecting system, meeting required standards, available to each platted lot and discharging into a treatment facility. This does not include individual septic systems.



**COMMUNITY WATER SUPPLY SYSTEM** shall mean a public water supply system which serves at least 15 service connections used by year-round residents or uses, or regularly serves 25 or more year-round residents or uses.

**COMPATIBILITY** shall mean harmony in the appearance of two or more external design features in the same vicinity.

**COMPATIBLE USES** shall mean a land use that is congruous with, tolerant of, and has no adverse effects on existing neighboring uses. Incompatibility may be affected by pedestrian or vehicular traffic generation, volume of goods handled and environmental elements such as noise, dust, odor, air pollution, glare, lighting, debris generated, contamination of surface or ground water, aesthetics, vibration, electrical interference, and radiation.

**COMPREHENSIVE PLAN** shall mean the Comprehensive Development Plan of Roca, Nebraska as adopted by the Village Board, setting forth policies for the present and foreseeable future community welfare as a whole and meeting the purposes and requirements set forth in Neb. Rev. Stat. §19-903 (R.R.S. 2012).

**CONDITIONAL USE** shall mean a use where allowed by the district regulations, that would not be appropriate generally throughout the zoning district without restrictions, but which, if controlled as to number, size, area, location, relation to the neighborhood or other minimal protective characteristics would not be detrimental to the public health, safety, and general welfare.

**CONDITIONAL USE PERMIT** shall mean a permit issued by the Village Board that authorizes the recipient to make conditional use of property in accordance with the provisions of the District regulations, Article 6 and any additional conditions placed upon, or required by said permit.

**CONDOMINIUM** shall be as defined in the Nebraska State Statutes Section 76-824 - 76-894, the Condominium Law, whereby four or more apartments are separately offered for sale. A condominium shall mean a multiple dwelling building as defined herein whereby the title to each dwelling unit is held in separate ownership, and the real estate on which the units are located is held in common ownership solely by the owners of the units with each having an undivided interest in the common real estate.

**CONFLICTING LAND USE** shall mean the use of property which transfers over neighboring property lines negative economic, or environmental effects, including, but not limited to, noise, vibration, odor, dust, glare, smoke, pollution, water vapor, mismatched land uses and/or density, height, mass, mismatched layout of adjacent uses, loss of privacy, and unsightly views.

**CONGREGATE HOUSING** shall mean a residential facility for four (4) or more persons aged fifty-five (55) years or over, their spouses, or surviving spouses, providing living and sleeping facilities including meal preparation, dining areas, laundry services, room cleaning and common recreational, social, and service facilities for the exclusive use of all residents including resident staff personnel who occupy a room or unit in the residential facility. (Also *see* Life Care Facility.)

**CONSERVATION** shall mean the protection and care that prevent destruction or deterioration of historical or otherwise significant structures, buildings or natural resources.

**CONSERVATION AREA** shall mean environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance or character, except in overriding public interest, including but not limited to: wetlands, floodways, flood plains, drainage ways, river or stream banks, and areas of significant biological productivity or uniqueness.

**CONSERVATION EASEMENT** shall mean an easement granting a right or interest in real property that is appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded condition and retaining such areas as suitable habitat for fish, plants, or wildlife, or maintaining existing land uses.

**CONSTRUCTION** shall mean on-site erection, fabrication, installation, alteration, demolition, or removal of any structure, facility, or addition thereto, including all related activities, but not limited to, clearing of land, earth moving, blasting and landscaping.

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



**CONVENIENCE STORE** shall mean a one-story, retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket.") It is dependent on, and is designed to attract and accommodate large volumes of stop-and-go traffic. (Also *see* Self-Service Station.)

**CONTIGUOUS** shall mean the same as "Abut".

**COPY CENTER** shall mean a retail establishment that provides duplicating services using photocopying, blueprint, and offset printing equipment, and may include the collating and binding of booklets and reports.

**COURT** shall mean an open, unoccupied space, other than a yard, on the same lot with a building or buildings and abounded on two (2) or more sides by such buildings.

**COURT, INNER** shall mean a court enclosed on all sides by the exterior walls of a building or buildings.

**COURT, OUTER** shall mean a court enclosed on all but one (1) side by exterior walls of building or buildings or lot lines on which fences, hedges, or walls are permitted.

**COVERAGE** shall mean the percentage of the lot covered by buildings and structures

**CUL-DE-SAC** shall mean a short public way that has only one outlet for vehicular traffic and terminates in a vehicular turnaround.

**CURVED LOT** (*See* Lot, Curve.)

**DECK** shall mean a structure, with or without a roof that is directly adjacent to the principal building, which has an average elevation of 30 inches or greater from finished grade. A deck may be constructed of any natural materials.

**DENSITY** shall mean the number of dwelling units per gross acre of land.

**DEPARTMENT STORE** (*See* Big Box Retail.)

**DETENTION BASIN** shall mean a facility for the temporary storage of storm water runoff.

**DEVELOPER** shall mean any person, corporation, partnership, or entity that is responsible for any undertaking that requires a building or zoning permit, conditional use permit or sign permit.

**DEVELOPMENT** shall mean any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations for which necessary permits may be required.

**DEVELOPMENT CONCEPT PLAN** (*See Site Plan.*)

**DEVELOPMENT REVIEW** shall mean the review, by the Village of subdivision plats, site plans, rezoning requests, or permit review.

**DISABILITY or HANDICAP** shall mean the following but shall not include current, illegal use of or addiction to a controlled substance:

1. A physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently;
2. A record of having such an impairment; or
3. Being regarded as having such impairment.

**DISTRICT** is a section(s) of the zoning area for which this ordinance governing the use of the land, the height of buildings, the size of yards and the intensity of use are uniform.

**DOG KENNEL** (*See Kennel, commercial; and Kennel, Domestic.*)

**DOMESTIC ANIMALS** (*See Household Pet.*)

**DOWNZONING** shall mean a change in zoning classification of land to a less intensive or more restrictive district such as from commercial district to residential district or from a multiple family residential district to single family residential district.

**DRAINAGEWAY** shall mean any depression two feet or more below the surrounding land serving to give direction to a current of water less than nine months of the year, having a bed and well-defined banks; provided, that in the event of doubt as to whether a depression is a watercourse or drainway, it shall be presumed to be a watercourse.

**DRIVE-IN FACILITY** shall mean an establishment where customers can be served without leaving the confinement of their vehicle. If, in addition to the consumption of food or non-alcoholic beverages in automobiles or elsewhere on the premises outside any completely enclosed structure, an establishment also allows for the consumption of such products with a completely enclosed structure, it shall be considered a drive-in facility. The term "drive-in facility" shall include, but is not limited to automobile service stations, auto laundries, drive-in restaurants, diners, grills, luncheonettes, sandwich stands, snack shops, soda fountains or short order cafes, banks, and drive-in theaters.

**DRIVEWAY** shall mean any vehicular access to an off-street parking or loading facility.

**DUMP** shall mean a place used for the disposal, abandonment, discarding by burial, incineration, or by any other means for any garbage, sewage, trash, refuse, rubble, waste material, offal or dead animals. Such use shall not involve any industrial or commercial process.

**DUPLEX** shall mean the same as "Dwelling, two (2) Family".

**DWELLING** is a building or portion thereof (but not a mobile home) designed or used exclusively for residential occupancy, including single-family dwelling, two-family dwelling, and multiple-family dwellings (but not including hotels or motels).

**DWELLING, MANUFACTURED HOME** shall mean 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 standards promulgated by the United States Department of Housing and Urban Development and is permanently attached and has a permanent foundation. See Dwelling, Single Family.

1. 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 manufactured home in order to relocate it on another site in accordance to manufacturers recommendations.
2. Permanent Foundation: Based on which building rests to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of 42" below the final ground level.

**DWELLING, 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.

1. Permanently Attached: Attached to real estate in such a way as to require dismantling, cutting away, unbolting from permanent continuous foundation or structural change in such mobile home in order to relocate it on another site in accordance to manufacturers recommendations.
2. Permanent Foundation: Based on which building rests to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of 42" below the final ground level.

**DWELLING, MODULAR** shall mean any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units are movable or portable until placed on a permanent foundation and connected to utilities, pursuant to the Nebraska Uniform Standards for Modular Housing Units Act, as set forth in Neb. Rev. Stat. §71-1557 to 71-1568.01 (R.R.S. 2009). Further, such dwelling must also meet or be equivalent to the construction criteria set forth in the Nebraska Uniform Standards for Modular Housing Units Act. Such dwelling is considered to be a conventional type single family dwelling and those that do not meet the above criteria shall be considered a mobile home.

**DWELLING, MULTIPLE FAMILY** shall mean a building or buildings designed and used for occupancy by three (3) or more families, all living independently of each other and having separate kitchen and toilet facilities for each family.

**DWELLING, SEASONAL** shall mean a dwelling designed and used as a temporary residence and occupied less than six months in each year.

**DWELLING, SINGLE FAMILY** a building having accommodations for or occupied exclusively by one family which meets all the following standards:

- A. The home shall have no less than one thousand (1000) square feet of floor area, above grade, for single story construction;
- B. The home shall have no less than an eighteen (18) foot exterior width;
- C. The roof shall be pitched with a minimum vertical rise of two and one-half (2½) inches for each twelve (12) inches of horizontal run;

- D. The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single family construction;
- E. The home shall have a nonreflective roof material, which is or simulates asphalt or wood shingles, tile, or rock or other materials deemed acceptable by the Planning Commission;
- F. The home shall be placed on a continuous permanent foundation and have wheels, axles, transporting lights, and removable towing apparatus removed, and
- G. The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.
- H. Permanent foundation: Base on which building rests to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of thirty-six (36) inches below the final ground level.

**DWELLING, SINGLE FAMILY ATTACHED** shall mean a dwelling having accommodations for and occupied exclusively by one family, and which is located on a separate lot of record apart from the remaining building. Each dwelling may be sold independently from the other.

**DWELLING, SINGLE-FAMILY (DETACHED)** shall mean a dwelling which is entirely surrounded by open space on the same lot and is detached from another single-family dwelling.

**DWELLING, TWO (2) FAMILY** shall mean a building designed or used exclusively for the occupancy of two (2) families living independently of each other and having separate kitchen and toilet facilities for each family on a single lot of record.

**DWELLING, TOWN-HOUSE** shall mean one of a group or row of not less than three nor more than 12 attached, single-family dwellings designed and built as a single structure facing upon a street or placed and in which the individual town-houses may or may not be owned separately. For the purpose of the side yard regulations, the structure containing the town- or group of town-houses shall be considered as one building occupying a single lot

**DWELLING UNIT** One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or lease on a weekly, monthly, or longer basis, and physically separate from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, toilet and sleeping facilities.

**EARTH HOME** (also known as an earth berm or an earth sheltered home) is an architectural style characterized by the use of natural terrain to help form the walls of the home. An earth house is usually set partially into the ground and may be covered with thin growth.

**EASEMENT** shall mean a space or a lot or parcel of land reserved for or used for public utilities or public or private uses.

**EDUCATIONAL INSTITUTION** shall mean a public or nonprofit institution or facility which conducts regular academic instruction at preschool, kindergarten, elementary, secondary, and collegiate levels, including graduate schools, universities, junior colleges, trade schools, nonprofit research institutions and religious institutions. Such institutions must either: (1) Offer general academic instruction equivalent to the standards established by the State Board of Education; or (2) Confer degrees as a college or university or undergraduate or graduate standing; or (3) Conduct research; or (4) Give religious instruction. Private schools, academies, or institutes, incorporated or otherwise, which operate for a profit, commercial, or private trade schools are not included in this definition.

**EFFECTIVE DATE** shall mean the date that this chapter shall have been adopted, amended, or the date land areas became subject to the regulations contained in this chapter as a result of such adoption or amendment.

**ELEEMOSYNARY INSTITUTION** shall mean any building or group of buildings devoted to and supported by charity.

**ELDERLY DAY CARE CENTER** shall mean a building or place in which care, supervision, custody or control is provided for more than seven (7) persons 60 years of age and older for any part of a day.

**EMPLOYEE OF AN ADULT ESTABLISHMENT** shall mean any person who performs any service on the premise 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.

**ENCROACHMENT** shall mean an advancement or intrusion beyond the lines or limits as designated and established be the Regulation, and to infringe or trespass into or upon the possession or right of others without permission.

**ENLARGEMENT** shall mean the expansion of a building, structure, or use in volume, size, area, height, length, width, depth, capacity, ground coverage, or in number.

**ERECTED** shall mean constructed upon or moved onto a site.

**ESCORT** shall mean a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**ESCORT AGENCY** shall mean a person, or commercial establishment, who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

**EVENT CENTER** shall mean all buildings and associated parking facilities which are kept, used, maintained, advertised, held out, or otherwise made available to private groups and/or the general public for such purposes as meetings, civic, educational, political, religious or social purpose such as receptions, dances, entertainment, secondhand merchandise sales and the like, and may include a banquet hall, private club or fraternal organization, but not including uses identified in Adult Establishment.

**EXERCISE, FITNESS and TANNING SPA** shall mean an establishment that provides exercise facilities for the purposes of running, jogging, aerobics, weight lifting, court sports, and/or swimming, as well as locker rooms, showers, massage rooms, tanning beds, hot tubs, saunas or other related accessory uses; however, excluding any uses defined as “adult entertainment establishments”.

**EXPRESSWAY** shall mean a street or road that provides fast and efficient movement of large volumes of vehicular traffic between areas and does not provide direct access to property.

**EXTERIOR BUILDING COMPONENT** shall mean an essential and visible part of the exterior of a building.

**EXTERNAL DESIGN FEATURE** shall mean the general arrangement of any portion of a building, sign, landscaping, or structure and including the kind, color, and texture of the materials of such portion, and the types of roof, windows, doors, lights, attached or ground signs, or other fixtures appurtenant to such portions as will be open to public view from any street, place, or way.

**EXTRATERRITORIAL JURISDICTION** shall mean the area beyond the corporate limits, in which the Village has been granted the powers by the state to exercise zoning and building regulations and is exercising such powers.

**FACADE** shall mean the exterior wall of a building exposed to public view from the building's exterior.

**FACTORY** shall mean a structure or plant within which something is made or manufactured from raw or partly wrought materials into forms suitable for use.

**FAMILY** shall mean a household head and one or more persons related to the head by blood, marriage or adoption living together in a single dwelling unit.

**FARM** an area containing at least twenty (20) acres or more which is used for growing of the usual farm products such as vegetables, fruit, and grain, tree nursery, 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 Livestock Feeding Operation or the feeding of offal to swine or other animals.

**FARM ANIMALS or LIVESTOCK** shall mean animals associated with agricultural operations, commonly kept or raised as a part of an agricultural operation including but not limited to horses, cattle, sheep, swine, goats, chickens and turkeys.

**FARM BUILDING or STRUCTURE** shall mean any building or structure which is necessary or incidental to the normal conduct of a farm including but not limited to residence of the operator, residence of hired men, barns, buildings and sheds for housing livestock, poultry and farm machinery, buildings for the storage or shelter of grain, hay and other crops, silos, windmills and water storage tanks.

**FARM, STAND** (*See Truck Gardening*)

**FARMER'S MARKET** shall mean the offering for sale of fresh agricultural products directly to the consumer at an open air market designated as a community activity.

**FARMSTEAD** shall mean a tract of land of not less than one acre and not more than 20 acres, upon which a farm dwelling and other farm building existed at the time of the adoption of this ordinance and is used for single-family resident purposes and agricultural purposes.

**FARMING** shall mean the growing of farm products such as grain, and their storage, as well as the raising thereon of the usual farm poultry and farm animals with the necessary accessory uses providing such accessory uses do not include the feeding of garbage or offal to swine or other animals. Farming shall not include the operation of a commercial feedlot or livestock feeding operation. In contrast to a commercial feedlot hereafter defined, any person operating within the following categories is conducting a farming operation and is not considered as operating a commercial feed lot unless he/she exceeds the following ratio as described below:

- A. One (1) animal unit per acre for a parcel of less than forty (40) acres;
- B. One and one-half (1 ½) animal units per acre for that portion of a parcel of land greater than forty (40) acres, but less than eighty (80) acres; and
- C. Two (2) animal units per acre for that portion of a parcel over eighty (80) acres.

**FEEDLOT (COMMERCIAL)** shall mean the use of land where the principal business is the feeding of cattle, swine, sheep, horses, fowl, fur-bearing animals or other livestock, in lots or pens or concentrations of such animals in feeding areas and such feeding is not conducted as a subordinate activity to the production of crops on the premises of which the feedlot is a part.

**FENCE** shall mean an above ground structure serving as an enclosure, barrier or boundary.

**FENCE, AGRICULTURAL** shall mean an artificially erected barrier, other than a building, tires, 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** shall mean a fence, including gates, which has, for each one foot (1') wide segment extending over the entire length and height of fence, fifty percent (50%) or more of the surface area in open spaces which affords direct views through the fence.

**FENCE, SEASONAL** shall mean a temporary fence constructed of plastic or wood lathe erected and maintained from October through April to prevent snow drifting.

**FENCE, SOLID** shall mean any fence which does not qualify as an open fence.

**FENCE, TEMPORARY** shall mean 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.

**FESTIVAL** shall mean the sale of ethnic specialty, regional, and gourmet foods, art and crafts, live musical entertainment, in an outdoor setting.

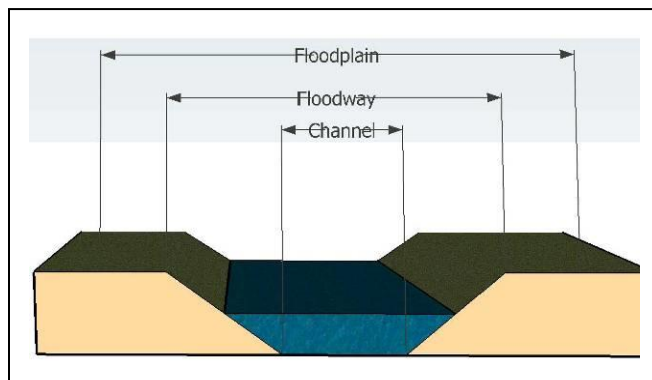
**FIREWORKS STAND** shall mean any portable or permanent building and/or structure used for the temporary retail sale and storage of fireworks and meets the requirements within the Municipal Code.

**FIREWORKS STORAGE** shall mean any permanent building and/or structure where fireworks are stored for any portion of a year provided there is no retail sales made from the storage location. Said storage facility may also be used for the delivery and distribution of fireworks on a wholesale basis.

**FLOOD.** A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) The overflow of inland or tidal waters. (2) The unusual and rapid accumulation of runoff of surface waters from any source.

**FLOODPLAIN.** The land area susceptible to inundation by water as a result of the flood.

**FLOODWAY.** The channel of the river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.



**FLOOR AREA** whenever the term "floor area" is used in this Regulation as a basis for requiring off-street parking for any structure, it shall be assumed that, unless otherwise stated, said floor area applies not only to the ground floor area but also to any additional stories of said structure. All horizontal dimensions shall be taken from the exterior faces of walls.

**FOOD SALES** shall mean establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.

1. **FOOD SALES (LIMITED)** shall mean food sales establishments occupying 10,000 square feet or less of space.
2. **FOOD SALES (GENERAL)** shall mean food sales establishments occupying more than 10,000 square feet of space. Typically a supermarket.

**FREESTANDING CANOPY** shall mean a permanent, freestanding, unenclosed roof structure, typical of gas stations and financial institutions, designed to provide patrons shelter from the elements.

**FRONTAGE** shall mean that portion of a parcel of property, which abuts a dedicated public street or highway.



**FUNERAL HOME OR FUNERAL CHAPEL** shall mean a building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

**GARAGE, PRIVATE** shall mean a detached accessory building or a portion of a main building on the same lot as a dwelling for the housing of vehicles of the occupants of the dwelling, including carports.

**GARAGE, PUBLIC** shall mean any garage other than a private garage.

**GARAGE, REPAIR** shall mean a building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work. (Also, *see* Service Station.)

**GARBAGE** shall mean any waste food material of an animal or vegetable nature, including that, which may be used, for the fattening of livestock.

**GATED COMMUNITIES** shall mean residential areas that restrict access to normally public spaces. These are subdivisions of usually high-end houses. The type of gates can range from elaborate guard houses to simple electronic arms.

**GOVERNING BODY** shall mean the Village Board of the Village of Roca, Nebraska.

**GRADE** shall mean the average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.

**GRAPHIC ELEMENT** shall mean a letter, illustration, symbol, figure, insignia, or other device employed to express and illustrate a message or part thereof.

**GREEN BUILDING** shall mean structures that incorporate the principles of sustainable design in which the impact of a building on the environment will be minimal over the lifetime of that building. Green buildings incorporate principles of energy and resource efficiency, practical applications of waste reduction and pollution prevention, good indoor air quality and natural light to promote occupant health and productivity, and transportation efficiency in design and construction, during use and reuse. A building shall be considered “green” if it meets the requirements of the most current LEED certification criteria or any other nationally recognized green building certification program.

**GREENHOUSE** shall mean a building or premises used for growing plants, preparation of floral arrangements for off-site delivery to customers, cold storage of flowers or dry storage of materials used for agricultural or horticultural purposes.

**GREENWAY** shall mean a parcel or parcels of land, together with the improvements thereon, dedicated as an easement for access and/or recreation; usually a strip of land set-aside for a walkway, bicycle trail, bridal path, or other similar access-way.

**GROUND COVER** shall mean plant material used in landscaping which remains less than twelve (12) inches in height at maturity. (Also, *see* Landscaping.)

**GROUND WATER** shall mean water occurring beneath the surface of the ground that fills available openings in the rock or soil materials such that they may be considered saturated.

**GROUP CARE HOME** shall mean a home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home which is designed to provide twenty-four hour care for individuals in a residential setting. The shall be licensed by the State of Nebraska and provide for at least four (4) and no more than eight (8) persons, not including resident managers or house parents.

**GROUP HOME FOR THE HANDICAPPED** shall mean a dwelling with resident staff shared by four or more handicapped persons who live together as a single housekeeping unit and in a long term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. As used herein, the term "handicapped" shall mean having: (1) a physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently; (2) a record of having such an impairment; or (3) being regarded as having such an impairment.

**GROUP HOUSING** shall mean two or more separate buildings on a lot, each containing one or more dwelling units.

**GUEST ROOM** shall mean a room which is designed to be occupied by one (1) or more guest for sleeping purposes, having no kitchen facilities, not including dormitories.

**GUNSMITH** shall mean a shop that designs, makes or repairs small firearms.

**HALF-STORY** shall mean a story under a gable, hip or gambrel roof, plates of which are not more than three (3) feet above the floor of such story.

**HALFWAY HOUSE** shall mean a licensed home for individuals on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, living together as a single housekeeping unit, wherein supervision, rehabilitation and counseling are provided to mainstream residents back into society, enabling them to live independently.

**HARD SURFACED** shall mean any surface used for movement of vehicular and / or pedestrians which is properly designed and paved with either asphalt or concrete.

**HARMONY** shall mean a quality that represents an appropriate and congruent arrangement of parts, as in an arrangement of varied architectural and landscape elements.

**HAZARDOUS WASTE** shall mean waste products of industrial or chemical process including finished surplus, used, contaminated, or unwanted fertilizer, herbicide, petroleum products, or other such processed waste material.

**HEALTH CLUB** shall mean privately owned for profit facilities such as gymnasiums, athletic clubs, health clubs, recreational clubs, reducing salons, and weight control establishments.

**HEALTH RECREATION FACILITY** shall mean an indoor or outdoor facility including uses such as game courts, exercise equipment, locker rooms, whirlpool spa and/or sauna and pro shop.

