

Last Amended 12/11/17

A RESOLUTION OF GARDEN COUNTY, NEBRASKA, ESTABLISHING LAND USE ZONING AND SUBDIVISION STANDARDS WITHIN THE UNINCORPORATED AREAS OF GARDEN COUNTY; ESTABLISHING ZONING DISTRICTS; ADOPTING MAPS OF SAID AREAS AND ZONING DISTRICTS THEREIN; REGULATING THE USE OF LAND ITS DEVELOPMENT INCLUDING BUT NOT LIMITED TO THE USE, SETBACK, LOT AREA, LOT WIDTH, YARDS, AND HEIGHT OF BUILDING; PLATTING, DIVISION, IMPROVEMENTS REQUIRED, DESIGN STANDARDS; PROVIDING FOR THE ADMINISTRATION, ADJUSTMENT, ENFORCEMENT AND AMENDMENT THEREOF; DEFINING CERTAIN TERMS USED HEREIN; PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS; AND REPLACING ALL RESOLUTIONS IN CONFLICT HEREWITH.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF GARDEN COUNTY, NEBRASKA THAT THIS RESOLUTION SHALL APPLY TO THE UNINCORPORATED AREAS WITHIN GARDEN COUNTY, NEBRASKA; AND DISTRICTS AND THEIR RELATED STANDARDS SHALL BE ESTABLISHED AS DEFINED HEREIN AND THE ZONING MAP ADOPTED AND MADE PART HEREOF:

SECTION 1. TITLE

1.1. A Comprehensive Zoning Code for Garden County is established as set out in this Resolution. This Resolution and any later amendments to it shall be known as the "Garden County Zoning and Subdivision Resolution" and may be cited by that name.

SECTION 2. PURPOSE AND INTENT

2.1. This zoning Resolution is intended to provide a unified regulatory system for land use in Garden County. The zoning Resolution is designed to serve the following purposes:

- 2.1.1. To promote the health, safety, comfort and general welfare of the present and future residents of Garden County.
- 2.1.2. To secure safety from fire, flood, and other dangers.
- 2.1.3. To preserve and protect property values throughout Garden County.
- 2.1.4. To protect the tax base of Garden County.
- 2.1.5. To regulate the height, number of stories, and size of buildings and other structures; the percentage of lot coverage; the size of yards and other open spaces, and the density of population.
- 2.1.6. To create zoning districts within the unincorporated areas of Garden County.
- 2.1.7. To regulate the location and use of buildings and land within each district or zone.
- 2.1.8. To enforce and maintain the objectives and policies of the Garden County Comprehensive Plan.
- 2.1.9. To encourage the most appropriate use of land.
- 2.1.10. To facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements.
- 2.1.11. To secure economy in government expenditures.
- 2.1.12. To preserve, protect, and enhance historical buildings, places, and districts.
- 2.1.13. To preserve quality agricultural lands.

SECTION 3. AUTHORITY AND GENERAL PROVISIONS

3.1. Authority: Garden County is authorized by law to regulate zoning, planning, subdivision of land, and buildings by virtue of Section 23-114 RR Nebraska Statutes as amended, and is hereby declared to be in accordance with all provisions of these statutes.

3.2. Jurisdiction: This Resolution shall apply to the unincorporated areas within the boundaries of Garden County, Nebraska in the planning and zoning jurisdiction set forth by Nebraska law, as may be amended when necessary.

3.3. Scope: Except as may hereinafter specified, no land, building structure, or premises, hereafter shall be used or occupied and no structure may be located, constructed, extended, converted, structurally altered or otherwise developed without full compliance with the terms of this Resolution. Any structure or use lawfully existing at the effective date of this Resolution but not in conformity with the regulations of the appropriate zoning district may be continued, subject to the regulations of Section 18.

3.4. Districts: In order to carry out the purpose and intent of this Resolution, the unincorporated area of Garden County, Nebraska is hereby divided into the following zoning district classifications:

- A-1 A-1 Agriculture District
- A-2 A-2 Agriculture District
- RE Residential Estate District
- RL Residential Low Density District
- C Commercial District
- I Industrial District
- PR Park and Recreation District

3.5. District Boundaries and Official Map: The boundaries of the zoning districts are indicated upon the Official Zoning Map of Garden County, Nebraska, which map is made a part of this Resolution by reference hereto. The Official Zoning Map and all the notations, references, and other matters shown thereon shall be as much a part of this Resolution as if the notations, references and other matters set forth by said map were all fully described herein. The Official Zoning Map shall be on file in the Garden County Courthouse and shall bear the signature of the Chairperson of the Board of Commissioners attested by the County Clerk, under the certification that this is the Official Zoning Map of the Garden County Zoning Resolution

3.6. Changes to Official Zoning Map: If in accordance with the provisions of this Resolution, changes are made in the district boundaries or other matters portrayed on the Official Zoning Map, the resolution number and date of said change shall be recorded by the County Clerk on the Official Zoning Map. The County Board may from time to time adopt a new Official Zoning Map, in the event that the Official Zoning Map becomes damaged or destroyed; or for purposes of clarity due to a number of boundary changes, or to correct drafting errors or omissions; provided, however, that any such adoption shall not have the effect of amending the original Zoning Resolution or any subsequent amendment thereof.

3.7. Disincorporation: All territory which may hereafter become part of the unincorporated area of Garden County, Nebraska which is regulated by this Resolution by the disincorporation of any city or village, or any part thereof, shall automatically be classified as lying and being in the RL Residential Low Density District until such classification shall have been changed by amendment of this Resolution as provided by law.

3.8. Rules Where Uncertainty May Arise: Where uncertainty exists with respect to the boundaries of the various districts the following rules apply:

- 3.8.1. The district boundaries are the centerline of roads, alleys, waterways, or other public right-of-way, unless otherwise indicated; and where the designation of a boundary line coincides with the location of roads, alleys, waterways, or other public right-of-way, the centerline of the roads, alleys, waterways, or other public right-of-way shall be construed to be the boundary line of the district.
- 3.8.2. Where the district boundaries do not coincide with the location of roads, alleys, waterways, or other public right-of-way, but do coincide with platted lot-lines, the lot-line shall be construed to be the boundary of the district.
- 3.8.3. Where the district boundaries do not coincide with the location of roads, alleys, waterways, or other public right-of-way, but do coincide with section lines, quarter lines, quarter section lines, or quarter - quarter section lines, the

section lines, quarter lines, quarter section lines, or quarter - quarter section lines shall be construed to be the boundary of the district.

3.8.4. Boundaries following railroad lines shall be construed to be midway between the main tracks.

3.9. Exemptions: The following structures and uses shall be exempt from the provisions of these regulations:

3.9.1. Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves, or other similar equipment for the distribution to consumers of telephone or other communications, electricity, gas, or water, or the collection of sewage or surface water operated or maintained by a public utility but not including substations located on or above the surface of the ground.

3.9.2. Public signs, erected by or on behalf of a governmental entity.

3.10. Interpretation: In the interpretation and application of the provisions of this Resolution, the following regulations set forth below shall govern:

3.10.1. Minimum Requirements: In their interpretation and application, the provision of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.

3.10.2. Overlapping or Contradicting Regulations: Where the conditions imposed by any provisions of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of these regulations or any provision of any other law, resolution, rule or regulation of any kind, the regulations which are more restrictive shall govern unless specifically excepted.

3.10.3. Private Agreements: These regulations are not intended to abrogate, annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship; provided, however, that where the provisions of these regulations are more restrictive (or impose higher standards or requirements) than the easements, covenants or other private agreements or legal relationships, the provisions of these regulations shall govern.

3.10.4. Unlawful Uses: The adoption of these regulations shall not be interpreted as retroactively legalizing a use or structure which was illegal under previous law.

3.11. Severability: It is hereby declared to be the intention of Garden County that the provisions of these regulations are severable, in accordance with the following rules:

3.11.1 If any court of competent jurisdiction shall adjudge any provision of these regulations to be invalid, the judgment shall not affect any other provisions of these regulations.

3.11.2 If any court of competent jurisdiction shall adjudge invalid the application of any provisions of these regulations to a particular property or structure, the judgment shall not affect the application of the provisions to any other property or structure.

3.12. Amendments: Any provision of this Resolution from time to time may be amended, supplemented, changed, modified, or repealed by the governing body according to law; provided, however, that such amendments, supplements, changes, modifications, or repealed provisions shall not become effective until after the study and report by the Planning Commission.

3.13. Repeals:

3.13.1. All Resolutions of the County inconsistent herewith to the extent of such inconsistency, and no further, are hereby repealed.

3.13.2. The repeal of any of the above mentioned resolutions does not revive any other Resolutions or portions thereof repealed by said Resolutions.

3.13.3. Such repeals shall not affect or prevent the prosecution of punishment of any person for the violation of any Resolution repealed hereby, for any offense committed prior to repeal.

SECTION 4. RULES AND DEFINITIONS:

4.1. Rules:

- 4.1.1. In the construction of these regulations, the provisions and rules of this section shall be preserved and applied, except when the context clearly requires otherwise:
- 4.1.1.1. Words used in the present tense shall include the future tense.
 - 4.1.1.2. Words in the singular number include the plural number and words in the plural number include the singular number.
 - 4.1.1.3. The phrase “used for” shall include the phrases “arranged for”, “designed for”, “intended for”, “maintained for” and “occupied for”.
 - 4.1.1.4. The word “shall” is mandatory; the word “may” is permissive.
 - 4.1.1.5. The word “person” includes individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities.
 - 4.1.1.6. Unless otherwise specified, all distances shall be measured horizontally.
 - 4.1.1.7. The word “County” means Garden County, Nebraska.
 - 4.1.1.8. The abbreviation N/A means not applicable.
 - 4.1.1.9. In the event that there is any conflict or inconsistency between the heading of a section, subsection or paragraph of this Resolution and the context thereof, the headings shall not be deemed to affect the scope, meaning or intent of the context.
 - 4.1.1.10. The words “County Board” shall mean the Garden County, Nebraska, Board of Commissioners.
 - 4.1.1.11. The words “Planning Commission” shall mean the Planning and Zoning Commission duly appointed by the County Board.

Any word or phrase which is defined in this section, and used within this Resolution, shall have the meaning as so defined whenever the word or phrase is used, unless the definition is expressly limited in its meaning or scope.

4.2. Definitions: For the purpose of this Zoning Resolution, certain terms or words used herein shall be interpreted or defined as follows, unless the context clearly indicates otherwise.

- **Accessory Building:** A subordinate building which serves a function customarily incidental to that of the main building. Customary accessory buildings include but are not limited to garages, carports, barns, storage sheds, and all non-residential farm structures.
- **Adjacent:** When used to indicate land in the immediate vicinity of a lot, means land which shares a boundary line with the lot in question or which would share a boundary line with a lot in question or which would share a boundary line with it not for the separation caused by a street/road or any other public right-of-way.
- **Alleys:** Minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting a street/road.
- **Alteration:** Alteration, as applied to a building or structure, is a change or rearrangement in the structural parts of an existing building or structure. Enlargement whether by extending a side, increasing in height, or the moving from one location or position to another, shall be considered an alteration.
- **Building:** Any structure designed or intended for the enclosure, shelter or protection of persons, animals or property, but not a fence or similar enclosure which is permanently affixed to the land, has one or more floors and a roof, and is bounded by either open space or the lot lines of a lot. In any Residential District, any dwelling shall be deemed to be the principal building on the lot which the same is situated.
- **Communication Tower:** Any structure used to elevate a transmitter for radio, television, telephone, or any other types of communication.
- **Conditional Use Permit:** A Conditional Use Permit is written permit issued by the County Board. This Conditional Use Permit provides permission under specific conditions to make certain conditional uses of land in certain zoning districts as stipulated under exceptions in each of the district zoning regulations.

- **Developer:** The legal or beneficial owner or owners of any of the land proposed to be included in a given development or the authorized agent therefore, including the holder of the option or contract to purchase, or other individual having an enforceable legal interest in such land.
- **Development:** Any man-made change to alter the existing land use of a parcel of land including but not limited to: buildings, structures, mining, dredging, filling, grading, paving, excavating, or drilling operations.
- **District:** A section or sections of the area within the zoning jurisdiction of the County for which uniform regulations governing the use, height, area, size, density, and intensity of the use of buildings, land, and open spaces are established.
- **Dwelling:** A building or portion thereof, designed and used for residential purposes, but not including recreational travel trailers or motor homes not used as a permanent residence.
- **Dwelling, Accessory:** A dwelling located on the same lot as the principal or primary dwelling.
- **Dwelling, Single Family:** A dwelling having accommodations for and occupied exclusively by one family, including code compliant mobile homes, and intended to be occupied by not more than one family, and which has not less than one bathroom.
- **Dwelling, Two-Family:** A dwelling on a single lot of record having accommodations for and occupied exclusively by two families, independently.
- **Dwelling, Multiple-Family:** A dwelling having accommodations for and occupied exclusively by more than two families.
- **Dwelling Unit:** One room or rooms including at least one single kitchen; designed for or occupied as a unit by one family, for living and cooking purposes, located in a one family or multiple-family dwelling.
- **Farm:** An area of land 10 acres or larger whose primary purpose is to produce commercial agricultural products.
- **Feedlot/Confinement:** A lot, yard, corral, building or other area in which livestock are confined, primarily for the purposes of feeding and growth prior to slaughter or the sale of products derived from such livestock. The term does not include areas which are used for the raising of crops or other vegetation, and upon which livestock are allowed to graze. All feedlot/confinement facilities located within 1/4 mile of any other feedlot/confinement facilities that are under the ownership or management of the same operation shall be considered a single feedlot/confinement operation. Additionally, feedlot/confinement operations shall be broken into three classes:
 - Class I: Feedlot/confinement with less than 500 livestock
 - Class II Feedlot/confinement with 500 to 999 livestock
 - Class III Feedlot/confinement with 1,000 or more livestock
- **Guest House:** An accessory use designed for the temporary lodging of guests in a unit not having a kitchen or kitchen appliances.
- **Home Occupation:** A business, profession, service or trade conducted for gain or support entirely within a residential building or its accessory structures. (See Section 12.01 for requirement)
- **Hotel or Motel:** A building or portion thereof, or a group of buildings, used as a transient abiding place which may or may not serve meals and whether the establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, motor court tourist cabin, tourist court, or other similar designations.
- **Kennel:** Any place, area, building, or structure where 10 or more dogs are commercially boarded, commercially cared for, or raised for the intent purpose of sale.
- **Livestock:** All cattle, bison, horses, mules, burros, sheep, goats, swine, poultry, llamas, ostriches, and elk shall be considered livestock. Additionally, any other animal or fowl which are being produced primarily for use as food or food products for human consumption shall be considered livestock.
- **Lot:** A parcel of land occupied or designed to be occupied by one or more buildings, structures, or uses, together with such open areas as are required by this Resolution.
- **Lot Area:** The total horizontal area within the lot lines of a lot.
- **Lot Line, Front:** The property line dividing a lot from a street/road. On a corner lot only one street/road line shall be considered as a front lot line.
- **Lot line, Rear:** The line opposite the front lot line.

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- **Lot Line, Side:** Any lot lines other than front lines or rear lines.
- **Meteorological Tower:** A tower which is erected primarily to measure wind speed and directions plus other data relevant to siting or operating a Wind Energy Conversion System. Meteorological Towers do not include towers and equipment used by airports, the Nebraska Department of Roads, or other applications to monitor weather conditions.
- **Mobile Home:** A moveable or portable dwelling constructed to be towed on its own chassis, connected to utilities and designed with or without a permanent foundation for use year around living, which may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit.
- **Mobile Home Park:** Any area of land upon which one (1) or more mobile homes are parked, connected to utilities and used by one (1) or more persons for living or sleeping purposes. A mobile home parked in this area can either be placed on a permanent foundation or supported only by its wheels, jacks, blocks, or skirting or a combination of these devices. A mobile home park includes any premises set apart for supplying to the public parking space, either free of charge or for revenue for one (1) or more mobile homes, connected to utilities and used by one (1) or more persons for living or sleeping purposes, and shall include any building, structure, tent, vehicle or enclosure used or intended for use as a part of the equipment of the mobile home park; and shall include any buildings, structures, tents, vehicles, or enclosures used or intended for use or intended wholly or in part for the accommodation of automobile transients.
- **Nonconforming Structure:** A structure which does not comply with the lot size requirement or regulations applicable to new structures in the zoning district in which it is located.
- **Nonconforming Use:** An existing use of a structure or land which does not conform to the zoning regulations.
- **Offset:** The horizontal distance between any building and a lot line, other than a street/road right-of-way
- **Principal Use or Structure:** The predominate use of land or structures as distinguished from an accessory use.
- **Ranch:** An area of land 10 acres or larger whose primary purpose is to produce commercial agricultural products.
- **Right-of-way:** An area dedicated to the public use which provides access to adjacent properties.
- **Screened:** Construction and maintenance of fences, earth berms or the use of landscaping materials or other materials used to lessen the noise, light, or visual impacts of a land use on surrounding land uses.
- **Setback:** The horizontal distance between any building and the established public or private street/road right-of-way line.
- **Structure:** Anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street-light fixtures, and street/road signs.
- **Structural Alterations:** Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any complete rebuilding of the roof or the exterior walls. For the purpose of this regulation, the following shall not be considered a structural alteration:
 - a. Attachment of new facade where structural supports are not changed.
 - b. Addition of fire escapes where structural supports are not changed.
 - c. New windows or doors.
 - d. Repair or replacement of non-structural members.
- **Sub divider:** The owners, developers, or agents of persons or corporations affecting subdivision.
- **Subdivision:** The division of a parcel of land into two (2) or more lots or parcels when the smallest parcel of land created is forty (40) acres or less in area for the purpose of transfer of ownership, building development, or, if a new street/road is involved, any division of a parcel of land. The term includes re-subdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.
- **Unincorporated Community:** For the purpose of this Resolution, the unincorporated communities in Garden County shall be Lisco and any community designated as unincorporated after the adoption of this Resolution.
- **Variance:** A variance is a relaxation of the terms of this Zoning Resolution that may be granted by the Board of Adjustment under the provisions of Section 21.
- **Yard:** That portion of the area on a lot extending open and unobstructed from the ground upward from a lot line for a depth or width specified by the regulations for the District in which the lot is located.