**HEAVY TRUCK OR TRAILER** shall mean any vehicle or trailer that requires a Commercial Driver's License (CDL) to operate as stipulated by the Nebraska Department of Motor Vehicles Commercial Drivers Manual.

**HEDGE** shall mean a plant or series of plants, shrubs or other landscape material, so arranged as to form a physical barrier or enclosure.

**HEIGHT OF BUILDING** shall mean the vertical distance above grade to the highest point of the coping of a flat roof, of the peak of a gable roof, or of any other type of pitched, hipped, or mansard roof. The grade may mean the highest adjoining sidewalk or ground surface within a 5 foot horizontal distance of the exterior wall of the building, when such sidewalk or ground surface is not more than 10 feet above grade. The height of a stepped or terraced building is the maximum height of any segment of the building.

**HOME IMPROVEMENT CENTER** shall mean a facility of more than 40,000 square feet of gross floor area, engaged in the retail sale of various basic hardware lines, such as tools, builders' hardware, lumber, paint and glass, housewares and household appliances, garden supplies, and cutlery.

**HOME BUSINESS** shall mean any "in-home" or "home based" business, industry or service (not including uses defined as Automobile Repair or Adult Entertainment Establishment) carried on by a member of the family residing on the premises, within a residential dwelling, or within an accessory structure in a residential zoning district. Home Businesses shall be secondary and incidental in nature to the primary residential structure and/or property. (*see* HOME OCCUPATION)

**HOME OCCUPATION**, shall mean an "in-home" or "home based" or entrepreneurial business operating from a residential dwelling. Home occupations are considered accessory uses to properties in all zoning districts. Home occupations include (but not limited to) art/craft making, seamstress services, professional offices (real estate/insurance/medical), multi-level marketing, vending services, service businesses (contracting/janitorial), instruction (music), consulting, wholesale/catalogue sales, personal service (Beauty/barber), shops, and renting of rooms for residential purposes. Any portion of a residential property, including a home phone, computer, mailing address, etc., used in deriving income or sales, will require a resident to obtain a Home Occupation Permit. Child Care Homes and Child Care Centers are exempt from Home Occupation Permits except for any signage restrictions. Additional regulations are provided for in Section 7.07 of this Ordinance.

**HOMEOWNERS ASSOCIATION** shall mean a private, nonprofit corporation or association of homeowners of properties in a fixed area, established for the purpose of owning, operating, and maintaining various common properties and facilities.

**HOSPITAL** is a building or group of buildings, having room facilities for one or more abiding patients, used for providing services for the in-patient medical or surgical care of sick or injured humans, and which may include related facilities such as laboratories, out-patient department, training facilities, central service facilities, and staff offices, providing however, that such related facility must be incidental and subordinate to the main use and must be an integral part of the hospital operation.

**HOTEL** shall mean a building or portion thereof, or a group of buildings, offering transient lodging accommodations on a daily rate to the general public and providing services associated with restaurants, meeting rooms, and recreational facilities. The word "hotel" includes motel, inn, automobile court, motor inn, motor lodge, motor court, tourist court, and motor hotel.

**HOUSE TRAILER** (*See* Dwelling, Mobile Home.)

**HOUSEHOLD PET** shall mean an animal that is customarily kept for personal use or enjoyment within the home. Household pet shall include but not be limited to domestic dogs, domestic cats, domestic tropical birds, fish, and rodents.

**IMPERVIOUS SURFACE** shall mean a surface that has been compacted or covered with a layer of material making the surface highly resistant to infiltration by water, such as compacted sand, rock, gravel, or clay and conventionally surfaced streets, roots, sidewalks, parking lots, and driveways.

**IMPERVIOUS COVERAGE, MAXIMUM** shall mean the percentage measured of a site that may be covered by buildings and other surfaces and development features which prevent the penetration of water into the ground (such as driveways, porches, parking lots, and other features). Limits on impervious coverage help control the velocity and quantity of storm-water runoff and provide for groundwater recharge.

**INCIDENTAL USE** shall mean a use, which is subordinate to the main use of a premise.

**INDIVIDUAL SEPTIC SYSTEM** shall mean a wastewater treatment system for a dwelling that has a septic tank and absorption system.

**INDUSTRY** shall mean the manufacture, fabrication, processing reduction or destruction of any article, substance or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof and including storage elevators, truck storage yards, warehouses, wholesale storage and other similar types of enterprise.

**INFILL DEVELOPMENT** shall mean the construction of a building or structure on a vacant parcel located in a predominately built up area.

**INFILL SITE** shall mean any vacant lot, parcel, or tract of land within developed areas of the Village, where at least 80 percent of the land within a 300-foot radius of the site has been developed, and where water, sewer, streets, and fire protection have already been constructed or are provided.

**INOPERABLE MOTOR VEHICLE** shall mean any motor vehicle which: (1) Does not have a current state license plate; or, (2) Which may or may not have a current state license plate, but is disassembled or wrecked in part or in whole, or is unable to move under its own power, or is not equipped as required by Nebraska State Law for operation upon streets or highways. A vehicle, which is wholly or partially dismantled, shall not be considered inoperable when said vehicle is inside a completely enclosed building.

**INSTITUTION** shall mean a non-profit corporation or non-profit establishment for public use.

**INTENSITY** shall mean the degree to which land is used referring to the levels of concentration or activity in uses ranging from uses of low intensity being agricultural and residential to uses of highest intensity being heavy industrial uses. High intensity uses are normally uses that generate concentrations of vehicular traffic and daytime population and are less compatible with lower intensive uses.

**INTENT AND PURPOSE** shall mean that the Commission and Board by the adoption of this Regulation, have made a finding that the health, safety, and welfare of the Community will be served by the creation of the District and by the regulations prescribed therein.

**JUICE BAR** (*See Adult Establishment.*)

**JUNK** shall be any worn-out, cast-off, old, or discarded articles of scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber, debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material.

**JUNK YARD** shall mean any lot, land parcel, building, or structure or part thereof for storage, collection, purchase, sale, salvage, or disposal of machinery, farm machinery, and including motor vehicles, parts and equipment resulting from dismantling or wrecking, or keeping of junk, including scrap metals or other scrap materials, with no burning permitted. For motor vehicles, see "Automobile Wrecking Yard".

**KENNEL, BOARDING AND TRAINING** shall mean any lot or premises on which two (2) or more dogs or cats or any combination thereof, at least six (6) months of age, are boarded, bred, or trained for a fee.

**KENNEL, COMMERCIAL** shall mean an establishment where two (2) or more dogs or cats, or any combination thereof, other household pets, or non-farm/non-domestic animals at least six (6) months of age are groomed, bred, boarded, trained, or sold as a business.

**KENNEL, DOMESTIC** shall mean the keeping, breeding, raising, fostering, showing or training of three dogs, over six months of age for personal enjoyment of the owner or occupants of the property, and for which commercial gain is not the primary objective. Domestic kennels are subject to a kennel license and require a conditional use permit in specified districts. See definition of building, structure if is an accessory building that requires a permit and needs to meet setbacks for accessory building (open or closed).

**LABORATORY** shall mean a facility used for testing and analyzing medical and dental samples from off-site locations. Testing laboratories shall refer to soil and geotechnical research and analysis. Laboratories do not include human or animal research / testing facilities.

**LAGOON** shall mean a wastewater treatment facility, which is a shallow, artificial pond where sunlight, bacterial action, and oxygen interact to restore wastewater to a reasonable state of purity. This includes both human and livestock wastes. All lagoons shall meet the minimum design criteria established by the Nebraska Department of Environmental Quality and the Nebraska Department of Health and Human Services. All lagoons shall have the proper permits approved prior to starting construction.

**LANDFILL** shall mean a disposal site employing a method of disposing solid wastes in a manner that minimizes environmental hazards in accordance with state and federal requirements.

**LANDSCAPING** shall include the natural or improved ground surface containing, but not limited to, grass, shrubs, flowers, trees, hedges, vines, earth berms, etc. and conforms with the requirements of this Ordinance and the continued maintenance thereof.

**LAUNDRY, SELF SERVICE** shall mean an establishment that provides home-type washing, drying, and/or ironing facilities for customers on the premises.

**LAWFUL** shall mean not in conflict with any laws, ordinances, or statutes existing at the time of the enactment of this Ordinance.

**LEED** shall mean a professional credential that means Leadership in Energy and Environmental Design as administered and regulated by the United States Green Building Council.

**LEED-ND** shall mean a professional credential within the overall LEED program meaning Leadership in Energy and Environmental Design – Neighborhood Design as administered and regulated by United States Green Building Council.

**LIFE CARE FACILITY** shall mean a facility for the transitional residency of the elderly and/or disabled persons, progressing from independent living to congregate apartment living where residents share common meals and culminating in full health and continuing care nursing home facility. (Also *see* Congregate Housing.)

**LIMITS OF CLEARING** shall be the boundaries of that area of land to be trees and other vegetation in conjunction with a proposed development or land use, except that the area within these limits for such proposed development or use shall not include the removal of any outstanding or monarch trees unless approved by the Zoning Administrator.

**LIMITS OF GRADING** shall mean the outermost edge of the area in which the existing topography is to be altered by cutting and/or filling.

**LIVESTOCK** shall mean any animal raised for food, fur, pleasure, recreational, or resale.

**LOADING SPACE** shall mean an off-street space or berth on the same lot with a main building, or contiguous to a group of buildings, for the temporary parking of commercial vehicles while loading or unloading, and which abuts a street, alley, or other appropriate means of ingress and egress.

**LODGING ROOM** shall mean a room rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as one “lodging room” for the purposes of this Ordinance.

**LOGIC OF DESIGN** shall mean accepted principles and criteria of validity in the solution of the problem of design.

**LONG-TERM CARE FACILITY** shall mean a facility that provides the following services, as such are defined by state law: Nursing home facilities, boarding home, adult care home, assisted living facility, center

for the developmentally disabled, group residence, swing bed.

**LOT** shall mean a parcel or tract of land which is or may be occupied by a use herein permitted, together with yards, and other open spaces herein required, that has frontage upon a street, and is a part of a recorded subdivision plat or has been recorded prior to the adoption of the Regulation, or a parcel of real property delineated on an approved record of survey, lot-split or sub-parceling map as filed in the office of the County Recorder and abutting at least one (1) public street or right-of-way, two (2) thoroughfare easements, or one (1) private road.

**LOT AREA** shall mean the total area, on a horizontal plane, within the lot lines of a lot.

**LOT, CORNER** shall mean a lot located at the intersection of two (2) or more streets at an angle of not more than one hundred thirty-five (135) degrees. If the angle is greater than one hundred thirty-five (135) degrees, the lot shall be considered an "Interior Lot". The setbacks for a front yard shall be met on all abutting streets. The landowner may choose the front yard.

**LOT COVERAGE** shall mean the portion of a lot or building site which is occupied by any building or structure, except paved areas, walks and swimming pools, regardless of whether said building or structure is intended for human occupancy or not.

**LOT, CURVED** shall mean a lot fronting on the outside curve of the right-of-way of a curved street, which street has a centerline radius of three hundred (300) feet or less.

**LOT DEPTH** shall mean the horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

**LOT, DOUBLE FRONTAGE** shall mean a lot having a frontage on two non-intersecting streets as distinguished from a corner lot.

**LOT, FLAG** shall mean a lot with frontage and access provided to the bulk of the lot by means of a narrow corridor.

**LOT, FRONTAGE** shall mean the side of a lot abutting on a legally accessible street right-of-way other than an alley or an improved county road. For the purposes of this definition, on corner lots, all sides of a lot adjacent to streets or roads shall be considered frontage.

**LOT, INTERIOR** shall mean a lot other than a corner lot.

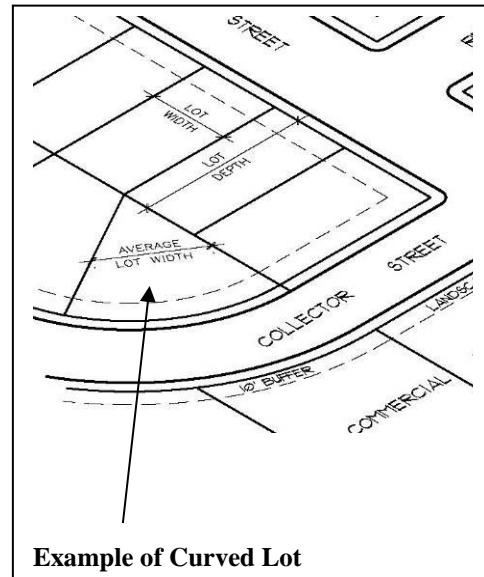
**LOT LINE** shall mean the property line bounding a lot.

**LOT LINE, FRONT** shall mean the property line of a lot of the narrowest dimension abutting a street right of way. On corner lots which have two equal sides which abut on a street right of way, either side may be considered the front line of the lot.

**LOT LINE, REAR** shall mean a lot line not abutting a street which is opposite and most distant from the front lot line.

**LOT LINE, SIDE** shall mean any lot line not a front lot line or rear lot line.

**LOT, NONCONFORMING** shall mean a lot having less area or dimension than that required in the district in which it is located and which was lawfully created prior to the zoning thereof whereby the larger



area or dimension requirements were established, or any lot, other than one shown on a plat recorded in the office of the County Registrar of Deeds, which does not abut a public road or public road right-of-way and which was lawfully created prior to the effective date of this Regulation.

**LOT THROUGH** shall mean a lot other than a corner lot fronting along two (2) parallel public streets.

**LOT OF RECORD** shall mean a lot held in separate ownership as shown on the records of the County Registrar of Deeds at the time of the passage of a regulation or regulation establishing the zoning district in which the lot is located.

**LOT WIDTH** shall mean the average horizontal distance between the side lot line, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

**LOT, ZONING** shall mean a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on the approved private street, and may consist of:

1. A single lot of record;
2. A portion of a lot of record;
3. A combination of complete lots of record and portions of lots of record, or of portions of record;
4. A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

**MAIL ORDER SERVICES** shall mean an establishment primarily engaged in the retail sale of products by television, telemarketing, internet, catalog, and mail order. Such a use may include warehousing, shipping, and receiving of merchandise intended for retail sale.

**MANUFACTURED HOME PARK** shall mean a parcel of land under single ownership that has been planned and improved for the placement of manufactured housing used or to be used for dwelling purposes and where manufactured home spaces are not offered for sale or sold. The term "manufactured home park" does not include sales lots on which new or used manufactured homes are parked for the purposes of storage, inspection, or sale.

**MANUFACTURED HOME SUBDIVISION** shall mean any area, piece, parcel, tract or plot of ground subdivided and used or intended to be used for the purpose of selling lots for occupancy by manufactured homes.

**MANUFACTURING** shall mean uses primarily engaged in the mechanical or chemical transformation of materials or substances into new products. These uses are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Uses engaged in assembling component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of material such as lubricating oils, plastics, resins, or liquors. Manufacturing production is usually carried on for the wholesale market, for interplant transfer, or to order for industrial users, rather than for direct sale to the domestic consumer.

**MANUFACTURING, LIGHT** shall mean an establishment engaged in the indoor manufacturing, assembly, fabrication, packaging or other industrial processing of finished parts or products, primarily from previously prepared materials, or the indoor provision of industrial services. This term includes but is not limited to a business engaged in the processing, fabrication, assembly, treatment, or packaging of food, textile, leather, wood, paper, chemical, plastic, or metal products, but does not include basic industrial processing from raw materials.

**MAP, OFFICIAL ZONING DISTRICT** shall mean a map delineating the boundaries of zoning districts which, along with the Zoning Ordinance, is officially adopted by the Roca Village Board.

**MASSAGE ESTABLISHMENT** shall mean any building, room, place, or establishment other than a regularly licensed and established hospital or dispensary where non-medical or non-surgical manipulative exercises or devices are practiced upon the human body manually or otherwise by any person other than a licensed physician, surgeon, dentist, occupational and/or physical therapist, chiropractor, or osteopath with or without the use of therapeutic, electrical, mechanical, or bathing devices. Said establishment shall comply with all state regulations as per Neb.Rev.Stat. §71-1,278 through §71-1,281.01, Nebr. R.R.S., 2009.

**MASSAGE PARLOR** (*See Adult Massage Parlor, Health Club.*)

**MASTER FEE SCHEDULE** shall mean a fee schedule maintained by the Village of Roca and adopted, and amended periodically, which establishes the required fees to be collected for specific Planning, Zoning, Subdivision, and Building Inspection activities.

**MECHANICAL EQUIPMENT** shall mean equipment, devices, and accessories, the use of which relates to water supply, drainage, heating, ventilating, air conditioning, and similar purposes.

**MEDICAL/DENTAL OFFICES** shall mean a building or portion of a building containing offices and facilities for providing medical, dental, and psychiatric services for outpatients only.

**MEETING HALL** shall mean a building designed for public assembly.

**MICROBREWERY** (*See Brew Pub*)

**MINI-STORAGE OR MINI-WAREHOUSE** (*See Self-Service Storage Facility.*)

**MISCELLANEOUS STRUCTURES** shall mean structures, other than buildings, visible from public ways. Examples are: memorials, stagings, antennas, water tanks and towers, sheds, shelters, fences, and walls, kennels, transformers, drive-up facilities.

**MIXED USE** shall mean properties where various uses, such as office, commercial, institutional, and residential, are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design.

**MOBILE HOME** (*See Dwelling, Mobile Home.*)

**MOBILE HOME PARK** (*See Manufactured Home Park.*)

**MOBILE HOME SUBDIVISION** (*See Manufactured Home Subdivision.*)

**MONOTONY** shall mean repetitive sameness, lacking variety and variation, and/or reiteration.

**MORTUARY** shall mean an establishment in which the deceased are prepared for burial or cremation. The facility may include funeral services and spaces for informal gatherings or display of funeral equipment. This classification excludes cemeteries and crematories.

**MOTEL** (*See Hotel.*)

**MOTOR VEHICLE** shall mean every self-propelled land vehicle, not operated upon rails, except mopeds and self-propelled invalid chairs.

**NEB. REV. STAT.** shall mean Nebraska Revised Statutes as amended from time to time.

**NEWSSTAND** shall mean a temporary structure manned by a vendor, whom sells newspapers, magazines and other periodicals.



**NIGHTCLUB** shall mean a commercial establishment dispensing beverages for consumption on the premises and in which dancing is permitted or entertainment is provided. (Also *see* Bar.)

**NON-COMMUNITY WATER SUPPLY SYSTEM** shall mean any public water supply system that is not a community water supply system.

**NON-CONFORMING LOT** shall mean a lot having less area or dimension than that required in the district in which it is located and which was lawfully created prior to the zoning thereof whereby the larger area or dimension requirements were established, or any lot, other than one shown on a plat recorded in the office of the County Register of Deeds, which does not abut a public road or public road right-of-way and which was lawfully created prior to the effective date of this ordinance.

**NON-CONFORMING STRUCTURES** shall mean a building or portion thereof which was lawful when established but which does not conform to subsequently established zoning or zoning regulations.

**NON-CONFORMING USE** shall mean a use lawful when established but which does not conform to subsequently established zoning or zoning regulation.

**NON-FARM BUILDINGS** are all buildings except those buildings utilized for agricultural purposes on a farmstead of twenty acres or more which produces one thousand dollars or more of farm products each year.

**NUDITY** means 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.

**NUISANCE** shall mean anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses such as noise, dust, odor, smoke, gas, pollution, congestion, lighting, and litter.

**NURSERY** shall mean the use of a premises for the propagation, cultivation, and growth of trees, shrubs, plants, vines, and the like from seed or stock, and the sale thereof, and including the sale of trees, shrubs, plants, vines, and the like purchased elsewhere and transplanted into the soil of the premises. In connection with the sale of plants, such fungicides, insecticides, chemicals, peat moss, humus, mulches, and fertilizers as are intended to be used in preserving the life and health of the plants may be sold.

**OFFICE** shall mean a building or a portion of a building wherein services are performed involving, primarily, administrative, professional, or clerical operations.

**OFFICIAL MAP** (*See* Map, Official Zoning District.)

**OFF-STREET PARKING AREA or VEHICULAR USE** shall refer to all off street areas and spaces designed, used, required, or intended to be used for parking, including driveways or access ways in and to such areas.

**OPEN LOTS** shall mean pens or similar concentrated areas, including small shed-type areas or open-front buildings, with dirt, or concrete (or paved or hard) surfaces, wherein animals or poultry are substantially or entirely exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed-type areas.

**OPEN SPACE** shall mean a parcel or parcels of land, together with the improvements thereon, primarily set aside for recreational use and enjoyment, exclusive of land areas used for streets, alleys, roads, driveways, parking areas, structures, and buildings.

**OPEN SPACE, COMMON** shall mean a separate and distinct area set aside as open space within or related to a development, and not on individually owned lots or dedicated for public use, but which is

designed and intended for the common use or enjoyment of the residents of the development. Right-of-ways, private streets, driveways, parking lots or other surfaces designed or intended for vehicular use or required yards shall not be included as common open space.

**OPERATOR OF ADULT ESTABLISHMENT** means 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, part owner, or licensee of the business.

**OUTLOT** shall mean a lot remnant or parcel of land left over after platting, which is intended as open space or other use, for which no building permit shall be issued for any private structures, except signs.

**OUTDOOR ADVERTISING** shall include the definitions of "Advertising Structure" and "Sign".

**OUTDOOR STORAGE CONTAINER** shall mean 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.

**OVERLAY DISTRICT** shall mean a district in which additional requirements act in conjunction with the underlying zoning district. The original zoning district designation does not change.

**OWNER** shall mean one or more persons, including corporations, who have title to the property, building or structure in question.

**PARCEL** shall mean a lot or a contiguous group of lots in single ownership or under single control, which may be considered as a unit for purposes of development.

**PARK** shall mean any public or private land available for recreational, educational, cultural, or aesthetic use.

**PARKING AREA, PRIVATE** shall mean an area, other than a street, used for the parking of automotive vehicles capable of moving under their own power and restricted from general public use.

**PARKING AREA, PUBLIC** shall mean an area, other than a private parking area or street used for the parking of vehicles capable of moving under their own power, either free or for remuneration.

**PARKING LOT** Shall mean an area consisting of one or more parking spaces for motor vehicles together with a driveway connecting the parking area with a street or alley and permitting ingress and egress for motor vehicles. See Parking Area.

**PARKING SPACE, AUTOMOBILE** shall mean an area, other than a street or alley, reserved for the parking of an automobile, such space having a dimension not less than nine (9) feet by twenty (20) feet, plus such additional area as is necessary to afford adequate ingress and egress.

**PARKWAY** shall mean an arterial highway with full or partial control of access, and located within a park or ribbon of park like development.

**PATIO** shall mean a level, surfaced area directly adjacent to a principal building at or within 3 feet of the finished grade, without a permanent roof intended for outdoor lounging, dining, and the like.

**PERFORMANCE GUARANTEE** shall mean a financial guarantee to ensure that all improvements, facilities, or work required by this chapter will be completed in compliance with these regulations as well as with approved plans and specifications of a development.

**PERMANENT FOUNDATION** shall mean a base constructed from either poured concrete or laid masonry rock or brick and placed on a footing located below ground level to a point below the frost line upon which a building or structure is permanently attached.

**PERMANENT TREE PROTECTION DEVICES** shall be structural measures, such as retaining walls or aeration devices that are designed to protect the tree and its root systems throughout its lifetime.

**PERMANENTLY ATTACHED** shall mean connected to real estate in such a way as to require dismantling, cutting away, or unbolting in order to remove, relocate, or replace.

**PERMITTED USE** shall mean any land use allowed without condition within a zoning district.

**PERSON** shall mean an individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, Village, County, special district or any other group or combination acting as an entity, except that it shall not include Roca, Nebraska.

**PET HEALTH SERVICE** (See Animal Hospital)

**PET SHOP** shall mean a retail establishment primarily involved in the sale of domestic animals, such as dogs, cats, fish, birds, and reptiles, excluding exotic animals and farm animals such as horses, cattle, goats, sheep and poultry.

**PLANNED DEVELOPMENT** shall mean a development designed to provide for an unusual or different arrangement of residential, business, or industrial uses in accordance with an approved development plan.

**PLANNING COMMISSION** shall mean the Planning Commission of the Village of Roca, Nebraska.  
(Also *see* Commission)

**PLANT MATERIALS** shall mean trees, shrubs, vines, ground covers, grass, perennials, annuals, and bulbs.

**PLAT** shall mean a map showing the location, boundaries, and legal description of individual properties.

**POLICY** shall mean a statement or document of the Village, such as the Comprehensive Plan, that forms the basis for enacting legislation or making decisions.

**POSTAL STATION** shall mean a commercial business which conducts the retail sale of stationery products, provides packaging and mail services (both U.S. Postal and private service), and provides mailboxes for lease.

**PORCH** shall mean a covered platform, usually having a separate roof, at an entrance to a dwelling, or an open nor enclosed gallery or room, which is not heated or cooled, that is attached to the outside of a principal building.

**POULTRY** shall mean domestic fowl, chickens, ducks, geese, and similar fowl, but specifically excluding turkeys and guinea fowl.

**PRESCHOOL** shall mean an early childhood program which provides primarily educational services, where children do not nap and where children are not served a meal.

**PREMISES** shall mean a tract of land, consisting of one lot or irregular tract, or more than one lot or irregular tract, provided such lots or tracts are under common ownership, contiguous, and used as a single tract. A building or land within a prescribed area.

**PRINCIPAL BUILDING** (see “Building, Principal”)

**PRINCIPAL USE** (see “Use, Principal”)

**PRIVATE WELL** shall mean a well that provides water supply to less than fifteen (15) service connections and regularly serves less than twenty-five (25) individuals.

**PROFESSIONAL SERVICES** Shall mean services provided by physicians, surgeons, chiropractors, osteopaths, physical therapists, dentists, architects, engineers, surveyors, planners, lawyers, and accountants.

**PROHIBITED USE** shall mean any use of land, other than nonconforming, which is not listed as a permitted use or conditional use within a zoning district.

**PROMOTIONAL DEVICE** shall mean any sign intended to be displayed either with or without a frame, with or without characters, letters, illustrations, or other material, on a fabric of any kind. National flags, flags of political subdivisions, or symbolic flags of any institutions or business shall be considered a promotional device for the purpose of this definition. Banners, pennants, inflatable characters, streamers, or fringe-type ribbons or piping, shall be considered as a promotional device.

**PROPORTION** shall mean a balanced relationship of parts of a building, landscape, structures, or buildings to each other and to the whole.

**PROTECTED ZONE** shall mean all lands that fall outside the buildable areas of a parcel, all areas of a parcel required to remain in open space, and/or all areas required as landscaping strips according to the provisions of the Zoning Regulation.

**PUBLIC FACILITY** shall mean any building, location, or structure, owned by a public entity such as a library, fire station, school, park, and other similar facilities and uses.

**PUBLIC SERVICES/USE** shall mean a specified activity or area that either through actual public ownership or through dedication of easements allows the general public access and use.

**PUBLIC UTILITY** shall mean any business which furnishes the general public telephone service, telegraph service, electricity, natural gas, water and sewer, or any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the state or federal government.

**PUBLIC WATER SUPPLY** shall mean a water supply system designed to provide public piped water fit for human consumption, if such system has at least fifteen (15) service connections or regularly serves at least twenty-five individuals. This definition shall include: (1) Any collection, treatment, storage, or distribution facilities under the control of the operator of such system and used primarily in connection with such system; and (2) Any collection or pretreatment storage facilities not under such control which are used primarily in the connection with such system.

**PUBLIC WAY** Shall mean any sidewalk, street, alley, highway, easement, or other public thoroughfare.

**QUARRY** shall mean an open pit from which building stone, sand, gravel, mineral, or fill is taken to be processed or used for commercial purposes.

**RAILROAD** shall mean the land use including the right-of-way (R. O. W.) abutting railroad properties occupied by uses pertinent to the railroad operation and maintenance, but not including properties owned by the railroad and leased for use by others.

**RECEPTION VENUE** is a place where proceedings take place or a location for specific types of events.

**RECREATIONAL FACILITY** shall mean facilities for the use by the public for passive and active recreation including tennis, handball, racquetball, basketball, track and field, jogging, baseball, soccer, skating, swimming, or golf. This shall include country clubs and athletic clubs, but not facilities accessory to a private residence used only by the owner and guests, nor arenas or stadiums used primarily for spectators to watch athletic events. In addition, recreational facilities shall mean museums, amphitheaters, race tracks (including all motor powered vehicles) and wildlife conservation areas (used for public viewing), and theme parks.

**RECREATIONAL VEHICLE (RV)** shall mean a vehicular unit less than forty (40) feet in overall length, eight (8) feet in width, or twelve (12) feet in overall height, primarily designed as a temporary living quarters for recreational camping or travel use having either its own power or designed to be mounted on or drawn by a motor vehicle. Recreational vehicle includes motor home, truck camper, travel trailer, camping trailer, and fifth wheel.

**RECREATIONAL VEHICLE (RV) PARK** shall mean a tract of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes by campers, vacationers, or travelers.

**RECYCLING FACILITY** shall mean any location where the primary use is where scrap or recyclable materials are stored, bought, sold, accumulated, exchanged, packaged, disassembled, or handled, including, but not limited to, scrap metals, paper, rags, tires, bottles and other materials.

**REDEVELOPMENT** shall mean the act of preserving and/or rehabilitating existing buildings. In extreme cases, a building or structure could be demolished for the purpose of a new use or building.

**RE-INSPECTION FEE** shall mean any fee charged for an inspection other than the initial inspection when required work has not or was not completed and results in additional trips to the site by the inspector or agent of the Village.

**RESERVATION CENTER** shall mean a travel agency; or other such agency involved in selling and arranging transportation, tours, trips, and accommodations for tourists.

**RESIDENCE** shall mean a building used, designed, or intended to be used as a home or dwelling place for one (1) or more families.

**RESIDENTIAL AREA** shall mean those parcels/areas currently be used as a residential use (whether legal conforming or legal non-conforming) and/or those designated as residential in the future land use plan of the village's comprehensive plan.

**REST HOME, NURSING HOME or CONVALESCENT HOME** shall mean a facility for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders. Such facility does not contain equipment for surgical care or for the treatment of disease or injury, and is subject to applicable state requirements.

**RESTAURANT** shall mean a public eating establishment at which the primary function is the preparation and serving of food primarily to persons seated within the building.

**RESTAURANT, DRIVE-IN** shall mean an establishment that has the facilities to serve prepared food and/or beverages to customers seated within motor vehicles for consumption either on or off the premises.

**RESTAURANT, ENTERTAINMENT** shall mean an establishment where food and drink are prepared, served, and consumed, within a building or structure that integrally includes electronic and mechanical games of skill, simulation, and virtual reality, play areas, video arcades or similar uses, billiards, and other forms of amusement.

**RESTAURANT, FAST FOOD** shall mean an establishment whose principal business is the sale of food and/or beverages in ready-to-consume individual servings, for consumption either within the establishment, for carryout, or drive-in; and where foods are/or beverages are usually served in paper, plastic, or other disposable containers.

**RETAIL TRADE** shall mean uses primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of goods. Uses engaged in retail trade sell merchandise to the general public or to households for personal consumption.

**RETENTION BASIN** shall mean a pond, pool, or basin used for the permanent storage of storm water runoff.

**REVEGETATION** shall mean the replacement of trees and landscape plant materials into the minimum required landscape areas, as determined by the Zoning Regulation.

**REVERSE SPOT ZONING** shall mean an arbitrary zoning or rezoning of a small tract of land that is not consistent with the comprehensive land use plan and that uniquely burdens an individual owner largely to secure some public benefit. Reverse spot zoning usually results from downzoning a tract of land to a less intensive use classification than that imposed on nearby properties.

**REZONING** shall mean an amendment to or change in the zoning regulations either to the text or map or both.

**REZONING, PIECEMEAL** shall mean the zoning reclassification of individual lots resulting in uncertainty in the future compatible development of the area.

**RIGHT-OF-WAY** shall mean an area or strip of land, either public or private, on which an irrevocable right of passage has been dedicated, recorded, or otherwise legally established for the use of vehicles or pedestrians or both.

**ROAD** shall mean the same as "Street".

**ROAD, PRIVATE** shall mean a way, other than driveways, open to vehicular ingress and egress established for the benefit of certain, adjacent properties. (Also *see* Right-of-Way and Street.)

**ROAD, PUBLIC** shall mean all public right-of-way reserved or dedicated for street or road traffic. (Also *see* Right-of-Way and Street.)

**ROADSIDE STAND** shall mean a structure for the display and sale of products on a temporary or seasonal basis.

**ROOM** shall mean an un-subdivided portion of the interior of a dwelling unit, excluding bathroom, kitchen, closets, hallways, and service porches.

**SALVAGE YARD** (*See* Junk Yard)

**SATELLITE DISH ANTENNA** shall mean a round, parabolic antenna incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, or cone and used to transmit and/or receive radio or electromagnetic waves.

**SCALE** shall mean a proportional relationship of the size of parts to one another and to the human figure.

**SCENIC EASEMENT** shall mean an easement for the purpose of limiting land development in order to preserve a view or scenic area.

**SCHOOL, DAY** shall mean a preschool or nursery school for children.

**SCHOOL, DAY, PRE-, OR NURSERY** shall mean a school or center for children under school age, whether licensed as a day care center or not, shall be approved by the Nebraska State Fire Marshall as being in safety conformance with the National Fire Protection Association, Pamphlet 101, known as the Life Safety Code and shall be approved by the Nebraska Department of Health and Welfare as meeting their health and welfare standards.

**SCHOOL, PRIVATE** shall mean facilities which conduct regular academic instruction for a profit, such as commercial schools, private trade schools, and business schools.

**SCREENING** shall mean a method by which a view of one site from another adjacent site is shielded, concealed, or hidden during all seasons of the year and may include fences, walls, hedges, beams, or other features. (Also *see* Buffer.)

**SEASONAL USE** shall mean those land uses and structures that are operated during specific seasons of the year, ie. Christmas tree sales and haunted houses.

**SELECTIVE CLEARING** shall be the careful and planned removal of trees, shrubs, and plants using specific standards and protection measures.

**SELF-SERVICE STATION** shall mean an establishment where motor fuels are stored and dispensed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products.

**SELF-SERVICE STORAGE FACILITY** shall mean a building or group of buildings containing individual, compartmentalized, and controlled access stalls or lockers for storage.

**SEMI-NUDE OR SEMI-NUDITY** means 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.

**SEPARATE OWNERSHIP** shall mean ownership of a parcel of land by a person who does not own any of the land abutting such parcel.

**SERVICE STATIONS** shall mean buildings and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and motor vehicle accessories and where light maintenance activities such as engine tune-ups, lubrications, and washing may be conducted, but not including heavy maintenance and repair such as engine overhauls, painting, and body repair.

**SETBACK LINE, FRONT YARD** shall mean the line which defines the depth of the required front yard. Said setback line shall be parallel with the right-of-way line or highway setback line when one has been established.

**SETBACK LINE, REAR YARD OR SIDE YARD** shall mean the line which defines the width or depth of the required rear or side yard. Said setback line shall be parallel with the property line, removed therefrom by the perpendicular distance prescribed for the yard in the district.

**SETBACK LINE, STREET SIDE YARD** shall mean the line which defines the depth of the designated street side yard on a corner lot. Said setback line shall be parallel with the street/road right-of-way line.

**SHOPPING CENTER** shall mean a group of commercial establishments planned, constructed, and managed as a total entity with customer and employee parking provided on-site, provisions for goods delivery that is separated from customer access, aesthetic considerations, and protection from the elements.

**SHOPPING CENTER, COMMERCIAL STRIP** shall mean a commercial development, usually one store deep, that fronts on a major street for a distance of one City block or more. Includes individual buildings on their own lots, with on-site parking and small linear shopping centers with on-site parking in front of the stores.

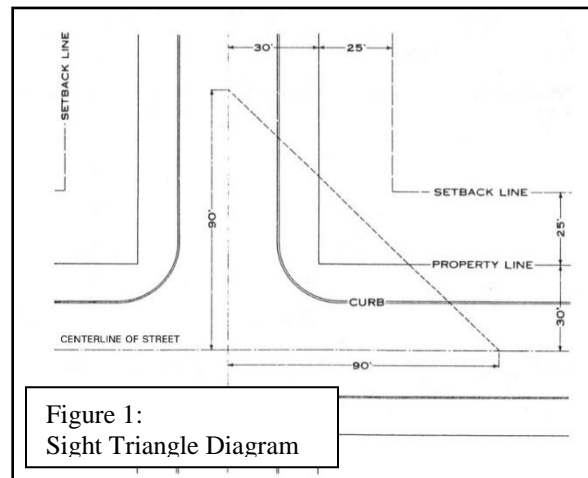
**SHOPPING CENTER, OUTLET** shall mean a commercial development that consists mostly of manufacturers' outlet stores selling their own brands at a discounted price. This definition includes all forms of centers, such as strip style, enclosed mall style, and city clustered style centers.

**SHORT-TERM RESIDENTIAL RENTAL** shall mean a furnished residence which is occupied by a permanent resident 180-days or more per a calendar year and is rented for a short-term stay of less than 30 days while the permanent resident is not occupying the residence.

**SHRUB** shall mean a multi-stemmed woody plant other than a tree.

**SIDEWALK CAFE** shall mean an area adjacent to a street level eating or drinking establishment located adjacent to the public pedestrian walkway and used exclusively for dining, drinking, and pedestrian circulation. The area may be separated from the public sidewalk by railings, fencing, or landscaping or a combination thereof.

**SIGHT TRIANGLE** is an area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of three (3) feet and ten (10) above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets, ninety (90) feet in each direction along the centerline of the streets. (See Figure 1)



**SIGN** shall mean and include any outdoor sign, display, declaration, device, figure, drawing, illustration, message, placard, poster, billboard, insignia, or other things which are designed, intended, or used for direction, information, identification, or to advertise, to inform, or to promote any business, product activity, service, or any interest, except the following:

- A. A name plate or sign designating location, direction, information, or identification, providing the surface area or face of such sign does not exceed 10 square feet.
- B. Sign less than 25 square feet in surface area advertising activities conducted on the premise, products grown, made, or produced on the premise.
- C. Signs less than 50 square feet in area and less than 25 feet in height of a public or quasi-public nature or other official notices that are authorized by the State of Nebraska, Village of Roca, or a Federal Government Agency, directional, informational, or other official signs or notices authorized by law.

**SIGN, ADVERTISING** shall mean a sign which directs attention to any product, activity, or service; provided, however, that such sign shall not be related or make reference to the primary use, business activity, or service conducted on the premises.

**SIGN, ARCHITECTURAL CANOPY** shall mean an enclosed, illuminated (backlit awning) or non-illuminated structure that is attached to the wall of a building with the face of the sign approximately parallel to the wall and with the sign's area integrated into its surface.

**SIGN AREA** shall mean the entire area including the background of a sign on which copy can be placed but not including the minimal supporting framework or bracing. the area of individually painted letter



signs, individual letter signs or directly or indirectly illuminated individual letter signs, shall be calculated on the basis of the smallest geometric figure that will enclose the entire copy area of the sign. Any such calculation shall include the areas between the letters and lines, as well as the areas of any devices, illuminated or non-illuminated.

**SIGN, AWNING, CANOPY OR MARQUEE** shall mean a sign that is mounted, painted, or attached to an awning, canopy, or marquee that is otherwise permitted by the Zoning Regulations.

**SIGN, BILLBOARD** shall mean a sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

**SIGN, BUILDING** shall mean any sign supported by, painted on or otherwise attached to any building or structure.

**SIGN, CLOSED** shall mean a sign in which more than fifty percent (50%) of the entire area is solid or tightly closed or covered.

**SIGN, DESTINATION** shall mean a sign used to inform and direct the public to important public places and buildings, landmarks, and historical sites in the most simple, direct, and concise manner possible.

**SIGN, ELECTRONIC MESSAGE BOARD** shall mean a sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

**SIGN, FLASHING** shall mean a sign, which, by method or manner of illumination, flashes on or off, winks, or blinks with varying light intensity, shows motion, or creates the illusion of being on or off.

**SIGN, FREESTANDING** shall mean any sign supported by uprights or braces placed on or in the ground, which is used principally for advertising or identification purposes and is not supported by any building.

**SIGN, GROUND (LOW PROFILE)** shall mean a sign mounted directly to the ground with a maximum height not to exceed six (6) feet.

**SIGN, ILLUMINATED** shall mean a sign illuminated in any manner by an artificial light source.

**SIGN, OBSOLETE** shall mean a sign that advertises a business no longer in existence or a product no longer offered for sale and has advertised such business or product for a period of six (6) months after the termination of the existence of such business or the termination of sale of the product advertised.

**SIGN, ON-PREMISE** shall mean a sign, display, or device-advertising activities conducted on the property on which such sign is located.

**SIGN, OPEN** shall mean a sign attached to or hung from a marquee, canopy, or other covered structure, projecting from and supported by the building and extending beyond the building wall, building line, or street lot line.

**SIGN, PORTABLE** shall mean a sign, usually of a temporary nature, not securely anchored to the ground or to a building or structure and which obtains some or all of its structural stability with respect to wind or other normally applied forces by means of its geometry or character.

**SIGN, PROJECTING** shall mean a projecting sign attached to a building.

**SIGN, ROOF** shall mean a sign identifying the name of a business, enterprise, or the product sold on the premises and erected on the roof of the building.

**SIGN, ROOF** (integrated) shall mean a sign, which is erected, constructed, and maintained above the roof of the building.

**SIGN, SETBACK** shall mean the horizontal distance from the property line to the nearest projection of the existing or proposed sign.

**SIGN, SUBDIVISION** identification shall mean a sign erected on a subdivision identification lot, which identifies the platted subdivision where the sign is located.

**SIGN, SURFACE** shall mean the entire area of a sign.

**SIGN, TEMPORARY** shall mean a sign constructed of cloth, fabric, or other material with or without a structural frame intended for a limited period of display, including displays for holidays or public demonstrations. Temporary signs shall include portable signs as defined in this section.

**SIGN, WALL** shall mean a sign attached to or erected against the wall of a building with the exposed face of the sign in a plane parallel to the wall of the building and not projecting more than eighteen (18) inches from the face of the building wall.

**SIGN, WINDOW** shall mean a sign painted, stenciled, or affixed on a window, which is visible from a right-of-way.

**SIMILAR USE** shall mean the use of land, buildings, or structures of like kind or general nature with other uses within a zoning district as related to bulk, intensity of use, traffic generation and congestion, function, public services requirements, aesthetics or other similarities.

**SITE PLAN** shall mean a plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, drives, parking, drainage, landscape features, and other principal site development improvements for a specific parcel of land.

**SITE, SEPTIC** shall mean the area bounded by the dimensions required for the proper location of the septic tank system.

**SLAUGHTERHOUSE** shall mean a place where cattle, sheep, hogs or other animals are killed or butchered for market or for sale; provided, however, that this shall not be taken to mean or include poultry.

**SLUDGE** shall mean solids removed from sewage during wastewater treatment and then disposed of by incineration, dumping, burial, or land application.

**SOLID WASTE** shall mean waste materials consisting of garbage, trash, refuse, rubble, sewage, offal, dead animals, or paunch manure.

**SOLID WASTE COMPANY** shall mean any company or firm that takes away, removes, or transfers solid wastes from one location to another through the use of vehicles or rail cars.

**SPECIAL USE OR SPECIAL USE PERMIT** shall mean conditional use or conditional use permit.

**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.

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

**STABLE** shall mean a facility, either as a principal or accessory use, that is designed for the maintenance, rental, or storage of non-domesticated animals.

**STABLE, PRIVATE** shall mean a detached accessory building or barn for the keeping of horses solely owned by the occupants of the premises, or their immediate family members, and not kept for remuneration, hire, or sale.

**STABLE, RIDING** shall mean a structure or facility in which horses or ponies, used exclusively for pleasure, riding, or driving, are housed, boarded, trained, or kept for remuneration, hire, or sale.

**STANDARD SYSTEM** shall mean a sewage treatment system employing a building sewer, septic tank, and a standard soil absorption system.

**STATE** shall mean the State of Nebraska.

**STOCKPILING** shall mean the accumulation of manure in mounds, piles, or other exposed and non-engineered site locations for storage or holding purposes for a period of not more than one (1) year.

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

**STOREFRONT** shall mean the public-accessible entrance(s) to a commercial use visible from a private/public street or sidewalk.

**STORM DRAIN** shall mean a conduit that carries natural storm and surface water drainage but not sewage and industrial wastes, other than unpolluted cooling water.

**STORMWATER DETENTION** shall mean any storm drainage technique that retards or detains runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells, or any combination thereof. Said detention shall be designed by a licensed professional engineer and approved by the Village.

**STORMWATER MANAGEMENT** shall mean the collecting, conveyance, channeling, holding retaining, detaining, infiltrating, diverting, treating, or filtering of surface water, or groundwater, and/or runoff, together with applicable managerial (non-structural) measures.

**STORMWATER RETENTION AREA** shall mean an area designed by a licensed professional engineer and approved by the Village to retain water to control the flow of stormwater.

**STORMWATER RUNOFF** shall mean surplus surface water generated by rainfall that does not seep into the earth but flows over land to flowing or stagnant bodies of water.

**STORY** shall mean a space in a building between the surface of any floor and the surface of the floor above, or if there is not floor above, then the space between such floor and the ceiling or roof above.

**STORY, ONE-HALF** shall mean the same as "Half-Story".

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

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

**STREET CENTERLINE** shall mean the centerline of a street right-of-way as established by official surveys.

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

**STREET, CURVILINEAR** shall mean local streets, which deviate from straight alignment and change direction without sharp corners or bends.

**STREET, FRONTAGE ACCESS** shall mean a street parallel and adjacent to a major street, major inter-regional highway, or major collection road and primarily for service to the abutting properties, and being separated from the major street by a dividing strip.

**STREET, LOCAL** shall mean a street designed for local traffic, which provides direct access to abutting residential, commercial, or industrial properties.

**STREET, LOOPED** shall mean a continuous local street without intersecting streets and having its two (2) outlets connected to the same street.

**STREETS, MAJOR** shall mean a street or highway used primarily for fast or high-volume traffic, including expressways, freeways, boulevards, and arterial streets.

**STREET, PRIVATE** shall mean an open, unoccupied space, other than a street or alley dedicated to the public, but permanently established as the principal means of vehicular access to abutting properties. The term "private street" includes the term "place".

**STREET, SIDE** shall mean that street bounding a corner or reversed corner lot and which extends in the same general direction as the line determining the depth of the lot.

**STREET LINE** shall mean a dividing line between a lot, tract, or parcel of land and the contiguous street.

**STRUCTURE** shall mean anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming and wading pools and covered patios, excepting outdoor areas such as paved areas, walks, tennis courts, and similar recreation areas.

**STRUCTURE, ADVERTISING** shall mean the same as "advertising structure".

**STRUCTURAL, ALTERATION** shall mean any change in the support members of a building, such as in a bearing wall, column, beam or girder, floor or ceiling joists, roof rafters, roof diaphragms, foundations, piles, or retaining walls or similar components.