- **Yard, Front:** A yard extending across the full width of the lot, the depth of which is the distance between the street/road right-of-way and the front of the primary building.
- **Yard, Rear:** A yard extending across the full width of the lot, the depth of which is the distance between a rear lot line and the rear of the primary building.
- **Yard, Side:** A yard extending from the front yard, or front lot line where no front yard is required, to the rear yard.
- **Zoning Administrator(s):** The person or persons authorized and empowered by the County Board to administer the requirements of these zoning regulations.
- **Zoning Regulations:** The term zoning regulations shall mean the requirements stipulated in this Resolution and any amendments to it.

SECTION 5. "A-1" AGRICULTURAL DISTRICT

5.1. Intent: It is intended that this district serve as a buffer between intense agricultural use and population centers in order to protect the integrity of existing farming and ranching operations while facilitating the complimentary development of new residential, commercial and agricultural uses.

5.2. Permitted Uses: In District "A-1" buildings, structures, land and premises shall hereafter be allowed to be erected, constructed, reconstructed, moved or altered as long as they are to be used for a permitted use:

- 5.2.1. The operation of a farm or ranch.
- 5.2.2. The cultivation, storage, and sale of crops, vegetables, plants, flowers, and nursery stock raised on the premises.
- 5.2.3. The grazing of livestock.
- 5.2.4. Apiaries.
- 5.2.5. Aquaculture and related facilities
- 5.2.6. One (1) primary single-family dwelling per legal lot/parcel.
- 5.2.7. One (1) guest house per legal lot/parcel.
- 5.2.8. Accessory single family dwellings for persons customarily employed at or engaged in farming or ranching on site
- 5.2.9. Extraction of minerals using non-excavation (drilling) techniques.
- 5.2.10. Home Occupations. (In accordance with Section 12.01)
- 5.2.11. Schools.
- 5.2.12. Churches.
- 5.2.13. Public parks and public recreation facilities.
- 5.2.14. Tourist Information Area.
- 5.2.15. Offices incidental to the operation of the listed permitted uses.
- 5.2.16. Recreational Tourist Services
- 5.2.17. Bed and Breakfasts
- 5.2.18. Golf Courses
- 5.2.19. Utility Transmission Lines
- 5.2.20. Accessory buildings and uses incidental to the listed permitted uses.
- 5.2.21. Meteorological Towers

5.3. Conditional Uses: The following conditional uses may be permitted in the "A-1" District upon approval of a permit in accordance with the requirements and procedures set forth in Section 19.

- 5.3.1. Expansion of a Class I or II Feedlot/Confinements.
- 5.3.2. Kennels
- 5.3.3. Agricultural Service establishments primarily engaged in performing agricultural husbandry or horticulture services on a fee or contract basis including:
 - 5.3.3.1. Grain and/or feed elevator
 - 5.3.3.2. Crop dusting or spraying operations facilities including hangers, landing strips, fertilizer storage facilities, and offices accessory to the crop dusting or spraying operation
 - 5.3.3.3. Farm equipment sales, repair, and installation facilities
 - 5.3.3.4. Veterinary clinics and hospitals and related facilities
 - 5.3.3.5. Grain and feed sales
 - 5.3.3.6. Commercial grain storage and drying
 - 5.3.3.7. Fertilizer storage, mixing , blending, and sales
 - 5.3.3.8. Seed processing, storage, mixing, blending, and sales
 - 5.3.3.9. Sorting, grading, and packing fruits and vegetables for the grower
 - 5.3.3.10. Animal waste recycling and processing facilities

5.3.3.11. Forage dehydration facilities

5.3.4. Mineral Resource Development Facilities including:

5.3.4.1. Open pit mining and materials processing

5.3.4.2. Mining or recovery of other mineral deposits not allowed as a permitted use

5.3.5. Power generating facilities and related uses

5.3.6. Cellular, television, or radio towers.

5.3.7. Commercial junkyards and salvage yards

5.3.8. Solid waste disposal sites and facilities

5.3.9. Sewage and wastewater treatment operations.

5.3.10. Commercial trailer washout.

5.3.11. Cemeteries, mausoleums, and crematories.

5.3.12. Airports and landing strips.

5.3.13. Prisons

5.3.14. Colleges.

5.3.15. Fairgrounds

5.3.16. Race Tracks

5.3.17. Mobile Home parks (in accordance with Section 13)

5.3.18. Billboards (in accordance with Section 14)

5.3.19. Small Wind Energy System

5.3.20. Commercial Wind Energy System

5.3.21. Uses similar to the uses listed above as Conditional Uses as long as the use complies with the general intent of the A-1 District.

5.4. Height Regulations: Any building or structure hereafter erected or altered may be erected to any height which is not in conflict with any other existing County Resolution, state or federal law.

5.5. Lot Regulations:

5.5.1. Minimum lot size needed for a non-farm development: 40 acres. (Any legal lot of less than 40 acres that existed prior to the adoption of this Resolution is exempt from the minimum lot size requirement.)

5.5.2. Minimum setback: 75 feet from the centerline of county roads
50 feet from the right-of-way of state highways
150 feet from the centerline of a railroad line

5.5.3. Fences: Fences are not required to comply with either the minimum setback or the minimum offset. Fences may be located on the property line. Fences located on corner lots abutting public right-of-way shall not obstruct the view of vehicle traffic at an intersection.

5.6. Feedlots: New Class I, Class II and Class III feedlots are prohibited in the A-1 Zoning District

SECTION 6. "A-2" AGRICULTURAL DISTRICT

6.1. Intent: It is intended that this district satisfy the basic needs of the Garden County farming-ranching operations. With agriculture being one of the County's main industries, it is vital that agricultural operations be allowed and protected from encroachments of non-agricultural uses. Therefore, the mixture of intense residential and other urban uses with agriculture is not encouraged within this district, nor is rezoning to urban use encouraged. Some agricultural and non-agricultural uses are, however, frequently found to exist in rural areas, frequently serving rural and urban needs without detriment to agricultural interests under normal conditions, with proper design and location. These uses may be permitted by special review and approval by the Planning Commission and County Commissioners.

6.2. Permitted Uses: In District "A-2" buildings, structures, land and premises shall hereafter be allowed to be erected, constructed, reconstructed, moved or altered as long as they are to be used for a permitted use:

- 6.2.1. The operation of a farm or ranch.
- 6.2.2. The cultivation, storage, and sale of crops, vegetables, plants, flowers, and nursery stock raised on the premises.
- 6.2.3. The grazing of livestock.
- 6.2.4. Apiaries.
- 6.2.5. One (1) primary single-family dwelling per legal lot/parcel.
- 6.2.6. One (1) guest house per legal lot/parcel.
- 6.2.7. Accessory single family dwellings for persons customarily employed at or engaged in farming or ranching on site
- 6.2.8. Extraction of minerals
- 6.2.9. Home Occupations. (In accordance with Section 12.1)
- 6.2.10. Schools.
- 6.2.11. Churches.
- 6.2.12. Public parks and public recreation facilities.
- 6.2.13. Tourist Information Area.
- 6.2.14. Offices incidental to the operation of the listed permitted uses.
- 6.2.15. Recreational Tourist Services
- 6.2.16. Bed and Breakfasts
- 6.2.17. Golf Courses
- 6.2.18. Utility Transmission Lines
- 6.2.19. Aquaculture and related facilities
- 6.2.20. Crop dusting and spraying operations
- 6.2.21. Grain and Feed Elevators
- 6.2.22. Commercial Grain Storage and drying
- 6.2.23. Seed Processing, storage, mixing, blending, and sales
- 6.2.24. Sorting, grading, and packing fruits and vegetables for the grower.
- 6.2.25. Livestock sale barns and facilities
- 6.2.26. Cellular, television, radio or meteorological towers
- 6.2.27. Cemeteries, mausoleums, and crematories
- 6.2.28. Airplane landing strips
- 6.2.29. Accessory buildings and uses incidental to the listed permitted uses
- 6.2.30. Generating Facilities
- 6.2.31. Solar/Electricity Generating Facilities

Section 6: A-2 Agricultural Zoning District

6.3. Conditional Uses: The following conditional uses may be permitted in the “A-2” District upon approval of a permit in accordance with the requirements and procedures set forth in Section 19.

- 6.3.1. Kennels
- 6.3.2. Agricultural Service establishments primarily engaged in performing agricultural husbandry or horticulture services on a fee or contract basis including:
 - 6.3.2.1 Farm equipment sales, repair, and installation facilities
 - 6.3.2.2 Veterinary clinics and hospital and related facilities
 - 6.3.2.3 Fertilizer storage, mixing, blending, and sales
 - 6.3.2.4 Animal waste recycling and processing facilities
 - 6.3.2.5 Custom meat processing
 - 6.3.2.6 Forage dehydration facilities
- 6.3.3. Class I, II and III Feedlot/Confinements
- 6.3.4. Commercial junkyards and salvage yards
- 6.3.5. Solid waste disposal sites and facilities
- 6.3.6. Sewage and wastewater treatment operations.
- 6.3.7. Commercial trailer washout.
- 6.3.8. Airports.
- 6.3.9. Prisons
- 6.3.10. Colleges.
- 6.3.11. Fairgrounds
- 6.3.12. Race Tracks
- 6.3.13. Mobile Home parks (in accordance with Section 13)
- 6.3.14. Billboards (in accordance with Section 14)
- 6.3.15. Small Wind Energy System
- 6.3.16. Commercial/Utility Grade Wind Energy Conversion Systems
- 6.3.17. Uses similar to the uses listed above as Conditional Uses as long as the use complies with the general intent of the A-2 District.

6.4. Height Regulations: Any building or structure hereafter erected or altered may be erected to any height which is not in conflict with any other existing County Resolution, state or federal law.

6.5. Lot Regulations:

- 6.5.1. Minimum lot size needed for a non-farm development: 40 acres. (Any legal lot of less than 40 acres that existed prior to the adoption of this Resolution is exempt from the minimum lot size requirement.)
- 6.5.2. Minimum setback: 75 feet from the centerline of county roads
50 feet from the right-of-way of state highways
150 feet from the centerline of a railroad line
- 6.5.3. Fences: Fences are not required to comply with either the minimum setback or the minimum offset. Fences may be located on the property line. Fences located on corner lots abutting public right-of-way shall not obstruct the view of vehicle traffic at an intersection.

SECTION 7. "RE" RESIDENTIAL ESTATE DISTRICT

7.1. Intent: The intent of this district is to provide the present and future residents of Garden County with low-density residential subdivisions in rural areas.

7.2. Permitted Uses: In the "RE" District, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

- 7.2.1. One (1) single family dwelling unit per lot
- 7.2.2. Crop production, orchards, and gardens
- 7.2.3. Home Occupations (in accordance with Section 12.1)
- 7.2.4. Public parks and recreation areas
- 7.2.5. Schools
- 7.2.6. Bed and Breakfasts
- 7.2.7. Any structure or use clearly incidental and accessory to a use allowed by right in the "RE" District

7.3. Conditional Uses: The following conditional uses may be permitted subject to approval procedures outlined in Section 19 of this Resolution:

- 7.3.1. Utility substations and major transmission lines when said lines primarily serve areas other than the Residential Estate District
- 7.3.2. Public water storage and treatment
- 7.3.3. Class I feedlot/confinement.
- 7.3.4. The raising of livestock for personal use and consumption
- 7.3.5. Raising 4-H animals
- 7.3.6. Small Wind Energy System
- 7.3.7. Uses similar to the uses listed above as Conditional Uses as long as the use complies with the general intent of the RE District

7.4. Lot Regulations:

- 7.4.1. Minimum lot area: 1 acre
- 7.4.2. Minimum front yard: 75 feet from the centerline of county roads
50 feet from the right-of-way of state highways
150 feet from the centerline of a railroad line
- 7.4.3. Side and rear yard: 20 feet

7.5. Fences: Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of fences:

- 7.5.1. No fence shall be constructed which will constitute a traffic hazard.
- 7.5.2. No person shall erect or maintain any fence which shall adversely affect the public health, safety and welfare.
- 7.5.3. Fences may be constructed on the property line as long as the fence complies with all street/road, utility, and other applicable easements.

SECTION 8. "RL" RESIDENTIAL LOW DENSITY DISTRICT

8.1. Intent: The intent of this district is to serve the demand for single family housing on average sized urban lots, within unincorporated communities. It is not intended for this district to be used in rural areas outside of an unincorporated community.

8.2. Permitted Uses: In the RL District, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

- 8.2.1. One (1) single family dwelling unit per lot.
- 8.2.2. One (1) two-, three- or four-unit dwelling per lot.
- 8.2.3. Home Occupations (in accordance with Section 12.1)
- 8.2.4. Public parks and public recreation areas.
- 8.2.5. Schools.
- 8.2.6. Churches
- 8.2.7. Bed and Breakfast
- 8.2.8. Utility transmission lines primarily serving uses within the Residential Low Density District.
- 8.2.9. Any structure or use clearly incidental and accessory to a use allowed by right in the "RL" District

8.3. Conditional Uses: The following conditional uses may be permitted in the RL District subject to approval procedures outlined in Section 19 of this Resolution:

- 8.3.1. Mobile Home Park
- 8.3.2. Multi-family structures consisting of five or more units
- 8.3.3. Public Sewage and wastewater treatment facilities
- 8.3.4. Utility substations and major transmission lines when said lines primarily serve areas other than the Residential Low Density District
- 8.3.5. Public water storage and treatment
- 8.3.6. Small Wind Energy System
- 8.3.7. Uses similar to the uses listed above as Conditional Uses as long as the use complies with the general intent of the RL District.

8.4. Height Regulations: Maximum structure height: 30 feet

8.5. Lot Regulations:

- 8.5.1. Minimum Lot Size: 3,500 sq ft
- 8.5.2. Minimum Setback: 25 feet
- 8.5.3. Minimum side yard: 5 feet
- 8.5.4. Minimum rear yard: Principal building: 20 feet
Accessory building 5 feet

8.6. Fences: Except as otherwise specifically provided in other codes and regulations, the following Regulations shall apply to the construction of fences:

- 8.6.1. No fence shall be constructed which will constitute a traffic hazard.
- 8.6.2. No person shall erect or maintain any fence which shall adversely affect the public health, safety and welfare.
- 8.6.3. Fences may be constructed on the property line as long as the fence complies with all street/road, utility, and other applicable easements.

SECTION 9. "C" COMMERCIAL DISTRICT

9.1. Intent: The intent of this district is to provide a zone which will accommodate the broad range of retail shopping and service activities normally serving tourist and commercial activities. This zoning district also provides areas for commercial activity within unincorporated communities.

9.2. Permitted Uses: In the 'C' District, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

- 9.2.1. Stores and shops which provide personal services.
- 9.2.2. Stores and shops which sell retail or wholesale merchandise.
- 9.2.3. Restaurants.
- 9.2.4. Offices
- 9.2.5. Hotels/Motels
- 9.2.6. Convenience Stores
- 9.2.7. Gas Stations
- 9.2.8. Truck Stops
- 9.2.9. Tourist Shops

9.3. Conditional Uses

- 9.3.1. Billboards (in accordance with Section 14)
- 9.3.2. Small Wind Energy System
- 9.3.3. Other uses associated with tourist or commercial activities as long as such uses are similar to the intent of the C District.

9.4. Intensity of Use Regulations:

- 9.4.1. Minimum lot area: None
- 9.4.2. Minimum lot width: None
- 9.4.3. All structures within the Commercial zone shall comply with all of the State Fire Marshall's regulations pertaining to that type structure.

9.5. Setback Regulations:

- 9.4.1. Minimum front yard: 75 feet from the centerline of county roads
50 feet from the right-of-way of state highways
150 feet from the centerline of a railroad line
- 9.5.2. Side yard setback: Not less than five (5) feet.
- 9.5.3. Rear yard setback: Not less than 15 feet from the primary structure;
Not less than 5 feet from an accessory structure.

9.6. Fences: Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of fences:

- 9.6.1. No fence shall be constructed which will constitute a traffic hazard.
- 9.6.2. No person shall erect or maintain any fence which shall adversely affect the public health, safety and welfare.
- 9.6.3. Fences may be constructed on the property line as long as the fence complies with all street/road, utility, and other applicable easements.

SECTION 10. "I" INDUSTRIAL DISTRICT

10.1. Intent: The intent of this district is to provide for those activities which require more intense uses of land.

10.2. Permitted Uses: In District "I", no building, structure, land or premises shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

- 10.2.1. Any use allowed as a permitted use in the "C" District.
- 10.2.2. Contractor equipment storage yard.
- 10.2.3. Grain elevators.
- 10.2.4. Grain storage facilities
- 10.2.5. Light indoor manufacturing or fabrication establishments which are not noxious or offensive by reason of vibration, noise, dust, fumes, gas, odor or smoke.
- 10.2.6. Manufacturing or storage of bulk oil or gas.
- 10.2.7. Ready-mixed concrete and asphalt mix plants.
- 10.2.8. Sign painting and manufacturing.
- 10.2.9. Public utility and public service uses as follows:
 - 10.2.9.1 Telephone exchange, telephone transmission buildings and electric power plants
 - 10.2.9.2 Public utility storage yards
- 10.2.10. Activities which are normally associated with a railroad operation.
- 10.2.11. Commercial Storage Units
- 10.2.12. Livestock auction facilities
- 10.2.13. Truck Terminal

10.3. Conditional Uses: The following conditional uses may be permitted subject to approval procedures outlined in this Ordinance:

- 10.3.1 Manufacturing or fabrication establishments which are not allowed as a permitted use.
- 10.3.2 Kennels
- 10.3.3 Commercial transmitting towers.
- 10.3.4 Auto wrecking yards, junk yards, salvage yards and scrap processing plants, subject to the following:
 - 10.3.4.1. Located on a tract of land at least 300 feet from a Residential District zone.
 - 10.3.4.2. The area shall be screened from public view and access by solid or semi-solid fence having a minimum height of six (6) feet.
 - 10.3.4.3. No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the screened area or within the public right-of-way.
- 10.3.5 Billboards (in accordance with Section 14)
- 10.3.6 Small Wind Energy System
- 10.3.7 Uses similar to the uses listed above as long as the use complies with the general intent of the I District.

Section 10: I Industrial District

10.4. Fences: Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of fences:

- 10.4.1. No fence shall be constructed which will constitute a traffic hazard.
- 10.4.2. No person shall erect or maintain any fence which shall adversely affect the public health, safety and welfare.
- 10.4.3. Fences may be constructed on the property line as long as the fence complies with all street/road, utility, and other applicable easements

Section 11: Park and Recreation District

SECTION 11. "PR" PARK AND RECREATION DISTRICT

11.1. Intent: The intent of this district is to preserve existing and future park and recreation lands. It is the intention to only restrict in "PR" that which is necessary to protect the health, safety, and general welfare of the County and its surrounding area.

11.2. Permitted Uses: In District "PR" buildings, structures, land and premises shall hereafter be allowed to be erected, constructed, reconstructed, moved or altered as long as they are to be used for a permitted use:

- 11.2.1. Parks
- 11.2.2. Outdoor Recreational Facilities.
- 11.2.3. Tourist Facilities
- 11.2.4. Museums
- 11.2.5. Grazing of livestock when incorporated as part of a park management plan.
- 11.2.6. Accessory buildings and uses incidental to the listed permitted uses.

11.3. Conditional Uses: The following conditional uses may be permitted subject to approval procedures outlined in this Ordinance: Other intense uses associated with parks or outdoor recreation as long as such uses comply with the intent of the PR District.

- 11.3.1. Small Wind Energy System

11.4. Fences. Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of fences in the PR District:

- 11.4.1. No fence shall be constructed which will constitute a traffic hazard.
- 11.4.2. No fence shall be constructed in a manner or be of a design as to be hazardous or dangerous to persons or animals.
- 11.4.3. No person shall erect or maintain a fence which shall adversely affect the public health, safety, and welfare.
- 11.4.4. Fences may be constructed on the property line as long as the fence complies with all street/road, utility, and other applicable easements.

SECTION 12. SUPPLEMENTARY DISTRICT REGULATIONS

12.1. Home Occupations: Home occupations, where permitted, shall be subject to the following restrictions and Limitations:

- 12.1.1. The home occupation shall be incidental and subordinate to the principal residential use of the premises and not more than fifty percent (50%) of the total floor area of the dwelling unit.
- 12.1.2. No outdoor storage of materials or equipment used in the home occupation shall be permitted in a residential district.
- 12.1.3. No alteration of the exterior of the principal residential building shall be made which changes the character as a residence. The home occupation shall be carried on entirely within the principal residential structure or accessory building in a residential district.
- 12.1.4. No equipment shall be utilized that creates a nuisance due to noise or electrical interference.
- 12.1.5. Parking needs generated by the conduct of a home occupation in a residential district shall be provided off-street/road.

12.2. Temporary Uses: The following temporary uses shall be permitted:

- 12.2.1. Seasonal Sales: Seasonal sales of farm produce. Structures incidental to the sale need not comply with the applicable front yard requirements if the structures are removed or moved back of the required front yard setback line at the end of the season during which they are used. All permanent structures must comply with the front yard requirements.
- 12.2.2. Construction site support for the duration of the construction project

SECTION 13. MOBILE HOME PARK REGULATIONS

13.1. Intent: It is intended that the requirements for mobile home parks shall be such that the quality of a neighborhood is not detrimentally affected by the adjacent location of a mobile home park. The mobile home park is basically a low to medium density residential use and shall be treated as such. Since this form of single-family housing physically contrasts substantially with typical on-site constructed housing, it is necessary to review each request via the procedures of Section 19 “Conditional Uses”. This review procedure allows design adjustments to fit the constraints of any site.

13.2. Development Standards: In those districts where mobile home parks are listed as Conditional Uses, all applications must first be processed via the procedures of Section 19. In addition to possible conditions being attached as the result of the conditional use, the following standards shall also apply:

- 13.2.1. Minimum size of mobile home park: 5,000 square feet
- 13.2.2. Setback: Mobile homes shall not be placed within 20 feet of any boundary that is not a street/road and 25 feet from any boundary that is adjacent to a street/road.
- 13.2.3. Minimum Separation between Homes: based on the distance between mobile home units measured from the closest point or edge of the mobile home as follows:
 - 13.1.1.1. 15 feet between mobile homes if the units are placed end (width) to end (width).
 - 13.1.1.2. 20 feet between mobile homes if the units are placed side (length) to side (length).
 - 13.1.1.3. 18 feet between mobile homes if the units are placed side (length) to end (width).
 - 13.1.1.4. Ends (width) of mobile homes that are greater than 16 feet in width shall be considered to be sides of the mobile home in measuring distances between mobile home units.
 - 13.1.1.5. Accessory buildings and structures on the same lot or space as a mobile home shall have a minimum clearance of 10 feet from any structure or mobile home on any other lot.
 - 13.1.1.6. Commonly owned or utilized buildings which are accessory to the park shall have a minimum clearance of 10 feet from any other structure or mobile home.
- 13.2.4. Access to dedicated streets/roads shall be provided. The County may require mobile home parks over 50 units to have additional access points for emergency access purposes.
- 13.2.5. Architectural Control: The County may set architectural standards for a mobile home park.
- 13.2.6. Landscaping: The County may require that a landscaping concept plan be submitted for review and approval.
- 13.2.7. Storage: Storage units shall be designed as an integral part of the site.
- 13.2.8. Utilities: Potable water and a sewage disposal system meeting State of Nebraska regulations shall be provided.
- 13.2.9. Trash Collection: Trash receptacles shall be provided and properly screened from view.
- 13.2.10. Parking: The County may require that a parking concept plan be submitted for review and approval
- 13.2.11. Road Quality: The County may require that all interior roads be all-weather quality.
- 13.2.12. Code Compliant: All mobile homes shall be in compliance of state codes regarding mobile homes.

13.3. Bonding: The County may require bonding or some guarantee in a form acceptable to the County Attorney to guarantee performance of plans.

13.4. Livestock: No livestock shall be kept, housed, penned or otherwise in any mobile home park.

SECTION 14. SIGN REGULATIONS

14.1. Billboards: All billboards erected after the adoption of this Resolution shall comply with the following regulations:

14.1.1. Billboards shall only be allowed as a conditional use in the A, C, and I Districts.

14.1.2. No Billboard shall be erected without a conditional use permit from the County Board. The County Commissioners shall consult the recommendation of the Planning Commission when issuing a conditional use for a billboard.

14.1.3. Any billboard that is not kept in good condition shall either be repaired or removed at owner's expense.

14.1.4. The County Board may implement conditions upon a billboard to minimize the environmental or scenic impact of a billboard.

SECTION 15. FEEDLOT/CONFINEMENT REGULATIONS

15.1. Feedlot/Confinement Permit: No new feedlot or confinement operation shall be developed without a conditional use permit from Garden County. Likewise, any existing feedlot or confinement facility shall not be expanded without first obtaining a conditional use permit from Garden County if such expansion will result in the feedlot/confinement operation meeting the definition of the next larger class of feedlot/confinement operation.

15.2. Permit Validity. Conditional use permits for a Feedlot/Confinement shall be contingent upon receiving a permit for a waste control facility from the Nebraska Department of Environment Quality. The permit applicant must demonstrate compliance with all applicable State and Federal Government environmental regulations.

15.3. Feedlot/Confinement Development Standards: All new or newly expanded feedlot/confinement facilities shall conform to the following development standards:

- 15.3.1 Existing feedlots expanding within ½ miles of a residence, school, or public recreation area must first go through a public hearing process.
- 15.3.2 No new feedlot/confinement facilities shall be allowed in the AG-1 District, which is an established buffer zone around existing villages, without approved waiver to these regulations.
- 15.3.3 Setback or separation distances required between animal feeding operations and existing residences, schools, or public recreation areas may be variable. Setbacks will be one (1) miles for feeding operations up to 10,000 animal units. For operations larger than 10,000 animal units, the setback or separation may be irregular based upon and consistent with state environmental standards, but shall not be less than one mile.
- 15.3.4 New non-farm residential development and non-farm residential estate districts shall not be permitted within one (1) mile of a feedlot/confinement operation except additional dwellings needed by employees and operators of the feeding operation. Any residential development within the one (1) miles buffer zone must have an approved nuisance waiver.
- 15.3.5 All feedlots shall meet the environmental standards established by the Department of Environmental Quality and U.S. Environmental Protection Agency.

SECTION 16. COMMUNICATION/METEOROLOGICAL TOWER REGULATIONS

16.1. General Standards: The following minimum standards shall apply to all communication towers when seeking a building or conditional use permit:

- 16.1.1 The height of a communication or meteorological tower shall not exceed the distance between the base of a tower and any permanent structure, utility line or road.
- 16.1.2 Communication or meteorological towers shall not be constructed unless evidence is demonstrated that the communication transmitter(s) in question cannot be practically located on either an existing structure or an existing communication tower.
- 16.1.3 Communication or meteorological towers shall not contain transmitters which interfere with commercial or residential radio or television signals.
- 16.1.4 All communication or meteorological towers must comply with FAA, the Nebraska Department of Aeronautics and Nebraska Department of Transportation regulations.
- 16.1.5 Meteorological Towers must also comply with the requirements outlined in Section 28 of these regulations.
- 16.1.6 Meteorological Towers must have documented approval from the Joint City and County Garden County Airport Zoning Board prior to application.
- 16.1.7 Meteorological Tower Permits would be limited to 5 years but allow for extensions upon application.
- 16.1.8 Meteorological Towers 50 feet or higher must be made more visible by complying with the following requirements:
 - A. Paint towers in seven, equal bands of Aviation Orange and White. The bands should begin with Aviation Orange at the top and finish with the same orange as the bottom band.
 - B. A dual lighting system of medium or high intensity white flashing light at the top of the tower with a minimum of 2 nautical miles visibility when flashing for daytime visibility and an aviation red light flashing light for nighttime visibility. Lighting shall conform with FAA guideline AC 150/5345-43 *Specification for Obstruction Lighting Equipment* or most recent guidelines in place at the time of installation.
 - C. Guy-Wired Towers must have a total of eight marker balls attached as follows: 4 marker balls attached to guy lines at the top of the tower at a distance no further down than 15 feet from the top wire connection; 4 marker balls at the bottom of wires at a height of 5 to 10 feet above the tallest crop to be grown in the immediate vicinity of the tower.
 - D. Guy-Wired Towers shall have a 7' safety sleeve at each anchor point.

16.2. Application Requirements: All applications for a conditional use permit for a communication or meteorological tower shall contain the following items:

- 16.2.1. A vicinity map showing all permanent structures, roads, and utility lines within a two mile radius of the proposed tower.
- 16.2.2. Written evidence that the communication tower meets the requirements listed in Section 16.1.

SECTION 17. MINING REGULATIONS

17.1. General Standards: The following minimum standards shall apply to all approved open pit mining operations in an A-1 Zone:

- 17.1.1. The operator shall maintain haulage roads in a reasonably dust free condition if within $\frac{1}{4}$ mile of a previously established residential subdivision.
- 17.1.2. The hours of operation shall be limited to a period between 6:00 a.m. and 10:00 p.m. if the operation is located within one-fourth of a mile of a previously established subdivision.
- 17.1.3. Excavations shall not occur nearer than 10 feet from any property line, nor nearer than 150 feet from any residence, unless written consent of the owner of the residence or property is provided to the Planning Commission. Excavation shall occur not nearer than 25 feet from any public road.
- 17.1.4. A reclamation plan shall be submitted with the conditional use request. This plan shall include the following:
 - 17.1.4.1. Use of area excavation.
 - 17.1.4.2. Methods and type of vegetation proposed.
 - 17.1.4.3. Description of final grading concept which will remove rough contours, smoothing ridges, mounds, etc., into a more natural condition.
 - 17.1.4.4. Any other plans or description which will further define the operator's intent to reclaim the site.
 - 17.1.4.5. A reclamation staging program.
 - 17.1.4.6. A bond may be required by the County as a condition of approval to insure full compliance with conditions of reclamation.

SECTION 18. NON-CONFORMING USES

18.1. General: There are three types of nonconforming uses:

- 18.1.1. **Nonconforming Lot of Record:** A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of these regulations, and the lot does not comply with the lot area or width requirements of the district in which it is located.
- 18.1.2. **Nonconforming Structure:** A structure that existed prior to the adoption of these regulations that does not comply with the lot coverage, height or yard requirements which are applicable to structures in the zoning district in which it is located.
- 18.1.3. **Nonconforming Uses:** A use of a structure or of land that lawfully existed prior to the adoption of these regulations which does not comply with the use regulations applicable in the zoning district in which it is located.

18.2. Nonconforming Lots of Record: The Zoning Administrator may issue a building permit for a nonconforming lot of record provided that:

- 18.2.1. The lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of the size and width at that location would have been prohibited by any zoning regulations.
- 18.2.2. The lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of the lot has been prohibited by any zoning regulations.
- 18.2.3. The lot can meet all yard regulations for the district in which it is located.