**SUBDIVISION** shall mean the division of land, lot, tract, or parcel into two or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future. The term shall also include the division of residential, commercial, industrial, agricultural, or other land whether by deed, metes, and bounds description, lease, map, plat, or other instrument.

**SURFACE WATER CLASS A -- PRIMARY CONTACT RECREATION** shall mean surface waters which are used, or have a high potential to be used, for primary contact recreational activities. Primary contact recreation includes activities where the body may come into prolonged or intimate contact with the water, such that water may be accidentally ingested and sensitive body organs (e.g. eyes, ears, nose, etc.) may be exposed. Although the water may be accidentally ingested, it is not intended to be used as a potable water supply unless acceptable treatment is supplied. These waters may be used for swimming, water skiing, canoeing, and similar activities.

**SURFACE WATERS** shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, springs, canal systems, drainage systems, and all other bodies or accumulations of water, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.

**SWIMMING POOL** shall mean a structure, and all appurtenant equipment, constructed either above or below grade with a depth of at least 18 inches utilized for the purposes of swimming, diving, or wading.

**TANNING SPA or SALON** shall mean any business that uses artificial lighting systems to produce a tan on an individual's body. These facilities may be either a stand-alone business or as an accessory use in spas, gymnasiums, athletic clubs, health clubs, and styling salons. This use is not included with any type of adult establishment.

**TATTOO PARLOR / BODY PIERCING STUDIO** shall mean an establishment whose principal business activity is the practice of tattooing and/or piercing the body of paying customers.

**TAVERN** (*See Bar.*)

**TELECOMMUNICATIONS FACILITY** shall mean any facility that transmits and/or receives signals by electromagnetic or optical means, including antennas, microwave dishes, horns, or similar types of equipment, towers or similar structures supporting such equipment, and equipment buildings.

**TELEPHONE EXCHANGE** shall mean a building used exclusively for the transmission and exchange of telephone messages, but the term shall not include wireless communications towers.

**TEMPORARY STRUCTURE** shall mean a structure without any foundation or footing and removed when the designated time period, activity or use for which the temporary structure was erected has ceased.

**TEMPORARY USE** shall mean a use intended for limited duration to be located in a zoning district not permitting such use.

**THEATER** shall mean a building or structure used for dramatic, operatic, motion pictures, or other performance, for admission to which entrance money is received and no audience participation or meal service.

**TINY HOME** is a residential structure of 900 square feet or less.

**TOTAL FLOOR AREA** shall mean the area of all floors including finished attics, basements, and other areas where floor to ceiling height is not less than six feet.

**TOWER** shall mean a structure situated on a site that is intended for transmitting or receiving television, radio, or telephone communications. (*Also see Antenna.*)

**TOWNHOUSE** shall mean a one-family dwelling unit, with a private entrance, which part of a structure whose dwelling units are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall to be used for access, light, and ventilation.

**TRACT** shall mean any parcel, lot area or piece of property in or within one mile of the corporate limits of Roca, Nebraska.

**TRAILER, AUTOMOBILE** shall mean a vehicle without motive power, designed and constructed to travel on the public thoroughfares and to be used for human habitation or for carrying property, including a trailer coach.

**TRAILER CAMP** shall mean any site, lot parcel or tract of land which is improved, used or intended to

provide a location for the servicing or temporary accommodation of one or more trailers which are used for travel, camping, or recreational purposes.

**TRANSPORTATION SERVICES** shall mean establishments providing services incidental to transportation, such as forwarding, packing, crating, or other means of preparing goods for shipping.

**TRANSFER STATION (REFUSE)** shall mean any enclosed facility where solid wastes, trash, or garbage is transferred from one vehicle or rail car to another or where solid wastes, trash, or garbage is stored and consolidated before being transported for disposal elsewhere.

**TREE** shall mean:

- A. Any self-supporting woody plant growing upon the earth that usually provides one main trunk and produces a more or less distinct and elevated head with many branches.
- B. Any self-supporting woody plant, usually having a single woody trunk, and a potential Diameter at Breast Height (DBH) of twelve (12) inches or more.

**TREE COVER** shall mean an area directly beneath the crown and within the dripline of the tree.

**TRUCK GARDENING** shall mean any cart, table, equipment or apparatus which is not a structure, which is designed and intended so as to not be a permanent fixture on a lot, and which is used for the retail sale of fresh fruits, vegetables, flowers, herbs and plants, display, and accessory advertising of merchandise or food. May also involve the accessory sales of other unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces, or baked goods and homemade hand crafts. The above use shall not be located in any public right-of-way. Additional requirements may be determined by the Village.

**TRUCK REPAIR** shall mean the repair, including major mechanical and body work, straightening of body parts, painting, welding, or other work that may include noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in gasoline service stations, of trucks having a hauling capacity of over one (1) ton and buses but excluding pickups and other vehicles designed for the transport of under eight (8) passengers.

**UPZONING** shall mean a change in zoning classification of land to a more intensive or less restrictive district such as from residential district to commercial district or from a single family residential district to a multiple family residential district.

**USE, BEST** shall mean the recommended use or uses of land confined in an adopted comprehensive plan. Such uses represent the best use of public facilities, and promote health, safety and general welfare.

**USE, HIGHEST** shall mean an appraisal or real estate market concept that identifies the use of a specific tract of land that is most likely to produce the greatest net return on investment.

**USE, PRINCIPAL** shall mean the main use of land or structure, as distinguished from an accessory use. (Also *see* Building, Principal.)

**USED MATERIALS YARD** shall mean any lot or a portion of any lot used for the storage of used materials. This shall not include "Junk Yards" or "Automobile Wrecking Yards".

**UTILITARIAN STRUCTURE** shall mean a structure or enclosure relating to mechanical or electrical services to a building or development.

**UTILITY EASEMENT** shall mean the same as "Easement".

**UTILITY HARDWARE** shall mean devices such as poles, cross arms, transformers and vaults, gas pressure regulating assemblies, hydrants, and buffalo boxes that are used for water, gas, oil, sewer, and electrical services to a building or a project.

**UTILITIES, OVERHEAD OR UNDERGROUND "LOCAL DISTRIBUTION" SYSTEM OF** shall mean the local service distribution circuit or lines and related appurtenances served from a substation, town border station, reservoir, or terminal facility which is served from a main supply line, main transmission line, or main feeder line as may be applicable to electric, communications, gas, fuel, petroleum, fertilizer, or other chemical utilities. Local electric distribution systems shall be limited to include all lines and appurtenances carrying a primary voltage of less than 161 KV from an electric transformer substation to the consumer. The local telephone distribution system shall be limited to include the local exchange lines, the local toll lines, and the local communications equipment facilities structure.

**UTILITIES, OVERHEAD OR UNDERGROUND "TRANSMISSION LINE, SUPPLY LINE, WHOLESALE CARRIER OR TRUNK LINE, MAIN FEEDER LINE"** or other applicable designation shall mean the main supply or feeder line serving a local distribution system of utilities, and shall include but is not limited to pumping stations, substations, regulating stations, generator facilities, reservoirs, tank farms, processing facilities, terminal facilities, towers, and relay stations, and treatment plants.

**UTILITY SERVICE** shall mean any device, including wire, pipe, and conduit, which carries gas, water, electricity, oil and communications into a building or development.

**VARIANCE** shall mean a relief from or variation of the provisions of this chapter, other than use regulations, as applied to a specific piece of property, as distinct from rezoning.

**VEGETATION** shall mean all plant life; however, for purposes of this Zoning Regulation it shall be restricted to mean trees, shrubs, and vines.

**VEHICLE** shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved solely by human power or used exclusively upon stationary rails or tracks.

**VEHICLE, MOTOR** (*See Motor Vehicle.*)

**VETERINARY SERVICES** shall mean a building or part of a building used for the care, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention. Such clinics may or may not also provide long-term lodging for ill or unwanted animals, or lodging for healthy animals on a fee basis. Such clinics may or may not also provide general grooming practices for such animals.

**VIEW** shall mean a range of sight including pleasing vistas or prospects or scenes. Views include but are not limited to the sight of geologic features, water, skylines, bridges, and distant cities.

**VIEW CORRIDOR** shall mean the line of sight identified as to height, width, and distance of an observer looking toward an object of significance to the community or the route that directs a viewer's attention.

**VIEW PROTECTION REGULATIONS** shall mean the regulations that protect the view of or from particular points, usually via height limitations.

**VILLAGE** shall mean the Village of Roca.

**VISUAL IMPACT** shall mean a modification or change that could be either compatible or incompatible with the scale, form, texture, or color of the existing natural or man-made landscape.

**VISUAL OBSTRUCTION** shall mean any fence, hedge, tree, shrub, wall or structure exceeding three (3) feet in height, measured from the crown of intersecting or intercepting streets, alleys or driveways, which limit the visibility of persons in motor vehicles on said streets, alleys, or driveways. This does not include trees kept trimmed of branches below a minimum height of eight (8) feet. (Also *see* Sight Triangle)

**VOCATIONAL OR SPECIAL TRAINING FACILITIES** shall mean a specialized instructional

establishment that provides on-site training of business, commercial, and/or trade skills such as accounting, data processing, and computer repair. This classification excludes establishments providing training in an activity that is not otherwise permitted in the zone. Incidental instructional services in conjunction with another primary use shall not be included in this definition.

**WAREHOUSE** shall mean a building used primarily for the storage of goods and materials.

**WAREHOUSE AND DISTRIBUTION** shall mean a use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment.

**WASTEWATER LAGOON** (*See Lagoon.*)

**WATERS OF THE STATE** shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water surface or underground, material or artificial, public or private, situated wholly within or bordering upon the state.

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

**WHOLESALE ESTABLISHMENT** shall mean an establishment for the on-premises sales of goods primarily to customers engaged in the business of reselling the goods.

**WHOLESALE TRADE** shall mean a use primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. The principal types of establishments included are: Merchant wholesalers; sales branches and sales offices (but not retail stores) maintained by manufacturing enterprises apart from their plants for the purpose of marketing their products; agents, merchandise or commodity brokers, and commission merchants; petroleum bulk storage, assemblers, buyers, and associations engaged in cooperative marketing of farm products. The chief functions of uses in wholesale trade are selling goods to trading establishments, or to industrial, commercial, institutional, farm and professional; and bringing buyer and seller together. In addition to selling, functions frequently performed by wholesale establishments include maintaining inventories of goods; extending credit; physically assembling, sorting and grading goods in large lots, breaking bulk and redistribution in smaller lots; delivery; refrigeration; and various types of promotion such as advertising and label designing.

**WILDLIFE** shall mean animals or plants existing in their natural habitat.

**WIND ENERGY SYSTEM** shall mean a wind-driven machine that converts wind energy into electrical power for the primary purpose of resale or off-site use.

**WINERY** shall mean a commercial, bonded facility for the fermentation and processing of grapes or other products into wine, or the re-fermentation of still wine into sparkling wine. The term winery shall include a winery visitor's center, which includes tour and tasting facilities, a gift shop for retail sales of wines and wine related items, and an eating facility in association with the winery such as a café, restaurant or delicatessen. A winery is permitted to have facilities for and to conduct events such as festivals, weddings, receptions, corporate parties and conferences. The winery shall be permitted to sell at retail from the premises wine by the glass and bottle to visitors for consumption on the premises as well as to sell at retail sealed bottles or other sealed containers of such wine for consumption off the premises.

**WIRELESS COMMUNICATIONS TOWER** shall mean a structure designed and constructed to support one or more antennas used by commercial wireless telecommunication facilities and including all appurtenant devices attached to it. A tower can be freestanding (solely self-supported by attachment to the ground) or



supported (attached directly to the ground with guy wires), of either lattice or monopole construction.

**YARD** shall mean any open space on the same lot with a building or a dwelling group, which open space is unoccupied and unobstructed from the ground upward to the sky, except for building projections or for accessory buildings or structures permitted by this Regulation.

**YARD, FRONT** shall mean a space between the front yard setback line and the front lot line or highway setback line and extending the full width of the lot.

**YARD, REAR** shall mean a space between the rear yard setback line and the rear lot line, extending the full width of the lot.

**YARD, SIDE** shall mean a space extending from the front yard, or from the front lot line where no front yard is required by this Regulation, to the rear yard, or rear lot line, between a side lot line and the side yard setback line.

**ZONED LOT** see Lot, Zoning.

**ZONING ADMINISTRATOR** shall mean the person or persons authorized and empowered by the Village to administer and enforce the requirements of these regulations.

**ZONING DISTRICT** shall mean the same as "District".

**ZONING DISTRICT, CHANGE OF** shall mean the legislative act of removing one (1) or more parcels of land from one (1) Zoning District and placing them in another Zoning District on the Official Zoning Map of the Village.

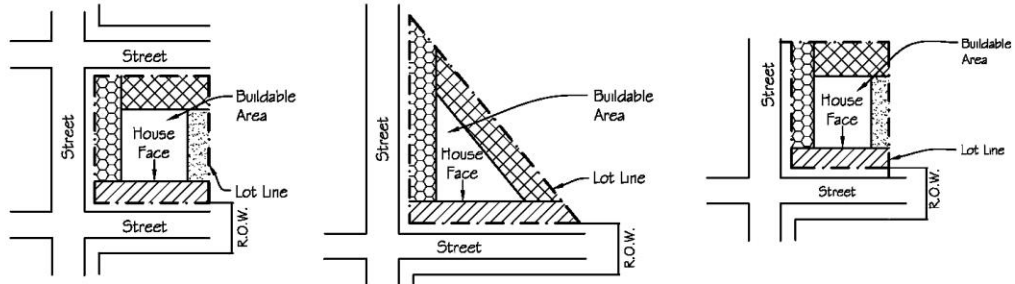
**ZONING PERMIT** shall mean a written statement issued by the zoning administrator authorizing buildings, structures, or uses in accordance with the provisions of this ordinance.

**ZOO** shall mean an area, building, or structures which contain wild animals on exhibition for public viewing.

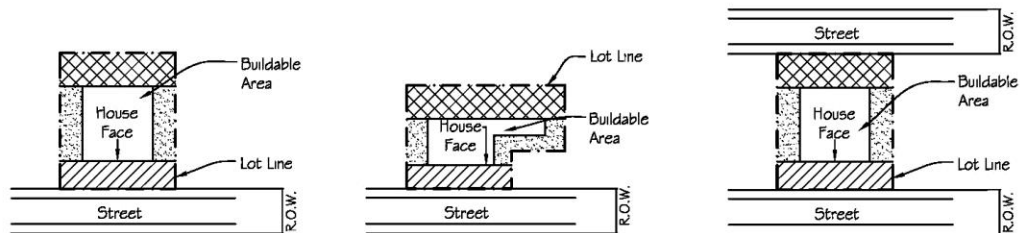
**ZOO ANIMALS** shall mean those animals that are kept in either a zoo or private zoo which are not native to Nebraska or the Great Plains region.

## Example of possible Lot Configurations and Yard Requirements

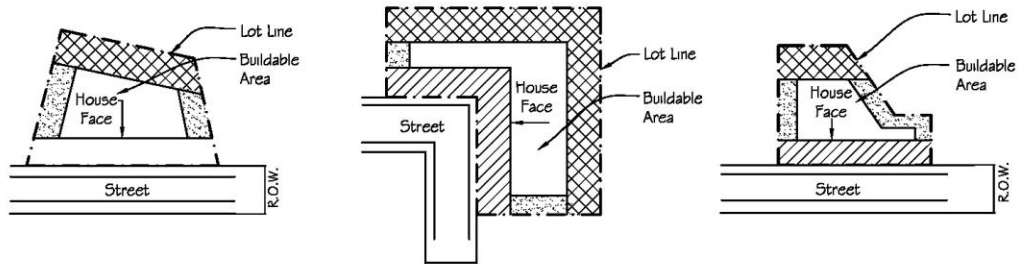
### Corner Lot Scenarios



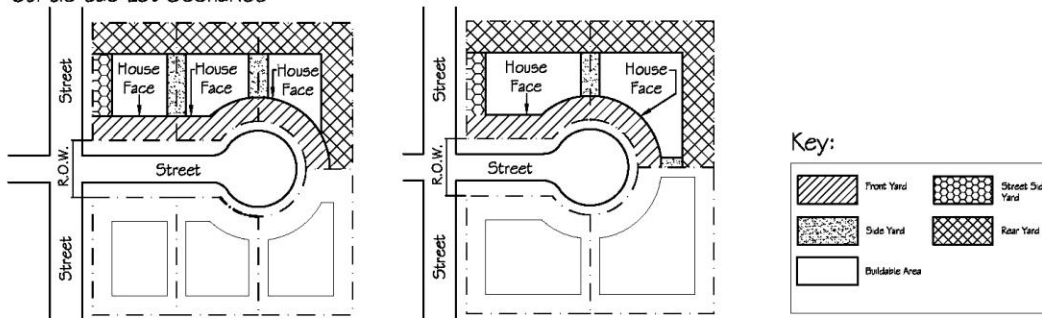
### Interior Lot Scenarios



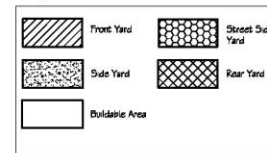
### Odd-Shaped Lot Scenarios



### Cul-de-sac Lot Scenarios



#### Key:



## ARTICLE 3: DISTRICTS AND OFFICIAL MAP

**Section 3.01 Districts.** In order to regulate and restrict the height, location, size and type of buildings, structures and uses allowed on land in the Village and the area within one mile of the corporate limits, the Village is hereby divided into districts.

**Section 3.02 Provision for Official Zoning Map.**

- A. The Village is hereby divided into districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Chair of the Board of Trustees of the Village of Roca, attested by the Clerk, and bearing the seal of the Village under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 3.02 of Ordinance No. 2018-04 of the Village of Roca, Nebraska", together with the date of the adoption of this Ordinance.

If, in accordance with the provisions of this Ordinance, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Village Board.

- B. 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 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 (Ordinance No. 2018-04) of the Village of Roca Nebraska."

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

## ARTICLE 4: GENERAL PROVISIONS

**Section 4.01 Planning Commission Recommendations.** Pursuant to Neb. Rev. Stat. §19-901 (R.R.S. 2012), it shall be the purpose of the Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein.

The Commission shall make a preliminary report and hold Public Hearings thereon before submitting its final report, and the Village Board shall not hold its Public Hearings or take action until it has received the final report of the Commission.

**Section 4.02 District Regulations, Restrictions, Boundary Creation.** No such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearings shall be given by publication thereof in a paper of general circulation in the Village at least one (1) time ten (10) days prior to such hearing.

**Section 4.03 Jurisdiction.** The provisions of this Ordinance shall apply within the corporate limits of the Village of Roca, Nebraska, and within the territory beyond said corporate limits as now or hereafter fixed, for a distance of up to one (1) mile in all directions, as established on the map entitled "The Official Zoning Map of the Village of Roca, Nebraska", and as may be amended by subsequent annexation.

**Section 4.04 Provisions of Ordinance Declared to be Minimum Requirements.** In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions of this Ordinance require a lower height of building or lesser size of yards, courts or other spaces, or require a lower height of building or lesser number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other ordinance, the provisions of this Ordinance shall govern. Wherever the provisions of any other ordinance requires a greater width or size of yards, courts, or other open spaces, or requires a lower height of building or a lesser number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the provisions of this Ordinance, the provisions of such ordinance shall govern.

**Section 4.05 Zoning Affects Every Building and Use.** No building, structure or land shall hereafter be reused and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, except that any structure damaged or destroyed may be restored if such structure does not involve a non-conforming use.

**Section 4.06 Lot.**

- A. Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot or lot of record and in no case shall there be more than one (1) principal building on a lot unless otherwise provided.
- B. More than one principal building of a single permitted use may be located upon a lot or tract in the following instances if recommended by the Planning Commission and approved by the Village Board:
  - 1. Institutional buildings.
  - 2. Public or semi-public buildings.
  - 3. Multiple-family dwellings.
  - 4. Commercial or industrial buildings.
  - 5. Homes for the elderly or handicapped.
  - 6. Agricultural buildings.

**Section 4.07 Reductions in Lot Area Prohibited.** No lot, even though it may consist of one (1) or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or

other requirements of this Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

**Section 4.08 Obstructions to Vision at Street Intersections Prohibited.** A corner lot, within the area formed by the center line of streets at a distance of ninety (90) feet from their intersections, there shall be no obstruction to vision between a height of three (3) feet and a height of ten (10) feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets. The requirements of this section shall not be deemed to prohibit any necessary retaining wall.

**Section 4.09 Yard Requirements.**

- A. Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.
- B. All accessory buildings, which are attached to principal buildings (e.g., attached garages), shall comply with the yard requirements of the principal building, unless otherwise specified.
- C. The Village Board may permit a variation in front yard setbacks to allow new or relocated structures to conform to the average existing setback provided that 1.) more than thirty (30) percent of the frontage on one side of a street between intersecting streets is occupied by structures on the effective date of this Ordinance, and 2.) a minority of such structures have observed or conformed to an average setback line with a variation of no more than six (6) feet.
- D. Any side or rear yard in a residential district which is adjacent to any existing industrial or commercial use shall be no less than twenty-five (25) feet and shall contain landscaping and planting suitable to provide effective screening.
- E. Any yard for a commercial or industrial use which is adjacent to any residential use or district shall be increased to forty (40) feet and shall contain landscaping and planting suitable to provide effective screening. Included in the increased yard, a solid or semi-solid fence or wall at least six (6) feet, but not more than eight (8) feet high shall be provided adjacent to an adjoining residential district unless the adjacent residential district and industrial district are separated by a street right-of-way. The owner or owners of the property in the Industrial District shall maintain said fence or wall in good condition. Said fencing shall be constructed of commercially available fencing.

**Section 4.10 Drainage.** No building, structure, or use shall be erected on any land, and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Anyone desiring to build or otherwise change the existing drainage situation shall be responsible for providing appropriate documentation to the Village or their designated agent that such changes will not be a detriment to the neighboring lands.

**Section 4.11 Permitted Obstructions in Required Yards.** The following shall not be considered to be obstructions when located in the required yards:

- A. *All Yards.* Steps and accessibility ramps used for wheelchair and other assisting devices which are four (4) 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 twenty-four (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 eighteen (18) inches into the required yard; and fences or walls subject to applicable height restrictions are permitted in all yards.
- B. *Front Yards.* Bay windows projecting three (3) feet or less into the yard are permitted, if not on permanent foundations.
- C. *Rear and Side Yards.* Open off-street parking spaces or outside elements of central air conditioning systems.
- D. *Double Frontage Lots.* The required front yard shall be provided on each street.

- E. *Building Groupings.* For the purpose of the side yard regulation a group of business or industrial buildings separated by a common wall shall be considered as one (1) building occupying one (1) lot.