18.3. Nonconforming Structures:

- 18.3.1. **Authority to Continue:** Any existing structure which does not comply with the applicable intensity of use regulations and/or the applicable yard and height regulations, may be continued, so long as it remains otherwise lawful.
- 18.3.2. **Enlargement, Repair, Alterations:** Any nonconforming structure may be enlarged, maintained, repaired or remodeled, provided, however, that no enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of the structure. Notwithstanding the above, a porch which is covered by a roof which extends into a front setback area may be enclosed but not in excess of the area covered by the existing roof.
- 18.3.3. **Damage or Destruction:** In the event that any nonconforming structure is damaged or destroyed, by any means, to the extent of more than forty (40) percent of its replacement value, the structure shall not be restored unless it shall then conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of forty (40) percent or less, no repairs or restoration shall be made unless a building permit is obtained within six (6) months and restoration is actually begun one year after the date of the partial destruction and is diligently pursued to completion. All structures damaged more than forty (40) percent shall be removed at the owner's expense within six months of having sustained damage.
- 18.3.4. **Moving:** No nonconforming structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

18.4. Nonconforming Uses:

- 18.4.1. Authority to Continue: Any lawfully existing use of part or all of a structure or any lawfully existing use of land which existed prior to the adoption of these regulations and does not comply with these requirements of these regulations may be continued, so long as otherwise lawful and so long as it is not specified to be terminated by these regulations.
- 18.4.2. Ordinary Repair and Maintenance:
 - 18.4.2.1. Normal maintenance and incidental repair or replacement, installation or relocation of non-bearing partitions, non-bearing walls, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use.
 - 18.4.2.2. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares the structure to be unsafe and orders its restoration to a safe condition.
- 18.4.3. Extension: A nonconforming use shall not be extended, expanded, enlarged or increased either in land area or floor area without first having received a Conditional Use Permit.
- 18.4.4. Enlargement: No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless the use shall then conform to the regulations of district in which it is located unless first having received a Conditional Use Permit.
- 18.4.5. Damage or Destruction: In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to the extent of more than forty (40) percent of its replacement value, the structure shall not be restored unless the structure and its use shall then conform to all regulations of the zoning district in which it is located. When the damage or destruction is forty (40) percent or less, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one year after the date of the partial destruction and is diligently pursued to completion. All structures damaged more than forty (40) percent shall be removed at the owner's expense within six months of having sustained damage.
- 18.4.6. Moving: No structure that is devoted in whole or in part to a nonconforming use and no nonconforming use of land shall be moved in whole or in part for any distance whatever to any location on the same or any other lot, unless the entire structure and its use and the use of the land shall then conform to all regulations of the zoning district in which it is located after being so moved. Code Compliant mobile homes may be replaced on an existing utility hookup outside a mobile home park.
- 18.4.7. Change in Use: If no external structural alterations are made which will expand the area or change the dimensions of the existing structure, any nonconforming use of a structure or premises may be changed to another nonconforming use, provided that the County Board, after receiving the recommendation of the Planning Commission, shall find that the proposed use is as appropriate or more appropriate to the district than the existing nonconforming use. In permitting a change, the County Board, after receiving the recommendation of the Planning Commission, may require conditions and safeguards to protect surrounding areas and properties. Once the use has changed it may no longer be returned to the original use or any other less appropriate use.
- 18.4.8. Abandonment or Discontinuance: When a nonconforming use is discontinued or abandoned for a period of twelve consecutive months, that use shall not be re-established or resumed, and any later use or occupancy of the land or buildings shall comply with the regulations of the zoning district in which the land or buildings are located.
- 18.4.9. Nonconforming Accessory Uses: No use, which is accessory to a principal nonconforming use, shall continue after the principal use shall cease or terminate unless the accessory use is permitted in the district.
- 18.4.10. Nonconforming Residential Uses: Notwithstanding the provisions of Section 10, any structure which is devoted to a residential use and which is located in a "C" District may be remodeled, expanded or enlarged. The structure shall not be used to accommodate a greater number of dwelling or lodging units than the structure accommodated prior to the work.
- 18.4.11. Change of Ownership: A nonconforming use may be continued, but not increased, by a new owner of such property.

SECTION 19. CONDITIONAL USES:

19.1. Conditional Use Permits: Conditional uses are those types of uses which, due to their nature, are determined to be more intense than the normal uses permitted within a given zoning district or where the product, process, mode of operation or nature of business may prove detrimental to the health, safety, welfare or property value of the immediate neighborhood and its environment. Within the various zoning districts, conditional uses that are specifically listed in the district regulations may be permitted only after additional requirements are complied with as established within this section.

- 19.1.1. The Garden County Commissioners may approve the establishment of a conditional use by granting a Conditional Use Permit. All requests for a Conditional Use Permit shall be reviewed by the Garden County Planning Commission. The Planning Commission recommendation shall be forwarded to and considered by the County Board.
- 19.1.2. Any person filing an application for a Conditional Use Permit shall comply with the County procedures and regulations as set forth herein. Any expansion or enlargement of a Conditional Use shall be treated as a new use and shall require a new application under the provisions of this section.
- 19.1.3. Ordinary repairs and maintenance may be performed upon structures associated with a Conditional Use so long as such repairs and maintenance do not have the effect of expanding or enlarging the use.
- 19.1.4. If the Conditional use has not commenced from the date of approval or is discontinued for a period of three (3) consecutive years it shall be presumed inactive. Garden County shall initiate an administrative hearing to consider whether to grant an extension of time to commence the use or revoke the Conditional Use. If the Conditional Use is revoked, it shall be necessary to follow the procedures and requirements of this Section in order to re-establish any Conditional Use.

19.2. Application requirements for a Conditional Use Permit: The following supporting documents shall be submitted as part of the application.

- 19.2.1. The following general information shall be submitted:
 - 19.2.1.1. Name, address, and telephone number of the applicants.
 - 19.2.1.2. Name, address, and authorization of the owner of the property proposed for the conditional use if different from above.
 - 19.2.1.3. Legal description of the property under consideration.
 - 19.2.1.4. Total acreage of the parcel under consideration.
 - 19.2.1.5. Existing land use of the parcel under consideration.
 - 19.2.1.6. Existing land uses of all the properties adjacent to said property.
 - 19.2.1.7. Signatures of the applicant and fee owners or their authorized legal agent.
 - 19.2.1.8. A certified list of the names, addresses and the corresponding Parcel Identification Number assigned by the Garden County Assessor of the surface owners of the property within five hundred (500) feet of the property subject to the applicant. The source of such records shall be the records the Garden County Assessor, or an ownership update from a title or abstract company or attorney, derived from such records, or from the records of the Garden County Clerk. If the list was assembled from the records of the County Assessor, the applicant shall certify that such list was assembled thirty (30) days of the application submission date.
- 19.2.2. A detailed description of the proposed operation and use shall be supplied. Details for the following items, when applicable, are required:
 - 19.2.2.1. Type of use for which the application is being made.
 - 19.2.2.2. Proximity of the proposed use to residential structures.
 - 19.2.2.3. The number of shifts to be worked and the maximum number of employees, if applicable.
 - 19.2.2.4. The maximum number of users, patrons, members, buyers, or other visitors that the Conditional Use facility is designed to accommodate at any one time.
 - 19.2.2.5. Types and numbers of animals to concentrate on the site at any one time, if applicable.
 - 19.2.2.6. Types and numbers of operating and processing equipment to be utilized, if applicable.
 - 19.2.2.7. Type, number, and uses of the proposed structures to be erected.
 - 19.2.2.8. Type, size, weight, and frequency of vehicular traffic and access routes that will be utilized.
 - 19.2.2.9. Domestic sewage facilities.
 - 19.2.2.10. Size of stockpile, storage, or waste areas to be utilized.

- 19.2.2.11. Method and time schedule of removal or disposal of debris, junk, and other wastes associated with the proposed use.
 - 19.2.2.12. A time table showing the periods of time required for the construction of the operation.
 - 19.2.2.13. Proposed landscaping plans.
 - 19.2.2.14. A statement delineating the need for the proposed use.
 - 19.2.2.15. A description of the proposed fire protection measures.
 - 19.2.2.16. Such additional information as may be required by the Planning Commission or County Commissioners in order to determine that the application meets the requirements of this Resolution and the policies of the Garden County Comprehensive Development Plan.
- 19.2.3. The applicant shall submit the following statements:
- 19.2.3.1. A statement explaining that the proposal is consistent with the Garden County Comprehensive Plan.
 - 19.2.3.2. A statement which explains that the proposal is consistent with the intent of the district in which the use is located.
 - 19.2.3.3. A statement which explains that the uses which would be permitted will be compatible with the existing surrounding land uses.
 - 19.2.3.4. A statement which explains that the uses which would be permitted will be compatible with the future development of the surrounding area as permitted by the existing zone and with future development as projected by the comprehensive plan.
 - 19.2.3.5. A statement which explains that if the use is proposed to be located in an agricultural district, that the applicant has demonstrated a diligent effort has been made to conserve productive agricultural land in the locational decision for the proposed use.
 - 19.2.3.6. A statement which explains that there is adequate provision for the protection of the health, safety, and welfare of the inhabitants of the neighborhood and the county.
- 19.2.4. A vicinity map must be submitted containing the following specifications:
- 19.2.4.1. Have a suitable scale approved by the zoning administrator.
 - 19.2.4.2. The vicinity map shall delineate all of the required information within a one-half mile radius of the property proposed or a conditional use.
 - 19.2.4.3. The following information shall be shown on the vicinity map:
 - 19.2.4.3.1 Section, township, and range.
 - 19.2.4.3.2 Scale and north arrow.
 - 19.2.4.3.3 Outline of the perimeter of the parcel proposed for the conditional use.
 - 19.2.4.3.4 The general classifications and distribution of soils over the parcel under consideration. Soil classification names and agricultural capability classifications must be noted in the legend.
 - 19.2.4.3.5 Location and names of all roads, irrigation ditches, and water features.
 - 19.2.4.3.6 Location of all residences within a ½ mile radius, existing and proposed accesses to the property proposed for the conditional use, any abutting subdivision outlines and names, and the boundaries of any adjacent municipality.
- 19.2.5. A plot plan of the conditional use area shall be drawn to the following specifications:
- 19.2.5.1. The scale of the plot plan at a suitable scale approved by the Zoning Administrator.
 - 19.2.5.2. The plot plan should outline the boundaries of the parcel of land.
 - 19.2.5.3. The plot plan shall identify and locate all of the following items within the boundaries of the parcel and those items within 200' of the parcel:
 - 19.2.5.3.1. All public right-of-ways.
 - 19.2.5.3.2. All existing and proposed structures.
 - 19.2.5.3.3. All utility easements or right-of-ways for telephone, gas, electric, water, and sewer.
 - 19.2.5.3.4. Irrigation ditches.
 - 19.2.5.3.5. Adjacent property lines and respective owners' names if not shown on vicinity map.
 - 19.2.5.3.6. All hydrographic features including streams, rivers, ponds, and reservoirs (named)
 - 19.2.5.3.7. Location of all moderate or severe soil limitations.
 - 19.2.5.3.8. Location and design of storm water management devices or structures.

- 19.2.5.3.9. Location, amount, size and type of any proposed landscaping, fencing, walls, berms, or other screening.
- 19.2.5.3.10. Such additional information as may be reasonably required by the Planning Commission or County Board.

19.3. Duties of the Zoning Administrator: The Zoning Administrator shall be responsible for processing all applications for Conditional Use Permits in the unincorporated area of Garden County. The Zoning Administrator shall also have the responsibility of ensuring that all application submittal requirements are met prior to initiating any official action. Upon receipt of filing fee and determination that the application submittal is complete, the Zoning Administrator shall:

- 19.3.1. Set a Planning Commission hearing date not more than forty-five (45) days after the complete application has been submitted along with the application fee.
- 19.3.2. Give notice of the application for a Conditional Use Permit and the public hearing date to those persons listed in the application as surface owners of property located within five hundred (500) feet of the parcel under consideration. Such notification shall be mailed, first class, not less than (10) days before the scheduled public hearing. Inadvertent errors by the applicant in supplying such a list or the Zoning Administrator in sending such notice shall not create a jurisdictional defect in the hearing process even if such error results in the failure of a surrounding property owner to receive such notification.
- 19.3.3. Post a sign for the applicant on the property under consideration for Conditional Use Permit. The sign shall be posted adjacent and visible from a publicly maintained road right-of-way. In the event the property under consideration is not adjacent to a publicly maintained road right-of-way, one sign shall be placed at the most prominent point place on the property and a second sign posted at the point at which the access drive intersects a publicly maintained road right-of-way. The sign shall be posted at least ten (10) days prior to the hearing and shall contain the following information:
 - 19.3.3.1. Date and place of public hearing.
 - 19.3.3.2. Location and phone number of the public office where additional information may be obtained.
 - 19.3.3.3. Applicant's name.
 - 19.3.3.4. Size of parcel of land.
 - 19.3.3.5. Type of request.
- 19.3.4. Arrange for the legal notice of said hearing to be published in the newspaper designated by the County Board for publication of notices. At the Discretion of the County Board, a second notice may be published in a newspaper which is published in the area in which the Conditional Use is proposed. Failure to publish the second notice shall not create a jurisdictional defect in the hearing process. The date of publication shall be at least ten (10) days prior to the hearing.
- 19.3.5. Refer the application to the following agencies, when applicable, for their review and comment.
 - 19.3.5.1 The Planning Commission or Governing Body of any town or county whose boundaries are within a three (3) mile radius of the parcel under consideration.
 - 19.3.5.2 Any irrigation ditch company with facilities on or adjacent to the parcel under consideration
 - 19.3.5.3 The North Platte Natural Resource District
 - 19.3.5.4 Nebraska Department of Health
 - 19.3.5.5 Nebraska Department of Environmental Quality
 - 19.3.5.6 Nebraska Department of Game and Parks
 - 19.3.5.7 Nebraska Historical Society
 - 19.3.5.8 Nebraska Department of Roads
 - 19.3.5.9 Natural Resources Conservation Service
 - 19.3.5.10 U. S. Forest Service
 - 19.3.5.11 U. S. Bureau of Land Management
 - 19.3.5.12 Any other agencies or individuals whose review the Zoning Administrator(s), the Planning Commission, or the County Board deems necessary.

The agencies named shall respond within fourteen (14) days after the mailing of the application by the County. The failure of an agency to respond within fourteen (14) days may be deemed to be a favorable response to the Planning Commission. The reviews and comments solicited by Garden County are intended to provide the County with information about the proposed Conditional Use. The Planning Commission and County Board may consider all such views and comments and may solicit additional information if such information is deemed necessary. The reviews and comments submitted by a referral agency are recommendations to the county. The authority and responsibility for making the decision to approve or deny the request for a Conditional Use Permit rests with the Officials of Garden County.

- 19.3.6. Prepare a report outlining findings and recommendations, which will assist the Planning Commission in making a decision in the matter. The report shall be referred to the Planning Commission and the applicant at least three days prior to the scheduled hearing date.

19.4. Duties of the Planning Commission: The Planning Commission shall hold a hearing to consider the application for the Conditional Use Permit. The Planning Commission shall provide recommendations to the County Board of Commissioners concerning the disposition of the requested Conditional Use Permit. The Planning Commission shall approve the request for the Conditional Use Permit only if it finds that the applicant has met the standards or conditions of Section 19.4, Section 19.6 and Section 19.7. The applicant has the burden of proof that the standards and conditions of Section 19.4, Section 19.6 and Section 19.7 are met.

- 19.4.1. The applicant shall demonstrate the following:

- 19.4.1.1. That the proposal is consistent with the Garden County Comprehensive Plan.
- 19.4.1.2. That the proposal is consistent with the intent of the district in which the use is located.
- 19.4.1.3. That the use which would be permitted will be compatible with the existing surrounding uses.
- 19.4.1.4. That the uses which would be permitted will be compatible with future development of the surrounding area as permitted by the existing zoning and with the future development as projected by the comprehensive plan.
- 19.4.1.5. That adequate water and sewer service can be made available to the site to serve the uses permitted within the proposed zone district, if applicable.
- 19.4.1.6. That the following criteria are met when a conditional use allows residential, commercial, or industrial developments not near incorporated communities:
 - 19.4.1.6.1. Quality agricultural land is not proposed for conversion to an urban type use, and if so, the applicant must demonstrate that there are no practicable alternatives.
 - 19.4.1.6.2. That developments are adjacent to adequately paved roads and in clusters to promote efficient development patterns where public and/or private facilities are present or planned including; streets, water, sanitary sewer and parks, if applicable.
 - 19.4.1.6.3. A service district or other means are established to maintain and operate any public facilities created in the area.
 - 19.4.1.6.4. Environmental constraints are applied to control erosion and sewage affluent.
 - 19.4.1.6.5. An analysis is made of both long and short term County expenses and revenues resulting from the project and it is shown that the County is not being obligated for direct or indirect services beyond the value of the revenues received from the project.
 - 19.4.1.6.6. The development is not disruptive to existing agricultural activities.
 - 19.4.1.6.7. It is demonstrated that there is a recognized need for such development at this site.
 - 19.4.1.6.8. The development is secure from fire, floods and other dangers.

- 19.4.2. The Secretary of the Planning Commission shall forward the official recommendation of the Planning Commission and the information contained in the official record, which includes the case file, to the Clerk of the Board of County Commissioners within ten (10) days after said recommendation has been made.
- 19.4.3. If the Planning Commission recommendation is conditional upon the applicant completing certain specified items prior to the publication of the notice for the hearing by the County Board of Commissioners, then the ten (10) day period shall commence upon submission of the items by the applicant to the Zoning Administrator.

19.5. Duties of County Board of Commissioners: The Board of County Commissioners duties:

- 19.5.1. The County Board shall set a Board of County Commissioners public hearing to take place not more than forty-five (45) days after receipt of the Planning Commission recommendation, or upon request of the applicant, for consideration of the proposed Conditional Use Permit.
- 19.5.2. Arrange for a legal notice of said hearing to be published in the newspaper designated by the County Board for publication notices. At the discretion of the Board of County Commissioners, a second notice may be published in a newspaper which is published in the area in which the Conditional use is proposed. The failure to publish the second notice shall not create a jurisdictional defect in the hearing process. The date of publication shall be at least ten (10) days prior to the hearing.
- 19.5.3. Give notice of the application for a Conditional Use Permit and the public hearing date to those persons listed in the application as surface owners of the property located within five hundred (500) feet of the parcel under consideration. Such notification shall be mailed, first class, not less than ten (10) days before the scheduled public hearing. Inadvertent errors by the applicant in supplying such list or the Board of County Commissioners in sending such notice shall not create a jurisdictional defect in the hearing process even if such error results in the failure of surrounding property owner to receive such information.
- 19.5.4. Arrange for the Zoning Administrator to post a sign on the property under consideration for a Conditional Use permit according to the requirements of Section 19.2.4.
- 19.5.5. The County Board shall hold a public hearing to consider the application and to take final action thereon. In making a decision on the proposed Conditional Use, the County Board shall consider the recommendation of the Planning Commission, and from the facts presented at the public hearing, and the information contained in the official record which includes the case file. The County Board shall approve the request for a Conditional Use only if it finds that the applicant has met the standards or conditions of Sections 19.5., 19.6., and 19.7. The applicant has the burden of proof to show that the standards of Sections 19.5., 19.6., and 19.7. are met. The applicant shall demonstrate:
 - 19.5.5.1 That the proposal is consistent with the Garden County Comprehensive Plan.
 - 19.5.5.2 That the proposal is consistent with the intent of the district in which the use is located.
 - 19.5.5.3 That the use which would be permitted will be compatible with the existing surrounding uses.
 - 19.5.5.4 That the uses which would be permitted will be compatible with future development of the surrounding area as permitted by the existing zoning and with the future development as projected by the comprehensive plan.
 - 19.5.5.5 That the following criteria are met when a conditional use allows residential, commercial, or industrial developments not near incorporated communities:
 - 19.5.5.5.1. Quality agricultural land is not proposed for conversion to an urban type use, and if so, the applicant must demonstrate that there are no practicable alternatives.
 - 19.5.5.5.2. That developments are adjacent to adequately paved roads and in clusters to promote efficient development patterns where public and/or private facilities are present or planned including; streets, water, sanitary sewer and parks, if applicable.
 - 19.5.5.5.3. A service district or other means are established to maintain and operate any public facilities created in the area.
 - 19.5.5.5.4. Environmental constraints are applied to control erosion and sewage affluent.
 - 19.5.5.5.5. An analysis is made of both long and short term County expenses and revenues resulting from the project and it is shown that the County is not being obligated for direct or indirect services beyond the value of the revenues received from the project.
 - 19.5.5.5.6. The development is not disruptive to existing agricultural activities.
 - 19.5.5.5.7. It is demonstrated that there is a recognized need for such development.
 - 19.5.5.5.8. The development is secure from fire, floods and other dangers.
- 19.5.6. Where reasonable methods or techniques are available to mitigate any negative impacts which would be generated by the proposed use upon the surrounding area, the County Board may condition the decision to approve the Conditional Use upon implementation of such methods or techniques and may require sufficient performance guarantees to be posted with the County to guarantee such implementation.

- 19.5.7. Upon the County Board making its final decision, a resolution setting forth that decision will be drafted and signed. A record of such action and a copy of the resolution will be kept in the files of the Clerk to the Board.
- 19.5.8. If the Conditional Use Permit is approved, the County Board shall arrange for the Zoning Administrator to record the Conditional Use Permit in the office of the Garden County Clerk.

19.6. Design Standards for Conditional Use Permit: An applicant for a Conditional use Permit shall demonstrate compliance with the following design standards in the application and shall continue to meet these standards if approved for development:

- 19.6.1. Adequate water service in terms of quality, quantity, and dependability is available to the site to serve the uses permitted.
- 19.6.2. Adequate sewer service is available to the site to serve the uses permitted.
- 19.6.3. If soil conditions on the site are such that they present moderate or severe limitations to the construction of structures or facilities proposed for the site, the applicant has demonstrated how such limitations can and will be mitigated.
- 19.6.4. Adequate fire protection measures are available on the site for structures and facilities permitted including access.
- 19.6.5. The use shall comply with all offset and setback requirements of the zoning district.
- 19.6.6. Uses by Conditional Use in the A Districts shall be located on the least productive soils on the property in question unless the applicant can demonstrate why such a location would be impractical or infeasible.
- 19.6.7. Evidence that developments in flood prone areas have mitigated potential damage from flooding.
- 19.6.8. Any conditions determined by the planning commission and county commissioners that are needed to alleviate any land use conflicts with neighboring land uses.

19.7. Operation Standards for Conditional Uses: An applicant for a Conditional use Permit shall demonstrate conformance with the following operation standards in the Conditional Use Permit application:

- 19.7.1. Neither direct nor reflected light from any light source may create a traffic hazards on public or private streets/roads or create a nuisance to residential properties. Furthermore, no colored lights may be used which may be confused with traffic lights.
- 19.7.2. Property shall be maintained in such a manner that grasses and weeds are not permitted to grow taller than twelve (12) inches. In no event shall the owner allow the growth of noxious weeds.

SECTION 20. SUBDIVISION REGULATIONS

20.1. Intent: The intent of this section is to assure the orderly subdivision of land and its development, to provide for the harmonious and economic development of the County, for the coordination of streets or roads within subdivision of land with other existing or planned streets or roads, for adequate open spaces, and for the distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience, and prosperity.

20.2. Purpose: The purpose of these regulations is to provide for the orderly development of the County and its environs by insuring, through prescribed rules and standards functional arrangements of street layouts, open spaces, adequate community facilities and utilities; to provide for general conditions favorable for the health, safety and convenience of the community; and to provide for the continued improvement of the standard of living for the citizens by promoting new ideas and effective, efficient, and attractive community design.

20.3. Applicability:

- 20.3.1. Each separate principal use building within the planning area of the County shall be situated on a separate and single subdivided lot of record.
- 20.3.2. No subdivision of land shall be permitted within the County Planning Area unless a plat is approved in accordance with the provisions of these Regulations.
- 20.3.3. These Regulations shall apply not only to subdivision as herein set forth but shall also apply, insofar as payment of costs for improvement of subdivision is concerned, to those subdivisions, or parts thereof, already platted and approved, which are undeveloped, wholly or partially.
- 20.3.4. These regulations shall not apply to subdivision of burial lots in cemeteries.
- 20.3.5. Transfer of a lot or parcel by will, intestate succession or court ordered partition is to be excluded from the provisions of this section.

20.4. Waiver for Minor Subdivisions:

- 20.4.1. The developer may make an application and the Planning Commission may grant a waiver of some or all of the requirements provided in Section 20.5 of these regulations for residential, commercial and industrial subdivisions where the following conditions exist:
 - 20.4.1.1. The subdivisions will contain no more than four (4) lots.
 - 20.4.1.2. All lots of the proposed subdivision shall be platted on existing streets or roads.
 - 20.4.1.3. All streets serving the proposed lots shall meet or exceed the minimum design standards of Garden County.
 - 20.4.1.4. Portable waters and sewer facilities shall meet the requirements of the Nebraska Department of Environmental Quality and the Nebraska Department of Health and Human Services and Garden County.
 - 20.4.1.5. The development of the subdivision will not increase erosion or create a flooding potential.
 - 20.4.1.6. The development of the subdivision will not be a detriment to the adjoining properties or to the character of the district.
- 20.4.2. A developer requesting a waiver under the provisions of Section 20.4 of these regulations shall submit said request in writing to the Zoning Administrator seven (7) days prior to the next regular meeting of the Planning Commission. The request for a waiver is sought by reference to the section numbers that appear in these regulations.
- 20.4.3. A minor subdivision shall require a survey that is recorded in the office of the Garden County Register of Deeds.

20.5. Procedure: Any person, partnership, or corporation intending to subdivide land within Garden County's planning jurisdiction shall submit plans and plats as required by and specified by this Resolution to the Planning Commission and the County Board for review and approval. There are six steps in the subdivision process:

20.5.1. Pre-Application Procedure:

- 20.5.1.1. Before filing a preliminary plat the sub divider shall consult with the Planning Commission or its staff for advice regarding general requirements affecting the proposed development. A sketch of the proposed

subdivision drawn on the topographical survey map shall be submitted. The sub divider shall also submit a location map showing the relationship of the proposed subdivision to existing or platted streets and arterioles and existing community facilities.

20.5.1.2. The Planning Commission or its staff shall inform the sub divider of the requirements pertaining to the proposed subdivision as such requirements are established by these Regulations.

20.5.1.3. The pre-application procedure does not require formal application, fee, or filing of plat with the Planning Commission.

20.5.2. Change of zone: The sub divider should apply for a change of zone as outlined in Section 22 if applicable.

20.5.3. Preliminary Plat Plan:

20.5.3.1. The sub divider shall submit to the zoning administrator five (5) copies of the preliminary plat and supplemental material specified with written application for conditional approval. Said complete submittal shall occur at least 21 days prior to the regular meeting of the Planning Commission at which the request will be heard.

20.5.3.2. A preliminary plat plan shall be submitted with the following information:

20.5.3.2.1. A copy of a title commitment issued by a title insurance company.

20.5.3.2.2. A certificate from the County Treasurer showing no delinquent taxes for the preliminary plan area.

20.5.3.2.3. A description of the types of uses proposed for the subdivision.

20.5.3.2.4. A summary explaining how the developer will address any problems or concerns that were identified in the pre-application.

20.5.3.2.5. The total number of lots proposed.

20.5.3.2.6. A description of the subdivision circulation system including road width, type and depth of road base and surface, width and depth of borrow ditches, curb and gutter, and vehicle parking arrangement. The circulation system shall also include a description of any sidewalks, bike paths, or trails.

20.5.3.2.7. A statement describing the ownership, function, and maintenance of any open space or park within the proposed subdivision.

20.5.3.2.8. A description of the proposed water system accompanied by an estimate of the total gallons of water per day required for domestic use and emergency fire protection.

20.5.3.2.9. A water supply resource report containing written evidence that adequate water service in terms of quality, quantity, and dependability is available for the type of subdivision proposed.

20.5.3.2.10. A description of the proposed sewage disposal containing written evidence that the proposed sewage disposal is appropriate for the subdivision.

20.5.3.2.11. The proposed method of financing with an estimate of the infrastructure construction costs related to the proposed subdivision. Cost estimates shall include, but not limited to the following:

20.5.3.2.11.1. Streets and related facilities.

20.5.3.2.11.2. Water distribution systems.

20.5.3.2.11.3. Storm drainage facilities.

20.5.3.2.11.4. Sewage collection systems.

20.5.3.2.11.5. Other utilities and infrastructure as may be required.

20.5.3.2.12. A list of all public utilities and water service providers located within five hundred feet (500') of the proposed subdivision.

20.5.3.2.13. A list of any covenants, grants of easements, and restrictions imposed upon any land, buildings, and structures within the proposed subdivision.

20.5.3.2.14. A certified list of the names, addresses, and the corresponding parcel identification numbers assigned by the Garden County Assessor to the owners of property of the surface estate within five hundred feet (500') of the property subject to the application. The applicant shall certify that such list was assembled within thirty (30) days of the application submission date.

- 20.5.3.3. A preliminary plan vicinity map shall be submitted showing the following:
 - 20.5.3.3.1. The perimeter outline of the proposed subdivision. The location of all existing and proposed accesses to the proposed subdivision.
 - 20.5.3.3.2. The location and name of all roads and highways within five hundred feet (500') of the perimeter of the proposed subdivision.
 - 20.5.3.3.3. The perimeter outline and identification of subdivisions, zone districts, and any special districts within five hundred feet (500') of the perimeter of the proposed subdivision.
 - 20.5.3.4. A preliminary plat shall be submitted at a scale of 1"=200' showing the following:
 - 20.5.3.4.1. North arrow, subdivision name, total acreage, and legal description of the proposed subdivision.
 - 20.5.3.4.2. The location of tree clusters; need not show location of all trees.
 - 20.5.3.4.3. Lots and blocks shall be numbered consecutively. Lot dimensions shall be scaled to the nearest foot. The area of each lot shall be shown in acres except when lots are less than one acre they shall be shown in square feet.
 - 20.5.3.4.4. The street layout for the subdivision. All streets shall be named and shall conform to the E911 numbering system.
 - 20.5.3.4.5. The layout of future streets adjacent to the subdivision shall be shown as a dashed line.
 - 20.5.3.4.6. Topographical contour lines showing elevations two (2) foot intervals or five (5) foot intervals at 1"=200' scale.
 - 20.5.3.4.7. The location, size, and use of all existing structures and existing and proposed easements. This includes easements for water, sewer, electric, gas, and telephone lines. It also includes, but is not limited to, irrigation ditches, water mains, and fire hydrants.
 - 20.5.3.4.8. A utility service statement block shall appear on the preliminary plan plat map. The block shall identify each utility company, special district, or municipality intending to service the subdivision. The block shall include:
 - 20.5.3.4.8.1 The name of the utility company.
 - 20.5.3.4.8.2 A dated signature and statement from the representative of the utility company indicating one of the following:
 - 20.5.3.4.8.2.1. Service is available.
 - 20.5.3.4.8.2.2. Service is available subject to the following specific conditions.
 - 20.5.3.4.8.2.3. Service is not available for the subdivision.
 - 20.5.3.4.9. A drainage report.
 - 20.5.3.5. The sub divider shall indicate by letter when improvements as required will be provided. Any proposed restrictive covenants for the land shall accompany the letter.
- 20.5.4. Preliminary Plan Approval:
- 20.5.4.1. At least ten days prior to the Planning Commission meeting at which the Preliminary Plat is to be considered for approval, the Planning Commission shall submit a copy of the proposal to the school board of each school district which the proposed development affects, and shall notify the school board of the meeting date. Copies of the plat may be submitted to any other agency which may be affected.
 - 20.5.4.2. After review of the Preliminary Plat and negotiations with the sub divider, the Planning Commission shall reject or conditionally approve the Preliminary Plat within forty (40) days after the official meeting at which the Plat was considered.
 - 20.5.4.3. The action of the Planning Commission shall be noted on three copies of the Preliminary Plat, referenced and attached to any conditions determined. One copy shall be returned to the sub divider, one copy to the County Commissioners and copy to be retained by the Planning Commission.

20.5.4.4. Approval of a Preliminary Plat shall not constitute approval of the Final Plat. Rather, it shall be deemed an expression of approval or conditional approval of the submitted Plats a guide for the preparation of the Final plat, which will be subject to further consideration by the Planning Commission and County Commissioners. Any approval of the Preliminary Plat shall be effective for a period of one (1) year unless an extension is granted by the Planning Commission.

20.5.5. Final Plat: The preliminary plan must be approved by the County Board before a final plat can be submitted. A final plat shall be submitted to the Zoning Administrator for approval within one year of the date the a preliminary plan has been approved by the County Board unless an extension of time is granted by the County Board within the one year's time. The final plat shall conform to the approved preliminary plan as approved and to the requirements of all applicable ordinances and state laws; and if desired by the Sub divider, it may constitute only that portion of the approved Preliminary Plat which he proposes to record and develop at the time; provided that such portion conforms to all requirements of these regulations. Submittal of any portion of the approved area shall be interpreted as satisfying the one (1) year requirement mentioned above. The Board may approve a modified final plat if changes reflect improvements in design. The following information shall be submitted including the original and five copies as part of a final plat application:

20.5.5.1. A preliminary plat plan shall be submitted with the following information:

- 20.5.5.1.1. A copy of a title commitment issued by a title insurance company.
- 20.5.5.1.2. A description of the type of uses proposed for the subdivision.
- 20.5.5.1.3. A summary explaining how the developer will address any problems or concerns that were identified in the preliminary plat plan.
- 20.5.5.1.4. The total number of lots proposed.
- 20.5.5.1.5. A description of the subdivision circulation system including road width, type and depth of road base and surface, width and depth of borrow ditches, curb and gutter, and vehicle parking arrangement. The circulation system shall also include a description of any sidewalks, bike paths, or trails.
- 20.5.5.1.6. A statement describing the ownership, function, and maintenance of any open space or park within the proposed subdivision.
- 20.5.5.1.7. A statement indicating if on-street parking will be permitted within the proposed subdivision.
- 20.5.5.1.8. If the applicant is to dedicate land for schools, roads, parks, or other public purposes, a letter of intent from the appropriate public agency stating it will accept the lands to be dedicated.
- 20.5.5.1.9. A description of the proposed water system accompanied by an estimate of the total gallons of water per day required for domestic use and emergency fire protection.
- 20.5.5.1.10. A water supply resource report containing written evidence that adequate water service in terms of quality, quantity, and dependability is available for the type of subdivision proposed.
- 20.5.5.1.11. A copy of a contract or some tangible guarantee providing for a common water supply if water is required to be supplied by a water district, municipality, or other.
- 20.5.5.1.12. A description of the proposed sewage disposal containing written evidence that the proposed sewage disposal is appropriate for the subdivision.
- 20.5.5.1.13. A list of any covenants, grants of easement, and restrictions imposed upon any land, buildings and structures within the proposed subdivision.
- 20.5.5.1.14. A copy of a Nebraska Department of Roads access permit if a new street intersects with a state highway.
- 20.5.5.1.15. Proof of an existing easement or dedicated right-of-way when it is contiguous to an easement or right-of-way of the proposed subdivision.
- 20.5.5.1.16. A certified list of the names, addresses, and the corresponding parcel identification numbers assigned by the Garden County Assessor to the owners of property of the surface estate within five hundred feet (500') of the property subject to the application. The applicant shall certify that such list was assembled within thirty (30) days of the application submission date.