**Section 4.12 Accessory Building and Uses.**

- A. No accessory buildings shall be constructed upon a lot for more than six (6) months prior to beginning construction of the principal building. No accessory building shall be used for more than six (6) months unless the main building on the lot is also being used or unless the main building is under construction; however, in no event shall such building be used as a dwelling unless a Zoning Permit and Certificate of Zoning Compliance shall have been issued for such use. If unforeseen circumstances happen a six (6) month extension may be permitted only once.
- B. No detached accessory building or structure shall exceed the maximum permitted height of the principal building or structure, unless specifically exempted within the zoning district. All accessory buildings which are attached to principal building (e.g. attached garages) shall comply with the yard requirements of the principle building, unless otherwise specified.
- C. No accessory building shall be erected in or encroach upon the required side yard on a corner lot or the front yard of a double frontage lot.
- D. Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than ten (10) feet, or as provided for in the district regulations.
- E. Detached garages and outbuildings in Residential District(s) used for storage or other similar purposes shall conform to the following minimum criteria:
1. Be constructed of materials that are similar to materials used in residential construction.
  2. The side walls of said structure shall not exceed ten (10) feet in height.
  3. The garage shall have an overhang of at least six (6) inches.
  4. The garage shall have a maximum width of 36 feet.
  5. Special consideration will be considered outside village limits, but within Roca's jurisdiction.
- F. 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 (15) feet from street lines.
  3. Storage of an unlicensed boat, boat trailer, camp trailer, or other vehicle shall not be permitted in any required yard.
  4. Accessory swimming pools that are seasonal or permanent, open and unenclosed may occupy a required rear or side yard, provided they are not located closer than three (3) feet to a rear or an interior side lot line. A walk space at least three (3) feet wide shall be provided between pool walls and protective fences or barrier walls. All swimming pools shall be enclosed by an approved fence and lockable gate which shall be at least four (4) feet in height.
- G. Exemptions to Zoning Ordinance: Detached structures: 1) at or below one-hundred (100) square feet in area, 2) side walls not exceeding ten (10) feet in height, and 3) not located upon a permanent foundation are exempt from this Ordinance and do not require issuance of a Zoning Permit and/or Certificate of Zoning Compliance.

**Section 4.13 Permitted Modifications of Height Regulations.** When permitted in a district, public or semi-public service buildings, hospitals, institutions, or schools may be erected to a height not exceeding seventy-five (75) feet when each required yard line is increased by at least one (1) foot for each one (1) foot of additional building height above the height regulations for the district in which the building is located.

**Section 4.14 Regulations for Fences and Hedges.** Except as provided in Section 4.11 of this Article, fences, hedges or shrubbery may be erected, placed, maintained, or grown along a lot line to a height not exceeding six (6) feet above the ground level, except that **NO** such fence, wall hedge, or shrubbery which is located in a required front or corner side yard shall exceed a height of four (4) feet, unless located within the required sight triangle otherwise required by this regulation.

Exemptions to Zoning Ordinance: Fences at or below thirty-two (32) inches or two and one-half (2½) feet to ground level are exempt from this Ordinance and do not require issuance of a Zoning Permit and/or Certificate of Zoning Compliance.

**Section 4.15 Occupancy of Basements and Cellars.** No basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed.

**Section 4.16 Non-Conforming, General Intent.** It is the intent of this ordinance to permit lawful non-conformities to continue until they are removed, but not encourage their survival. Such uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this ordinance that non-conformities shall not be enlarged upon, expanded or extended nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district except as may be authorized in this title.

**Section 4.17 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 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 4.18 Nonconforming Structures.**

- A. *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 may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.
- B. *Enlargement, Repair, Alterations:* Any such structure described in Section 4.19(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 unless otherwise approved or as specified in the Residential District(s).
- C. *Damage or Destruction:* In the event that any structure described in Section 4.19(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 4.18, shall not have a side yard of less than five (5) feet. When a structure is damaged to the extent of less than fifty percent (50%) of its structural value, no repairs or restoration shall be made unless a zoning permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.

- D. *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 4.19 Nonconforming Uses.**

- A. *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:
1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;
  2. 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.
  3. If any such nonconforming use of land ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.
- B. *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:
1. 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;
  2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance but no such use shall be extended to occupy any land outside such building;
  3. If no structural alterations are made, any nonconforming use of a structure or structures and premises may be changed to another nonconforming use provided that the 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 safeguards in accord with the provisions of this ordinance;
  4. Any structure, or structure and land in combination, in any or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed;
  5. When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for twelve (12) consecutive months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located;
  6. Where nonconforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming statutes of the land.

#### **Section 4.20 Repairs and Maintenance.**

- A. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of non-



bearing walls, fixtures, wiring or plumbing provided that the cubic content of the building as it existed at the time of passage of amendment of this ordinance shall not be increased.

- B. 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 4.21 Uses under a Conditional Use Permit not Nonconforming Uses.** Any use for which a conditional use permit is issued as provided for in this regulation shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

**Section 4.22 Recreational Vehicles.** Major recreational equipment such as boats, boat trailers, travel trailers, pick-up campers or coaches, motor homes, camping buses or converted trucks, tent trailers and other similar vehicles shall not be stored in a residential district except within an enclosed building, or in the rear yard. In no case shall recreational equipment encroach onto any public property, existing sidewalk, or within an area where a future sidewalk would be constructed.

**Section 4.23 Fees.** All fees for any zoning or subdivision related action shall be required prior to the issuance or investigation of any said permit request. Fees shall be adopted by the Village Board by separate Ordinance.

## ARTICLE 5: DISTRICT AND DISTRICT MAPS

**Section 5.01 Establishment of Districts; Use.** The following zoning district(s) are hereby established in order to regulate, permit, prohibit, and determine the location and use of buildings, structures, and other premises for business, industry, residence, agriculture and other purposes; to regulate and restrict the location, bulk, height, and size of buildings hereafter erected, constructed, or structurally altered; and to regulate and restrict the areas and dimensions of yards and other open spaces.

<u>District Designation</u>	<u>District Name</u>
(AGX)	Exclusive Agricultural
(AGR)	Agricultural-Rural
(R)	Residential
(C)	Commercial
(I)	General Industrial
(FPO)	Floodplain Overlay

**Section 5.02 Districts; Boundaries.** The location and boundaries of the districts established by this Ordinance are set forth on the zoning maps entitled “Village of Roca Zoning District Map (s), dated June 15, 1977 which are incorporated herein and hereby made a part of this Ordinance. This “Zoning District Map (s),” and all notations, dimensions, references, and symbols shown thereon pertaining to such districts shall be as much a part of this Ordinance as is fully described herein and shall be filed as part of this Ordinance. Said map shall be available for public inspection in the office of the Village Clerk. Such map shall be marked “Official Copy—Not to be Altered.” This map together with subsequent applicable amendments shall be conclusive as to the current zoning status of land.

**Section 5.03 Interpretation of Zoning Boundaries.**

The following rules shall apply with respect to boundaries of the various districts as shown on the zoning district maps:

- A. In cases where a boundary line is given a position within a street or alley, easement, canal, navigable or non-navigable stream, it shall be deemed to be in the center of the right-of-way of the street, alley, easement, canal, or stream and if the actual location of such street, alley, easement, canal, or stream varies slightly from the location as shown on the district map, then the actual location shall control.
- B. District boundary lines are the center lines of highways, waterways, streets, alleys, and easements; or the right-of-way lines of railroads, expressways; or section, division of section, tract and lot lines; or such lines extended, unless otherwise indicated.
- C. In areas not subdivided into lots and blocks, wherever a district is indicated as a strip adjacent to and paralleling a street or highway, the depth of such strips shall be in accordance with dimensions shown on the maps measured at right angles from the center line of the street or highway, and length of frontages shall be in accordance with dimensions shown on the map from section, quarter section, or division lines, or center lines of streets and highways, or railroad right-of-ways unless otherwise indicated. Dimensions may be as noted on the map or, if not, as scaled.
- D. Where a district boundary line divides a lot in single ownership on the effective date of this Ordinance, the Planning Commission, after due public hearing, may extend the regulations for either portion of such lot.
- E. All locations of district boundary lines which cannot be determined by one or a combination of the above rules shall be determined by the Board of Appeals.
- F. If because of error, omission, or modification in the Zoning District Map (s), any property in the jurisdiction of this Ordinance is not shown as being in a zoning district, the classification of such property shall be classified “AGX-Agricultural” until changed by amendment.

**Section 5.04 Jurisdiction.** The Village Board of Trustees shall control and enforce the zoning of all land within the Village limits of Roca and the area within one mile thereof.

**Section 5.05 Regulation of Areas Under Water.** All areas within the zoning jurisdiction of the Village which are under water are considered to be within a zoning district and controlled by applicable district regulations. District boundaries over water areas are located by noted or scaled dimensions, by relation to physical features, by coincidence with the Village limit line, or by a straight-line projection of the district boundaries as indicated on the district maps. Straight line district boundaries over water areas shall be assumed to continue as straight lines until they intersect with each other or with the Village limit line.

**Section 5.06 Schedule of Lot, Yard, and Bulk Regulations.** The Schedule of Lot, Yard, and Bulk Regulations, together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this Ordinance. Within each zoning district, the stated requirements shall apply unless otherwise specified.

**Section 5.07 Classification of Districts Upon Annexation and Conformance with the Land Use Plan.** Areas annexed into the corporate limits of Roca shall be zoned to conform with the future Land Use Plan and Map.

**Section 5.08 (AGX) Exclusive Agricultural District.**

- A. Intent: The intent of the Exclusive Agricultural District is to provide for a full range of agricultural and horticultural uses and to protect these established uses from encroaching development. The district is also intended to prevent premature urbanization in areas where public utilities, roads, and other public facilities are planned to meet rural needs only and where present public programs do not propose installations suitable for development at higher densities.
- B. **Permitted Uses:**
1. Farming, pasturing, truck gardening, orchards, greenhouses and nurseries, including the sale of products raised on the premises, provided that no livestock feedlot or yard for more than twelve (12) animals be established.
  2. Farm dwellings for the owners and their families, tenants, and employees.
  3. Single family dwellings.
  4. Public overhead and underground local distribution utilities.
  5. Public parks and recreation areas, playgrounds, forest and conservation areas including flood control facilities.
  6. Stables and riding academies.
- C. **Permitted Conditional Uses:** The following conditional uses may be permitted subject to approval procedures outlined in Article 6 of these regulations:
1. Airports and airfields.
  2. Camping areas, day or overnight, seasonal or temporary or other similar uses.
  3. Cemeteries, provided all structures are located at least two hundred (200) feet from all property lines.
  4. Greenhouses and nurseries including retail sales on the premises.
  5. Hospitals and institutions of an educational religious, charitable, philanthropic nature; provided such buildings shall not be located upon sites containing an area of less than five (5) acres.
  6. Home Occupations as provided for in Section 7.07 of these Regulations.
  7. Livestock auction sales.
  8. Other publicly owned buildings and uses not specifically listed elsewhere in this district.
  9. Privately owned parks, playgrounds, recreation areas and facilities including country clubs, golf courses (but not miniature golf), campgrounds, youth camps, guns clubs, rodeo arenas, archery and trap skeet shooting ranges and swimming pools.
  10. Radio, television and communication transmitting towers as provided for in Section 7.06 of these Regulations.
  11. Veterinarian offices and hospitals.
  12. Wastewater treatment facilities.
  13. Wind Energy Systems on tracts of more than ten (10) acres.
- D. **Accessory Uses:** The following accessory uses are permitted in the AGX Exclusive Agricultural District:
1. Buildings and uses customarily incidental to the permitted uses.
  2. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
  3. Signs as provided for in Article 7.
  4. Parking as provided for in Article 7.
- E. **Use Limitations:** None

**Section 5.09 (AGR) Agricultural-Rural District.**

- A. Intent: The intent of the Agricultural-Rural District is to preserve agricultural resources that are compatible with adjacent community and urban areas. It is not intended to accommodate commercial feedlot operations for livestock or poultry. The district is not in the identified growth areas for Roca.
- B. **Permitted Uses:**
1. Single family dwellings.
  2. Churches and other places of worship.
  3. Farming, pasturing, truck gardening, orchards, greenhouses and nurseries, including the sale of products raised on the premises, provided that no livestock feedlot or yard for more than twelve (12) animals be established.
  4. Farm dwellings for the owners and their families, tenants, and employees.
  5. Public or private schools.
  6. Public overhead and underground local distribution utilities.
  7. Public parks and recreation areas, playgrounds and conservation areas including flood control facilities.
  8. Stables and riding academies.
- C. **Permitted Conditional Uses:** The following conditional uses may be permitted subject to approval procedures outlined in Article 6 of these regulations:
1. Agricultural attraction subject to the following criteria:
    - a. Rides shall be limited to hayrack rides.
    - b. Parking shall be in conformance with Section 7.02
    - c. The site for the agricultural attraction shall be on the same premises as the main residence of the owner or operator of the attraction.
    - d. The use of the agricultural attraction will primarily be for one-day activities. It shall not be open for use more than three days per week.
    - e. The agricultural attraction and any accessory building shown on the site plan shall not be relocated, altered, or enlarged unless approved by the village.
  2. Airports and airfields.
  3. Camping areas, day or overnight, seasonal or temporary or other similar uses.
  4. Cemeteries, provided all structures are located at least two hundred (200) feet from all property lines.
  5. Community hall subject to the following criteria:
    - a. Parking shall be in conformance with Section 7.02
    - b. The use of the community hall will primarily be for one-day activities. It shall not be open for use more than three days per week.
    - c. The community hall and any accessory building shown on the site plan shall not be relocated, altered, or enlarged unless approved by the village.
  6. Greenhouses and nurseries including retail sales on the premises.
  7. Hospitals and institutions of an educational religious, charitable, philanthropic nature; provided such buildings shall not be located upon sites containing an area of less than five (5) acres.
  8. Home Occupations as provided for in Section 7.07 of these Regulations.
  9. Kennels-Boarding, Training and Commercial, subject to the following conditions:
    - a. All kennels shall be located at least 1,320 feet from a residential district.
    - b. The minimum lot size shall not be less than one acre.
    - c. No kennel buildings or runs shall be located nearer than seventy (75) feet to any property line.
    - d. The kennel shall be completely enclosed by fencing of sufficient height to retain the dogs kept within said kennel. If necessary, fencing may be required across the top of any such kennel in order to retain a dog within the kennel. An enclosed ground area 48 square feet per dog shall be provided.
  10. Livestock auction sales.
  11. Other publicly owned buildings and uses not specifically listed elsewhere in this district.

12. Privately owned parks, playgrounds, recreation areas and facilities including country clubs, golf courses (but not miniature golf), campgrounds, youth camps, guns clubs, rodeo arenas, archery and trap skeet shooting ranges and swimming pools.
13. Radio, television and communication transmitting towers as provided for in Section 7.06 of these Regulations.
14. Raising and care of animals for 4-H, Future Farmer of America (FFA) or other rural/school organizations.
15. Veterinarian offices and hospitals.
16. Wastewater treatment facilities.
17. Wind Energy Systems on tracts of more than ten (10) acres.
18. Residential acreage's subject to the following conditions:
  - a. Said acreage meets a density requirement of one (1) non-farm residence on not less than three (3) acres per twenty (20) acres along a graveled or hard surfaced County Road. If additional non-farm residences are requested, then the applicant shall be required to subdivide the property in accordance with the Village's Subdivision Regulations. The Village Planning Commission and Village Board may require access roads and/or platted streets to accommodate said development. The Zoning Administrator shall have the authority to Administratively vary the 20 acre provision by up to 10% when the 20 acre requirement has been lessened due to acquisition of right-of-way by any governmental entity or section lines have been modified as a correction line.
  - b. Access to said property is a minimum distance of 475 feet from centerline intersection of any county road.
  - c. Within the allowable distance to any confined feeding operation.
  - d. Soils are suitable for a private septic system and the proper testing has been completed.

- D. **Accessory Uses:** The following accessory uses are permitted in the AGR Agricultural-Rural District:
1. Buildings and uses customarily incidental to the permitted uses.
  2. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
  3. Signs as provided for in Article 7.
  4. Parking as provided for in Article 7.
- E. **Use Limitations:** None

### **Section 5.10 (R) Residential District.**

- A. **Intent.** The intent of the Residential District is to provide for a mix of residential developments, including single-family, two-family and multi-family residences, in locations where all public facilities and supporting facilities to maintain and encourage a residential character similar to existing neighborhoods in the community are provided.
- B. **Permitted Uses:**
1. Single family dwellings.
  2. Two-family dwellings.
  3. Boarding or lodging houses.
  4. Cemeteries not including mausoleums.
  5. Churches and other places of worship.
  6. Child Care Centers.
  7. Child Care Homes.
  8. Elderly Day Care Centers.
  9. Hospitals.
  10. Life care facility or congregate housing.
  11. Public parks and playgrounds.
  12. Public or private schools.
- C. **Permitted Conditional Uses:** The following conditional uses may be permitted subject to approval procedures outlined in Article 6 of these regulations:
1. Single family attached dwellings, except that more than two units may be attached.
  2. Condominiums.
  3. Group housing.
  4. Multiple-family dwellings.
  5. Public utility main transmission lines including substations, distribution centers, regulator stations, pumping, storage, equipment buildings, garages, towers, or similar public service uses.
  6. Private recreation areas such as, country clubs, golf courses, lakes, common areas and swimming pools.
  7. Home Occupations as provided for in Section 7.07 of these regulations.
  8. Non-profit institutions of an educational, philanthropic or charitable nature, except for penal or mental institutions.
  9. Mortuaries.
- D. **Accessory Uses:** The following accessory uses are permitted in the R Residential District:
1. Buildings and uses customarily incidental to the permitted uses.
  2. No home-based businesses shall be allowed in accessory building
  3. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
  4. No accessory building shall exceed the ground floor coverage of the principal dwelling.
  5. No accessory building shall exceed the height of the principal dwelling
  6. Maximum of two (2) accessory buildings
  7. Unattached accessory buildings must be at minimum ten (10) feet apart
  8. Signs as provided for in Article 7.
  9. Parking as provided for in Article 7.
  10. Swimming Pool
- E. **Use Limitations:** None

### **Section 5.11 (C) Commercial District.**

- A. **Intent.** The General Commercial District is intended to provide a compact area of retail and office uses to serve portions of the community. The edge of such districts shall be designed to provide compatibility with residentially zoned properties

B. **Permitted Uses**

1. Retail and Service establishments carried on within an enclosed building.
2. Business services such as banks; insurance; real estate; offices; postal stations; printing; credit services; security brokers, dealers, and exchange; title abstracting, savings and loans; finance services; and investment services
3. Clothing and apparel services, such as dressmaking, millinery, shoe repair, furrier, and tailors.
4. Cleaning establishments such as laundromats, dry cleaning and laundries
5. Equipment sales and services such as radio and television shops, business machines, musical instrument shops, sewing machines, plumbing and heating and electrical fixtures
6. Personal services such as barber shops, beauty salons, reducing or weight loss salons, and photographic studios
7. Retail stores such as food markets, delicatessen, bakery, candy store, fruit and vegetable store, department store, drug stores, haberdasheries, books and stationery, newspaper distribution, shoe and apparel shops, hobby, camera and sporting goods, dry goods, furniture, household appliances, home furnishings, hardware, gift, jewelry, variety stores, retail mail order stores, confectionery, retail dairy stores, clothing and furnishings store, radio, electronics and music store, retail liquor store, antiques, cigar and tobacco, retail paint stores, flower shops, wallpaper, drapery, or floor covering store, convenience mart (with gasoline sales) and camera shops.
8. Food service, such as eating and drinking establishments
9. Motels, hotels
10. Civic and cultural facilities including auditoriums, civic centers, fire stations and other safety services facilities
11. Professional services, such as medical and health services, legal services, engineering, architectural, educational, accounting, planning, management consulting, police and security services
12. Public overhead and underground local distribution utilities.
13. Mortuaries, funeral homes, and funeral chapels.
14. Transportation depots such as railroad passenger station, bus station.
15. Cocktail lounges and taverns.

C. **Permitted Conditional Uses**

1. Retail lumberyard and building materials sales yards
2. Retail farm implements, equipment, supplies, and feed
3. Auto sales and service.
4. Utility substations and communications
5. Churches, temples, seminaries, and convents including residences for teachers and pastors.
6. Wholesale distribution houses and warehouses
7. Carting, express and hauling truck terminals
8. Second-hand stores and auction activities within an enclosed building
9. Gasoline service stations with service and/or repair
10. Retail tires, batteries, accessories, and service
11. Retail boats, marine crafts, and accessories
12. Auto repair services
13. Auto wash services
14. Recreational establishments such as bowling alleys, billiard halls.
15. Furniture repair and re-upholstery services
16. Laundry pickup and delivery stations.
17. Drive-in restaurants.



18. Printing and publishing.
  19. Satellite dish antennas that conform to the supplementary regulations of this Ordinance
  20. Child care center
  21. Offices or headquarters for services such as plumbers, electricians, and other trades, when such uses are consistent with a commercial district.
  22. Outdoor Storage Containers, limited to two containers per business and subject to Section 7
- D. **Accessory Uses**
1. Building uses customarily incidental and accessory to the permitted principal uses
  2. Living quarters used by watchman or custodians of the commercially used property
  3. Parking lots, off-street, public, and private
  4. Parking as allowed in Article 7.
  5. Signs allowed in Article 7.
- E. **Use Limitations:** None

### **Section 5.12 (I) General Industrial District.**

- A. Intent: The intent of the General Industrial District is to provide locations for limited industry, wholesaling and storage activities.

Adult Establishments are permitted uses in this Zoning District but are regulated to control the negative secondary effects of these uses, as set forth in Article 7, Section 7.08.

**B. Permitted Uses:**

1. Animal hospital or clinic.
2. Bottling works.
3. Building materials, storage and sales.
4. Carpenter, cabinet, plumbing and sheet metal shop.
5. Contractor's office and equipment storage yard, providing the storage yard is completely enclosed with a six-foot solid fence, wall or hedge.
6. Dog kennels.
7. Dry cleaning and laundry plants.
8. Feed and seed stores.
9. Food processing.
10. Frozen food lockers.
11. Grain elevators
12. Greenhouse and nurseries, retail and wholesale.
13. Light manufacturing or fabrication establishments, which are not noxious or offensive by reason of vibration, noise, dust, fumes, gas, odor or smoke.
14. Machinery sales, service and storage.
15. Mini-warehouses or self-service storage facility.
16. Monument sales.
17. Motor vehicle body shop, provided that all work shall be performed and all materials shall be stored within an enclosed building; and provided further that all operable or inoperable motor vehicles determined by the Zoning Administrator to be a safety hazard or visual blight shall be screened from public view and access by a solid or semi-solid fence having a minimum height of six (6) feet and a visual density of no less than 90%.
18. Motor vehicle repair service, provided that all work shall be performed and all materials shall be stored within an enclosed building; and provided further that all operable or inoperable motor vehicles determined by the Zoning Administrator to be a safety hazard or visual blight shall be screened from public view and access by a solid or semi-solid fence having a minimum height of six (6) feet and a visual density of no less than 90%.
19. Motor vehicle sales and storage.
20. Municipal storage yards.
21. Public utility and public service uses as follows:
  - a. Substations.
  - b. Railroads.
  - c. Telephone exchange, microwave towers, radio towers, television towers, telephone transmission buildings, electric power plants.
  - d. Public utility storage yards when the entire storage area is enclosed by at least a six (6) foot wall or fence.
22. Service stations.
23. Sign painting and manufacturing.
24. Truck and rail terminals.
25. Upholstering shops.
26. Warehousing or storage except for products of a highly explosive, combustible or volatile nature.
27. Welding and blacksmith shop.
28. Wholesale establishments except those which handle products of a highly explosive, combustible or volatile nature.