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- 20.5.5.2. A final plat map shall be submitted at a scale of 1"=100' showing the listed requirements:
- 20.5.5.2.1. The plat shall be delineated in black ink on tracing cloth, Mylar, or similar material.
 - 20.5.5.2.2. The final plat shall contain the original signatures and seals of all parties required.
 - 20.5.5.2.3. North arrow, subdivision name, total acreage, date, total acreage, total number of lots, name and address of the owner(s) of record, legal description of the proposed subdivision, and scale.
 - 20.5.5.2.4. Lots and blocks shall be numbered consecutively. Lot dimensions shall be scaled to the nearest foot. The area of each lot shall be shown in acres except when lots are less than one acre they shall be shown in square feet.
 - 20.5.5.2.5. All streets, walkways, and alleys shall be designated and identified by bearings and dimensions. All streets shall be named and shall conform to the E911 numbering system.
 - 20.5.5.2.6. The location, size, and use of all existing structures and existing and proposed easements. This includes easements for water, sewer, electric, gas, and telephone lines. It also includes, but is not limited to, irrigation ditches, water mains, and fire hydrants.
 - 20.5.5.2.7. A utility service statement block shall appear on the preliminary plan plat map. The block shall identify each utility company, special district, or municipality intending to service the subdivision. The block shall include:
 - 20.5.5.2.7.1. The name of the utility company.
 - 20.5.5.2.7.2. A dated signature and statement from the representative of the utility company indicating one of the following:
 - 20.5.5.2.7.2.1. Service is available.
 - 20.5.5.2.7.2.2. Service is available subject to the following specific conditions.
 - 20.5.5.2.7.2.3. Service is not available for the subdivision.
 - 20.5.5.2.8. All land within boundaries of the subdivision shall be accounted for either as lots, easements, right-of-way, private street, alley, walkway, trail, or public area.
 - 20.5.5.2.9. If the final plat is revised, a copy of the original final plat shall be provided for comparison purposes.
 - 20.5.5.2.10. A final drainage report shall be submitted.
 - 20.5.5.2.11. The following final plat supporting documents shall be submitted as part of a final plat application:
 - 20.5.5.2.11.1. A certificate from the County Treasurer showing no delinquent taxes for the final plat area.
 - 20.5.5.2.11.2. A title commitment or a title option covering all public dedications.
 - 20.5.5.2.11.3. A warranty deed, if required, deeding to the appropriate entity any lands to be used for the benefit of the public or owners of this subdivision.
 - 20.5.5.2.12. The final plat shall contain the following certificates and seals:
 - 20.5.5.2.12.1. Certificate of Dedication, Ownership, and Maintenance:

Know all persons by those present that _____ being the Owner(s), Mortgage or lien holder of certain lands in Garden County, Nebraska, described as follows: Beginning _____ containing _____ acres, more or less, have by these presents laid out, platted, and sub divided the same into lots and blocks, as shown on this plat, under the name and style of and do hereby dedicate to Garden County, public, school district, owners and future owners of this subdivision all ways, public rights-of-ways, easements, parks and open space, and other public right-of-way and easements for purposes shown hereon.

Executed this __ day of _____, 20__

(Owner, Mortgagee, or Lien holder)

The foregoing dedication was acknowledged before me this ____ day of _____, 20__

My Commission expires _____

Notary Public

Witness my hand and seal

20.5.5.2.12.2. Surveying Certificate:

I, _____, a registered Professional Land Surveyor in the State of Nebraska, do hereby certify that the survey represented by this plat was made under my personal supervision and checking. I further certify that the survey and this plat comply with all applicable rules, regulations, and laws of the State of Nebraska.

By: _____

Registered Land Surveyor

Date

20.5.5.2.12.3. Certificate of Approval by the County Board:

This plat is approved by the Garden County, Nebraska Board of Commissioners. Approval of this plat does not constitute acceptance of any dedication.

Witness my hand and the corporate seal of Garden County, Nebraska this _____ day of _____, 20____

Chairman, Garden County Board of Commissioners, Nebraska

ATTEST:

By: _____

Garden County Clerk

Date

20.5.5.2.12.4. A certificate by the Engineer certifying that the sub divider has posted a bond or certified check which available to the County, and in sufficient amount to assure completion of all required improvements; or, certifying that all required improvements have been installed in accordance with the approval of the preliminary plat by the Planning Commission.

20.5.5.3 Protective covenants in form for recording.

20.5.6. Final Plat Approval: The planning commission shall approve or reject the Final Plat and have prepared a recommendation to the Board of County Commissioners recommending approval or rejection. All reasons for recommending rejection shall be clearly stated. Notification of approval or rejection by the Planning Commission or the County Commissioners shall be given the sub divider within 80 days after submission of the Final Plat Plan to the Planning Commission, unless an extension was agreed upon by the sub divider and the Planning Commission or the County Commissioners. The Final Plat and Planning Commission recommendations shall be reviewed by the County Commissioners at their next regularly scheduled meeting following Planning Commission action. If the Commissioners' agenda for that first regularly scheduled meeting is full, however, the subdivision request shall then be rescheduled for their next regular meeting. A plat must show the signature of the County Board Chairman before it can be recorded.

20.6. Natural Resource Regulations: Each request and application for a subdivision in Garden County may be accompanied by a Resource Conservation Plan prepared by the North Platte Natural Resource District, recommending measures needed to control erosion, flooding, and the reduction of sedimentation according to minimum standards and specifications of the North Platte Natural Resources District.

The Garden County Planning Commission and the Garden County Commissioners shall find and determine the ultimate Resource Conservation Plan that shall be implemented and provide for the terms of such development.

20.7. Design Guidelines: Design and improvement considerations to be evaluated by the Planning Commission and County Board for proposed subdivisions.

20.7.1. General Guidelines:

20.7.1.1. Subdivision design shall conform to standards of the Comprehensive Plan and to the County zoning regulations.

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- 20.7.1.2. Each lot in a subdivision shall abut a public street unless otherwise recommend by the Planning Commission and on exception approved by the County Commissioners.
- 20.7.1.3. All subdivision designs shall indicate that consideration was given for economic aspects of maintenance of safe, convenient, comfortable and attractive community facilities.
- 20.7.1.4. After the effective date of these regulations, no newly subdivided lot shall have access to an arterial road as such road is indicated in the Comprehensive Plan.

20.7.2. Streets:

- 20.7.2.1. Right-of-way, street grade, and paving design shall be in conformance with minimum standards suggested in the Comprehensive Plan or as approved by the Engineer, see Exhibit A for Standards)
- 20.7.2.2. Arterial streets and collector streets shall be properly integrated with the existing and proposed system of streets and highways.
- 20.7.2.3. No subdivision shall prevent the extension of arterial and collector streets through and beyond the subdivision in a direction away from the center of a nearby City. The sub divider may plat and design the collector streets not extended on the Comprehensive Plan subject to approval of the Planning Commission.
- 20.7.2.4. Minor streets shall be designed to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm and sanitary sewer systems; and to require the minimum street area necessary to provide safe and convenient access to abutting property.
- 20.7.2.5. Cul-de-sac streets designed to have one end permanently closed shall not exceed 600 feet in length and shall be posted as a non-through street. The terminating end of a cul-de-sac shall have a turn-around with a minimum property line radius of 50 feet.
- 20.7.2.6. The Planning Commission and County Commissioners may require dedicated passage (alleys) in commercial and industrial districts for off-street loading and service access.
- 20.7.2.7. Minor streets shall not be designed for extension beyond the subdivision shown on the Preliminary Plat submitted for approval, unless the adjoining land is land locked without road access, or for some other reason access is desired by the Planning Commission or County Commissioners.
- 20.7.2.8. Curves in Streets -Horizontal and Vertical:
 - 20.7.2.8.1 A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.
 - 20.7.2.8.2 Where there is a deflection angle of more than ten (10) degrees in the alignment of a street, a curve with a radius adequate to insure safe sight distance shall be made. The minimum radii of curves shall be:

<u>Street Type</u>	<u>Minimum Curve Radius</u>
Arterial	300 feet
Collector	300 feet
Minor	100 feet
 - 20.7.2.8.3. Every change in grade shall be connected by a vertical curve constructed so as to afford a minimum sight distance of two hundred (200) feet, said sight distance being measured from a driver's eyes, which are assumed to be four and one-half (4 1/2) feet above the pavement surface, to an object four inches high on the pavement. Profiles of all streets, showing natural and finished grades, drawn to an approved scale, may be required.

Exhibit A: Street Standards

<u>Type of Road</u>	<u>Number of Lanes</u>	<u>Shoulder Width</u>	<u>Minimum ROW</u>	<u>Surfacing</u>	<u>Surface Width</u>	<u>Maximum Grade</u>	<u>Curb/Gutter</u>	<u>Sidewalk</u>
Perimeter Systems								
Arterioles	2-4	10 ft	100 ft	Paved	24-48 ft	6%	No	No
Collectors	2	10 ft	80 ft	Paved	24 ft	7%	No	No
Local	2	8 ft	60 ft	Gravel	24 ft	7%	No	No
Interior System								
Arterioles	2-4	10 ft	100 ft	Paved(1)	24-48ft(2)	7%	Yes(1)	Yes(1)
Collectors	2	10 ft	80 ft	Paved(1)	28(2)	8%	Yes(1)	Yes(1)
Local	2	8 ft	60 ft	Paved(1)	28(2)	10%	Yes(1)	Yes(1)

(1) May be optional depending on use of street in the subdivision and the density proposed (see Exhibit B)

- (2) Add greater width for parking and turning lanes if they are to be provided.

Additional widths can be determined by using the following guides:

Travel lane width.....10 to 12 feet
 Turning Lane width..... 8 to 10 feet
 Parking Lanes..... 8 feet

Exhibit B: Guide for Basic Improvement Desired

	Central Sewage Treatment	Central Water	Paved Street s	Curb/ Gutter/ Sidewalk	Park and Recreation Area	Storm Drainage	Land- scaping/ Screenin g	Street Signs & Number System	Street Lights
5-10 acre lots		X						X	
1-5 acre lots	V	X	O	O	O	O	O	X	O
8,000 sq ft-1 acre	X	X	X	X	X	X	O	X	X
4,000-8,000 sq ft	X	X	X	X	X	O	O	X	X
Mobile Homes	X	X	X	X	X	X	X	X	X
Multiple-Family	X	X	X	X	X	X	X	X	X
Seasonal Housing	X	X	X	X	O	X	O	X	X

X = Yes

O = Optional, depending on topography, location, size of project, adjacent uses

V = Variable, depending on soils and lot size.

20.7.3. Intersection of Streets:

- 20.7.3.1. Streets shall intersect each other at as nearly right angles as topography and other limiting factors of good design permit.
- 20.7.3.2. The number of streets converging at one intersection shall be reduced to a minimum, preferably not more than two. On local streets, the "T" intersection is generally preferable to the crossroad intersection.
- 20.7.3.3. Arterial Streets shall not be intersected by minor streets or alleys.
- 20.7.3.4. The number of intersections along community arterioles or highways shall be held to a minimum. Wherever practicable the distance between such intersections shall not be less than 1,000 feet.
- 20.7.3.5. Street jogs with center lines offset less than 150 feet shall be avoided.
- 20.7.3.6. All right-of-way lines at intersections with arterial streets shall have a corner radius of not less than 25 feet.

20.7.4. Easements:

- 20.7.4.1. Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least ten (10) feet wide.
- 20.7.4.2. Where a subdivision is traversed by a water course, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction, or both, as will adequate for the purpose. Parallel streets or parkways may be required in connection therewith.

20.7.5. Blocks:

- 20.7.5.1. The length, widths, and shapes of blocks shall be suited to the planned use of the land, zoning requirements, need for convenient access, control, and safety of street traffic, and the limitations and opportunities of topography. Block lengths in residential areas shall not as a general rule be less than 600 feet in length between street lines unless dictated by exceptional topography or other limiting factors of good design.
- 20.7.5.2. Pedestrian ways or crosswalks, not less than ten (10) feet in width, shall be provided near the center and entirely across the block 900 feet or more in length where deemed essential, in the opinion of the Planning Commission, to provide adequate pedestrian circulation or access to schools, shopping centers, churches or transportation facilities. Said pedestrian ways shall be dedicated to the public use unless other written agreement, deed restriction, etc, guarantees maintenance. To the extent practical subdivision design should give high priority to the convenience and safety of the pedestrian.

- 20.7.5.3. All utility lines for electric power and telephone service shall be placed underground except where, in the opinion of the Planning Commission, such location is infeasible or too costly. Poles for permitted overhead lines shall be placed in rear lot line easements.

20.7.6. Lots:

- 20.7.6.1. The size, shape, and orientation of the lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated. The lots should be designed to provide an aesthetically pleasing building site and proper architectural setting for the building contemplated.
- 20.7.6.2. Minimum lot dimensions for "Residential" type subdivisions shall conform to the requirements of the County Zoning Regulations.
- 20.7.6.3. Where residential lots border a railroad right-of-way the depth of adjacent lots shall be increased by at least 25 feet more than the otherwise required minimum.

20.8. Required Improvements: The following subdivision improvements are required by Garden County:

- 20.8.1. Monuments shall be placed at all block corners, angle points, points of curves in streets and at intermediate points as shall be required by the Engineer. The monuments shall be of such material, size, and length as may be approved by the Engineer.
- 20.8.2. Utility and Street Improvements:
 - 20.8.2.1. Utility and Street right-of-ways shall be provided in each new subdivision in accordance with the requirements of Exhibits A and B. Standards for improvements shall be approved by the Engineer and shall be in accordance with the Comprehensive Plan.
 - 20.8.2.2. Each of the following improvements may be required in each subdivision. Actual improvements required shall be negotiated with each sub divider:
 - 20.8.2.2.1. Curb, gutter, and sidewalks.
 - 20.8.2.2.2. Street grading and paving.
 - 20.8.2.2.3. Street name signs.
 - 20.8.2.2.4. Street lights.
 - 20.8.2.2.5. Paved alleys (when platted)
 - 20.8.2.2.6. Bridges, culverts or other drainage facilities (when required)
 - 20.8.2.2.7. Complete public water system.
 - 20.8.2.2.8. Complete public sewage collection and treatment.
 - 20.8.2.2.9. Fire hydrants.
 - 20.8.2.2.10. Other improvements as may be required by the County.
 - 20.8.2.3. Subdivisions with lots all larger than one (1) acre in size may be exempted from the above mentioned curb, gutter, and sidewalk requirement if so approved by the County Commissioners; see note Exhibit B.
 - 20.8.2.4. Subdivisions with all lots larger than five (5) acres in size may be exempted from the above mentioned curb, gutter, sidewalk, sewage system and water system requirements if so approved by the County.

20.9. Public lands and Reservations:

- 20.9.1. Before Final Plat approval is given to the sub divider, he shall be required to dedicate to the public use all streets, alleys, buffer strips and parks as may be required by the Planning Commission. Acceptance of these dedicated lands shall be recorded in the minutes of the County Commissioners and on the subdivision plat.
- 20.9.2. Open park and recreation space shall be provided in the amount defined in the Zoning Regulation. This amount varies depending on the density of the proposed project.
- 20.9.3. Sub dividers of "Commercial" type subdivisions may be required to dedicate land for off-street parking as determined necessary by the Planning Commission.
- 20.9.4. Before Final Plat approval is given the sub divider, he may be required to reserve sites for schools as determined by the Planning Commission to be sufficient and in compliance with the Comprehensive Plan. Reservation of land for public acquisition shall be for a period not to exceed three years from the date the plat is officially recorded.

20.10. Operation and Maintenance: It is the stated intent of the County to primarily provide rural and county-wide services. It is not intended that the County be obligated to provide urban services, i.e. utility systems maintenance, park maintenance, local road maintenance and related services normally required in housing projects. Therefore, it will be the obligation of the sub divider to present to the County Planning Commission and County Commissioners a precise approach to handling and providing these services. Said approach may include the formation of districts, homeowners' organizations or other methods to operate and provide for long term maintenance and service. Said approach shall be made binding on the sub divider in a form, agreement, or contract in a manner which is accepted by the County Attorney.

20.11. Variances:

- 20.11.1. The Planning Commission may recommend and the Legislative Body may grant variances from the provision of the regulations in Section 20, but only after determining:
- 20.11.1.1. There are unique circumstances or conditions affecting the property.
 - 20.11.1.2. The variance is necessary for the reasonable and acceptable development of the property in question.
 - 20.11.1.3. The granting of the variance will not be detrimental to the public welfare or injurious to adjacent property.
- 20.11.2. The requirement of filing and recording a plat for subdivision shall not be waived.
- 20.11.3. The Planning Commission and County Commissioners may also grant reasonable variances to these regulations if the sub divider concurrently submits an application for, and obtains approval of, a Planned Unit Development. The sub divider shall indicate where their plans vary from these regulations and shall present sufficient evidence to support their request, indicating why their request will not be detrimental to the public health, safety and welfare.