- C. **Permitted Conditional Uses:** The following conditional uses may be permitted subject to approved procedures outlined in Article 6 of these regulations.
1. **Adult Entertainment Establishments**
    - a. No Adult business shall be closer than 1,000 feet to any similar use and no closer than 1,000 feet to a residential district/use, religious uses, educational uses and recreational uses. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult business to the point on the property line of such other adult business, residential district/use, religious use, educational use, and recreational use.
    - b. Said businesses shall be screened along adjoining property lines as to prevent any direct visual contact of the adult business at the perimeter.
    - c. Doors, curtains and any other means of obstruction to the opening of all booths and other preview areas, including but not limited to Adult Novelty Businesses, Adult Motion Picture Arcades, Adult Mini-Motion Picture Theaters, and Adult Motion Picture Theaters shall be removed and kept off at all times during the execution of this Permit. Failure to comply with this condition shall result in revocation of the Conditional Use Permit.
    - d. No adult business shall be open for business between the hours of twelve midnight and six a.m.
    - e. The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety, and general welfare of persons residing or working in adjoining or surrounding property.
    - f. Such use shall not impair an adequate supply of light and air to surrounding property.
    - g. Such use shall no unduly increase congestion in the streets or public danger of fire and safety.
    - h. Such use shall not diminish or impair established property values in adjoining or surrounding property.
    - i. Such use shall be in accord with the intent, purpose and spirit of this Ordinance and the Comprehensive Development Plan of the Village of Roca, Nebraska.
    - j. Applications for adult businesses under the terms of this Section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan defining the areas to be developed for buildings and structures, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls, the location and type of landscaping, and the location, size and number of signs.
    - k. An adult business shall post a sign at the entrance of the premises that shall state the nature of the business and shall state that no one under the age of eighteen (18) years of age is allowed on the premises. This Section shall not be construed to prohibit the owner from establishing an older age limitation for coming on the premises.
    - l. **Prohibited Activities of Adult Businesses**
      1. No adult business shall employ any person under eighteen (18) years of age.
      2. No adult business shall furnish any merchandise or services to any person who is under the age of eighteen (18).
      3. No adult business shall be conducted in any manner that permits the observation of any model or any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use. No operator of an adult business or any officer, associate, member, representative, agent, owner, or employees of such business shall engage in any activity or conduct in or about the premises which is prohibited by this Ordinance or any other laws of the State.
      4. No part of the interior of the adult business shall be visible from the pedestrian sidewalk, walkway, street, or other public or semi-public area.
  2. Fire arm sales and retail shops, subject to the following conditions;

- a. Meet all State and Federal Regulations regarding fire arms and explosives.
- b. Will not pose a risk to human life or safety.
- c. Will not have an adverse effect on the environment.

D. **Permitted Accessory Uses:** The following accessory uses are permitted in the I General Industrial District:

- 1. Buildings and uses customarily incidental to the permitted uses.
- 2. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
- 3. No accessory building shall exceed the ground floor coverage of the principal dwelling.
- 4. Parking as provided for in Article 7.
- 5. Signs as provided for in Article 7.

E. **Performance Standards:**

- 1. **Physical Appearance:** All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. 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 storage of vehicles, boats, farm machinery, trailers, mobile homes, or similar equipment when in operable condition.
- 2. **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 Roca.
- 3. **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. 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.
- 4. **Sewage and Liquid Wastes:** No operation shall be carried on which involves the discharge into a sewer, water course, or the ground, 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.
- 5. **Air Contaminants:**
  - a. 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.
  - b. Particulate mater 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.
  - c. 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.
- 6. **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 regulation.

7. **Gasses:** The gasses sulfur dioxide and hydrogen sulphide shall not exceed five (5) parts per million, carbon monoxide shall not exceed five (5) parts per million. All measurements shall be taken at the property line.
8. **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 thousandths (0.003) of an inch measured at the property line. The use of steam or broad hammers shall not be permitted in this zone.
9. **Glare and heat:** All glare, such as welding arcs and open furnaces shall be shielded so that they shall not be visible from the property line. No heat from furnaces or processing equipment shall be sensed at the property line to the extent of raising the temperature of air or materials more than five (5) degrees Fahrenheit.

F. **Use Limitations:**

1. All operations and activities shall be conducted within a building or buildings, however, storage may be maintained outside said building or buildings provided said storage area is properly screened from adjacent streets and residential areas.
2. A solid or semi-solid fence or wall at least six (6) feet, but not more than eight (8) feet high, and having a density of not less than seventy (70) percent per square foot, shall be provided adjacent to an adjoining residential district unless the adjacent residential district and the industrial district are separated by a street right-of-way. Said fence or wall shall be maintained in good condition by the owner or owners of the property in the "I" District.
3. No building shall be used for residential purposes except that a watchman may reside on the premises within the principal building.
4. When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in the required front yard within fifteen (15) feet of such district.

## **Section 5.13 (FPO) Floodplain Overlay District**

### **A. Statutory Authorization, Findings of Fact and Purposes**

1. Statutory Authorization  
The Legislature of the State of Nebraska has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety, general welfare, and property of the people of the state. The Legislature, in *Nebraska Revised Statutes* Sections 31-1001 to 31-1023 (as amended), has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the county, city, or village with zoning jurisdiction over the floodprone area. Therefore the Village Board of Roca, Nebraska ordains as follows:
2. Findings of Fact
  - a. Flood Losses Resulting from Periodic Inundation  
The flood hazard areas of Roca, Nebraska are subject to inundation that results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
  - b. General Causes of the Flood Losses  
These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities as well as the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others that are inadequately elevated or otherwise unprotected from flood damages.
3. Statement of Purpose  
It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 2 by applying the provisions of this ordinance to:
  - a. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
  - b. Require that uses vulnerable to floods, including public facilities that service such uses, be provided with flood protection at the time of initial construction.
  - c. Reduce financial burdens from flood damage borne by the community, its governmental units, its residents, and its businesses by preventing excessive and unsafe development in areas subject to flooding.
  - d. Assure that eligibility is maintained for property owners in the community to purchase flood insurance from the National Flood Insurance Program.
4. Adherence to Regulations  
The regulations of this ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the Nebraska Minimum Standards for Floodplain Management Programs as published in the Nebraska Administrative Code Title 455, Chapter 1.

### **B. General Provisions**

1. Lands to Which Ordinance Applies  
This ordinance shall apply to all lands within the jurisdictions of the Roca identified on the Flood Insurance Rate Map (FIRM) panels 31109C0445G, 31109C0445G, and 31109C0444G dated April 16, 2013. In all areas covered by this ordinance, no development shall be allowed except upon the issuance of a floodplain development permit to develop, granted by the floodplain administrator or the governing body under

such safeguards and restrictions as the Village Board or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Sections D and E.

2. Rules for Interpretation of District Boundaries

The boundaries of the floodway and the flood fringe overlay districts shall be determined by scaling distances on the official zoning map or on the effective Flood Insurance Rate Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the zoning or other community map, the floodplain administrator shall make the necessary interpretation. In such cases where the interpretation is contested, the Planning Commission will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present their case to the Planning Commission and to submit their own technical evidence, if so desired.

3. Compliance

Within identified floodplains of this community, no development shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

4. Abrogation and Greater Restrictions

This ordinance does not intend to repeal, abrogate, or impair any existent easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

5. Interpretation

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

6. Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside floodway and flood fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This ordinance shall not create liability on the part of Roca or any officer or employee thereof for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

7. Severability

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

**C. Establishment of Zoning Districts**

The mapped floodplain areas within the jurisdiction of this ordinance are hereby established as the floodplain overlay district, as identified in the Flood Insurance Study dated April 16, 2013 and on accompanying FIRM panels as established in Section B.1. The floodplain overlay district shall correspond to flood zone A. Within this district, all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited.

#### **D. Floodplain Management Administration**

1. Designation of Floodplain Administrator

The floodplain administrator (floodplain administrator, e.g. clerk, engineer, zoning administrator, etc.) of the community is hereby designated as the community's local floodplain administrator. The floodplain administrator is authorized and directed to administer, implement, and enforce all provisions of this ordinance. If the local floodplain administrator position is unfilled, the community CEO shall assume the duties and responsibilities herein.

2. Permits Required

A floodplain development permit shall be required before any development, construction, or substantial improvement is undertaken. No person, firm, corporation, government agency, or other entity shall initiate any floodplain development without first obtaining a floodplain development permit.

3. Duties of the Floodplain Administrator

a. Duties of the floodplain administrator shall include, but not be limited to the following:

- i. Review, approve, or deny all applications for floodplain development permits.
- ii. Review all development permit applications to assure that sites are reasonably safe from flooding and that the permit requirements of this ordinance have been satisfied.
- iii. Review applications for proposed development to assure that all necessary permits have been obtained from those federal, state, or local government agencies from which prior approval is required.
- iv. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding.
- v. Coordinate with the Nebraska Department of Natural Resources to obtain base flood elevation information when applicable and required.
- vi. Notify adjacent communities and the Nebraska Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.
- vii. Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.
- viii. Verify, record, and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures in the floodplain.
- ix. Verify, record, and maintain record of the actual elevation (in relation to mean sea level) to which all new or substantially improved structures have been floodproofed.
- x. Verify, record, and maintain record of all improved or damaged structures to ensure compliance with standards in applicable sections. Track value of improvements and market value with permits. Also, ensure consistent market value estimations to evaluate against damaged or improved values.
- xi. Ensure comprehensive development plan as amended is consistent with this



ordinance.

- xii. In the event the floodplain administrator discovers work done that does not comply with applicable laws or ordinances, the floodplain administrator shall revoke the permit and work to correct any possible violation in accordance with this ordinance.

#### 4. Application for Permit and Demonstration of Compliance

- a. To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:
  - i. Identify and describe the proposed development and estimated cost to be covered by the floodplain development permit.
  - ii. Describe the land on which the proposed development is to be done by lot, block, tract, and house and streets address, or similar description that will readily identify and definitely locate the proposed building or development.
  - iii. Indicate the use or occupancy for which the proposed development is intended.
  - iv. Be accompanied by plans and specifications for proposed construction.
  - v. Be signed by the permittee and authorized agent who may be required to submit evidence to indicate such authority.
- b. If any proposed development is located entirely or partially within a floodplain, applicants shall provide all information in sufficient detail and clarity to enable the floodplain administrator to determine that:
  - i. All such proposals are consistent with the need to minimize flood damage;
  - ii. All utilities and facilities such as sewer, gas, water, electrical, and other systems are located and constructed to minimize or eliminate flood damage;
  - iii. Structures will be anchored to prevent flotation, collapse, or lateral movement;
  - iv. Construction materials are flood resistant;
  - v. Appropriate practices to minimize flood damage have been utilized; and
  - vi. Electrical, heating, ventilation, air conditioning, plumbing, and any other service facilities have been designed and located to prevent entry of floodwaters.
- c. For all new and substantially improved structures, an elevation certificate based upon the finished construction certifying the elevation of the lowest floor, including basement, and other relevant building components shall be provided to the floodplain administrator and be completed by a licensed surveyor, engineer, or architect.
- d. When floodproofing is utilized for an applicable structure, a floodproofing certificate shall be provided to the floodplain administrator and be completed by a licensed professional engineer or architect.
- e. Any other such information as reasonably may be required by the floodplain administrator shall be provided.

#### 5. Flood Data Required

- a. All Zone A areas on the FIRM are subject to inundation of the base flood; however, the base flood elevations are not provided. Zone A areas shall be subject to all development provisions of this ordinance. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation or floodway data currently available from federal, state, or other sources, including from a study

commissioned by the applicant pursuant to best technical practices.

- b. Until a floodway has been designated, no development or substantial improvement may be permitted within the floodplain unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one (1) foot at any location as shown in the Flood Insurance Study or on base flood elevation determinations.

## 6. Variances and Appeals

### Variances and Appeals Procedures

- a. The Planning Commission as established by Roca shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- b. The Planning Commission shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this ordinance.
- c. Any person aggrieved by the decision of the Planning Commission or any taxpayer may appeal such decision to the District Court as provided in *Nebraska Revised Statutes* Section 19-192.
- d. In evaluating such appeals and requests, the Planning Commission shall consider technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:
  - i. The danger to life and property due to flooding or erosion damage;
  - ii. The danger that materials may be swept onto other lands to the injury of others;
  - iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner, future owners, and neighboring properties;
  - iv. The importance of the services provided by the proposed facility to the community;
  - v. The necessity of the facility to have a waterfront location, where applicable;
  - vi. The availability of alternative locations that are not subject to flooding or erosion damage for the proposed use;
  - vii. The compatibility of the proposed use with existing and anticipated development;
  - viii. The relationship of the proposed use to the comprehensive plan and the floodplain management program for that area;
  - ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - x. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and,
  - xi. The costs of providing government services during and after flood conditions including emergency management services and maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges.

### Conditions for Variances

- a. Variances shall only be issued upon a showing of good and sufficient cause and

also upon a determination that failure to grant the variance would result in an exceptional hardship to the applicant.

- b. Variances shall only be issued based upon a determination that the granting of a variance will not result in increased flood heights.
- c. Variances shall only be issued based upon a determination that the granting of a variance will not result in additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- d. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items e-h below have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- e. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure on the National Register of Historic Places and the variance is the minimum necessary to preserve the historic character and design of the structure.
- f. Variances shall only be issued upon a determination that the variance in the minimum necessary, considering the flood hazard, to afford relief.
- g. The applicant shall be given a written notice over the signature of a community that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and also that such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.
- h. All requests for variances and associated actions and documents, including justification for their issuance, shall be maintained by the community.

## 7. Enforcement

### a. Violations

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

### b. Notices

When the floodplain administrator or other authorized community representative determines, based on reasonable grounds, that there has been a violation of the provisions of this ordinance, the floodplain administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

- i. Be in writing;
- ii. Include an explanation of the alleged violation;
- iii. Allow a reasonable time for the performance of any remedial act required;
- iv. Be served upon the property owner or their agent as the case may require; and
- v. Contain an outline of remedial actions that, if taken, will bring the development

into compliance with the provisions of this ordinance.

c. Penalties

- i. Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person, firm, corporate, or other entity that violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
- ii. The imposition of such fines or penalties for any violation or non-compliance with this ordinance shall not excuse the violation or non-compliance or allow it to continue. All such violations or non-compliant actions shall be remedied within an established and reasonable time.
- iii. Nothing herein contained shall prevent the Roca or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

**E. Standards for Floodplain Development**

1. General Provisions

a. Alteration or Relocation of a Watercourse

- i. A watercourse or drainway shall not be altered or relocated in any way that in the event of a base flood or more frequent flood will alter the flood carrying characteristics of the watercourse or drainway to the detriment of upstream, downstream, or adjacent locations.
- ii. No alteration or relocation shall be made until all adjacent communities that may be affected by such action and the Nebraska Department of Natural Resources have been notified and all applicable permits obtained. Evidence of such notification shall be submitted to the Federal Emergency Management Agency.

b. Encroachments

- i. When proposing to permit any of the following encroachments, the standards in Section E.1 (b) (ii) shall apply:
  - (1) Any development in Zone A without a designated floodway that will cause a rise of more than one foot in the base flood elevation; or
  - (2) Alteration or relocation of a stream; then
- ii. The applicant shall:
  - (1) Apply to FEMA for conditional approval of such action via the Conditional Letter of Map Revision process (as per Title 44 of the Code of Federal Regulations, Chapter 1, Part 65.12) prior to the permit for the encroachments; and
  - (2) Supply the fully approved package to the floodplain administrator including any required notifications to potentially affected property owners.

## 2. Elevation and Floodproofing Requirements

### a. Residential Structures

- i. In Zone A, all new construction and substantial improvements shall have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation.

### b. Nonresidential Structures

- (1) In Zone A, all new construction and substantial improvements shall have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, floodproofed so that below one (1) foot above the base flood elevation: The structure is watertight with walls substantially impermeable to the passage of water and
- (2) The structure has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

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

### c. Space Below Lowest Floor

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

### d. Manufactured Homes

- i. Require that all manufactured homes to be placed or substantially improved within floodplains on sites:
  - (1) Outside of a manufactured home park or subdivision,
  - (2) In a new manufactured home park or subdivision,
  - (3) In an expansion to an existing manufactured home park or subdivision, or
  - (4) In an existing manufactured home park or subdivision on which a manufactured home as incurred substantial damage as the result of a flood,

Be elevated on a permanent foundation such that the lowest floor of the

manufactured home is at or above one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of this Section.

- ii. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within special flood hazard areas that are not subject to the provisions of Section E.2 (d) (2) be elevated so that either;
  - (1) The lowest floor of the manufactured home is at or above one (1) foot above the base flood elevation, or
  - (2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section E.2 (d) (iv).
- iii. New manufactured home parks of five (5) acres or fifty (50) lots, whichever is less, shall follow the standards of Section E.3 (h).
- iv. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:
  - (1) Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than 50 feet long requiring one additional tie per side;
  - (2) Frame ties be provided at each corner of the manufactured home with five additional ties per side at intermediate points and manufactured homes less than 50 feet long requiring four additional ties per side;
  - (3) Any additions to the manufactured home be similarly anchored.

e. Existing Structures

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

3. Design and Construction Standards

a. Anchoring

- i. All buildings or structures shall be firmly anchored to prevent flotation, collapse,

or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

- b. Building Materials and Utilities
  - i. All buildings or structures shall be constructed with materials and utility equipment resistant to flood damage. All buildings or structures shall also be constructed by methods and practices that minimize flood and flood-related damages.
  - ii. All buildings or structures shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- c. Drainage
  - i. Within Zones AO and AH, adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
- d. Water Supply and Sanitary Sewer Systems
  - i. All new or replacement water supply and sanitary sewer systems shall be located, designed, and constructed to minimize or eliminate flood damages to such systems and the infiltration of floodwaters into the systems.
  - ii. All new or replacement sanitary sewage systems shall be designed to minimize or eliminate discharge from the system into floodwaters.
  - iii. On-site waste disposal systems shall be located and designed to avoid impairment to them or contamination from them during flooding.
- e. Other Utilities
  - i. All other utilities such as gas lines, electrical, telephone, and other utilities shall be located and constructed to minimize or eliminate flood damage to such utilities and facilities.
- f. Storage of Materials
  - i. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
  - ii. The storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
- g. Recreational Vehicles
  - i. Recreational vehicles to be placed on sites within the floodplain shall:
    - (1) Be on site for fewer than 180 consecutive days;
    - (2) Be fully licensed and ready for highway use, which shall mean it is on its wheels or jacking system, is attached to the site by only quick-disconnect type utilities and security devices, and no permanently attached additions; or
    - (3) Meet the permit requirements and the elevation and anchoring requirements for manufactured homes of this ordinance.
- h. Subdivisions
  - i. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, shall require

assurance that:

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

#### **F. Nonconforming Use**

1. A structure or use of a structure or premises that was lawful before the passage or amendment of this ordinance, but that is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:
  - i. If such use is discontinued for 6 consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the floodplain administrator in writing of instances of nonconforming uses where utility services have been discontinued for a period of 6 months.
  - ii. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50% of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, or safety code or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

#### **G. Amendments**

1. The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed to reflect any and all changes in federal, state, or local regulations provided, however, that no such action may be taken until after a public hearing in relation thereto, at which citizens and parties in interest shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the Roca. At least 10 days shall elapse between the date of this publication and the public hearing.
2. A copy of such amendments will be provided to the Nebraska Department of Natural Resources and the Federal Emergency Management Agency for review and approval before being adopted.

#### **H. Definitions**



Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application:

**Area of Shallow Flooding** means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Base Flood** means the flood having one (1) percent chance of being equaled or exceeded in any given year.

**Base Flood Elevation** means the elevation to which floodwaters are expected to rise during the base flood.

**Basement** means any area of the building having its floor subgrade (below ground level) on all sides.

**Building** means "structure." See definition for "structure."

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

**Drainway** means "watercourse." See definition for "watercourse."

**Existing Manufactured Home Park or Subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.

**Expansion to an Existing Manufactured Home Park or Subdivision** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Flood or Flooding** means a general and temporary condition of partial or complete inundation of normally dry land areas.

**Flood Fringe** is that area of the floodplain, outside of the floodway, that has a one percent chance of flood occurrence in any one year.

**Flood Insurance Rate Map (FIRM)** means an official map of a community, on which the Flood Insurance Study has delineated the special flood hazard area boundaries and the risk premium zones applicable to the community.

**Flood Insurance Study (FIS)** is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Insurance Rate Map and the water surface elevation of the base flood.

**Floodplain** means any land area susceptible to being inundated by water from any source (see definition of "flooding"). Floodplain includes flood fringe and floodway. Floodplain and special

flood hazard area are the same for use by this ordinance.

**Floodproofing** means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, and structures and their contents.

**Floodway or Regulatory Floodway** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**Freeboard** means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.

**Highest Adjacent Grade** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic Structure** means any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

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

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

**Manufactured Home Park or Subdivision** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**New Construction** for floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**New Manufactured Home Park or Subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

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

**Overlay District** is a district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.

**Post-FIRM Structure** means a building that was constructed or substantially improved after December 31, 1974 or on or after the community's initial Flood Insurance Rate Map dated April 16, 2013, whichever is later.

**Pre-FIRM Structure** means a building that was constructed or substantially improved on or before December 31, 1974 or before the community's initial Flood Insurance Rate Map dated April 16, 2013, whichever is later.

**Principally Above Ground** means that at least 51 percent of the actual cash value of the structure is above ground.

**Recreational Vehicle** means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Flood Elevation** means the base flood elevation (BFE) plus a freeboard factor as specified in this ordinance.

**Special Flood Hazard Area (SFHA)** is the land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.

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

**Structure** means a walled and roofed building that is principally above ground, as well as

a manufactured home and a gas or liquid storage tank that is principally above ground.

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

**Substantial Damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

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

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

**Watercourse** means any depression two feet or more below the surrounding land that serves to give direction to a current of water at least nine months of the year and that has a bed and well-defined banks.

**SECTION 5.14 Schedule of Lot, Yard, and Bulk Regulations**

ZONING DISTRICT	MINIMUM LOT AREA			MINIMUM YARD REQUIREMENTS			MAXIMUM HEIGHT	
	LOT AREA	LOT WIDTH	LOT DEPTH	FRONT SETBACK	ONE SIDE	REAR	IN STORIES	IN FEET
AGX Exclusive Agricultural	39 acres	660 ft.	660 ft.	70 ft.	25 ft.	50 ft.	2 ½	35 ft.
AGR Agricultural Rural	3 acres*	150 ft.	200 ft.	60 ft.	25 ft.	50 ft.	2 ½	35 ft.
R Single-family Residential	7,000 s.f.	50 ft.	100 ft.	25 ft.	10 ft.	25 ft.	2 ½	35 ft.
Two-Family	5,000 s.f.	50 ft.	100 ft.	25 ft.	10 ft.	25 ft.	2 ½	35 ft.
C Commercial	2,500 s.f.	25 ft.	100 ft.	--	10 ft. <sup>1</sup>	10 ft. <sup>1</sup>	6	75 ft.
I General Industrial	10,000 s.f.	70 ft.	100 ft.	35 ft.	25 ft.	25 ft.	4	50 ft.
FPO Floodplain Overlay	—	—	—	—	—	—	—	—

<sup>1</sup> No side yard or rear yard setback required unless it abuts residential district

\*Net 3 acres which may require additional square footage to accommodate water right-of-aways

## ARTICLE 6: CONDITIONAL USE PERMITS

**Section 6.01 General Provisions.** The Village Board may, after referral to and recommendation from the Planning Commission where a Public Hearing was held, which has been published in a legal paper of general circulation one (1) time at least ten (10) days prior to such Public Hearing, authorize and permit conditional uses as designated in the district use regulations. Approval shall be based on findings that the location and characteristics of the use will not be detrimental to the health, safety, morals, and general welfare of the area.

Allowable uses may be permitted, enlarged, or altered upon application for a conditional use permit in accordance with the rules and procedures of this ordinance. The Village Board may grant or deny a conditional use permit in accordance with the intent and purpose of this ordinance. In granting a conditional use permit, the Village Board will authorize the issuance of a conditional use permit and shall prescribe and impose appropriate conditions, safeguards, and a specified time limit for the performance of the conditional use permit. Conditional use permits shall be subject to an on-site review one (1) year after approval by the Village Board. Uses found to be in violation of the Conditional Use Permit may be subject to fines and termination of the Conditional Use Permit

**Section 6.02 Application Requirements for Conditional Use Permits.** A request for a conditional use permit or modification of a conditional use permit may be initiated by a property owner or his or her authorized agent by filing an application for a conditional use permit with the Planning Commission upon forms prescribed for that purpose, at least thirty (30) days prior to the date of any review. The application shall be accompanied by a drawing or site plan and other such plans and data showing the dimensions, arrangements, descriptions data, and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in relation to the provisions set forth herein. A plan as to the operation and maintenance of the proposed use shall also be submitted. The application shall be accompanied with a non-refundable fee.