20.12. Final Plat Development Requirements: A proposed subdivision shall be developed in accordance with the approved Final Plat of the subdivision and all supporting data. These plats shall control and limit the use of the land in the subdivision as indicated on the plats.

20.13 Waivers: Any person(s) requesting a waiver of any requirement in the provisions of Section 20 shall submit said request in writing to the Zoning Administrator seven (7) days prior to the regular meeting of the Commission. Upon recommendation of the Planning and Zoning Commission the Garden County Board of Commissioners may waive any requirements of this Section 20.

SECTION 21. BOARD OF ADJUSTMENT

21.1. Board of Adjustment Membership: The County Board of Commissioners shall appoint five persons to serve three year terms as members of the County Board of Adjustment. One member only of the board of adjustments shall be appointed by the County Board from the membership of the Planning Commission, and the loss of membership on the planning commission by such member shall also result in the immediate loss of membership on the Board of Adjustment and the subsequent appointment of another planning commission member to the Board of Adjustment. Any member of the Board of Adjustment may be removed for cause by the appointing authority upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

21.2. Board of Adjustment Meetings: The Board of Adjustment shall consult the recommendation of the Planning Commission on all planning and zoning matters. Meetings of the Board of Adjustment shall be held at such times as the Board of Adjustment may designate, or at such other times as the Chairperson, in his or her discretion, calls a meeting. Special meetings may also be held upon the call of any three (3) members of the Board of Adjustment. The Chairperson or, in the Chairperson's 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. Any resident or property owner in the County or within the area over which it exercises zoning jurisdiction shall have the right to appear before the Board of Adjustment regarding any matter in which they have a reasonable interest. The Board of Adjustment shall keep minutes of its proceedings showing the vote. Records of its examinations and other official actions shall be immediately filed in the office of the County Clerk and shall be public record. A majority of the Board of Adjustment shall constitute a quorum for the purpose of doing business.

21.3. Duties: The Board of Adjustment is authorized, upon the recommendation of the Planning Commission:

- 21.3.1. To hear and decide appeals where it 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 of soundness of structures.
- 21.3.2. To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any zone.
- 21.3.3. To authorize a variance where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of this Zoning Resolution, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any regulation under this Resolution would result in peculiar and exceptional practical difficulties or exceptional and undue hardships upon the owner or the property. Upon an appeal relating to the property, a variance from the strict application of this Resolution may be granted to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any Resolution or resolution. In granting a variance, the Board of Adjustment may impose certain conditions, safeguards and restrictions upon the premises benefited by the variance which may be necessary to reduce or minimize any potentially injurious effect of the variance upon other property in the neighborhood. A request for a variance shall not be granted unless there is a finding by the Board of Adjustment that all of the following conditions have been met:
 - 21.3.3.1. The strict application of the zoning regulation would produce undue hardship.
 - 21.3.3.2. The hardship is not shared generally by other properties in the same zoning district.
 - 21.3.3.3. The authorization of the 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.
 - 21.3.3.4. The granting of the variance is based upon reason of demonstratable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice.
 - 21.3.3.5. The conditions which gave rise to the request are not created by an action or actions of the property owner or applicant.
 - 21.3.3.6. 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 these zoning regulations.
- 21.3.4. 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. To that end, the Board of Adjustment shall have all the powers of the officer from whom the appeal is taken.

21.4. Applications:

- 21.4.1. Procedure: The procedure for requesting a hearing before the Board of Adjustment shall be as follows:
- 21.4.1.1. All applications for a variance to the Board of Adjustment shall be in writing and filed with the Planning Commission. If the Planning Commission provides for an application form, then that form shall be used. The application shall include the following:
 - 21.4.1.2. The description of the lot, tract of land, building or structure for which the variance is requested.
 - 21.4.1.3. The name or names of the owner or owners.
 - 21.4.1.4. The nature of the relief requested.
 - 21.4.1.5. After receiving the recommendation of the Planning Commission, a hearing shall be held by the Board of Adjustment within sixty (60) days of the filing of the application unless delayed by request of the applicant. Notice of the hearing shall be given as required by this Resolution.
- 21.4.2. Additional Requirements: In addition to the above requirements, certain applications require additional information as follows:
- 21.4.2.1. Appeals and Interpretations:
 - 21.4.2.1.1. An application for an appeal or interpretation must be filed within fifteen (15) working days after a ruling has been made by the Board of Adjustment.
 - 21.4.2.1.2. A copy of the order, requirement, decision or determination of the Board of Adjustment which the applicant believes to be in error shall be submitted.
 - 21.4.2.1.3. A clear and accurate, written description of the proposed use, work or action in which the appeal or interpretation is involved and a statement justifying the applicant's position.
 - 21.4.2.1.4. Where necessary, a plot plan, drawn to scale, in duplicate showing existing and proposed plans for the area in question shall be submitted.
 - 21.4.2.2. Variance:
 - 21.4.2.2.1. The applicant shall submit a statement, in writing, justifying the variance requested; indicating specifically the enforcement provisions of the zoning regulations from which the variance is requested, and outlining in detail the manner in which it is believed that this application will meet each of the conditions as set out in this Resolution.
 - 21.4.2.2.2. The applicant shall submit a sketch, in duplicate, drawn to scale and showing lot or lots included in the application; the structures existing; and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other information which would be helpful to the Board of Adjustment in consideration of the application should be included.
- 21.4.3. Performance: In making any decision varying or modifying any provisions of the zoning regulations, the Board of Adjustment shall impose any restrictions, terms, time limitations, landscaping, screening and other appropriate safeguards as needed to protect adjoining property.

The Board of Adjustment may require cash, a letter of credit or a performance bond to guarantee the installation of required improvements such as parking lot surfacing, landscaping, etc. The amount of the bond shall be based on a general estimate of cost for the improvements as determined by the Board of Adjustment, and shall be enforceable by or payable to the County Board in the sum equal to the cost of constructing the required improvements.

In lieu of the performance bond requirement, the Board of Adjustment may specify a time limit for the completion of the required improvements and in the event the improvements are not completed within the specified time, the Board of Adjustment may reconsider its action and may, after reconsideration, declare the granting of the application null and void.

21.5. Variances and Building Permits: If the Board of Adjustment grants the application for the variance and a building permit will be necessary, the building permit shall not be issued until the statutory period for appeal from the decision of the Board of Adjustment has expired. No building permit may be issued while an application for a variance is pending before the Board of Adjustment or if the Board of Adjustment denies the application unless the Board of Adjustment's decision is reversed by a court. Once a variance is granted, the right to the variance shall expire unless the required building permit is applied for within six (6) months after the granting of the variance.

21.6. Appeals from the Board: Any person or persons aggrieved by any decision of the Board of Adjustment, or any officer, department or Board of the County may appeal to the District Court of Garden County as provided by law.

21.7. Board of Adjustment Decisions: When authorizing a variance, four concurring votes for the variance request are needed.

Section 22: Amendments to Zoning Resolution Map

SECTION 22. AMENDMENTS TO ZONING RESOLUTION MAP (Change of Zone)

22.1. Amendment to the Zoning Resolution Map: The Board of County Commissioners may amend the official Zoning Map of Garden County. All requests for such changes of zone must be reviewed by the Garden County Planning Commission whose recommendation shall be sent to and considered by the Board of County Commissioners. Such amendments shall be made in compliance with Nebraska Statutes and with County procedures and regulations as established herein:

- 22.1.1. Only the Board of County Commissioners, the Garden County Planning Commission or the fee owner of a property, or a person with legal interest in a property in the unincorporated area of Garden County may request amendment of the Official Zoning Map of Garden County for said property.
- 22.1.2. Any person filing an application for a change of zone is required to comply with the appropriate procedures and regulations as stated in Section 22. Provided, however, that when the Garden County Planning Commission or Board of County Commissioners desires to undertake a rezoning, to create and apply new zoning districts, the only public notice requirement shall be publication in the newspaper designated by the Board of County Commissioners for publication of legal notices.
- 22.1.3. Applications for a change of zone shall be completed as set forth in Section 22.7. Provided, however, that any zone change initiated by the Garden County Planning Commission or Board of County Commissioners shall only be required to meet the applicable requirements of Section 22.5 for the Planning Commission and Section 22.6 for the Board of County Commissioners. The completed application and application fees shall be submitted to the Zoning Administrator.

22.2. Duties of Zoning Administrator(s): The zoning administrator(s) shall have the following responsibilities when an application is submitted for an amendment to the zoning resolution map:

- 22.2.1. The Zoning Administrator(s) shall be responsible for processing all applications for changes of zone in the unincorporated area of Garden County. The Zoning Administrator(s) shall also have the responsibility of ensuring that all application submittal requirements are met prior to initiating any official action. Upon determination that the application submittal is complete, the Zoning Administrator(s) shall:
 - 22.2.1.1. Set a planning Commission Hearing date not less than thirty (30) days or more than sixty (60) days after the complete application has been submitted.
 - 22.2.1.2. Arrange for legal notice of said hearing to be published once in the newspaper designated by the Board of County Commissioners for publication of notices. At the discretion of the Board of County Commissioners, a second notice may be published in a newspaper which is published in the area in which the rezoning is proposed. Failure to publish the second notice shall not create a jurisdictional defect in the hearing process. The date of publication shall be at least ten (10) days prior to the hearing.
 - 22.2.1.3. Give notice of the proposed change of zone and the public hearing date to those persons listed in the application as owners of the property located within five hundred (500) feet of the parcel under consideration. Such notification shall be mailed, first class, not less than ten (10) days before the scheduled public hearing. Inadvertent errors by the applicant in supplying such list or the Zoning Administrator(s) in sending such notice shall not create a jurisdictional defect in the hearing process even if such error results in the failure of a surrounding property owner to receive such notification.
 - 22.2.1.4. Post a sign for the applicant on the property under consideration for a rezoning. The sign shall be posted adjacent to and visible from a publicly maintained right-of-way. In the event the property under consideration is not adjacent to a publicly maintained road right-of-way, one sign shall be posted in the most prominent place on the property and second sign posted at the point at which the access drive intersects a publicly maintained road right-of-way. The sign shall be posted at least ten (10) days prior to hearing. The sign shall contain the following information:

- 22.2.1.4.1. Rezoning request number.
 - 22.2.1.4.2. Date and place of public hearing.
 - 22.2.1.4.3. Location and phone number of the public office where additional information may be obtained.
 - 22.2.1.4.4. Applicant's name.
 - 22.2.1.4.5. Size of the parcel of land
 - 22.2.1.4.6. Type of rezoning request
- 22.2.1.5. Refer the application to other interested agencies and County department, when applicable, for their review and comment. The agencies shall respond within fourteen (14) days after the application by the County. The failure of any agency to respond within fourteen (14) days may be deemed to be a favorable response to the Planning Commission. The reviews and comments solicited by Garden County are intended to provide the County with information about proposed change of zone. The Planning Commission and County Board may consider all such reviews and comments and may solicit additional information if such information is deemed necessary. The reviews and comments submitted by a referral agency are recommendations to the County. The authority and responsibility for making the decision to approve or deny the request for change of zone rests with the Officials of Garden County.

22.3. Duties of Planning Commission: The Planning Commission shall have the following responsibilities when an application is submitted for an amendment to the zoning resolution map:

- 22.3.1. The Planning Commission shall hold a public hearing to consider the application for the change of zone. The Planning Commission shall provide recommendations to the County Board concerning the disposition of the requested change. The Planning Commission shall recommend approval of the request for the change of zone only if it finds that the applicant has met the standards or conditions of Section 22.3 and Section 22.5. The applicant has the burden of proof to show that the standards and conditions of Section 22.3 and Section 22.5 are met. The applicant shall demonstrate:
- 22.3.1.1. The proposal is consistent with the Garden County Comprehensive Development Plan; if not, then that the zoning of the property under consideration is faulty, or that changing conditions in the area warrant a change of zone
 - 22.3.1.2. That the uses which would be allowed on the subject property by granting the change of zone will be compatible with the surrounding land uses.
 - 22.3.1.3. That adequate water and sewer service can be made available to the site to serve the uses permitted within the proposed zone district.
 - 22.3.1.4. That the following criteria are met when rezoning to residential, commercial, or industrial use not near incorporated communities:
 - 22.3.1.4.1. Quality agricultural land is not proposed for conversion to an urban type use, and if so, the applicant must demonstrate that there are no practicable alternatives.
 - 22.3.1.4.2. Adjacent to adequately paved roads and in clusters to promote efficient development patterns where public and/or private facilities are present or planned including; streets, water, sanitary sewer and parks if applicable.
 - 22.3.1.4.3. A service district or other means are established to maintain and operate any public facilities created in the area.
 - 22.3.1.4.4. Environmental constraints are applied to control erosion and sewage affluent.
 - 22.3.1.4.5. An analysis is made of both long and short term County expenses and revenues resulting from the project and it is shown that the County is not being obligated for direct or indirect services beyond the value of the revenues received from the project.
 - 22.3.1.4.6. The development is not disruptive to existing agricultural activities.
 - 22.3.1.4.7. It is demonstrated that there is a recognized need for such development.
 - 22.3.1.4.8. The development is secure from fire, floods and other dangers.
 - 22.3.1.5. That in those instances where the following characteristics are applicable to the rezoning request, the applicant has demonstrated compliance with the applicable standards:
 - 22.3.1.5.1. If soil conditions on the site are such that they present moderate or severe limitations to the construction of structures or facilities proposed for the site, the applicant has demonstrated

that such limitations can be overcome and that the limitations will be addressed by the applicant, the applicant's successor's or assigns prior to the development of the property.

- 22.3.1.5.2. That the proposed rezoning will not permit the use of any area known to contain a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor to any given extent than under the present zoning of the property.

- 22.3.2. The Secretary of the Planning Commission shall forward the official recommendation of the Planning Commission and the information contained in the official record and case file to the Board of County Commissioners within ten (10) days after said recommendation has been made. (See also 22.3.3.)
- 22.3.3. If the Planning Commission recommendation is conditional upon the applicant completing certain specified items prior to the publication of the notice for hearing by the County Board, then the ten (10) day period shall commence upon submission of the items by the applicant to the Planning Commission.

22.4. Duties of the Board of Commissioners: The Board of Commissioners shall have the following responsibilities when an application is submitted for an amendment to the zoning resolution map:

- 22.4.1. Set a Board of Commissioners' public hearing to take place not less than fifteen (15) days and not more than forty-five (45) days after receipt of the Planning Commission recommendation, or upon request of the applicant, for consideration of the proposed change of zone. Notification of the public hearing shall be undertaken using the following procedures:
 - 22.4.1.1. Arrange for a legal notice of said hearing to be published once in the newspaper designated by the Board of County Commissioners for publication of notices. At the discretion of the Board of Commissioners, a second notice may be published in a newspaper which is published in the area in which the rezoning is proposed. The failure to publish the second notice shall not create a jurisdictional defect in the hearing process. The date of publication shall be at least fourteen (14) days prior to the hearing.
 - 22.4.1.2. Arrange for the Zoning Administrator(s) to post a sign on the property under consideration for rezoning according to the requirements of Section 22.2.1.5.
 - 22.4.1.3. Give notice of the proposed change of zone and the public hearing date to those persons listed in the application as owners of the property located within five hundred (500) feet of the parcel under consideration. Such notification shall be mailed, first class, not less than ten (10) days before the scheduled public hearing. Inadvertent errors by the applicant in supplying such list or the Board of County Commissioners in sending such notice shall not create a jurisdictional defect in the hearing process even if such error results in the failure of a surrounding property owner to receive such notification.
- 22.4.2. The Board of County Commissioners shall hold a public hearing to consider the application and to take final action thereon. In making a decision on the proposed change of zone, the County Board shall consider the recommendation of the Planning Commission, and from the facts presented at the public hearing and the information contained in the official record which includes the case file. The Board of County Commissioners shall approve the request for the change of zone only if it finds that the applicant has met the standards or conditions of Section 22.4.2 and Section 22.5. The applicant has the burden of proof to show that the standards and conditions of Section 22.4.2 and Section 22.5 are met. The applicant shall demonstrate:
 - 22.4.2.1. The proposal is consistent with the Garden County Comprehensive Development Plan; if not, then that the zoning of the property under consideration is faulty, or that changing conditions in the area warrant a change of zone;
 - 22.4.2.2. That the uses which would be allowed on the subject property by granting the change of zone will be compatible with the surrounding land uses.
 - 22.4.2.3. That adequate water and sewer service can be made available to the site to serve the uses permitted within the proposed zone district.
 - 22.4.2.4. That the following criteria are met when rezoning to residential, commercial, or industrial use not near incorporated communities:
 - 22.4.2.4.1. Adjacent to adequately paved roads and in clusters to promote efficient development patterns where public and/or private facilities are present or planned including; streets, water, sanitary sewer and parks if applicable.