**Section 6.03 Public Hearing.** Before issuance of any conditional use permit, the Village Board will consider the application for the conditional use permit together with the recommendations of the Planning Commission at a public hearing after prior notice of the time, place, and purpose of the Public Hearing has been given by publication in a paper of general circulation in the Village of Roca, one (1) time at least ten (10) days prior to such Public Hearing.

**Section 6.04 Decisions.** A majority vote of the Village Board shall be necessary to grant a conditional use permit. Construction or substantial improvement of any authorized conditional use shall be commenced within twelve (12) months after issuance of a conditional use permit by the Village Board. If such construction or improvement does not occur within this time, the conditional use authorization and permit becomes null and void. The conditional use permit must state the conditions and terms and may be recommended for three (3) years. An on-site review of the property will be done one (1) year from issuance of the conditional use permit. The conditional use permit can be renewed as long as the condition(s) and terms of the permit are satisfied, however, the authorization and permit may be reviewed and revoked after a written compliant has been submitted to the Village, and an investigation completed.

**Section 6.05 Standards.** No conditional use permit shall be granted unless the Planning Commission or Village Board finds:

- A. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the community.
- B. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.

- C. That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.
- D. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- E. The use shall not include noise that is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
- F. The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.
- G. The use shall not involve any malodorous gas or matter that is discernible on any adjoining lot or property.
- H. The use shall not involve any direct or reflected glare that is visible from any adjoining property or from any public street, road, or highway.
- I. The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
- J. The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.
- K. Prior to the granting of any conditional use, the Village Board of Trustees may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance, operation and a specified time limit for the performance of the conditional use as is deemed necessary for the protection of the public interest and to secure compliance with reasonable standards and requirements. In all cases in which conditional uses are recommended, the Village Board of Trustees shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with including, but not limited to plans, covenants, agreements, bonds, escrows and assessments.
- L. No application for a conditional use permit, which has been denied wholly or in part by the Village Board of Trustees shall be resubmitted for a period of one (1) year from the date of said order of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Planning Commission.
- M. In the event said use is revoked, written notice shall be given the applicant stating reasons for revocation. Applicant shall have sixty (60) days from date of written intent to revoke authorization to file an appeal of said notice.

## ARTICLE 7: SUPPLEMENTAL REGULATIONS

### **Section 7.01 Off-Street Automobile Storage.**

- A. Off-street automobile storage or standing 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.
- B. If vehicle storage space or standing space required in section 7.02 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 within four hundred (400) 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.
- C. Where calculations in accordance with the foregoing list results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.
- D. In the R District, required off-street parking shall be provided on the lot on which the use pertains. In other Districts, such parking may be provided either on the same lot or an adjacent or other lot provided the lot provided the lot on which the use requiring them is located are not separated by more than 300 feet at closest points, measured along a street or streets.
- E. Where off-street parking is located on a lot other than the lot occupied by the use, which requires it, site plan approval for both lots is required.
- F. In the Districts C-1 and C-2 on-street parking within 400 feet of the use, may be computed so as to be included in the total required off-street parking, except for multiple-family dwellings or apartments.
- G. For Public Uses within a Residential District, on-street parking within 400 feet of the use, may be computed so as to be included in the total required off-street parking, except multiple-family dwellings or apartments.



**Section 7.02 Schedule of Minimum Off-Street Parking and Loading Requirements.**

<b>Uses</b>	<b>Parking Requirements</b>	<b>Loading Requirements</b>
<b>Adult entertainment establishments</b>	One (1) space per 2 persons of licensed capacity	None required
<b>Agricultural Attraction</b>	One (1) space per every 2.5 guests allowed on-site. In addition, an overflow parking area shall be provided with three (3) stalls for every acre include within the conditional use area. Parking maybe provided on unpaved areas, except for ADA accessible stalls.	One (1) per establishment
<b>Bowling Alleys</b>	Four (4) spaces per alley	One (1) space per establishment
<b>Churches, Synagogues, and Temples</b>	One (1) space per 4 seats in main worship area	None required
<b>Clubs, including fraternal organizations</b>	One (1) space per 500 s.f. of gross floor area	None required
<b>College/University</b>	Eight (8) spaces per classroom plus 1 space per employee	Two (2) spaces per structure
<b>Commercial Uses</b>		
<b>Agricultural Sales / Service</b>	One (1) space per 500 s.f. of gross floor area	One (1) per establishment
<b>Automotive Rental / Sales</b>	One (1) space per 500 s.f. of gross floor area	One (1) per establishment
<b>Automotive Servicing</b>	Three (3) spaces per repair stall	None required
<b>Bars, Taverns, Nightclubs</b>	Parking equal to 30% of licensed capacity	Two (2) spaces per establishment
<b>Body Repair</b>	Four (4) spaces per repair stall	None required
<b>Equipment Rental / Sales</b>	One (1) space per 500 s.f. of gross floor area	One (1) Space
<b>Campground</b>	One (1) space per camping unit	None required
<b>Commercial Recreation</b>	One (1) space per 4 persons of licensed capacity	One (1) per establishment
<b>Communication Services</b>	One (1) space per 500 s.f. of gross floor area	One (1) per establishment
<b>Construction Sales / Service</b>	One (1) space per 500 s.f. of gross floor area	One (1) per establishment
<b>Food Sales (limited)</b>	One (1) space per 300 s.f. of gross floor area	One (1) per establishment
<b>Food Sales (general)</b>	One (1) space per 200 s.f. of gross floor area	Two (2) per establishment
<b>General Retail Sales establishments</b>	One (1) space per 200 s.f. of gross floor area	One (1) per establishment
<b>Laundry Services</b>	One (1) space per 200 s.f. of gross floor area	None required
<b>Restaurants w/ drive-thru</b>	Greater of the two: One (1) space per 40 s.f. of dining area, or One (1) space per 150 s.f. of gross floor area	One (1) per establishment
<b>Restaurants (General)</b>	Parking equal to 30% of licensed capacity	Two (2) spaces per establishment
<b>Community Hall</b>	One (1) space per every 2.5 guests allowed on-site. In addition, an overflow parking area shall be provided with three (3) stalls for every acre include within the conditional use area. Parking maybe provided on unpaved areas, except for ADA accessible stalls.	One (1) per establishment
<b>Convalescent and Nursing Home Services</b>	One (1) space per 3 beds plus 1 per employee on the largest shift	Two (2) spaces per structure
<b>Day Care</b>	One (1) space per employee plus 1 space or loading stall per each 10 persons of licensed capacity	None required

<b>Educational Uses, Primary facilities</b>	Two (2) spaces per classroom	Two (2) spaces per structure
<b>Educational Uses, Secondary facilities</b>	Eight (8) spaces per classroom plus 1 space per employee on largest shift	Two (2) spaces per structure
<b>Funeral Homes and Chapels</b>	Eight (8) spaces per reposeing room	Two (2) spaces per establishment
<b>Group Care Facility</b>	One (1) space per 4 persons of licensed capacity	Two (2) spaces per structure
<b>Group Home</b>	One (1) space per 4 persons of licensed capacity	Two (2) spaces per structure
<b>Guidance Services</b>	One (1) space per 300 s.f. of gross floor area	None required
<b>Hospitals</b>	One (1) space per 2 licensed beds	Three (3) spaces per structure
<b>Hotels and Motels</b>	One (1) space per rental unit	One (1) space per establishment
<b>Housing (Congregate)</b>		
<b>Assisted-living facilities or similar uses</b>	One (1) space per dwelling unit plus 1 space per employee on the largest shift	One (1) per structure
<b>Two-family/Duplex</b>	Two (2) spaces per dwelling unit	None required
<b>Multiple-family / Apartments</b>	One (1) space per sleeping unit – spaces to be sited in the general proximity of where the sleeping units are located	None required
<b>Industrial Uses</b>	.75 times the maximum number of employees during the largest shift	Two (2) spaces per establishment
<b>Libraries</b>	One (1) space 500 s.f. of gross floor area	One (1) per structure
<b>Boarding Houses / Bed and Breakfasts</b>	One (1) space per rental units	None required
<b>Medical Clinics</b>	Five (5) spaces per staff doctor, dentist, chiropractor	None required
<b>Mobile Home Park</b>	Two (2) per dwelling unit	None required
<b>Offices and Office Buildings</b>	One (1) space per 200 s.f. of gross floor area	None required
<b>Residential (Single-family, attached and detached)</b>	Two (2) spaces per dwelling unit with 1 required to be enclosed	None required
<b>Roadside stands</b>	Four (4) spaces per establishment	None required
<b>Service Oriented Establishments</b>	One (1) space per 200 s.f. of gross floor area	One (1) per establishment
<b>Theaters, Auditoriums, and Places of Assembly</b>	One (1) space per 5 persons of licensed capacity	One (1) space per establishment
<b>Veterinary Establishments</b>	Three (3) spaces per staff doctor	None required
<b>Wholesaling / Distribution Operations</b>	One (1) space per 2 employees on the largest shift	Two (2) spaces per establishment

### **Section 7.03 Signs: Standard of Measurement.**

















- A. The total area of all signs permitted on a lot shall include:
1. The total area of the faces of all permanent exterior signs visible from a public way, plus
  2. The area of permanent signs placed upon the surface of windows and doors, plus
  3. The area within the outline enclosing the lettering, modeling or insignia of signs integral with the wall and not designed as a panel.
- B. A building or use having frontage on a second street may include 20% of the length of the lot facing the second street.

















### **Section 7.04 Signs, Type.**

- A. **Real Estate.** Not more than two (2) signs per lot may be used as a temporary sign no larger than six (6) square feet (except, AGX may be up to 12 square feet) and set back twenty (20) feet from the road right of way or road easement boundary.
- B. **Announcement.** Small announcement or professional signs, not over 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.
- C. **Wall.** A sign or sign flat against a building appertaining to a nonconforming use on the premises, not exceeding in the aggregate 50 square feet in area except as may be authorized by the Board of Adjustment.
- D. **Name plate.** One nameplate not exceeding 2 square feet for each dwelling.
- E. **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.
1. 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.
  2. No billboard, signboard, or similar advertising signs shall be located within 50 feet of any lot in a residential district.
  3. No billboard, signboard, or similar advertising signs shall exceed 700 square feet in area.
  4. 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.
- F. **Ground.** Ground signs at least 5 feet from any lot line with a maximum height of ten (10) feet.
- G. **Sign, Off-premise.** shall mean a sign including the supporting sign structure which directs the attention of the general public to a business, service, or activity not usually conducted, or a product not offered or sold, upon the premises where such sign is located. (See Billboard for additional provisions)
- H. **Sign, On-premise.** shall mean a sign, display, or device-advertising activities conducted on the property on which such sign is located. (See Billboard for additional provisions)
- I. **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 50 feet in height from the established grade level. The lowest horizontal projecting feature of any post or pole mounted sign shall be eight feet above the established grade level.
















- J. **Electronic Message Sign.** shall mean a sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.
- K. Signs hung from canopies and awnings shall be no closer than 80 inches from the bottom edge of the sign to grade below.

## Illustrative Definitions

 <p><b>Animated Sign</b></p>	 <p><b>Announcement Sign</b></p>	 <p><b>Awning Sign</b></p>	 <p><b>Balloon Sign</b></p>
 <p><b>Banner/Flag Sign</b></p>	 <p><b>Banner Sign (Commercial)</b></p>	 <p><b>Building Marker Sign</b></p>	 <p><b>Canopy Sign</b></p>
 <p><b>Center Identification Sign</b></p>	 <p><b>Changeable Copy Sign</b></p>	 <p><b>Commemorative Sign</b></p>	 <p><b>Construction Sign</b></p>
 <p><b>Destination Sign</b></p>	 <p><b>Directional / Informational Sign</b></p>	 <p><b>Directory Sign</b></p>	 <p><b>Double-faced Sign</b></p>

 <p><b>Electronic Message Sign</b></p>	 <p><b>Freestanding Sign</b></p>	 <p><b>Gas Station Price Sign</b></p>	 <p><b>Identification Sign</b></p>
 <p><b>Ground Monument Sign</b></p>	 <p><b>Incidental Sign</b></p>	 <p><b>Inflatable Sign</b></p>	 <p><b>Kiosk Sign</b></p>
 <p><b>Marquee Sign</b></p>	 <p><b>Menu-Board Sign</b></p>	 <p><b>Billboard Sign</b></p>	 <p><b>Painted Ghost Wall Sign</b></p>
 <p><b>Painted Wall Sign</b></p>	 <p><b>Parapet Sign</b></p>	 <p><b>Pennant Sign</b></p>	 <p><b>Pole Sign</b></p>



 <p><b>Political Sign</b></p>	 <p><b>Projecting Sign</b></p>	 <p><b>Public/Traffic Information Sign</b></p>	 <p><b>Real Estate Sign</b></p>
 <p><b>Roof Sign</b></p>	 <p><b>Roof (integrated) Sign</b></p>	 <p><b>Sandwich Board Sign</b></p>	 <p><b>Sign, Digital</b></p>
 <p><b>Sign Stacking</b></p>	 <p><b>Subdivision Identification Sign</b></p>	 <p><b>Suspended Sign</b></p>	 <p><b>Wall Sign</b></p>
 <p><b>Warning Sign</b></p>	 <p><b>Window Sign</b></p>	 <p><b>Portable Sign</b></p>	

### **Section 7.05 Sign Schedule.**

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

<b>Zoning District</b>	<b>Sign Schedule</b>				
	<b>AGX</b>	<b>AGR</b>	<b>R</b>	<b>C</b>	<b>I</b>
<b><u>Sign Type</u></b>					
<b>Real Estate</b>	+	+	+	+	+
<b>Announcement</b>	+	+	+	+	+
<b>Wall</b>	+	+	-	+	+
<b>Name Plate</b>	C	C	+	+	+
<b>Billboard</b>	C	C	-	C	+
<b>Ground</b>	C	C	C	+	+
<b>Sign, On-premise</b>	C	C	-	C	C
<b>Sign, Off-premise</b>	-	-	-	-	-
<b>Projecting or Pole</b>	C	C	-	+	+

+: permitted

-: not permitted

C: Conditional Use

### **Section 7.06 Wireless Communication Towers.**

#### **A. Purpose of provisions:**

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. These regulations are intended to regulate towers, telecommunication facilities and antennas in the village zoning jurisdiction in conformance with the Act without prohibiting or tending to prohibit any person from providing wireless telecommunication services, to protect residential areas and land uses from potential adverse impact of installation of towers, telecommunication facilities 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, telecommunication 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, telecommunication facilities, and antennas are compatible with surrounding land uses.

#### **B. Definitions:**

1. As used in these regulations, the following terms mean:

**ANTENNA** 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** Any building or structure other than a tower which can be used for location of telecommunications facilities.

**APPLICANT** Any person that applies for a conditional use permit to install a tower, telecommunication facilities or antenna.

**APPLICATION** 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 documents, verbal statements and representations, in whatever form or forum, made by an applicant to the village concerning the request.

**CONFORMING COMMERCIAL EARTH STATION** 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 code.

**ENGINEER** Any engineer qualified and licensed by any state or territory of the United States.

**OWNER** Any person with fee simple title or a leasehold exceeding ten 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 the tract of land.

**PERSON** Any natural person, firm, partnership, association, corporation, company or other legal entity, private or public, whether for profit or not for profit.

**SATELLITE DISH** 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** 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 like something other than a tower such as light poles, power poles and trees.

**TELECOMMUNICATION FACILITIES** Any cables, wires, lines, waveguides, 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, **TELECOMMUNICATION FACILITIES** shall not include:

- a. Any conforming commercial earth station antenna two meters in diameter or less which is located in the village's commercial or industrial zones.
- b. Any earth station antenna one meter or less in diameter, regardless of the zoning application to the location of the antenna.

**TOWER** A self-supporting lattice, guyed, or monopole structure constructed from grade which supports telecommunication facilities. The term **TOWER** shall not include amateur radio operator's equipment as licensed by the FCC.

**TOWER OWNER** Any person with an ownership interest of any nature in a proposed or existing tower following the issuance of a conditional use permit.

2. All terms in these regulations 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 FCC.
- C. **Locations of towers, telecommunication facilities and antennas.**
1. Towers, telecommunication facilities and antennas shall be permitted conditional uses in all zoning districts, except F-1 (Floodplain District).
  2. No person shall develop, construct, modify or operate a tower, telecommunication facility or antenna upon any tract of land within the zoning jurisdiction of the village prior to approval of its application for a conditional use permit by the Chair and Village Board and issuance of the

building permit by the village. Applicants shall submit their application for a building permit to the Village of Roca.

3. All towers, telecommunication facilities and antennas constructed within the zoning jurisdiction of the village after approval and adoption of these regulations shall conform to the Building Code and all other construction standards set forth in the village code, federal and state law, and applicable American National Standards Institute (ANSI) standards. Upon completion of construction of a tower, telecommunications facility or antenna and prior to the commencement of use, an engineer's certification that the tower is structurally sound and in conformance with all the aforementioned applicable regulatory standards shall be filed with the Village of Roca.

**D. Application.** Prior to commencement of development or construction of a tower, telecommunications facility or antenna, an application shall be submitted to the Village of Roca for a conditional use permit and shall include the following in addition to the requirements herein:

1. The name, address and telephone number of the owner and, if applicable, the lessee of the tract of land upon which the tower, telecommunication facility or antenna 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, telecommunication facility or antenna. 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, telecommunication facilities, antennas or useable antenna support structures within a 1/4 mile radius of the location of the proposed tower, telecommunication facility or antenna, including publicly and privately owned towers, telecommunication facilities, antennas or structures.
4. An affidavit attesting to the fact that the applicant has made diligent but unsuccessful efforts to obtain permission to install or co-locate the applicant's telecommunication facility on a tower or useable antenna support structure with a 1/4 mile radius of the proposed tower location or written technical evidence from an engineer that the applicant's telecommunication facility cannot be installed or co-located on another support structure within a 1/4 mile radius of the proposed location.
5. Written technical evidence from an engineer that the proposed tower, telecommunication facility or antenna will meet the Building Code, all other construction standards set forth by the village code and federal and state law and applicable ANSI standards.
6. Color photo simulations showing the proposed location of the tower, telecommunication facility or antenna with a photo-realistic representation of the proposed tower, telecommunication facility or antenna as it would appear viewed from the nearest residential zoned property and nearest roadway, street or highway.
7. Descriptions and diagrams of the proposed tower, telecommunication facility and/or antenna, manufacture's literature, appurtenances such as buildings, driveway, parking area and fences or other security enclosures with sufficient detail to allow persons reviewing the application to understand the kind and nature of the proposed facility.
8. After the conditional use permit is approved an application for a building permit shall be submitted.

**E. Conditional use permit: procedure.** The procedure for acquiring a conditional use permit shall be the procedure set forth herein.

**F. Setbacks and separation or buffer requirements; illumination.**

1. All towers, telecommunication facilities or antennas up to 55 feet in height shall be set back on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers, telecommunication facilities or antennas more than 55 feet in height shall be setback one additional foot for each foot of tower height in excess of 55 feet. The height of a tower, telecommunication facility or antenna shall be measured from the grade at the foot of the base pad to the top of any such tower, telecommunication facility or antenna attached thereto. Setback requirements shall be measured from the base of the tower,

telecommunication facility or antenna to the property line of the tract of land on which it is located.

2. Towers, telecommunication facilities or antennas exceeding 100 feet in height may not be located in any residential zoned district and must be separated from all residential zoned land by a minimum of 200 feet or 100% of the height of proposed tower, whichever is greater.
3. Towers, telecommunication facilities or antennas of 100 feet or less in height may be located in residential zoned districts; provided, the tower, telecommunication facility or antenna is separated from any residential structure, school or church by a minimum of 100% of the height of the proposed tower, telecommunication facility or antenna.
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 750 feet.
  - b. Self-supporting lattice or guyed towers shall be separated from all other self-supporting or guyed towers by a minimum of 1,500 feet.
5. Towers, telecommunication facilities or antennas shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). In cases where there are residential zoned properties located within a distance of 300% of the height of the tower, any tower, telecommunication facility or antenna subject to these regulations shall be equipped with dual mode lighting.

- G. Security and fences.** All self-supporting lattice or guyed towers, telecommunication facilities or antennas 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 possible, unauthorized climbing of the structure.
- H. Exterior Finish.** Towers, telecommunication facilities or antennas 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 Village Board as part of the application approval process. All towers, telecommunication facilities or antennas which must be approved as conditional uses shall be of stealth design unless stealth features are impractical or the cost of the features represents an undue burden on the applicant.
- I. Landscaping.** All tracts of land on which towers, antenna support structures telecommunication facilities and/or antennas are located shall be subject to the landscaping requirements of the village code.
- J. Maintenance, repair or modification of existing towers.** All towers, telecommunication facilities or antennas constructed or under construction on date of adoption of these regulations may continue in existence as a non-conforming structure and may be maintained or repaired without complying with any of the requirements of these regulations. Non-conforming structures or uses may not be enlarged or the degree of non-conformance increased without complying with these regulations, including applying for and obtaining a conditional use permit. Any modification or reconstruction of a tower constructed or under construction on date of adoption of these regulations shall require compliance with the requirements of these regulations, including applying for and obtaining a conditional use permit. The application shall describe and specify all items which do not comply with these regulations and may request, subject to approval by the Chair and Village Board, an exemption from compliance as a condition of the conditional use permit.

- K. Inspections.** The village reserves the right to conduct an inspection of towers, antenna support structures, telecommunication facilities and antennas upon reasonable notice to the owner or operator to determine compliance with these regulations 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 Building Code and any other construction standards set forth in the village code, federal and state law or applicable ANSI standards.
- L. Maintenance.** The towers, antenna support structures, telecommunication facilities and antennas shall, at all times, be kept and maintained in good condition, order and repair so that the same do not constitute or be a danger to the life or property of any person or the public.
- M. Abandonment.** If any tower, telecommunication facility or antenna shall cease to be used for a period of one year, the Village of Roca shall notify the owner that the site will be subject to a determination by the Village of Roca Chairperson or his or her designee that the site has been abandoned. Upon issuance of a notice to show cause by the Village of Roca Chairperson, the owner shall have 30 days to show by a preponderance of the evidence that the tower, telecommunication facility or antenna 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, telecommunication facility or antenna has been in use or under repair during the relevant period, the Village of Roca Chairperson or his or her designee shall issue a final determination of abandonment of the site and the owner shall have 75 days thereafter to dismantle and move the tower, telecommunication facility or antenna. In the event the tower, telecommunication facility or antenna is not dismantled and removed, it shall be declared a public nuisance by the Village of Roca Chairperson or his or her designee and a written request shall be directed to the Village Attorney to proceed to abate the public nuisance pursuant to the village code and charge the costs thereof against the real estate on which the tower is located or the owner of record of the real estate.

#### **Section 7.07 Residential and Small Wind Energy Systems**

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 Roca's zoning jurisdiction.

- A. **Definitions.** The following are defined for the specific use of this section. Additional definitions pertaining to wind energy systems are found in Section 7.08 herein.
1. **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.
  2. **Decibel (db):** The measurement of a sound pressure relative to the logarithmic conversion of the sound pressure reference level often set at 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 three feet averages about 65 db A.
  3. **FAA:** Federal Aviation Administration.
  4. **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.
  5. **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.

6. **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.
7. **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
8. **Tower Height** shall mean the height above grade of the first fixed portion of the tower, excluding the wind turbine itself.

**B 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 7.08.F 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 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 7.08 for setbacks.
  - b. No part of the wind system structure, including guy-wire anchors, may extend closer than ten 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 feet, unless a greater restriction is imposed by FAA regulations.

**C. 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 7.08 for regulations on building mounted wind turbines.

1. 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).
2. SWECS 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. 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.
5. An SWECS shall be located on a parcel that is at least three acres 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 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.
8. 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.
9. 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.
10. 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.
11. Setbacks
  - a. See Section 7.08 for setbacks.
  - b. No part of the wind system structure, including guy-wire anchors, may extend closer than ten feet to the property lines of the installation site.
12. 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 feet, unless a greater restriction is imposed by FAA regulations.

## **Section 7.08 Commercial/Utility Grade Wind Energy Systems**

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 Roca.

A. **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 about 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 of 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 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 are 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 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 Transportation, or other applications to monitor weather conditions.

**Micro-Wind Energy Conversion System** shall mean a Wind Energy Conversion System of one 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 the 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.

**B. 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:

1. The name(s) of the project applicant.
2. The name of the project owner.
3. The legal description and address of the project.
4. A description 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.
5. 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.
6. Engineer's certification from a professional engineer licensed in the State of Nebraska.
7. Documentation of land ownership or legal control of the property.
8. The latitude and longitude of individual wind turbines.
9. A USGS topographical map, or map with similar data, of the property and surround area, including any other Wind Energy Conversion System within ten rotor distances of the proposed CWECS not owned by the applicant.
10. Location of wetlands, scenic, and natural areas (including bluffs) within 1,320 feet of the proposed CWECS.
11. An Acoustical Analysis that certifies that the noise requirements within these regulations can be met.
12. FAA and FCC permit, if necessary. Applicant shall submit permit or evidence that the permit has been filed with the appropriate agency.
13. 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.
14. Decommissioning Plan as required by this ordinance.
15. Description of potential impacts on nearby Wind Energy Conversion Systems and wind resources on adjacent properties.
16. A CWECS shall be located on a parcel that is at least ten acres in size.
17. Setbacks as required in Section 7.08.

**C. Aggregated Projects**

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

**D. 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 1.1 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 1.1 times the total height.
Public conservation lands	N/A	1,320 feet	600 feet
Wetlands, USFW Types III, IV, and V	N/A	1,320 feet	600 feet
Other structures	N/A	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	N/A	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	N/A	1,320 feet	N/A

\* 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 three 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 (e.g., 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 (1/4 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 over speed 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 over speed protection.
15. Interference.
- a. The applicant shall minimize or mitigate interference with 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 damage 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 Roca.
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 Transportation, 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 Roca 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% 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 Roca may take such measures as necessary to complete decommissioning.
  - g. An easement allowing the Village of Roca 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 Roca concurs that decommissioning has been satisfactorily completed, or upon written approval of the Village of Roca in order to implement the decommissioning plan.
  - i. An agreement that the Village of Roca 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 Roca.

**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 a least \$1 million per occurrence and \$1 million in the aggregate. Copies of such certificates shall be made available to the Village of Roca upon request.

**Section 7.09 Home Occupations.**

Home Occupations shall be conditional uses permitted in the AGR and R Districts, subject to the following:

**A. Restrictions and Limitations.**

1. The home occupation shall be incidental and subordinate to the principal residential use of the premises and not more than twenty-five percent (25%) of the floor area of any one floor of a dwelling unit, or one room, whichever is smaller, shall be used for a home occupation.
2. No outdoor storage of materials or equipment used in the home occupation shall be permitted.
3. No alteration of the exterior of the principal residential building shall be made which changes the character thereof as a residence. The home occupation shall be carried on entirely within the principal residential structure.

4. No sign shall be permitted unless required by State Statute and, if so requires, shall not exceed two (2) square feet in area, shall not be illuminated, and shall be placed flat against the main wall of the building.
5. No person shall be engaged in such home occupation other than a person occupying such dwelling units as their residence.
6. No equipment shall be utilized that creates a nuisance due to noise or electrical interference.
7. Parking needs generated by the conduct of a home occupation shall be provided off-street in an area than the required front yard.

**B. Particular Home Occupations Permitted.**

Customary home occupations include, but are not limited to, the following list of occupations; provided, however, that each listed occupation is subject to the required front yard.

1. Art, dancing, and music schools, provided that instruction is limited to five (5) pupils at one time.
2. Professional offices for architects, engineers, planners, lawyers, accountants, bookkeepers, and similar professions.
3. Offices for realtors, insurance agents, brokers, sales representatives, and manufacturing representatives when no exchange of tangible goods is made on the premises.
4. Radio, television, phonograph, recorder, and small appliance repair service.
5. Day care homes.
6. Home craft and hobbies such as model making, rug weaving, lapidary work, cabinet making, etc.
7. Tailoring, alterations, and seamstresses.
8. Saw-filing.
9. Home party products.
10. Beauty parlor or barber services.

**C. Particular Home Occupations Prohibited.**

Permitted home occupations shall not, in any event, include the following:

1. Antiques – retail.
2. Funerals – retail.
3. Groceries – retail.
4. Second-hand merchandise.
5. Tourist homes.
6. Equipment rental.
7. Automobile and vehicle repair services.
8. Physicians.
9. Dentists.
10. Chiropractors.
11. Machine shops.
12. Restaurants.
13. Welding.

**Section 7.10 Solar Panels**

No solar panel shall be constructed within the residential zoning jurisdiction of the Village of Roca 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:
1. 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.



2. 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 Roca 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 date of zoning adoption, 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 7.11 Adult Establishment Regulations**

### **A. Findings and Rationale**

1. *Purpose.* It is the purpose of this resolution to regulate adult establishments in order to promote the health, safety, and general welfare of the citizens of the Roca, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of adult establishments within the Village. The provisions of this resolution 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 neither the intent nor effect of this resolution 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 this resolution to condone or legitimize the distribution of obscene material.
2. *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 Board, 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. City 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 City*, 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 City*, 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 City Plan Commission*, 877 N.E.2d 877 (Ind. Ct. App. 2007); *Flanigan's Enters., Inc. v. Fulton City*, 596 F.3d 1265 (11th Cir. 2010); *East*

*Brooks Books, Inc. v. Shelby City*, 588 F.3d 360 (6th Cir. 2009); *Entm't Prods., Inc. v. Shelby City*, 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 City*, 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 City*, 555 F.3d 512 (6th Cir. 2009); *Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery City*, 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 City*, 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. City 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 City, 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); *Jakes Ltd, Inc v. City of Coates*, 284 F.3d 884 (8th Cir. 2002); *Bzaps v City of Mankato*, 268 F.3d 603 (8th Cir. 2001); *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 City, Florida – 2007; Hillsborough City, Florida – 2006; Clarksville, Indiana – 2009; El Paso, Texas – 2008; Memphis, Tennessee – 2006; New Albany, Indiana – 2009; Louisville, Kentucky – 2004; Fulton City, GA – 2001; Chattanooga, Tennessee – 1999-2003; Jackson City, 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), McLeary 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 City, New York (January 1998), the Village Board finds:

- a. 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.

- b. 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.
- c. 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.

## **B. Regulations**

- 1. No person shall establish, operate, or cause to be operated an adult establishment in the Village of Roca 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 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 Village Zoning Administrator 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. through 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 have 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.g 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.

## **Section 7.12 Alternative Energy Systems**

### **A. Applicability.**

This section of the Zoning Ordinance shall apply to all Alternative Energy System that are proposed to be constructed after the effective date of this Zoning Ordinance. Alternative Energy System constructed prior to the effective date of this Ordinance shall not be required to meet the requirements specified under this Ordinance, except for the maintenance and removal provisions found in Section 7.12.H. Any physical modification to an existing Alternative Energy System that alters the size, type or generating capacities of the facilities shall require a permit and shall comply with the applicable provisions specified under this Ordinance.

### **B. Permitted as Accessory Use.**

Alternative Energy System designed and utilized as an accessory use, which may include Geothermal Heat Pumps, solar Energy Systems, Wind Turbines (Section 7.07), and Water Powered Energy, shall be permitted as an accessory use, subject to the applicable provisions specified under this Zoning Ordinance.

### **C. Authorized as Primary or Supplemental Energy Source.**

Alternative Energy Systems as an accessory use may be utilized as the primary or supplemental energy source for the principal use on the lot where it is in accordance with Zoning Districts. Surplus energy may be exchanged, transferred and/or sold to a public utility company, provided that such surplus energy is exchanged, transferred and/or sold in accordance with the provision established by the local energy utility provider.

### **D. General Requirements.**

The following provisions shall apply to all types of Alternative Energy Systems:

1. Alternative Energy Systems shall be permitted provided that such facilities are located on a lot with permitted use in accordance with the applicable provisions of the Zoning Ordinance.
2. Alternative Energy Systems shall be located, designed and installed as per the manufacturer's specifications as well as all zoning, building code and utility requirements.
3. Alternative Energy Systems shall be setback from all property lines not less than the normal setback requirements for accessory buildings/structures in that zoning district.

All Alternative Energy Systems shall comply with the building and lot coverage requirements of the zoning district in which they are located.

4. Alternative Energy Systems shall emit no noise, glare, odor, vibration, electrical disturbance, electromagnetic interference, dust, smoke, fumes, toxic gas, radiation, heat that unreasonably impacts or affects neighboring properties or creates a nuisance. The burden of proof shall be upon the property owner if a claim of nuisance arises.
5. All Alternative Energy Systems and/or any appurtenant structures shall be set back from all public roads not less than 1.1 times the Alternative Energy System's height, as measured from the nearest edge of the Alternative Energy System and/or any appurtenant structure to the right- of-way line of all public roads.
6. No Alternative Energy System shall be located, modified or constructed within the Village of Roca unless a permit has been issued to the village in accordance with the provisions of this Section of the Zoning Ordinance.

**E. Special requirement for Geothermal Heat Pumps:**

1. The owner of any geothermal system shall be responsible for all remediation efforts and costs necessitated because of a release from the system that impacts or threatens to impact ground water or surface water. If the owner refuses to take corrective action, the village may take corrective action in accordance with the property maintenance code and all State and Federal regulations. All costs incurred by the municipality in doing so will be borne by the owner.
2. Closed Loop Geothermal Heat Pump Systems must meet these requirements:
  - a. Be self-contained having no contact with ground water, surface water or the water table under 100-year flood conditions.
  - b. All heat exchanging fluids within any Geothermal Heat Pump must be comprised either of saline, water or other type of non- hazardous fluid, the release of which would not pose any risk of impact to groundwater more than standards set forth in all applicable State and Federal regulations.
  - c. The Geothermal Heat Pump may not be in contact with an aquifer or be sited within any aquifer's recharge zone.
3. Open Loop Geothermal Heat Pump System shall be reviewed on a case by case basis and the owner bears the burden of demonstrating no significant adverse impacts up on land or water resources.

**F. Special Requirements for Water Power Energy Systems:**

The following provisions shall specifically apply to Water Power Energy Systems and appurtenant structures and/or facilities associated with their operation:

1. No Water Powered Energy System shall endanger or threaten native local wildlife including fish, amphibian and reptiles.
2. No Water Powered Energy System affecting current, cross section or flow of a waterway shall be approved without a permit or approval of appropriate state agencies. Installations that may significantly alter the stream bed or directional flow of a stream, such as small dams and their upstream/downstream races or " ponds" for in-stream turbines and overshot/undershot wheels, may be approved if properly permitted under state and federal law.
3. All Water Powered Energy Systems shall have safety disconnect of their paddle, wheels or turbines in case of flood or heavy water flow beyond the anticipated capacity of the

Alternative Energy Facility.

**G. Application:**

The Facility Owner shall provide the following application information for an Alternative Energy Facility:

1. A full description of the proposed Alternative Energy System.
2. Architectural drawings of the system to be installed, all appurtenant structures and/or facilities associated with operation of the Alternative Energy System.
3. Dimension and locations of all affected buildings and structures on the Applicant's real property and adjacent properties and any applicable setbacks.
4. Photo graphs to establish baseline conditions at the time of the application.
5. A statement of the estimated output of the proposed Alternative Energy System and where the energy will be utilized.
6. A letter of agreement with the local energy utility provider if the energy to be generated by the Alternative Energy System is to be conveyed off the Applicant's real property.
7. Copies of any other permits that have been obtained from agencies with jurisdiction over the Alternative Energy System.

**H. Installation, Maintenance and Removal Requirements.**

1. No Alternative Energy System shall be located, modified or constructed within the Village of Roca unless a permit has been issued to the Facility Owner in accordance with the provisions of this Section of the Zoning Ordinance.
2. For alternative energy system categories in which installer certification exists a certified installer shall be required for more complex installations, non-residential installations, or if recommended by the manufacturer.
3. Maintenance Obligations. The accessory alternative energy system must be clean and properly maintained in good, working order, and kept free from all hazards and unsafe conditions that are detrimental to the public health, safety and welfare. To the extent that an accessory alternative energy system constitutes an immediate threat to the public health, safety and welfare, the Village is authorized to take all necessary steps to mitigate such public health, safety or welfare threat. All costs incurred by the village in doing so will be borne by the owner.
4. Best Practices Required. All Alternative Energy Systems are to be installed and maintained using best practices.
5. Corrective Action. In the case of a breakdown, malfunction, misuse or other situation involving an Alternative Energy System, it is the obligation of the Facility Owner and Operator to immediately initiate corrective action. If the Facility Owner and Operator refuse or are incapable of doing so, the village has the right to take corrective action at the expense of the Facility Owner and Operator.
6. Removal.
  - a. The Facility Owner or Operator shall, at his /her expense, completely remove any Alternative Energy System within twelve (12) month after the end of its useful life. The Alternative Energy System will be presumed to be at the end of its useful life if no energy is generated for a continuous period of twelve (12) months.
  - b. If the Facility Owner or Operator fails to complete removal during the prescribed period of twelve (12) months, the Village may take such measure as necessary to complete removal in accordance with this Zoning Ordinance at the expense of the Facility Owner and Operator.
7. Existing Systems. All Alternative Energy Systems in place at the time this Ordinance is adopted shall be kept in clean, working order and meet the Maintenance, Corrective

Action and Removal responsibilities in Section 7.12.H.2-6.

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

**Alternative Energy:** A source of energy generated from solar, water, wind, geothermal or similar source, which is capable of providing energy and utilities for a permitted use.

**Alternative Energy System:** A system capable of converting solar, water, wind, and/or geothermal energy into viable energy sources including utilities for a permitted use. Such facilities may include, without limitation, solar panels (Section 7.10), wind turbines (Section 7.07), geothermal heat pumps, water turbines and/or other compatible alternative energy systems.

**Applicant:** A person or entity filing an application under this Ordinance.

**Best Practices:** Current industry standards of construction and maintenance for a technology. Best Practices are not for purposes of this Ordinance defined a State of the Art, which is acknowledged to often be prohibitively expensive and to involve standard that are constantly changing.

**Freestanding Alternative Energy System:** A system that is not physically mounted, attached and/or connected (except utility and energy transfer connections) to a permitted principal building. All such facilities shall be considered a separate or accessory structure that has the ability to convert and convey energy to the principal use in accordance with all pertinent zoning, utility and building code requirements.

**Geothermal Heat Pump:** An energy system utilized for heating and cooling purposes through a series of heat-exchanging pipes or tube integrated into the ground, groundwater or surface water with a heat exchanging media that flows through a loop system.

**Occupied Building:** A building located on a parcel of land utilized as a permitted use in accordance with the provision of the Village of Roca Zoning Ordinance.

**Water Power:** The generation of electricity or mechanical energy using water motion, which may include overshot or undershot waterwheels, turbines, and other devices, including all associated equipment/facilities.



## ARTICLE 8: BOARD OF ADJUSTMENT

**Section 8.01 Members, Terms and Meetings.** Pursuant to Neb. Rev. Stat. §19-908 (R.R.S. 2012). The Board of Adjustment shall consist of five regular members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three years and removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the planning commission, and the loss of membership on the planning commission by such member shall also result in his or her immediate loss of membership on the Board of Adjustment and the appointment of another planning commissioner to the Board of Adjustment. After September 9, 1995, the first vacancy occurring on the Board of Adjustment shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the Village at such time as more than two hundred persons reside within such area. Thereafter, at all times, at least one member of the Board of Adjustment shall reside outside of the corporate boundaries of the Village but within its extraterritorial zoning jurisdiction. The Board of Adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to Neb. Rev. Stat. §19-901 to 19-915 (R.R.S. 2012). Meetings of the Board of Adjustment shall be held at the call of the chairperson and at such other times as the Board of Adjustment may determine. Such chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Adjustment and shall be a public record.

**Section 8.02 Appeals to Board, Record of Appeal, Hearings and Stays.** Pursuant to Neb. Rev. Stat. §19-909 (R.R.S. 2012): Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, Board or bureau of the Village affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board of Adjustment, by filing with the officer from whom appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after the notice of the appeal shall have been filed with the officer, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record in application on notice to the officer from whom the appeal is taken and on due cause shown. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties, in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.

**Section 8.03 Powers and Jurisdiction on Appeal.** The Board of Adjustment shall have the following powers: (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures; (2) to hear and decide, in accordance with the provisions of this Ordinance, requests for interpretation of any map, or for decisions upon other special questions upon which the Board of Adjustment is authorized by this Ordinance to pass; and (3) to grant variances, where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Ordinance.

No such variance shall be authorized by the Board of Adjustment unless it finds that:

1. The strict application of the Ordinance would produce undue hardship;
2. such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
3. 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
4. the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.

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

**Section 8.04 Appeals to District Court.** Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may appeal, pursuant to Neb. Rev. Stat. §19-912 (R.R.S. 2012).

## ARTICLE 9: AMENDMENTS

**Section 9.01 Amendments.** Pursuant to Neb. Rev. Stat. §19-905 (R.R.S. 2012) this Ordinance 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 or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the sides and in the rear thereof extending three hundred (300) feet therefrom, 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 two-thirds (2/3) of all members of the Village Board.

The provisions of this section relative to public hearings and official notice shall apply equally to all changes or amendments. In addition to the publication of the notice therein prescribed, a notice shall be posted in a conspicuous place on or near the property on which action is pending. Such notice shall not be less than eighteen (18) inches in height and twenty-four (24) inches in width with a white or yellow background and black letters not less than one and one-half (1½) inches in height. Such posted notice shall be so placed upon such premises that it is easily visible from the street nearest the same and shall be so posted at least ten (10) days prior to the date of such hearing. It shall be unlawful for anyone to remove, mutilate, destroy, or change such posted notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars (\$50) or more than one hundred dollars (\$100). 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 or of such municipality, or (2) in the event additional or different districts are made applicable to areas, or parts of areas, already within a zoning district of the Village.

**Section 9.02 Planning Commission Review.** No amendment, supplement, change or modification of this Ordinance, including the boundaries of any zoning district, shall be made by the Village Board without first the consideration by the Village Planning Commission, the Commission shall submit in writing its recommendations on each amendment, supplement, change or modification to the Village Board within forty-five (45) days after receipt thereof. Said recommendations shall include approval, disapproval, or other suggestions and the reasons thereof, and a discussion of the effect of each amendment, supplement, change or modification on the Comprehensive Plan. Said recommendations shall be of an advisory nature only.

In addition, any person or persons seeking such an amendment, supplement, change, or modification of any zoning district, shall comply with the following:

1. At the time that application for a change of zoning district or amendment to the zoning test is filed with the Planning Commission, there shall be deposited a fee set in Section 4.23 to cover investigation, legal notices, or other expenses incidental to the determination of such matter.
2. An application for a change of district to a General Industrial District shall contain a minimum area of ten-thousand (10,000) square feet. The area, if more than one (1) parcel of land is involved, shall be contiguous, exclusive of any streets or easements.
3. The foregoing requirements in Subsection b shall not apply in the case of an extension of a General Industrial District.

**Section 9.03 Zoning Administrator.** The provisions of this Ordinance shall be administered and enforced by a Zoning Administrator appointed by the Village Board, who shall have the power to make inspection of buildings or premises necessary to carry out his or her duties in the enforcement of this Ordinance.

**Section 9.04 Zoning Permits.** The following shall apply to all new construction and all applicable renovations and remodels within Roca's Zoning Jurisdiction:

1. It shall be unlawful to commence the excavation for the construction of any building, or any accessory buildings, or to commence the moving or alteration of any buildings, including accessory buildings, until the Zoning Administrator has issued a Zoning Permit for such work.

2. Issuance of a Zoning Permit. In applying to the Zoning Administrator for a Zoning Permit, the applicant shall submit a dimensioned sketch or a scale plan indicating the shape, size and height and location of all buildings to be erected, altered or moved and of any building already on the lot. He or she shall also state the existing and intended use of all such buildings, and supply such other information as may be required by the Zoning Administrator for determining whether the provisions of this Ordinance are being observed. If the proposed excavation or construction as set forth in the application are in conformity with the provisions of this Ordinance, and other Ordinances of the Village then in force, the Zoning Administrator shall issue a Zoning Permit for such excavation or construction. If a Zoning Permit is refused, the Zoning Administrator shall state such refusal in writing, with the cause, and shall immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application. The Zoning Administrator shall grant or deny the permit within a reasonable time from the date the application is submitted. The issuance of a Zoning Permit shall, in no case, be construed as waiving any provisions of this Ordinance. A Zoning Permit shall become null and void twelve (12) months from the date of issuance unless substantial progress has been made by that date on the project described therein.

**Section 9.05 Certificate of Zoning Compliance.** No land or building or part thereof hereafter erected or altered in its use or structure shall be used until the Zoning Administrator shall have issued a Certificate of Zoning Compliance stating that such land, building or part thereof, and the proposed use thereof, are found to be in conformity with the provisions of this Ordinance. Within three (3) days after notification that a building or premises is ready for occupancy or use, it shall be the duty of the Zoning Administrator to make a final inspection thereof and to issue a Certificate of Zoning Compliance if the land, building, or part thereof and the proposed use thereof are found to conform with the provisions of this Ordinance, or, if such certification is refused, to state refusal in writing, with the cause, and immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application. (emphasis added)

**Section 9.06 Penalties.** Pursuant to Neb. Rev. Stat. §19-913 (R.R.S. 2012), the owner or agent of a building or premises in or upon which a violation of any provisions of this Ordinance has been committed or shall exist or lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed one hundred dollars (\$100) for any one (1) offense. Each day of non-compliance with the terms of this Ordinance shall constitute a separate offense.

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

**Section 9.07 Remedies.** In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or land is used in violation of Neb. Rev. Stat. §19-901 through 19-915 (R.R.S. 2012), or this Ordinance, or any regulation made pursuant to said sections, the appropriate authorities of the Village may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

## ARTICLE 10: COMPREHENSIVE PLAN RELATIONSHIP

These zoning ordinances are designed to implement various elements of the Village of Roca Comprehensive Plan as required by state statutes. Any amendment to the district ordinances or map shall conform to the Comprehensive Plan adopted by the governing body.

## ARTICLE 11: LEGAL STATUS PROVISIONS

**Section 11.01 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 11.02 Purpose of Catch Heads.** The catch heads appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this Ordinance.

**Section 11.03 Repeal of Conflicting Ordinances.** 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.

**Section 11.04 Effective Date.** This Ordinance 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 Roca, NE.**

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(SEAL)

Attest: \_\_\_\_\_  
Village Clerk

\_\_\_\_\_  
Board Chair