- 22.4.2.4.2. A service district or other means are established to maintain and operate any public facilities created in the area.
- 22.4.2.4.3. Environmental constraints are applied to control erosion and sewage affluent.
- 22.4.2.4.4. An analysis is made of both long and short term County expenses and revenues resulting from the project and it is shown that the County is not being obligated for direct or indirect services beyond the value of the revenues received from the project.
- 22.4.2.4.5. The development is not disruptive to existing agricultural activities.
- 22.4.2.4.6. It is demonstrated that there is a recognized need for such development.
- 22.4.2.4.7. The development is secure from fire, floods and other dangers.
- 22.4.2.4. That in those instances where the following characteristics are applicable to the rezoning request, the applicant has demonstrated compliance with the applicable standards:
 - 22.4.2.4.1. If soil conditions on the site are such that they present moderate or severe limitations to the construction of structures or facilities proposed for the site, the applicant has demonstrated that such limitations can be overcome and that the limitations will be addressed by the applicant, the applicant's successor's or assigns prior to the development of the property.
 - 22.4.2.4.2. That the proposed rezoning will not permit the use of any area known to contain a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor to any given extent than under the present zoning of the property.
- 22.4.3. Upon the Board making its final decision, a resolution setting forth that decision will be drafted and signed. A record of such action and a copy of the resolution will be kept in the files of the County Clerk.
- 22.4.4. The Board will arrange for the Garden County Clerk to record the resolution, and if the proposed change of zone is approved, the rezoning plat.

22.5. Application Requirements for a Change of Zone Classification: The purpose of the application is to give the petitioner an opportunity to demonstrate through written and graphic information how the proposal complies with the standards of this Resolution through the following procedures:

- 22.5.1. An application form for a request for a zoning change can be obtained from the Zoning Administrator(s). The following information shall be submitted on the application:
 - 22.5.1.1. Name, address, and telephone number of applicant.
 - 22.5.1.2. Name and address of the fee owners of the property proposed for the change of zone if different from Section 22.5.1.1.
 - 22.5.1.3. Legal description of the property under consideration as determined from a certified boundary survey. At the option of the applicant, the certified boundary survey may be submitted subsequently to the Planning Commission hearing but prior to final approval of the County Board if the Zoning Administrator(s) approves a general legal description describing the site.
 - 22.5.1.4. Total acreage of the parcel under consideration.
 - 22.5.1.5. Address of the parcel, if available.
 - 22.5.1.6. Present Zoning Classification.
 - 22.5.1.7. Proposed zoning classification.
 - 22.5.1.8. Signatures of the applicant and fee owners or their authorized legal agent.
 - 22.5.1.9. A certified list of the names, addresses, and the corresponding Parcel Identification Number assigned by the Garden County Assessor of the owners of property within five hundred (500) feet of the property subject to the application. The source of such list shall be the records of the Garden County Assessor, or an ownership update from a title or abstract company or attorney, derived from such records, or from records of the Garden County Clerk. If the list was assembled from the Garden County Assessor, the applicant shall certify that such list was compiled within thirty (30) days of the application submission date.
 - 22.5.1.10. Such additional information as may be required by the Planning Commission or the Garden County Board of Commissioners in order to determine that the application meets the standards and policies set forth in this Resolution and the Garden County Comprehensive Plan.

Section 22: Amendments to Zoning Resolution Map

- 22.5.2. A vicinity and land use map of the area shall be submitted as part of the General Application. These maps shall be drawn to the following specifications:
- 22.5.2.1. The maps shall be delineated on reproducible material approved by the Zoning Administrator(s).
 - 22.5.2.2. The dimensions of the land use map shall be at a suitable scale approved by the Zoning Administrator(s)
 - 22.5.2.3. The following information, when applicable, shall be shown:
 - 22.5.2.3.1. Outline of the perimeter of the parcel proposed for the change of zone.
 - 22.5.2.3.2. Title, scale, and north arrow.
 - 22.5.2.3.3. Ditches on or within two hundred (200) feet of the property.
 - 22.5.2.3.4. Location of rivers and other drainage systems on or within two hundred (200) feet of the property.
 - 22.5.2.3.5. Location of easements, right-of-ways, and other similar interests of record on the parcel and within 50 feet of the parcel.
 - 22.5.2.3.6. Location of all existing utilities (electricity, gas, water, and sewer) on the parcel as well as within 50 feet of the parcel.
 - 22.5.2.3.7. Flood hazard areas on the property.
 - 22.5.2.3.8. Areas of geological hazards on the property.
 - 22.5.2.3.9. Mineral resource areas on the property.
 - 22.5.2.3.10. Areas of moderate or severe soil limitations as defined by the Soil Conservation Service or by the Garden County Soil Survey.
 - 22.5.2.3.11. Other information as may be reasonably required by the Zoning Administrator(s)
- 22.5.3. A rezoning plat shall be submitted as part of the General Application. If the applicant elects the option provided in Section 22.5.1.3., the rezoning plat will not be required until the certified boundary survey has been made. The rezoning plat shall be made to the following specification:
- 22.5.3.1. The map shall be delineated in drawing ink on acceptable material
 - 22.5.3.2. The dimensions of the map shall be eight and a half inches wide by fourteen inches high.
 - 22.5.3.3. The following information shall be shown:
 - 22.5.3.3.1. Certified boundary survey of the parcel under consideration, showing all bearings and distances outside the perimeter boundary lines.
 - 22.5.3.3.2. Legal description, including total area involved, as certified by the surveyor.
 - 22.5.3.3.3. Title, scale and north arrow.
 - 22.5.3.3.4. Date of drawing.
 - 22.4.2.4. The following certificates shall appear on the map:
 - 22.4.2.4.1. Surveyor's certificate.
 - 22.4.2.4.2. Planning Commission certificate.
 - 22.4.2.4.3. Board of County Commissioners' certificate.
 - 22.4.2.4.4. Space shall be provided on the rezoning plat for the addition of the following information:
 - 22.4.2.4.5. Zoning case number.
 - 22.4.2.4.6. Current zone classification
 - 22.4.2.4.7. Requested zone classification.
- 22.5.4. An applicant may submit as part of the general application any pertinent documents that support their case for a zoning change.

22.6. Effective Date of Approved Amendments: Any approved amendments to the Official Zoning Map of the Garden County Zoning Resolution shall be effective immediately upon approval by the Board of County Commissioners unless otherwise specified by the approving resolution of the Board of County Commissioners. The applicant shall be advised that the land must be developed in accordance with the designated zoning classification within two years of approval. Failure to complete or substantially commence development within two years may result in revocation of the amendment.

22.7. Similar Amendments: A proposed rezoning request for a similar classification and/or area to one already reviewed by the County Commissioners shall not be reconsidered by the County Commissioners within twelve months of the date of such

County Commissioners' action. Submission by a different applicant or minor changes in boundaries shall not be adequate reason to circumvent this requirement.

SECTION 23. AMENDMENTS TO THE TEXT OF ZONING RESOLUTION

23.1. Amendments to the Text of the Zoning Resolution: The Garden County Board of Commissioners may upon its own motion or upon petition of the Planning Commission amend the text of the Official Garden County Zoning Resolution. The proposed amendments must be reviewed by the Garden County Planning Commission whose recommendation shall be sent to and considered by the Garden County Board of Commissioners. Such amendments shall be made in compliance with the Nebraska State Statutes and with county procedures and regulations as established herein.

23.2. Duties of Zoning Administrator(s): Upon submission of a request from the County Board for any proposed amendments to the text of the Zoning Resolution, the Zoning Administrator(s) shall:

- 23.2.1. Draft all text amendments as directed by the County Board with County Attorney counsel.
- 23.2.2. Set a Planning Commission hearing date after the completion of the proposed amendment.
- 23.2.3. Arrange for legal notice of said hearing to be published once in the newspaper designated by the County Board for publication of notices. The date of publication shall be at least ten (10) days prior to the hearing.
- 23.2.4. Upon final approval of the proposed text amendments, arrange for the public notice of the Zoning Resolution
- 23.2.5. Perform other tasks as assigned by the Planning Commission and the County Board.

23.3. Duties of the Planning Commission: Upon submission of a request for any proposed amendments to the text of the Garden County Zoning Resolution, the County Planning Commission shall:

- 22.3.1. The Planning Commission shall hold a hearing to consider the proposed amendment to the text of the Zoning Resolution. The Planning Commission shall recommend to the County Board approval or denial of the proposed amendment.
- 22.3.2. In making its final recommendation, the Planning Commission shall determine:
 - 23.3.2.1. That the existing Resolution is in need of revision as proposed.
 - 23.3.2.2. That the proposed amendment will be consistent with the future goals and needs of Garden County as set out in the Garden County Comprehensive Plan.
 - 23.3.2.3. That the proposed amendment will be consistent with the overall intent of the Garden County Zoning Resolution.
 - 23.3.2.4. The Secretary of the Planning Commission shall forward the official recommendation and the information contained in the official record which includes the case file to the Garden County Commissioners.

23.4. Duties of the Board of Commissioners: Upon submission of a recommendation for any proposed amendments to the text of the Garden County Zoning Resolution from the Garden County Planning Commission, the Garden County Board of Commissioners shall:

- 23.4.1. Set a Board of County Commissioners public hearing date.
- 23.4.2. Arrange for a legal notice of said hearing to be published once in the newspaper designated by the Board of Commissioners for publication of notices. The date of public hearing shall be at least fourteen (14) days prior to hearing.
- 23.4.3. The Board of County Commissioners shall hold a public hearing to consider the proposed text amendment and take final action.
- 23.4.4. In making its final determination, the County Board shall:
 - 23.4.4.1. Take into consideration the recommendation of the Planning Commission.
 - 23.4.4.2. Find that the existing Resolution is in need of revision as proposed.
 - 23.4.4.3. Find that the proposed amendment will be consistent with the future goals of Garden County as set out in the Garden County Comprehensive Plan.
 - 23.4.4.4. Find that the proposed amendment is consistent with the overall intent of the Garden County Zoning Resolution.

Section 23: Amendments to the Text of the Zoning Resolution

- 23.4.4.5. At the close of the public hearing, the County Board may amend the Resolution.
- 23.4.4.6. The Board shall arrange for the recording of the Resolution.

SECTION 24. ADMINISTRATION

24.1. Administrative Procedure: The County Board shall designate a Zoning Administrator(s), with the recommendation of the Planning Commission, who shall be responsible for the administration of this Resolution. The County Board shall consult the Planning Commission's recommendation prior to acting on the following powers and duties. The Zoning Administrator(s) shall have the following powers and duties:

- 24.1.1. To administer, establish rules for, and enforcing the terms of these regulations.
- 24.1.2. To receive all applications for permits to construct, alter, repair, occupy and use or change the use of land, buildings, and structures as required by these regulations.
- 24.1.3. To collect fees for administration where required by these regulations.
- 24.1.4. To make all inspections necessary to the performance of the Administrator's duties.
- 24.1.5. To order work or activities stopped by written notice served on the proper person, firm or corporation when the work is being done contrary to the provisions of this Resolution or any other Resolution dealing with building construction or codes.
- 24.1.6. To issue building permits, according to applicable County Resolutions and building codes.
- 24.1.7. To deny any permit that would allow violations of the terms of this Resolution.
- 24.1.8. Any other duties and responsibilities outlines in this Resolution.
- 24.1.9. Any other duties and responsibilities as may be deemed necessary by the Planning Commission or County Board of Commissioners.

24.2. Permits Required: No building or other structure shall be erected, constructed, reconstructed, moved or structurally altered without first obtaining a building permit as required by the County Resolution(s) governing building permits and codes.

24.3. Permit Fees: Building Permits shall be accompanied by the following fees:

- 1. No fees shall be collected for building permits

24.4. Liability for Damages: This Resolution shall not be construed to hold the County responsible for any damage to persons or property by reason of the inspection or re-inspection authorized herein or failure to inspect or re-inspect of by reason of issuing a building permit as herein provided

24.5. Minor Variations: When in the public interest, the zoning administrator(s), without publishing, posting, or mailing of notice and without public hearing, may consider and render decisions on minor variances involving slight modifications to the provisions of the Resolution, but limited to the following:

- 24.5.1. Reduction of a minimum lot area and/or minimum floor area by not more than the following amounts:
 - 24.5.1.1. Maximum lot area reduction: 10%
 - 24.5.1.2. Maximum floor area reduction: 5%
- 24.5.2. Reduction of yards and open areas by permitting portions of a building to extend into and occupy not more than ten (10) percent of the distance of a required yard.

In granting a minor variance, the zoning administrator(s) shall make a finding that the granting of this variance conforms to the intent of Section 21.

SECTION 25. NOTICES

25.1. References to Notice Requirements: Where reference is made in this Resolution to notice being given as required by this Resolution, then the notice shall be given as provided for in section 25.2 below.

25.2. Method of Giving Notice: Notices required pursuant to this section shall be given as follows:

- 25.2.1. Publication: Notice of the time and place of the hearing shall be published once in a newspaper of general circulation in the County at least ten (10) days prior to the hearing.
- 25.2.2. Posting: A notice shall be posted in a conspicuous place on or near the property on which action is pending. The notice shall be not less than eighteen (18) inches in height and twenty-four (24) inches in width with white or yellow background and black letters not less than one and one-half (1 1/2) inches in height. The posted notice shall be placed upon the premises so that it is easily visible from the street/road nearest to the premises and shall be posted at least ten (10) days prior to the date of the hearing. It shall be unlawful for anyone to remove, mutilate, destroy or change the posted notice prior to the hearing. Any person doing so shall be guilty of a misdemeanor.
- 25.2.3. Mailing: If the record title owners of any lots included in the proposed change be nonresidents of the County, then a written notice of the hearing shall be mailed by certified mail to them addressed to their last-known address at least ten (10) days prior to the hearing.

25.3. Exceptions to Notice Requirement: Notice by posting or mailing shall not apply if:

- 25.3.1. The proposed change is to apply throughout the entire area of an existing zoning district, or
- 25.3.2. Additional or different types of zoning districts are proposed, whether or not the additional or different districts are made applicable to areas, or parts of areas already within a zoning district of the County.

SECTION 26. ENFORCEMENT

26.1. Zoning Violations: Garden County may enforce the Garden County Zoning Resolution through methods included in this Resolution or through other methods adopted by the Board of County Commissioners.

26.2. Violations and Penalties: It is unlawful to **violate or not comply with** any provision of the Garden County Zoning Resolution. Any person, partnership, limited liability company, association, club, or corporation violating any provision of this Resolution is guilty of a Class III misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than **five hundred dollars (\$500), or by imprisonment in the county jail for not more than three (3) months**, or by both such fine and imprisonment. Each day such violation continues after notice of violation has been given to offender may be deemed a separate offense. Whenever a violation exists in these regulations, the County may proceed by a suit in equity to enjoin and abate the violation, in the manner provided by law. Whenever, in any action, it is established that a violation exists, the court may, together with the fine and penalty imposed, enter an order of abatement as a part of the judgment in the case.

26.3. Enforcement Procedure: Whenever the Garden County Zoning Administrator, whether through personal knowledge or through members of the Board of Commissioners, Planning Commission or county employees, has knowledge of any violation of the Garden County Zoning Resolution, it shall give written notice to the violator to correct such violation within thirty (30) days after the date of such notice. Should the violator fail to correct the violation within such thirty (30) day period, the Garden County Board of Commissioners may request that the Garden County Sheriff's Department issue a citation and complaint to the violator, stating the nature of the violation with sufficient particularity to give notice of said charge to the violator. The citation and complaint shall require that the violator appear in court at a definite time and place stated therein to answer and defend the charge.

One (1) copy of said citation and complaint shall be served upon the violator by the Garden County Sheriff's Department in the manner provided by law for the service of a criminal summons. One (1) copy each shall be retained by the Sheriff's Department and the Garden County Planning Commission and one (1) copy shall be transmitted to the clerk of the court.

26.4. Attorney: It is the responsibility of the Garden County Attorney to enforce the provisions of this Resolution. In the event the Board of County Commissioners deems it appropriate, the Board of County Commissioners may appoint a Special Acting Attorney to perform such enforcement duties in lieu of the Garden County Attorney.

26.5. Civil Action: In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, or used, or any land is or is proposed to be used, in violation of any provision of the Garden County Zoning Resolution, the Garden County Attorney, or where the Board of Commissioners deems it appropriate, a Special Acting Attorney, in addition to the other remedies provided by law, resolution, or regulation, may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful erection, construction, reconstruction, alteration, or use.

SECTION 27. MISCELLANEOUS

27.1. Invalidity in Part: If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid by any court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this Resolution.

27.2. Conflicting Resolution: Where this Resolution may conflict with any other Local, State or Federal Resolution or regulation, the most restrictive Resolution shall apply.

27.3. Effective Date: This Resolution shall take effect and be in force from and after the date of its passage, approval and publication as required by law.

27.4. Publication: Publication of this Resolution shall be in pamphlet form.

The foregoing Resolution No.--- and the accompanying official Garden County Zoning Map were, on motion duly made and seconded, and adopted on the 11th day of June, 2001

Attest:

Paul Temple, Chairman

Lorie Koester, County Clerk

Effective date of this Resolution: June 11, 2001

Last Amended 12/11/17